Payment Policy: Self-Directed Attendant Care (SDAC): LTSS

Reference Number:DE.PP.003
Revision Log Coding Implications
Date of Last Revision: 01/2024

See Important Reminder at the end of this policy for important regulatory and legal information.

Disclaimer

Delaware First Health payment policy is intended to service only as a general reference resource regarding coverage for services described. The policy does not constitute medical advice or intended to govern or otherwise influence medical advice.

Purpose

This policy outlines Delaware First Health reimbursement services for **Self-Directed Attendant Care (SDAC) - LTSS members.**

Definitions

Delaware First Health (DFH)-Managed care organization serving vulnerable populations that have complex needs and qualify for Medicaid. Delaware First Health members include individuals and families with low income, expecting mothers, children, and people with disabilities. Members pay nothing to very little for their health coverage. Delaware First Health currently services Delaware Medicaid: Diamond State Health Plan (DSHP), Delaware Healthy Children Program (DHCP), and Diamond State Health Plan Plus (DSHP)LTSS members.

Self-Directed Attendant Care – is a member-directed option which allows members to have more control over how attendant care services are provided. Services include help with activities of daily living (ADLs) such as bathing, dressing, personal hygiene, transferring, toileting, skin care, eating, and assisting with mobility. This is not offered to persons living in assisted living or nursing facilities.

Attendant Care Employee – An individual who has been hired by a member participating in SDAC or his/her Employer Representative to provide SDAC services to the member in an integrated community setting. Attendant Care Employee does not include an employee of a provider that is being paid by DFH to provide attendant care services to a member.

Employer Representative – For SDAC, the representative designated by a member to assume the employer responsibilities on the member’s behalf.

Respite care – includes services provided to members unable to care for themselves furnished on a short-term basis because of the absence or need for relief for the member’s caregiver. Respite care is limited to no more than 14 calendar days per year. DFH’s case managers may authorize service request exceptions above this limit when it determines that: (i) no other service options are available to the member, including services provided through an informal support network; (ii) the absence of the service would present a significant health and welfare risk to the member; or (iii) respite service provided in a nursing facility or assisted living facility is not utilized to replace or relocate an individual’s primary residence.

Limitations
The following items are not permitted:
- Legally responsible family members are limited to providing 40 hours of week of care.
- The respite benefit may not be substituted for additional attendant hours.
- Sharing of funds from the attendant to the member are prohibited.
- Pay employer representative to give care is prohibited.
- Original and overtime hours (if applicable) must be submitted on the same claim.

The following individuals are not permitted to be an employee/personal attendant:
- Persons who are legally responsible for the member receiving services.
- Persons who are serving as a representative for the member receiving services.

Policy/Criteria

Prior Authorization

- Prior authorization is not required.

Procedures
Authority for a self-direction option for LTSS members, receiving State Plan personal care services. Self-directed personal care/attendant care services for LTSS members includes:
- assistance with ADLs (e.g., bathing, dressing, personal hygiene, transferring, toileting, skin care, eating and assisting with mobility).

- When specified in the service plan, this service includes assistance with instrumental activities of daily living (IADLs) (e.g., light housekeeping chores, shopping, meal preparation).
  - Assistance with IADLs must be essential to the health and welfare of the participant based on the assessment of the Case Manager, provided to only the member and not for general utility within the household.

- The member or their designated representative shall direct services.

- To be eligible to receive self-directed personal care/attendant care services, member must show medical necessity.

Overtime

Workers/caregivers who provide Medicaid self-directed attendant care or self-directed respite services will receive overtime pay for hours worked over 40 hours in a work week:

- Workers/caregivers living in the same home as the member will not receive overtime. These workers/caregivers will need to complete a form provided by the FMS indicating they reside with the member.
- Overtime will be paid at a rate of 1.5 times the worker/caregiver's regular rate of pay.
- Payment of overtime will not be retroactive.
- Worker/caregiver hours will not be counted across MCOs, financial management services (FMS) entities (e.g., Easter Seals/JEVS/GT Independence), or members.

- Overtime does not require a separate prior authorization.

Provider Qualifications and Responsibilities for SDAC Care of LTSS Members:

Financial Management Services

The provider of support for SDAC shall be an IRS-approved Fiscal/Employer Agent that functions as the member's agent in performing payroll and other employer responsibilities that are required by Federal and State law.

