ARC 9403B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 80, "Procedure and Method of Payment," Iowa Administrative Code.

The amendments update, streamline, and clarify Medicaid policy for home- and community-based services to achieve uniform application of policy and to reduce the number of policy exceptions requested. These amendments:

- Require service workers and case managers to sign and date service plans for the habilitation program (Item 1).
- Change the name of the mental retardation (MR) waiver to the intellectual disability waiver (Items 2, 20 to 22, 25, 28, and 29).
- Eliminate obsolete references to adult day care service components (Items 3, 10, 18, and 35).
- Limit respite care provided when the usual caregiver is working to care in a 24-hour residential camp and clarify that respite care shall not be used as a substitute for a child's day care (Items 4, 12, 16, 22, 31, and 44).
- Change the word "consumer" to "member" where applicable in the rules amended (Items 4 to 8, 12, 14 to 16, 19 to 22, 24 to 30, 32, 34, 37 to 40, 43, and 44).
- Clarify for consumer-directed attendant care that meal preparation may only occur in the member's home (Items 5, 15, 19, 26, 37, and 39).
- Clarify the use of Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, and Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement (Items 5, 15, 19, 26, 37, and 39). The provider shall complete one Form 470-4389 for each date that CDAC service is provided.
- Clarify the use of interim medical monitoring treatment (IMMT) services (Items 6, 27, and 38). IMMT services are not intended to provide day care for children or adults. The parent or guardian of the member is responsible for the nonmedical usual and customary cost of day care during the time when the member is receiving IMMT services. Medical care necessary for monitoring and treatment is an allowable IMMT cost.
- Exclude payments for purchase, repair, and leasing of motorized vehicles under home and vehicle modification (Items 7, 14, 24, 32, and 40).
- Clarify that, whenever possible, three itemized, competitive bids shall be obtained for each home or vehicle modification project and shall be reviewed by the case manager or service worker before approval of the project. The contract shall include the scope of work to be performed, the time involved, the supplies needed, the cost, diagrams of the project whenever applicable, and an assurance that the provider has liability and workers' compensation coverage and the applicable permit and license (Items 7, 14, 24, 32, and 40).
- Remove the requirement for home and vehicle modification expenses to be encumbered at the dollar amount of $505 per month (Items 7 and 32).
- Add coverage of a portable locator system as a type of personal emergency response system (PERS) (Items 8, 11, 23, 33, 41, and 45).
- Remove limits on four-person supported community living units and allow a mix of waiver and nonwaiver residents (Items 21 and 30).
- Clarify the definition of "physiological treatment" for supported community living services (Items 21 and 30). Physiological treatment includes medication regimens carried out under the supervision of a health professional.
- Specify that the unit of supported community living services is a calendar day when the member's service plan reflects a need for on-site staff supervision for an average of 8 or more hours per day over a calendar month (Items 21 and 30). Only providers whose service to a member does not meet this

threshold may bill using an hourly unit. The current threshold is an average of 14 hours of service per day over a week for the intellectual disability waiver and 19 hours per day for the brain injury waiver.

• Specify the possible units for purchase of prevocational services (Items 29 and 36).

• Remove the requirement for specialized medical equipment expenses to be encumbered at the dollar amount of $505 per month and further clarify the use of this service (Items 34 and 42).

• Raise the upper limit for prevocational services under the brain injury waiver to the same amount as allowed under the intellectual disability waiver ($47.01 per day) and add rate limits for half-day and hourly units (Item 45).

• Add the rate methodology and upper limits for interim medical monitoring and treatment when provided by a supported community living provider (Item 45).

• Clarify who may sign the claim form for targeted medical care when services were delivered but the member dies before the claim is submitted (Item 46).

These amendments apply to individual home- and community-based programs as follows:

• AIDS/HIV waiver: Items 16 to 19 and 46.

• Brain injury waiver: Items 30 to 38, 45, and 46.

• Children's mental health waiver: Items 43 and 44.

• Elderly waiver: Items 10 to 15, 45, and 46.

• Habilitation services: Item 1.

• Ill and handicapped waiver: Items 3 to 9, 45, and 46.

• Intellectual disability waiver (formerly the mental retardation or MR waiver): Items 20 to 29, 45, and 46.

• Physical disability waiver: Items 39 to 42, 45, and 46.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on October 20, 2010, as **ARC 9170B**. The Department received 74 written comments on the Notice of Intended Action. A complete summary of the comments is available on the Department's policy Web site: http://www.dhs.iowa.gov/policyanalysis/RulesPages/phcomm.htm.

Three-fourths of the comments addressed the rule limiting the use of day camps as respite care when parents are working. Many commenters praised the enrichment that camp experiences had provided to their children's lives. About half pointed out that in many cases there are no other summer child care alternatives, especially for teenagers. A view frequently expressed was that this change discriminates against parents who must work in that their children would be deprived of the camp experience.

However, the Department is required to abide by federal service definitions approved in the waiver request. Respite care services are defined as services provided to the member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that period. While the parent is working, the parent is not the one providing the necessary care, so the provision of respite does not provide a break from the parent's usual caregiving responsibilities. Day care services are not reimbursable under the home- and community-based services waivers. Day camp is reimbursable as respite care when the parent is not working. A 24-hour residential camp is reimbursable as respite care when a parent is working since the parent will be receiving a break from caregiving responsibilities during the parent's nonworking hours, which are presumably the majority of the day.

Another area of concern to one-third of the commenters was the proposed limitation of supported community living services to "intermittent" services for children who live in a family setting. Commenters pointed out that many children, particularly those with autism or related disorders, need more frequent practice to learn behavioral skills. In response to these comments, the Department has removed the references to time or frequency limits on services that were published in the Notice of Intended Action in paragraphs 78.41(1)"d" and 78.43(2)"d" (Items 21 and 30). The amended paragraphs now read as follows:

"*d.* A member aged 17 or under living in the home of the member's family, legal representative, or foster family shall receive services based on development of adaptive, behavior, or health skills. Duration of services shall be based on age-appropriateness and individual attention span."

Proposed changes to paragraph 78.37(15)"c" regarding assisted living programs providing consumer-directed attendant care services have not been adopted because the rule making proposed in **ARC 9138B** to make assisted living an elderly waiver service has been terminated. (See **ARC 9418B** in this issue.)

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on February 8, 2011.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on May 1, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subparagraphs **78.27(4)"a"(9)** and **(10)**:

(9) The initial service plan and annual updates to the service plan must be approved by the Iowa Medicaid enterprise in the individualized services information system before services are implemented. Services provided before the approval date are not payable. The written case plan must be completed, signed and dated by the case manager or service worker within 30 calendar days after plan approval.

(10) Any changes to the service plan must be approved by the Iowa Medicaid enterprise in the individualized services information system before the implementation of services. Services provided before the approval date are not payable.

ITEM 2. Strike "HCBS MR waiver" wherever it appears in paragraph **78.33(1)"c"** and insert "HCBS intellectual disability waiver" in lieu thereof.

ITEM 3. Amend subrule 78.34(3) as follows:

78.34(3) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. A unit of service is a half day (1 to 4 hours), a full day (4 to 8 hours), or an extended day (8 to 12 hours). Components of the service ~~are as set forth in rule 441—171.6(234) or the department of elder affairs rule 321—24.7(231)~~ include health-related care, social services, and other related support services.

ITEM 4. Amend subrule 78.34(5) as follows:

78.34(5) *Respite care services.* Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that ~~time~~ period. The purpose of respite care is to enable the ~~consumer~~ member to remain in the ~~consumer's~~ member's current living situation.

a. Services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.

b. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team.

c. A unit of service is one hour.

d. Respite care is not to be provided to ~~persons~~ members during the hours in which the usual caregiver is employed except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care. Respite cannot be provided to a ~~consumer~~ member whose usual caregiver is a consumer-directed attendant care provider for the ~~consumer~~ member.

e. The interdisciplinary team shall determine if the ~~consumer~~ member will receive basic individual respite, specialized respite, or group respite as defined in rule 441—83.1(249A).

f. and *g.* No change.

