

107 CMR 11.00: HOME CARE ASSISTANCE PROGRAM

Section

- 11.01: Scope and Purpose
- 11.02: Meaning of Terms in 107 CMR 11.00
- 11.03: Referral and Application
- 11.04: Non Discrimination
- 11.05: Eligibility
- 11.06: Assessment
- 11.07: Notice of Eligibility Determination
- 11.08: Eligibility Review
- 11.09: Change in Living Conditions or Health Status
- 11.10: Scope of HCAP Services
- 11.11: Comparable Benefits and Programs
- 11.12: Financial Need Determination
- 11.13: Order of Service
- 11.14: Right To Appeal
- 11.15: Rates and Expenditures for Home Care Services

11.01: Scope and Purpose

(1) The Home Care Assistance Program (HCAP) is a statewide program for eligible individuals whose disabilities result in a need for homemaking and coordination of services in order to live independently and prevent the need for hospitalization and institutionalization.

(2) The Home Care Assistance Program provides needed homemaking and coordination of services to eligible individuals, age 18 through 59 with disabilities other than legal blindness.

11.02: Meaning of Terms in 107 CMR 11.00

Terms in 107 CMR 11.00 shall, unless the context otherwise requires, have the meanings ascribed below or in 107 CMR 3.00.

Applicant is an individual who has signed and dated a written application for services of the HCAP of the Massachusetts Rehabilitation Commission.

HCAP Case Manager is the Commission employee assigned to assist the consumer in identifying, coordinating and reviewing necessary services to support independent living.

Consumer is an individual who is eligible for or receiving services from the Home Care Assistance Program.

Homemaker is an employee of an agency under contract with the Commission to perform homemaking tasks as described in 107 CMR 11.11(1).

Homemaking Services are services that are described in 107 CMR 11.11(1) and are performed for the consumer who, because of a disability, cannot perform homemaking tasks. Such tasks are performed by a homemaker or a home care assistant. The consumer must be at home while home care services are provided.

Homemaking Services Assessment is the HCAP assessment of:

- (a) medical, psychiatric and related information; and
- (b) homemaker task evaluation to determine HCAP eligibility.

Homemaker Task Evaluation is the in-home evaluation of the individual's capacity to perform tasks described in 107 CMR 11.11(1). Same evaluation shall be performed by licensed and/or registered nurses, licensed physical or occupational therapists under agreement with HCAP.

11.02: continued

The HCAP Review Board is the review board assigned to conduct HCAP administrative reviews and includes the HCAP Director, Deputy Commissioner of Independent Living and Chairperson of the Home Care Subcommittee of the Rehabilitation Advisory Council (RAC) or designee of the Chairperson of the HCAP RAC who must be a consumer.

The HCAP Administrative Review is an informal and impartial hearing process to settle disagreements that applicants and consumers have with HCAP decisions effecting HCAP services to individuals.

11.03: Referral and Application

- (1) Any person, agency or organization may notify the HCAP of an individual who may be in need of homemaking services.
- (2) HCAP referral and application policies shall be written and available to the public.
- (3) All applicants shall be provided written referral and application policies.

11.04: Non Discrimination

- (1) Eligibility requirements shall be applied without regard to the sex, sexual orientation, race, creed, color or national origin of the individual applying for services.
- (2) No individual shall be excluded or found ineligible solely on the basis of the type of their disability, provided, however, that individuals who are legally blind shall be referred for services from the Massachusetts Commission for the Blind.
- (3) HCAP services may only be delivered in Massachusetts.

11.05: Eligibility

An individual is eligible for HCAP Services when HCAP has determined:

- (1) the individual is between the ages of 18 and 59, and has a medically documented physical or mental disability that results in the individual's inability to perform essential homemaking activities, and
- (2) the provision of such services is necessary for the individual to live independently and to prevent the need for hospitalization or institutionalization; and
- (3) the individual and other adult residents of the household are unable to perform essential homemaking activities pursuant to homemaking services assessment; and
- (4) the individual meets financial criteria pursuant to 107 CMR 11.14 (Financial Need), and;
- (5) the individual and relevant adult residents of the household have provided information necessary to determination of above.

11.06: Assessment

A Homemaking Services Assessment shall be conducted to determine the individual's eligibility. Any individual's failure to cooperate in the assessment shall result in determination of ineligibility.

