

PARTICIPANT RIGHTS AND RESPONSIBILITIES

As an applicant/participant for a Medicaid Waiver Program, you have specific rights and responsibilities.

A. Applying for the Medicaid Waivers

1. You have a right to be told about the Medicaid Waiver Programs and other programs that can help you to live at home or where you wish in the community. You have a right to be told about services that can be provided and funded by the Medicaid Waiver Programs and by other programs.
2. You have a right to apply for the Medicaid Waiver Programs. You have a right to not participate in the Medicaid Waiver Programs. Your refusal to participate in a Medicaid Waiver Program may lead to the loss of funds from other programs such as the Community Options Program (COP).
3. You have a right to a written decision about your eligibility based on your application for a Medicaid Waiver Program within thirty (30) days after you apply for the Program; sooner if it is an emergency. The answer must say one of three things:
 - a) Yes, you are eligible for the waiver program (an approval);
 - b) No, you are not eligible for the waiver program (a denial), including why you were denied; or
 - c) More information is needed by the Waiver Agency, including what information is needed to make a decision (a decision is pending).
4. If your application is denied, you have the right to file a county grievance or file a state appeal, or both. You have the right to be told how to file a grievance or appeal and the right to get help in doing so.

B. Deciding what services you receive from the Medicaid Waivers

1. If your application for waiver services is approved, you have the right to have a qualified person complete an assessment of your needs. The assessment must be done within 45 days from the time you applied for the Medicaid Waiver Program (or sooner in an emergency).
2. You have the right to share your opinions and preferences during your assessment. You have the right to express you preferred outcomes¹ during the assessment.

¹ Your preferred outcomes are similar to your goals. Your outcomes are what you would like to see happen in your life. The services you receive are intended to help you reach the outcome(s). For example; "I would like to stay involved in my community" is one outcome people may express. Transportation services may be put in place to help reach that outcome.

3. You have a right to have someone explain what your assessment includes. You have a right to a written copy of your assessment and any other documents or reports in your file if you request them.
4. You have the right to actively participate in creating the plan for services/assistance that will meet the need(s) identified in your assessment. You have a right to invite friends, relatives or anyone else you choose to be a part of this process. You also have the right to ask that someone not be present at these meetings. If there are meetings held to create your plan you have a right to attend these meetings. You have a right to lead these meetings and to have them occur at a time and place that is convenient for you and the people you wish to have present.
5. You have a right to receive any help you need to understand and take part in planning and other meetings. This help might include interpreters, taped or Braille material or other communication aids.
6. You have a right to design your plan for services within certain Medicaid Waiver Program rules. This plan must clearly list the services you have agreed to; it must identify the outcomes you wish to achieve and what will be done to address them. You have a right to a written copy of your plan and to have the plan explained to you.
7. You have a right to choose the services intended to meet your needs and achieve your desired outcomes and to choose the provider from whom you will receive services. All waiver-funded providers you use must be qualified. You have the right to have all conflicts-of-interest involving service provision discussed with you before you make the selection a service provider. You have the right to have assistance in finding qualified providers.
8. You have a right to disagree with your service plan or with changes made to your service plan. You have the right to disagree with any reduction in services if you think that your needs will not adequately be met. You have a right to ask the waiver agency change the things with which you disagree. If you disagree with any decision that is made about your services or service provider or with changes to your service plan, you have a right to file a grievance with the county and/or an appeal with the state.

C. Receiving Medicaid Waiver Services

1. You have a right to receive services if there is funding available and you are eligible for the waiver program and you need the service. You have a right to special equipment or other accommodations that give you equal opportunity to access your home, community and Medicaid Waiver services.

