

ATTACHMENT 1
STRUCTURED FAMILY CAREGIVING
PROVIDER PROVISIONS

A 1.1 PURPOSE: The South Dakota Department of Human Services (DHS), the State provides Home and Community Based Service (HCBS) options, to individuals 65 and older, and those 18 and over with a qualifying disability. State services enable these South Dakotans to live independent, meaningful lives while maintaining close family and community ties. The State provides Home and Community Based Services, as specified in the Care Plan/Service Plan, to prevent or delay premature or inappropriate institutionalization.

The Structured Family Caregiving service offers HOPE Waiver participants an opportunity to reside with a principal caregiver in the participant's own private home or in the private home of the principal caregiver. The goal of this service is to provide necessary care and supervision for the participant, and to provide an opportunity for the participant to remain in the community in the most integrated setting. This is accomplished through a cooperative relationship between the participant, the principal caregiver, the participant's HOPE Waiver case manager, and the Medicaid enrolled Structured Family Caregiving Provider agency.

A 1.2 RULES: The Provider shall comply, for the duration of the agreement, with all Administrative Rules of South Dakota ("ARSD") regarding the services provided.

A 1.3 VERIFICATION AND DOCUMENTATION: The Provider is required to maintain documentation and verification demonstrating compliance with all provisions in this Provider Provision. Verification and documentation must be readily available upon request.

A 1.4 INTERPRETERS: The State will utilize DHS approved interpreters, at State expense, whenever necessary. Interpreter Service are authorized by the LTSS Specialist. The Consumer must choose a qualified provider and the LTSS Specialist and Provider will cooperatively arrange for interpreter services as necessary for service provision.

A 1.5 REIMBURSEMENT: Structured Family Caregiving is reimbursed at tiered levels based on the HOPE Waiver participants' assessment results. The rates for services purchased by the State from the Provider have been specified in the HOPE Waiver Services Fee Schedule. The rate(s) for services are specified on the fee schedule located at <http://dhs.sd.gov/ltss/ltssProviders.aspx> All services authorized and delivered by the Provider to eligible HOPE Waiver participants will be reimbursed at stated rates. The stipend paid to the structured family caregiver must be 50% or more of the HOPE Waiver participant's identified rate.

Approved claim forms, including all required information (e.g. Provider's National Provider Identification (NPI), consumer's primary diagnosis code etc.) will be submitted by the Provider to the State for payment of services authorized and provided. The State will not reimburse or otherwise be made liable for purchase for transactions made by the Provider on behalf of the consumer.

It is the responsibility of the Provider to review the Therap Service Auth to ensure the rate is correct prior to acknowledging the Therap Service Auth. If the rate is incorrect, the Provider must contact the Long Term Services and Supports (LTSS) Specialist to mitigate claims error(s).

If the Provider is reimbursed at the incorrect rate resulting in an overpayment, necessary action to resolve this overpayment will be initiated by the State, including voiding of Medicaid claims and ACH recoupment for State-funded Services. If the Provider is reimbursed at the incorrect rate resulting in an underpayment, the Provider will be required to initiate the necessary action(s) in order to correct the underpayment, including voiding of Medicaid claims and ACH recoupment for State-funded Service. The Provider must resubmit the claims at the correct rate to receive appropriate reimbursement.

The Provider must only bill for services authorized and acknowledged in Therap and delivered by the Provider. Total units authorized are a maximum for the entire duration of the Therap Service Auth. The scheduled frequency and duration of each service is included in the Therap Service Auth and must be followed. Reimbursement received for units above and beyond the total units, frequency and/or duration specified in the Therap Service Auth will be recouped and the Provider will be responsible to continue to provide services at the scheduled frequency and/or duration as indicated on the Therap Service Auth.

The Provider must contact the LTSS Specialist if the authorized services routinely take more or less time to complete than indicated in the Therap Service Auth, or if additional services are being requested.

