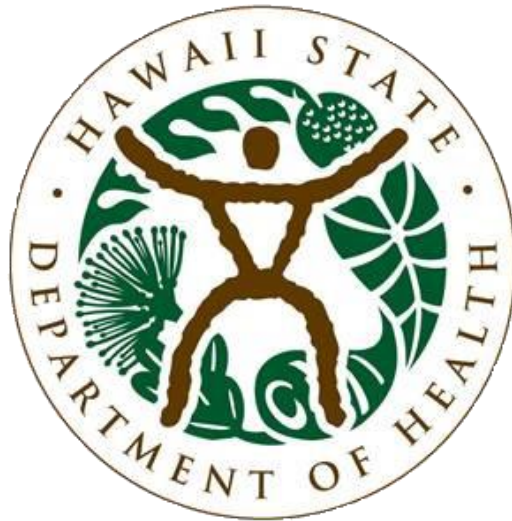


Consumer-Directed Option



Overview and Requirements Handbook

**For the Medicaid Home and Community-Based Services for
Persons with Intellectual and Developmental Disabilities
(I/DD) Waiver**

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INTRODUCTION

The Hawaii State Department of Health (DOH) Developmental Disabilities Division (DDD) operates the Medicaid §1915(c) Home and Community-Based Services for Persons with Intellectual and Developmental Disabilities (I/DD) Waiver (hereafter referred to as the Medicaid Waiver). This Medicaid Waiver offers a consumer-directed (CD) option in which you can employ workers to provide you with Personal Assistance/Habilitation (PAB), Community Learning Services, Respite, and Chore. A CD Non-Medical Transportation service is anticipated to be available in the summer of 2018.

The CD option also provides you with budget authority to make decisions over how dollars are spent for your services. This includes setting your employee's hourly wages and moving funds between CD services.

Your DDD case manager can provide you with basic information on the CD option. If you decide to enroll in the CD option or want additional information, your DDD case manager will refer you to Acumen, the contractor for Financial Management Services (FMS). Acumen will meet with you to explain the CD option and help you understand and manage your responsibilities as an employer of your workers.

This Employer Handbook gives you important information about the CD option and the requirements for participation.

TERMS AND DEFINITIONS

Budget Authority: The participant or employer has decision-making authority over how the Medicaid waiver consumer-directed budget is spent. This means a participant has the authority to make decisions within a specified CD budget on the amount and frequency of services, and the hourly pay of the CD employee for each CD service.

Case Manager: This is an employee of the Developmental Disabilities Division who provides case management services for eligible persons with Intellectual or Developmental Disabilities.

CMS or Centers for Medicare and Medicaid Services: CMS is the federal agency within the U.S. Department of Health and Human Services that reviews and approves the Medicaid Waiver.

Consumer-Directed (CD) Option: Participants, or their designated representatives if applicable, have decision-making authority over certain services and take direct responsibility to manage their services with the assistance of the Financial Management Services agent. The consumer-directed service delivery model is an alternative to traditional agency provided services.

Designated Representative: This is an individual who assists a participant who is not able to self-direct services. The individual must be willing to perform the employer responsibilities and cannot be a paid employee or be compensated for the help provided to the participant. If the participant has a legal guardian, the guardian shall be the designated representative. If a legal guardian is unable to carry out the duties of an employer, the legal guardian may assist the participant to select a designated representative. However to avoid a conflict of interest, the legal guardian and the designated representative cannot be paid employees. A designated representative must be at least 18 years old and responsible to carry out the functions of the employer

Developmental Disabilities Division (DDD): DDD is a division of the Hawaii State Department of Health that operates the Medicaid Waiver.

DOH: DOH is the Hawaii State Department of Health.

DHS: DHS is the Hawaii State Department of Human Services.

Employee: This is the individual paid to provide Chore, Respite, Personal Assistance/Habilitation (PAB) or Community Learning Services for a participant.

