

**SECTION 69: OFFICE OF ELDER SERVICES
INDEPENDENT SUPPORT SERVICES PROGRAM**

69.01 DEFINITIONS

- (A) **Office of Elder Services Independent Support Services Program**, hereinafter referred to as Office of Elder Services ISS services is a state funded program to assist individuals with household tasks and incidental personal care activities that improve or maintain adequate well-being. ISS services may be provided for reasons of illness, disability, absence of a caregiver, or to prevent adult abuse or neglect. State ISS funds shall be used to purchase only the covered services that will foster restoration of independence, consistent with the consumer's circumstances and the Authorized Plan of Care. Major service components include homemaker services, chore services, home maintenance services, incidental assistance with personal hygiene and dressing and household management services. State ISS funds may not be used to supplant the resources available from families, neighbors, agencies and/or the consumer or from other federal and state programs unless specifically provided for in this Section.
- (B) **Activities of daily living (ADLs)**. ADLs shall only include the following as defined in Section 69.02 (B) (2) for purposes of eligibility: personal hygiene and dressing.
- (C) **Assessing Services Agency (ASA)**. Assessing Services Agency means an organization authorized through a written contract with Office of Elder Services to conduct face-to-face assessments , using the Department's Medical Eligibility Determination (MED) form, and the timeframes and definitions contained therein, to determine medical eligibility for MaineCare and state-funded covered services. Based upon a consumer's assessment outcome scores recorded in the MED form, the Assessing Services Agency is responsible for authorizing an initial plan of care under Section 69, which shall specify all services to be provided under this Section, including the number of hours for services, and the provider types. For purposes of this Section, the Assessing Services Agency is an Authorized Agent for the Department for medical eligibility determinations and plan of care development, and authorization of covered services under this Section, including reassessments for consumers served by a Licensed Assisted Living Agency.
- (D) **Authorized Plan of Care** means a plan of care which is authorized by the Assessing Services Agency, the ISS Agency or the Department, which shall specify all services to be delivered to a consumer under this Section, including the number of hours for all covered services. The Authorized Plan of Care shall be based upon the outcome of the consumer's assessment, using an assessment form approved by the Department. All authorized covered services provided under this Section must be listed in a Care Plan Summary.
- (E) **Care Plan Summary** is the section of the MED form that documents the Authorized Plan of Care and services provided by other public or private program funding sources or support, service category, reason codes, duration, unit code, number of units per month, rate per unit, and total cost per month.

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- (F) **Cognitive capacity to self direct:** The consumer must have the cognitive capacity, as measured on the MED form, to be able to "self direct" the ISS worker in the self-directed option outlined in Section 69.02 (B) (3). This capability will be determined by the Assessing Services Agency as part of the eligibility determination using the MED findings. Minimum MED form scores are (a) decision making skills: a score of 0 or 1; (b) making self understood: a score of 0,1, or 2; (c) ability to understand others: a score of 0,1, or 2; (d) self-performance in managing finances: a score of 0,1,or 2; and (e) support in managing finances, a score of 0,1,2, or 3. A consumer not meeting the specific scores will be presumed incapable of hiring, firing, training, and supervising the ISS worker under the self-directed plan of care.
- (G) **Covered Services are** those services for which payment can be made by the Department, under Section 69 of the Office of Elder Services Policy Manual.
- (H) **Dependent Allowances.** Dependents and dependent allowances are defined and determined in agreement with the method used in the MaineCare program. The allowances are changed periodically and cited in the MaineCare Eligibility Manual, (10-144 CMR Chapter 332). Dependents are defined as individuals who may be claimed for tax purposes under the Internal Revenue Code and may include a minor or dependent child, dependent parents, or dependent siblings of the consumer or consumer's spouse. A spouse may not be included.
- (I) **Disability-related expenses:** Disability-related expenses are out-of-pocket costs incurred by the consumers for their disability, which are not reimbursed by any third-party sources. They include:
- (1) Home access modifications: ramps, tub/shower modifications and accessories, power door openers, shower seat/chair, grab bars, door widening, environmental controls;
 - (2) Communication devices: adaptations to computers, speaker telephone, TTY, Personal Emergency Response systems;
 - (3) Wheelchair (manual or power) accessories: lab tray, seats and back supports;
 - (4) Vehicle adaptations: adapted carrier and loading devices, one communication device for emergencies (limited to purchase and installation), adapted equipment for;
 - (5) Hearing Aids, glasses, adapted visual aids;
 - (6) Assistive animals (purchase only);
 - (7) Physician ordered medical services and supplies;
 - (8) Physician ordered prescription and over the counter drugs; and
 - (9) Medical insurance premiums, co-pays and deductibles.
- (J) **The Independent Support Services Agency (ISS Agency)** means an organization, or more than one organization, which is authorized, through a written contract with Office of Elder Services to conduct a range of activities under this section. For all consumers except those receiving ISS services through a Licensed Assisted Living Agency, the ISS Agency is the Department's Authorized Agent for the following: coordinate and