ITEM 5. Amend subrule 78.34(7) as follows:

78.34(7) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a ~~consumer~~ member with self-care tasks which the ~~consumer~~ member would typically do independently if the ~~consumer~~ member were otherwise able.

a. The service activities may include helping the ~~consumer~~ member with any of the following nonskilled service activities:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating ~~and feeding~~ but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's~~ member's health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer~~ member is on the job site. The cost of transportation for the ~~consumer~~ member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting or accompanying a ~~consumer~~ member in using transportation essential to the health and welfare of the ~~consumer~~ member. The cost of the transportation is not included.

b. The service activities may include helping the ~~consumer~~ member with any of the following skilled services under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall be paid from private insurance and other third-party payment sources, Medicare, the regular Medicaid program, or the early periodic screening diagnosis and treatment program ~~before accessing the HCBS waiver~~.

(1) Tube feedings of ~~consumers~~ members unable to eat solid foods.

(2) to (13) No change.

c. A unit of service is 1 hour~~,~~ or one 8- to 24-hour day ~~provided by an individual or an agency~~. Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

d. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided~~.

e. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer~~ member.

f. The service activities ~~may~~ shall not include parenting or child care for or on behalf of the ~~consumer~~ member or on behalf of the provider.

g. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and~~ sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan~~, which is signed by the service worker prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to *m.* No change.

ITEM 6. Amend subrule 78.34(8) as follows:

78.34(8) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature ~~requiring specially trained caregivers beyond what is normally available in a day care setting~~ for children or adults whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. ~~The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.~~ Services must be ordered by a physician.

a. Need for service. The member must be currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. The service worker or case manager must identify the need for IMMT services after evaluating the member's living environment, family and natural supports, ability to perform activities of daily living, and health care needs. The services must be needed:

(1) To allow the member's usual caregivers to be employed,

(2) During a search for employment by a usual caregiver,

(3) To allow for academic or vocational training of a usual caregiver,

(4) Due to the hospitalization of a usual caregiver for treatment for physical or mental illness, or

(5) Due to the death of a usual caregiver.

~~*a.*~~ *b.* Service requirements. Interim medical monitoring and treatment services shall:

(1) Provide experiences for each ~~consumer's~~ member's social, emotional, intellectual, and physical development;

(2) Include comprehensive developmental care and any special services for a ~~consumer~~ member with special needs; and

(3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis. Medical intervention means the ability to assess the situation and contact the appropriate medical professional, not the direct application of medical care.

~~*b.*~~ *c.* Interim medical monitoring and treatment services may include supervision while the member is being transported to and from school.

~~*c.*~~ *d.* Limitations.

(1) and (2) No change.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan. Services under the state plan, including home health agency services under rule 441—78.9(249A), must be exhausted before IMMT services are accessed.

(4) Interim medical monitoring and treatment services ~~may~~ shall be provided only in the ~~consumer's~~ member's home~~,~~; in a registered ~~group child care home, in a registered family~~ child ~~care~~ development home~~,~~; in a licensed child care center, residential care facility, or adult day care facility; or during ~~transportation~~ the time when the member is being transported to and from school.

(5) The ~~staff-to-consumer~~ member-to-staff ratio shall not be ~~less~~ more than ~~one to~~ six members to one staff person.

(6) The parent or guardian of the member shall be responsible for the usual and customary nonmedical cost of day care during the time in which the member is receiving IMMT services. Medical care necessary for monitoring and treatment is an allowable IMMT cost. If the cost of care goes above the usual and customary cost of day care services due to the member's medical condition, the costs above the usual and customary cost shall be covered as IMMT services.

~~*d.*~~ *e.* A unit of service is one hour.

ITEM 7. Amend subrule 78.34(9) as follows:

78.34(9) *Home and vehicle ~~modifications~~ modification.* Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's~~ member's home or vehicle ~~listed below~~ that directly

address the ~~consumer's~~ member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer~~ member and enable the ~~consumer~~ member to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's~~ member's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair,~~ or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. ~~Repairs~~ Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's~~ member's disability.

(8) to (24) No change.

c. and *d.* No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer~~ member. Whenever possible, three itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include~~, at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, ~~time frame for work completion, and~~ diagrams of the project whenever applicable, and an assurance ~~of~~ that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications.

(1) Payment of up to $6,060 per year may be made to certified providers upon satisfactory completion of the service.

(2) The case manager or service worker shall encumber ~~up to $505 per~~ a portion of the cost of a modification every month within the monthly dollar cap allowed for the ~~consumer~~ member until the ~~amount~~ entire cost of the modification is ~~reached~~ encumbered within ~~the~~ a consecutive 12-month period.

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 8. Amend subrule 78.34(10) as follows:

78.34(10) *Personal emergency response or portable locator system.*

a. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency ~~when the consumer is alone~~.

~~*a.*~~ (1) The required components of the system are:

~~(1)~~ 1. An in-home medical communications ~~transmitter and receiver~~ transceiver.

~~(2)~~ 2. A remote, portable activator.

~~(3)~~ 3. A central monitoring station with backup systems staffed by trained attendants at all times.

~~(4)~~ 4. Current data files at the central monitoring station containing response protocols and personal, medical, and emergency information for each ~~consumer~~ member.

~~*b.*~~ (2) The service shall be identified in the ~~consumer's~~ member's service plan.

~~*c.*~~ (3) A unit of service is a one-time installation fee or one month of service.

~~*d.*~~ (4) Maximum units per state fiscal year shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

ITEM 9. Amend subrule 78.34(11) as follows:

78.34(11) *Home-delivered meals.* Home-delivered meals ~~means~~ are meals prepared elsewhere and delivered to a ~~waiver recipient~~ member at the ~~recipient's~~ member's residence.

a. Each meal shall ensure the ~~recipient~~ member receives a minimum of one-third of the daily recommended dietary allowance as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. The meal may also be a liquid supplement that meets the minimum one-third standard.

b. When a restaurant provides the home-delivered meal, the ~~recipient~~ member is required to have a nutritional consultation. The nutritional consultation includes contact with the restaurant to explain the dietary needs of the ~~client~~ member and what constitutes the minimum one-third daily dietary allowance.

c. A maximum of ~~14~~ two meals is allowed per ~~week~~ day. A unit of service is a meal.

ITEM 10. Amend subrule 78.37(1) as follows:

78.37(1) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. A unit of service is a half day (1 to 4 hours), a full day (4 to 8 hours), or an extended day (8 to 12 hours). Components of the service ~~are set forth in rule 441—171.6(234) or as indicated in the Iowa department of elder affairs Annual Service and Fiscal Reporting Manual~~ include health-related care, social services, and other related support services.

ITEM 11. Amend subrule 78.37(2) as follows:

78.37(2) ~~*Emergency*~~ *Personal emergency response or portable locator system.* ~~The emergency response system allows a person experiencing a medical emergency at home to activate electronic components that transmit a coded signal via digital equipment over telephone lines to a central monitoring station.~~

a. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency.

(1) The necessary components of a system are:

~~*a.*~~ 1. An in-home medical communications transceiver.

~~*b.*~~ 2. A remote, portable activator.

~~*c.*~~ 3. A central monitoring station with backup systems staffed by trained attendants ~~24 hours per day, seven days per week~~ at all times.

~~*d.*~~ 4. Current data files at the central monitoring station containing ~~preestablished~~ response protocols and personal, medical, and emergency information for each ~~client~~ member.

(2) The service shall be identified in the member's service plan.

(3) A unit of service is a one-time installation fee or one month of service.

(4) Maximum units per state fiscal year shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

ITEM 12. Amend subrule 78.37(6) as follows:

78.37(6) *Respite care services.* Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that ~~time~~ period. The purpose of respite care is to enable the ~~consumer~~ member to remain in the ~~consumer's~~ member's current living situation.

a. Services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.

b. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team.

c. A unit of service is one hour.

d. The interdisciplinary team shall determine if the ~~consumer~~ member will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.21(249A).

e. to *g.* No change.

h. Respite care is not to be provided to ~~persons~~ members during the hours in which the usual caregiver is employed except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite cannot be provided to a ~~consumer~~ member whose usual caregiver is a consumer-directed attendant care provider for the ~~consumer~~ member.