Employer: This is the individual who functions as the common-law employer of workers providing CD services with the assistance of the FMS (Financial Management Services) agent. The employer is responsible for recruiting, hiring, scheduling, training, supervising, terminating employees providing CD services and setting the hourly pay for employees.

The employer must be at least 18 years old. The employer is the participant, or if he/she is unable to carry out the duties of an employer, a designated representative can be appointed to be the employer.

Financial Management Services (FMS): Financial Management Services are provided to support the employer with payroll services and exercise of budget authority. Payroll services include the withholding of taxes and payment of employees. In addition, the FMS agent provides the payment of the employers' share of taxes to federal and state agencies. The FMS agent provides employers with information on budgeting and supports to make decisions regarding their budgets, Employer skills training is also available. The FMS agent is contracted by the DOH and will replace the DHS fiscal agent in 2018.

Fiscal Agent: This is the agency contracted by DHS to perform payroll and certain employer-related duties on behalf of the employer (e.g., withholding and filing federal, state, local and unemployment taxes; collecting and processing worker timesheets; and issuing payroll checks).

Home and Community-Based Services (HCBS): Home and Community-Based Services (HCBS) provide opportunities for Medicaid beneficiaries to receive services in their own home or community rather than in institutions or other isolated settings. The CD option is part of the Medicaid Waiver.

Individualized Service Plan (ISP) (H.R.S. Section 333F-1): An Individualized Service Plan is the written plan that is developed through a person-centered-planning process with the participant, family, friends, and other persons identified by the participant as being important to the planning process. The plan is a written description of what is important to the person, how any issue of health or safety will be addressed, and what needs to happen to support the person in the person's desired life.

Participant: This is a person enrolled in the Medicaid Waiver.

SELF-ASSESSMENT

The Self-Assessment Form can help you decide whether to choose the CD option. You must be able to carry out the responsibilities of a CD employer and make all decisions about hiring, training, supervising, and managing CD employees. This includes finding workers, training your workers, making work schedules, and supervising their work.

If the CD option is chosen, the Self-Assessment Form must be completed and submitted to your case manager.

The Self- Assessment Form is attached to this Handbook.

DESIGNATED REPRESENTATIVE

If you are not able to carry out the responsibilities of an employer, you can have a designated representative serve as the CD employer. If you have a legal guardian, your legal guardian shall serve as your designated representative. If your legal guardian is unable to perform the duties of an employer, your legal guardian can assist you to choose a designated representative. Your designated representative must be willing and able to carry out all of the employer responsibilities. In efforts to avoid a conflict of interest, your designated representative and the legal guardian assisting you to select a designated representative cannot be a paid CD employee or be compensated for serving as the CD employer. Designated representatives must be 18 years old.

NOTE: If you do not have a designated representative, you may appoint one at any time. A change must be promptly reported to your case manager and certain forms must be completed before the change is made.

You must meet all of the employer responsibilities in this handbook. If you have appointed a designated representative, the designated representative is responsible for fulfilling the duties of the employer.

RESPONSIBILITIES OVERVIEW

The following outlines the responsibilities for you (the employer), the employee, the case manager, and the FMS agent.

Employer (You or Your Designated Representative)

- Develop the Individualized Service Plan (ISP) with your case manager through the person-centered planning (PCP) process
- Participate in the CD training and enrollment with the FMS agent
- Ensure employee duties are consistent with goals and outcomes for the CD service in the ISP
- Develop a Job Description, Application Form, and Interview Questions (recommended)
- Find, screen, hire, schedule, train, supervise, and terminate (if necessary) employee(s) and backup employee(s)
- Complete and submit required **Employer Forms** to the FMS agent
- Ensure employees complete required forms and submit to the FMS agent
- Train the employee(s), as needed, for your care
- Verify accuracy of timesheets of employee(s)
- Approve and ensure that employee timesheets are sent to the FMS agent by designated due dates
- Terminate the employment of an unsatisfactory employee
- Manage a budget for each CD service to last the Plan year.