2. If funding is not available, you have a right to be placed onto a waiting list for services. If you are told that you have to wait for Medicaid Waiver services, you have a right to know how the waiting list works and receive periodic updates concerning how many others are waiting ahead of you and when the waiver agency estimates you will receive services.
3. You have a right to know the amount, if any, that you will have to pay for services (called your cost share). You have the right to be free from the expectation that you pay for or contribute to any portion of the cost of waiver services beyond the amount determined to be your cost share.
4. You have the right to keep money that is yours, have it managed by anyone you wish and to spend it on what you want.
5. You have a right to have help from a support/service coordinator or care manager after you receive services. You have a right to meet with this person as often as necessary. Your support/service coordinator or care manager is responsible to assure that you receive the services in your plan, that they are of high quality and that the services work well together.
6. You have a right to a written notice, **at least 10 days in advance**, whenever your services are going to be reduced or stopped. You have the right to file a county grievance or state appeal if you disagree with the reduction or termination of any waiver-funded services.
7. If you file a **state appeal** before the termination or effective date stated in the termination notice you receive from the waiver agency, you have a right to keep receiving the types and amounts of services you were getting until the appeal is decided.
8. If you file an appeal, you have the right to have all Medicaid overpayment and recoupment rules explained to you.
9. You have a right to pick where in the State of Wisconsin you will live and to have Medicaid Waiver funding follow you if you choose to move to another county. If you move to a county where Family Care or Partnership services are provided, you have the right to enroll in one of these programs and have your services continue to be provided in the new county.

D. Other rights

You have a number of rights specified in Wisconsin law. These rights include but are not limited to:

1. You have a right to be treated with dignity and respect. This includes the right to free association to see whom you want, when you want unless a court order states otherwise.
2. You have a right to control your life and the services you get as much as you are able. You have the right to choose where you live, if you live alone or with others and with whom you will live. You have the right to be told that if you choose to live in certain settings, you may lose your eligibility for funding under the Medicaid Waiver.
3. You have a right not to be hurt or threatened. You have the right to be free from abuse and neglect. You have a right to be free from restrictive measures and all unreasonable restraints. You have the right to refuse to take drugs you do not want to take unless ordered to do so by a court of law.
4. You have the right to privacy. Your right to privacy includes having information that is said or written about you kept confidential, the right to receive and open your own mail, to make and receive private phone calls and to have visitors in your private areas including your bedroom and have the door closed.
5. You have a right to see your file, have it corrected, and to get copies of reports in it.
6. You have the right to direct you own services within the rules of the waiver in which you are enrolled. You have the right to have the self-directed service option explained to you and made available.
7. You have the right to know what other rights apply to you. You may have rights because of where you live (e.g. in a group home (CBRF)), because a court was involved in your services, or because of the nature of your disability. Waiver agency staff are responsible for telling you about these rights and for making sure you are adequately informed about them

E. Right to Appeal

1. You (and your parent/guardian, if any) have a right to be told (formally notified) what actions taken by waiver agencies may be appealed and how to file a county grievance or a state appeal. This includes being told who to contact, as well as the steps and time limits for filing the grievance or appeal.
2. You may get help with a waiver agency grievance or state appeal from your support and service coordinator/care manager or from other organizations that are responsible for assisting you in such matters.
3. You have the right to be informed, in writing, of the reasons the action is being taken.

F. Actions by Waiver Agencies that are Subject to Appeal

You have the right to appeal the waiver agency action/decision before the action/decision is implemented. You must be notified, in writing of any decision that is subject to appeal and be given not less than ten days to request an appeal.

The following actions or decisions made by a waiver agency may be appealed by waiver participants or their parents (of children) or guardians via a fair hearing by the Department of Administration, Division of Hearings and Appeals:

1. Denial of the Assessment

You can appeal if your request for an assessment is denied. The waiver agency must notify you of the decision to deny the assessment within 30 days of your application.

2. Denial of Eligibility

You can appeal any denial of program eligibility.

3. Termination of Eligibility

You can appeal any proposed termination of program eligibility.

4. Termination of Waiver-Covered Services²

You can appeal any proposed termination of any waiver-covered service, regardless of the reason given for the termination.

5. Reduction of Waiver-Covered Services³

You can appeal any proposed reduction in a waiver covered service, regardless of the reason given for the reduction.

