CHAPTER 532 PRIVATE DUTY NURSING (PDN)

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BACKGROUND

Private Duty Nursing is supportive to the care provided to the member by the member's family, foster parents, and/or delegated caregivers, as applicable. Nursing services shall be based on medical necessity. Increases or decreases in the level of care and number of hours or visits authorized shall be based on a change in the condition of the member, limitation of the program, and the ability of the family, foster parents, or delegated caregivers to provide care.

POLICY

532.1 MEDICAL NECESSITY REVIEW AND PAYMENT AUTHORIZATION FOR PRIVATE DUTY NURSING

Private Duty Nursing (PDN) Services for eligible Medicaid and Children with Special Health Care Needs (CSHCN) Program members are subject to the same prior authorization medical necessity requirements. Coverage for PDN services is limited to eligible members under 21 years of age (through the age of 20). The West Virginia Medicaid Program has contracted with a Utilization Management Contractor (UMC) to review for PDN. All PDN services (procedure code T1000) provided to children participating in CSHCN Program (Title V) and Medicaid members under age 21 years will require prior authorization from the UMC.

532.2 SCREENING CRITERIA AND SERVICE REQUIREMENTS FOR PRIVATE DUTY NURSING SERVICES

All of the following information is required and must be submitted to the UMC within seven working days prior to the start of care date and recertification dates

A. Physician (MD or DO) or Advanced Practice Registered Nurse (APRN) Plan of Care (signed and dated) must include all of the following information on the CMS 485 form:
   1. Diagnosis and procedure;
   2. Medical history;
   3. Prognosis (include specific expectations for the member's diagnosis and condition);
   4. Approximate length of time PDN services will be needed;
   5. Medical justification for services requested, including orders;
   6. Documentation that the member is medically stable, except for acute episodes that PDN can manage.

B. Nursing Plan of Care must include all of the following information on the CMS 485 form:
   1. Proposed start of care date;
   2. International Classification of Diseases (ICD) diagnosis and procedures codes;
   3. Justification for skilled nursing services eight hours or more in a 24 hour period;
   4. Description of needs must include interventions, measurable objectives and short and long term goals with timeframes;
   5. Medications new or changed including dose, frequency and route;
   6. Technology dependent:
      a. Ventilator dependent and one of the following: (1 or 2)

1) Mechanical ventilator support is necessary for at least eight hours per day and not at maintenance level; or
2) Oxygen supplementation for ventilator dependent members at or below an inspired fraction of 40% (FI02 of 0.40).

NOTE: All clinical documentation including the medication list must be from the Physician or APRN, not from the family/caregiver.

PHYSICIAN/APRN REVIEW REQUIRED FOR:

- **Ventilator dependent:** if indicators above (6a1 or 6a2) are not met and member also requires one or more of the following indicators below (6b, 6c, 6d or 6e)

- **Non-ventilator dependent:** if one or more indicators below (6b, 6c, 6d or 6e) are required

b. Non-ventilator: Tracheostomy care requires documentation of site appearance, type/frequency of wound care/dressing changes and description of any drainage around site. Also, record frequency of suctioning, including amount, color, consistency of secretions;
c. Oxygen: documentation required concerning rapid desaturation without oxygen;
d. Tube feedings: (NG tube, G-tube and J-tube) requires type and frequency of product given. Also include bolus feeding or continuous infusion via pump;
e. Intravenous Infusions: Intravenous infusions, including Total Parenteral Nutrition (TPN), medications, and fluids require documentation of type of line, site, dose, frequency, and duration of infusion. Also record gravity or pump installation.

7. Rehabilitation potential including functional limitations related to Activities of Daily Living (ADLs), types/frequency of therapies, and activity limitations per physician order;
8. Member is residing in a home environment;
9. Social History: number, names, and relationship of family members to the member. List the family or foster family/in-home caregivers that are trained to care for the member with supplement of PDN and other health professionals;
10. Record the family's community support system and any transportation equipment;
11. Describe teaching, delegation, assignment of care and availability of PDN;
12. Equipment and supplies necessary for the member's care;
13. Acuity and Psychosocial Grid available on the PDN webpage with score meeting one of the following (13a, 13b, 13c, or 13d):

a. 61 points and above: up to 24 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition;
b. 50-60 points: up to 16 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition;
c. 40-49 points: up to 12 hours per day immediately after discharge from a hospital or if there is a significant worsening or decline of condition;
d. 30-39 points: eight hours per day, if the score is 24 or above on the Psychosocial Grid in conjunction with the 30-39 points on the Acuity Grid.