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implement the services in the consumer's Authorized Plan of Care; ensure that authorized services in the Care Plan Summary are delivered according to the service authorizations; conduct required re-assessments of ISS consumers; reduce, deny, or terminate services under this section; serve as a resource to consumers and their families to identify available service delivery options and service providers; answer questions; and assist with resolving problems. The ISS Agency is also responsible for administrative functions, including: maintaining consumer records; overseeing and assuring compliance with policy requirements by its sub-contractors; confirming financial eligibility and final determination of the consumer co-payment on receipt of the required information; and collecting consumer co-payments.

- (K) **Household members:** means the consumer and spouse.
- (L) **Household members' income** includes:
- (1) Wages from work, including payroll deductions, excluding state and Federal taxes and employer mandated or court ordered withholdings;
 - (2) Benefits from Social Security, Supplemental Security Insurance, pensions, insurance, independent retirement plans, annuities, and Aid and Attendance;
 - (3) Adjusted gross income from property and/or business, based on the consumer's most recent Federal income tax; and
 - (4) Interest and dividends.
 - (5) Not included are benefits from: the Home Energy Assistance Program, Food Stamps, General Assistance, Property Tax and Rent Refund, emergency assistance programs, or their successors.
- (M) **Instrumental activities of daily living (IADLs)** For purposes of the eligibility criteria and covered services under this section of policy, IADLs are limited to the following as defined by Section 69.02(B)(1): main meal preparation: preparation or receipt of the main meal; routine housework; grocery shopping and storage of purchased groceries; and laundry either within the residence or at an outside laundry facility.
- (N) **Limited Assistance** means the individual was highly involved in the activity over the past seven days, or 24 to 48 hours if in a hospital setting, but received and required
- guided maneuvering of limbs or other non-weight bearing physical assistance three or more times or
 - guided maneuvering of limbs or other non-weight bearing physical assistance three or more times plus weight-bearing support provided only one or two times.
- (O) **Liquid asset** is something of value available to the consumer that can be converted to cash in three months or less and includes:
- (1) Bank accounts;
 - (2) Certificates of deposit;
 - (3) Money market and mutual funds;
 - (4) Life insurance policies;

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- (5) Stocks and bonds;
- (6) Lump sum payments and inheritances and
- (7) Funds from a home equity conversion mortgage that are in the consumer's possession whether they are cash or have been converted to another form.

Funds which are available to the consumer but carry a penalty for early withdrawal will be counted minus the penalty. Exempt from this category are mortuary trusts and lump sum payments received from insurance settlements or annuities or other such assets named specifically to provide income as a replacement for earned income. The income from these payments will be counted as income.

- (P) **Medical Eligibility Determination (MED) Form** shall mean the form approved by the Department for initial medical eligibility determinations and service authorization for the plan of care based upon the assessment outcome scores. The definitions, scoring mechanisms and time frames relating to this form as defined in Section 69 provide the basis for services and the care plan authorized by the Assessing Services Agency. The Care Plan Summary contained in the MED form documents the Authorized Plan of Care to be implemented by the ISS Agency or by the Licensed Assisted Living Agency. The Care Plan Summary also identifies other services the consumer is receiving, in addition to the authorized services provided under this Section.
- (Q) **One-person Physical Assist** requires one person over the last seven (7) days or 24-48 hours if in a hospital setting, to provide either weight-bearing or non-weight bearing assistance for an individual who cannot perform the activity independently. This does not include cueing.
- (R) **Significant Change** A significant change is defined as a major change in the consumer's status that is not self limiting, impacts on more than one area of their functional or health status, and requires multi-disciplinary review or revision of the Plan of Care. A significant change assessment is appropriate if there is a consistent pattern of changes, with either two or more areas of improvement, or two or more areas of decline, that requires a review of the Plan of Care and potential for a level of care change.
- (S) **Self-Directed Option:** The self-directed option means payments made directly to adults to enable them to purchase covered ISS services pursuant to Section 69.04.
- (T) **Unlicensed Assistive Personnel** means individuals, including personal support specialists and homemakers, who, as defined in Title 22 MRSA § 1717, are employed to provide hands-on assistance with activities of daily living to individuals in homes, assisted living centers, residential care facilities, hospitals and other health care settings. Unlicensed assistive personnel does not include certified nursing assistants employed in their capacity as certified nursing assistants.
- (U) **Licensed Assisted Living Agency** means a provider that is licensed by the Department as an Assisted Living Program **and** that holds a valid contract with the Office of Elder Services to provide assisted living services. The appropriate Licensed Assisted Living