Employee

- Be qualified to provide needed services
- Complete an application, if requested by you
- Turn in required **Employee Forms** to you
- Provide services that meet your expectations
- Complete and submit timesheets by due dates

DDD Case Manager

Case
Manager

- Assess your service needs
- Provide you with information on CD services
- Develop the ISP with you and your Circle of Support through the person-centered planning (PCP) process
- Authorize supervision and nurse delegation services for PAB services, as applicable
- Provide ongoing monitoring and assistance with the ISP
- Follow-up when services are not being provided or when your health and safety may be at risk. Refer to protective services (i.e., APS, CPS), as applicable, for potential abuse situations

Financial Management Services (FMS) Agent (Acumen is the contractor for the CD Option)

Acumen
Staff

- Provide information and training for CD services
- Enroll you and your employees into the FMS system
- Provide training on completing and submitting timesheets for your employees
- Provide information on developing and managing your CD budget
- Process budget authority decisions authorized in the ISP
- Provide you with information each month on how much services are used and dollars are spent so you can manage your services
- Provide training on supervisory skills on request
- Develop access to a registry of potential employees
- Conduct criminal record history checks on employees and inform you of the results (See Criminal History Record Check section)

INDIVIDUALIZED SERVICE PLAN

The Individualized Service Plan (ISP):

- Is developed by you and your case manager, with input from your family and friends that you invite to participate;
- Includes services you need, both paid and unpaid;
- Identifies services and amount of services to meet your needs; and,
- Is modified, as necessary, when your condition or situation changes.

Your case manager will periodically reassess whether the services in the ISP are still appropriate. You may receive services through the:

- CD option – Finding, hiring, training, scheduling and supervising your employee(s);
- Agency services, or
- Both (CD option and agency services).

The following are services available through the CD option:

Personal Assistance/Habilitation (PAB) - A range of assistance or training to help you to keep, develop or improve skills related to living in the community. Helps you reach ISP outcomes in the following areas: (1) increase independence in eating, dressing, and personal hygiene; (2) build natural supports; (3) develop self-sufficiency; (4) engage in personal interests which promote independence; and (5) build skills in self-advocacy.

PAB Level 1 - This may include: skill development, assistance with activities of daily living, community inclusion, transportation, and social and leisure skills development. Additionally, this may take the form of hands-on assistance (performing the task for you), training, or doing tasks in small steps with cues as part of a plan to help you to do a task. Training or assistance for PAB Level 1 does not require nurse delegation or formal behavioral analysis services.

PAB Level 2 - Includes: (1) nurse-delegated tasks or (2) services in that include a Functional Behavior Assessment or Behavioral Support Plan with measurable outcome based data.

PAB Level 1 and PAB Level 2 will be combined into a single PAB service by 6/30/18.

Respite - Services provided on a short-term basis if you live with your family to relieve the person normally providing your care. Respite may be provided in different locations:

Chore - Services that are important to your health and welfare by maintaining your home in a clean, sanitary and safe environment. Activities include meal preparation and routine household care only for you.

Community Learning Services (CLS) - Services to support you in participating in community activities of your choice. You can use CLS to increase independence, get to know people and develop recreation interests and hobbies. CLS can also be used to build self-advocacy skills.

Non-Medical Transportation- This service is anticipated to be added and available as a Medicaid Waiver service in the summer of 2018, pending CMS review and approval.

BUDGET AUTHORITY AND RESPONSIBILITIES

Your ISP is reviewed each year through a person-centered planning process. Once your goals and outcomes are identified, your case manager will assess what kinds of resources are available to you, including any unpaid natural supports. Your case manager will then work with you and your Circle of Support to determine the type of service(s) and the number of hours that are necessary for you to achieve your goals for the year.

