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# 42 U.S. Code § 1396t

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## Home and community care for functionally disabled elderly individuals

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### **(a) “Home and community care” defined**

In this subchapter, the term “home and community care” means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, furnished in accordance with an individual community care plan (established and periodically reviewed and revised by a qualified community care case manager under subsection (d)):

- (1) Homemaker/home health aide services.
- (2) Chore services.
- (3) Personal care services.
- (4) Nursing care services provided by, or under the supervision of, a registered nurse.
- (5) Respite care.
- (6) Training for family members in managing the individual.
- (7) Adult day care.
- (8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).
- (9) Such other home and community-based services (other than room and board) as the Secretary may approve.

### **(b) “Functionally disabled elderly individual” defined**

#### **(1) In general**

In this subchapter, the term “functionally disabled elderly individual” means an individual who—

- (A) is 65 years of age or older,
- (B) is determined to be a functionally disabled individual under subsection (c), and
- (C) subject to section 1396a(f) of this title (as applied consistent with section 1396a(r)(2) of this title), is receiving supplemental security income benefits under subchapter XVI (or under a State plan approved under subchapter XVI) or, at the option of the State, is described in section 1396a(a)(10)(C) of this title.

#### **(2) Treatment of certain individuals previously covered under a waiver**

- (A) In the case of a State which—
  - (i) at the time of its election to provide coverage for home and community care under this section has a waiver approved under section 1396n(c) or 1396n(d) of this title with respect to individuals 65 years of age or older, and
  - (ii) subsequently discontinues such waiver, individuals who were eligible for benefits under the waiver as

of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for home and community care under the plan shall, notwithstanding any other provision of this subchapter, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

(B) In the case of a State which used a health insuring organization before January 1, 1986, and which, as of December 31, 1990, had in effect a waiver under section 1315 of this title that provides under the State plan under this subchapter for personal care services for functionally disabled individuals, the term “functionally disabled elderly individual” may include, at the option of the State, an individual who—

(i) is 65 years of age or older or is disabled (as determined under the supplemental security income program under subchapter XVI);

(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1396a(a)(10)(A)(ii)(V) of this title.

### **(3) Use of projected income**

In applying section 1396b(f)(1) of this title in determining the eligibility of an individual (described in section 1396a(a)(10)(C) of this title) for medical assistance for home and community care, a State may, at its option, provide for the determination of the individual’s anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

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