

**Self-Directed Attendant Care-Pediatric Non-LTSS**

<b>Policy ID:</b>	HHO-DE-RP-1133
<b>Approved By:</b>	Highmark Health Options – Market Leadership
<b>Provider Notice Date:</b>	03/01/2023
<b>Original Effective Date:</b>	04/01/2023
<b>Annual Approval Date:</b>	12/2022
<b>Last Revision Date:</b>	11/21/2022
<b>Products:</b>	Medicaid
<b>Application:</b>	All participating hospitals and providers
<b>Page Number(s):</b>	1 of 7

**Disclaimer**

Highmark Health Options medical policy is intended to serve only as a general reference resource regarding coverage for the services described. This policy does not constitute medical advice and is not intended to govern or otherwise influence medical decisions.

**POLICY STATEMENT**

This policy provides information regarding the coverage of, as determined by applicable federal and/or state legislation.

This policy is designed to address medical necessity guidelines that are appropriate for the majority of individuals with a particular disease, illness or condition. Each person’s unique clinical circumstances warrant individual consideration, based upon review of applicable medical records.

The qualifications of the policy will meet the standards of the National Committee for Quality Assurance (NCQA) and the Delaware Department of Health and Social Services (DHSS) and all applicable state and federal regulations.

**PURPOSE**

This policy outlines Highmark Health Options reimbursement for SDAC for non-LTSS members ages 20 years and younger.

**DEFINITIONS**

**Highmark Health Options (HHO)** – Managed care organization serving vulnerable populations that have complex needs and qualify for Medicaid. Highmark Health Options members include individuals and families with low income, expecting mothers, children, and people with disabilities. Members pay nothing to very little for their health coverage. Highmark Health Options currently services Delaware Medicaid: Delaware Healthy Children Program (DHCP) and Diamond State Health Plan Plus LTSS (DSHP Plus LTSS) members.

**Self-Directed Attendant Care for Children** – Attendant care services that are provided by Self-Directed Employees to members under age 21 who have a chronic medical condition, intellectual/developmental disability, or behavioral health condition that results in the need for assistance with age-appropriate ADLs and IADLs and who have a family member or other designee that can act as their Employer Representative to self-direct their attendant care services.

**Provider** – In accordance with 42 CFR 438.2, any individual or entity that is engaged in the delivery of Health Care Services, or ordering or referring of Health Care Services, and is legally authorized to do so by the State in which it delivers the services. Provider does not include Self-Directed Employees; nor does provider include the provider of support for Self-Directed HCBS or Self-Directed Attendant Care for Children. (The initial letter of this term is not capitalized in this Contract.)

**Self-Directed Employee** – An individual who has been hired by a member participating in Self-Directed HCBS or Self-Directed Attendant Care for Children or their Employer Representative to provide Self-Directed HCBS/Self-Directed Attendant Care for Children to the member in an integrated community setting. A Self-Directed Employee may be a member's legally responsible family member. Self-Directed Employee does not include an employee of a provider that is being paid by the Contractor to provide services to a member.

**Self-Directed HCBS** – HCBS services that are provided by Self-Directed Employees to DSHP Plus LTSS members residing in homelike and integrated community settings who have opted to self-direct their HCBS. (Self-Directed HCBS was formerly referred to as Self-Directed Attendant Care or SDAC.)

**Respite Care** – Includes services provided to members unable to care for themselves furnished on a short-term basis because of the absence or need for relief for the member's caregiver. Respite care is limited to no more than 14 calendar days per year. HHO's case managers may authorize service request exceptions above this limit when it determines that: (i) no other service options are available to the member, including services provided through an informal support network; (ii) the absence of the service would present a significant health and welfare risk to the member; or (iii) respite service provided in a nursing facility or assisted living facility is not utilized to replace or relocate an individual's primary residence.

## PROCEDURES

Prior authorization is required.

Authority for a self-direction option for parents on behalf of children up to age 21, receiving State Plan personal care services. Self-directed personal care/attendant care services for children includes assistance with ADLs (e.g., bathing, dressing, personal hygiene, transferring, toileting, skin care, eating and assisting with mobility).

When specified in the service plan, this service includes assistance with instrumental activities of daily living (IADLs) (e.g., light housekeeping chores, shopping, meal preparation). Assistance with IADLs must be essential to the health and welfare of the participant based on the assessment of the Case Manager, provided to only the member and not for general utility within the household. A parent/guardian or other representative designated by the parent/guardian shall direct this service on behalf of the member (Delaware Health and Social Services, 2022).