6. Choice Between Institutional and Community Services

You can appeal any failure of the waiver agency to give you the choice between institutional and community services. This appeal right does not apply when a court has ordered your community placement and services as the least restrictive and/or most integrated alternative.

7. Choice of Type of Service

You may appeal any failure by the waiver agency to give you a choice between different types of community services covered by the waiver, when the cost of the services are equivalent. This applies only when each of the different, covered services are appropriate to your needs and are capable of helping you achieve your desired outcomes.

² Services listed in service plans that are not funded by the Medicaid Waiver program are not considered to be waiver covered services.

³ Same as footnote 2

7. Denial of Choice of a Qualified Service Provider

You may appeal any failure to give you (the participant) a choice among qualified providers when the cost of the covered services required to address your assessed needs and desired outcomes are equivalent.

8. Denial of Waiver Coverage of an Item or Service

You may appeal any decision by the waiver agency to deny or limit coverage of a requested service or item for any reason, if the service or item is covered by the waiver program.

G. Where You Can Get Help:

1. Older adults or persons with physical disabilities may contact:

Board on Aging and Long Term Care (On line at: BOALTC@ltc.state.wi.us)
Ombudsman Program
1402 Pankratz Street, Suite 111
Madison, Wisconsin 53704-4001
1-800-815-0015

The Regional Ombudsman Locator is on line at:

<http://longtermcare.state.wi.us/home/ombudsman%20county%20served.htm>

2. Persons with developmental disabilities or mental illness may contact:

Disability Rights Wisconsin (Formerly Wisconsin Coalition for Advocacy)

Located on line at: www.disabilityrightswi.org

Madison Office

131 West Wilson St, Suite 700
Madison, WI 53703
Phone: (608) 267-0214
Fax: (608) 267-0368
TTY (888) 758-6049
Toll Free: (800) 928-8778

Milwaukee Office

6737 West Washington St. Suite 3230
Milwaukee, Wisconsin 53214
Phone: (414) 773-4646
Fax: (414) 773-4647
TTY: (888) 758-6049
Toll Free: (800) 708-3034

Rice Lake Office

217 W. Knapp St.
Rice Lake, WI 54868
Phone (715) 736-1232
Fax: (715) 736-1252
TTY: 888-758-6049
Toll Free: (877) 338-3724

H. Applicant/ Participant Responsibilities

There are specific responsibilities you must meet when you apply for or participate in any of the Medicaid waiver programs. If you do not meet these responsibilities, you may become ineligible for the Medicaid waiver programs. Reporting changes in your circumstances is very important to maintain your eligibility. Changes should be reported promptly to the waiver agency, generally within ten calendar days of when the change occurs.

1. You must report changes in your finances, which may affect your eligibility or the amount of benefits, or services you receive. These changes might include an increase or decrease in your income or a change in the amount of assets you have.
2. You must report changes in your household circumstances, which might affect your eligibility for the amount of benefits, or services that you receive. These changes might include when you or any of your children reach age 18, when someone moves in or out of your household, when you get married, divorced or separated, become pregnant or have a baby.
3. You must report any change of address when you move.
4. You must notify the waiver agency of any private health insurance that you have and you must use your private insurance to pay your medical bills before these expenses are charged to Medicaid. You must also notify the county agency when you are no longer covered under private insurance.
5. You must notify the waiver agency when changes occur in your medical or remedial expenses. Changes may mean that your cost-share or spend down could increase or decrease. These changes might include when your doctor no longer feels it is necessary for you to purchase certain medicines or when you no longer need to pay for therapy you receive because your private insurance has begun to pay for it.
6. You are responsible to pay any cost-share that you are required to contribute toward the services that you receive and to make this payment promptly, on a monthly basis.
7. You must notify the county if you give any of your assets to another person. This may affect your eligibility for Medicaid waiver programs.

Signature - Participant/guardian*

Signature - Care manager/Support and service coordinator

Date _____

Date _____

* My signature indicates that I have been informed of and understand my rights and responsibilities under the Medicaid waiver programs. I have received this information verbally and in writing.