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State/Territory Name: CT

State Plan Amendment (SPA) #: 22-0034

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

December 16, 2022

William Woolston, Medicaid Director
Connecticut Department of Social Services
55 Farmington Avenue
Hartford, CT 06105

Re: CT-22-0034 §1915(k) Community First Choice State Plan Amendment (SPA)

Dear Mr. Woolston:

The Centers for Medicare and Medicaid Services (CMS) is approving your request to amend the Community First Choice (CFC) state plan benefit submitted under transmittal number CT-22-0034. This amendment updates State Plan language regarding the Community First Choice program to implement the provisions of the recently updated collective bargaining agreement between the state and the union representing personal care attendants (PCAs). CMS conducted the review of the state's submittal according to statutory requirements in Title XIX of the Social Security Act and relevant federal regulations.

The SPA is approved with an October 1, 2022 effective date. Enclosed are the following pages to be incorporated into your approved state plan:

- Attachments 3.1-K, Page 5
- Attachment 4.19-B, Pages 27, 28, 28a, 28b, 29

It is important to note that CMS approval of this change to the state's 1915(k) CFC state plan benefit solely addresses the state's compliance with the applicable Medicaid authorities. CMS approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, §504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at http://www.ada.gov/olmstead/q&a_olmstead.htm.

If you have any questions concerning this information, please contact me at (410) 786-7561. You may contact Karen Walsh at Karen.Walsh@cms.hhs.gov or (617) 565-1237.

Sincerely,

George P. Failla Jr., Director
Division of HCBS Operations and Oversight

Enclosure

cc: Dr. Deidre Gifford, CT DSS Commissioner
Joel Norwood, CT DSS
Jerica Bennett, CMCS
Melissa Musotto, CMCS
Marie DiMartino, CMCS
Karen Hatcher, CMCS
Mary Holly, CMCS

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER <u>2 2</u> — <u>0 0 3 4</u>	2. STATE <u>CT</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE October 1, 2022
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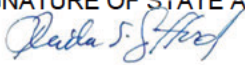
5. FEDERAL STATUTE/REGULATION CITATION Social Security Act Section 1915(k) and 42 CFR 441, Subpart K (Community First Choice [CFC])	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2023</u> \$ <u>14,944,289</u> b. FFY <u>2024</u> \$ <u>8,483,248</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 3.1-K, Page 5 Attachment 4.19-B, Pages 27, 28, 29 Attachment 4.19-B, Page 28a and 28b NEW	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 3.1-K, Page 5 Attachment 4.19-B, Pages 27, 28, 29 NEW
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9. SUBJECT OF AMENDMENT
Pursuant to the state's collective bargaining agreement with the union representing personal care attendants (PCAs), this SPA makes the following changes to CFC: payment for PCA paid time off, ~~a stipend~~ to assist PCAs in paying for health care expenses, and a one-time lump sum payment calculated at 6% of PCA CFC earnings for dates of service 4/1/21 through 3/31/22.

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

11. SIGNATURE OF STATE AGENCY OFFICIAL 	15. RETURN TO State of Connecticut Department of Social Service 55 Farmington Avenue, 9th Floor Hartford, CT 06105 Attention: Ginny Mahoney
12. TYPED NAME Deidre S. Gifford, MD, MPH	
13. TITLE Commissioner	
14. DATE SUBMITTED October 14, 2022	

FOR CMS USE ONLY

16. DATE RECEIVED October 17, 2022	17. DATE APPROVED December 16, 2022
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL October 1, 2022	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL George P. Failla	21. TITLE OF APPROVING OFFICIAL DHCBSO Director

22. REMARKS

Pen and Ink change to box 7 added "and Page 28b" and "NEW" next to Page 28b; and box 8 crossed out "NEW". Pen and ink change to box 9 replace "a stipend" with "add-on" - the actual change couldn't be made to box 9 due to size constraints.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: Connecticut

Community First Choice State Plan Option Pursuant to Section 1915(k) of the Social Security Act

Two individuals may share an Attendant.

