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

**R539-12. Person-Centered Budget.**

**R539-12-1. Authority and Purpose.**

(1) Subsections 26B-6-403(2)(l) and 26B-6-403(2)(q) authorize this rule.

(2) This rule establishes a process and standard for creating, adjusting, and reviewing the budget for each person-centered support plan (PCSP).

**R539-12-2. Definitions.**

Terms used in this rule are defined in Section 26B-6-401 and Rule R539-13. Additionally:

(1) "Committee" means the Request for Services (RFS) Committee.

(2)(a) "Committee chair" means the RFS administrator.

(b) Alternates for the position of committee chair shall include:

(i) any supervisor that the RFS administrator reports to;

(ii) the assistant division director; and

(iii) the division director.

(3) "Immediate jeopardy" means danger of loss, harm, or failure within 30 days.

(4) "Non-voting committee member" means a division budget specialist or a specialist or administrator that provides subject matter expertise or consultation.

(5)(a) "Plan cycle" means the period between the PCSP's effective start date and effective end date.

(b) A plan cycle is typically 365 days or, during a leap year, 366 days.

(6)(a) "Plan total" means the sum of each service line item in the budget.

(b) Each service line item multiplies the service rate by any service unit.

(7) "Restricted service code" means a service code related to a residential service, day support, or public transportation, including RHS, HHS, PPS, DSG, DSI, DSP, EPR, and UTA.

(8) "Surplus" means the difference between the plan maximum and the plan cycle expenditures within two consecutive and closed plan cycles.

(9) "Voting committee member" means an employee of the division who:

(a) reviews and makes a decision about an RFS; and

(b)(i) is supervised by the committee chair; or

(ii) is designated by the division director.

**R539-12-3. Request for Services Committee.**

(1) The committee shall review protected health information to determine the amount of a person-centered budget based on the person's assessed need.

(2) The committee shall consist of a minimum of six division employees.

(a) Each committee member shall be a full-time employee with a minimum job classification of program specialist II.

(b) The committee chair shall have a minimum job classification of administrator I.

(3) Each voting committee member shall review each RFS assigned to that voting committee member.

(a) A voting committee member may make a decision for any RFS with a budget adjustment amount of less than $5,000.

(b) A voting committee member shall submit an RFS to the committee for a decision if the RFS includes:

(i) a budget adjustment amount equal to or greater than $5,000;

(ii) a change from an in-home service to an out-of-home service; or

(iii) an adaptive equipment request.

(4)(a)(i) The committee shall meet at least once a week, except during a week in which a recognized holiday, as described in Section 63G-1-301, or a lack of quorum interferes with the meeting.

(ii) If the committee is unable to meet due to a holiday or lack of quorum, the committee chair shall reschedule the meeting for the preceding or following week.

(b) For the committee to make a decision about an RFS:

(i) at least three voting committee members must be in attendance; and

(ii) at least one non-voting committee member who is a division budget specialist must be in attendance.

(5) The committee shall:

(a) use the RFS process to review each initial budget and person-centered budget adjustment;

(b) complete the person-centered budget review each year; and

(c) complete the closed plan payment review.

(6) The division shall maintain at least three non-voting committee members who can act as a voting committee member in the event of an emergency situation, including:

(a) a declared public health emergency or natural disaster;

(b) a vacancy in an employee position that reports to the committee chair; or

(c) a sudden increase in the volume of requests.

(7) Except for a division budget specialist, a non-voting committee member may act as a voting member in the event of an emergency after:

(a) 32 hours of participation in committee meetings as a non-voting member;

(b) a complete review of training material;

(c) consultation with and approval by the committee chair; and

(d) approval by the division director.

**R539-12-4. Initial Budget.**

(1) A division support coordinator, administrative case manager, or specialist shall develop an initial budget that reflects the person's assessed need and preference.

(2) A division support coordinator, administrative case manager, or specialist shall submit an initial budget to the committee through an RFS.

(3) The division may disburse funding to an initial person-centered budget through an RFS approved by the committee.

(4) The committee shall make a decision about an RFS within a reasonable timeframe but no later than 30 days after the initial budget submission.

**R539-12-5. Budget Adjustment.**

(1) Except as described in Section R539-12-6, a support coordinator shall submit any budget adjustment to the committee for review and approval before changing a person-centered budget. A budget adjustment includes:

(a) an increase or decrease to a plan total;

(b) adding or removing a service in a person-centered budget; or

(c) an increase or decrease to a restricted service code.

(2) A voting committee member shall review each RFS as described in Subsection R539-12-3(1) within 14-days of the date of submission.

(a) The voting committee member shall review each supporting document included in the RFS.

(b) The voting committee member shall use the criteria for each service code included in the request to evaluate the RFS.

(c) The voting committee member may submit any RFS to the committee for additional review.

(3) A voting committee member or the committee may defer a decision about an RFS.

(a) A voting committee member or the committee may use a deferral to:

(i) clarify the narrative explanation;

(ii) clarify the requested number of units or reimbursement rate for a service code; or

(iii) request additional documentation.

(b) A support coordinator shall respond to a deferred RFS within 30 days of the date of deferral.

(4) A voting committee member or the committee may use the modified approval to adjust the number of units or reimbursement rate for a requested service.

