

**Sec. 17b-262-589. Eligibility and determination of need**

(a) In order to be eligible to receive coverage for the cost of personal care assistance services under the Department's Personal Care Assistance Waiver Program, an individual shall either have already been determined eligible to participate in the Department's Title XIX medical assistance program and also be determined to meet the additional programmatic requirements for coverage of personal care assistance services that are specified in this section or qualify for personal care assistance services by meeting all of the technical, special financial, and programmatic requirements stated in this section.

(b) An individual who has not previously been determined eligible for medical assistance and who receives personal care assistance services after meeting the requirements of this section is thereby automatically determined eligible for the medical assistance program and for all other medically necessary services that are covered by the program.

(c) The technical requirements for eligibility are:

(1) A recipient of medical assistance benefits who applies for coverage of personal care assistance services and applicants for personal care assistance services shall meet all requirements for eligibility in the Department's medical assistance program that are applicable to disabled adults as stated in the regulations promulgated by the Department and contained in its Uniform Policy Manual pursuant to Section 17b-10 of the Connecticut General Statutes, including, without limitation, all regulations establishing medical assistance eligibility requirements related to the filing of applications for assistance, verifications, redeterminations, existence of a disabling condition, citizenship status, residency, institutional status, assistance unit composition and income and asset limits.

(2) Applicants for personal care assistance services are treated as if they were institutionalized and all medical assistance eligibility rules that apply to institutionalized applicants or recipients of medical assistance benefits are also applied in the same way to applicants or recipients of personal care assistance services. Specifically, without limiting the scope of this subsection, applicants and recipients for personal care assistance services are subject to the same rules that govern eligibility related to the transfer of assets and to the treatment of the resources and income of spouses of institutionalized applicants for assistance.

(d) The special financial eligibility rules are:

(1) A recipient of medical assistance benefits who applies for personal care assistance services or an applicant for personal care assistance services who meets all other technical requirements for eligibility may only be found eligible for personal care assistance services if his or her countable income is less than the special institutional income limit of 300 percent of the benefit amount that would be payable under the federal Supplemental Security Income ("SSI") program to an individual in his or her own home who has no income or resources. Income eligibility for personal care assistance services under this section is determined solely by reference to the individual's countable income, and does not involve consideration of the incurred medical expenses or any other liabilities that may have been incurred by the applicant for assistance. Except as noted below, the applicant's countable income for purposes of this subsection is determined by reference to the same methodologies that are employed by the Department in determining the countable income of an institutionalized applicant for assistance. Individuals who qualify for medical assistance

related to the treatment of income under other optional coverage groups, including the medically needy, but who do not qualify for personal care assistance services under the 300 percent of the SSI income limit, may receive coverage of medically necessary services to the extent such services are available generally to recipients of medical assistance, but may not receive coverage for those services that are only provided to individuals who are covered under this or any other waiver of federal Medicaid requirements.

(2) An applicant or recipient of assistance may not reduce his or her income, or fail to pursue potential sources of income in order to obtain or retain eligibility for assistance under the special institutional income limit of 300 percent of the SSI benefit amount.

(e) The programmatic requirements for eligibility are:

In addition to meeting all technical and special financial eligibility requirements stated above in subsections (c) and (d) of this section, an applicant for coverage of personal care assistance services shall meet all of the following programmatic requirements for eligibility:

(1) the consumer shall be 18 through 64 years of age inclusive;

(2) the consumer shall have a primary medical diagnosis that is a chronic, severe, and permanent physical disability which results in a significant need for physical assistance with two or more of the following activities of daily living: bathing, dressing, eating, transfers, bowel and bladder care; and the consumer shall be in a condition that would otherwise require institutionalization in a nursing facility without such services. An individual whose primary disability is mental retardation, mental illness or whose need for personal care assistance is the result of a degenerative neurologically based dementia, including but not limited to Alzheimer's disease, is not eligible for personal care assistance services. In the case of dual diagnosis, the Department may request an assessment, made by a qualified medical provider, to determine which disabling condition is primary;

