

**State of Rhode Island
Department of Elderly Affairs
160 Pine Street
Providence, RI 02903-3708**

**Rules and Regulations
Governing
The Home and Community Care Program**

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Rules & Regulations Governing The Home and Community Services Program For Elderly Persons

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Section I

Program Authority

The Home and Community Care Program is authorized by, and these regulations are promulgated under, the authority of Title 42 of the General Laws of Rhode Island, Chapter 66.3, AHome and Community Care Services to the Elderly®, as amended.

Section II

Definitions

For the purpose of these Rules & Regulations, the following words and phrases shall mean:

1. ADirector@ means the Director of the Rhode Island Department of Elderly Affairs (RIDEA).
2. AHome health aide services@ means simple health care tasks, personal hygiene services, housekeeping tasks essential to the patient's health, and other related supportive services. These services shall be in accordance with a plan of treatment for the patient and shall be under the supervision of a registered professional nurse, and under the supervision of the appropriate professional therapist when the home health aide carries out simple procedures as an extension of physical, speech, or occupational therapy. These services shall be provided by a person who meets the standards established by the Rhode Island Department of Health.
1. AHomebound@ means the condition of the client is such that the client does not have the normal ability to leave home, consequently leaving the home requires a considerable and taxing effort by the client. A client does not have to be confined to bed to be homebound.
4. AHomemaker services@ means assistance and instruction in managing and maintaining a household and incidental household tasks for persons at home because of illness, incapacity, or the absence of a caretaker relative. These services shall be provided by a person who meets the standards established by the Rhode Island Department of Health.
5. AHome and community care services@ means arranging or providing directly or through contract arrangement day care and home health aide/homemaker services.
6. AIncome@ means the sum of federal adjusted gross income as defined in the internal revenue code of the United States, and all non-taxable income including, but not limited to:
 1. the amount of capital gains excluded from adjusted gross income;
 2. support money;
 3. alimony;
 4. non-taxable strike benefits;

5. cash public assistance and relief not including relief granted under this chapter
1. the gross amount of any pension or annuity (including railroad retirement act benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans' disability pensions);
7. non-taxable interest received from the federal government or any of its instrumentalities;
8. workers' compensation;
9. the gross amount of loss of time insurance.

Income does not include:

1. gifts from non-government sources;
2. surplus foods;
3. other relief in kind supplied by a public or private agency;
4. sums of money expended for medical and pharmaceutical needs that exceed three percent (3%) of applicant's annual income or three percent (3%) of applicant's preceding ninety (90) day income computed on an annual basis.

Section III

Purpose and Services Available

The purpose of the Home and Community Care Services to the Elderly Program shall be to provide levels of reimbursement for necessary covered services when the provision of these services will: (a) promote independent living; and (b) allow the client to remain at home. It is the intent of this program to prevent or delay institutionalization. Applicants do not have to be eligible for institutionalization to receive services under this program.

Home and community care services shall consist of home health aide services/ homemaker services and adult day services.

Section IV

Contracts

The Director is authorized to enter into contracts for the provision of services under this program. Contractors shall meet all applicable licensing and certification requirements. Contracts may include standards for participation above and beyond minimum licensing requirements. Contracts may be renewed based on satisfactory performance as determined by the Department.

Section V

Client Eligibility

The Department and its delegate agencies shall use an assessment process to determine eligibility, including functional eligibility, for this program. Clients must meet the following eligibility criteria:

Part I. Homebound residents age 65 or older at the time of application who meet the financial guidelines of the Rhode Island Medical Assistance Program, except that they may retain cash and/or liquid resources not to exceed four thousand (\$4,000) dollars. Eligibility for the Rhode Island Medical Assistance Program is determined by the Rhode Island Department of Human Services. Applicants must also be assessed and determined in need of the assistance provided by the Home and Community Care Services for the Elderly Program.

OR

Part II. Homebound residents age 65 or older at the time of application who are assessed and determined in need of either adult day services and/or homemaker/home health services and whose income does not exceed the income eligibility for persons eligible under R.I.G.L. 42-66.2-5 for the Rhode Island Pharmaceutical Assistance Program (RIPAE).

Availability of services under Part II of the Home and Community Care Services for the Elderly Program is dependent upon appropriation of funds by the Rhode Island General Assembly.

Persons meeting the eligibility requirements of Part II shall be eligible for the co-payment portion of the Home and Community Care Services for the Elderly Program.

Section VI

Financial Participation by Clients

Client share of cost for those eligible for Rhode Island Medical Assistance Program shall be set by the Rhode Island Department of Human Services.