11.07: Notice of Eligibility Determination

A written certification of HCAP eligibility determination shall be written by a case manager and approved by a supervisor prior to providing services, and provided to the individual.

11.08: Eligibility Review

- (1) As determined necessary by the case manager a review of continued eligibility shall be conducted by HCAP.
- (2) Determination of continued eligibility shall be written and the individual shall be notified of determination.
- (3) An individual's failure to cooperate in the eligibility review shall result in determination of ineligibility.

11.09: Change in Living Conditions or Health Status

Eligible individuals shall notify their HCAP Case Manager of any change in their living, financial or health status that may affect eligibility for HCAP services, within 30 days.

11.10: Scope of HCAP Services

- (1) HCAP services may be provided for up to 12 hours per week as determined by HCAP and may include but are limited to:
 - (a) Meal preparation
 - (b) Grocery shopping at the supermarket or grocery store closest to the individual's residence;
 - (c) Laundry of the eligible individual's items only;
 - (d) Light housekeeping of the individual's primary living areas of the kitchen, bathroom, living room and the individual's bedroom.
- (2) No other tasks, including but not limited to heavy chore tasks, shall be provided by HCAP.

11.11: Comparable Benefits and Programs

The HCAP shall fully consider and require use of comparable benefits and programs to meet in whole or in part the cost of HCAP services.

11.12: Financial Need Determination

- (1) Home Care Assistance Program services shall be provided only after determination of financial eligibility.
- (2) All applicants must cooperate in completion of forms and provide documentation necessary to determine financial eligibility.
- (3) Financial eligibility shall be 300% or less of the Poverty Threshold as reported by the United States Census Bureau.
- (4) Recipients of Supplemental Security Income (SSI), Transitional Assistance for Dependent Children (TAFDC), or Emergency Aid for the Elderly and Disabled Children (EAEDC) shall be considered financially eligible for HCAP.

11.13: Order of Service

Homecare services are provided in the order of eligibility determination.

11.14: Right To Appeal

- (1) An individual/guardian may appeal a case closure decision or ineligibility determination by writing to the HCAP Director, c/o Home Care Assistance Program (HCAP). The Home Care Director shall acknowledge the request for an appeal in writing within ten working days of the receipt of the request.

11.14: continued

(2) After receiving an appeal the HCAP Director, in coordination with the HCAP Supervisors and Case Managers, shall review the individual's entire HCAP file. Within 30 days of the acknowledgement of the request for an appeal, the HCAP Director shall render a decision in writing to the applicant.

(3) In the event the individual remains in disagreement with the HCAP Director's decision, he/she or the guardian may request an Administrative Review before the Review Board. The HCAP Review Board is the HCAP Director, Deputy Commissioner of Independent Living and Chairperson of the Home Care Subcommittee of the Rehabilitation Advisory Council (RAC) or designee of the Chairperson of the HCAP RAC (who must be a consumer). The review shall be conducted according to the provisions of Informal Rules of Adjudicatory Procedure found at 801 CMR 1.0 *et seq.* The HCAP Review Board shall schedule the appeal within 30 days of receipt of the request to appeal the HCAP Director's decision.

(4) The individual/guardian or an advocate on behalf of the applicant is entitled and shall have access to the HCAP record. A signed release from the individual/guardian is necessary to allow an advocate access to these records. The guardian/advocate may accompany the individual to the Administrative Review. HCAP must be informed of the individual's intent to have an advocate present. Both the individual and the HCAP staff shall present their case.

(5) The HCAP Review Board shall render a decision based on documentation and evidence submitted by the parties at the hearing and the HCAP policies and regulations. A written decision shall be mailed to the individual/guardian no later than 45 days after the hearing. This decision constitutes the final decision by the agency.

(6) Individuals dissatisfied with the decision of the HCAP Review Board have the right to pursue an appeal at their own expense, through the appropriate Superior Court of the Commonwealth pursuant to M.G.L. c. 30A.

11.15: Rates and Expenditures for Home Care Services

Rates, fees and expenditures for Home Care services are subject to all applicable Commonwealth of Massachusetts statutory, regulatory and related requirements governing purchases of goods and services.

REGULATORY AUTHORITY

107 CMR 11.00: M.G.L. c. 6, §§ 75 and 78.