

# Legally Responsible Individuals as Caregivers

May 2024

# Legally Responsible Individuals (LRI)

**Legally Responsible Individuals (LRI)** are defined as “a person who has a duty under State law to care for another person.”

- This may include:
  - ✓ the parent (biological or adoptive) of a minor child;
  - ✓ the guardian of a minor child who must provide care to the child;
  - ✓ or the spouse of a member.

# LRI Requests

The request to employ an LRI as a caregiver to provide Personal Care Services (PCS) must be made by the PCS agency with the member and or their LRI input and permission. If determined an LRI is needed to provide the services, the PCS agency will submit required paperwork to the BCBSNM Utilization Management (UM) team for requested approval.

# When should an LRI be the paid caregiver?

- An LRI can be hired as a paid caregivers under extraordinary circumstances, which include:
  - the inability to find and retain other qualified, suitable caregivers when the parent/guardian/spouse (LRI) would absent from the home and, thus, the LRI must stay at home to ensure the member's health and safety and to avoid institutionalization.
- This should be discussed as a last resort between the PCS agency and the member.
- If a member expresses interest, the Care Coordinator will educate the member that this is a last resort, and next steps should be discussed with the PCS agency.
- The Care Coordinator may advise the agency that the member has expressed interest in the LRI as a caregiver.

# Initiating an LRI Request

# Process

- Agencies complete the [“Request for Services by a Legal Responsible Individual”](#) form.
- The Legally Responsible Individual Request Form must include the following:
  - All attempts** to employ qualified caregivers or locate other available resources in the community when the LRI would be absent from the home, thus, the LRI must stay at home to care for the member to ensure the member’s health and safety.
  - The **challenges** the member and/or PCS provider have encountered in attempting to successfully provide non-LRI caregivers.
  - The **special needs/extraordinary circumstances** the member has that require the LRI to provide personal care service(s).
  - The **special skills or abilities** the LRI has that meet the member’s unique needs and will help ensure the member is safe in their home. (LRIs hired as caregivers must meet employment qualifications and training requirements of the PCS agency and cannot be the paid caregiver until approved by the MCO)
  - The **specific job duties or tasks** is the LRI requesting to provide. (The caregiver cannot be paid for any task that is provided for all members of the household)
  - LRI approval must be **renewed annually**

# Submitting an LRI Request

- PCS agencies must submit the LRI Request form to [pcs@bcbsnm.com](mailto:pcs@bcbsnm.com).
- The Utilization Management (UM) team will review the request and determine if a LRI is approved within **seven business days of receiving** the request.
  - BCBSNM will return the request to the PCS agency notated with approval if the request is accepted. The Care Coordinator will be notifying the member of the decision; however, the PCS agency should also communicate this to the member.
  - The member and PCS agency will receive a **denial letter** if BCBSNM doesn't approve the request and the PCS agency will receive a call from the UM team within 24 hours of the denial determination.
    - Once an LRI request has been denied by the Medical Director, the provider will need to follow the **appeal process** (*do not resubmit for re-review*).

If further documentation is needed, the UM team will make two outreach attempts during the seven business days. If the required documentation is not received timely, the request may be denied by the MCO medical director.

# Service Approval vs LRI Approval

The service approval (authorization) is not dependent on the LRI approval, and vice versa.

- **IF services are approved** but the LRI is not, the agency should continue to provide the approved service to the member.
- **IF the LRI is approved** prior to the services, this does not indicate the services will be approved.



# Example of Approved LRI Request

1. Tell us what has been done to find other qualified, suitable providers.

Client has reached out to additional family members. Friends and Family are unable to be the caregiver at this time. Friends and families schedule do not work with Dorothy. At this time Dorothy is unable to find suitable caregivers that she trust. Dorothy wants her husband to be the caregiver, she is fragile and does not want anyone handling her.

2. What special needs/extraordinary circumstances do you have that require the LRI to provide personal care service(s) that will keep you safe in your home?

Husband is with Dorothy at all times. Husband knows Dorothy's daily routine. Dorothy is fragile, Husband helps Dorothy walk at all times to prevent Dorothy from falling.

# Example of Denied LRI Request

**1. Tell us what has been done to find other qualified, suitable providers.**

Agency has offered the member an agency caregiver.

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**2. What special needs/extraordinary circumstances do you have that require the LRI to provide personal care service(s) that will keep you safe in your home?**

The member feels more safe and comfortable with his wife. She is very knowledgeable of all his needs and is experience and trained to perform all duties needed.

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# Additional Requirements

- BCBSNM approval must be received before the LRI begins to provide services.
- LRIs require approval on an annual basis.
- LRIs must meet the same requirements as other caregivers including employment qualifications and training standards.
- Services provided by LRIs must meet the definition of a covered service and be specified in the member's approved care plan.
- Agencies must have discussions with the member regarding the LRI and determine if it is necessary.
- If agencies have questions or need clarification about the LRI Process, please reach out to your assigned [BCBSNM Provider Relations Representative](#).

# What is the Care Coordinators Role?

# Care Coordination

If the LRI is brought up by the member to the Care Coordinator, the Care Coordinator will educate the member that the LRI is the last resort and to contact their PCS agency to discuss further.

The Care Coordinator will educate the member on the following:

- The PCS agency must obtain prior approval in writing by BCBSNM's Utilization Review Team prior to employing the LRI.
- The caregiver cannot be paid for any task that is provided for all members of the household.
- LRIs hired as caregivers must meet employment qualifications and training requirements of the PCS agency and cannot be the paid caregiver until approved by the MCO.
- If approved, the LRI must be renewed and approved annually.

# Resources

# Additional Resources and Information

- [LOD # 108: Expanded allowances for Legally Responsible Individuals \(LRI\) as paid Caregivers; Legally Responsible Individuals as Caregivers](#)
- [BCBSNM New Process Regarding Legally Responsible Individuals as Caregivers](#)  
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