



DDSN Executive Memo

TO: EXECUTIVE DIRECTORS, HASCI CASE MANAGEMENT PROVIDERS

FROM: ASSOCIATE STATE DIRECTOR, SUSAN KREH BECK, ED. S., LPES, NCSP *SKB*

DATE: MARCH 26, 2019

RE: HASCI Waiver Policy Update - Delegation of Skilled Nursing Task

Per Head and Spinal Cord Injury Waiver policy, skilled care tasks can be performed by an attendant if those skilled care tasks are specifically delegated to the attendant by a Licensed Registered Nurse. The State Board of Nursing for South Carolina has issued an advisory opinion indicating that "digital intervention for the treatment of fecal impaction is within the role and scope of responsibilities of licensed nurses and should NOT be delegated to unlicensed personnel." Given this direction from the South Carolina Board of Nursing, it is no longer permissible for this task to be delegated to, or performed by a paid attendant. The HASCI Waiver Manual has been updated to reflect this. Please notify any HASCI Waiver participants for whom this task has been delegated to an attendant of this update, and please assist with locating nursing services to address this need.

If you have questions, please contact Melissa Ritter, Head and Spinal Cord Injury Division Director, at mritter@ddsn.sc.gov or 803-898-5120.



South Carolina Department of Labor, Licensing and Regulation
South Carolina Board of Nursing
P.O. Box 12367 • Columbia, SC 29211
Phone: 803-896-4550 • Fax: 803-896-4515 • www.llronline.com/POL/nursing/



ADVISORY OPINION # 20

FORMULATED: November 20, 1987

REVISED: April 2003

REVIEWED: March 2018, March 2011, July 2007, May 2006, July 2005, February 2001, July 1998, Jan. 1997, July

QUESTION: Is it within the role and scope of responsibilities of unlicensed personnel to perform digital intervention for the treatment of fecal impaction?

The State Board of Nursing for South Carolina acknowledges that digital intervention for the treatment of fecal impaction is within the role and scope of responsibilities of licensed nurses and should NOT be delegated to unlicensed personnel.

This statement is an advisory opinion of the Board of Nursing as to what constitutes competent and safe nursing practice.

Attendant Care/Personal Assistance

Revised March 2019

Definition

Attendant Care/Personal Assistance (AC/PA) are supports for personal care and activities of daily living specific to the assessed needs of a medically stable HASCI Waiver participant with physical and/or cognitive impairments. Supports may include direct care, hands-on assistance, direction and/or cueing, supervision, and nursing to the extent permitted by State law. The service may include housekeeping activities incidental to care or essential to the health and safety of the participant, not other occupants of the participant's home.

AC/PA may be provided in the participant's home and/or other community settings only if attendant care or personal assistance is not already available in such settings. Supports provided during community access activities must directly relate to the participant's need for care and/or supervision.

Transportation may be provided as a component of AC/PA when necessary for provision of personal care or performance of daily living activities. Cost of incidental transportation is included in the rate paid to the provider.

Service Unit

Attendant Care/Personal Assistance: one unit equals one (1) hour.

Refer to the current HASCI Waiver rate table for reimbursement amounts.
Access via SCDDSN Application Portal >R2D2 >View Reports >Waiver >Service Rates >HASCI

Service Limit / Restrictions

The limit for AC/PA is 49 hours per week, with no daily cap. The limit may be exceeded if applying the limit would create a substantial risk in that the participant would no longer be able to live in the community, but would, because of the limit in services, require institutionalization.

No single attendant may work more than 40 hours per week. A week is defined as Sunday through Saturday. Unused units from one week cannot be banked (i.e. held in reserve) for use during a later week.

If a HASCI Waiver participant receives Medicaid Waiver Nursing (MWN) in addition to AC/PA, the total hours for the combination of MWN and AC/PA are limited to 10 hours per day or 70 hours per week. No single attendant may work more than 40 hours per week.

MWN limits apply (*LPN: 60 hours per week; RN: 45 hours per week; combination LPN and RN: higher equivalent cost of 60 hours per week LPN or 45 hours per week RN*).

The participant may use authorized hours flexibly during the week to best blend with the availability of other resources and natural supports. Unused hours in a particular week do not transfer to later weeks.

