



# SANDHILLS CENTER

## Relative / Legal Guardian as Direct Support Employee Provider Training for the Administrative Process

qmcappd 01/24/2017



**ACCREDITED**  
Health Network  
Expires 05/01/2019



**ACCREDITED**  
Health Call Center  
Expires 05/01/2019



**ACCREDITED**  
Health Utilization  
Management  
Expires 05/01/2019

# General Information

1. The NC Innovations Waiver Policy is based on North Carolina's application of federal requirements. Center for Medicare & Medicaid Services has given the states the ability to choose whether relatives or legal guardians can provide services & under what conditions these occur.
2. North Carolina allows relatives and/or legal guardians who live in the same home as the **adult** (age 18 or older) participant to provide services under certain conditions.
3. There is no federal or state entitlement that relatives or legal guardians must be employed. This administrative process must be employment based.
4. Community Living & Support is the only waiver service that may be provided by a relative/legal guardian who resides in the home of the individual (18 years or older).

# Network Operations Administrative Process

1. Prior to employing the relative/legal guardian, the Provider / Agency must submit the appropriate required form or application to SHC Network Operations Department. All must be completed, signed & dated by the provider agency. It is not the responsibility of the relative and/or the guardian or the member to complete the application.

## 40 Hours or Less Form -

- ❖ The form must be completed, signed & dated by the provider & relative/legal guardian.
- ❖ The form may be submitted via email to Sandhills Center. ([RDSEprocess@sandhillscenter.org](mailto:RDSEprocess@sandhillscenter.org)) or fax (910) 673-0904 or by US mail.
- ❖ The form does not require approval from Sandhills Center.
- ❖ Providers who have submitted a completed form will receive an email acknowledgement confirming that Sandhills Center is in receipt of the reported relative/legal guardian.

## Over 40 Hours Application -

- ❖ For exceptional situations, up to 56 hours per week may be approved, however, no new requests of more than 56 hours will be approved. Only Relative/Legal Guardians who were approved to provide more than 56 hours of services as of 12/31/2015 may request more than 56 hours as long as the beneficiary continues to choose the relative as the staff member, there are no health and safety issues, and the individual is not isolated from their community.
- ❖ The application must be completed, signed & dated by the provider & relative/legal guardian.
- ❖ The application must be submitted via US mail or hand delivered with original signatures. Providers may wish to email the application for Network to review, however in order to receive an approval letter from Sandhills Center, Network Operations must have the original application with dated signatures.

# Network Operations Administrative Process

2. Justification to employ a relative and/or legal guardian must be employment based only. No other qualified staff are available to provide the service(s) OR a qualified staff is only willing to provide the service(s) at an extraordinary higher cost than the fee or charge negotiated with the qualified family member or legal guardian.
3. Upon approval/disapproval of the Over 40 Hours application Network Management notifies the Quality Management , Care Coordination, Customer Services & Utilization Management departments. CM/UM is responsible for authorization of services.
4. Network Monitoring verifies that providers have complied with the process during their on-site review of the agency or if issues are reported / discovered.
5. Failure to have an approved Over 40 Hours application prior to the use of relative/legal guardian as provider can result in sanctions, including payback of funds dispersed prior to the date of the application approval. Failure to report a relative/legal guardian working 40 Hours or Less may also result in sanctions, including payback of funds dispersed prior to the date of reporting.



# IMPORTANT POINTS TO REMEMBER

1. The 40 Hours or Less Form & the Over 40 Hours Application are due one month prior to the member's birth month.
  - The 40 Hours or Less Form can be submitted via email to [RDSEprocess@sandhillscenter.org](mailto:RDSEprocess@sandhillscenter.org) (This email address goes to both Tabitha Williams & Cheryl Slack).
  - Sandhills Center must have the original dated signatures of the Over 40 Hours application in order to send approval letter to the provider.
2. If during the year the member's plan is revised, then you must submit a revised 40 Hours or Less form or the Over 40 Hours application showing the revisions from the member's plan.
3. The relative and/or legal guardian must meet the same qualifications as any other staff member providing the service.
  - These reasons alone are not sufficient justification for employing a relative or legal guardian as a paid provider.
    - Family preference
    - Participant has complex medical issues
    - Participant has a history of difficult interactions with non-family members
    - Participant has difficulty with communication
    - Past use of a relative or legal guardian

**Important Question:** "What is the plan to introduce additional staff to provide some of the services that are needed by the waiver participant?"

You must be able to show that you are recruiting for qualified staff and interviewing potential applicants.

## IMPORTANT POINTS TO REMEMBER CONTINUED

4. Employment based justifications include:
  - No personnel is available with appropriate skills/training to provide the service.
  - No personnel is available during hours when the service is needed (i.e. after hours personal care service; after hours safety supervision for wandering member.
  - Personnel are only available at a much higher cost.
  - No personnel are available within a specified distance of the site where the service(s) is to be provided.
5. The relative and/or legal guardian is not paid to provide any service that they would ordinarily perform in the household of an individual of a similar age who does not have a disability. – i.e. cooking, laundry.
6. Agencies must identify & provide qualified back-up staff for each employee including relative / legal guardian employees. If a relative / guardian is the primary care giver, they cannot also be the back-up.
7. All forms/applications must be complete. Please verify, spelling of member's name & relative's name, give correct Medicaid county and BIRTH DATE.
  - The most common errors on forms/applications are incorrect birth date, check boxes not marked, not signed & dated, Medicaid county is missing & **# 1 - justification is not sufficient.**
8. If the form/application is incomplete, they will be denied. You will only have one chance to re-submit. Re-submittal must be within seven (7) calendar days.

# IMPORTANT POINTS TO REMEMBER CONTINUED

9. Approvals can be discontinued if the relative/guardian fails to implement the service in compliance with the Medicaid service definition.
10. Please note that when an individual moves from their natural home & into the home of a relative that is not their parent then this may be considered an AFL situation and RDSE would not apply. RDSE only applies to an individual residing in their natural home.
11. Questions for discussion when reviewing the member's plan:
  - a. Will employing a family member as paid staff allow the opportunity for the consumer to learn & adapt to different people & form new relationships?
  - b. Is the employment of a family member developmentally & age-appropriate for the consumer?
  - c. Is the consumer learning flexibility & skills for increased independence?
  - d. What are the plans to prepare the consumer in the event the relative/legal guardian is unavailable or unable to care for the consumer?
  - e. Does having a relative/guardian as paid staff expand the participant's circle of support? What will be in place to ensure that the participant's circle of support is expanding?

# Contacts at Sandhills for Relative / Legal Guardian

Provider Help Desk 1 855-777-4652 or  
[providerhelpdesk@sandhillscenter.org](mailto:providerhelpdesk@sandhillscenter.org)

[RDSEprocess@sandhillscenter.org](mailto:RDSEprocess@sandhillscenter.org)

*(This email address goes to both Tabitha Williams and Cheryl Slack.)*

Tabitha Williams at (910) 673-7649 or  
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