Clients determined eligible under Section V, Part II of these rules and regulations shall be assigned a fixed payment per unit of service based on the income levels below:

	Individual	Couple
Level 1	Up to \$8,800	Up to \$9,562
Level 2	\$8,801 & Above*	\$9,563 & Above*

The client co-payment shall be per hour of homemaker/ home health service or per day of adult day services. The amount of this co-payment shall be forty per cent (40%) of the maximum allowable cost per service.

All client payments under this program shall be paid directly to a vendor(s) of service(s).

Special circumstances, as defined by the Director in these rules and regulations, allow the state to pay ninety percent (90%) of the maximum allowable cost per service, as of the date of purchase of the service between the contractor and the Department (R.I.G.L. 42-66.3-5.). Special circumstances shall consider the client's needs and ability to pay.

Clients who meet the income criteria of Level 1 above shall be considered as qualifying for special circumstances, and shall receive ninety per cent (90%) of the maximum allowable cost per service.

In addition, the following special circumstances may be considered qualification for receiving ninety per cent (90%) of the maximum allowable cost per service:

1. Assets, including but not limited to, capital assets;
2. Number of dependents;
3. Extremely large expenditures for medical care;
4. Unusually high cost of needed services.

* Note that the maximum income cap for this program is equal to the RIPAE income cap, adjusted annually.

Section VII

Program Eligibility

The Department and its delegate agencies shall utilize the DEA-approved assessment form contained in the DEA Standards for Case Management Services which shall serve as the primary vehicle for determination of program eligibility. This form includes, but is not limited to:

1. pertinent demographic information
- b. residence
3. date of birth
- d. marital status
5. annual income for the previous calendar year, including amount and source of

- income (such income must be supplied for applicant and spouse when applicant is married)
- f. information on participation in other home and community care programs
- 7. social security number
- h. all other data essential for the determination of eligibility and the maintenance of client statistics
- 1. certification through signature of the applicant that permission is granted to the Department to verify any and all information supplied on the application form as well as certification through signature that the applicant will supply to the Department, upon request, written documentation of all information included on the application form.

Such application form shall be made available to the Department and its delegate agencies.

The Department may verify eligibility information in one or more of the following ways:

- 1. review and certification of eligibility by trained staff for each assessment filed with the Department or its delegate agencies
- 2. computer cross checks with available data banks
- c. home-based assessment to obtain documentation for age, residence, functional status, and previous year's annual income or income for the ninety (90) days prior to application for services
- 4. confirmation of Medicaid eligibility by the RI Department of Human Services
- e. physician confirmation of diagnosis and functional need for services

Written notification shall be made to each applicant of eligibility or ineligibility within thirty (30) days of receipt by the Department of a completed application and assessment. When applicable, this notification shall detail the reason(s) an application is being denied and the process for appeal of this decision (refer to Section XI, Appeal Procedures, of these rules and regulations).

The following documentation shall be accepted as verification of age, residence, and income under the Co-Pay Program:

- Age: One of the following:
- 1. RI Driver's License;

2. Birth Certificate;
3. RIPTA I.D. Card;
4. DEA I.D. Card;
5. RIPAE I.D. Card;
6. Any other official document which indicates date of birth.

Residence:

One of the following:

1. The address furnished to the Registry of Motor Vehicles for the applicant's operator's license;
2. The address to which the applicant's motor vehicle is registered;
3. The address at which the applicant filed his/her last federal
4. The address furnished to the companies from which the applicant has obtained retail credit cards;
5. The address furnished to the financial institutions where the applicant maintains accounts;
6. The address furnished to the tax collector and/or assessor in those communities where the applicant own taxable real or personal property;
7. The address furnished to the insurance companies with which the applicant maintains policies;
8. The address furnished by the applicant to any business, professional, union, or fraternal organizations of which he/she is a member;
9. The address furnished to governmental agencies with which the applicant has contact;
10. RIPAE ID Card;
11. The address of a hospital, convalescent home, or like facility at which the applicant has been a patient or resident for the preceding thirty (30) days or longer.

Income

A combination of the following is sufficient to document all income included in the definition of such under the Home and Community Care

Program:

1. Previous calendar year federal income tax return;
2. Employment income: W-2 form, pay stubs with year to date total, letter from employer indicating length of employment and wages in previous calendar year;
3. TDI/Worker's Compensation: an award letter or copies of checks;
4. 4. Unemployment benefits: a stamped, unemployment book or copies of checks;
5. Alimony or Support: a court decree or other documentation;
6. Pension Benefits (Social Security, Veterans' Benefits, SSI, etc.): an award letter or, after determining date of initial award, copy of most recent check or written verification from income source;
7. Interest Income: savings statements, passbook, letter from savings institution, W-1099 or W-9 interest form;
8. Rental Income: rent receipts, lease agreement;
9. Self-Employment Income: all receipts, bills, invoices and other documents establishing income and expenses of operations;
10. Any listing or verification from an agency or organization for one of the above

Income Disregards: Any and all of the following:

1. Gifts from non-governmental sources;
2. The value of surplus foods;
3. Other relief in kind supplied by a public or private agency;
4. Sums of money expended for medical and pharmaceutical purposes that exceed three per cent (3%) of applicant's annual income or, if ninety (90) day income data are used for eligibility purposes, three per cent (3%) of applicant's preceding ninety (90) day income computed on an annual basis.

