

**PROPOSED REGULATION OF THE AGING AND DISABILITY
SERVICES DIVISION OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

LCB File No. R018-10

**PROGRAM TO PROVIDE COMMUNITY-BASED SERVICES
TO FRAIL ELDERLY PERSONS**

Chapter 427A of NAC is hereby amended by adding, deleting or changing the provisions set forth as sections 1 through 18, inclusive, of these regulations.

Section 1. NAC 427A.356 is hereby amended to read as follows:

~~[“Case Management” means a process where a recipient’s needs are identified and the social, rehabilitative and medical services to meet those needs are located, coordinated and monitored.]~~

Case Management: Assists person to access needed Home and Community-based waiver services, Medicaid State Plan services, as well as needed medical, social, educational and all other services, regardless of the funding sources for the services to which access is gained.

Section 2. NAC 427A.3793 is hereby repealed:

Section 3. NAC 427A.380 is hereby amended to read as follows:

Services defined:

- (a) Attendant/Personal Care Service: Assisting in the activities of daily living such as bathing, dressing, grooming, toileting, mobility and eating.*
- (b) Chore Service: Extended homemaker service to maintain clean and safe living space.*
- (c) Companion Service: Non-medical care, supervision and socialization provided to the functionally impaired adult in his residence, providing temporary relief for the primary caregiver.*
- (d) Homemaker Service: General household activities including cleaning, laundry, shopping and meal preparation.*
- (e) Personal emergency response system: An electronic device that allows a person to get help in an emergency.*

- (f) *Respite Care: Care for a patient that provides a respite for the primary caregiver from the daily care of the patient.*
- (g) *Social Adult Day Care: Care, supervision, monitoring general health, social interaction and peer contact for the physically or mentally impaired or socially isolated adult provided for four or more hours per day on a regularly scheduled basis, for one or more days per week, in an outpatient setting.*
- (h) *Social Services Manager: The Social Services Manager of the community-based case unit of the Division.*

Section 4: NAC 427A.381 is hereby repealed.

Section 5. NAC 427A.388 is hereby amended to read as follows:

1. The records of a recipient are confidential and may only be released to:
 - c. An employee of the Division ~~if the Social Services Manager deems it necessary~~ *if necessity can be shown.*
 - d. A member of the staff of an agency of this State established pursuant to the Protection and Advocacy of Mentally Ill Individuals Act of 1986, 42 U.S.C. Sections 10801 et seq., if
 - (1) ~~The Social Services Manager deems it necessary.~~ *If necessity can be shown.*
 - (2) The recipient is a client of that agency and *a written authorization is provided by the recipient or his legal representative; ~~the recipient or his legal representative authorizes the release of the record~~* or
 - e. An employee of another division of the Department of Health and Human Services, pursuant to the provisions of NRS 232.357, if that employee submits a written request to the ~~Social Services Manager~~ *appropriate authority.*
4. A written authorization to release information is effective ~~for 1 year after the date it is signed.~~ *until the case is closed.*

Section 6. NAC 427A.400 is hereby amended to read as follows:

3. If an applicant is denied enrollment, the staff of the Division shall inform the applicant *in writing* of the reason or reasons why his application was denied and provide to the applicant *written* information regarding the right to an appeal.

Section 7. NAC 427A.402 is hereby amended to read as follows:

1. To be eligible for COPE, a person must:
 - (b) Function at a level required for a person under the care of a nursing facility and ~~require~~ *be determined at risk of* placement in a nursing facility within 30 days if not for the services provided by COPE.
 - (k) *Demonstrate a continued need for COPE service.*
 - (l) *Agree to use available personal and financial resources to support service needs.*

Section 8: NAC 427A.430 is hereby amended to read as follows:

All recipients must receive an individual assessment, *conducted by qualified Division personnel* using the standardized assessment tool to identify the specific needs of the recipient. The assessment must be conducted in person. ~~{at the residence of the applicant or recipient}~~

Section 9: NAC 427A.432 is hereby amended to read as follows:

2. The plan of care must ~~include~~ *be a written document that includes:*
 - ~~{(a) A statement of the needs of the recipient.}~~
 - ~~{(b) The objectives to be met by the services provided.}~~
 - ~~{(d) The estimated time to be dedicated to case management each month and}~~
 - (a) *A description of the applicant/recipient's care and service needs, based on the assessment required by NAC 427A.430.*
 - (b) The specific services to be provided, including the frequency and identity of the provider of such services.
 - (c) The individualized goals of the recipient.