For HASCI Waiver participants under age 21 years, Children's Personal Care Aide (PCA) Services are available through Medicaid State Plan. This benefit is authorized through SCDHHS Community Long Term Care. It must be accessed to the extent possible before it can be supplemented by AC/PA funded by the HASCI Waiver, based on assessed need.

For HASCI Waiver participants who receive Residential Services, attendant care and personal assistance are components of Residential Services and covered in the rate paid to the residential provider. AC/PA cannot be separately authorized and billed.

Temporary Service Limit Exception

AC/PA up to 10 hours per day or 70 hours per week may be approved for a time-limited period up to 90 days when there is documented special need circumstances such as medical condition(s) of the participant, illness/absence of other caregiver(s), family emergency, etc. No single attendant may work more than 40 hours per week. Prior approval from the Waiver Administration Division is required for a service limit exception.

Under this exception, if the participant also receives MWN, total hours for the combination of AC/PA and MWN are limited up to 10 hours per day or 70 hours per week for a time-limited period up to 90 days. No single attendant may work more than 40 hours per week.

- Current MWN limits apply.
(*LPN: 60 hours per week; RN: 45 hours per week; combination LPN and RN: higher equivalent cost of 60 hours per week LPN or 45 hours per week RN*).
- If a HASCI Waiver participant is under age 21 years, Children's PCA Services funded by Medicaid State Plan must be accessed to the extent possible prior to requesting AC/PA. The frequency and amount of Children's PCA Services received or that is potentially available will be considered in the assessment to determine the frequency and amount of additional AC/PA that will be authorized.

Supervision Requirement

Supervision of AC/PA personnel must be provided by a nurse licensed in the state and according to SCDHHS standards for Attendant Care Services.

- Frequency and intensity of nurse supervision must be specified in the participant's Support Plan.
- Skilled nursing procedures performed by AC/PA personnel must be specifically delegated in writing by a Registered Nurse licensed in the state.
 - The State Board of Nursing for South Carolina has issued an advisory opinion indicating that "digital intervention for the treatment of fecal impaction is within the role and scope of responsibilities of licensed nurses and should NOT be delegated to unlicensed personnel". As a result, this task cannot be delegated to an attendant.

Self-Directed Attendant Care (UAP Option)

Supervision of attendants may be performed directly by the participant or a designated Responsible Party when the safety and efficacy of self-directed supervision is certified in writing by a Registered Nurse, or otherwise as provided in State law. Certification must follow direct observation of the participant or responsible party and each attendant during actual provision of care/assistance.

Certification of participants for Self-Directed Attendant Care is performed by staff of the USC Center for Disability Resources (CDR) under contract with SCDDSN. Documentation of certification must be maintained in the participant's file.

Providers

Attendant Care/Personal Assistance may be provided by any of the following:

- Agency or company directly enrolled with SCDHHS as an Attendant Care Services provider for HASCI Waiver participants
- DSN Board or other qualified provider contracted by SCDDSN
 - The DSN Board or qualified provider is responsible for ensuring that all AC/PA personnel meet minimum qualifications. SCDDSN's "Home Supports Caregiver Certification" must be completed for all AC/PA personnel. *This can be accessed via the SCDDSN Application Portal >Business Tools >Forms >HASCI Waiver.*

- The DSN Board or qualified provider is responsible for ensuring that supervision of AC/PA personnel is provided by a nurse licensed in the state and according to SCDHHS standards for Attendant Care Services.
- The DSN Board or qualified provider is responsible for ensuring that any specific skilled nursing procedures performed by AC/PA personnel are formally delegated by a licensed Registered Nurse.
- The DSN Board or qualified provider is responsible for ensuring that maximum authorized hours are not exceeded and that no single attendant works more than 40 hours per week.
- Qualified individual (attendant) employed by a HASCI Waiver participant who is approved for Self-Directed Attendant Care (UAP Option)
 - The HASCI Waiver participant (employer) is responsible to recruit and supervise the attendant(s). If the participant is not capable of self-direction, a designated Responsible Party may employ and supervise the attendant(s) on behalf of the participant.
 - Up to three attendants may be employed to share the authorized service units (hours). No single attendant may be authorized to work more than 40 hours per week. **The attendant(s) cannot be paid through the HASCI Waiver to perform skilled nursing procedures under any circumstances.**
 - The participant or Responsible Party must schedule work time of the attendant(s) to ensure maximum authorized service units (hours) are not exceeded and no attendant works more than 40 hours per week.
 - SCDDSN contracts with Jasper County DSN Board to serve as Fiscal Agent to process payroll and related functions for Self-Directed Attendant Care.

