

SEPTEMBER 2018: THIS RULE IS REPEALED IN ITS ENTIRETY:

~~0399 THE GLOBAL CONSUMER CHOICE WAIVER~~

~~0399.01 OVERVIEW~~

~~REV:07/2009~~

~~One of the most important goals of the Global Consumer Choice Compact Waiver (Global Waiver) is to ensure that every beneficiary receives the appropriate services, at the appropriate time, and in the appropriate and least restrictive setting. To achieve this goal for long-term care (LTC) services, the waiver provides the state with the authority to collapse its existing section 1915 (c) home and community based service waivers (HCBS), which have different eligibility criteria and services, into its newly approved section 1115 (a) Global Waiver. Under the Global Waiver, the scope of services available to a beneficiary is not based solely on a need for institutional care, but is based on a comprehensive assessment that includes, but is not limited to, an evaluation of the medical, social, physical and behavioral health needs of each applicant.~~

~~0399.02 Transition to the Global Waiver~~

~~REV: 07/2009~~

~~The authority for the State of Rhode Island to provide home and community-based services transitions from the authority found in 1915(e) of the Social Security Act to that found in Section 1115 of the Act on July 1, 2009. The transition in authority allows the State to implement new needs-based levels of care, expand the number of individuals that can access long-term care services, and increase the availability of home and community-based services. On June 1, 2009 letters were sent to all Home and Community-based Waiver participants notifying them of the transition in authority. The agencies with authority to determine access for LTC prior to July 1, 2009, shall retain that authority subsequent to the transition date unless otherwise stated in this rule.~~

~~0399.03 ACCESS TO LONG-TERM CARE~~

~~REV: 07/2009~~

~~For the purposes of this section, Medicaid-funded long-term care is defined as institutional services or home and community-based services and supports. Long-term care services are designed to help people who have disabilities or chronic care needs to optimize their health and retain their independence. Services may be episodic or ongoing and may be provided in a person's home, in the community (for example, shared living or assisted living), or in institutional settings (for example, intermediate care facilities, hospitals, or nursing homes).~~

~~0399.04 TYPES OF LONG-TERM CARE~~

~~REV: 07/2009~~

~~To achieve the goal of rebalancing the long-term care system, the Global Consumer Choice Compact Waiver allows beneficiaries to obtain the Medicaid services they need in the most appropriate least restrictive setting. The types of long-term care available to beneficiaries are categorized as institutional and home and community-based.~~

~~0399.04.01 Institutional Long-Term Care~~

REV: 07/2009

~~Beneficiaries that meet the applicable clinical eligibility criteria may access institutional long-term care services in the following facilities:~~

- ~~a) **Nursing Facilities (NF).** A beneficiary is eligible to access Medicaid-funded care in a nursing facility when it is determined on the basis of a comprehensive assessment, as defined in Sections 0399.05.01.02 and 0399.11, that the beneficiary has the highest level of care needs (See Section 0399.12.01).~~
- ~~b) **Intermediate Care Facility for the Mentally Retarded (ICF/MR).** A beneficiary qualifies for an ICF/MR level of care if the beneficiary has been determined by the MHRH to meet the applicable institutional level of care. Rules governing such determinations are located in: "Rules and Regulations Relating to the Definition of Developmentally Disabled Adult and the Determination of Eligibility as a Developmentally Disabled Adult, by MHRH" and may be obtained at <http://www.mhrh.ri.gov/ddd/pdf/MHRH-1746.pdf> or by contacting the agency.~~
- ~~e) **Long-term Acute Care Hospital – Eleanor Slater Hospital (ESH).** A beneficiary qualifies for a long-term acute care hospital stay if the beneficiary has been determined to meet an institutional level of care by the MHRH and by the DHS.~~

~~Beneficiaries residing in an NF, ICF/MR and ESH are considered to be in an institution for the purposes of determining eligibility. The Medicaid payment for institutional care is reduced by the amount of the beneficiary's income after certain allowable expenses are deducted.~~

~~Other rules applicable to institutional care and services are located in the Sections of 0378:~~

~~**—0399.04.02 Home and Community Based Long-Term Care**~~

REV: 09/2013

~~The Global Waiver authorizes the state to offer an array of home and community-based services to members as an alternative to institutionalization. Home and community-based long-term care services and supports (HCB/LTC Services) are in addition to the services otherwise provided under the Medicaid program.~~

~~**0399.04.02.01 – Core and Preventive HCB/LTC Services**~~

REV: 09/2013

- ~~1) **Core HCB/LTC services include the following broad categories of services:**~~

Homemaker	Adult Companion Services
Environmental Modifications	Personal Care Assistance
Minor Environmental Modification Services	Respite
Special Medical Equipment	Day Supports, including Adult Day Services
Home-Delivered Meals	Supported Employment
Personal Emergency Response	Rt@ Home (Shared Living) Services
Licensed Practical Nurse (Skilled Nursing)	Private Duty Nursing Services (including Registered Nurse)
Community Transition	Supports for Consumer Direction

Residential Supports	Case Management
Participant Directed Goods and Services	PACE
Assisted Living	

~~Assisted Living, PACE and Rite @ Home are defined in greater detail in Sections 0399.20.01, and 0399.20.02.~~

~~2.) Preventive Services: Persons who are eligible for Community Medical Assistance and who have been determined to meet a preventive level of care, have access to the following services: Homemaker Services, Minor Environmental Modifications, Personal Care Assistance Services, Physical Therapy Evaluation and Services and Respite.~~

~~0399.05 ELIGIBILITY REQUIREMENTS~~

~~REV: 07/2009~~

~~To qualify for Medicaid-funded long-term care services under the Global Waiver, a person must meet the general and financial eligibility requirements as well as meet certain clinical eligibility criteria.~~