A budget is then calculated for each CD service based on: (1) type of CD service, (2) amount of units for the plan year and, (3) rate for the service. The budget for each CD service is then sent to the FMS agent. As the CD employer, you will have budget authority to make decisions how these funds are spent for the CD services. You are able to:

- Determine the hourly wage for each of your CD employees. You must pay at least the minimum wage. Acumen will provide you with the pay range of hourly wages for each CD service. These changes do not require an update in your ISP. The wage you decide to pay – and any overtime that you approve – will directly impact the amount of service that you will be able to receive. If you decrease your employee's hourly wage, your budget will be able to afford more hours of service.
- Reallocate (move) dollars between certain services. For example, if you run out of dollars for PAB, and you still have unused dollars in CLS, you can move the unused dollars from CLS to PAB or from PAB to CLS. You can also reallocate dollars between 1:1 (one employee with one participant) and 1:2 (one employee working with 2 participants) within each service. This can be done within PAB, CLS and Respite. Unused Respite dollars can be reallocated to PAB or CLS. Any service involved in the reallocation must be on the ISP or added to the ISP.

These changes are made through the FMS agent.

Along with authority over your CD budgets, you must be responsible for ensuring that the amount of dollars for each CD service is planned and managed to last the entire Plan year. The FMS agent will provide you with a monthly report of your expenditures. You should use this report to determine how to make your funds last through the Plan year. If you run out of dollars for a CD service, you will not be able to submit your employee's work hours into the FMS' online web system. If you submit a paper timesheet, your employee will be paid only for the hours that dollars are available for the CD service. If you cannot manage or have difficulty managing your budgets, it may indicate the CD option is not right for you.

If there is a change in your condition or unique circumstances, you should contact your case manager. This might result in a reassessment of your service needs and a change in your CD budget.

BACKUP EMPLOYEES

You will need to have an adequate number of employees to provide ongoing services to ensure your health and safety and to minimize overtime. Be prepared ahead of time in case an employee is not available to work.

If you select an agency to provide backup services, use the Consumer Choice of Providers Form to identify the backup agency in case of emergency.

If you are not in the CD option but want to use it for backup services, it may take time to complete the paperwork to enroll yourself and your employees with the FMS agent. You should discuss this at your ISP meeting. If there is a need for crisis situations, CD services should be identified in the ISP and funds budgeted so a referral can be sent to the FMS agent. This must be completed before your employees can begin to work. Prior planning can help to make sure you and your employees are enrolled ahead of time so services will be available if the need arises.

CRIMINAL HISTORY RECORD CHECK

Criminal history record checks are required for all CD employees.

The FMS agent will conduct the criminal history record check on all of your new employees. Employees cannot begin working until the criminal history record check is completed. Forms will be provided by the FMS for each employee to complete. The following checks will be conducted:

- List of Excluded Individuals/Entities (LEIE) - The Office of Inspector General, United State Department of Health and Human Services, prohibits the employment of individuals on this list to provide Medicaid Waiver services. Any prospective employee appearing on this list cannot be hired and any current employee must be terminated.
- State name check with the Hawaii Criminal Justice Data Center (HCJDC). If the employee is in the HCJDC files, you will be informed of the findings. You may still decide to hire the employee but are responsible for any liability because of your decision.

You are responsible for your own health and safety. If you as an employer choose to hire and employ an employee with a known criminal conviction record, the decision and consequences thereof is your sole responsibility.

OVERTIME

The United States Department of Labor Home Care Final Rule for domestic workers requires that CD employees (e.g., PAB, Respite, CLS, and Chore employees) are entitled to time and a half pay for every hour worked over 40 hours in a workweek. A workweek is Sunday (12:01 a.m.) to Saturday (midnight).

Any overtime incurred because you scheduled or authorized overtime is charged against the amount of dollars budgeted for the CD service. Since overtime is not calculated in the budget for each service, you may run out of dollars if you rely on overtime on a regular basis. Once your budget for a CD service is depleted, Acumen will not process an employee's time sheet for that service and the employee will not be paid. You are responsible for managing your employee's schedule to make sure there are funds to last through the Plan year.

You may need to hire more than one employee to avoid paying overtime wages.