To be eligible to receive self-directed personal care/attendant care services a child must have a chronic medical condition, intellectual/developmental disability, or behavioral health condition which results in the need for assistance with age-appropriate ADLs/IADLS (Delaware Health and Social Services, 2022).

## ASSESSMENT

The HHO case manager shall inform and educate members and member representatives about the option to self-direct their attendant care services. As part of this discussion the HHO case manager shall obtain from the member a signed statement regarding the member's decision to participate or not participate in SDAC.

If a member elects SDAC, the HHO case manager will assess the member. The assessment instrument shall be completed by the member with assistance from the HHO case manager as appropriate. The HHO case manager shall file the completed assessment in the member's electronic case record.

If, based on the results of the assessment, the HHO case manager determines that a member requires assistance to direct his/her attendant care services, the HHO case manager will inform the member that he/she needs to appoint a representative to perform the employer responsibilities on his/her behalf (Employer Representative). The HHO case manager will ensure that an Employer Representative agreement is completed and signed by the Employer Representative and the member, but also that the Employer Representative is not the Attendant Care Employee for that member.

For SDAC for Children, the care coordinator shall ensure that an Employer Representative agreement is completed and signed by the Employer Representative and that the Employer Representative is not a Self-Directed Employee for that member.

### **FINANCIAL MANAGEMENT SERVICES**

The provider of support for SDAC shall be an IRS-approved Fiscal/Employer Agent that functions as the member's agent in performing payroll and other employer responsibilities that are required by Federal and State law.

At a minimum, the provider of support for SDAC conduct the following FMS functions:

- Assist members in verifying Attendant Care Employees' citizenship status;
- Collect and process Attendant Care Employees' timesheets, including EVV requirements;
- Assist members in ensuring that workers compensation insurance is purchased and maintained;
- Process payroll, withholding, filing and payment of applicable Federal, State and Local employment-related taxes and insurance;
- Execute and hold Medicaid provider agreements; and
- Receive funds from the Contractor and disburse funds for payment of Self-Directed Employees.

### **SUPPORTS BROKERAGE FUNCTIONS**

The provider of support for SDAC shall perform, at a minimum, the following supports brokerage functions:

- Coordinate with the member's HHO case manager to develop, sign, and update the member's plan of care to include SDAC;
- Recruit Attendant Care Employees;
- Maintain a roster of Self-Directed Employees;
- Assist with developing and posting job descriptions for Self-Directed Employees;
- Secure and pay for background checks on prospective Self-Directed Employees on behalf of members;
- Assist with hiring, supervising, evaluating, and discharging Self-Directed Employees;
- Assist with completing forms related to employers;
- Assist with approving timesheets;
- Provide information on employer/employee relations;
- Provide training to members and Self-Directed Employees;
- Provide assistance with problem resolution;
- Maintain member files; and
- Provide support to the member as an employer in executing the member's back-up plan for SDAC.

### **SELF-DIRECTED EMPLOYEE QUALIFICATIONS**

Financial management services delegated by HHO will verify that potential Self-Directed Employees meet all applicable qualifications prior to delivering services including the following minimum qualifications: at least 18

years of age, have the skills necessary to perform the required services, possess a valid Social Security number and willing to submit to a criminal record check.

For each potential Self-Directed Employee, HHO (or delegate), shall conduct a criminal history check pursuant to 16 DE Admin Code 3110, a check of the Delaware's Adult Abuse Registry (see 11 DE Admin Code 8564; registry is available on the DHSS website), a check of the national and the Delaware sex offender registry and a check of the excluded provider list.

The financial management services provider will notify the member of the findings of the checks as applicable to his/her potential Attendant Care Employee(s).

- If a member wants to employ a person who does not pass the criminal history check, the financial management service provider shall educate the member of the risk. If the member insists on hiring a person who does not pass the criminal history check, the financial management services provider shall have the member sign a waiver of liability stating that they understand the risks and want to hire the person despite his/her failure to pass the criminal history check and will hold the State and HHO harmless from any claims or responsibility for any injury, loss, or damage because of hiring the person.
- A person who is listed on the Delaware Adult Abuse Registry, the national or Delaware sex offender registry or the excluded provider list shall not provide Self-Directed HCBS.

Members have the flexibility to hire persons with whom they have a close personal relationship to serve as a Self-Directed Employee, such as a neighbor, friend, or family member including legally responsible family members.

The financial management service provider will ensure that each member has an employment agreement with a Self-Directed Employee prior to services being provided by that Self-Directed Employee. HHO will not pay a Self-Directed Employee for the provision of Self-Directed HCBS/Self-Directed Attendant Care for Children unless the Self-Directed Employee has a signed employment agreement with the member.