ITEM 13. Amend subrule 78.37(8) as follows:

78.37(8) *Home-delivered meals.* Home-delivered meals ~~means~~ are meals prepared elsewhere and delivered to a ~~waiver recipient~~ member at the ~~recipient's~~ member's residence.

a. Each meal shall ensure the ~~recipient~~ member receives a minimum of one-third of the daily recommended dietary allowance as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. The meal may also be a liquid supplement which meets the minimum one-third standard.

b. When a restaurant provides the home-delivered meal, the ~~recipient~~ member is required to have a nutritional consultation. The nutritional consultation includes contact with the restaurant to explain the dietary needs of the ~~client~~ member and ~~explain~~ what constitutes the minimum one-third daily dietary allowance.

c. A maximum of ~~14~~ two meals is allowed per ~~week~~ day. A unit of service is a meal.

ITEM 14. Amend subrule 78.37(9) as follows:

78.37(9) *Home and vehicle modification.* Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's~~ member's home or vehicle ~~listed below~~ that directly address the ~~consumer's~~ member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer~~ member and enable the ~~consumer~~ member to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's~~ member's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair,~~ or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. ~~Repairs~~ Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's~~ member's disability.

(8) to (24) No change.

c. and *d.* No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer~~ member. Whenever possible, three itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include~~, at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, ~~time frame for work completion, and~~ diagrams of the project whenever applicable, and an assurance ~~of~~ that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. No change.

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 15. Amend subrule 78.37(15) as follows:

78.37(15) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a ~~consumer~~ member with self-care tasks which the ~~consumer~~ member would typically do independently if the ~~consumer~~ member were otherwise able.

a. The service activities may include helping the ~~consumer~~ member with any of the following nonskilled service activities:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating ~~and feeding~~ but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's~~ member's health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer~~ member is on the job site. The cost of transportation for the ~~consumer~~ member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting or accompanying a ~~consumer~~ member in using transportation essential to the health and welfare of the ~~consumer~~ member. The cost of the transportation is not included.

b. The service activities may include helping the ~~consumer~~ member with any of the following skilled services under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall be paid from private insurance and other third-party payment sources, Medicare, the regular Medicaid program, or the early periodic screening diagnosis and treatment program ~~before accessing the HCBS waiver~~.

(1) Tube feedings of ~~consumers~~ members unable to eat solid foods.

(2) to (13) No change.

c. A unit of service provided by an individual or an agency, other than an assisted living program, is 1 hour~~,~~ or one 8- to 24-hour day. When provided by an assisted living program, a unit of service is one calendar month. If services are provided by an assisted living program for less than one full calendar month, the monthly reimbursement rate shall be prorated based on the number of days service is provided. Except for services provided by an assisted living program, each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

d. The ~~consumer~~ member, ~~parent,~~ guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided~~.

e. The ~~consumer~~ member, ~~parent,~~ guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer~~ member.

f. The service activities ~~may~~ shall not include parenting or child care ~~for or~~ on behalf of the ~~consumer~~ member or on behalf of the provider.

g. The ~~consumer~~ member, ~~parent,~~ guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and~~ sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan~~, which is signed by the service worker prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to *l.* No change.

m. Services may be provided in the absence of a ~~parent or~~ guardian if the ~~parent or~~ guardian has given advanced direction for the service provision.

ITEM 16. Amend subrule 78.38(5) as follows:

78.38(5) *Respite care services.* Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that ~~time~~ period. The purpose of respite care is to enable the ~~consumer~~ member to remain in the ~~consumer's~~ member's current living situation.

a. Services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where respite is provided is ~~otherwise~~ reserved for another person on a temporary leave of absence.

b. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team.

c. A unit of service is one hour.

d. The interdisciplinary team shall determine if the ~~consumer~~ member will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.41(249A).

e. to *g.* No change.

h. Respite care is not to be provided to ~~persons~~ members during the hours in which the usual caregiver is employed except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care. Respite cannot be provided to a ~~consumer~~ member whose usual caregiver is a consumer-directed attendant care provider for the ~~consumer~~ member.

ITEM 17. Amend subrule 78.38(6) as follows:

78.38(6) *Home-delivered meals.* Home-delivered meals ~~means~~ are meals prepared elsewhere and delivered to a ~~waiver recipient~~ member at the ~~recipient's~~ member's residence.

a. Each meal shall ensure the ~~recipient~~ member receives a minimum of one-third of the daily recommended dietary allowance as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. The meal may also be a liquid supplement which meets the minimum one-third standard.

b. When a restaurant provides the home-delivered meal, the member is required to have a nutritional consultation. The nutritional consultation includes contact with the restaurant to explain the dietary needs of the member and what constitutes the minimum one-third daily dietary allowance.

c. A maximum of ~~14~~ two meals is allowed per ~~week~~ day. A unit of service is a meal.

ITEM 18. Amend subrule 78.38(7) as follows:

78.38(7) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. A unit of service is a half day (1 to 4 hours), a full day (4 to 8 hours), or an extended day (8 to 12 hours). Components of the service ~~are as set forth in rule 441—171.6(234) or the department of elder affairs rule 321—24.7(231)~~ include health-related care, social services, and other related support services.

ITEM 19. Amend subrule 78.38(8) as follows:

78.38(8) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a ~~consumer~~ member with self-care tasks which the ~~consumer~~ member would typically do independently if the ~~consumer~~ member were otherwise able.

a. The service activities may include helping the ~~consumer~~ member with any of the following nonskilled service activities:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating ~~and feeding~~ but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's~~ member's health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer~~ member is on the job site. The cost of transportation for the ~~consumer~~ member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting or accompanying a ~~consumer~~ member in using transportation essential to the health and welfare of the ~~consumer~~ member. The cost of the transportation is not included.

b. The service activities may include helping the ~~consumer~~ member with any of the following skilled services under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall be paid from private insurance and other third-party payment sources, Medicare, the regular Medicaid program, or the early periodic screening diagnosis and treatment program ~~before accessing the HCBS waiver~~.

(1) Tube feedings of ~~consumers~~ members unable to eat solid foods.

(2) to (13) No change.

c. A unit of service is 1 hour~~,~~ or one 8- to 24-hour day ~~provided by an individual or an agency~~. Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

d. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided~~.

e. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer~~ member.

f. The service activities ~~may~~ shall not include parenting or child care for or on behalf of the ~~consumer~~ member or on behalf of the provider.

g. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and~~ sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan~~, which is signed by the service worker prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to *m.* No change.

ITEM 20. Amend rule 441—78.41(249A), introductory paragraphs, as follows:

441—78.41(249A) HCBS ~~MR~~ intellectual disability waiver services. Payment will be approved for the following services to ~~consumers~~ members eligible for the HCBS ~~MR~~ intellectual disability waiver ~~services~~ as established in 441—Chapter 83 and as identified in the ~~consumer's~~ member's service plan. All services include the applicable and necessary instruction, supervision, assistance and support as required by the ~~consumer~~ member in achieving the ~~consumer's~~ member's life goals. The services, amount and supports provided under the HCBS ~~MR~~ intellectual disability waiver shall be delivered in the least restrictive environment and in conformity with the ~~consumer's~~ member's service plan. Reimbursement shall not be available under the waiver for any services that the ~~consumer~~ member can obtain through the Medicaid state plan. All services shall be billed in whole units.

ITEM 21. Amend subrule 78.41(1) as follows:

78.41(1) *Supported community living services.* Supported community living services are provided by the provider within the ~~consumer's~~ member's home and community, according to the individualized ~~consumer~~ member need as identified in the service plan ~~pursuant to rule 441—83.67(249A)~~.

a. Available components of the service are personal and home skills training services, individual advocacy services, community skills training services, personal environment support services, transportation, and treatment services.