6. A new plan of care must be developed by the case manager and signed by the recipient at least once every ~~[12-months]~~ *365 days* or upon a significant change in the condition of or support available to the recipient.

Section 10: NAC 427A.436 is hereby amended to read as follows:

1. A recipient must be reassessed by his case manager in person and at the residence of the recipient at least once every ~~[12-months]~~ *365 days*, using the standardized assessment tool, to:
 - e. Assist in the development of a new *or revised* plan of care.
2. The Division will reauthorize services from COPE for a recipient for not more than ~~[12-months]~~ *365 days* if his level of functioning continues to meet the requirements for a patient under the care of a nursing facility and his financial status has not changed so as to render him ineligible for COPE, *including that spend-down is continuing and recipient is not protecting assets for their heirs.*

Section 11: NAC 427A.438 is hereby amended to read as follows:

2. A case manager shall provide services that assist persons in gaining access to *COPE*. ~~[waiver, to other services offered by the State and to medical, social, educational and other services, without regard to the source of funding from which access to the services is gained.—These]~~ *The* services of a case manager ~~[may also]~~ *must* be provided by the Division. ~~[, by an agency of this State or by a private provider who is independent of the Division or an agency of this State.]~~

Section 12: NAC 427A.440 is hereby amended to read as follows:

1. If economically feasible, the following services will be made available to recipients;
 - (b) The provision of a personal care attendant to assist a recipient who is functionally impaired with the activities of daily living, including ~~[shopping, laundry, cleaning,]~~ bathing, dressing, ~~[grooming,]~~ using the toilet, ~~[preparing meals]~~ and eating. The provision of services by a personal care attendant does not require an order from a physician.

- (c) The provision of a homemaker to assist a recipient who is functionally impaired with activities of daily living, including laundry, cleaning, ~~[shopping]~~ and preparing meals. The provision of services by a homemaker does not require an order from a physician.

~~[2. If the Social Services Manager has determined that a recipient is eligible to receive respite care and the requirements of NAC 427A.442 have been met, supervised respite care for a person who is functionally impaired will be available through COPE. Such care will be provided in the recipient's home for not more than 24 hours per day and not more than 14 days per fiscal year.]~~

- ~~[3]~~ 2. Any services provided pursuant to this section must be provided in accordance with the recipient's plan of care, and any person providing such services must be under the supervision of the *providing agency and* the case manager.

Section 13: NAC 427A.442 is hereby amended to read as follows:

- 1. If the Social Services Manager has determined that a recipient is eligible to receive respite care at his residence, such care will be made available only if:
 - (d) There are trained respite workers available in the recipient's area; ~~[and]~~
 - (e) Care will be provided in the recipient's home for a maximum of 336 hours per fiscal year; and*
 - ~~[e]~~ *(f)* Funds for respite care are available.

Section 14: NAC 427A.444 is hereby repealed.

Section 15: NAC 427A.456 is hereby amended to read as follows:

~~[g. The recipient fails to pay his portion of the cost of services provided by the Division.]~~

- ~~[h]~~ *(g)* The cost of services provided to the recipient is more than 100 percent of the average cost of care for a patient who receives care in a nursing facility.
- ~~[i]~~ *(h)* The recipient fails to cooperate with the established plan of care.
- ~~[j]~~ *(i)* Funds previously available have been expended.

Section 16: NAC 427A.462 is hereby amended to read as follows:

5. The Administrator of the Division *or designated appointee* will review any requests to waive the deadline for good cause and shall make a determination within 10 days after the receipt of the request.
6. If the Administrator *or designated appointee* determines that the applicant or recipient or his designated representative has demonstrated good cause for the failure to comply with the 15-day deadline, he will schedule an administrative review for the applicant or recipient.
7. If the Administrator *or designated appointee* determines that the applicant or recipient or his designated representative has not demonstrated good cause for the failure to comply with the 15-day deadline, he will notify the applicant or recipient or his designated representative that the request for an administrative review is denied.

Section 17: NAC 427A.464 is hereby amended to read as follows:

1. Within 10 days after the Division receives a request for an administrative review, the ~~[supervisor]~~ *Social Services Manager* of the region in which the applicant or recipient resides shall contact the applicant or recipient or his designated representative to schedule a conference with a member of the staff of the Division to attempt to resolve the matter without the necessity of an administrative review.
2. The ~~[supervisor]~~ *Social Services Manager* shall:

Section 18: NAC 427A.468 is hereby amended to read as follows:

A recipient is entitled to receive services from COPE while an administrative review of a termination of those services is pending, *if funding is available*, unless the recipient or his designated representative requests in writing that the services be discontinued.