~~The general eligibility requirements for Medicaid are set forth in Sections 0300.25 and 0300.25.20.05 respectively. Income and resource eligibility rules for Medicaid-eligible persons who are likely to be residents of an institution (as specified in Section 0399.04.01) for a continuous period and who have a spouse living in the community are found in Sections 0380.40-0380.40.35 and 0392.15.20-0392.15.30. See also the applicable income and resource provisions in the long-term care Sections from 0376 to 0399. Clinical eligibility is determined by an assessment of a beneficiary's level of care needs. Under the Global waiver, the income and eligibility rules in these Sections will apply to persons who are likely to receive home and community-based core services for a continuous period. That is, persons meeting the highest or high level of care who reside in the community.~~

~~In Sections 0380.40-0380.40.35 and 0392.15.20-0392.15.30, all references to institutionalized spouses and continuous periods of institutionalization will include those institutionalized spouses receiving home and community-based services in lieu of institutional services.~~

~~0399.05.01 Clinical Eligibility Scope & Applicability~~

~~REV: 07/2009~~

~~The level of care criteria that must be met for intermediate care facilities for the mentally retarded and hospitals and community-based service alternatives to these institutions on June 30, 2009 shall remain in effect until such time as needs-based criteria have been adopted and applicable rules promulgated by the department(s) responsible for administering programs serving beneficiaries, as indicated below:~~

~~New needs-based clinical criteria have been established to determine access to nursing facilities or community-based alternatives to nursing facilities. The new needs-based clinical levels of care DO NOT apply to beneficiaries eligible to receive Medicaid-funded long-term care services who were living in institutions on or before June 30, 2009.~~

~~The pre-waiver level of care criteria in effect as of June 30, 2009 applies to beneficiaries who were living in a nursing facility on or before June 30, 2009 unless or until the beneficiary transitions to home and community-based services because he or she: (a)~~

~~improves to a level of care that no longer meets the pre-waiver level of care criteria -- that is, the beneficiary no longer qualifies for an institutional level of care under the criteria in effect on or before June 30, 2009; or (b) the beneficiary chooses home and community based services over the institution.~~

~~Accordingly, a beneficiary eligible for and residing in a nursing facility on or before June 30, 2009, who chooses to move to the community, shall be assessed using the new needs-based level of care at the time eligibility is re-determined. A beneficiary who makes this choice is eligible for long-term care as "highest need" if the department determines at any time that: (1) the beneficiary meets at least one of the clinical eligibility criteria for highest need; or (2) the beneficiary does not meet at least one of these criteria but nevertheless has a critical need for long-term care due to special circumstances that may adversely affect the beneficiary's health and safety. Such special circumstances include a failed placement as well as other situations that may adversely affect a beneficiary's health and safety specified Section 0399.12.01.01.~~

~~The new needs-based levels of care DO apply to beneficiaries eligible to receive Medicaid-funded long-term care services who are living in the community on or before June 30, 2009. The new levels of care will apply beginning with the beneficiary's annual re-assessment. If a person met the institutional level of care criteria in the past, he or she will meet either the highest or high level of care in the future, and eligibility for long-term care services will continue without interruption, providing all other general and financial eligibility requirements continue to be met.~~

~~When assessing beneficiaries living in the community using the needs-based level of care criteria, a beneficiary is clinically eligible as highest need if the department determines, as above, that the beneficiary meets at least one of the clinical eligibility criteria for highest need; or, absent that, the beneficiary has a critical need for long-term care due to special circumstances as specified in Section 0399.12.01.01.~~

~~The needs-based levels of care will apply to all persons seeking Medicaid-funded long-term care services provided in a nursing facility or community alternative to that facility on or after July 1, 2009.~~

~~Persons seeking Medicaid-funded long-term care services and supports administered by the Department of Mental Health, Retardation, and Hospitals (MHRH) will continue to meet the clinical eligibility standards in effect -- that is, the level of care of intermediate facility for the mentally retarded/developmental disabled (ICFMR/DD) until such time as a needs-based set of criteria are developed in accordance with the terms and conditions established under the waiver. Rules governing such determinations are located in: "Rules and Regulations Relating to the Definition of Developmentally Disabled Adult and the Determination of Eligibility as a Developmentally Disabled Adult, by MHRH" and may be obtained at http://www.mhrh.ri.gov/dcd/pdf/MHRH_1746.pdf or by contacting the agency. Persons seeking Medicaid-funded long-term care services provided in a long-term care hospital or in a community-based alternative to the hospital will continue to need to meet an institutional level of care. This applies to individuals who would have sought services under the 1915(c) Habilitation Waiver.~~

~~Beneficiaries currently eligible for community Medical Assistance who are not clinically eligible for long-term care may be eligible for a limited range of home and community based services if they meet the criteria to qualify for preventive care (see "preventive~~

need" in Section 0399.12.03). The availability of such services shall be limited, depending upon funding.

~~—0399.05.01.02 Needs-based LTC Determinations~~

REV: 07/2009

The processes for determining clinical eligibility are based on a comprehensive assessment that includes an evaluation of the medical, social, physical and behavioral health needs of each beneficiary. The assessment shall be tailored to the needs of the beneficiaries services and, as such, may vary from one process to the next. Based on this assessment, the needs of the beneficiary are classified as "highest" or "high" to reflect the scope and intensity of care required and the range of services available. Beneficiaries already eligible for community MA who do not meet the highest or high level of care but are at risk for institutionalization may access certain short-term preventive services.

There are two general types of services available to beneficiaries -- core and preventive (see description in section 0399.10.20). An individual care plan is then developed that identifies the LTC core and preventive services and settings appropriate to meet the beneficiary's needs within the specified service classification.