The State's reimbursement for services rendered shall be considered payment in full. With the exception of the cost-share for waiver services, the Provider may not bill the consumer for any additional fees. The Provider will be made aware of the consumer's cost-share, if any, and will be responsible for collecting the cost-share from the consumer.

The State's reimbursement rate for services must not exceed the Provider's private pay rate. If the State's rate of reimbursement exceeds the Provider's private pay rate, the State's reimbursement will be adjusted to match the private pay rate.

Hospital reserve bed days: The Provider may bill SD Medicaid for a maximum of five consecutive days when a consumer is admitted to an inpatient hospital stay. Up to five consecutive days may be billed to SD Medicaid per hospitalization; however, the consumer must return home for a minimum of 24 hours before additional hospital reserve bed days will be paid.

STANDARD PROGRAM DEFINITIONS

B 2.1 “Structured Family Caregiving” is personal care and support services provided to a consumer in the consumer's private home or the private home of the principal caregiver.

Structured Family Caregiving includes routine intermittent personal care, supervision, cueing, meals, homemaker, chore services, medication management (to the extent permitted under State law), and other instrumental activities of daily living (e.g. transportation for necessary appointments and community activities, shopping, managing finances, and phone use) and other appropriate activities as described in the participant's person-centered service plan are included activities in structured family caregiving.

Consistent with a participant's assessed needs and as reflected in the person-centered care plan, separate payment for other waiver services provided by a third party Medicaid Provider may be authorized by the State including community transition supports, community transition coordination, adult companion services, adult day services, respite care, emergency response systems, in-home nursing services, specialized medical equipment, specialized medical supplies, environmental accessibility adaptations, and nutritional supplements. Consistent with a participant's assessed needs and as reflected in the person-centered care plan; extraordinary personal care needs that exceed intermittent daily assistance may also be authorized for separate payment for example, when the participant requires more than one person assist to complete activities of daily living.

Separate payment for meals, homemaker services and/or chore services will not be provided on behalf of participants receiving Structured Family Caregiving services as these activities are integral to and inherent in the provision of structured family caregiving. Payments made for Structured Family Caregiving are not made for room and board, items of comfort or convenience, or the costs of home maintenance, upkeep and improvement.

B 2.2 “Eligible Consumer”, is any person in need of services who has been determined eligible for the HOPE Waiver by DHS.

B 2.3 “Medicaid Enrolled Structured Family Caregiving Provider Agency” (also referenced as “Provider” throughout this document) is the entity responsible for the oversight of the Structured Family Caregiving service. The Medicaid enrolled Structured Family Caregiving Provider agency provides coaching and support to the principal caregiver and passes through a portion of the Medicaid reimbursement to the principal caregiver.

B 2.4 “Staff” are individuals employed by the Medicaid enrolled Structured Family Caregiving Provider agency to complete the tasks necessary to oversee the provision of the Structured Family Caregiving service.

B 2.5 “Principal Caregiver” is the primary caregiver for the eligible consumer. The principal caregiver provides routine intermittent personal care, supervision, cueing, meals, homemaker, chore services, medication management (to the extent permitted under State law), and other instrumental activities of daily living (e.g. transportation for necessary appointments and community activities, shopping, managing finances, and phone use) to the eligible consumer. The principal caregiver receives a stipend from the Medicaid enrolled Structured Family Caregiving Provider agency. A principal caregiver is not an employee of the Medicaid enrolled Structured Family Caregiving Provider agency and is not subject to employee regulations such as wage/hour laws, workers compensation, and unemployment.

B 2.6 “Critical Service Need Consumer”, is a consumer who needs a service provided on each assigned day or without the service (i.e., oxygen, injection, medication, wound care, therapy) the consumer's health condition will immediately decline, or a consumer who has a health condition for which services should not be disrupted. The LTSS Specialist will communicate with the Provider (through the Services Task List/Care Plan) when a consumer has been identified as a critical service need consumer. When a critical service need consumer is identified, the Provider will work with the LTSS Specialist to develop a critical service back-up plan to coordinate service provision when the principal caregiver(s) is not available to provide services, i.e., personal care, nursing services to the consumer.