The State assumes the cost for a comprehensive background check on all Attendants that an individual seeks to hire. The individual receives a copy of the results in order to make an informed decision as to whether to hire the Attendant. If any criminal record is found, the individual may elect to hire the Attendant but must sign a waiver stating that he or she is aware of and understands the criminal findings.

The CFC participant will include the cost of workers compensation coverage for their employees as part of their individual budget in accordance with Attachment 4.19-B of the Medicaid State Plan.

Limits on amount, duration or scope: The department assigns an overall budget based on need grouping that is determined by algorithm. Natural supports are based on the individual's functional assessment, which will take into consideration the availability of natural supports. Natural supports are identified during the person-centered service planning process and utilized when available to the individual. Natural supports are defined as voluntary unpaid care provided on a regular and consistent basis by a parent, spouse, or other person.

Transitional Services

Service Definition: Transitional services are non-recurring services for individuals who are transitioning from a nursing facility, institution for mental diseases, or intermediate care facility for individuals with intellectual disabilities to a home and community-based setting where the individual resides. Allowable transitional services are those necessary to enable a person to establish a basic household and may include:

- essential household furnishings and moving expenses required to occupy and use a community domicile, including furniture, window coverings, food preparation items and bed/bath linens;
- transportation expenses to pay for trips associated with locating housing;
- set-up fees or deposits for utility or service access, including telephone, electricity, heating and water;
- services necessary for the individual's health and safety such as pest eradication and one-time cleaning prior to occupancy.

Limit on amount and duration of scope: Transitional services funds are furnished only to the extent that they are necessary as determined through the service plan development process and

TN # 22-0034

Approval Date 12/16/2022

Effective Date 10/01/2022

Supersedes

TN # 15-012

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Connecticut**Community First Choice State Plan Option Pursuant to Section 1915(k) of the Social Security Act**

The payment methodology described below applies to all services and supports provided under Connecticut's Community First Choice (CFC) State Plan Option pursuant to section 1915(k) of the Social Security Act, as described in and provided in accordance with Attachment 3.1-K of the Medicaid State Plan.

Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers of CFC services pursuant to section 1915(k) of the Social Security Act. Except as otherwise provided below, CFC services are paid pursuant to the current fee schedule for CFC. The agency's fee schedule rates were set as of October 1, 2022, and are effective for services provided on or after that date. All rates are published on the Connecticut Medical Assistance Program website: www.ctdssmap.com. From this web page, go to "Provider," then to "Provider Fee Schedule Download," then select the applicable fee schedule. Medicaid payment under CFC does not include payment for room and board.

Payments are made by the Medicaid agency directly to the providers of State Plan services or to the fiscal intermediary to disperse payments. Payments for all State Plan services are made through the state's Medicaid Management Information System (MMIS).

As set forth on the fee schedule referenced above, the following CFC services are reimbursed as described below:

Attendant Care: Attendant care rates are billed under five distinct payment methodologies, each of which is based on the plan of care and the specific circumstances of the services provided, as follows:

1. Hourly Rate: When care is provided over a period of time which is neither live-in care for a continuous 24-hour period, nor a 12-hour overnight shift, a quarter-hour rate is used.
2. Per Diem Rate: When care is provided for a continuous 24-hour period by a live-in attendant, a per diem rate is billed, which assumes that the attendant receives at least eight hours of sleep, at least five of which is uninterrupted.
3. Pro-Rated Per Diem Rate: When the 24 hour shift is not completed; services are billed at a pro-rated per-diem rate.
4. Overnight Rate: When care is provided overnight for a 12-hour period, services are billed under an overnight rate, which assumes that the attendant sleeps for half of the hours.