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Agency is responsible for ensuring that services are delivered according to the authorized plan of care; maintaining consumer records; confirming financial eligibility and final determination of the consumer co-payment on receipt of the required information; and collecting consumer co-payments for any ISS consumers residing at the facility.

69.02 Eligibility

(A) General and Specific Requirements. To be eligible for services a consumer must:

- (1)** Be at least 18;
- (2)** Live in Maine;
- (3)** Lack sufficient personal and/or financial resources for ISS services;
- (4)** Be ineligible for MaineCare long-term care benefits with the exception of
 - (a)** individuals eligible for MaineCare Adult Day Health and
 - (b)** individuals eligible for nursing services as a stand alone benefit under 10-144 CMR Ch. 101 (II), Section 96 MaineCare Benefits Manual, Private Duty Nursing/Personal Care Services;
- (5)** Not be participating in a program for long-term care services under Section 62: Independent Housing with Services, Section 63 In Home Community Based Support Services or the Consumer-Directed Personal Assistance Services program (14-197 CMR Chapter 11);
- (6)** For an individual have liquid assets of no more than \$50,000 or for couples have liquid assets of no more than \$75,000;
- (7)** Not be residing in a Residential Care Facility; a supported living arrangement certified by DHHS for behavioral and developmental services; or a licensed or unlicensed Assisted Living Program except for those that meet the definition of a Licensed Assisted Living Agency set forth in Section 69.01(U);
- (8)** Not be residing in a hospital or nursing facility;
- (9)** Consumer or authorized representative agrees to pay the monthly calculated consumer payment; and
- (10)** Not have services available from informal or formal supports, including public and private sources, which duplicate the services provided under this Section.

(B) Medical and Functional Eligibility Requirements

Applicants for services under this Section must meet the eligibility requirements as set forth in this Section 69.02-B and documented on the MED form or on a form approved by the Department. Initial medical eligibility will be determined using the MED form as defined in Section 69.01(P). A person meets the medical eligibility requirements for Office of Elder Services ISS if he or she needs assistance in self performance and physical assist in support with at least three of the following IADLs:

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- (1) Instrumental activities of daily living (IADLs) are regularly necessary home management activities listed below:
 - (a) Daily instrumental activities of daily living (within the last 7 days):
 - (i) main meal preparation: preparation or receipt of main meal;
 - (b) Other instrumental activities of daily living (within the last 14 days):
 - (i) routine housework: includes, but is not limited to vacuuming, cleaning of floors, trash removal, cleaning bathrooms and appliances;
 - (ii) grocery shopping: shopping for groceries and storage of purchased food or prepared meals;
 - (iii) laundry: doing laundry in home or out of home at a laundry facility; or
- (2) Need limited assistance in self-performance and one person physical assist in support with one Activity of Daily Living from the items below:
 - (a) Activities of Daily Living:
 - (i) Personal Hygiene: how a person maintains personal hygiene, (excludes baths and showers, includes washing face, hands, perineum, combing hair, shaving, brushing teeth, shampoo and nail care)
 - (ii) Dressing: How person puts on, fastens, and takes off all items of street clothing, including donning/removing prosthesis

AND one of the following:

- (b) **Instrumental activities of daily living (IADLs)** are regularly necessary home management activities listed below:
 - (i) Daily instrumental activities of daily living (within the last 7 days):
 - (aa) main meal preparation: preparation or receipt of main meal;
or
 - (ii) Other instrumental activities of daily living (within the last 14 days):
 - (aa) routine housework: includes, but is not limited to vacuuming, cleaning of floors, trash removal, cleaning bathrooms and appliances; or
 - (bb) grocery shopping: shopping for groceries and storage of purchased food or prepared meals; or
 - (cc) laundry: doing laundry in home or out of home at a laundry facility.
- (3) **Self-Directed Option.** Consumers or their surrogates may arrange for and manage their own services using the self-directed option provided by the ISS Agency. This option is not available for consumers who are eligible to be served by a Licensed Assisted Living Agency. Except as noted below, all other requirements of Section 69 apply to consumers using the self-directed option.