(1) Personal and home skills training services are ~~those~~ activities which assist a ~~consumer~~ member to develop or maintain skills for self-care, self-directedness, and care of the immediate environment.

(2) ~~"~~Individual advocacy ~~services" means~~ is the act or process of representing the ~~individual's~~ member's rights and interests in order to realize the rights to which the ~~individual~~ member is entitled and to remove barriers to meeting the ~~individual's~~ member's needs.

(3) ~~"~~Community skills training services~~" means~~ are activities which assist a ~~person~~ member to develop or maintain skills allowing better participation in the community. Services shall focus on the following areas as they ~~are applicable~~ apply to ~~individuals~~ the member being served:

1. Personal management skills training services are activities which assist a ~~person~~ member to maintain or develop skills necessary to sustain ~~oneself~~ the member in the physical environment and are essential to the management of ~~one's~~ the member's personal business and property. This includes self-advocacy skills. Examples of personal management skills are the ability to maintain a household budget~~;~~, plan and prepare nutritional meals~~; ability to~~, use community resources such as public transportation~~,~~ and libraries, ~~etc.,~~ and ~~ability to~~ select foods at the grocery store.

2. Socialization skills training services are ~~those~~ activities which assist a ~~consumer~~ member to develop or maintain skills which include self-awareness and self-control, social responsiveness, community participation, social amenities, and interpersonal skills.

3. Communication skills training services are activities which assist a ~~person~~ member to develop or maintain skills including expressive and receptive skills in verbal and nonverbal language and the functional application of acquired reading and writing skills.

(4) ~~"~~Personal and environmental support services~~" means~~ are activities and expenditures provided to or on behalf of a ~~person~~ member in the areas of personal needs in order to allow the ~~person~~ member to function in the least restrictive environment.

(5) ~~"~~Transportation services~~" means~~ are activities and expenditures designed to assist the ~~person~~ member to travel from one place to another to obtain services or carry out life's activities. The service excludes transportation to and from work.

(6) ~~"~~Treatment services~~" means~~ are activities designed to assist the ~~person~~ member to maintain or improve physiological, emotional and behavioral functioning and to prevent conditions that would present barriers to ~~a person's~~ the member's functioning. Treatment services include physical or physiological treatment and psychotherapeutic treatment.

1. Physiological treatment ~~means activities including~~ includes medication regimens designed to prevent, halt, control, relieve, or reverse symptoms or conditions ~~which~~ that interfere with the normal functioning of the human body. ~~The activities~~ Physiological treatment shall be provided by or under the direct supervision of a certified or licensed health care professional ~~certified or licensed to provide the treatment activity specified~~.

2. Psychotherapeutic treatment means activities provided to assist a ~~person~~ member in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the ~~person's~~ member's functioning in response to the physical, emotional, and social environment.

b. The supported community living services are intended to provide for the daily living needs of the ~~consumer~~ member and shall be available as needed during any 24-hour period. Activities do not include those associated with vocational services, academics, day care, medical services, Medicaid case management or other case management. Services are individualized supportive services provided in a variety of community-based, integrated settings.

(1) Supported community living services shall be available at a daily rate to ~~consumers~~ members living outside the home of their family, legal representative, or foster family and for whom a provider has primary responsibility for supervision or structure during the month. This service will provide supervision or structure in identified ~~time~~ periods when another resource is not available.

(2) Supported community living services shall be available at an hourly rate to ~~consumers~~ members for whom a daily rate is not established.

c. Services may be provided to a child or an adult. A maximum of ~~three consumers receiving community-supported alternative living arrangements or HCBS MR services~~ four persons may reside in a living unit. ~~except providers meeting requirements set forth in 441—paragraph 77.37(14)~~*"e."*

(1) ~~Consumers~~ A member may live within the home of ~~their~~ the member's family or legal representative or ~~within other types of~~ in another typical community living ~~arrangements~~ arrangement.

(2) ~~Consumers of services~~ A member living with ~~families~~ the member's family or legal ~~representatives are~~ representative is not subject to the maximum of ~~three consumers~~ four residents in a living unit.

(3) ~~Consumers~~ A member may not live in a licensed medical or health care ~~facilities~~ facility or in ~~settings~~ a setting that is required to be licensed as a medical or health care ~~facilities~~ facility.

~~(4)~~ *d.* ~~Consumers~~ A member aged 17 or under living ~~within~~ in the home of ~~their~~ the member's family, legal representative, or foster ~~families~~ family shall receive services based on development of adaptive, behavior, or health skills. Duration of services shall be based on age-appropriateness and individual attention span.

~~*d.* Rescinded IAB 2/5/03, effective 2/1/03.~~

e. No change.

f. Provider budgets shall reflect all staff-to-~~consumer~~ member ratios and shall reflect costs associated with ~~consumers'~~ members' specific support needs for travel and transportation, consulting, instruction, and environmental modifications and repairs, as determined necessary by the interdisciplinary team for each ~~consumer~~ member. The specific support needs must be identified in the

Medicaid case manager's service plan, the total costs shall not exceed $1570 per ~~consumer~~ member per year, and the provider must maintain records to support the expenditures. A unit of service is:

(1) One full calendar day when a ~~consumer~~ member residing in the living unit receives on-site staff supervision for ~~14~~ eight or more hours per day as an average over a ~~7-day week~~ calendar month and the ~~consumer's individual comprehensive plan or case~~ member's service plan identifies and reflects the need for this amount of supervision.

(2) One hour when subparagraph 78.41(1)*"f"*(1) does not apply.

g. The maximum number of units available per ~~consumer~~ member is as follows:

(1) and (2) No change.

h. The service shall be identified in the ~~consumer's individual comprehensive~~ member's service plan.

i. ~~Services~~ Supported community living services shall not be simultaneously reimbursed with other residential services~~, HCBS MR~~ or with respite, ~~Medicaid or HCBS MR~~ nursing, or ~~Medicaid or HCBS MR~~ home health aide services provided through Medicaid or the HCBS intellectual disability waiver.

ITEM 22. Amend subrule 78.41(2) as follows:

78.41(2) *Respite care services.* Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that ~~time~~ period. The purpose of respite care is to enable the ~~consumer~~ member to remain in the ~~consumer's~~ member's current living situation.

a. Services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where ~~the~~ respite is provided is reserved for another person on a temporary leave of absence.

b. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team.

c. A unit of service is one hour.

d. Payment for respite services shall not exceed $7,050 per the ~~consumer's~~ member's waiver year.

e. The service shall be identified in the ~~consumer's~~ member's individual comprehensive plan.

f. Respite services shall not be simultaneously reimbursed with other residential or respite services~~, HCBS MR waiver~~ or with supported community living ~~services~~, ~~Medicaid or HCBS MR~~ nursing, or ~~Medicaid or HCBS MR~~ home health aide services provided through Medicaid or the HCBS intellectual disability waiver.

g. Respite care is not to be provided to ~~persons~~ members during the hours in which the usual caregiver is employed except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care. Respite cannot be provided to a ~~consumer~~ member whose usual caregiver is a consumer-directed attendant care provider for the ~~consumer~~ member.

h. The interdisciplinary team shall determine if the ~~consumer~~ member will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.60(249A).

i. and *j.* No change.

ITEM 23. Amend subrule 78.41(3) as follows:

78.41(3) *Personal emergency response or portable locator system.*

a. The personal emergency response system is an electronic ~~component~~ device that transmits a ~~coded~~ signal ~~via digital equipment~~ to a central monitoring station~~. The electronic device allows a person~~ to ~~access~~ summon assistance in the event of an emergency ~~when alone~~.

~~*a.*~~ (1) The necessary components of the system are:

~~(1)~~ 1. An in-home medical communications transceiver.

~~(2)~~ 2. A remote, portable activator.

~~(3)~~ 3. A central monitoring station with backup systems staffed by trained attendants ~~24 hours per day, seven days per week~~ at all times.

~~(4)~~ 4. Current data files at the central monitoring station containing response protocols and personal, medical and emergency information for each ~~consumer~~ member.

~~*b.*~~ (2) The service shall be identified in the ~~consumer's individual comprehensive~~ member's service plan.