At a minimum, the provider of support for SDAC conduct the following FMS functions:

- Assist members in verifying Attendant Care Employees' citizenship status;
- Collect and process Attendant Care Employees' timesheets;
- Assist members in ensuring that workers compensation insurance is purchased and maintained;
- Process payroll, withholding, filing and payment of applicable Federal, State and Local employment-related taxes and insurance;
- Execute and hold Medicaid provider agreements; and
- Receive funds from the Contractor and disburse funds for payment of Attendant Care Employees.

Supports Brokerage Functions

The provider of support for SDAC shall perform, at a minimum, the following supports brokerage functions:

- Coordinate with the member's DFH case manager to develop, sign, and update the member's plan of care to include SDAC;
- Recruit Attendant Care Employees;
- Maintain a roster of Attendant Care Employees;
- Assist with developing and posting job descriptions for Attendant Care Employees;
- Secure and pay for background checks on prospective Attendant Care Employees on behalf of members;
- Assist with hiring, supervising, evaluating, and discharging Attendant Care Employees;
- Assist with completing forms related to employers;
- Assist with approving timesheets;
- Provide information on employer/employee relations;
- Provide training to members and Attendant Care Employees;
- Help with problem resolution;
- Maintain member files; and
- Provide support to the member as an employer in executing the member's back-up plan for SDAC.

Attendant Care Employee Qualifications

- Financial management services delegated by DFH will verify that potential Attendant Care Employees meet all applicable qualifications prior to delivering services including the following minimum qualifications: at least 18 years of age, have the skills necessary to perform the required services, possess a valid Social Security number and willing to submit to a criminal record check.

- For each potential Attendant Care Employee, DFH (or delegate), shall conduct a criminal history check pursuant to 16 DE Admin Code 3110, a check of the Delaware's Adult Abuse Registry (see 11 DE Admin Code 8564; registry is available on the DHSS website), a check of the national and the Delaware sex offender registry and a check of the excluded provider list.

- The financial management services provider will notify the member of the findings of the checks as applicable to his/her potential Attendant Care Employee(s).
    - If a member wants to employ a person who does not pass the criminal history check, the financial management service provider shall educate the member of the risk. If the member insists on hiring a person who does not pass the criminal history check, the financial management services provider shall have the member sign a waiver of liability stating that they understand the risks and want to hire the person despite his/her failure to pass the criminal history check and will hold the State and DFH harmless from any claims or responsibility for any injury, loss, or damage because of hiring the person.
    - A person who is listed on the Delaware Adult Abuse Registry, the national or Delaware sex offender registry or the excluded provider list shall not provide SDAC services.
- Members have the flexibility to hire persons with whom they have a close personal relationship to serve as an Attendant Care Employee, such as a neighbor, friend, or family member.
- The financial management service provider will ensure that each member has an employment agreement with an Attendant Care Employee prior to services being provided by that Attendant Care Employee. DFH will not pay an Attendant Care Employee for the provision of SDAC unless the Attendant Care Employee has a signed employment agreement with the member.
- The financial management service provider will ensure that employment agreements are updated anytime there is a change in any of the terms or conditions specified in the agreement. The financial management service provider will ensure employment agreements are signed by the new Employer Representative when there is a change in Employer Representative.
- The financial management service shall provide a copy of each employment agreement to the member and/or Employer Representative. The case manager will also give a copy of the employment agreement to the Attendant Care Employee and shall maintain a copy for its files.

Monitoring

- The DFH case manager will monitor the quality-of-service delivery and the health, safety and welfare of members electing SDAC.
- The DFH case managers will verify that SDAC services are provided in accordance with the member's plan of care, including the amount, frequency, duration, and scope of each service, in accordance with the member's service schedule. This shall not be limited to asking the member if they are receiving the services they need.
- The DFH case manager will monitor implementation of the back-up plan by the member or Employer Representative.
- The DFH case manager will also monitor a member's participation in SDAC to determine, at a minimum, the success, and the viability of the service delivery model for the member.

Place of Service

Outpatient

Reimbursement

DFH will reimburse participating providers per their Delaware First Health contract. The provider will be paid according to the fee schedule for the equivalent HCPCS codes, and modifiers noted below.