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- (a) **Qualification.** To qualify for the self-directed option consumers must meet the requirements listed in Section 69.02(A) and (B) and the requirements either in this Section (a) or (b) below. The consumer:
- (i) must not have a guardian or conservator;
 - (ii) must have the cognitive capacity, measured on the MED form, as defined in Section 69.01 (F) to be able to self-direct the services. The Assessing Services Agency as part of the assessment will determine this capability;
 - (iii) must meet all program requirements including timely submission of documentation of services delivered;
 - (iv) must agree to complete a minimum of 2 hours of instruction prior to beginning the self-directed option on the rights, risks, and responsibilities of the self-directed option;
 - (v) must check the Certified Nursing Assistant Registry and conduct a criminal history background check, for any individual hired as Unlicensed Assistive Personnel as defined in 69.01(T); and
 - (vi) must hire a worker who is at least seventeen (17) years old.
- (b) For a consumer who does not qualify under Section 69.02(B)(3)(a), a surrogate may request to act on behalf of the consumer. Consumers with cognitive capacity also may choose to designate a surrogate to act on his/her behalf. The ISS Agency may authorize a surrogate to act on behalf of the consumer if the surrogate:
- (i) Is at least 18 years old;
 - (ii) Has the cognitive capacity to arrange for and direct services;
 - (iii) Is not the consumer's paid caregiver;
 - (iv) Shows a strong personal commitment to the consumer;
 - (v) Shows knowledge about the consumer's preferences;
 - (vi) Must visit the consumer at least every two (2) weeks
 - (vii) Must meet all program requirements including timely submission of documentation of services delivered and a visit every two weeks to the consumer;
 - (viii) Must check the Certified Nursing Assistant Registry, and must also conduct a criminal history background check for any individual hired as Unlicensed Assistive Personnel as defined in 69.01(T);
 - (ix) Must complete a minimum of 2 hours of instruction prior to beginning the self-directed option on the rights, risks, and responsibilities of the self-directed option; and
 - (x) Must hire a worker who is at least seventeen (17) years old.
- (c) **ISS Coordination.** The ISS Agency will:
- (i) Provide instruction to consumer or surrogate on the skills needed to hire, train, and schedule, supervise, and document the provision of services identified in the Authorized Plan of Care;

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- (ii) Establish a monthly cost limit based on the Authorized Plan of Care;
- (iii) Explain the payment method used in the self-directed option to the consumer or surrogate;
- (iv) Reimburse the consumer monthly an amount that is not more than the actual cost of services provided, up to the cap established in the Authorized Plan of Care, less any applicable consumer co-payment;
- (v) Provide face-to-face supervision every six months; and
- (vi) Provide the consumer with information about the Long-term Care Ombudsman Program and Adult Protective Services.

(d) **Compliance Requirements.**

- (i) Failure to comply with documentation requirements in a timely manner may result in delayed reimbursement and/or termination of the self-directed option.
- (ii) When there is documentation that a consumer or the consumer's surrogate is no longer able to self-direct their services, chooses to no longer self-direct their services, or does not meet the requirements for the Self-Directed Option, the ISS Agency will terminate the self-directed option. Management and direction of services will then resume with the ISS Agency.
- (iii) Failure to hire an ISS worker within 90 days after completing the training will result in a termination of the self-directed option, provided there is agency staffing available.

- (C) **Other.** Adults at risk of abuse, neglect or exploitation as defined by 22 MRSA ch. 958-A and who are clients of Office of Elder Services' Adult Protective Services program may receive services as necessary to address an emergency and to avoid serious harm. Services for this purpose shall not exceed fifteen (15) percent of Section 69 program funds at any given time.

69.03 Duration of Services

- (A) Office of Elder Services ISS consumers may receive as many covered services as are required up to a maximum of eight (8) hours per month for an individual consumer and up to a maximum of twelve (12) hours per month for two consumers residing in the same household. The Department may adjust the maximum hours per month that may be received by all consumers receiving services under this Section as needed, based on a deficit or surplus in projected utilization of available funds. Office of Elder Services ISS services under this Section requires prior authorization from the Department or its Authorized Agent(s). Beginning and end dates of a consumer's eligibility determination period correspond to the beginning and end dates for Office of Elder Services ISS

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services coverage of the Authorized Plan of Care.

