WEST VIRGINIA Department of Health & Human Resources
BUREAU FOR MEDICAL SERVICES

PERSONAL CARE SERVICES PROGRAM
PROCEDURAL GUIDELINES FOR UNSAFE/NON-COMPLIANCE CLOSURES

INTRODUCTION

Overview: The following procedural guidelines were developed for two situations:
1) Noncompliance
2) Unsafe environment and/or situation.
Problem solving will assist the agency with determining the "root cause" of the problem.
Goal: To increase provider problem solving with challenging situations.
Requests for Discontinuation of Services: There are two reasons to close a case that are applicable to these guidelines: Noncompliance and unsafe environment. However, these cases MUST meet the criteria, MUST show evidence and MUST reveal actions on the case and be approved by the OA.
Disclaimer: This procedural guide may not include all necessary steps needed for every potential unsafe environment/persistence non-compliance cases. Each situation is unique and may require additional interventions or actions.

PROCEDURAL GUIDELINES: NONCOMPLIANCE

Intent: Program noncompliance is consistently not following the Personal Care Services program policies, the PC Plan of Care and/or services.

Examples of Noncompliance:

- Refusal to verify DCW services provided by signing/dating/initialing daily documentation.
- Refusal to turn in paperwork or allow Direct Care Worker to implement PC Plan of Care.
- Refusal to follow PC Plan of Care and/or refusal to follow Personal Care member responsibilities.
- Refusal to allow staff in the home for visits or services.
- Demanding Direct Care Workers to leave, yelling, cussing, slamming doors, phone hang-ups, etc.
- Refusal to open door or respond to calls from staff.
- Refusal to allow assessments or plans to be conducted.
- Not maintaining a safe environment for the Direct Care Worker.
- Other areas of policy or plan noncompliance.

Noncompliance Procedural Guidelines

First step: Action by the Agency

1. Ensure everyone's health and safety.
2. Refer to Adult Protective Services or Child Protective Services whichever is applicable.
3. Submit an incident report as per PC Policy instructions (517.10.2).
4. Document everything and ask Direct Care Workers to document or provide statements.
5. Refer to law enforcement for illegal issues.
6. Develop and implement a behavior contract.
7. Ensure the legal representative and primary care physician are aware of the issues in the home.

Second step: Formal Request for Technical Assistance

1. Ensure that steps 1-7 are completed prior to contacting Operating Agency (OA) for technical assistance.
2. Request technical assistance by sending an email to seniorservicesmedicaid@wv.gov

Third step: Request to close case for member noncompliance.

1. Submit a summary letter on agency letterhead with signature, describing the consistent history of noncompliance by the member. Complete in full the Discontinuation of PC Services form (marked noncompliance) and upload into the UMC web portal.
2. Attach evidence of the noncompliance (remember, the case could go to a hearing).
3. Incident reports, if applicable.
4. Evidence of referral to APS.
5. Police reports, if applicable.
6. Statements from Direct Care Workers or other agency staff.
7. Copies of RN notes or daily documentation verifying the noncompliance.
8. Any other evidence that supports the existence of persistent noncompliance with the program.
9. Change the eligibility status of member in UMC web portal to "member-discharged" and supply information required by prompts.
10. If information meets requirements for closure, OA will approve change in eligibility status and effectively discharge the member. Closure letter along with hearing request will be sent to discharged member or legal representative if applicable.
11. OA will not make a decision about an agency's employee. OA will educate the agency about risk but employment decisions will remain the sole responsibility of the agency.

PROCEDURAL GUIDELINES: UNSAFE ENVIRONMENT

Intent: An unsafe environment is the threat of harm to staff or harm that has already occurred.

Examples of Unsafe Environment:

- Threat of harm to the staff.
- Illegal activity or drug activity in the home.
- Physical harm to the staff.
- Property damage threatening harm to the staff.
- Unsafe use or possession of guns in the home.
- Illegal substances or stolen goods in the home.
- Any other imminent risk to the staff.

First step: Action by the Agency

1. Ensure everyone's health and safety.
2. Refer to Adult Protective Services or Child Protective Services whichever is applicable.