B 2.7 “Care Plan/Service Plan” is a written plan developed with each consumer and whomever he/she wishes to participate. The Medicaid enrolled Structured Family Caregiving Provider agency must also participate in the development of the Care Plan. The Care Plan/Service Plan summarizes the consumer’s identified needs and the strategy for addressing unmet needs.

The State will provide on-going case management for each consumer. Case management will include reassessing the consumer’s needs and eligibility at least annually, facilitating the development of the Care Plan/Service Plan, determining changes to the Care Plan/Service Plan, authorizing additional services by the Provider, and resolving any consumer concerns and other consumer-related issues.

B 2.8 “Therap Service Auth” is the electronic document in Therap which details the services authorized for the consumer. The “Therap Service Auth” must be acknowledged by the Provider and returned to LTSS upon confirmation that the caregiver meets qualifications. Failure to sign and return the “Therap Service Auth” may negatively affect reimbursement for services provided. Any permanent change to the “Therap Service Auth” must be reviewed and authorized by the State.

If a Provider is concerned that there is an error on the ‘Therap Services Auth’, the Provider should not acknowledge the ‘Therap Service Auth’. The Provider should contact the LTSS Specialist assigned as the consumer’s case manager to resolve any potential discrepancies.

PROGRAM REQUIREMENTS

C 3.1 The Provider is bound to serve statewide. The Provider is expected to consider all referrals but may turn down a referral due to safety concerns, or inability to serve consumer need.

The consumer will select the Provider of his/her choice. When a Provider makes a referral to LTSS, the Specialist will ensure the referring Provider is made known to the consumer, but the consumer will be offered the choice of Providers.

C 3.2 The Provider must, at a minimum conduct a State fingerprint background check to screen for abuse, neglect, and exploitation for all employees hired to work in homes of consumers and for principal caregivers contracted as independent contractors, as well as all individuals residing in the household that are 18 years of age or older.

The Provider may request the State’s approval for an alternative background check by completing and submitting a “Provider Request for Approval of Alternative Background Check”, along with a description of the alternative background check (produced by the company that process the background checks). In order to receive approval, the alternative background check results for employees hired by the provider must be readily accessible to the state upon request and the description of the alternative background check must include verification that the following threshold criteria are met:

- The alternative background check verifies the identity of the individual hired utilizing at least two unique types of identification (must include a government issued photo ID and an additional document that meets I-9 standards)
- The alternative background check identifies the criminal history of the individual hired
- The alternative background check creates a report of the criminal history of the individual hired which is readily accessible to the provider

Caregivers, and provider staff entering the homes of must meet the following minimum standards:

1. Be 18 years of age or older.
2. Be employed by an enrolled Medicaid Provider.
3. Pass a State fingerprint (or State approved) background check.
 - a. The following are a list of fitness criteria that would automatically preclude an individual from being hired/contracted:
 - i. A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
 - ii. A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state;
 - iii. Class A and/or B felony convictions.
 - b. The following are a list of fitness criteria that may preclude an individual from being hired/contracted at the discretion of the provider:
 - i. Other felonies not described in 3.a.iii.
 - ii. Misdemeanor convictions related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct;
 - iii. Any convictions, including any form of suspended sentence, which are determined to be detrimental to the best interests of SD Medicaid. This includes convictions related to a person's character such as perjury and fraud related charges as individuals determined to be dishonest with any party should not be assumed to be honest with SD Medicaid;
 - iv. Conviction related to obstruction of a criminal investigation.

C 3.3 The Office of the Inspector General (OIG) has the authority to exclude individuals and entities from federally funded health care programs and maintains a list of all currently excluded individuals. The Provider must check the OIG List of Excluded Individuals and Entities (LEIE) to ensure that new hires and current employees are not on the excluded list at a minimum of once every six months. Search the OIG exclusions database online at <https://exclusions.oig.hhs.gov/>. The Provider must have a policy that specifies the processes for conducting this verification.