NOTE: Physician/APRN review is required if the information on the Acuity is less than 30 or the Psychosocial Grid does not support the other clinical information provided.

THE PLAN OF CARE AND NURSING NOTES MUST ALSO BE MAINTAINED IN THE MEMBER'S HOME.

14. Family or Foster Family/in-home caregiver must require **all of the following** (14a, 14b, and 14c):
    a. Family must have at least one person trained and fully able to care for the member in the home. Documentation of the demonstration by family or foster family/in-home caregiver of specific skills, including Cardiopulmonary Resuscitation (CPR) instruction and certification. A ventilator dependent member requires the availability of two or more trained caregivers;
    b. Family or foster family/in-home caregiver ability to maintain a safe home environment, including an emergency plan;
    c. Family or foster family/in-home caregiver will work toward maximum independence, including finding and using alternative resources as appropriate.
15. Home environmental must require **all of the following** (15a, 15b, 15c, 15d, 15e,and 15f):
    a. Adequate electrical power including back-up power system;
    b. Adequate space for equipment and supplies;
    c. Adequate fire safety and adequate exits for medical and other emergencies;
    d. Clean environment to the extent that the member's life and health is not at risk
    e. Working telephone (e.g. landline, cell, or 911 phone) maintained in the home and available 24 hours a day;
    f. Notification to power companies, fire department, and other pertinent agencies of the presence of a special needs person in the household, to ensure appropriate response in case of power outage or other emergency.

532.3 SIGNIFICANT CHANGES IN CONDITION

Comprehensive assessments must be updated and submitted to the Utilization Management Contractor (UMC) Nurse Reviewer by the next workday after any significant change of condition, (e.g., emergency room visit, hospital admission), any change in status that will increase or decrease services. Also notify the UMC Nurse Reviewer if the member expires or is discharged from PDN services.

532.4 EXTENSION OF SERVICES

At least seven working days prior to the expiration of current authorization, all of the following must be submitted to the UMC for review:

A. Daily nursing notes from past 30 days; documentation of Private Duty shift care must be written at least every hour on the nursing notes and must include all of the following:
    1. Name of member on each page of documentation;
    2. Date of service;
    3. Time of start and end of service delivery by each caregiver;
    4. Anything unusual from the standard plan of care must be explained on the narrative;

5. Interventions;
6. Outcomes including in the member/family's response to services delivered;
7. Nursing assessment of the member's status and any changes in that status per each working shift;
8. Full signature of the private duty nurse;

B. Updated plan of care, including new goals and objectives outlined;
C. Updated medical and social information;
D. Progress reports, including the member's potential for discharge with timeframes;
E. Physician's (MD or DO) or APRN orders for service must be dated within 7 days prior to the date of request;
F. Recent, significant clinical findings from physician;
G. Current (within seven working days) completed Acuity Grid;
H. Documentation of delegation, teaching, and assignment of care.

532.4.1 EARLY and PERIODIC SCREENING, DIAGNOSIS, and TREATMENT (EPSDT)

Any services identified through any EPSDT screening that are conducted by a PDN provider that are medically necessary are covered for members up to 21 years of age (through the age of 20). Please refer to *Chapter 400, Member Eligibility* for additional information on the EPSDT program.

To obtain authorization for services that have been identified as a result of the EPSDT exam that are not covered in the benefit package, or for service limitations that have been previously met, the service provider must provide the medical documentation for the service requested and fax to the attention of BMS' Utilization Management Contractor (UMC). The UMC contact information can be found on the PDN website. For those enrolled in a Managed Care Organization (MCO), the respective member's MCO must be contacted.

532.4.2 SERVICES TO WAIVER MEMBERS UNDER 21 YEARS OF AGE

Individuals with Intellectual and/or Developmental Disabilities Waiver (IDDW), Aged and Disabled Waiver (ADW), and Traumatic Brain Injury Waiver (TBIW) members under the age of 21 are eligible to receive private duty nursing services. The following circumstances apply to services for those members:

1. There is no duplication of waiver services;
2. Requests for PDN services to the UMC includes waiver experience and relevant services;
3. PDN services are evaluated in the context of the plan of care developed by the Waiver Team.