~~*c.*~~ (3) A unit of service is a one-time installation fee or one month of service.

~~*d.*~~ (4) Maximum units per state fiscal year ~~are~~ shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

ITEM 24. Amend subrule 78.41(4) as follows:

78.41(4) *Home and vehicle ~~modifications~~ modification.* Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's~~ member's home or vehicle ~~listed below~~ that directly address the ~~consumer's~~ member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer~~ member and enable the ~~consumer~~ member to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's~~ member's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair,~~ or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. ~~Repairs~~ Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's~~ member's disability.

(8) to (24) No change.

c. and *d.* No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer~~ member. Whenever possible, three itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include~~, at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, ~~time frame for work completion, and~~ diagrams of the project whenever applicable, and an assurance ~~of~~ that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. No change.

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 25. Amend subrule 78.41(6) as follows:

78.41(6) *Home health aide services.* Home health aide services are personal or direct care services provided to the ~~consumer~~ member which are not payable under Medicaid as set forth in rule 441—78.9(249A). Services shall include unskilled medical services and shall exceed those services

provided under HCBS ~~MR~~ intellectual disability waiver supported community living. Instruction, supervision, support or assistance in personal hygiene, bathing, and daily living shall be provided under supported community living.

a. Services shall be included in the ~~consumer's individual comprehensive~~ member's service plan.

b. and *c.* No change.

ITEM 26. Amend subrule 78.41(8) as follows:

78.41(8) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a ~~consumer~~ member with self-care tasks which the ~~consumer~~ member would typically do independently if the ~~consumer~~ member were otherwise able.

a. The service activities may include helping the ~~consumer~~ member with any of the following nonskilled service activities:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating ~~and feeding~~ but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's~~ member's health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer~~ member is on the job site. The cost of transportation for the ~~consumer~~ member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting or accompanying a ~~consumer~~ member in using transportation essential to the health and welfare of the ~~consumer~~ member. The cost of the transportation is not included.

b. The service activities may include helping the ~~consumer~~ member with any of the following skilled services under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall be paid from private insurance and other third-party payment sources, Medicare, the regular Medicaid program, or the early periodic screening diagnosis and treatment program ~~before accessing the HCBS waiver~~.

(1) Tube feedings of ~~consumers~~ members unable to eat solid foods.

(2) to (13) No change.

c. A unit of service is 1 hour~~,~~ or one 8- to 24-hour day ~~provided by an individual or an agency~~. Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

d. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided~~.

e. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer~~ member.

f. The service activities ~~may~~ shall not include parenting or child care for or on behalf of the ~~consumer~~ member or on behalf of the provider.

g. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and~~ sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan~~, which is signed by the service worker or case manager prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to *m.* No change.

ITEM 27. Amend subrule 78.41(9) as follows:

78.41(9) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature ~~requiring specially trained caregivers beyond what is normally available in a day care setting~~ for children or adults whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. ~~The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.~~ Services must be ordered by a physician.

a. Need for service. The member must be currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. The service worker or case manager must identify the need for IMMT services after evaluating the member's living environment, family and natural supports, ability to perform activities of daily living, and health care needs. The services must be needed:

(1) To allow the member's usual caregivers to be employed,

(2) During a search for employment by a usual caregiver,

(3) To allow for academic or vocational training of a usual caregiver,

(4) Due to the hospitalization of a usual caregiver for treatment for physical or mental illness, or

(5) Due to the death of a usual caregiver.

~~*a.*~~ *b.* Service requirements. Interim medical monitoring and treatment services shall:

(1) Provide experiences for each ~~consumer's~~ member's social, emotional, intellectual, and physical development;

(2) Include comprehensive developmental care and any special services for a ~~consumer~~ member with special needs; and

(3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis. Medical intervention means the ability to assess the situation and contact the appropriate medical professional, not the direct application of medical care.

~~*b.*~~ *c.* Interim medical monitoring and treatment services may include supervision while the member is being transported to and from school.

~~*c.*~~ *d.* Limitations.

(1) and (2) No change.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan. Services under the state plan, including home health agency services under rule 441—78.9(249A), must be exhausted before IMMT services are accessed.

(4) Interim medical monitoring and treatment services ~~may~~ shall be provided only in the ~~consumer's~~ member's home~~,~~; in a registered ~~group child care home, in a registered family~~ child ~~care~~ development home~~,~~; in a licensed child care center, residential care facility, or adult day care facility; or during ~~transportation~~ the time when the member is being transported to and from school.

(5) The ~~staff-to-consumer~~ member-to-staff ratio shall not be ~~less~~ more than ~~one to~~ six members to one staff person.

(6) The parent or guardian of the member shall be responsible for the usual and customary nonmedical cost of day care during the time in which the member is receiving IMMT services. Medical care necessary for monitoring and treatment is an allowable IMMT cost. If the cost of care goes above the usual and customary cost of day care services due to the member's medical condition, the costs above the usual and customary cost shall be covered as IMMT services.

~~*d.*~~ *e.* A unit of service is one hour.

ITEM 28. Amend subrule 78.41(11) as follows:

78.41(11) *Transportation.* Transportation services may be provided for ~~consumers~~ members to conduct business errands and essential shopping, to receive medical services when not reimbursed through medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is either per mile, per trip, or the unit established by an area agency on aging. Transportation may not be reimbursed simultaneously with HCBS ~~MR~~ intellectual disability waiver supported community living service.

ITEM 29. Amend subrule 78.41(13) as follows:

78.41(13) *Prevocational services.* Prevocational services are services that are aimed at preparing a ~~consumer eligible for the HCBS MR waiver~~ member for paid or unpaid employment, but that are not job-task oriented. These services include teaching the ~~consumer~~ member concepts necessary ~~as~~ for job readiness ~~skills~~, such as following directions, attending to tasks, task completion, problem solving, and safety and mobility training.

a. No change.

b. Prevocational services do not include:

(1) Services defined in Section 4(a)(4) of the 1975 amendments to the Education of the Handicapped Act (20 U.S.C. 1404(16) and (17)) that are otherwise available to the ~~consumer~~ member through a state or local education agency.

(2) Vocational rehabilitation services that are otherwise available to the ~~consumer~~ member through a program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

c. A unit of service is a full day (4 to 8 hours), a half day (1 to 4 hours), or an hour.

ITEM 30. Amend subrule 78.43(2) as follows:

78.43(2) *Supported community living services.* Supported community living services are provided by the provider within the ~~consumer's~~ member's home and community, according to the individualized ~~consumer~~ member need as identified in the ~~individual comprehensive plan (ICP) or department case~~ service plan. ~~Intermittent service shall be provided as defined in rule 441—83.81(249A).~~

a. The basic components of the service may include, but are not limited to, personal and home skills training services, individual advocacy services, community skills training services, personal environment support services, transportation, and treatment services.

(1) Personal and home skills training services are ~~those~~ activities which assist a ~~consumer~~ member to develop or maintain skills for self-care, self-directedness, and care of the immediate environment.

(2) Individual advocacy is the act or process of representing the ~~individual's~~ member's rights and interests in order to realize the rights to which the ~~individual~~ member is entitled and to remove barriers to meeting the ~~individual's~~ member's needs.

(3) Community skills training services are ~~those~~ activities which assist a ~~person~~ member to develop or maintain skills allowing better participation in the community. Services shall focus on the following areas as they ~~are applicable~~ apply to ~~individuals~~ the member being served:

1. Personal management skills training services are activities which assist a ~~person~~ member to maintain or develop skills necessary to sustain ~~oneself~~ the member in the physical environment and are essential to the management of ~~one's~~ the member's personal business and property. This includes self-advocacy skills. Examples of personal management skills are the ability to maintain a household budget, plan and prepare nutritional meals, use community resources such as public transportation and libraries, and select foods at the grocery store.

2. Socialization skills training services are ~~those~~ activities which assist a ~~consumer~~ member to develop or maintain skills which include self-awareness and self-control, social responsiveness, community participation, social amenities, and interpersonal skills.