C 3.4 The Provider will begin provision of authorized services within 14-business days of receipt of the results of the principal caregiver background check. If the Provider is unable to meet the 14-day deadline, the Provider must contact the consumer's LTSS Specialist to discuss the plan for ensuring services are provided.

C 3.5 The Provider agrees to submit a cost report in the format required by the State within four months following the end of the Provider's fiscal year. Failure to submit the report will result in the termination of the Provider's contract with the Division of Long Term Services and Supports.

C 3.6 The Provider must have a policy and procedure manual. The policy and procedure manual must be easily accessible upon request.

C 3.7 The Provider must have a policy and procedure manual that includes a policy for abuse and neglect reporting. In accordance with South Dakota law, the Provider is mandated to immediately report any suspected abuse or neglect of a consumer. The policy for abuse and neglect reporting must conform to the mandatory reporting laws and address the requirement to provide training on mandatory reporting laws to staff on an annual basis. See South Dakota Codified Law (SDCL) 22-46 for South Dakota's mandatory reporting laws for elders and adults with disabilities.

C 3.7 The Provider must have a policy and procedure manual which includes a policy for staffing. The staff policy must include job qualifications, the process for conducting background checks OIG exclusions, and the process for performance evaluations.

C 3.8 The Provider must have a staff training policy. The staff training policy must include identification of the processes and timelines for new staff orientation and annual staff training. The Provider must provide a new employee orientation to each new employee before the employee enters a consumer's home unsupervised.

The orientation must include: the requirements of Structured Family Caregiving as outlined in the Structured Family Caregiving Provider Provision; the Structured Family Caregiving staff member's role in supporting lay caregivers to complete the personal care and related activities noted in the consumer's care plan/service plan and in providing ongoing caregiver coaching that is appropriate to the needs of the caregiver and culturally competent; the Provider's obligation to collaborate with LTSS to ensure quality outcomes for the consumer.

The Provider will ensure that each Structured Family Caregiving staff member receives a minimum of 6 hours of training annually. The Provider must maintain a training record for each Structured Family Caregiving staff member, documenting the date, length, and topic of each training completed.

C 3.9 The Provider must have a policy and procedure manual which includes a policy for intake/admission. The intake/admission policy must include the Provider's process for reviewing and accepting referrals as well as the process to ensure services will begin in a timely manner.

C 3.10 The Provider must have a policy and procedure manual that includes a policy for discharge. When the Provider determines services to a consumer must be discontinued by their agency, the provider must notify the State at least 30 days before the consumer is discharged, unless the consumer's home constitutes an unsafe environment for Provider's staff and/or the consumer. The notice must be in writing and must specify the reason for discharge in accordance with the Provider's discharge policy.

Any changes to a consumer's Care Plan will be communicated to the Provider as soon as the State is made aware of the change, including discontinuation of services. When the State determines that services to a consumer must be discontinued, the provider will be notified as soon as possible.

C 3.11 The Provider must have a consumer confidentiality policy. The confidentiality policy must include specifics on maintenance of consumer records, transmission of personal consumer information and confidentiality practices by staff.

C 3.12 The Provider must have a consumer rights and responsibilities policy. The consumer rights and responsibilities policy must include the rights and responsibilities of the consumer; and how rights and responsibilities are conveyed to the consumer as well as the consumer's right to remain free from restraints and seclusion. The Provider must provide staff training on the prohibition of restraints and seclusion on an annual basis.

C 3.13 The Provider must have a documentation policy. The documentation policy must outline how Structured Family Caregiving staff document substantive interactions with a consumer and principal caregiver. Documentation must be kept for each consumer. Records must be retained for 6 years after a claim has been paid or denied. Documentation can be kept in written or electronic form and must be easily accessible upon request. The Provider is responsible for reviewing caregiver notes and following up with principal caregivers to ensure that care is provided to the consumer based on the consumer's care plan/service plan.