- (B) Services under this Section shall be reduced, denied or terminated by the Department, or the Assessing Services Agency, the ISS Agency, or the Licensed Assisted Living Agency, as appropriate, for one or more of the following reasons:
- (1) The consumer does not meet eligibility requirements;
 - (2) The consumer declines services or is not routinely present for scheduled service visits;
 - (3) The consumer is eligible to receive long-term care benefits under MaineCare including any MaineCare Special Benefits, with the exception of
 - a. individuals eligible for MaineCare Adult Day Health and
 - b. individuals eligible for nursing services as a stand alone benefit under 10-144 CMR Ch. 101 (II), Private Duty Nursing/Personal Care Services;
 - (4) The consumer is a) eligible to receive services under Section 63: In Home and Community Based Support Services or the Consumer-Directed Personal Care Attendant Program (14-197 CMR Chapter 11) ; b) funds and services are available under Section 63; and c) there is a waiting list for services under Section 69;
 - (5) Based on the consumer's most recent assessment, the Authorized Plan of Care is reduced to match the consumer's needs as identified in the reassessment and subject to the limitations of the program;
 - (6) The health or safety of individuals providing services is endangered;
 - (7) Services have been suspended for more than thirty (30) days;
 - (8) The consumer has failed to make his/her calculated monthly co-payment within thirty (30) days of receipt of the co-pay bill;
 - (9) The consumer or authorized representative gives fraudulent information to Department or the Assessing Services Agency or the ISS Agency;
 - (10) There are insufficient funds to continue to pay for services for all current consumers, which results in a change affecting some or all consumers; or
 - (11) The availability of informal or formal supports, including public and private sources, duplicate the services provided under this section.

Notice of intent to reduce, deny, or terminate services under this section will be done in accordance with Section 40.01 of this policy manual.

- (C) **Suspension.** Services may be suspended for up to thirty (30) days. If the circumstances requiring suspension extend beyond thirty (30) days, the consumer's eligibility in the program will be terminated. After services are terminated, a consumer will need to be reassessed by the Assessing Services Agency to determine medical eligibility for services and be subject to the requirements of the waiting list. If the ISS Agency does not become aware until after thirty (30) days of the circumstances requiring suspension, the consumer will be terminated as of the date the ISS Agency verifies the change in status.

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- (D) **Transition to MaineCare.** If an assessment indicates medical eligibility for MaineCare and potential financial eligibility for MaineCare, the consumer and the consumer's authorized representative will be given written notice that the consumer has up to thirty (30) days to file a MaineCare application with the Department. ISS services under this Section will be discontinued if the application is not filed within 30 days or if, after filing, the application requirements are not completed by the consumer within the timeframes required by MaineCare policy. No further written notice of termination is required in order for the termination to be effective once MaineCare eligibility is established and services are in place. Eligibility for ISS services under this Section will continue if MaineCare eligibility is denied.

69.04 Covered Services

Covered services are available for individuals meeting the eligibility requirements set forth in Section 69.02. All covered services require prior authorization by the Department, its Assessing Services Agency, or the ISS Agency consistent with these rules, and are subject to the limits in Section 69.03. The authorized plan of care shall be based upon the consumer's assessment outcome scores recorded on the Department's assessment form, its definitions, and the timeframes specified therein.

Services provided must be required for meeting the identified needs of the consumer, based upon the outcome scores on the assessment form, and as authorized in the plan of care. Coverage will be denied if the services provided are not consistent with the consumer's authorized plan of care. The Department may also recoup payment for inappropriate services provision, as determined through post payment review. The Assessing Services Agency or the ISS has the authority to determine the plan of care, which shall specify all services to be provided, including the number of hours for ISS covered service.

