FLORIDA HEALTH JUSTICE PROJECT, INC.

Medicaid Home & Community Based Services (HCBS): Know Your Rights!

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Floridians whose disabilities require a nursing home level of care may be eligible to receive home and community based services (HCBS) through the state's Long-Term Care (LTC) Medicaid Waiver. In Florida, there is a waiting list for this program. Once an individual is "released" from the waitlist and found eligible, she/he selects a managed care plan which provides HCBS, as well as regular Medicaid services.

What are my rights at the application stage?

- You have the right to apply and receive a phone assessment or an in-person assessment if your disability prevents you from being able to use the phone.
- You have the right to receive written notice of your "ranking" based on your assessment and the right to request and receive a copy of your assessment. The waiting list is based on rankings.
- You have the right to appeal your ranking.

What are my rights after I am found eligible and select a plan?

- You have the right to a meeting with the plan case manager (in your home) within 5 business days after enrollment in the plan and to begin receiving services within 7 days after the meeting.
- You have the right to have a written "care plan" prepared at the first meeting that states the type and amount of services and supports that will be provided.
- If you live in your own home or the home of a family member, you have the right to "self-direct" who will provide your care.
- You have the right to appeal your care plan if not all of your needed services are included.
- You have the right to a "supplemental assessment" that identifies your support system, e.g. family member(s), and includes an assessment of their other responsibilities, stressors and willingness to participate in your care.

- If you leave your home in order to receive the service(s), e.g. adult day care, you should not have to travel more than thirty (30) minutes in an urban county or sixty (60) minutes in a rural county.
- You have the right to receive prescribed services without gaps or interruptions and to receive a "contingency plan" of what to do if a gap occurs.
- You have the right to file a complaint with the Medicaid agency and file a grievance with your managed care plan.
- You have the right to a written notice and an appeal if a new service requested by your provider is denied **or** not approved at the level prescribed, or if a current service is reduced or terminated.
- If you receive a notice of reduction or termination, you have the right to continue receiving your current service(s) at the current level(s) if you appeal within ten (10) days of when the notice was sent.
- If you receive a notice of reduction or termination, you have the right to an expedited appeal if a delay could jeopardize your life or health.
- If you receive a notice of reduction or termination, and are not satisfied with the outcome of the plan appeal process, you have the right to a fair hearing.
- You have the right to disenroll from your plan, and change plans within the first 120 days of enrolling, or after that for "good cause."

How do I get more information or help regarding these rights?

This "Know Your Rights Flyer" is based on information in the *Advocate's Guide to the Florida Long-Term Care Waiver,* prepared by the Florida Health Justice Project (FHJP). While FHJP does not provide legal services or direct assistance to individuals, we do provide technical assistance to local legal services staff. You can find contact information for your local legal services office at this website, https://thefloridabarfoundation.org/florida-legal-aid-programs/.

If you are having difficulty getting needed HCBS services and want to "share your story," you can contact the FHJP stories project at this website, https://www.floridahealthstories.org/long-term-care.

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