C 3.14 The Provider must have a incident reporting policy. The Provider must immediately notify the LTSS Specialist of any consumer-related concerns, incidents and occurrences, including possible exploitation, that are not consistent with routine care. Providers must submit an incident report to the LTSS Specialist documenting the circumstances of any incident that involves serious injury, missing person, restraint, seclusion, or death.

Upon being informed that an LTSS consumer has been hospitalized or discharged from the hospital, the Provider will communicate this information to the LTSS Specialist to assure the consumer's need for service provision continue to be met appropriately.

C 3.15 The Provider must have a emergency response policy. An "emergency" is defined as a situation that is sudden, generally unexpected, and demands immediate attention. When a Structured Family Caregiving staff member is in a consumer's home and an emergency occurs, the Structured Family Caregiving staff member must call 911 immediately. The Provider must notify the LTSS Specialist of the emergency upon resolution of the emergency or transfer of the consumer to emergency responders.

C 3.16 The Provider must have a policy and procedure manual which includes a policy for health and safety. The health and safety policy must detail the use of universal precautions. The Provider must provide all supplies and equipment needed for Structured Family Caregiving staff members performing home visits to practice infection control.

C 3.17 The Provider must have a quality assurance policy. The Provider must have a written quality assurance and improvement plan detailing all activities conducted by the Provider to ensure quality service provision. The Provider must also have a quality assurance policy specifying how the Provider will discover, fix, and report problems. The Provider will cooperate with Provider quality performance audits activities conducted by LTSS.

The Provider agrees to participate in any evaluation and/or consumer and principal caregiver satisfaction program developed and conducted by the State to determine the effectiveness of service provision statewide

C 3.18 The Provider must have a consumer grievances policy. The consumer grievance policy must include how the consumer is notified of the grievance policy, where grievances are reported and the process for addressing and resolving consumer grievances and feedback.

C 3.19 The Provider must have a gifting policy. The gifting policy must detail the Provider's expectations and prohibitions for staff accepting gifts from consumers.

C 3.20 The Provider must have a policy and procedure manual which includes a policy for statewide coverage. The statewide coverage policy must detail the Provider's process for ensuring statewide coverage for structured family caregiving.

STRUCTURED FAMILY CAREGIVING PROVIDER AGENCY RESPONSIBILITIES

D 4.1 Provider Staffing. The Provider must have sufficient staff and resources to perform care conferences with the consumer and principal caregiver on a regular basis. Staff will perform in-home assessments of the principal caregiver and home, collaborate with the LTSS specialist in the development and ongoing review of the care plan/service plan, review and follow-up on caregiver notes and provide caregiver education resources and ongoing support to principal caregivers.

Provider staff must have experience in working with elders and/or adults with disabilities and/or be trained by the Provider agency in conducting assessments of the principal caregiver and home and in providing coaching to lay caregivers.

D 4.2 Qualifications of Caregivers and Homes. The Provider must administer caregiver and home qualification policies and procedures to ensure each principal caregiver who participates in Structured Family Caregiving is able to meet the assessed needs of the eligible consumer to whom the principal caregiver will be providing care and other supports and that the home is safe and accessible to the eligible consumer. The policies and procedures must address all of the following requirements.

The principal caregiver must:

- Live in the same qualified home as the consumer
- Be the primary person responsible for providing daily care and support to the consumer based on the consumer's assessed needs
- Pass all background checks as detailed in Section C 3.2
- Be a responsible adult who is 18 years of age or older and be assessed by the Provider Agency as capable of providing the support the consumer needs
- Be qualified as a Structured Family Caregiving caregiver before the principal caregiver receives a Structured Family Caregiving caregiver stipend
- Not support more than two consumers in structured family caregiving.