3. Communication skills training services are activities which assist a ~~person~~ member to develop or maintain skills including expressive and receptive skills in verbal and nonverbal language and the functional application of acquired reading and writing skills.

(4) Personal and environmental support services are those activities and expenditures provided to or on behalf of a ~~person~~ member in the areas of personal needs in order to allow the ~~person~~ member to function in the least restrictive environment.

(5) Transportation services are ~~those~~ activities and expenditures designed to assist the ~~consumer~~ member to travel from one place to another to obtain services or carry out life's activities. The service excludes transportation to and from work or day programs.

(6) Treatment services are ~~those~~ activities designed to assist the ~~person~~ member to maintain or improve physiological, emotional and behavioral functioning and to prevent conditions that would present barriers to ~~a person's~~ the member's functioning. Treatment services include physical or physiological treatment and psychotherapeutic treatment.

1. Physiological treatment ~~means activities including~~ includes medication regimens designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the normal functioning of the human body. ~~The activities~~ Physiological treatment shall be provided by or under the direct supervision of a certified or licensed health care professional ~~certified or licensed to provide the treatment activity specified~~.

2. Psychotherapeutic treatment means activities provided to assist a ~~person~~ member in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the ~~person's~~ member's functioning in response to the physical, emotional, and social environment.

b. The supported community living services are intended to provide for the daily living needs of the ~~consumer~~ member and shall be available as needed during any 24-hour period. Activities do not include those associated with vocational services, academics, day care, medical services, Medicaid case management or other case management. Services are individualized supportive services provided in a variety of community-based, integrated settings.

(1) Supported community living services shall be available at a daily rate to ~~consumers~~ members living outside the home of their family, legal representative, or foster family and for whom a provider has primary responsibility for supervision or structure during the month. This service shall provide supervision or structure in identified ~~time~~ periods when another resource is not available.

(2) Supported community living services shall be available at an hourly rate to ~~consumers~~ members for whom a daily rate is not established.

~~(3) Intermittent service shall be provided as defined in rule 441—83.81(249A).~~

c. Services may be provided to a child or an adult. Children must first access all other services for which they are eligible and which are appropriate to meet their needs before accessing the HCBS brain injury waiver services. A maximum of ~~three consumers~~ four persons may reside in a living unit. ~~, except when the provider meets the requirements set forth in 441—paragraph 77.39(13)"e."~~

(1) ~~Consumers~~ A member may live in the home of ~~their~~ the member's family or legal representative or in ~~other types of~~ another typical community living ~~arrangements~~ arrangement.

(2) ~~Consumers of services~~ A member living with ~~families~~ the member's family or legal ~~representatives are~~ representative is not subject to the maximum of ~~three consumers~~ four residents in a living unit.

(3) ~~Consumers~~ A member may not live in a licensed medical or health care ~~facilities~~ facility or in ~~settings~~ a setting that is required to be licensed as a medical or health care ~~facilities~~ facility.

~~(4)~~ *d.* ~~Consumers~~ A member aged 17 or under living in the home of ~~their~~ the member's family, legal representative, or foster ~~families~~ family shall receive services based on development of adaptive, behavior, or health skills. Duration of services shall be based on age-appropriateness and individual attention span.

~~*d.* Rescinded IAB 2/5/03, effective 2/1/03.~~

e. Provider budgets shall reflect all staff-to-~~consumer~~ member ratios and shall reflect costs associated with ~~consumers'~~ members' specific support needs for travel and transportation, consulting, instruction, and environmental modifications and repairs, as determined necessary by the interdisciplinary team for each ~~consumer~~ member. The specific support needs must be identified in the Medicaid case manager's service plan, the total costs shall not exceed $1570 per ~~consumer~~ member per year, and the provider must maintain records to support the expenditures. A unit of service is:

(1) One full calendar day when a ~~consumer~~ member residing in the living unit receives on-site staff supervision for ~~19~~ eight or more hours ~~during a 24-hour calendar~~ per day as an average over a calendar month and the ~~consumer's individual comprehensive~~ member's service plan identifies and reflects the need for this amount of supervision.

(2) One hour when subparagraph 78.43(2)*"e"*(1) does not apply.

f. The maximum ~~numbers~~ number of units available per ~~consumer are~~ member is as follows:

(1) and (2) No change.

g. The service shall be identified in the ~~consumer's individual comprehensive~~ member's service plan.

h. ~~Services~~ Supported community living services shall not be simultaneously reimbursed with other residential services~~, HCBS brain injury waiver~~ or with respite, transportation, ~~or~~ personal assistance ~~services~~, ~~Medicaid~~ nursing, or ~~Medicaid~~ home health aide services provided through Medicaid or the HCBS brain injury waiver.

ITEM 31. Amend subrule 78.43(3) as follows:

78.43(3) *Respite care services.* Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that ~~time~~ period. The purpose of respite care is to enable the ~~consumer~~ member to remain in the ~~consumer's~~ member's current living situation.

a. Services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.

b. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team.

c. A unit of service is one hour.

d. Respite care is not to be provided to ~~persons~~ members during the hours in which the usual caregiver is employed except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care. Respite care cannot be provided to a ~~consumer~~ member whose usual caregiver is a consumer-directed attendant care provider for the ~~consumer~~ member.

e. No change.

f. The interdisciplinary team shall determine if the ~~consumer~~ member will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.81(249A).

g. and *h.* No change.

ITEM 32. Amend subrule 78.43(5) as follows:

78.43(5) *Home and vehicle ~~modifications~~ modification.* Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's~~ member's home or vehicle ~~listed below~~ that directly address the ~~consumer's~~ member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer~~ member and enable the ~~consumer~~ member to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's~~ member's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair,~~ or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. ~~Repairs~~ Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's~~ member's disability.

(8) to (24) No change.

c. and *d.* No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer~~ member. Whenever possible, three itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include~~, at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, ~~time frame for work completion, and~~ diagrams of the project whenever applicable, and an assurance ~~of~~ that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications. Payment of up to $6,060 per year may be made to certified providers upon satisfactory completion of the service. The case manager or service worker ~~shall~~ may encumber ~~up to $505 per~~ a portion of the cost of a modification every month within the monthly dollar cap allowed for the ~~consumer~~ member until the ~~amount~~ entire cost of the modification is ~~reached~~ encumbered within ~~the~~ a consecutive 12-month period.

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 33. Amend subrule 78.43(6) as follows:

78.43(6) *Personal emergency response or portable locator system.* ~~The personal emergency response system allows a consumer experiencing a medical emergency at home to activate electronic components that transmit a coded signal via digital equipment over telephone lines to a central monitoring station.~~

a. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency.

(1) The necessary components of a system are:

~~*a.*~~ 1. An in-home medical communications transceiver.

~~*b.*~~ 2. A remote, portable activator.

~~*c.*~~ 3. A central monitoring station with backup systems staffed by trained attendants ~~24 hours per day, seven days per week~~ at all times.

~~*d.*~~ 4. Current data files at the central monitoring station containing response protocols and personal, medical and emergency information for each ~~consumer~~ member.

~~*e.*~~ (2) The service shall be identified in the ~~consumer's individual and comprehensive~~ member's service plan.

~~*f.*~~ (3) A unit is a one-time installation fee or one month of service.

~~*g.*~~ (4) Maximum units per state fiscal year ~~are~~ shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

ITEM 34. Amend subrule 78.43(8) as follows:

78.43(8) *Specialized medical equipment.*

a. Specialized medical equipment shall include medically necessary items which are for personal use by ~~consumers~~ members with a brain injury and which:

(1) ~~provide~~ Provide for health and safety of the ~~consumer which~~ member,

(2) ~~are~~ Are not ordinarily covered by Medicaid, ~~and~~

(3) ~~are~~ Are not funded by educational or vocational rehabilitation programs, and

(4) ~~are~~ Are not provided by voluntary means. ~~This includes, but is not limited to: electronic aids and organizers, medicine dispensing devices, communication devices, bath aids, and noncovered environmental control units. This includes repair and maintenance of items purchased through the waiver in addition to the initial purchase cost.~~

b. Coverage includes, but is not limited to:

(1) Electronic aids and organizers.