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Supersedes

TN # 19-0025

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Connecticut

Community First Choice State Plan Option Pursuant to Section 1915(k) of the Social Security Act

5. Pro-Rated Overnight Rate: The pro-rated overnight rate is used when the 12-hour shift is not completed.

Rate Methodology for Attendant Care Services: The client who self-hires an attendant can decide the pay rate in accordance with this paragraph. The minimum attendant rate is determined by the collective bargaining agreement between the state and the applicable union representing attendants that is in effect at the time the services are provided and which sets forth the applicable minimum permissible rates and any other payments, including, but not limited to, lump sum payments. If no collective bargaining agreement is in effect at the time services are provided, the permissible rates and other applicable payments are those set forth in the most recent collective bargaining agreement for the time period immediately preceding expiration of the agreement. Sharing an attendant is also an option. The rate for sharing an attendant between two (2) participants is 150% of the rate applicable to an attendant providing services to a single participant. The shared attendant rate is distributed evenly between the individual budgets for the two (2) participants. All applicable employer taxes, workers' compensation coverage, paid time off, and add-on to support attendants' health care expenses are added to the pay rate to determine the Medicaid rate for each unit of service billed and paid by the attendant.

Most of the Medicaid rate for personal care attendant services is a final rate, specifically the base rate, applicable employer taxes, and workers' compensation coverage, which are final components of the rate. In accordance with the following provisions, the portions of the Medicaid rate reflecting paid time off (PTO) and add-on to support attendants' health care expenses (add-on) are paid as an interim rate to the state's contracted fiscal intermediary as part of the overall Medicaid rate and later reconciled to actual incurred payments using the cost settlement process detailed below:

- a. *Interim Rates for PTO and Add-on Component of Medicaid Rate:* The state calculates the interim rate based on available information to estimate the cost of PTO and add-on, which the state updates annually each state fiscal year based information available to estimate the likely payment and use of PTO and add-on. Interim rates are provisional in nature, pending the completion of cost reconciliation and cost settlement for the rate period, as noted below.

TN # 22-0034Approval Date 12/16/2022Effective Date 10/01/2022

Supersedes

TN # 18-0023

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Connecticut

Community First Choice State Plan Option
Pursuant to Section 1915(k) of the Social Security Act

- b. *Cost Reports:* On behalf of each employer, the state's contracted fiscal intermediary keeps records of each attendant's eligibility, accrual and use of PTO and each attendant's eligibility and receipt of payment of the add-on. The fiscal intermediary prepares and submits a cost report to the Department of Social Services documenting actual incurred payments for PTO and add-on for each PCA for that state fiscal year and reconciles those payments to the interim payments. Cost reports are due to the Department of Social Services not later than ten months after the close of the state fiscal year during which the costs included in the cost report were incurred. Submitted cost reports are subject to desk review by the Department of Social Services or its designee. Desk review shall be completed within 8 months following the receipt of cost reports.
- c. *Cost Settlement:* Interim payments for the PTO and add-on portions of the attendant services rates will be adjusted in aggregate. This results in cost reconciliation. Reconciliation will occur not later than 24 months of the end of the reporting period contained in the submitted cost report. If it has been determined that an overpayment has been made, the Department of Social Services will return the federal share of the overpayment to CMS. If the actual, certified Medicaid allowable costs of payments for the PTO and add-on portion of the attendant services exceed the interim Medicaid rates, the Department of Social Services will submit claims to CMS for the underpayment. Cost settlement will occur within the timelines set forth in 42 CFR 433 Subpart F.
- d. *Audit:* All supporting accounting and other records related to the eligibility, earning, and accrual of the PTO and add-on portion of the payments for attendant services is subject to audit. If an audit discloses discrepancies in the accuracy of information submitted by the state's contracted fiscal intermediary, the Department of Social Services' Medicaid payment rate for the said period is subject to adjustment.

Fees for attendant care services other than those detailed above must comply with the provisions of the collective bargaining agreement in effect at the time services are provided, including, but not limited to, applicable minimum fees. For any services that are not covered under a collective bargaining agreement, maximum and/or minimum fees, as applicable (the client decides the fee within the applicable maximum and/or minimum), are published on the CFC Fee Schedule referenced above.