(A) Covered Service Elements

- (1) Routine household care, including sweeping, washing and vacuuming of floors, dusting, cleaning of plumbing fixtures (toilet, tub, sink), appliance care, changing of linens, refuse removal;
- (2) Doing laundry within the residence or outside the home, including washing and drying of clothing and household linens such as sheets, towels, blankets, etc.;
- (3) Meal planning/preparation;
- (4) Shopping, errands, and storage of purchased groceries;
- (5) Chore services including, but not limited to occasional heavy-duty cleaning, raising and lowering of combination screen/storm windows,

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repairs and similar minor tasks to eliminate safety hazards in the environment;

- (6) Incidental personal hygiene, defined as how the person maintains personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, and washing/drying back and feet;
 - (7) Incidental help with dressing that includes how the person puts on, fastens, and takes off all items of clothing;
 - (8) Transportation services necessary to perform covered services described in a consumer's plan of care, such as medical appointments. Reimbursement shall only be made for mileage in excess of ten (10) miles per single trip on a one way trip. Any individual providing transportation must hold valid State of Maine driver's license for the type of vehicle being operated. All providers of transportation services shall maintain adequate liability insurance coverage for the type of vehicle being operated.
- (B) In the event a consumer experiences an unexpected need, the Authorized ISS Agency has the authority to increase the frequency of services under the authorized plan of care, in order to meet the needs, as long as the total authorized hours do not exceed the monthly cap.
- (C) The ISS Agency shall use best efforts to accommodate scheduling requests of the consumer; however, the ISS Agency may take into consideration the geographic location of the consumer as it relates to efficiencies in service delivery when scheduling visits.

69.05 Non Covered Services

The following services are not reimbursable under this Section:

- (1) Rent;
- (2) Services for which the cost exceeds the limits described in Section 69.03;
- (3) Except for services provided by a Licensed Assisted Living Agency as defined in Section 69.01(U), ISS services may not be delivered in a licensed or unlicensed Assisted Living Program; a Residential Care Facility; or a supported living arrangement certified by DHHS for behavioral and development services. It is the responsibility of the Assisted Housing Provider to deliver ISS services;
- (4) Services provided in a hospital or nursing facility;
- (5) Services provided by an Unlicensed Assisted Personnel as defined in 69.01(T) who is prohibited from employment pursuant to 22 MRSA §1717 (3);
- (6) Those services which can be reasonably obtained by the consumer by going outside his/her place of residence.

69.06 POLICIES and PROCEDURES

(A) Eligibility Determination

An initial eligibility assessment, using the Department's approved MED assessment form, shall be conducted by the Department or the Assessing Services Agency. All ISS services require initial eligibility determination and prior authorization by the Assessing Services

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Agency.

- (1) The Assessing Services Agency will accept verbal or written referral information on each prospective new consumer, to determine appropriateness for an assessment. When funds are available, appropriate consumers will receive a face to face medical eligibility determination assessment, at their current residence, within five (5) days of the date of referral to the Assessing Services Agency. All requests for assessments shall be documented indicating the date and time the assessment was requested and all required information provided to complete the request.
- (2) The Assessing Services Agency shall inform the consumer of available community resources and authorize a plan of care that reflects the identified needs documented by scores and timeframes on the MED form, giving consideration to the consumer's living arrangement, informal supports, and services provided by other public funding sources. Office of Elder Services ISS services provided to two consumers sharing living arrangements shall be authorized by the Assessing Services Agency according to limits in Section 69.03(A) and, for more than two consumers sharing living arrangements, with consideration to the economies of scale provided by the group living situation.
- (3) The Assessing Services Agency shall authorize a plan of care based upon the scores and findings recorded in the MED assessment. The covered services to be provided shall not exceed the monthly maximum limit established by Office of Elder Services. The eligibility period for the consumer shall not exceed twelve (12) months.
- (4) The Assessing Services Agency will provide a copy of the Authorized Plan of Care, in a format understandable by the average reader, a copy of the eligibility notice, and release of information to the consumer at the completion of the assessment. The Assessing Services Agency will inform the consumer of the calculated co-payment based on the cost of services authorized.
- (5) The assessor shall forward the completed assessment packet to the Department's authorized ISS Agency or to the appropriate Licensed Assisted Living Agency.

(B) Waiting List

- (1) When units are not available to assess all prospective consumers, the Authorized Assessing Agency will establish a waiting list for assessment. As units become available, consumers will be assessed on a first come, first served basis.
- (2) When units are not available to serve new consumers who have been assessed for eligibility or to increase services to current consumers, the ISS Agency will establish a waiting list for consumers to be served by the ISS Agency and notify the Assessing Services Agency. For consumers on the waiting list, eligibility will be advisory only. As funds become available, consumers will be taken off the waiting list on a first come, first served basis. Eligibility will be established and a plan of care authorized.
- (3) For consumers found ineligible for Office of Elder Services ISS services the Assessing Services Agency will inform each consumer of alternative services or resources, and offer to refer the person to those other services.