Coding and Modifier Information

This payment policy references Current Procedural Terminology (CPT®). CPT® is a registered trademark of the American Medical Association. All CPT® codes and descriptions are copyrighted 2020, American Medical Association. All rights reserved. CPT codes and CPT descriptions are from current manuals and those included herein are not intended to be all-inclusive and are included for informational purposes only. Codes referenced in this payment policy are for informational purposes only. Inclusion or exclusion of any codes does not guarantee coverage. Providers should reference the most up-to-date sources of professional coding guidance prior to the submission of claims for reimbursement of covered services.

CPT/HCPCS Codes	Descriptor
S5130 U2	Self-Directed Attendant Care, per 15 minutes
S5130 U2 TU	Overtime Self-Directed Attendant Care – self-directed, per 15 minutes
*S5130 U5	Replacement Attendant Care, per 15 minutes
**T2040	Financial Management-Monthly Service

**** used when agency staff cancel, and a replacement is provided via SDAC.***
*****Provided for specific contracted providers.***

Post-payment Audit Statement

The medical record must include documentation that reflects the medical necessity criteria and is subject to audit by Delaware First Health at any time pursuant to the terms of your provider agreement.

References

State of Delaware Masters Service Agreement (Section 3.8.8, pages 160 through 167)
https://dhss.delaware.gov/dhss/dmma/files/mco_msa_2020.pdf

Revision History	
1/26/2024	Initial Policy Draft

<u>Important Reminder</u>
For the purposes of this payment policy, “Health Plan” means a health plan that has adopted this payment policy and that is operated or administered, in whole or in part, by Centene Management Company, LLC, or any other of such health plan’s affiliates, as applicable.

The purpose of this payment policy is to provide a guide to payment, which is a component of the guidelines used to assist in making coverage and payment determinations and administering benefits. It does not constitute a contract or guarantee regarding payment or results. Coverage and payment determinations and the administration of benefits are subject to all terms, conditions, exclusions, and limitations of the coverage documents (e.g., evidence of coverage, certificate of coverage, policy, contract of insurance, etc.), as well as to state and federal requirements and applicable plan-level administrative policies and procedures.

This payment policy is effective as of the date determined by Health Plan. The date of posting may not be the effective date of this payment policy. This payment policy may be subject to applicable legal and regulatory requirements relating to provider notification. If there is a discrepancy between the effective date of this payment policy and any applicable legal or regulatory requirement, the requirements of law

and regulation shall govern. Health Plan retains the right to change, amend or withdraw this payment policy, and additional payment policies may be developed and adopted as needed, at any time.

This payment policy does not constitute medical advice, medical treatment, or medical care. It is not intended to dictate to providers how to practice medicine. Providers are expected to exercise professional medical judgment in providing the most appropriate care and are solely responsible for the medical advice and treatment of members. This payment policy is not intended to recommend treatment for members. Members should consult with their treating physician in connection with diagnosis and treatment decisions.

Providers referred to in this policy are independent contractors who exercise independent judgment and over whom Health Plan has no control or right of control. Providers are not agents or employees of Health Plan.

This payment policy is the property of Centene Corporation. Unauthorized copying, use, and distribution of this payment policy or any information contained herein are prohibited. Providers, members, and their representatives are bound to the terms and conditions expressed herein through the terms of their contracts. Where no such contract exists, providers, members and their representatives agree to be bound by such terms and conditions by providing services to members and/or submitting claims for payment for such services.

Note: For Medicaid members, when state Medicaid coverage provisions conflict with the coverage provisions in this payment policy, state Medicaid coverage provisions take precedence. Please refer to the state Medicaid manual for any coverage provisions pertaining to this payment policy.

Note: For Medicare members, to ensure consistency with the Medicare National Coverage Determinations (NCD) and Local Coverage Determinations (LCD), all applicable NCDs and LCDs should be reviewed prior to applying the criteria set forth in this payment policy. Refer to the CMS website at http://www.cms.gov for additional information.

©2018 Centene Corporation. All rights reserved. All materials are exclusively owned by Centene Corporation and are protected by United States copyright law and international copyright law. No part of this publication may be reproduced, copied, modified, distributed, displayed, stored in a retrieval system, transmitted in any form or by any means, or otherwise published without the prior written permission of Centene Corporation. You may not alter or remove any trademark, copyright or other notice contained herein. Centene® and Centene Corporation® are registered trademarks exclusively owned by Centene Corporation.