The scope of services accessible to a beneficiary varies in accordance with individual needs, preferences, availability, and the parameters established in the Global Waiver and/or federal and state regulations, rules or laws. For example, a beneficiary with the highest need may be able to obtain the full range of services he or she needs at home or in a shared living arrangement, but may choose, instead, to access those services in a skilled nursing facility.

Community-based care includes PACE and accessing services through a self-directed model. A beneficiary determined to meet the high need may have access to care in the home and community-based setting -- including PACE -- and self-directed care, but does not have the option of nursing facility care.

~~—0399.05.01.03 LTC Level of Care and Service Option Matrix~~

REV: 07/2009

~~LTC LEVEL OF CARE AND SERVICE OPTION MATRIX~~

HIGHEST	HIGHEST	HIGHEST
Nursing Home Level of Care	Hospital level of Care	ICF/MR Level of Care
(Access to nursing to facilities and all community-based	(Access to Hospital, Residential Treatment Centers and all services Community-Based Services)	(Access to ICF/MR and all Community Based Services)
HIGH	HIGH	HIGH
Nursing Home Level of Care	Hospital Level of Care	ICF/MR Level of Care
(Access to	(Access to Community-	Community-

Community-Based Services)	Based Services)	Based Services)
PREVENTIVE	PREVENTIVE	PREVENTIVE
Nursing Home Level of Care	Hospital Level of Care	ICF/MR Level of Care (Access to
(Access to	(Access to Preventive	Preventive
Community-Based Services)	Community-Based Services)	Community-Based Services)

~~0399.06 ASSESSMENT & COORDINATION ORGANIZATION (ACO)~~

~~REV: 07/2009~~

~~The Assessment and Coordination Organization (ACO) is a set of four (4) processes established across the health and human service departments that assist applicants/recipients and their families in gaining access to and navigating the LTC system. In this respect, the ACO is not a separate and distinct entity, but a set of interrelated activities from across the departments that serve the goal of rebalancing the long-term care system.~~

~~The four processes included in the ACO are as follows:~~

- ~~a) Information and Referral. The State provides information and referrals about publicly-funded LTC to individuals and families through a variety of sources across agencies. The ACO is responsible for enhancing and coordinating these resources to ensure that every person seeking Medicaid-funded LTC services has access to the information they need to make reasoned choices about their care. The Department of Human Services shall enter into inter-agency agreements with each entity identified or designated as a primary source of information/referral source for beneficiaries of long-term care.~~
- ~~b) Eligibility Determination. Through the ACO, the Department of Human Services determines financial eligibility for long-term care services provided across agencies. Clinical eligibility is based on a comprehensive assessment of a person's medical, social, physical and behavioral health needs. Responsibilities for clinical eligibility are as follows:~~
 - ~~o Clinical eligibility to receive services in a nursing facility or community alternative to that institution will be determined by DHS, utilizing needs-based criteria.~~
 - ~~o Clinical eligibility to receive services in a long-term care hospital or community alternative to the institution will be determined by DHS and MHRH, as appropriate, utilizing an institutional level of care.~~
 - ~~o Clinical eligibility to receive services in an intermediate care facility or community alternative to that institution will be determined by the Department of Mental Health Retardation and Hospitals, using an institutional level of care.~~
 - ~~o The entities that conduct the assessments work in coordination with staff of the Medicaid agency, as appropriate, to ensure the eligibility determination process is coordinated and to preserve program integrity.~~
- ~~c) Care Planning. The comprehensive assessment used to determine clinical eligibility~~

~~and additional information provided by the beneficiary and/or family members is used by the responsible agency to develop an individualized care plan, identifying the scope and amount of services required to meet the beneficiary's needs as well as the full array of service/care setting options. ACO care planning activities include establishing funding levels for the care and/or the development of a budget for self-directed services or the provision of vouchers for the purchasing of services.~~

- ~~d) Case management/evaluation. The activities of the various agencies and/or their contractual agents designed to ensure beneficiaries are receiving scope and amount of services required to optimize their health and independence. The broad range of services includes periodic review of service plans, coordination of services with the beneficiary's acute care management entity (Rhody Health Partners, Rite Care, or Connect Care Choice), and quality assurance. Depending on the agency and the population served, this may be performed by multiple entities working in collaboration or a single entity.~~

~~0399.06.01 Initiating Assessment & Coordination Process~~

~~REV: 07/2009~~

~~A screening tool developed by the DHS in collaboration with the health and human services agencies is used to determine the most appropriate placement and/or service referral for each applicant for LTC. Based on the results of this screen, referrals proceed as follows:~~

- ~~a) Beneficiaries determined to have a potential need for Medicaid funded long-term services and supports in a NF or the community alternative to a NF are referred to the DHS;~~
- ~~b) Beneficiaries determined to have a potential need for State only funded long-term services and supports, including transportation and the DEA Co-Pay Program, are referred to the DEA;~~
- ~~c) Beneficiaries determined to have a potential need for services for persons with developmental disabilities are referred to the MHRH;~~
- ~~d) Beneficiaries determined to have a potential need for long-term hospital services are referred to MHRH;~~
- ~~e) Beneficiaries determined to have a potential need for behavioral health services for a child or for an adult are referred to the DCYF or MHRH, respectively;~~
- ~~f) Beneficiaries who are not seeking information on long-term care services are referred to the appropriate agency, unit or entity. For example, information on acute managed care options is currently provided by the RI DHS Enrollment Hotline.~~

~~0399.07 LTC OPTIONS COUNSELING PROGRAM~~

~~REV: 07/2009~~

~~A long-term care options counseling program is designed to provide beneficiaries and/or their representatives information concerning the range of options that are available in Rhode Island to address a person's long-term care needs. The options discussed include the institutional care available, the home and community-based care that is available and how to access these services. The sources and methods of both public and private payment for long-term care services are addressed.~~

~~An initial screening to determine how a person would be most appropriately served is conducted. This screening includes a determination of the need for crisis intervention, the available sources~~

of funding for services, and the need for community services, Medicaid, or other publicly funded services.