532.5 PROGRAM EXCLUSIONS FOR MEMBERS

PRIVATE DUTY NURSING SERVICES ARE NOT BILLABLE IN THE FOLLOWING SITUATIONS:

1. PDN services for members 21 years of age or older,
2. Member is residing in a nursing facility, hospital, residential care facility, intermediate care facility for developmental disabilities (ICF/IID) or personal care home at the time of delivery of PDN services;
3. Care solely to allow the member's family or caregiver to work or go to school;

4. Care solely to allow respite for caregivers or member's family;
5. Care at maintenance level;
6. Only the agency authorized to provide the PDN services can bill. If the agency finds it necessary to subcontract services due to staffing needs, the services provided by the subcontractor are not reimbursable by Medicaid;
7. Dual (2) PDN Providers rendering services to a member on the same date(s) of service (duplication of services);
8. WV PDN services out of state – **Note: WV is not a Nurse Licensure Compact Administration (NLCA) participating state** (see definitions section).

532.6 APPEALS PROCESS/FAIR HEARING

1. If the UMC denies prior authorization for PDN services, a reconsideration request with additional supportive documentation may be submitted to the UMC;
2. Failure to prior authorize will result in denial of the hearing request;
3. The member or provider may submit an appeal request to BMS upon receipt of the prior authorization denial;
4. A request for retrospective review is available for members with back dated medical cards and/or primary insurance denials. Please refer to *Chapter 400, Member Eligibility*.

532.7 BILLING PROCEDURES

PRIVATE DUTY NURSING SERVICE BILLING REQUIREMENTS AS FOLLOWS:

1. Claims from providers must be submitted on the BMS designated form or electronically transmitted to the BMS fiscal agent and must include all information required by BMS to process the claim for payment;
2. Claims must be filed on a timely basis, i.e., filed within 12 months from date of service, and a separate claim must be completed for each individual member;
3. All claims must be billed using the CMS 1500 or the equivalent electronic format;
4. For Members who have other insurance coverage, a denial letter must be submitted from the primary insurer in order to bill Medicaid for services;

NOTE: No other party is financially liable for PDN services (e.g. motor vehicle insurance).

532.8 CRIMINAL BACKGROUND CHECKS

532.8.1 PRE-SCREENING

All direct access personnel will be prescreened for negative findings by way of an internet search of registries and licensure databases through the Department's designated website, WV Clearance for Access: Registry & Employment Screening (WV CARES).

"Direct access personnel" is defined as an individual who has direct access by virtue of ownership, employment, engagement, or agreement with a covered provider or covered contractor. Direct access

personnel does not include volunteers or students performing irregular or supervised functions, or contractors performing repairs, deliveries, installations or similar services for the covered provider.

If the applicant has a negative finding on any required registry or licensure database, the applicant will be notified, in writing, of such finding. Any applicant with a negative finding on any required registry or licensure database is not eligible to be employed.

Negative findings that would disqualify an applicant in the WV CARES Rule:

1. State or federal health and social services program-related crimes;
2. Patient abuse or neglect;
3. Health care fraud;
4. Felony drug crimes;
5. Crimes against care-dependent or vulnerable individuals;
6. Felony crimes against the person;
7. Felony crimes against property;
8. Sexual Offenses;
9. Crimes against chastity, morality and decency, and
10. Crimes against public justice.

532.8.2 FINGERPRINTING

If the applicant does not have a negative finding in the prescreening process, and the entity or independent health contractor, if applicable, is considering the applicant for employment, the applicant must submit to fingerprinting for a state and federal criminal history record information check and may be employed as a provisional employee not to exceed 60 days subject to the provisions of this policy.

Applicants considered for hire must be notified by the hiring entity that their fingerprints will be retained by the State Police Criminal Identification Bureau and the Federal Bureau of Investigation to allow for updates of criminal history record information according to applicable standards, rules, regulations, or laws.

532.8.3 EMPLOYMENT FITNESS DETERMINATION

After an applicant's fingerprints have been compared with the state and federal criminal history record information, the State Policy will notify WV CARES of the results for the purpose of making an employment fitness determination.

If the review of the criminal history record information reveals the applicant does not have a disqualifying offense, the applicant will receive a fitness determination of "eligible" and may be employed.