The home must:

- Not be owned by the Provider, but rather owned or rented by the consumer or principal caregiver or a member of the consumer's family.
- Be safe, accessible and allow for comfort and privacy of the consumer receiving care.

The Provider must collaborate with the State to support the principal caregiver to remedy any issues that may come up with the safety of the home (e.g. need for safety and accessibility accommodations, need to address concerns such as pests, obstructions, or other hazards) throughout the time that the consumer and principal caregiver participate in structured family caregiving.

D 4.3 The Provider must establish a family-centered Structured Family Caregiving support plan for the coaching and support of the principal caregiver. The family-centered Structured Family Caregiving support plan must identify the resources, coaching, and support the Medicaid enrolled Structured Family Caregiving Provider agency will provide to the principal caregiver.

D 4.4 Caregiver Coaching and Support. The Provider must provide education, resources, and coaching to caregivers that is appropriate for lay caregivers and that includes but is not limited to: managing chronic conditions, understanding the progression of behavioral health conditions (if applicable), medication reconciliation, handling urgent and emergency situations.

Additionally, the Medicaid enrolled Provider agency must be accessible during normal business hours and coach a principal caregiver to manage urgent and emergency situations in the home and, in conjunction with the principal caregiver and the waiver case manager, establish an emergency back-up plan for instances when the principal caregiver is unable to provide care.

The Provider must begin providing ongoing caregiver education (as described below), coaching, and support to the principal caregiver after the start of services. The Provider must review the principal caregiver's coaching needs as part of a monthly care conference and document and address any changes necessitated by changes in the consumer's condition or by other circumstances in the home.

The Provider must provide each principal caregiver with an orientation to the general requirements of Structured Family Caregiving within 30 days of the start of Structured Family Caregiving services. The orientation must include:

- The requirements of Structured Family Caregiving as outlined in the Structured Family Caregiving Provider Provision and the principal caregiver's obligations to complete the personal care and related activities noted in the consumer's care plan/service plan, collaborate with the Structured Family Caregiving Provider agency to oversee activities in the home, report the consumer's health status and general well-being and critical incidents, provide notes in accordance with the Provider's documentation requirements;
- The roles and responsibilities of Structured Family Caregiving Provider staff and principal caregivers;
- Respecting the consumer's privacy and protecting the confidentiality of the consumer's private health care information and the relevant provisions of the Health Insurance Portability and Accountability Act of 1996.
- Prevention of, and reporting of, abuse, neglect, mistreatment, and misappropriation/financial exploitation.

The Provider must provide each principal caregiver with other general foundational knowledge within 90 days of the start of Structured Family Caregiving services including:

- Basic first aid, cardiopulmonary resuscitation (CPR), and the Heimlich maneuver;
- Universal precautions and infection control practices;
- Techniques for safely providing personal care, including good body mechanics;
- Recognizing the physical, social and emotional, and behavioral support needs of the consumer.

The Provider must identify additional training and coaching needs of the principal caregiver that are specific to the needs of the consumer and deliver that training and coaching as needed. The training may be delivered by whatever methods are most appropriate to the learning style of the caregiver.

The Provider must engage and communicate with principal caregivers on a regular basis to review information or changes in the consumer's status, report incidents or accidents as they occur and participate in monthly case conferences and home visits (on-site or virtual). At least one care conference must be conducted as an on-site face to face visit on an annual basis with the participant and principal caregiver.

The Provider must issue stipends to principal caregivers in a timely manner in accordance with the independent contractor agreement between the Provider and the principal caregiver.

D 4.5 Provider Collaboration with the State

The Provider must provide LTSS Specialists with an update on each eligible participant through participation in the consumer's care plan meeting(s) and/or through providing case notes and other documentation. Updates should be given upon a significant change in the participant's health status or circumstances in the home, and whenever requested by the State.

The Provider must collaborate with the State and the Structured Family Caregiving caregiver to establish an emergency back-up plan for instances when the principal caregiver is unable to provide care.