~~A person who applies for Medicaid long-term care services shall be provided with a long-term care consultation.~~

~~A person admitted to or seeking admission to a long-term care facility regardless of the payment source shall be informed by the facility of the availability of the long-term care options counseling program and shall be provided with a long-term care options consultation if they so request.~~

~~0399.08 COST NEUTRALITY FOR HCB SERVICES~~

~~REV: 07/2009~~

~~The DHS is responsible for reviewing and approving the aggregate cost neutrality of the home and community based long-term care system on an annual basis. To meet cost neutrality, the average per capita expenditures for home and community-based services cannot exceed one hundred percent (100%) of the average per capita expenditures of the cost of institutional services if the individuals had been institutionalized~~

~~The average monthly costs to Medicaid by institution are:~~

* Nursing Facilities	\$ 5,531.00
* ICF-MR	\$18,758.34
* Eleanor Slater Hospital	\$24,195.00

~~The DHS uses these average monthly costs to Medicaid to assist in determining whether home and community-based services are cost effective as required under Title XIX of the Social Security Act.~~

~~0399.10 OVERVIEW: DETERMINATIONS OF NF LEVEL OF CARE~~

~~REV:07/2009~~

~~The Global Waiver allows long-term care services to be provided in an institutional or home and community-based setting depending on the determination of the beneficiary's needs, individual plan of care, and the budget neutrality parameters established under the Global Waiver. Beneficiaries with care needs in the NF category also have an option for self-direction.~~

~~The service classifications designed to reflect the scope and intensity of the beneficiary's needs in this category are as follows:~~

- ~~a) Highest need. Beneficiaries with needs in this classification have access to all core services defined in Section 0399.04.02.01 as well as the choice of receiving services in an institutional/nursing facility, home, or community-based setting.~~
- ~~b) High need. Beneficiaries with needs in this classification have been determined to have needs that can safely and effectively be met at home or in the community with significant core services. Accordingly, these beneficiaries have access to an array of community-based core services required to meet their needs specified in the individual plan of care.~~
- ~~c) Preventive need. Beneficiaries who do not yet need LTC but are at risk for the NF level of care have access to services targeted at preventing admission, re-admissions or reducing lengths of stay in a skilled nursing facility. Core home and community-based services are not available to beneficiaries with this level of need. Medicaid beneficiaries, eligible under Section 0399.12.03, who meet the preventive need criteria, are not subject to the LTC financial eligibility criteria established in Sections 0380.40-0380.40.35 and 0392.15.20-~~

0392.15.30:

~~0399.10.01—Agency Response for Determining Level of Care~~

~~REV:07/2009~~

~~Beginning on July 1, 2009, beneficiaries determined to have a potential need for Medicaid-funded long-term services and supports in a nursing facility or in the community are referred to the Assessment and Coordination Organization (ACO) processes administered by the Department of Human Services (DHS). Those applying for state-only funded services and supports are referred to ACO processes administered by the Department of Elderly Affairs (DEA). The agency entities authorized to carry out these ACO processes are responsible for:~~

- ~~a) Coordinating related activities with the Medicaid financial eligibility staff; b) Conducting assessments that determine level of care needs; c) Developing service plans with the active involvement of beneficiaries and their families; d) Establishing funding levels associated with care plans developed for each beneficiary; e) Reviewing service plans on a periodic basis; and f) Working in collaboration with the beneficiary's care management plan or program (Connect Care Choice; PACE; Rhody Health Partners) to ensure services are coordinated in the most effective and efficient manner possible.~~

~~Financial eligibility for Medicaid-funded long-term care is conducted by the DHS field staff in accordance with Sections 0380.40-0380.40.35 and 0392.15.20-0392.15.30. ———~~

~~Determinations of clinical level of care needs for nursing facilities are made by the DHS Office of Medical Review (OMR) nurses for both DHS and DEA beneficiaries.~~

~~0399.11—CLINICAL ELIGIBILITY ASSESSMENT TOOL~~

~~REV: 07/2009~~

~~In determining clinical eligibility, the OMR staff uses an assessment instrument based on the nationally recognized Minimum Data Set (MDS) 2.0 Tool for NF care. To make the final determination of care needs, the results of this assessment are mapped against the needs-based and institutional level of care criteria. The DHS shall make available to the public the procedural guidelines for use of the assessment as well as the instrument itself.~~

~~0399.12—APPLICATION OF NF LEVEL OF CARE CRITERIA~~

~~REV: 07/2009~~

~~Upon completing the assessment, the OMR staff determines whether a beneficiary's care needs qualify as highest, high or preventive based on a set of criteria that reflect both best practices across the states and the standards of prevailing care within the LTC community in Rhode Island. Clinical eligibility based on these criteria is set forth in the following Sections:~~

~~0399.12.01—Highest Need~~

~~REV: 07/2009~~

~~Beneficiaries shall be deemed to have highest level of care need when they:~~

- ~~a) Require extensive assistance or total dependence with at least one of the following Activities of Daily Living (ADL) — toilet use, bed mobility, eating, or transferring AND require at least limited assistance with any other ADL; or~~
- ~~b) Lack awareness of needs or have moderate impairment with decision-making skills AND have one of the following symptoms /conditions, which occurs frequently and is not easily~~

