EXHIBIT J

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: State Plan Amendment #2012-002 & Personal Care 4-11

DESCRIPTION: To comply with Act 560 of 2011, this allows assisted living facilities to bill for Medicaid personal care with the same reimbursement methodologies as residential care facilities.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on July 10, 2012.

Robert Wright, Mitchell, Blackstock, Ivers & Sneddon, PLLC

Comment: **Effective Date.** All of the sections of the proposed manual update show an effective date of 10-1-12. However, Section 250.100D contains a reference to a date of August 26, 2011. Is that just a typographical error?

Response: The inclusion of August 26, 2011 was not a typographical error; however, its inclusion is an error. The act providing for the application of the per diem personal care methodology to Assisted Living Facilities (ALFs) as it applies to Residential Care Facilities (RCFs) was passed on August 26, 2011. System changes in response to this act will not be completed until the effective date of October 1, 2012. Section 250.100D will be amended to identify October 1, 2012, as the effective date.

Comment: **Service Logs.** One of the purposes of the per diem reimbursement is to allow RCFs and now ALFs to move away from the requirement that each service be recorded with a time in and time out. As proposed, the regulations do not apply that concept to ALFs. We have communicated with the Office of Chief Counsel and understand that the regulation will be changed to specify that ALFs are to use the same service log as RCFs.

Response: Section 220.110 has been amended to specify that ALFs are to use the same service logs as RCFs.

Comment: **Missing References to ALFs.** In numerous places, the Personal Care manual specifies that certain sections or requirements do or do not apply to RCFs due to their use of a multi-hour Daily Service Rate system. The proposed regulations add ALF's to some of those sections, but not all of them. These include: 215.100B, 216.200, 217.000, 220.000, 220.100, 220.111, 220.112, and 221.000D. Since the reimbursement systems for ALFs and RCFs will be the same we would suggest that ALFs be included in these sections that reference RCFs.

Response: Sections 215.100B, 216.200, 217.000, 220.000, 220.110, 220.111, 220.112 and 221.000D have been amended to include references to ALFs.

Comment: **Section 262.106.** We are not clear of the purpose of this new section imposing an obligation on ALFs to adhere to Section 216.400. ALFs are already subject to Section

216.400. If the exclusions recommended in the previous section are incorporated, then there should be no need for this section. Is there some other purpose for this section?

Response: The addition to Section 262.106 was included at the suggestion of our Program Integrity Unit. The addition of this section serves to further notify all ALF facilities of documentation requirements.

The proposed effective date is October 1, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 20-76-201 authorizes the Department of Human Services to administer programs for the indigent and to "make rules and regulations" pertaining to the administration of those programs. Arkansas Code § 20-77-107 specifically authorizes the department to "establish and maintain an indigent medical care program." These rules implement Act 560 of 2011, which provides for per diem reimbursement for assisted living facilities.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Medical Services
DIVISION DIRECTOR Andrew Allison, PhD
CONTACT PERSON Brett Hays
ADDRESS P.O Box 1437, Slot S295, Little Rock, AR 72203
PHONE NO. 682-8859 **FAX NO.** 682-2480 **E-MAIL** brett.hays@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Marilyn Strickland
PRESENTER E-MAIL marilyn.strickland@arkansas.gov

INSTRUCTIONS

A. **Please make copies of this form for future use.**
B. **Please answer each question completely using layman terms. You may use additional sheets, if necessary.**
C. **If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.**
D. **Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:**

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

****

1. What is the short title of this rule?

   State Plan Amendment #2012-002 & Personal Care 4-11

2. What is the subject of the proposed rule?

   Providing Per Diem Reimbursement for Assisted Living Facilities

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ____ No __X__.
   If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes____ No__X__.

   If yes, what is the effective date of the emergency rule?

   When does the emergency rule expire?

   Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes____ No _____

5. Is this a new rule? Yes___ No __X__ If yes, please provide a brief summary explaining the regulation.

   Does this repeal an existing rule? Yes____ No__X__ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

   Is this an amendment to an existing rule? Yes__X__ No ____If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

   Arkansas Statute 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary?