Arranging and Authorizing the Service

The need for the service must be requested through the SCDDSN Waiver Administration Division. Prior to authorizing Attendant Care/Personal Assistance Services, the Case Manager must complete the DDSN Attendant Care/Personal Assistance Assessment to identify the specific care/assistance required and the appropriate frequency and amount. These must be appropriate to the participant's age, medical conditions, and functional impairments. Also, once the service is approved and authorized, this assessment must be completed annually face to face for the duration of the service as part of the Annual Assessment, and as changes/updates are requested.

- For a HASCI Waiver participant under 21 years old, Children's Personal Care Aide (PCA) Services through Medicaid State Plan must be accessed to full extent possible before it can be supplemented by HASCI Waiver AC/PA. The frequency and amount of Children's PCA Services received or potentially available must be considered in the assessment to determine specific care/assistance required and the appropriate frequency and amount of AC/PA that will supplement Children's PCA Services.

After the amount, type and frequency of AC/PA are determined, the participant's Support Plan must be updated to clearly reflect the name of the service and payer, the amount, frequency and duration of the service, and provider type(s). In order to update the Support Plan, the Case Manager will complete a Plan Change Form on Therap. This form will be electronically submitted to the Waiver Administration Division for review. The Waiver Administration Division Staff will review the request and the Case Manager will receive electronic notification if the request has been approved or if additional information is needed.

Upon approval, the CM must enter the services into the Service Tracking System (STS).

Following Support Plan approval, the participant or representative must be offered choice of provider. Offering of provider choice and the provider selected must be clearly documented in a Case Note.

- If Children's PCA Services funded by Medicaid State Plan are received by the participant, this must also be specified in participant's Support Plan, including amount, and frequency.

AC/PA funded by the HASCI Waiver must be entered in the Service Tracking System (STS).

- **For AC/PA provided through Self-Directed Attendant Care (UAP Option)**, a copy of the initial budget for this service and any subsequent budget revisions must be sent to the fiscal agent (Jasper County DSN Board). These actions must be documented in Case Notes.

In addition, a copy of the budget for this service must be sent to the fiscal agent annually at the beginning of each state fiscal year. A copy must also be sent if there are any subsequent budget revisions for this service during the fiscal year. These actions must be documented in Case Notes.

Request for a Service Limit Exception must be approved by the Waiver Administration Division.

To initiate the service following approval, AC/PA must be authorized to the chosen provider(s) using the appropriate form(s). Access via *SCDDSN Application Portal >Business Tools >Forms >HASCI Waiver*. A copy must be maintained in the participant's file.

- *Authorization for Attendant Care/Personal Assistance* billed to either the South Carolina Department of Health and Human Services or to the participant's Financial Manager agency (HASCI Form 12-AC/PA)
- *Authorization for Self-Directed Attendant Care (UAP Option)* billed to the fiscal agent contracted by SCDDSN (HASCI Form 12-SDAC)

When authorizing Self-Directed Attendant Care (UAP Option), a copy of the service authorization must be sent to the fiscal agent (Jasper County DSN Board) and UAP. If there are any subsequent changes, a copy of the new service authorization must be sent to the fiscal agent and UAP. These actions must be documented in Case Notes.

Nursing Delegation

If a participant receives **skilled nursing procedures through AC/PA**, his or her file must contain documentation that each skilled task performed by AC/PA personnel was formally delegated by a Registered Nurse licensed to practice in the state. **Self-Directed Attendant Care (UAP Option) does not allow for delegation of skilled nursing procedures under any circumstances.**

Nurse delegation must be in writing and indicate the specific skilled tasks delegated to each identified AC/PA personnel. If the participant changes AC/PA providers or the delegating nurse changes, new documentation of nurse delegation must be obtained and maintained in the participant's file.

Billing

If AC/PA is provided by an agency or company enrolled with SCDHHS as an Attendant Care Services provider, the service must be Direct-billed to SCDHHS. This must be checked on HASCI Form 12-AC/PA; a prior authorization number must be assigned.