If you authorize overtime, it is expected that you will manage your services by making adjustments to your service use in the following months or exercise budget authority to reduce costs.

If you approve overtime and it results in the depletion of funds for a CD service, the DOH-DDD will take one or more of the following actions:

- Your case manager will contact you to assess the situation, determine the reason for use of the overtime, and work with you to avoid the use of overtime in the future.
- For chronic non-compliance, you may be involuntarily terminated from using the Consumer Directed services option and will instead receive services from other means such as a waiver provider agency or natural supports.
- You may be determined to be financially responsible to pay your employee(s) if the overtime was for services that were not authorized in the ISP.

ADVERSE EVENT REPORT (AER)

You or your designated representative, as applicable, must complete an AER and send it to your case manager for the following adverse events related to you:

- a) Changes in condition requiring medical treatment;
- b) Hospitalization;
- c) Death;
- d) All bodily injuries sustained for which medical treatment and/or follow up is necessary, regardless of cause or severity;
- e) All reports of abuse and neglect made to APS and/or CWS;
- f) All medication errors and unexpected reactions to drugs or treatment;
- g) Situations where your whereabouts are unknown; or
- h) Situations where your behavior requires plan of action/intervention.

The AER form and instructions are included in this Handbook.

The DDD case manager must be informed of an Adverse Event within 24 hours or if occurring on the weekend, on the next working day. The written AER must be submitted to the DDD case manager within 72 hours.

COST SHARE

If the Department of Human Services determines that you must pay a cost share to maintain eligibility for Medicaid, a Cost Share Designation form must be completed with the case manager. If you decide that the cost share is to be paid to a specific CD employee, the name of the employee must be designated on the form. You are responsible for directly paying the employee the cost share amount.

FISCAL AGENT

As the sole employer of your CD employees, you may authorize the Department of Human Services with the assistance of the DDD, FMS agent and CD Specialists to help process payment for employee(s) and meet tax and insurance responsibilities. The DHS is the fiscal agent for the Medicaid Waiver. To do this, you must sign and submit the Consumer/Employer Appointment of Fiscal Agent Form and the other required employer forms to the DDD, CD Specialists.

Your CD employees are not employees of DDD, the contracted FMS agent (Acumen) or the State of Hawaii.

EMPLOYER TERMINATION FROM CONSUMER-DIRECTED SERVICES

Voluntary Termination

You may decide to voluntarily end your participation in the CD option at any time by notifying your case manager. There will be a transition of services to natural supports and/or provider-agency services.

Involuntary Termination

Under certain circumstances, the State may involuntarily terminate your participation in the CD option and require the use of provider agency services.

The circumstances include:

1. Your preferred employee is unable or unwilling to provide the service and you do not want any other options for services.
2. Your preferred direct support worker has been confirmed as a perpetrator of abuse (including financial) and/or neglect.
3. Your preferred direct support worker does not or cannot provide appropriate services, potentially endangering your health and welfare.
4. There is no backup available.
5. You continually fail to meet CD requirements such as but not limited to: untimely submittal of timesheets, inaccurate timesheets, failure to maintain service records, failure to train and monitor workers and failure to follow the ISP activities and keep within your budget.

In situations where your health and welfare may be in jeopardy, your case manager may immediately implement your backup plan after discussion with you. Your case manager may take other appropriate action as needed (including referral to Adult Protective Services and Child Protective Services).

CONSUMER-DIRECTED OPTION EMPLOYER ACKNOWLEDGMENT

The Consumer-Directed Option Employer Acknowledgment form lists the requirements of the employer to participate in the CD Option. The form must be signed by the employer. If a designated representative will carry out the functions of the employer, the designated representative must sign the acknowledgment form.

ATTACHMENTS

- Acknowledgment of Consumer-Directed (CD) Option Form
- Consumer-Directed (CD) Self-Assessment Form
- Consumer Choice of Providers Form
- Consumer/Employer Appointment of Fiscal Agent Form
- Backup Agency in Case of Emergency
- Adverse Event Report Form and Instructions