   The purpose of the proposed rule is to allow assisted living facilities to bill for Medicaid personal care services with the same reimbursement methodologies as residential care facilities. The proposed rule is necessary to comply with Act 560 of the 2011 Regular Session.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

   https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx

9. Will a public hearing be held on this proposed rule? Yes_____ No __X__.
   If yes, please complete the following:
   Date:_____
   Time:_____
   Place:_____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

    July 10, 2012

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

    October 1, 2012

12. Do you expect this rule to be controversial? Yes_____ No __X__ If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

    Medical associations, interested providers, and advocacy organizations. Their positions for or against is not known at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Randy Helms
TELEPHONE NO. 683-1857 **FAX NO.** 682-2480 **EMAIL:** randy.helms@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE – State Plan Amendment #2012-002 & Personal Care 4-11

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ____ No X .

2. Does this proposed, amended, or repealed rule affect small businesses?
   Yes ____ No X .

   If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total_____	Total_____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year	**Next Fiscal Year**
None	None

Summary for
State Plan Amendment #2012-002 & Personal Care 4-11

The purpose of this amendment is to comply with Act 560 of the 2011 Regular Session and allow assisted living facilities to bill for Medicaid personal care with the same reimbursement methodologies as residential care facilities.

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Division of Medical Services
Program Development & Quality Assurance
P.O. Box 1437, Slot S-295 · Little Rock, AR 72203-1437
501-682-8368 · Fax: 501-682-2480

TO: Arkansas Medicaid Health Care Providers – Personal Care

DATE: October 1, 2012

SUBJECT: Provider Manual Update Transmittal PERSCARE-4-11

REMOVE		INSERT	
Section	**Date**	**Section**	**Date**
215.100	3-1-08	215.100	10-1-12
216.200	3-1-08	216.200	10-1-12
217.000	3-1-08	217.000	10-1-12
220.000	3-1-08	220.000	10-1-12
220.100	3-1-08	220.100	10-1-12
220.110	3-1-08	220.110	10-1-12
220.111	3-1-08	220.111	10-1-12
220.112	3-1-08	220.112	10-1-12
221.000	3-1-08	221.000	10-1-12
250.100	3-1-08	250.100	10-1-12
250.200	3-1-08	250.200	10-1-12
250.210	3-1-08	350.210	10-1-12
250.211	3-1-08	250.211	10-1-12
262.104	3-1-08	262.104	10-1-12
262.106	3-1-08	262.106	10-1-12

Explanation of Updates

Sections 215.100, 216.200, 217.000, 220.000, 220.100, 220.110, 220.111, 220.112, 221.000, 250.100, 250.200, 250.210, 250.211, 262.104 and 262.106 are being updated to comply with Act 560 of the 2011 Regular Session which allows Assisted Living Facilities (ALF) to bill Medicaid for Personal Care services with the same reimbursement methodology as Residential Care Facilities (RCF).

The paper version of this update transmittal includes revised pages that may be filed in your provider manual. See Section I for instructions on updating the paper version of the manual. For electronic versions, these changes have already been incorporated.

If you have questions regarding this transmittal, please contact the HP Enterprise Services Provider Assistance Center at 1-800-457-4454 (Toll-Free) within Arkansas or locally and Out-of-State at (501) 376-2211.

If you need this material in an alternative format, such as large print, please contact our Americans with Disabilities Act Coordinator at 501-683-4120 (Local); 1-800-482-5850, extension 3-4120 (Toll-Free) or to obtain access to these numbers through voice relay, 1-800-877-8973 (TTY Hearing Impaired).

Arkansas Medicaid provider manuals (including update transmittals), official notices and remittance advice (RA) messages are available for downloading from the Arkansas Medicaid website: www.medicaid.state.ar.us.

Thank you for your participation in the Arkansas Medicaid Program.

Andrew Allison, PhD
Director

TOC required

215.100 Assessment and Service Plan Formats 10-1-12

A. The Division of Medical Services (DMS), in some circumstances and for certain specified providers, requires exclusive use of form DMS-618 (**View or print form DMS-618.**) to satisfy particular Program documentation requirements.

