



Medicaid Long-Term Care Managed Care Enrollees

The Right to Continuous Care

Frail and elderly Floridians whose disabilities require a nursing home level of care and who receive home and community based services (HCBS) through a Medicaid Managed Care Long-Term (LTC) plan have certain “rights” to continuous services. This *Know Your Rights* Q & A provides some examples of those rights and how to get help.

Q. My Medicaid LTC plan calls for 8 hours of personal care 7 days a week. I need help with many activities of daily living, including bathing, dressing and eating. However, my home health aid sometimes does not come, or comes late or leaves early. It has gotten worse with COVID. Is this supposed to happen?

- A. NO. Medicaid managed care organizations (also called “MCOs” “HMOs” or “Plans”) must have a process for *“immediately reporting any unplanned gaps in service delivery.”* As part of this process, the Plan must prepare a *“Service Gap Contingency and Back-Up Plan”* for enrollees. A “gap” is the difference between the number of hours required by the care plan, and the number of hours actually provided. For example, if you are approved for 8 hours/day of personal care and the caregiver only shows up for 1 hour, that’s a gap of 7 hours. *The MCO must ensure that gap services are provided within a three-hour time frame.*

Q. What should be in the gap plan?

- A. The gap contingency plan must inform the enrollee (or authorized representative) of resources available, including on-call back-up service providers and the “enrollee’s informal support system” in the event of an unforeseeable gap, such as a service provider illness or transportation failure.

Q. When I learned of my “right” to a gap plan and asked my case manager for one, she said it is up to me to write it and it should rely on my family. Is this right?

- A. NO. That is not correct. The plan is required to prepare a “*Service Gap Contingency and Back-Up Plan.*” It is also important to know that the “informal support system” should not be the “primary source” for addressing a gap, unless that is the enrollee’s choice. The MCO must discuss the gap/contingency plan with the enrollee and ensure that the plan is updated quarterly.

Q. What can I do if I do not get a “gap” plan or it does not work?

- A. You can file a complaint with the [AHCA complaint portal](#). You may also want to [contact the STORIES project](#), for example see the story of [Alene](#).

Q. My doctor writes prescriptions for my home health services on a monthly basis and sometimes there is an interruption in services while my home health provider and I are waiting for the prescription. What can I do?

- A. You should let your doctor know that plans must approve coverage for “maintenance therapies” i.e. treatments that are supportive rather than corrective and that prevent further deterioration for no less than six (6) months.

Q. I live alone and have MS, which is getting worse. I am now paralyzed and need help with everything. I am currently getting 6 hours a day of home health services. However, about a week ago I got a notice in the mail that my managed care plan would be cutting my home services to 3 hours/day. I am afraid that I will not be able to safely stay at home and out of a nursing home without at least 6 hours. What can I do?

- A. If you appeal within 10 days of the date of the notice, your home health service hours cannot be reduced while the appeal is pending. For more information on the right to appeal and how to do so, read [this publication](#) on grievances, appeals and fair hearings.

Q. How do I get more information or help regarding these rights?

- A. This “Know Your Rights” publication is based on information in the [Advocate’s Guide to the Florida Long-Term Care Waiver](#) and in the [consumer video for navigating the Florida Medicaid HCBS Program](#), prepared by the Florida Health Justice Project (FHJP).

While FHJP does not provide legal services or direct assistance to individuals, we do provide technical assistance to local legal services staff. You can find contact information for your local legal services office [here](#).

If you are having difficulty getting needed HCBS services and want to “share your story,” you can contact the FHJP stories project [here](#).

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