(2) Medicine dispensing devices.

(3) Communication devices.

(4) Bath aids.

(5) Noncovered environmental control units.

(6) Repair and maintenance of items purchased through the waiver.

~~*a.*~~ *c.* ~~Consumers may receive specialized medical equipment once per month until a maximum yearly usage of $6,060 has been reached.~~ Payment of up to $6,060 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service. Each month within the 12-month period, the service worker shall encumber an amount within the monthly dollar cap allowed for the member until the amount of the equipment cost is reached.

~~*b.*~~ *d.* The need for specialized medical equipment shall be:

(1) ~~documented~~ Documented by a health care professional as necessary for the ~~consumer's~~ member's health and safety, and

(2) ~~identified~~ Identified in the ~~consumer's individual comprehensive~~ member's service plan.

ITEM 35. Amend subrule 78.43(9) as follows:

78.43(9) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. A unit of service is a full day (4 to 8 hours) or a half day (1 to 4 hours) or an extended day (8 to 12 hours). Components of the service ~~are set forth in rule 441—171.6(234)~~ include health-related care, social services, and other related support services.

ITEM 36. Amend subrule 78.43(11) as follows:

78.43(11) *Prevocational services.* Prevocational services are services which are aimed at preparing a ~~consumer eligible for the HCBS brain injury waiver~~ member for paid or unpaid employment, but which are not job-task oriented. These services include teaching the ~~consumer~~ member concepts necessary ~~as~~ for job readiness ~~skills~~, such as following directions, attending to tasks, task completion, problem solving, and safety and mobility training.

a. Prevocational services are intended to have a more generalized result as opposed to vocational training for a specific job or supported employment. Services include activities which are not primarily directed at teaching specific job skills but at more generalized habilitative goals and are reflected in a habilitative plan which focuses on general habilitative rather than specific employment objectives.

b. Prevocational services do not include:

(1) ~~services~~ Services defined in Section 4(a)(4) of the 1975 amendments to the Education of the Handicapped Act (20 U.S.C. 1404(16) and (17)) which are otherwise available to the ~~individual~~ member through a state or local education agency, or

(2) ~~vocational~~ Vocational rehabilitation services which are otherwise available to the ~~individual~~ member through a program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

c. A unit of service is a full day (4 to 8 hours), a half day (1 to 4 hours), or an hour.

ITEM 37. Amend subrule 78.43(13) as follows:

78.43(13) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities performed by a person to help a ~~consumer~~ member with self-care tasks which the ~~consumer~~ member would typically do independently if the ~~consumer~~ member were otherwise able.

a. The service activities may include helping the ~~consumer~~ member with any of the following nonskilled service activities:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating ~~and feeding~~ but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's~~ member's health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer~~ member is on the job site. The cost of transportation for the ~~consumer~~ member and assistance with understanding ~~of~~ or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting or accompanying a ~~consumer~~ member in using transportation essential to the health and welfare of the ~~consumer~~ member. The cost of the transportation is not included.

b. The service activities may include helping the ~~consumer~~ member with any of the following skilled services under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall be paid from private insurance and other third-party payment sources, Medicare, the regular Medicaid program, or the early periodic screening diagnosis and treatment program ~~before accessing the HCBS waiver~~.

(1) Tube feedings of ~~consumers~~ members unable to eat solid foods.

(2) to (13) No change.

c. A unit of service is 1 hour~~,~~ or one 8- to 24-hour day ~~provided by an individual or an agency~~. Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

d. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided~~.

e. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer~~ member.

f. The service activities ~~may~~ shall not include parenting or child care for or on behalf of the ~~consumer~~ member or on behalf of the provider.

g. The ~~consumer~~ member, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and~~ sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan~~, which is signed by the service worker or case manager prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is

the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to *m.* No change.

ITEM 38. Amend subrule 78.43(14) as follows:

78.43(14) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature ~~requiring specially trained caregivers beyond what is normally available in a day care setting~~ for children or adults whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. ~~The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.~~ Services must be ordered by a physician.

a. Need for service. The member must be currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. The service worker or case manager must identify the need for IMMT services after evaluating the member's living environment, family and natural supports, ability to perform activities of daily living, and health care needs. The services must be needed:

(1) To allow the member's usual caregivers to be employed,

(2) During a search for employment by a usual caregiver,

(3) To allow for academic or vocational training of a usual caregiver,

(4) Due to the hospitalization of a usual caregiver for treatment for physical or mental illness, or

(5) Due to the death of a usual caregiver.

~~*a.*~~ *b.* Service requirements. Interim medical monitoring and treatment services shall:

(1) Provide experiences for each ~~consumer's~~ member's social, emotional, intellectual, and physical development;

(2) Include comprehensive developmental care and any special services for a ~~consumer~~ member with special needs; and

(3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis. Medical intervention means the ability to assess the situation and contact the appropriate medical professional, not the direct application of medical care.

~~*b.*~~ *c.* Interim medical monitoring and treatment services may include supervision while the member is being transported to and from school.

~~*c.*~~ *d.* Limitations.

(1) and (2) No change.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan. Services under the state plan, including home health agency services under rule 441—78.9(249A), must be exhausted before IMMT services are accessed.

(4) Interim medical monitoring and treatment services ~~may~~ shall be provided only in the ~~consumer's~~ member's home~~,~~; in a registered ~~group child care home, in a registered family~~ child ~~care~~ development home~~,~~; in a licensed child care center, residential care facility, or adult day care facility; or during ~~transportation~~ the time when the member is being transported to and from school.

(5) The ~~staff-to-consumer~~ member-to-staff ratio shall not be ~~less~~ more than ~~one to~~ six members to one staff person.

(6) The parent or guardian of the member shall be responsible for the usual and customary nonmedical cost of day care during the time in which the member is receiving IMMT services. Medical care necessary for monitoring and treatment is an allowable IMMT cost. If the cost of care goes above

the usual and customary cost of day care services due to the member's medical condition, the costs above the usual and customary cost shall be covered as IMMT services.

~~*d.*~~ *e.* A unit of service is one hour.

ITEM 39. Amend subrule 78.46(1) as follows:

78.46(1) *Consumer-directed attendant care service.* Consumer-directed attendant care services are service activities ~~listed below~~ performed by a person to help a ~~consumer~~ member with self-care tasks which the ~~consumer~~ member would typically do independently if the ~~consumer~~ member were otherwise able. The services must be cost-effective and necessary to prevent institutionalization.

a. Providers must demonstrate proficiency in delivery of the services in the ~~consumer's~~ member's plan of care. Proficiency must be demonstrated through documentation of prior training or experience or a certificate of formal training.

(1) All training or experience will be detailed on Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, which must be reviewed and approved by the service worker for appropriateness of training or experience prior to the provision of services. Form 470-3372 becomes an attachment to and part of the case plan.

(2) ~~Consumers~~ The member shall give direction and training for activities which are not medical in nature to maintain independence. Licensed registered nurses and therapists must provide on-the-job training and supervision to the provider for skilled activities listed below and described on Form 470-3372. The training and experience must be sufficient to protect the health, welfare and safety of the ~~consumer~~ member.

~~*a.*~~ *b.* Nonskilled service activities covered are:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating ~~and feeding assistance~~ but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's~~ member's health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer~~ member is on the job site. The cost of transportation for the ~~consumer~~ member and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting ~~and~~ or accompanying a ~~consumer~~ member in using transportation essential to the health and welfare of the ~~consumer, but not the~~ member. The cost of the transportation is not included.

~~*b.*~~ *c.* Skilled service activities covered are the following performed under the supervision of a licensed nurse or licensed therapist working under the direction of a licensed physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall not be included in the reimbursement for consumer-directed attendant care services.

(1) Tube feedings of ~~consumers~~ members unable to eat solid foods.

(2) to (13) No change.