1. Whether Medicaid does or does not require exclusive use of form DMS-618, all documentation required by the Personal Care Program must meet or exceed DMS regulations as stated in this manual and other official communications.
2. When using form DMS-618, attachments may be necessary to complete assessments and service plans and/or to comply with other rules.
   a. An assessing Registered Nurse (RN) must sign or initial and date each attachment he or she adds to a required personal care document.
   b. The authorizing physician must sign (or initial) and date each attachment he or she adds to a service plan or other required document.

B. The Division of Medical Services requires Residential Care Facility (RCF) and Assisted Living Facility (ALF) Personal Care providers to use exclusively form DMS-618 and to comply with all rules applicable to RCFs and ALFs regarding the use of form DMS-618.

216.200 Tasks Associated with Covered Routines 10-1-12

Effective for dates of service on and after March 1, 2008, all regulations regarding personal care aides' logging beginning and ending times (i.e., time of day) of individual services, and all references to any such regulations, do not apply to RCF and ALF Personal Care providers.

217.000 Benefit Limits 10-1-12

Effective for dates of service on and after March 1, 2008, Arkansas Medicaid does not grant to beneficiaries whose residence is an RCF or ALF, extension of the personal care benefit for personal care provided at the RCF or ALF by the RCF or ALF Personal Care provider.

A. Medicaid imposes a 64-hour benefit limit, per month, per beneficiary, on personal care aide services for beneficiaries aged 21 and older.

B. The 64-hour limitation applies to the monthly aggregated hours of personal care aide services at all authorized locations except RCFs and ALFs.

C. Providers may request extensions of this benefit for reasons of medical necessity. Submit written requests for benefit extensions to the Division of Medical Services, Utilization Review Section. **View or print Division of Medical Services, Utilization Review Section contact information.**

220.000 Service Administration 10-1-12

Effective for dates of service on and after March 1, 2008, RCF and ALF Personal Care providers are exempt from all requirements of Sections 220.000 through 221.000—whether by explicit statement or reference—to record or log the time of day (clock time) when a service begins or ends.

220.100 Service Supervision 10-1-12

Effective for dates of service on and after March 1, 2008, RNs supervising RCF and ALF Personal Care providers' personal care aides shall write, in a designated area on form DMS-873, instructions to aides and comments regarding the beneficiary and/or the aide.

A. The provider must assure that the delivery of personal care services by personal care aides is supervised.

1. Supervision must be performed by a registered nurse (RN).

2. Alternatively, a Qualified Mental Retardation Professional (QMRP) may fulfill the RN supervision requirement for personal care services to beneficiaries residing in alternative living situations or alternative family homes, authorized or licensed by the Division of Developmental Disabilities Services.

B. The supervisor has the following responsibilities.

1. The supervisor must instruct the personal care aide in

a. Which routines, activities and tasks to perform in executing a beneficiary's service plan,

b. The minimum frequency of each routine or activity and

c. The maximum number of hours per month of personal care service delivery, as authorized in the service plan.

2. At least once a month, the supervisor must

a. Review the aide's records,

b. Document the record review and

c. If necessary, further instruct the aide and document the nature of and the reasons for further instructions.

3. At least three times every 183 days (six months) at intervals no greater than 62 days, the supervisor must visit the beneficiary at the service delivery location to conduct on-site evaluation.

a. Medicaid requires that at least one of these supervisory visits must be when the aide is not present.

b. At least one visit must be while the aide is present and furnishing services.

4. When the aide is present during the visit the supervising RN or QMRP must

a. Observe and document

(1) The condition of the beneficiary,

(2) The type and quality of the personal care aide's service provision and

(3) The interaction and relationship between the beneficiary and the aide;

b. Modify the service plan, if necessary, based on the observations and findings from the visit and

c. If necessary, further instruct the aide and document the nature of and the reasons for further instructions.