TN # 22-0034
Supersedes
TN # NEW

Approval Date 12/16/2022Effective Date 10/01/2022

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Connecticut

**Community First Choice State Plan Option
Pursuant to Section 1915(k) of the Social Security Act**

Workers Compensation Coverage for Personal Care Attendant Services: For dates of service prior to January 1, 2019, the CFC participant will have the option to include the cost of workers' compensation coverage for their employees as part of their individual budget. For dates of service on and after January 1, 2019, workers' compensation coverage for attendants shall be provided in accordance with the collective bargaining agreement described above. If no collective bargaining agreement is in effect at the time services are provided, workers' compensation shall be provided in accordance with the most recent collective bargaining agreement for the time period immediately preceding expiration of the agreement. Workers' compensation will be calculated and paid in accordance with the standard requirements for workers' compensation insurance set forth by the State of Connecticut Workers' Compensation Commission and the State of Connecticut Department of Labor. As described above, workers' compensation coverage is incorporated into the payment rate for personal care attendant services.

Lump Sum Payment for Personal Care Attendant Services: Effective October 1, 2022, there is a one-time lump sum payment made to each personal care attendant calculated at 6% of the attendant's total earnings from CFC for dates of service from April 1, 2021 through March 31, 2022. Any future lump sum payments shall only be provided in accordance with the terms of a collective bargaining agreement between the state and the applicable union representing attendants that is in effect at the time the services are provided.

TN # 22-0034

Supersedes

TN # NEWApproval Date 12/16/2022Effective Date 10/01/2022

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Connecticut**Community First Choice State Plan Option Pursuant to Section 1915(k) of the Social Security Act**

Transitional Services: The cost of transitional services is over and above the cost limit for the reoccurring individual service budget. The total permissible allocation per individual will be \$1,200.00 over a 2-year period. Transitional services are subject to prior authorization. The Department utilizes an approved inventory of transitional services as a standard for the transitional service needs assessment. Funding is provided for the participant to acquire services detailed within the inventory based on the participant's need for the service.

Assistive Technology (AT): Purchase of AT is subject to prior authorization by the State. In support of this, the participant is required to submit three bids for the purchase. The aggregate limit for this service is \$5,000 per individual budget year.

Home-Delivered Meals: Services will be reimbursed in accordance with the current negotiated rates for these services found on the CFC fee schedule.

Environmental Accessibility Adaptations: Costs must be substantiated by invoices prepared and submitted by approved State vendors and are subject to prior authorization by the State. The aggregate cost for this service is \$15,000 over a 5 year period.

Home Health Services: Services will be reimbursed in accordance with section 7 of Attachment 4.19-B of the State Plan.

Backup Systems: Electronic monitoring service rates will track the current Medicaid rates as indicated on the CFC Fee Schedule. If there is not a current rate on the CFC fee schedule for the proposed Backup System, a minimum of three invoices will be submitted by approved State vendors and are subject to prior authorization by the State.

Training: The Planning and Support Coach will be providing 1:1 training to educate individuals on how to hire, manage, and self-direct their staff. The Planning and Support Coach will be reimbursed in accordance with the CFC fee schedule.

Acquisition, maintenance, and enhancement of skill in order for the individual to accomplish health related tasks: Registered Nurses, Occupational Therapists, Physical Therapists, and Speech Therapists may provide services for acquisition, maintenance, and enhancement of skills in order for the individual to accomplish health related tasks. These services provide teaching strategies and educational opportunities for individuals to become more independent in their health-related tasks. Services are provided by licensed staff from home health agencies. These providers are required to complete a certification in person-centered planning. Payment for this service is in accordance with the current Medicaid negotiated Provider Specific Rates for the Home Health Agency the individual chooses to work with.

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