- altered: wandering, verbally aggressive behavior, resists care, physically aggressive behavior, or behavioral symptoms requiring extensive supervision; or
- e) ~~Have at least one of the following conditions or treatments that require skilled nursing assessment, monitoring, and care on a daily basis: Stage 3 or 4 skin ulcers, ventilator, respirator, IV medications, naso-gastric tube feeding, end stage disease, parenteral feedings, 2nd or 3rd degree burns, suctioning, or gait evaluation and training; or~~
 - d) ~~Have one or more unstable medical, behavioral or psychiatric conditions or chronic or reoccurring conditions requiring skilled nursing assessment, monitoring and care on a daily basis related to, but not limited to, at least one of the following: dehydration, internal bleeding, aphasia, transfusions, vomiting, wound care, quadriplegia, aspirations, chemotherapy, oxygen, septicemia, pneumonia, cerebral palsy, dialysis, respiratory therapy, multiple sclerosis, open lesions, tracheotomy, radiation therapy, gastric tube feeding, behavioral or psychiatric conditions that prevent recovery.~~

0399.12.01.01 Exceptions -- Highest Need

REV: 07/2009

Beneficiaries who do not meet the criteria to establish highest need as indicated in the previous Section may be deemed clinically eligible for this level of care if the OMR determines that the beneficiary has a critical need for long term care services due to special circumstances that, if excluded from this level of care, may adversely affect the beneficiary's health and safety. These special circumstances include but are not limited to:

1. ~~Loss of primary caregiver (e.g. hospitalization of spouse, death of spouse);~~
2. ~~Loss of living situation (e.g. fire, flood, foreclosure, sale of principal residence due to inability to maintain housing expenses);~~
3. ~~The individual's health and welfare shall be at imminent risk if services are not provided or if services are discontinued (e.g. circumstances such as natural catastrophe, effects of abuse or neglect, etc.); or~~
4. ~~The beneficiary's health condition would be at imminent risk or worsen if services are not provided or if services are discontinued (e.g. circumstances such as natural catastrophe, effects of abuse or neglect, etc.)~~
5. ~~The beneficiary met the criteria for a nursing facility level of care on or before June 30, 2009 and chose to receive Medicaid LTC at home or in a community setting when, upon reassessment by the department and, when appropriate, in consultation with the Rhode Island Long-term Care Ombudsman, the beneficiary is determined to have experienced a failed placement that, if continued, may pose risks to the beneficiary's health and safety; or~~
6. ~~The beneficiary met the criteria for highest need on or after July 1, 2009 based on an assessment using the needs-based level of care and chose to receive Medicaid LTC at home or in the community setting when, upon reassessment by the department and, when appropriate, in consultation with the Rhode Island Long-term Care Ombudsman, the beneficiary is placement that, if continued, may pose risks to the beneficiary's health and safety.~~

The criteria for determining whether a failed placement has or is occurring shall be developed by the department of human services in conjunction with the department of elderly affairs and any other interested state agencies, community agencies, committees and/or consumers and shall be made available to the public once adopted as an amendment to this section and/or a formal

procedure:

~~—0399.12.02—High Need~~

~~REV: 07/2009~~

~~Beneficiaries shall be deemed to have the high level of care need when they:~~

- ~~a) Require at least limited assistance on a daily basis with at least two of the following ADL's: bathing/personal hygiene, dressing, eating, toilet use, walking or transferring; or~~
- ~~b) Require skilled teaching or rehabilitation on a daily basis to regain functional ability in at least one of the following: gait training, speech, range of motion, bowel or bladder control; or~~
- ~~c) Have impaired decision-making skills requiring constant or frequent direction to perform at least one of the following: bathing, dressing, eating, toilet use, transferring or personal hygiene; or~~
- ~~d) Exhibit a need for a structured therapeutic environment, supportive interventions and/or medical management to maintain health and safety.~~

~~—0399.12.03—Preventive Need~~

~~REV: 09/2013~~

~~Beneficiaries who meet the preventive need criteria shall be eligible for a limited range of home and community-based services and supports along with the health care they are entitled to receive as recipients of Medicaid. Preventive care services optimize and promote beneficiary health, safety and independence through an array of care interventions that alleviate or minimize symptoms and functional limitations.~~

~~Accordingly, the goal of preventive services is to delay or avert institutionalization or more extensive and intensive home and community-based care.~~

~~To qualify, the OMR must determine that one or more preventive services will improve or maintain the ability of a beneficiary to perform ADL's or IADL's and/or delay or mitigate the need for intensive home and community-based or institutionally-based care. Preventive services for beneficiaries include:~~

- ~~a) Homemaker Services—Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home. Homemakers shall meet such standards of education and training as are established by the State for the provision of these activities.~~
- ~~b) Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats and other simple devices or appliances such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g. reachers) and standing poles to improve home accessibility/adaptation, health or safety.~~
- ~~e) Personal Care Assistance Services — Personal Care Services provide direct hands-on support in the home or community to an individual in performing Activities of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to~~

disability. Personal Care Services may be provided to an individual by:

- ~~1. A Certified Nursing Assistant who is employed under a State-licensed home care/home health agency and meets such standards of education and training as are established by the State for the provision of these activities.~~
- ~~d) Physical Therapy Evaluation and Services -- Physical therapy evaluation for home accessibility appliances or devices by an individual with a State-approved licensing or certification. Preventive physical therapy services are available prior to surgery if evidence-based practice has demonstrated that the therapy will enhance recovery or reduce rehabilitation time.~~
- ~~e) Respite -- Respite can be defined as a service provided to a participant unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons who normally provide care for the participant. Respite services will be recommended and approved by EOHHS, Office of Long Term Services and Supports.~~

