

Chapter HFS 10
FAMILY CARE
Subchapter IV — Family Care Benefit; Delivery Through Care Management
Organizations (CMOs)
HFS 10.44 Standards for performance by CMOs.

(6) OPTION FOR ENROLLEE SELF-MANAGEMENT OF SERVICE FUNDING. (a) The CMO shall provide enrollees with an opportunity to manage funding for services and supports, including an opportunity for an enrollee who chooses to participate to plan, arrange for, manage and monitor services under his or her family care benefit directly or with the assistance of another person chosen by the enrollee. The department may, through its contract with the CMO, limit the self-management of services not covered by federal home and community based waivers under 42 USC 1396n (c). The CMO shall provide the opportunity to self-manage service funding under a plan approved by the department under par. (b) or (c).

(b) On or before December 31, 2002, the department may approve the CMO plan for self-directed support only if:

1. The CMO offers the opportunity to participate in self-managing all or some of the funding for his or her services under par. (a), with the assistance and support described in this paragraph, to a significant number of enrollees, and has a phase-in plan under which the opportunity to self-manage service funding is offered to an increasing number of enrollees in each year.

2. For individuals participating in a self-management option, the plan complies with the provisions of par. (c) or, for any provision with which the plan does not comply, provides interim procedures and a plan and timeframe for achieving compliance.

(c) On or after January 1, 2003, the department may approve the CMO plan for self-managed service funding only if the plan provides all of the following:

1. The CMO offers each enrollee the opportunity to self-manage some or all of the funding for his or her services under par. (a), with the assistance and support described in this paragraph.

2. The CMO, as part of the comprehensive assessment under sub. (2) (e), identifies whether the enrollee needs support to effectively self-manage funding for his or her services, whether needed support is available to the person from one or more other persons, and whether the enrollee will accept the needed help. If the CMO determines that an enrollee who wants to self-manage his or her service funding is not able to do so independently and that the support available and acceptable to an enrollee is insufficient to support the person to effectively plan and manage funding for services and supports, the CMO, through the case management team, shall do all of the following:

a. Work with the enrollee and available supports to develop a case plan that specifies any limits on the level of control exercised by the enrollee that the CMO finds necessary under subd. 13.

b. Identify and recruit one or more individuals to provide the assistance needed by the enrollee.

c. Assist the enrollee to develop skills and knowledge needed to participate more fully in self-managing service funding.

d. Inform the enrollee of his or her right to file a grievance under s. HFS 10.53, request department review under s. HFS 10.54, or request a fair hearing under s. HFS 10.55 if he or she disagrees with the determination of need for support or the level of self-management provided by the plan.

3. The CMO offers training in the effective planning and management of service funding and supports to enrollees using the self-managed service funding mechanism and to individuals assisting these enrollees to manage funding for their services.

4. Subject to any limitations under subd. 2., the enrollee may choose the long-term care outcomes for which he or she wishes to manage funding for services or supports directly and the degree to which he or she wishes the CMO to assist in the management of funding for those services or supports beyond the minimum described in sub. (2) (d).

5. The CMO has a system in place for establishing and modifying an individualized budget amount or range available to the enrollee to pay for the services and supports to be self-managed. The individualized budget amount or range is based on the comprehensive assessment and on a methodology approved by the department for estimating the cost of services the CMO would have provided if the funding for the services and supports were not self-managed.

6. The enrollee submits a plan for managing funding for those supports or services the member has chosen to manage directly. The CMO reviews the plan to ensure that the plan does not jeopardize the enrollee's health and safety and that expenditures are within the budget agreed to by the CMO and meets any other condition approved by the department.

7. Within the budget established under subd. 5. and the plan established under subd. 6., the enrollee may purchase any service or support consistent with the long-term care outcomes identified under sub. (2) (e) 2., including assistance with planning and coordinating services to the extent that this assistance is not provided by the CMO.

8. The individual service plan for each enrollee participating in the self-managed service funding mechanism and the plan under subd. 6. includes a plan for how the CMO will monitor all of the following:

a. The health and safety of the enrollee and other people are not significantly threatened.

b. The enrollee's expenditures are consistent with the budget established under subd. 5. and the plan established under subd. 6.

c. Safeguards are in place to ensure that the conflicting interests of other people are not taking precedence over the desires and interests of the enrollee.

9. If the self-managed expenditures of CMO enrollees are less than the amounts budgeted under subd. 5., the savings are used only for services and supports consistent with the long-term care outcomes of enrollees, as identified under sub. (2) (e) 2. Savings shall not be used for administrative costs of a CMO.

10. The self-managed supports budget for an enrollee is not reduced in a subsequent year solely because the enrollee did not expend the full amount budgeted in a given year. Each year's budget is based on a re-assessment of needs and identified long-term care outcomes under subd. 5.

11. The CMO has in place policies and procedures under which the enrollee can make or authorize payments to providers and receive timely information on expenditures made and budget status.

12. The policies and procedures under subd. 11. include mechanisms for assuring compliance with requirements for the deduction and payment of payroll taxes and for providing legally mandated fringe benefits for individuals employed by the enrollee and makes assistance available to the enrollee for all of the following employment related tasks:

a. Recruiting.

b. Screening.

c. Interviewing.

d. Hiring and firing.

e. Setting the level of wages.

f. Setting workers tasks and hours.

g. Authorizing and making payment for services delivered.

- h. Setting the level of benefits, if any, to be provided in addition to requisite state and federal payroll benefits, such as vacation, sick leave or health insurance.
- i. Assistance in procuring additional optional employee benefits.
- j. Training workers.
- k. Assessing member liability.
- l. Supervising and disciplining workers.
- m. Arranging back-up workers or services.

13. The CMO has policies and procedures under which the CMO may restrict the level of self-management of service funding exercised by an enrollee or for increasing the level of involvement of the case management team where the team finds any of the following: a. The health and safety of the enrollee or another person is threatened. b. The enrollee's expenditures are inconsistent with the budget established under subd. 5. and the plan established under subd. 6. c. The conflicting interests of another person are taking precedence over the desires and interests of the enrollee. d. Funds have been used for illegal purposes. e. Negative consequences have occurred under other policies approved by the department

14. The CMO informs each enrollee whose level of self-management of service funding is restricted under subd. 13. about what actions by the enrollee will result in removal of the restrictions.

15. The CMO informs the enrollee whose level of self-management of service funding is restricted under subd. 13. about his or her right to file a grievance under s. HFS 10.53, request department review under s. HFS 10.54, or request a fair hearing under s. HFS 10.55 if he or she disagrees with any limit on the level of self-management.

16. The CMO has policies and procedures in place related to self-management of service funding of an enrollee under guardianship that include all of the following:

- a. Training for guardians to assist them in learning and respecting enrollees' preferences and goals.
- b. Assistance to enrollees and their guardians in building the enrollees' skills in the area of self-determination.
- c. Periodic re-assessment of enrollees' competency to exercise rights directly and assistance to enrollees in attaining or regaining rights the CMO believes they are competent to exercise.

History: Cr. Register, October, 2000, No. 538, eff. 11-1-00; CR 04-040: am. (4) (c) 5. Register November 2004 No. 587, eff. 12-1-04.