Section VIII

Duration of Eligibility

Clients whose eligibility has been established as described in Section VIII shall

remain eligible for a period of one (1) year, or until the following, whichever occurs first:

1. The client moves out of Rhode Island and is no longer a full time resident.
- b. The client is no longer in need of the services of this program.
3. The Department conducts a reassessment of eligibility and determines the client to be ineligible.

Section IX

Payment to Vendors

Payment to vendors shall be based on a rate of reimbursement set by the State of Rhode Island for these services. Payments authorized by the Department to vendors under this program shall be equal to this state rate minus any required client payment.

Section X

Appeal Procedures

Any person whose application for assistance under the Home and Community Services for the Elderly Program is denied or whose request for an increase in assistance is denied shall have the right to appeal such a decision. Such appeals shall follow the procedures described below:

1. Applicants shall contact the Department Hearing Officer to request an appeal. The Department Hearing Officer shall be a Department administrative employee who is not responsible for administration of the Home and Community Care Services Program.
2. The applicant must contact the Department within ninety (90) days of the date of the denial letter from the Department. No hearing shall be granted upon a request more than ninety (90) days from the

date of the denial letter. However, an applicant may apply or reapply for services at any time at the appropriate agency.

3. A hearing shall be scheduled to take place as soon as possible but not longer than fourteen (14) days after the request for the hearing is received by the Department. The hearing shall take place at the Department of Elderly Affairs; 160 Pine St., Providence, RI, unless coming to this site poses a hardship for the client.
4. Written notice of the hearing shall be supplied to the applicant and shall include:
 1. a statement of the time, place, and nature of the hearing;
 2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 3. a reference to the particular sections of the statutes and rules involved; and
 4. a short and plain statement of the issues involved.
5. The applicant shall have the right to have with him/her any person or any documentation pertinent to the issues involved. The applicant must supply documentation at the time of the hearing for age, residence, and income.
6. The Department Hearing Officer shall maintain a record of the hearing including the following:
 1. evidence received or considered;
 2. statement of matters officially noted;
 3. questions and offers of proofs and rulings;
 4. findings and exceptions;
 5. the decision by the Hearing Officer; and
 6. all memoranda and data submitted to the Hearing Officer presiding at the hearing.
7. Oral proceedings or any part thereof shall be transcribed on request of any party, and copies made available to said party at cost.

8. Findings of fact shall be exclusively on the evidence and matters officially noted.

Section XI

Advisory Committee

A permanent state committee, known as the Home and Community Care Services Advisory Committee, shall be established to advise the Director relative to the needs and concerns of recipients of Home and Community Care Services for the Elderly Program.

The Committee shall consist of fifteen (15) members:

- C Three (3) members of the AARP, to be appointed by the Speaker of the Rhode Island House of Representatives;
- C One (1) member of the National Retired Teachers Association, to be appointed by the Majority Leader of the Rhode Island Senate;
- C The Director of the RI Department of Human Services, or designee;
- C The Auditor General, or designee;
- C The Executive Director of the Visiting Nurses of Rhode Island, or designee;
- * Three (3) representatives of the visiting nurses agencies within the state of Rhode Island, one (1) to be appointed by the Majority Leader of the Rhode Island Senate, one (1) to be appointed by the Minority Leader of the Rhode Island Senate, and one (1) to be appointed by the Speaker of the Rhode Island House of Representatives;

- C Three (3) representatives of home and community care services, two (2) to be appointed by the Speaker of the Rhode Island House of Representatives, and one (1) to be appointed by the Minority Leader of the Rhode Island House of Representatives;
- C One (1) representative of a third party insurer, to be appointed by the Majority Leader of the Rhode Island Senate; and
- C The Director of the RI Department of Health, or designee.

The members of this committee shall meet monthly. The Director shall assign staff of the Department to work with the Committee and provide necessary support and assistance.

Members of this Committee shall be appointed for two (2) year terms and may be reappointed to serve as many as three (3) consecutive terms. Members shall select from among themselves a Chair who shall work with the Director, or designee, to set the monthly agendas and preside at the meetings of the Committee. Members shall also select a Vice Chair to fulfill the duties of the Chair in his/her absence.