(5) A voting committee member or the committee shall deny an RFS that:

(a) does not meet the service criteria;

(b) requests an excessive amount of a service;

(c) requests an amount of a service that is not supported by documentation; or

(d) the described use of a service code, number of units, or reimbursement rate does not comply with:

(i) federal Medicaid law and state law;

(ii) the state implementation plan for the 1915c Medicaid waiver; or

(iii) each scope of work and service description requirement in the contract.

(6) A support coordinator may submit an emergency RFS if a person in service is in immediate jeopardy and needs the service change within 72 hours of the request submission date.

(a)(i) The support coordinator may request units of service equal to or fewer than 30 days of service.

(ii) The units of service shall be used within a 30-day period beginning on the effective start date.

(b) The committee chair shall review an emergency RFS within 72 hours of the request submission date.

(c) The committee chair may approve an emergency RFS after determining that the person is in immediate jeopardy and needs the service change within 72 hours of the request submission date.

**R539-12-6. Budget-Neutral Change.**

(1) A support coordinator may make a budget-neutral change to a person-centered budget without review by a voting committee member.

(a) Except as described in Subsections (2) and (3), a support coordinator may not adjust the following services in a budget-neutral change:

(i) a restricted service code;

(ii) a service code that requires completion of an individualized budget worksheet to determine the daily rate; or

(iii) a service code for which any other agency pays the state match rate as defined in Section R539-13.

(b) The support coordinator shall review each criterion, justification, and documentation requirement for each service before making a need-based change.

(c) A budget-neutral change shall be fully funded within the plan total for the plan cycle.

(d) A budget-neutral change shall maintain the integrity of the PCSP.

(e)(i) The support coordinator shall document any budget-neutral change in the person-centered support plan and the division case management system.

(ii) The support coordinator shall:

(A) update the budget, goal, support, and service;

(B) document the person's and person-centered planning team's involvement in the service change;

(C) document any justification for a service change in a log note in the Utah System for Tracking Eligibility, Planning and Services (USTEPS); and

(D) include the date of a related log note in the addendum to the PCSP.

(2) If the day program daily rate is sufficient to cover the extended living services (ELS) daily rate as defined in the contract, a support coordinator may move the dollar value of the units not used in the day program to fund additional days of ELS.

(a) The ELS exception may be used if the person:

(i) does not attend the day program because of illness or any other unforeseen issue; and

(ii) uses a residential service.

(b) The support coordinator must document use of the standard 16 days of ELS built into the individualized budget worksheet for a residential service before requesting additional ELS funding.

(3) A support coordinator may adjust the absentee days for the residential habilitation service (RHS) by contacting a division budget specialist.

(a) The change to absentee days may not increase the overall cost of RHS.

(b) A division budget specialist may make an adjustment to absentee days if the described use of the absentee days complies with:

(i) federal and state law related to Medicaid;

(ii) the state implementation plan for the 1915c Medicaid waiver; and

(iii) each scope of work and service description requirement in the contract.

(4) The support coordinator shall notify the division of a budget-neutral change through noa@utah.gov.

**R539-12-7. Budget Review.**

(1) The division shall annually review the use of person-centered budgets to maintain alignment of funding and a person's needs.

(a) The division administrative services director shall begin the review process in August of each fiscal year.

(b) A committee member shall review each budget that has potential funding misalignment.

(2) The division shall reduce a person-centered budget after two consecutive and closed plan cycles of underuse due to a misalignment of funding and actual need.

(a) A budget with a $2,000 or more surplus shall be subject to a budget reduction that realigns funding with actual need.

(b) The division shall presume that the person-centered budget aligns with the person's need if underuse is caused by:

(i) hospitalization, including placement in the Utah State Hospital;

(ii) incarceration;

(iii) temporary placement in facility-based care, including placement in a nursing facility or a private intermediate care facility;

(iv) temporary placement at the developmental center;

(v) a public health or other declared emergency;

(vi) limited access to a service provider; or

(vii) for a person participating in the self-administered services model, limited access to a direct care employee.

(c) The division administrative services director may consider budget underuse for a reason not listed in Subsection (2)(b).

(3) The division must notify the support coordinator of a budget reduction at least 30 days before sending a notice of agency action.

(a) A support coordinator must submit written justification within 30 days of notification to dispute the reduction.

(b) The support coordinator shall include documentation that explains:

(i) why the unused service continues to represent the person's need;

(ii) why the service was not used; and

(iii) how the underuse is being remedied.

(4) The committee shall review the documentation and determine whether the justification is adequate.

(5) If the division reduces the unused portion of the person-centered budget, the division shall send a notice of agency action as described in Section R539-3-7.

(6) The division shall coordinate any appeal of the person-centered budget review process as described in Section R539-3-7.

(7) The support coordinator shall reduce the person's plan cycle total within 30 days of the notice of agency action.

(a) The division shall monitor compliance with each budget reduction.

(b) If the support coordinator fails to reduce the person's plan cycle total within 30 days of the notice of agency action, the division shall send the support coordinator a second notice.

(i) The support coordinator shall make the requested change to the person's plan cycle total within 15 days of the date of the second notice.

(ii) The division shall refer the support coordinator to the Office of Service Review for any failure to make the requested change.

**KEY: disabilities, budget, request for services**

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