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- (4) The ISS Agency will maintain one waiting list for the counties they are authorized to serve.
- (5) The ISS Agency shall review the waiting list monthly for accuracy. Consumer names may be removed from the waiting list at the request of the consumer or if the ISS Agency determines that another funding source is available to the consumer, the consumer cannot be located, or upon the death of the consumer.
- (6) In order to avoid a gap in service, consumers transitioning from a higher level of care from MaineCare Private Duty Nursing/Personal Care Services (Chapter II, Section 96 of the MaineCare Benefits Manual) ; MaineCare Home and Community Based Benefits for the Elderly and for Adults with Disabilities (Chapter II, Section 19 of the MaineCare Benefits Manual); or the State-funded In-home and Community Support Services (Section 63 of the OES Policy Manual) shall be exempt from the waiting list requirements set forth in this Section unless otherwise directed by OES.

(C) Reassessment and Continued Services

- (1) For all consumers under this section, in order for the reimbursement of services to continue uninterrupted beyond the approved classification period, a reassessment and prior authorization of services is required and must be conducted no later than the reassessment date. Office of Elder Services ISS payment ends with the reassessment date, also known as the end date.
- (2) A consumer's specific needs for Office of Elder Services ISS services are reassessed using a form approved by the Department at least every twelve (12) months.
- (3) Reassessments shall be conducted by the ISS Agency using a form approved by the Department unless it appears that a consumer may be eligible for another State funded or MaineCare long term care program, in which case the ISS Agency shall make a referral to the Authorized Assessing Agency. Reassessments of consumers served by a Licensed Assisted Living Agency shall be conducted by the Authorized Assessing Agency and the Licensed Assisted Living Agency is responsible for making a timely referral to the Authorized Assessment Agency requesting reassessment.
- (4) For consumers currently under the appeal process, reassessments will not be conducted except if a Significant Change has occurred and a higher level of care is indicated.

69.07 Professional and Other Qualified Staff

- (A) The ISS Agency shall:
 - (1) Employ staff qualified by training and/or experience to perform assigned tasks and meet the applicable policy requirements.
 - (2) Comply with requirements of 22 MRSA §§3471 et seq. and 22 MRSA §§4011-A through 4018 to report any suspicion of abuse, neglect or exploitation.

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- (3) Pursue other sources of reimbursement for services prior to the authorization of Office of Elder Services ISS services.
 - (4) Operate and manage the program in accordance with all requirements established by rule or contract.
 - (5) Have sufficient financial resources, other than State funds, available to cover any Office of Elder Services ISS services expenditures that are disallowed as part of the Office of Elder Services utilization review process.
 - (6) Inform in writing any consumer with an unresolved complaint regarding their services about how to contact the Long Term Care Ombudsman.
 - (7) Assure that costs to ISS services provided to a consumer in a twelve-month period do not exceed the applicable monthly number of hours established by the Office of Elder Services pursuant to Section 69.03(A).
 - (8) Implement an internal system to assure the quality and appropriateness of ISS services including, but not limited to the following:
 - (a) Consumer satisfaction surveys;
 - (b) Documentation of all complaints, by any party including any resolution action taken; and
 - (c) Measures taken by the Authorized ISS Agent to improve services as identified in (a) and (b).
 - (9) Contact each consumer at least every six months to verify receipt of services, discuss consumer's status, review any unmet needs and provide appropriate follow-up and referral to community resources.
 - (10) Conduct reassessments of ISS consumers.
- (B) The Assessing Services Agency shall implement an internal system to assure the quality and appropriateness of assessments to determine eligibility and authorize ISS services including, but not limited to the following:
- (1) Consumer satisfaction surveys;
 - (2) Documentation of all complaints, by any party including any resolution action taken; and
 - (3) Documentation of measures taken by the Assessing Services Agency to improve services as identified in (1) and (2).

