

## **Paid Family Caregivers - Attendant Care and Structured Family Care on the Aged & Disabled and Traumatic Brain Injury Waiver Beginning July 1, 2024**

### **Caregiver Relationship Guidance and Allowance of Legally Responsible Individuals**

FSSA is sharing additional information and guidance related to the transition from Legally Responsible Individuals (LRIs - parent of minor child or spouse) providing paid care to their minor child or spouse through the Attendant Care service by July 1, 2024. This document outlines who will be able to provide the Attendant Care and Structured Family Caregiving services beginning in July of 2024 under the Health & Wellness, Traumatic Brain Injury and PathWays waivers. LRIs approved (“active status”) for attendant care initiated by 1/17/2024 are approved to continue to provide attendant care until July 1, 2024. Waiver care managers can be consulted to find out what status a service plan was in on 1/17/24.

This language has been fully incorporated into these waivers.

### **Allowable Care Provision on Health & Wellness Waiver and PathWays Beginning July 2024**

#### **Providing a Service to a Minor Child on Health & Wellness Waiver Beginning July 1, 2024**

- Under the H&W waiver, individuals with the following relationship to the minor may provide approved hours of attendant care so long as they are not the parent:
  - Stepparent
  - Other Relatives
- Individuals with the following relationship to the minor may provide structured family care:
  - Biological or Adoptive Parent (LRI)
  - Guardian of a Minor Child
  - Stepparent of Minor Child
  - Spouse of Waiver Recipient (LRI)
  - Other Relatives
- **Beginning in July 2024, parents of minor children (biological or adoptive), spouses, and legal guardians of a minor child may NOT provide attendant care.**

## **Providing Services to an Adult on Health & Wellness and PathWays Waivers Beginning July 1, 2024**

- Individuals with the following relationship to the adult may provide approved hours of attendant care:
  - Biological or Adoptive Parent (who is not a Guardian or Power of Attorney (POA))
  - Stepparent of an Adult (who is not a Guardian or POA)
  - Non-parent or Stepparent POA or Attorney-in-Fact
  - Authorized Medicaid Representative and Authorized Representative for Social Security
  - Health Care Representative (non-LRI)
  - Other Relatives
- Individuals with the following relationship to the adult may provide up to 40 hours of attendant care per week:
  - Legal Guardian, including parents who are also the designated guardian - Can provide up to 40 hours per week per guardian, additional authorized hours could be provided by other attendant(s) staff.
- **Beginning in July 2024, a spouse may NOT provide attendant care**
- Under the PathWays and Health & Wellness Waiver, individuals with the following relationship to the adult may provide structured family care:
  - Spouse of waiver recipient
  - Guardian of an Adult
  - Biological or Adoptive Parent of an
  - Stepparent of an Adult
  - Power of Attorney (POA) or Attorney-in-Fact
  - Authorized Medicaid Representative and Authorized Representative for Social Security,
  - Health Care Representative (non-LRI)
  - Other Relatives

A table is provided at the end of this document summarizing the above guidance.

### **FAQs**

#### **What is considered a legal guardian?**

Guardian is defined in [Indiana Code 29-3-1-6](#).

#### **Can a Power of Attorney (POA) or Attorney in Fact serve as a paid caregiver under attendant care or structured family care?**

Yes. POAs can provide paid family care under attendant care and under structured family care when the waiver recipient and POA or Attorney in Fact are living together.

#### **What is the impact of serving as a POA or Health Care Representative?**

Holding POA or serving as Health Care Representative does not on its own prevent you from providing attendant care.

**Can an LRI provide paid services under Participant Directed Attendant Care and Participant Directed Home Care services (self-direction)?**

No. Under Indiana Code 12-10-17.1-10(b), LRIs are prohibited from receiving compensation for providing self-directed attendant care services.

For information regarding Home Health, please visit the [Provider](#) and [Family](#) SFC FAQs.

**Summary Relationship Table** (please see above for detailed information)

<b><u>Allowable Care Provision Health &amp; Wellness &amp; PathWays Traumatic Brain Injury</u></b>			
<b><u>Waivers Effective 7/1/24</u></b>			
<b>Relationship</b>	<b>Attendant Care (Yes/No)</b>	<b>Structured Family Care (Yes/No)</b>	<b>Home and Community Assistance (HCA) Services (Yes/No)</b>
Biological or Adoptive Parent – of Minor Child (LRI)	No	Yes	No
Legal Guardian of a Minor Child	No	Yes	No
Foster Parent	No	Yes	No
Stepparent of Minor Child (Relative)	Yes	Yes	Yes
Spouse of Waiver Recipient (LRI)	No	Yes	No
Legal Guardian of Adult (18+ years)	Yes - Can provide up to 40 hours per person per week; additional authorized hours provided by other attendant staff	Yes	No
Biological or Adoptive Parent of an Adult (who is not a Guardian or POA)	Yes	Yes	Yes
Stepparent of an Adult (who is not a Guardian or POA)	Yes	Yes	Yes
Authorized Medicaid Representative and Authorized Representative for Social Security,	Yes	Yes	Yes

Health Care Representative (non-LRI)	Yes	Yes	Yes
Other Relatives (of an Adult or Minor Child)	Yes	Yes	Yes