If AC/PA is provided by a DSN Board or other qualified provider contracted by SCDDSN, the service must be Board-billed to the participant's SCDDSN Financial Manager agency. This must be checked on HASCI Form 12-AC/PA; no prior authorization number is required.

- The DSN Board or provider agency is responsible for maintaining documentation that service was rendered for each unit billed.
- The Financial Manager agency must follow *Procedures to Report and Bill for Board-Based Services Provided to HASCI Waiver Recipients* to receive reimbursement from SCDDSN. Access via the SCDDSN Application Portal >Business Tools >Forms >Finance Manual Chapter 10, Section 10-14.

If AC/PA is provided through Self-Directed Attendant Care (UAP Option), it must be billed to the fiscal agent (Jasper County DSN Board) contracted by SCDDSN. It is authorized using HASCI Form 12-SDAC; no prior authorization number is required.

Monitorship

The Case Manager must monitor provision of each HASCI Waiver service received by a participant to:

- Verify the service is being provided as authorized and consistent with the service definition,
- Assure the usefulness and effectiveness of the service,
- Determine the participant's and/or representative's satisfaction with the service and service provider(s), and
- Confirm the health status and safety of the participant.

Monitorship includes:

- Contact with the participant and/or representative within two (2) weeks after beginning the service or beginning with a new provider of the service,
- Contact with the participant and/or representative at least every 60 days
- Contact with service providers as necessary to confirm health status and safety of the participant and appropriate provision of authorized services,
- Face-to-face visit with the participant at least every 180 days
- Review of the participant's Support Plan as often as needed, but at least every 180 days,
- **For AC/PA provided by an agency or company enrolled with SCDHHS or by a DSN Board or other qualified provider contracted by SCDDSN,** the Case Manager must obtain copies of the required nurse supervision reports at least once every four months, review them, and address any service provision issues. This must be documented on the reports or in a Case Note, and

- **For Self-Directed Attendant Care (UAP Option)**, the Case Manager must obtain copies of the required Daily Logs for each attendant at least monthly, review them, and address any service provision issues. This must be documented on the log forms or in Case Notes.

Monitoring contacts, face-to-face visits, and review of the participant's Support Plan must be documented in Case Notes.

Information obtained during monitoring may lead to changes in authorized HASCI Waiver services, such as increased or reduced units, change of provider, or change to a more appropriate service.

Service Denial, Reduction, Suspension, and Termination

If a HASCI Waiver participant is denied a service that was requested or denied an increase in units of a service already authorized, the Case Manager must provide written notification to the participant or legal guardian, including reason for denial. Information concerning SCDDSN Reconsideration and SCDHHS Appeal must also be provided.

If a participant's authorized units of a HASCI Waiver service must be reduced, temporarily suspended, or indefinitely terminated, the Case Manager must provide written notification to the participant or legal guardian, including reason for the action. Information concerning SCDDSN Reconsideration and SCDHHS Appeal must also be provided.

Except when the action was requested by the participant or legal guardian or if the action is due to the participant's death, admission to a hospital or nursing facility, or loss of Medicaid and/or HASCI Waiver eligibility, there must be at least 10 calendar days between the date of notification and effective date.

Written notification to the participant or legal guardian is made using the following forms, which are also used to notify each affected service provider of the action:

Access via the SCDDSN Application Portal >Business Tools >Forms >HASCI Waiver

- *Notice of Denial of Service (HASCI Form 11C)*
- *Notice of Reduction of Service (HASCI Form 11A)*
- *Notice of Suspension of Service (HASCI Form 11B)*
- *Notice of Termination of Service (HASCI Form 11)*

If the action pertains to Self-Directed Attendant Care (UAP Option), a copy of the relevant form must be sent to the fiscal agent (Jasper County DSN Board) and UAP.

When the action becomes effective, the person's Support Plan must be updated. In order to update the Support Plan, the Case Manager will complete a Plan Change Form on Therap. This form will be electronically submitted to the Waiver Administration Division for review. The Waiver Administration Division Staff will update the Support Plan to reflect the change in the service and will reconcile the waiver budget accordingly.

Service information in the Service Tracking System (STS) must be updated by the case manager as necessary.