~~0399.12.03.01 -- Limitations -- Preventive Need~~

~~REV: 07/2009~~

~~Access to and the scope of preventive services for qualified beneficiaries may be limited depending on the availability of funding. The DHS may establish wait lists, in accordance with the provisions established in Section 0399.14, if such limitations become a necessity.~~

~~0399.13 -- REASSESSMENTS -- HIGH AND HIGHEST NEED~~

~~REV: July 2016~~

~~Change in Needs -- High and Highest. Beneficiaries determined to have high need at the time of a reassessment, or in the event of a change in health status, shall be determined to have the highest need if they meet any of the clinical eligibility criteria established for that level of care.~~

~~0399.13.01 -- Re-Eval of Beneficiaries with Highest Need~~

~~REV: 07/2009~~

~~At the time the OMR makes a determination of highest need for a beneficiary who resides in or is admitted to a nursing facility, information indicating whether there is a possibility that the beneficiary's functional or health care condition may improve, within a two-month period is identified. The OMR notifies the beneficiary, his/her authorized representative and the nursing facility that NF level of care has been authorized and that the beneficiary's functional and medical status will be reviewed in thirty (30) to sixty (60) days.~~

~~At the time of the review, the OMR confirms that the beneficiary is still a resident of the nursing facility. Once this determination is made, the OMR reviews the most recent Minimum Data Set and requests any additional information necessary to make one of the following determinations:~~

- ~~a) The beneficiary no longer meets the criteria for highest level of need. In this instance, the beneficiary, and/or his/her authorized representative, and the nursing facility are sent a discontinuance notice by the Long Term Care Unit. Prior to being sent a discontinuance notice, the beneficiary will be evaluated to determine whether or not the criteria for high need have been met. Payment for care provided to a beneficiary determined to no longer have the highest need shall continue until the DHS has completed the transition to a more appropriate setting.~~
- ~~b) The beneficiary continues to meet the appropriate level of care, and no action is required.~~

~~Beneficiaries residing in the community who are in the Highest and High groups will have, at a minimum, an annual assessment.~~

~~0399.14 LIMITATIONS ON THE AVAILABILITY OF SERVICES~~

~~REV: 07/2009~~

~~Should the demand for home and community-based long-term care services exceed supply or appropriations, beneficiaries with the highest need shall have the option of seeking admission to a nursing facility while awaiting access to the full scope of home and community-based services. Specifically, beneficiaries and applicants in the highest category are entitled to services and shall not be placed on a waiting list for institutional services. If a community placement is not initially available, they may be placed on a wait list for transition to the community.~~

~~In the event that a waiting list for any home and community-based service becomes necessary for any reason, the DHS must provide services for beneficiaries determined to be highest need before providing services to beneficiaries that have a high need or preventive need.~~

~~Beneficiaries with high need are given priority access to services over beneficiaries qualifying for preventive services.~~

~~Additionally, beneficiaries receiving services must continue to have access to and receive such services unless their condition improves and they no longer meet the same clinical eligibility criteria.~~

~~0399.15 LIMITATIONS ON ENVIRONMENTAL MODIFICATIONS, MINOR ENVIRONMENTAL MODIFICATIONS AND SPECIAL MEDICAL EQUIPMENT~~

~~REV: 09/2013~~

~~Members who meet the Highest and High Level of Care (LOC) for core Home and Community Based services and have a functional necessity for Environmental Modifications, Minor Environmental and Special Medical Equipment are subject to limitations and special considerations, therein.~~

~~0399.15.01 Environmental Modifications~~

~~REV: 09/2013~~

~~Environmental Modifications are defined as those physical adaptations to the home of the member or the member's family as required by the member's service plan, that are necessary to ensure the health, welfare and safety of the member or that enable the member to attain or retain capability for independence or self-care in the home and to avoid institutionalization, and are not covered or available under any other funding source. A completed home assessment by a specially trained and certified rehabilitation professional is also required. Such adaptations may include the installation of modular ramps, grab bars, vertical platform lifts and interior stair lifts.~~

~~Excluded are those adaptations that are of general utility, are not of direct medical or remedial benefit to the member. Excluded are any re-modeling, construction, or structural changes to the home, i.e. (changes in load bearing walls or structures) that would require a structural engineer, architect and /or certification by a building inspector.~~

~~Adaptations that add to the total square footage of the home are excluded from this benefit. All adaptations shall be provided in accordance with applicable State or local building codes and prior approval on an individual basis by EOHHS. Office of Long Term Services and Supports is required.~~

~~Items should be of a nature that they are transferable if a member moves from his/her place of residence.~~

~~A. Home Modifications Limitations:~~

- ~~• All items require Prior Authorization and do not require a physician's order.~~
- ~~• All items must be recommended by an appropriately trained and certified rehabilitation professional.~~
- ~~• The Home Modification must be documented as the most cost effective to meet the member's needs for accessibility within the home.~~
- ~~• Items must be necessary to ensure the health, welfare and safety of the individual, or to enable the individual to attain or retain capability for independence or self-care in the home, and to avoid institutionalization.~~
- ~~• Home Modifications shall be made only to the member's primary residence, including rented apartments or houses (with written permission of the owner/landlord, when applicable).~~
- ~~• Exterior access modifications are limited to one ingress/egress route into and out of the home.~~
- ~~• Repair, removal, construction or replacement of decks, patios, sidewalks and fences are not covered.~~
- ~~• Home Modifications do not include those adaptations or improvements to the home that are considered to be standard housing obligations of the owner or tenant.~~
- ~~• Relocation of plumbing and/or bathroom fixtures is not covered.~~
- ~~• Repairs or modifications to equipment purchased under this definition are an allowable expense.~~
- ~~• Examples of items not covered include driveways, decks, patios, hot tubs, central heating and air conditioning, raised garage doors, standard home fixtures (i.e., sinks, tub, stove, refrigerator, etc.), raised counter tops, roll-in showers or tub cuts.~~
- ~~• Excluded are any re-modeling, construction, or structural changes to the home, i.e. (changes in load bearing walls or structures) that would require a structural engineer, architect and /or certification by a building inspector.~~
- ~~• Requirements for Modifications to rental property include:~~
 - ~~○ Prior to any modification a determination should be made as to what, if anything, is the legal responsibility of the property owner or landlord.~~
 - ~~○ Written approval must be obtained from the property owner or landlord prior to the service being approved.~~