5. When the aide is not present during the visit, the supervising RN or QMRP must

a. Observe and document the condition of the beneficiary,

b. Observe and document, from available evidence, the type and quality of the personal care aide's service provision, and

c. Query the beneficiary or the beneficiary's representative and document pertinent information regarding the beneficiary's opinion of

(1) The type and quality of the aide's service,

(2) The aide's conduct and

(3) The adequacy of the working relationship of the beneficiary and the aide;

d. Modify the service plan, if necessary, based on observations and findings from the visit, and

e. Further instruct the aide, if necessary, and document the nature of and the reasons for further instructions.

C. The provider must review the service plan and the aide's records as necessary, but no less often than every 62 days. The review will ensure that the daily aggregate time estimate in the service plan accurately reflects the actual average time the aide spends delivering personal care aide services to a beneficiary.

220.110 Service Log **10-1-12**

Instructions in this section apply to all beneficiaries' service logs, with one exception. Effective for dates of service on and after March 1, 2008, RCF and ALF Personal Care providers maintain their service logs by means of the format and instructions of form DMS-873, *"Arkansas Department of Human Services Division of Medical Services Instructions for completing the Service Log & Aide Notes For Personal Care Services in a Residential Care or Assisted Living Facility"*. Effective for dates of service on and after March 1, 2008, form DMS-873 is found in Section V of this manual and DMS requires that RCF and ALF Personal Care providers use it exclusively for its designated purposes. See Section 220.111 for special documentation requirements regarding multiple beneficiaries who are attended by one aide. Those instructions at Section 220.111 do not apply to RCF and ALF Personal Care providers, effective for dates of service on and after March 1, 2008. See Section 220.112 for special documentation requirements regarding multiple aides attending one beneficiary. Those instructions at Section 220.112 do not apply to RCF and ALF Personal Care providers, effective for dates of service on and after March 1, 2008. The examples in these sections and in Section 220.110 are related to food preparation, but personal care beneficiaries may receive other services in congregate settings if their individual assessments support their receiving assistance in that fashion.

A. Medicaid covers only service time that is supported by an aide's service log.

B. Service time in excess of the maximum service time estimates in the authorized service plan is covered only when the provider complies with the rules in Sections 215.330 and 220.110 through 220.112.

C. The time estimate in the service plan is not service documentation. It is an estimate of the anticipated minimum and maximum daily duration of medically necessary personal care aide service for an individual beneficiary.

D. For each service date, for each beneficiary, the personal care aide must record the following:

1. The time of day the aide begins the beneficiary's services.

2. The time of day the aide ends a beneficiary's services. This is the time of day the aide concludes the service delivery, not necessarily the time the aide leaves the beneficiary's service delivery location.

3. Notes regarding the beneficiary's condition as instructed by the service supervisor.

4. Task performance difficulties.

5. The justification for any emergency unscheduled tasks and documentation of the prior-approval or post-approval of the unscheduled tasks.

6. The justification for not performing any scheduled service plan required tasks.

7. Any other observations the aide believes are of note or that should be reported to the supervisor.

E. If the aide discontinues performing service-plan-required tasks at any time before completing all of the required tasks for the day, the aide will record:

1. The beginning time of the non-service-plan-required activities,
2. The ending time of the non-service-plan-required activities,
3. The beginning time of the aide's resumption of service-plan-required activities and
4. The beginning and ending times of any subsequent breaks in service-plan-required aide activities.
5. If the aide discontinues or interrupts the beneficiary's service-plan-required activities at one location to begin service-plan-required activities at another location, the aide must record the beginning and ending times of service at each location.

220.111 Service Log for Multiple Beneficiaries 10-1-12

Effective for dates of service on and after March 1, 2008, the rules in this section do not apply to RCF and ALF Personal Care providers.

An aide delivering services to two or more beneficiaries at the same service location, during the same period (discontinuing or interrupting a beneficiary's service plan required tasks to begin or resume service plan required tasks for another beneficiary, or performing an authorized service simultaneously for two or more beneficiaries), must comply with the applicable instructions in parts A or B below:

A. If providing services for only two beneficiaries, the aide must record in each beneficiary's service log
   1. The name of each individual for whom they are simultaneously performing personal care service and
   2. The beginning and ending times of service for each beneficiary and the beginning and ending times of each interruption and of each resumption of service.