(3) the consumer shall have the cognitive ability to be the essential participant in the development of his or her personal care services plan and to hire, direct, and fire his or her personal care assistants unless the consumer has a conservator who acts on his or her behalf and fulfills the foregoing requirements;

(4) the consumer shall lack family and community supports to meet his or her needs for personal care assistance services;

(5) the consumer shall wish to live in the community by utilizing personal care assistance services;

(6) the consumer shall be capable of understanding and shall acknowledge that there is risk inherent in his or her living in the community, that his or her safety cannot be guaranteed, and shall accept full liability if he or she chooses to live in the community and absolve the Department of responsibility for anything that might result from this choice;

(7) the consumer shall acknowledge that he or she is the employer of his or her personal care assistants and shall sign a written document accepting full responsibility as the employer of his or her personal care assistants;

(8) the consumer, in order to insure his or her health and safety, shall have a back-up plan which shall be documented in the department's record identifying how he or she will provide for personal care assistance service needs in the event that a personal care assistant is not available to provide the services as scheduled;

(9) the consumer shall file such forms as may be necessary with the Internal Revenue

Service and the State Department of Labor designating the fiscal intermediary as the consumer's agent for the purpose of managing employment benefit accounts for the personal care assistants and shall provide all other documentation needed by the fiscal intermediary in order to process payroll;

(10) the consumer shall have a personal care assistance plan that is cost effective; (refer to section 17b-262-594)

(11) the consumer shall replace state funded homemaker, companion, and personal care assistance services provided by the Department under the Community Based Services Program or Personal Care Assistance Working Person's Program with personal care assistance services under this waiver program;

(12) the consumer shall replace home health aide services provided under the Medicaid program with personal care services funded under the waiver program unless the provision of both services is otherwise determined necessary by the Department. If any home health aide services are approved, there shall be no duplication of services provided by the personal care assistance plan;

(13) if an applicant is eligible for, or receiving, comparable services under Section 101 (a)(8) of the Rehabilitation Act as amended in 1992, such applicant is ineligible for personal care assistance services under this Personal Care Assistance Waiver program. The applicant may be eligible for additional services through the waiver as long as those services are not related to attendance at school or employment. A plan, which is developed for a consumer in these circumstances, shall be developed jointly by appropriate staff from the Department's Social Work Services Division and the consumer;

(14) the consumer shall hire qualified personal care assistants within three months of approval of the service plan and a determination of Medicaid eligibility or the application shall be denied and the consumer will not maintain his or her slot on the waiting list. The application and eligibility determination process can be resumed at any time in the future;

(15) the consumer shall pursue and accept comparable services from other resources when requested by the Department.

(f) If a cost of care plan that is both cost effective and reasonably ensures the health and safety of the consumer in the non-medical opinion of the Department cannot be developed, the consumer is not eligible for personal care assistance waiver services. If the consumer requires full time acute care hospitalization he or she is not eligible for waiver services if unable to receive them for a period of thirty days or more due to such hospitalization. A new application and assessment shall be completed for such consumer.

(g) A disabled individual who is determined eligible for and who receives personal care assistance services under this Title XIX Medical Assistance Personal Care Assistance Waiver program as an alternative to institutionalization is subject to the same rights and responsibilities as an institutionalized recipient of medical assistance, including, without limitation, those requirements relating to third party liability, securing support, recovery, and liens that are applicable to institutionalized recipients of public assistance.

(h) Any consumer who is found by the Department to have knowingly signed a time sheet authorizing payment for services that were not provided may be discharged from the Personal Care Assistance Waiver program. Any consumer discharged under this subsection shall be ineligible for personal care assistance services under the Personal Care Assistance

*Regulations of Connecticut State Agencies*

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Waiver program for a period of not more than two years.

(Adopted effective February 8, 1999; Amended March 9, 2006)