- ~~Ramps may be covered only if:~~
 - ~~They meet ADA compliance, and~~
 - ~~Meet all applicable State and local building code requirements and permits as required.~~
 - ~~Ramp should be of a nature that it is readily transferable to another dwelling.~~
- ~~Vertical Platform Lifts may be covered only if:~~
 - ~~There is not adequate acreage available to install a ramp that meets state and local building codes.~~
 - ~~The physical topography of the site precludes the installation of a ramp.~~
- ~~Interior Stairway Lifts (stair glides) may be approved only if:~~
 - ~~The first floor of the home does not have any toilet facilities.~~

~~B. Special Considerations:~~

~~An Assessment for Home Modifications is required to determine the most appropriate and cost-effective service requested.~~

~~This assessment must be completed by a specially trained and certified rehabilitation professional. Individuals conducting such assessments may include:~~

- ~~Licensed Physical, and Occupational Therapists experienced in Home and Community Based services~~
- ~~Assistive Technology Professionals (ATP), certified by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) — An assistive technology professional is a service provider who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate equipment, and trains the consumer on how to properly use the specific equipment.)~~

~~C. Limitation on Service(s)~~

~~This is only available to Medicaid members on Core HCBS.~~

- ~~This service is billable under HCPCS Code S5165.~~

~~0399.15.02 Special Medical Equipment~~

~~REV: 09/2013~~

~~Special Medical Equipment and supplies to include Ceiling or Wall Mounted Patient Lift, Track System, tub slider system, rolling shower chair and/or Automatic Door Opener, which enable members to increase their ability to perform activities of daily living, including such other durable and non-durable medical equipment not available under the Medicaid-funded primary and acute care system that is necessary to address member functional limitations. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the Medicaid-funded primary and acute care system and exclude those items that are not of direct medical or remedial benefit to the member. Medical equipment funded under the primary and acute care system includes items such as wheelchairs, prosthetics, and orthotics. These are services that were provided under the authority of the Rhode Island Medicaid State Plan prior to the 1115 Waiver approval. These items are still available under the 1115 Waiver and are described at:~~

~~<http://www.dhs.ri.gov/ForProvidersVendors/ServicesforProviders/Provider>~~

~~Manuals/DME/tabid/459/Default.aspx — All items shall meet applicable standards of manufacture, design and installation. Provision of Special Medical Equipment requires prior approval on an~~

~~individual basis by EOHHS, Office of Long Term Services and Supports and a home assessment completed by a specially trained and certified rehabilitation professional. Items should be of a nature that they are transferable if a member moves from his/her place of residence. Excluded are any re-modeling, construction, or structural changes to the home, (i.e. changes in load bearing walls or structures) that would require a structural engineer, architect and /or certification by a building inspector.~~

~~A. Limitations:~~

- ~~• Ceiling or Wall Mounted Patient Lifts and Track Systems~~
- ~~○ Must be documented as the most cost-effective method to meet the member's needs.~~
- ~~○ A Patient Lift will be considered for use in one bedroom and/or one bathroom.~~
- ~~○ A Track System is limited to connecting one bedroom and one bathroom.~~
- ~~• Excluded are any re-modeling, construction, or structural changes to the home, (i.e. changes in load bearing walls or structures) that would require a structural engineer, architect and /or certification by a building inspector.~~
- ~~• Rolling shower chair/Tub Slider System~~
- ~~○ Item must have a functional expectancy of a minimum of five (5) years.~~
- ~~○ Must be documented as the most cost-effective method to meet the member's needs.~~
- ~~• Automatic Door Openers, adapted switches and buttons to operate equipment, and environmental controls, such as heat, air conditioning and lights may be approved for a member who lives alone or is without a caregiver for a major portion of the day.~~
- ~~• All items require Prior Authorization by EOHHS, Office of Long Term Services and Supports and do not require a physician's order.~~
- ~~• Repairs or Modifications to equipment purchased under this definition are an allowable expense.~~
- ~~• Items not listed above may be acquired subject to Prior Authorization from EOHHS, Office of Long Term Services and Supports. Determinations will be based on the individual's unique circumstances as they apply to the current service definitions, policies and regulations. Please refer to RI Global Consumer Choice Compact 1115 Waiver Demonstration Attachment B, Core and Preventive Home and Community Based Service definitions.~~

~~B. Special Considerations:~~

~~An Assessment for Special Medical Equipment is required to determine the most appropriate and cost-effective service requested.~~

~~This assessment must be completed by a specially trained and certified rehabilitation professional. Individuals conducting such assessments may include:~~

- ~~• Licensed Physical, Occupational Therapists experienced in Home and Community Based services~~
- ~~• Assistive Technology Professionals (ATP), certified by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA). (An assistive technology professional is a service provider who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate equipment, and trains the consumer on how to properly use the specific equipment.)~~