3. Submit an incident as per PC Policy instructions (517.10.2).
4. Document everything and ask DCWs to document or provide statements.
5. Refer to law enforcement for illegal issues.
6. Develop and implement a behavior contract.
7. Ensure the legal representative, if applicable, and primary care physician are aware of the issues in the home.

Second step: Formal Request for Technical Assistance

1. Ensure that steps 1-7 are completed prior to contacting OA for technical assistance unless it is so severe that it is felt that a behavior contract would not suffice.
2. Request technical assistance by sending an email to seniorservicesmedicaid@wv.gov

Third step: request to close case for unsafe environment

1. Submit a letter describing the overall unsafe environment on agency letterhead with an agency representative signature. Complete Discontinuation of Services form and upload into the UMC web portal.
2. Attach evidence of the unsafe environment (remember, case could go to hearing).
3. Include any previously reported incidents.
4. Evidence of referral to APS or CPS whichever is applicable.
5. Attach police reports.
6. Include statements from Direct Care Workers.
7. Send copies of RN or Staff notes or other documentation regarding the unsafe environment.
8. Attach any other evidence that supports the existence of the unsafe environment.
9. Change the eligibility status of member in UMC web portal to “member-discharged” and supply information required by prompts.
10. If information meets requirements for closure, OA will approve change in eligibility status and effectively discharge the member. Closure letter along with hearing request will be sent to discharged member or legal representative if applicable.
11. OA will not make a decision about an agency’s employee. OA will educate the agency about risk but employment decisions will remain the sole responsibility of the agency.

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PROBLEM SOLVING: STAFF IN THE HOME

First, assess the root cause of the problem. It is unacceptable to NOT provide a Direct Care Worker to a Personal Care member. Problem solve the situation (exception is unsafe environment and noncompliance, with OA's approval).

Remote Location/Poorly Staffed Area	No Shows/Call Offs	Behavioral	Erratic or Dangerous Behaviors/Substance Use	Program Noncompliance	Unsafe Environment
Definition: Location has few employee resources, difficult to hire or difficult to reach.	**Definition**: Consistently Direct Care Workers do not show for work as assigned.	**Definition:** Inappropriate behavior but not caused by medical, mental or substance use.	**Definition:** Challenging behaviors are associated with substance use, dementia, Alzheimer's or TBI.	**Definition:** Consistent refusal to comply with the program policy, PC Plan of Care and services.	**Definition:** Home environment where there is a threat of harm (staff and/or recipient).
Indicators: Few new hires, recruitment unsuccessful, hard to reach home, poor road conditions, no public transport and many other businesses in area.	**Indicators:** No one shows for the shift, no call from Direct Care Worker, calls member/not office, calls at last minute or goes into work late.	**Indicators:** Screaming or "cussing" at staff, throwing or hitting, verbal abuse, threats and "kicking the Direct Care Worker out or firing him/her".	**Indicators:** Member's substance use, cognitive, Alzheimer's or dementia behaviors or erratic/dangerous behaviors affect the provider's ability to implement services (see behavioral indicators).	**Indicators:** Refusal to allow staff into the home, open the door, sign paperwork, home visits, phone calls or maintain a safe environment for staff.	**Indicators:** Threats of harm or harm to the staff, illegal activity, unsafe guns in the home, drug activity and any actions that may harm the staff.
Actions: Recruit new hires from alternative sources, research local family or friends in area; offer emergency transfer; implement secondary Personal Care agency.	**Actions:** Dual approach: assign 2 Direct Care Workers, one half week and other the second half. Back up: Assign 2 back up Direct Care Workers to cover for no shows.	**Actions:** Behavior contract with the member; set boundaries; train staff in behavioral interventions; temporarily leave room to avoid reinforcing behavior.	**Actions:** Adult Protective Services (APS) if abuse, neglect or exploitation involved; mental health referral or consult with the primary care physician; referral to substance abuse programs, if applicable, commitment (if appropriate), behavior contract (if appropriate); refer to physician to address condition medically first.	**Actions:** Provide PC member signed responsibilities; Medicaid Fraud handout, if applicable; behavior contract to address issues; document noncompliance; stress compliance with policy, PC POC, services; file an incident report. Request to close with evidence if continues.	**Actions:** Behavior contract; APS referral; law enforcement referral for illegal acts; ensure safety of the staff; and file an incident report. Request to close if there is a threat of harm to the staff going in home.