The financial management service provider will ensure that employment agreements are updated anytime there is a change in any of the terms or conditions specified in the agreement. The financial management service provider will ensure employment agreements are signed by the new Employer Representative when there is a change in Employer Representative.

The financial management service shall provide a copy of each employment agreement to the member and/or Employer Representative. The case manager will also give a copy of the employment agreement to the Self-Directed Employee and shall maintain a copy for its files.

### **MONITORING**

The HHO case manager will monitor the quality-of-service delivery and the health, safety and welfare of members electing Self-Directed HCBS/Self-Directed Attendant Care for Children.

The HHO case managers will verify that Self-Directed HCBS/Self-Directed Attendant Care for Children services are provided in accordance with the member's plan of care, including the amount, frequency, duration, and scope of each service, in accordance with the member's service schedule. This shall include, but not be limited to, reviewing EVV information and asking the member if they are receiving the services they need.

The HHO case manager will monitor implementation of the back-up plan by the member or Employer Representative.

The HHO case manager will also monitor a member's participation in Self-Directed HCBS/Self-Directed Attendant Care for Children to determine, at a minimum, the success, and the viability of the service delivery model for the member. The HHO case manager shall note any patterns, such as frequent turnover of Employer Representatives that may warrant intervention by the HHO case manager. If problems are identified, an HHO

case manager should also ask a member to complete a self-assessment to determine what additional supports, if any (such as designating an Employer Representative), could be made available to assist the member.

**DISENROLLMENT FROM SELF-DIRECTED HCBS OR SELF-DIRECTED ATTENDANT CARE FOR CHILDREN**

The HHO case manager will ensure that members are informed of their right to voluntarily disenroll from Self-Directed HCBS/Self-Directed Attendant Care for Children at any time and return to the traditional service delivery system. To the extent possible, the member shall provide their Self-Directed Employee ten calendar days advance notice regarding their intent to disenroll from Self-Directed HCBS/Self-Directed Attendant Care for Children. The HHO case manager will educate and assist the member in providing such disenrollment.

A member may be involuntarily disenrolled from Self-Directed HCBS/Self-Directed Attendant Care for Children for the following for cause reasons:

- Continued participation in Self-Directed HCBS/Self-Directed Attendant Care for Children would not permit the member’s health, safety or welfare needs to be met;
- The member demonstrates the consistent inability to carry out the tasks needed to self-direct services and refuses to appoint an Employer Representative;
- There is fraudulent use of Medicaid funds such as substantial evidence that a member has falsified documents related to Self-Directed HCBS/Self-Directed Attendant Care for Children.
- If a member is disenrolled voluntarily or involuntarily from Self-Directed HCBS/Self-Directed Attendant Care for Children, the HHO case manager will transition the member to the traditional service delivery system and have safeguards in place to ensure continuity of services.

**LIMITATIONS**

- The respite benefit may not be substituted for additional attendant hours
- Sharing of funds from the attendant to the member are prohibited
- Legally responsible family members who provide Self-Directed Attendant Care for Children must designate another person to serve as the Employer Representative
- Legally responsible family members will be limited to providing 40 hours a week of care

**POST-PAYMENT AUDIT STATEMENT**

The medical record must include documentation that reflects the medical necessity criteria and is subject to audit by Highmark Health Options at any time pursuant to the terms of your provider agreement.

**PLACE OF SERVICE: OUTPATIENT**

**CODING REQUIREMENTS**

**COVERED CODES**

CPT codes	Description
<b>S5130-U2</b>	Self-Directed Attendant Care Services, per 15 minutes.*
<b>S5130-U2-CG</b>	Self-Directed Attendant Care Services, per 15 minutes-Caregiver resides in member’s home.
<b>T2040</b>	Financial Management-Monthly Service.

\*\*\*T2040 is paid as a bundled service with S5130

## REIMBURSEMENT

Participating facilities will be reimbursed per their Highmark Health Options contract.

## Reference

Delaware Health and Social Services. 2022. A Proposed Amendment to the Delaware Section 115 Demonstration Waiver. Retrieved from [https://dhss.delaware.gov/dhss/dmma/files/de\\_proposed\\_dshp\\_1115\\_waiver\\_2022.pdf](https://dhss.delaware.gov/dhss/dmma/files/de_proposed_dshp_1115_waiver_2022.pdf)

## POLICY UPDATE HISTORY

10/13/2022	Policy created; reviewed in reimbursement policy committee meeting
11/21/2022	Policy approved in Governance