B. If services are performed in a congregate setting (more than two beneficiaries) the service log must state
   1. The actual time of day (clock-time) that the congregate services begin and end and
   2. The number of individuals, and the name of each individual, both Medicaid-eligible and non-Medicaid eligible, who received the documented congregate services during that period.

220.112 Service Log for Multiple Aides with One Beneficiary 10-1-12

Effective for dates of service on and after March 1, 2008, the rules in this section do not apply to RCF and ALF Personal Care providers.

When two or more aides attend a single beneficiary, each aide must record the beginning and ending times of each service plan required routine or activity of daily living that she or he performs for the beneficiary, regardless of whether another aide is performing a service plan required routine or activity of daily living at the same time.

221.000 Documentation 10-1-12

Rule D in this section is effective for dates of service on and after March 1, 2008.

The personal care provider must keep and make available to authorized representatives of the Arkansas Division of Medical Services, the State Medicaid Fraud Control Unit and representatives of the Department of Health and Human Services and its authorized agents or officials; records including:

A. If applicable, certification by the Home Health State Survey Agency as a participant in the Title XVIII Program. Agencies that provided Medicaid personal care services before July 1, 1986 are exempt from this requirement.

B. When applicable, copies of pertinent residential care facility license(s) issued by the Office of Long Term Care.

C. Medicaid contract.

D. Effective for dates of service on and after March 1, 2008, RCF and ALF Personal Care providers will be required, when requested by DHS, to provide payroll records to validate service plans and service logs.

E. Documents signed by the supervising RN or QMRP, including:

1. The initial and all subsequent assessments.
2. Instructions to the personal care aide regarding:
   a. The tasks the aide is to perform,
   b. The frequency of each task and
   c. The maximum number of hours and minutes per month of aide service authorized by the beneficiary's attending physician.
3. Notes arising from the supervisor's visits to the service delivery location, regarding:
   a. The condition of the beneficiary,
   b. Evaluation of the aide's service performance,
   c. The beneficiary's evaluation of the aide's service performance and
   d. Difficulties the aide encounters performing any tasks.
4. The service plan and service plan revisions:
   a. The justifications for service plan revisions,
   b. Justification for emergency, unscheduled tasks and
   c. Documentation of prior or post approval of unscheduled tasks.

F. Any additional or special documentation required to satisfy or to resolve questions arising during, from or out of an investigation or audit. "Additional or special documentation," refers to notes, correspondence, written or transcribed consultations with or by other healthcare professionals (i.e., material in the beneficiary's or provider's records relevant to the beneficiary's personal care services, but not necessarily specifically mentioned in the foregoing requirements). "Additional or special documentation," is not a generic designation for inadvertent omissions from program policy. It does not imply and one should not infer from it that, the State may arbitrarily demand media, material, records or documentation irrelevant or unrelated to Medicaid Program policy as stated in this manual and in official program correspondence.

G. The personal care aide's training records, including:

1. Examination results,
2. Skills test results and
3. Personal care aide certification.

H. The personal care aide's daily service notes for each beneficiary, reflecting:

1. The date of service,
2. The routines performed on that date of service, noted to affirm completion of each task.

3. The time of day the aide began performing the first service-plan-required task for the beneficiary;
4. The time of day the aide stopped performing any service-plan-required task to perform any non-service-plan-required function;
5. The time of day the aide stopped performing any non-service-plan-required function to resume service-plan-required tasks and
6. The time of day the aide completed the last service-plan-required task for the day for that beneficiary.

I. Notes, orders and records reflecting the activities of the physician, the supervising RN or QMRP, the aide and the beneficiary or the beneficiary's representative; as those activities affect delivering personal care services.

250.100 Reimbursement Methods 10-1-12

A. Reimbursement for personal care services is the lesser of the billed amount per unit of service or Medicaid's maximum allowable fee (herein also referred to as "rate" or "the rate") per unit.

