Centers for Medicare & Medicaid Services, HHS

§ 441.460 Participant living arrangements.

(a) Self-directed PAS are not available to an individual who resides in a home or property that is owned, operated, or controlled by a PAS provider who is not related to the individual by blood or marriage.

(b) States may specify additional restrictions on a participant’s living arrangements if they have been approved by CMS.

§ 441.462 Statewide, comparability and limitations on number served.

A State may do the following:

(a) Provide self-directed PAS without regard to the requirements of statewide.

(b) Limit the population eligible to receive these services without regard to comparability of amount, duration, and scope of services.

(c) Limit the number of persons served without regard to comparability of amount, duration, and scope of services.

§ 441.464 State assurances.

A State must assure that the following requirements are met:

(a) Necessary safeguards. Necessary safeguards have been taken to protect the health and welfare of individuals furnished services under the program and to assure the financial accountability for funds expended for self-directed services.

(1) Safeguards must prevent the premature depletion of the participant directed budget as well as identify potential service delivery problems that might be associated with budget underutilization.

(2) These safeguards may include the following:

(i) Requiring a case manager, support broker or other person to monitor the participant’s expenditures.

(ii) Requiring the financial management entity to flag significant budget variances (over and under expenditures) and bring them to the attention of the participant, the participant’s representative, if applicable, case manager, or support broker.

(iii) Allocating the budget on a monthly or quarterly basis.

(iv) Other appropriate safeguards as determined by the State.

(3) Safeguards must be designed so that budget problems are identified on a timely basis so that corrective action may be taken, if necessary.

(b) Evaluation of need. The State must perform an evaluation of the need for personal care under the State Plan or services under a section 1915(c) waiver program for individuals who meet the following requirements:

(1) Are entitled to medical assistance for personal care services under the State plan or receiving home and community based services under a section 1915(c) waiver program.

(2) May require self-directed PAS.

(3) May be eligible for self-directed PAS.

(c) Notification of feasible alternatives. Individuals who are likely to require personal care under the State plan, or home and community-based services under a section 1915(c) waiver program are informed of the feasible alternatives, if available, under the State’s self-directed PAS State plan option, at the choice of these individuals, to the provision of personal care services under the State plan, or PAS under a section 1915(c) home and community-based services waiver program. Information on feasible alternatives must be communicated to the individual in a manner and language understandable by the individual. Such information includes, but is not limited to, the following:

(1) Information about self-direction opportunities that is sufficient to inform decision-making about the election of self-direction and provided on a timely basis to an individual or the representative which minimally includes the following:

(i) Elements of self-direction compared to non-self-directed PAS.

(ii) Individual responsibilities and potential liabilities under the self-direction service delivery model.

(iii) The choice to receive PAS through a waiver program administered under section 1915(c) of the Act, regardless of delivery system, if applicable.

(iv) The option, if available, to receive and manage the cash amount of their individual budget allocation.