If the review of the criminal history record information reveals a conviction of a disqualifying offense, the applicant will receive a fitness determination of "not eligible" and may not be employed unless a variance has been requested or granted.

The hiring entity will receive written notice of the employment fitness determination. Although fitness determination is provided, no criminal history record information will be disseminated to the applicant or hiring entity.

A copy of the applicant's fitness determination must be maintained in the applicant's personnel file.

532.8.4 PROVISIONAL EMPLOYEES

Provisional basis employment for no more than 60 days may occur when:

1. An applicant does not have a negative finding on a required registry or licensure database and the employment fitness determination is pending the criminal history record information; or

2. An applicant has requested a variance of the employment fitness determination and a decision is pending.

All provisional employees shall receive direct on-site supervision by the hiring entity until an eligble fitness determination is received.

The provisional employee, pending the employment fitness determination, must affirm, in a signed statement, that he or she has not committed a disqualifying offense, and acknowledge that a disqualifying offense shall constitute good cause for termination. Provisional employees who have requested a variance shall not be required to sign such a statement.

532.8.5 VARIANCE

The applicant, or the hiring entity on the applicant's behalf, may file a written request for a variance of the fitness determination with WV CARES within 30 days of notification of an ineligible fitness determination.

A variance may be granted if mitigating circumstances surrounding the negative finding or disqualifying offense is provded, and it is determined that the individual will not pose a danger or threat to residents or their property.

Mitigating circumstances may include:

1. The passage of time;
2. Extenuating circumstances such as the applicant's age at the time of conviction, substance abuse, or mental health issues;
3. A demonstration of rehabilitation such as character references, employment history, education, and training; and
4. The relevancy of the particular disqualifying information with respect to the type of employment sought.

The applicant and the hiring entity will receive written notification of the variance decision within 50 days of receipt of the request.

532.8.6 APPEALS

If the applicant believes that his or her criminal history record information within the State of West Virginia is incorrect or incomplete, he or she may challenge the accuracy of such information by writing to the State Police for a personal review.

If the applicant believes that his or her criminal history record information from outside the State of West Virginia is incorrect or incomplete, he or she may appeal the accuracy of such information by contacting the Federal Bureau of Investigation for instructions.

If the purported discrepancies are at the charge of final disposition level, the applicant must address this with the court or arresting agency that submitted the record to the State Police.
The applicant shall not be employed during the appeal process.

532.8.7 RESPONSIBILITY OF THE HIRING ENTITY

Monthly Registry Rechecks – The WV Cares system will provide monthly rechecks of all current employees against the required registries. The hiring entity will receive notification of any potential negative findings. The hiring entity is required to research each finding to determine whether or not the potential match is a negative finding for the employee. The hiring entity must maintain documentation establishing no negative findings for current employees. Note: This includes the Office of Inspector General List of Excluded Individuals and Entities (OIG LEIE) check.

532.8.8 RECORD RETENTION

Documents related to the background checks for all direct access personnel must be maintained by the hiring entity for the duration of their employment. These documents include:

1. Documents establishing that an applicant has no negative findings on registries and licensure databases;
2. The employee's eligibile employment fitness determination;
3. Any variance granted by the Secretary, if applicable, and
4. For provisional employees, the hiring entity shall maintain documentation that establishes that the individual meets the qualifications for provisional employment.

Failure of the hiring entity to maintain state and federal background check documentation that all direct access personnel are eligible to work, or employing an applicant or engaging an independent contractor who is ineligible to work may subject the hiring entity to civil money penalties.

532.8.9 CHANGE IN EMPLOYMENT

If an individual applies for employment with another long-term care provider, the applicant is not required to submit to fingerprinting and a criminal background check if;

1. The individual previously submitted to fingerprinting and full state and federal criminal background check as required by this policy;
2. The prior criminal background check confirmed that the individual did not have a disqualifying offense;
3. The individual received prior approval from the Secretary to work for or with the health care facility or independent health contractor, if applicable; and
4. No new criminal activity that constitutes a disqualifying offense has been reported.

The WV CARES system retains all fitness determinations made for individuals.

532.9 RECOVERY OF OVERPAYMENTS

Overpayments identified through review of claims data or audits are subject to recovery.