B. Reimbursement for Arkansas Medicaid Personal Care services is based on a 15-minute unit of service.

C. Effective for dates of service on and after March 1, 2008, RCF Personal Care provider reimbursement is in accordance with a multi-hour daily service rate system, employing Medicaid maximum allowable fees (Daily Service Rates) determined by individual beneficiaries' Levels of Care.

D. Effective for dates of service on or after October 1, 2012, ALF Personal Care provider reimbursement is in accordance with a multi-hour daily service rate system, employing Medicaid maximum allowable fees (Daily Service Rates) determined by individual beneficiaries' Levels of Care. This excludes the Living Choices Assisted Living waiver beneficiaries.

250.200 RCF and ALF Personal Care Reimbursement Methodology 10-1-12

A. The RCF and ALF Personal Care reimbursement methodology is designed with the intent that reimbursement under the multi-hour Daily Service Rate system closely approximates what reimbursement would have been if the providers were to have billed by units of service furnished.

B. Whenever the unit rate (i.e., the maximum allowable amount per fifteen minutes service) for personal care services changes, Daily Service Rates under the RCF and ALF methodology are correspondingly adjusted in accordance with the initial methodology by which they were established and which is described in detail in the following sections.

C. The Daily Service Rate paid for personal care services is based on a Level of Care determined from the resident's service plan.

250.210 Level of Care 10-1-12

There are 10 Levels of Care, each based on the average number of 15-minute units of service per month required to fulfill a beneficiary's service plan.

A. Level 1 includes RCF and ALF Personal Care beneficiaries whose service plans comprise 100 units or less per month of medically necessary personal care.

B. Level 10 includes RCF and ALF Personal Care beneficiaries whose service plans comprise 256 or more units per month of medically necessary personal care.

C. Level 2 through Level 9 were established in equal increments between 101 and 255 units per month.

250.211 Level of Care Determination 10-1-12

A. The average of a service plan's monthly units of service is used to determine each beneficiary's Level of Care.

B. Calculate a beneficiary's average number of monthly units of personal care as follows.

1. Add the minimum and maximum hourly Weekly Totals from a completed form DMS-618, "Personal Care Assessment and Service Plan," and divide the sum by **2** to obtain average weekly hours of service.
2. Convert the average obtained in step 1 to minutes by multiplying it by **60**.
3. Divide the minutes by **15** (*15 minutes equals one unit of service*) to calculate weekly average units of service.
4. Multiply the weekly average units from step 3 by **52** (*Weeks in a year*) and divide the product by **12** (*Months in a year*) to calculate monthly average units of service.
5. Consult the "RCF and ALF Personal Care Service Rate Schedule" on the Arkansas Medicaid Personal Care Fee Schedule to find the applicable Daily Multi-Hour Service Rate for each Level of Care. Procedure code T1020 is the applicable code for RCF and ALF Personal Care providers.

262.104 Personal Care in an RCF or ALF 10-1-12

A. To bill for RCF or ALF Personal Care, use HCPCS procedure code **T1020** and the modifier corresponding to the beneficiary's Level of Care in effect for the date(s) of service being billed.

B. The Level of Care that a provider bills must be consistent with the beneficiary's service plan in effect on the day that the provider furnished the personal care services billed.

Level of Care Specifications and Modifiers for Procedure Code T1020

Levels of Care	Minimum Service Units	Maximum Service Units	Modifier
Level 1	Less than 100	100	U1
Level 2	101	119	U2
Level 3	120	139	U3
Level 4	140	158	U4
Level 5	159	177	U5
Level 6	178	196	U6
Level 7	197	216	U7
Level 8	217	235	U8
Level 9	236	255	U9
Level 10	256	256	UA

262.106 Billing RCF and ALF Personal Care Services 10-1-12

A. RCF and ALF Personal Care providers may not bill for days during which a beneficiary received no personal care services (for instance, he or she was away for a day or more); therefore, do not include in the billed dates of service any days the beneficiary was absent.