69.08 Consumer Records and Program Reports

- (A) **Content of Consumer Records.** The ISS Agency must establish and maintain a record for every consumer except for those consumers served by a Licensed Assisted Living Agency that includes at least:
- (1) The consumer's name, address, mailing address if different, and telephone number;
 - (2) The name, address, and telephone number of someone to contact in an emergency;

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- (3) Complete medical eligibility determination form and financial assessments and reassessments that include the date they were done and the signature of the person who did them;
 - (4) A Care Plan Summary that promotes the consumer's independence, matches needs identified by the scores and timeframes on the MED form and on the Care Plan Summary on the MED form, with consideration of other formal and informal services provided and which is reviewed no less frequently than semiannually, including the electronic or written signature of the person who determined eligibility and authorized a Plan of Care;
 - (5) A service plan which must be reviewed no less than semiannually by the ISS Agency and includes:
 - (a) Evidence of the consumer's participation;
 - (b) Who will provide what service, when and how often, the reason for the service and when it will begin and end;
 - (6) A dated release of information signed by the consumer that conforms with applicable law, is renewed annually and that:
 - (a) Is in language the consumer can understand;
 - (b) Names the agency or person authorized to disclose information
 - (c) Describes the information that may be disclosed;
 - (d) Names the person or agency to whom information may be disclosed;
 - (e) Describes the purpose for which information may be disclosed; and
 - (f) Shows the date the release will expire;
 - (7) Documentation that consumers eligible to apply for a waiver for consumer payments were notified that a waiver may be available; and
 - (8) Written progress notes that summarize any contacts made with or about the consumer and including:
 - (a) The date the contact was made;
 - (b) The name and affiliation of the person(s) contacted or any discussion about the service plan;
 - (c) Any changes needed and the reasons for the changes in the service plan;
 - (d) The results of contacts or meetings; and
 - (e) The signature and title of the person making the note and the date the entry was made.
- (B) **Program Reports.** The following reports must be submitted by the Authorized ISS Agency to Office of Elder Services, in a format approved by the Office of Elder Services, by the day noted:
- (1) Monthly service and consumer reports including admissions, discharges and active client lists, due no later than twenty days after the end of the month;
 - (2) Quarterly fiscal reports, due no later than twenty days after the end of the month;

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- (3) Other reports as specified in the Department's contract with the Authorized Agents or as requested by the Department.

69.09 RESPONSIBILITIES OF THE OFFICE OF ELDER SERVICES

- (A) **Selection of the Assessing Services Agency and the ISS Agencies.** To select the Assessing Services Agency and the ISS Agency(ies), the Office of Elder Services will request proposals by publishing a notice in Maine's major daily newspapers. The notice will summarize the detailed information available in a request for proposals (RFP) packet and will include the name, address, and telephone number of the person from whom a packet and additional information may be obtained. The packet will describe the specifications for the work to be done.
- (B) **Other Responsibilities of the Office of Elder Services.** The Office of Elder Services is responsible for:
 - (1) Adjusting the monthly maximum hour limit applicable to all consumers as provided in 69.03 (A), at anytime during the fiscal year.
 - (2) Establishing performance standards for contracts with the Authorized Agency/(ies) including but not limited to the numbers of consumers to be served and allowable costs for administration and direct service.
 - (3) Conducting or arranging for quality assurance reviews that will include record reviews and home visits with Office of Elder Services ISS consumers.
 - (4) Providing training and technical assistance.
 - (5) Providing written notification to the Authorized Agencies regarding strengths, problems, violations, deficiencies or disallowed costs in the program and requiring action plans for corrections.
 - (6) Assuring the continuation of services if the Office of Elder Services determines that an Authorized Agency's contract must be terminated.
 - (7) Administering the program directly in the absence of a suitable Authorized Agency.
 - (8) Conducting a request for proposals for Authorized Agencies at least every five years thereafter.
 - (9) At least annually, review randomly selected requests for waivers of consumer payment.
 - (10) Recouping Office of Elder Services ISS program funds from the Authorized Agencies when Office of Elder Services determines that funds have been used in a manner inconsistent with these rules or the Authorized Agencies' contract.

69.10 Consumer Payment

- (A) **Consumer Payment.** Except if they have been granted a waiver, consumers will pay 20% of the cost of services.

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- (B) **Waiver of Consumer Payment** Consumers will be informed that they may apply for a waiver of all or part of the assessed payment when:
- (1) Monthly income of household members, as defined in Sections 69.01 (K) and 69.01 (L) is no more than 200% of the federal poverty level; and
 - (2) Allowable expenses, as defined in Section 69.01(H & I), plus the consumer payment would exceed the sum of monthly income. The ISS Agency or the Licensed Assisted Living Agency may require the consumer and his/her spouse to produce documentation of income.
 - (3) Calculation of the waiver of the consumer payment will be completed by the Authorized ISS Agent or the Licensed Assisted Living Agency following the process described in Section 63.12.