

**SECTION**  
ADMINISTRATIVE REQUIREMENTS

**SUBJECT**  
PAYMENT MADE TO LEGALLY RESPONSIBLE INDIVIDUALS

**PAYMENT FOR SERVICES**

For a legally responsible individual, including spouses of adult consumers, and court appointed guardians to be paid for the provision of Home and Community Based Services, all of the following authorization criteria and monitoring provisions must be met.

1. The service must:
  - a. Meet the definition of a service/support as outlined in the federally approved waiver plan;
  - b. Be necessary to avoid institutionalization;
  - c. Be a service/support that is specified in the individual plan of care;
  - d. Be provided by a Medicaid provider who meets the provider qualifications standards specified in the waiver for that service;
  - e. Be paid at a rate that does not exceed what is allowed by the Department for the payment of similar services; and
  - f. Not be an activity that the family would ordinarily perform or is responsible to perform.
  
2. The family member who provides a service will comply with the following:
  - a. Be an employee of a Medicaid provider;
  - b. Meet the caregiver qualifications and training standards specified in the waiver for that service;
  - c. A parent/parents in combination or a spouse may not provide more than 40 hours of services in a seven-day period; and
  - d. Married individuals must be offered a choice of providers and caregivers. If they choose a spouse as their caregiver, it must be documented in the Person Centered Recovery Plan.

Payment for the following HCBS services can be made to legally responsible individuals when the criteria have been met:

- Habilitation Aide
- Homemaker
- Homemaker Chore
- Personal Assistance
- Private Duty Nursing
- Respite
- Specially Trained Attendant
- Transportation