~~*c.*~~ *d.* A unit of service is 1 hour ~~for up to 7 hours per day~~ or one 8- to 24-hour day ~~provided by an individual or an agency~~. Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

~~*d.*~~ *e.* The ~~consumer~~ member, ~~parent,~~ guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) ~~be responsible for selecting~~ Select the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided~~.

e. (2) ~~The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine~~ Determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer~~ member.

f. The service activities ~~may~~ shall not include parenting or child care on behalf of the ~~consumer~~ member or on behalf of the provider.

g. The ~~consumer~~ member, ~~parent,~~ guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and~~ sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan~~, which is signed by the service worker prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to *l.* No change.

m. Services may be provided in the absence of a ~~parent or~~ guardian if the ~~parent or~~ guardian has given advanced direction for the service provision.

ITEM 40. Amend subrule 78.46(2) as follows:

78.46(2) *Home and vehicle ~~modifications~~ modification.* Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's~~ member's home or vehicle ~~listed below~~ that directly address the ~~consumer's~~ member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer~~ member and enable the ~~consumer~~ member to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's~~ member's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair,~~ or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. ~~Repairs~~ Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's~~ member's disability.

(8) to (24) No change.

c. and *d.* No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer~~ member. Whenever possible, three itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include~~, at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, ~~time frame for work completion, and~~ diagrams of the project whenever applicable, and an assurance ~~of~~ that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications. Payment of up to $6,060 per year may be made to certified providers upon satisfactory completion of the service. The case manager or service worker shall encumber ~~up to $505 per~~ a portion of the cost of a modification every month within

the monthly dollar cap allowed for the ~~consumer~~ member until the ~~amount~~ entire cost of the modification is ~~reached~~ encumbered within ~~the~~ a consecutive 12-month period.

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 41. Amend subrule 78.46(3) as follows:

78.46(3) *Personal emergency response or portable locator system.* ~~The personal emergency response system allows a consumer experiencing a medical emergency at home to activate electronic components that transmit a coded signal via digital equipment over telephone lines to a central monitoring station. The service shall be identified in the consumer's service plan. A unit is a one-time installation fee or one month of service. Maximum units per state fiscal year are the initial installation and 12 months of service.~~

a. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency.

(1) The necessary components of a system are:

~~*a.*~~ 1. An in-home medical communications transceiver.

~~*b.*~~ 2. A remote, portable activator.

~~*c.*~~ 3. A central monitoring station with backup systems staffed by trained attendants ~~24 hours per day, seven days a week~~ at all times.

~~*d.*~~ 4. Current data files at the central monitoring station containing response protocols and personal, medical, and emergency information for each ~~consumer~~ member.

(2) The service shall be identified in the member's service plan.

(3) A unit of service is a one-time installation fee or one month of service.

(4) Maximum units per state fiscal year shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

ITEM 42. Amend subrule 78.46(4) as follows:

78.46(4) *Specialized medical equipment.*

a. Specialized medical equipment shall include medically necessary items which are for personal use by ~~consumers~~ members with a physical disability and which:

(1) ~~provide~~ Provide for the health and safety of the ~~consumer~~ member, ~~that~~

(2) ~~are~~ Are not ordinarily covered by Medicaid,

(3) ~~are~~ Are not funded by educational or vocational rehabilitation programs, and

(4) ~~are~~ Are not provided by voluntary means. ~~This includes, but is not limited to: electronic aids and organizers, medicine-dispensing devices, communication devices, bath aids and noncovered environmental control units. This includes repair and maintenance of items purchased through the waiver in addition to the initial costs.~~

b. Coverage includes, but is not limited to:

(1) Electronic aids and organizers.

(2) Medicine dispensing devices.

(3) Communication devices.

(4) Bath aids.

(5) Noncovered environmental control units.

(6) Repair and maintenance of items purchased through the waiver.

~~*a.*~~ *c.* ~~Consumers may receive specialized medical equipment once a month until a maximum yearly usage of $6,060 has been reached.~~ Payment of up to $6,060 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service. Each month within the 12-month period, the service worker shall encumber an amount within the monthly dollar cap allowed for the member until the amount of the equipment cost is reached.

~~*b.*~~ *d.* The need for specialized medical equipment shall be:

(1) ~~documented~~ Documented by a health care professional as necessary for the ~~consumer's~~ member's health and safety, and ~~shall be~~

(2) ~~identified~~ Identified in the ~~consumer's~~ member's service plan.

ITEM 43. Amend subrule 78.52(2) as follows:

78.52(2) *Environmental modifications and adaptive devices.*

a. Environmental modifications and adaptive devices include medically necessary items installed or used within the ~~consumer's~~ member's home that are used by the member to address specific, documented health, mental health, or safety concerns. The following items are excluded under this service:

(1) Items ordinarily covered by Medicaid.

(2) Items funded by educational or vocational rehabilitation programs.

(3) Items provided by voluntary means.

(4) Repair and maintenance of items purchased through the waiver.

(5) Fencing.

b. A unit of service is one modification or device.

c. For each unit of service provided, the case manager shall maintain in the ~~consumer's~~ member's case file a signed statement from a mental health professional on the ~~consumer's~~ member's interdisciplinary team that the service has a direct relationship to the ~~consumer's~~ member's diagnosis of serious emotional disturbance.

ITEM 44. Amend subrule 78.52(5) as follows:

78.52(5) *Respite care services.* Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that period. The "usual caregiver" means a person or persons who reside with the ~~consumer~~ member and are available on a 24-hour-per-day basis to assume responsibility for the care of the ~~consumer~~ member.

a. Respite care shall not be provided to ~~consumers~~ members during the hours in which the usual caregiver is employed, except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care.

b. No change.

c. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team. The team shall determine the type of respite care to be provided according to these definitions:

(1) Basic individual respite is provided on a ratio of one staff to one ~~consumer~~ member. The ~~consumer~~ member does not have specialized medical needs that require the direct services of a registered nurse or licensed practical nurse.

(2) Specialized respite is provided on a ratio of one or more nursing staff to one ~~consumer~~ member. The ~~consumer~~ member has specialized medical needs that require the direct services of a registered nurse or licensed practical nurse.

(3) Group respite is provided on a ratio of one staff to two or more ~~consumers~~ members receiving respite. These ~~consumers~~ members do not have specialized medical needs that require the direct services of a registered nurse or licensed practical nurse.

d. Respite services provided for a period exceeding 24 consecutive hours to three or more ~~consumers~~ members who require nursing care because of a mental or physical condition must be provided by a health care facility licensed under Iowa Code chapter 135C.

e. Respite services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where respite care is provided is reserved for another person on a temporary leave of absence.

f. A unit of service is one hour.

ITEM 45. Amend subrule **79.1(2)**, provider category "HCBS waiver service providers," numbered paragraphs "2," "23" and "24," as follows:

Provider category	Basis of reimbursement	Upper limit
2. Emergency response system:	~~Fee schedule~~	~~Initial one-time fee $48.29. Ongoing monthly fee $37.56.~~
Personal response system	Fee schedule	Initial one-time fee: $48.29. Ongoing monthly fee: $37.56.
Portable locator system	Fee schedule	One equipment purchase: $300. Initial one-time fee: $48.29. Ongoing monthly fee: $37.56.
23. Prevocational services	Fee schedule	For the brain injury waiver: ~~$36.50~~ $47.01 per day, $23.51 per half day, or $12.88 per hour. For the intellectual ~~disabilities~~ disability waiver: County contract rate or, in absence of a contract rate, $47.01 per day, $23.51 per half day, or $12.88 per hour.
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5%, converted to an hourly rate.
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5%, converted to an hourly rate.
Child development home or center	Fee schedule	$12.79 per hour.
Supported community living provider	Retrospectively limited prospective rate	$34.11 per hour, not to exceed the maximum ICF/MR rate per day.

ITEM 46. Amend paragraph **80.2(2)"f"** as follows:

f. Providers of home- and community-based waiver services, including home health agencies, ~~providing home- and community-based waiver services~~ shall submit claims on Form 470-2486, Claim for Targeted Medical Care. In the event of the death of the member, the case manager or service worker shall sign and date the claim form if the services were delivered.

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