**R539. Health and Human Services, Services for People with Disabilities.**

**R539-5. Self-Administered Services.**

**R539-5-1. Authority and Purpose.**

(1) Section 26B-6-403 authorizes this rule.

(2) This rule establishes a procedure and a standard for a person participating in the self-administered services delivery model.

**R539-5-2. Definitions.**

Terms used in this rule are the same as defined in Rule R539-13. Additionally:

(1) "Division of Archives and Records Service" means the state agency that preserves and manages Utah government records under the Department of Government Operations.

(2) "Monthly summary" means documentation submitted to the support coordinator by the SAS employer summarizing the services delivered to the person.

**R539-5-3. Requirements for Participation in Self-Administered Services (SAS).**

(1) A person shall obtain authorization from the division to participate in the SAS program.

(2) A support coordinator shall validate annually that the person satisfies each participation requirement to continue in the self-administered services program.

(3) After the division determines the amount of the person-centered budget through the RFS process, an SAS employee may be hired by the SAS employer to provide support services consistent with the authorized budget amount, frequency, and duration identified in the person's PCSP.

(4) The person or the person's guardian shall:

(a) designate an individual to act as the SAS employer;

(b) ensure that the SAS employer adheres to the terms of the SAS employer agreement; and

(c) ensure that the SAS employer adheres to the terms of the person's PCSP.

**R539-5-4. SAS Employer Requirements.**

(1) The SAS employer:

(a) may not simultaneously be the SAS employee;

(b) shall adhere to Rule R380-80;

(c) shall adhere to the DHHS Critical Incident Reporting Guide, incorporated by reference in this rule.

(d) shall adhere to the terms of the person's PCSP;

(e) shall sign and adhere to the terms of the person's SAS employer agreement; and

(f) shall ensure that any services provided conform to current service code descriptions.

(i) The SAS service code descriptions are found on the division's website.

(ii) The division shall communicate SAS service code description changes to a fiscal agent before the implementation of the change.

(iii) A fiscal agent shall communicate SAS service code description changes to SAS employers and SAS employees before the implementation of the change.

(2) The SAS employer shall maintain each record about the SAS employee, SAS employer, and person in accordance with retention schedules established by the division and available through the Division of Archives and Records Service.

(3) The SAS employer shall ensure that division, department, and state or federal auditors have immediate access to any record about the SAS employee, SAS employer, and person, upon request.

(4) The SAS employer shall use a fiscal agent contracted with the division and shall provide the fiscal agent with any requested documentation for each SAS employee.

(5) The SAS employer shall submit a written monthly summary to the support coordinator by the 15th day of the following month.

(6) The SAS employer may not approve billing for an SAS employee providing more than 40 hours of services per week unless a form 2-9OT has been submitted and approved through the RFS process.

(7) The SAS employer shall ensure that the person approves the hiring of any SAS employee.

**R539-5-5. SAS Employee Requirements.**

(1)(a) An SAS employee shall be 16 years of age or older.

(b) An SAS employee who is younger than 18 years of age:

(i) shall have the SAS employee agreement co-signed by the SAS employee's parent or guardian; and

(ii) may not transport the person.

(2) An SAS employee:

(a) shall adhere to Rule R380-80;

(b) shall adhere to the DHHS Critical Incident Reporting Guide;

(c) shall adhere to the terms of the person's PCSP;

(d) shall ensure that any services provided conform to current service code descriptions; and

(e)(i) shall sign and adhere to the terms of the person's SAS employee agreement.

(ii) If the SAS employee fails to complete and sign the SAS employee agreement or adhere to the terms and requirements of the agreement, the fiscal agent may not approve payment to the SAS employee.

(3) An SAS employee shall be capable of providing the services for which they have been hired.

(4) An SAS employee may provide a personal care service as described in Section 26B-3-222.

(5) The SAS employee may not simultaneously be the SAS employer.

(6) Any service provided must be included in the PCSP.

**R539-5-6. SAS Division Requirements and Limitations.**

(1) A person may not exceed the budget limit in the person's person-centered budget.

(2)(a) The division director may authorize the revised budget limit if the director determines there is no other available delivery method that will appropriately meet the person's needs and circumstances.

(b) The review must include the following information provided by the support coordinator from the perspective of the person's person-centered planning team:

(i) a brief summary of the person's situation and the need for the high level of SAS;

(ii) demonstration of how changing from the SAS delivery model to the provider-based services delivery model would negatively impact the person mentally, emotionally, or physically, resulting in either regression or increased behaviors affecting the health and safety of the person and others;

(iii) demonstration of how this service would be a better fit to utilize SAS instead of out-of-home placement;

(iv) evidence that it is not possible to use a provider; and

(v) information that describes how this service would:

(A) improve the person's behaviors or progress;

(B) positively impact the person's ambition, independence, or socialization; or

(C) lead to any other benefits.

**R539-5-7. Review Process, Recovery of Funds, and Penalties.**

(1)(a) Funds for self-administered services are public funds that are appropriated to, and approved by, the division.

(b) Funds are for the delivery of services for the person during the approved period and for the purposes stipulated in service code descriptions.

(c) Public funds are subject to applicable federal, state, and local laws and regulations pertaining to the use of public funds.

(2) The division may require the person to use a contracted provider if the SAS employer fails to meet a requirement in:

(a) federal or state law or rule;

(b) the SAS employee agreement; or

(c) the SAS employer agreement.

(3) The support coordinator shall review any billing quarterly to ensure that, for each service, no duplication of a service, fraud, or overlap of submitted timesheets has occurred for SAS and provider-based services.

(4) The misuse of any funds provided for a purpose other than those in the service description may subject the caregiver and contracted provider, if applicable, to administrative sanctions, criminal prosecution, or liability for repayment of the misused funds.

(5) For any findings of duplication of services, erroneous timesheet submissions, or exceeding the amount of service authorized in the person's person-centered budget, the department:

(a) shall recover any associated fund; and

(b) may make a referral to the Utah Office of Inspector General and the Medicaid Fraud Control Unit if waste, fraud, or abuse of funds is suspected.

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