Employment of an individual with one or more sanctions, license restrictions, or criminal convictions will result in recoupment of monies paid for services provided during the applicable period or post-conviction date.

Ensure that all required documentation is maintained at the agency on behalf of the State of West Virginia and accessible for state and federal audits.

532.10 HOW TO OBTAIN INFORMATION

Please refer to the Private Duty Nursing website.

Private Duty Nursing Approved Forms
http://www.dhhr.wv.gov/bms/Programs/PDN/Pages/Manual-and-Forms.aspx

All forms may be photocopied.

Program Contact Information
http://www.dhhr.wv.gov/bms/Programs/PDN/Pages/Program-Contact-Information.aspx

GLOSSARY

Definitions in *Chapter 200, Definitions and Acronyms* apply to all West Virginia Medicaid services, including those covered by this chapter. Definitions in this glossary are specific to this chapter.

Activities of Daily Living (ADLs): activities usually performed in the course of a normal day in a member's life, such as eating, dressing, bathing and personal hygiene, mobility, and bowel and bladder control.

Admission: acceptance of the member into the private duty nursing program contingent upon meeting the criteria.

Family or Foster Family/in-home Caregiver: any person who assumes a portion of the member's nursing care in the home when Private Duty Nursing staff is not present. Family or Foster/in-home caregivers may live in the member's home, or may come to the member's home to provide care.

Initial Hospital Discharge: first hospital discharge that occurs after the member's birth or the first hospital discharge after the onset of the condition that resulted in the need for Private Duty Nursing.

Length of Time: assignment of time for authorization of private duty services not to exceed 60 calendar days.

Maintenance Care: level of care needed when the goals and objectives of the care plan are reached and the condition of the member is stable/predictable. Example: For the mechanical ventilated member, stable condition will be evidenced by ability to clear secretions from tracheostomy, vital signs stable, blood gases stable with oxygen greater than 92% and the pulse oximetry greater than 92%, the plan of care does not require the skills of a licensed nurse in continuous attendance, or the member, family, foster parents, or caregivers have been taught and have demonstrated the skills and abilities to carry out the plan of care.

Nurse Licensure Compact Administration (NLCA) – an Act passed by the United States Congress in January 2000 that permits a nurse licensed in one "home" compact state to practice in a participating compact state without seeking an additional nursing license. **NOTE - WV is not an NLCA participating state.** If the nurse intends to render services in a West Virginia physical location, a valid West Virginia nurse license is required**.**

Physician Assured Access System (PAAS): a program that enrolls and assigns Medicaid members to a primary care provider (PCP) who provides, coordinates, and/or authorizes all medically necessary services.

Plan of care: written instructions detailing services the member will receive. The plan is initiated by the Private Duty Nurse or nursing agency with input from the prescribing physician.

Private Duty Nursing: face-to-face skilled nursing that is more individualized and continuous than the nursing that is available under the home health benefit or routinely provided in a hospital or nursing facility.

Referring Provider: a doctor of medicine (MD), osteopathy (DO) or Advanced Registered Nurse Practitioner (APRN) who must be a West Virginia Medicaid enrolled provider.

Re-hospitalization: any hospital admission that occurs after the initial hospitalization as defined above.

Respite: short term or intermittent care and supervision in order to provide an interval of rest or relief to family or caregivers.

Skilled Nursing: services provided under the licensure, scope and standards of the West Virginia Nurse Practice Act, by a Registered Nurse (RN) under the direction of a physician, or a Licensed Practical Nurse (LPN) under the supervision of a Registered Nurse and the direction of a physician.

CHAPTER 532 PRIVATE DUTY NURSING (PDN)

REFERENCES

West Virginia State Plan references Private Duty Nursing Services at sections 3.1-A(8), 3.1-B(8), and supplement 2 to attachments 3.1-A and 3.1-B(8).

CHANGE LOG

REPLACE	TITLE	EFFECTIVE DATE
Entire Chapter	Private Duty Nursing	September 15, 2015
532.2,B	Screening Criteria and Service Requirements For Private Duty Nursing Services	December 21, 2016
535.5	Program Exclusions for Members	December 21, 2016
532.6	Appeals Process/Fair Hearing	December 21, 2016
532.7	Billing Procedures	December 21, 2016
532.8	Criminal Background Checks	December 21, 2016
Glossary	Glossary	December 21, 2016