B. For each unbroken span of days of service, multiply the days of service by the applicable Daily Service Rate and bill that amount on the corresponding claim detail.

C. Documentation requirements outlined in the Medicaid Personal Care Policy Section 216.400 (Personal Care Aide Service and Documentation Responsibility) must be adhered to when providing Personal Care services at all ALF facilities.

26. Personal Care

A. Personal care services are provided by a personal care aide to assist with a client's physical dependency needs. The personal care aide must have at least 24 hours classroom training and a minimum of supervised practical training of 16 hours provided by or under the supervision of a registered nurse for a total of no less than 40 hours.

B. Personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are –

1. Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State;
2. Provided by an individual who is qualified to provide such services and who is not a member of the individual's family, and
3. Furnished in a home, and at the State's option, in another location, including licensed residential care facilities **and licensed assisted living facilities**.

PROPOSED

C. The State defines "a member of the individual's family" as:

1. A spouse,
2. ~~A minor's parent, stepparent, foster parent or anyone acting as a minor's parent;~~
3. A minor's "guardian of the person" or anyone acting as a minor's "guardian of the person" or
4. An adult's "guardian of the person" or anyone acting as an adult's "guardian of the person".

D. Personal care services are covered for categorically needy individuals only.

E. Personal care services are medically necessary, prescribed services to assist clients with their physical dependency needs.

1. Personal care services involve "hands-on" assistance, by a personal care aide, with a client's physical dependency needs (as opposed to purely housekeeping services).
2. The tasks the aide performs are similar to those that a nurse's aide would normally perform if the client were in a hospital or nursing facility.

F. Prior authorization is required for personal care for beneficiaries under age 21.

G. Effective for dates of service on or after April 1, 2002, for services beyond 64 hours per calendar month per beneficiary aged 21 or older, the provider must request a benefit extension. Extensions of the personal care benefit will be provided for beneficiaries aged 21 and older when extended benefits are determined to be medically necessary.

STATE Arkansas
DATE REC'D 2-2-12
DATE APPV'D 4-26-2012
DATE EFF 10-1-12
NUSA 179 12-02

A

5. Personal care furnished in accordance with the requirements at 42 CFR §440.167 and with regulations promulgated, established and published for the Arkansas Medicaid Personal Care Program by the Division of Medical Services.

(a) Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers of personal care services and the fee schedule and any annual/periodic adjustments to the fee schedule are published on the Medicaid website at www.medicaid.state.ar.us.

(b) Reimbursement for Personal Care Program Services is by fee schedule, at the lesser of the billed charge or the Title XIX (Medicaid) maximum allowable fee per unit of service. Effective for dates of service on and after July 1, 2004, one unit equals fifteen minutes of service.

(c) Effective for dates of service on and after July 1, 2007, reimbursement to enrolled Residential Care Facilities (RCFs) for personal care services furnished to Medicaid eligible residents (i.e., clients) is based on a multi-hour rate system not to exceed one day, based on the individual clients' levels of care. A client's level of care is determined from the service units required by his or her service plan. Rates will be recalculated as needed to maintain parity with other Personal Care providers when revisions of the Title XIX maximum allowable fee occur. The effective date of any such revised rates shall be the effective date of the revised fee.

(d) **Reimbursement to enrolled Assisted Living Facilities (ALF) for personal care services furnished to Medicaid eligible residents (i.e., clients) is based on a multi-hour rate system not to exceed one day, based on the individual clients' level of care. A client's level of care is determined from the service units required by his or her service plan. Rates will be recalculated as needed to maintain parity with other Personal Care providers when revisions of the Title XIX maximum allowable fee occur. The effective date of such revised rates shall be the effective date of the revised fee.**

(e) Agencies rates are set as of July 1, 2009 and are effective for services on or after that date.

PROPOSED

STATE Arkansas
DATE REC'D 2-2-12
DATE APPV'D 4-26-2012
DATE EFF 10-1-12
NOFA 179 12-02

A

SUPERSEDES: TN 09-08