~~C. Limitation on Service(s):~~

~~This is only available to Medicaid members on Core HCBS.~~

- ~~• This service is billable under HCPCS Code T2029.~~

~~—0399.15.03 Minor Environmental Modifications~~

~~REV: 09/2013~~

~~Minor Environmental Modifications~~

~~Minor Environmental modifications may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g. reachers) and standing poles to improve home accessibility/adaptation, health or safety.~~

~~A. Limitations:~~

- ~~• All items require Prior Authorization by EOHHS, Office of Long Term Services and Supports; however items on the EOHHS Approved List do not require a physician's order.~~
- ~~• All items must be recommended by an appropriately trained and certified health care professional or DHS social worker.~~
- ~~• Items must be necessary to ensure the health, welfare and safety of the individual, or must enable the individual to attain or retain capability for independence or self-care in the home, and to avoid institutionalization.~~
- ~~• Items for diversional or entertainment purposes are not covered.~~
- ~~• Items should be of a nature that they are readily transferable if a recipient moves from his/her place of residence.~~
- ~~• Items cannot duplicate equipment provided under the Medicaid-funded primary and acute care system or through other sources of funding (i.e. Medicare, private insurance).~~
- ~~• Items not included on the EOHHS Approved List and priced greater than \$500.00 shall be considered Special Medical Equipment and will be subject to the policies and procedures for that service as described in the Core Services section of the Rhode Island 1115 Waiver.~~
- ~~• This service is billable under HCPCS Code T2028, for Core HCBS and/or preventive services.~~

~~0399.20 OVERVIEW: LTC RESIDENTIAL SERVICE OPTIONS~~

~~REV: 07/2009~~

~~There are several community-based service options in residential settings, other than the home and nursing facilities, which may be available to beneficiaries who are determined under Sections 0399.12.01 and 0399.12.02 to have a need for the highest or high level of care.~~

~~Beneficiaries will be notified of whether they qualify for one of these residential options in conjunction with the comprehensive assessment specified in Sections 0399.05.01.02 and 0399.11 and the development of the individualized plan of care. Although Medicaid coverage for room and board is typically not included for these options, there are exceptions as is explained in the description of services provided below.~~

~~—0399.20.01 Assisted Living~~

REV: 07/2009

~~Assisted living services are available to qualified long-term care (LTC) beneficiaries who have been determined to have a highest or high level of care need that can be safely and effectively met in a state licensed assisted living residence that has also been certified as a Medicaid provider. The responsibility for certifying licensed assisted living residences as Medicaid providers is shared by the Executive Office of Health and Human Services, the Department of Human Services or the Department of Elderly Affairs. Certification standards adopted by these agencies in effect on June 30, 2009 shall remain in effect under the Global Consumer Compact Waiver until October 1, 2009, by which time the office and the departments shall develop and implement new certification standards that broaden the scope and availability of assisted living services to the full extent permitted by state law and appropriations.~~

~~For the purpose of this rule, assisted living services are defined as: personal care services, homemaker, chore, attendant care, companion services, medication oversight (to the extent permitted under state law), transportation to medically necessary appointments, therapeutic social and recreational programming, when specified, provided in a home-like environment in a licensed community care facility in conjunction with residing in the facility. The services provided to beneficiaries by assisted living residences certified as Medicaid providers for the purposes of R.I.G.L. 1-42.66.8-3 must also include those set forth in section 0300.20.20. Beneficiaries opting for services in the assisted living residences covered under this section of state law may be subject to waiting lists as the number of beds certified for Medicaid purposes is capped. Such beneficiaries shall have the option of seeking assisted living services in other Medicaid certified residences, depending on the scope of their needs as indicated in the individualized plan of care.~~

~~Note: Medical equipment funded under the primary and acute care system includes items such as wheelchairs, prosthetics, and orthotics. These are services that were provided under the authority of the Rhode Island Medicaid State Plan prior to the 1115 Waiver approval. These items are still available under the 1115 Waiver and are described at:~~

~~<http://www.dhs.ri.gov/ForProvidersVendors/ServicesforProviders/ProviderManuals/DME/tabid/459/Default.aspx>~~

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~~**0399.20.02 RItc @ Home (Shared Living)**~~

REV: 09/2013

~~RItc @ Home is defined as personal care, homemaker, chore, attendant care and related services provided in a private home setting by a care provider who lives in the home. RItc @ Home is a service provided to Medicaid beneficiaries eligible for long-term care services who are elderly or adults with disabilities who are unable to live independently and who meet the highest or high level of care as determined through the evaluation conducted by the Assessment and Coordination Organization as specified in Section 0399.06. Each Medicaid beneficiaries opting for RItc @ Home services will have a RItc @ Home Service and Safety Plan, developed to meet their own unique, individual needs.~~

~~Rite @ Home providers approved by EOHHS to serve Medicaid beneficiaries shall be selected in accordance with the standards developed for such purposes under the auspices of the Executive Office of Health and Human Services. These program standards vary by population served so as to ensure services can be tailored to better meet the needs of beneficiaries.~~

~~**0399.20.02.01—Scope and Limitations**~~

~~REV: 07/2009~~

~~Shared living certification standards and options developed and implemented by the Department of Mental Health, Retardation and Hospitals (MHRH) in effect on June 30, 2009 shall remain in effect under the Global Waiver unless or until such time as the MHRH determines otherwise.~~

~~**Section 0399.21**~~

~~**Repealed in its Entirety July 2016**~~

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TITLE 210 - EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

CHAPTER XXX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

SUBCHAPTER XX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

PART 7154 - MEDICAID CODE OF ADMINISTRATIVE RULES, SECTION #0399
"THE GLOBAL CONSUMER CHOICE WAIVER"

Type of Filing: Repeal

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Agency Signing Date

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