



**OFFICE OF
DEVELOPMENTAL
PROGRAMS BULLETIN**

ISSUE DATE XX, XX, 2019	EFFECTIVE DATE XX,XX, 2019	NUMBER XX-19-XX
SUBJECT Participant-Directed Services: Agency With Choice Financial Management Services Model		BY Kristin Ahrens Deputy Secretary for Developmental Programs

SCOPE:

Administrative Entity (AE) Directors and Administrators
 County Mental Health and Intellectual Disability (MH/ID) Programs
 Supports Coordination Organizations (SCO)
 Supports Coordinators (SC)
 Supports Brokers
 Agency with Choice Financial Management Services Organizations (AWC)
 Managing Employers
 Support Service Professionals (SSP) and Vendors

PURPOSE:

This bulletin sets forth the Office of Developmental Programs' (ODP) policy and expectations for the provision of Participant-Directed Services through the AWC model.

BACKGROUND:

ODP offers Participant Direction, also known as self-direction, in order to provide participants and surrogates with a high level of choice and control over their services and supports. Self-direction is available to participants enrolled in ODP's Consolidated, Person/Family Directed Support (P/FDS), or Community Living waivers, or who receive base-funded services. To be eligible to self-direct services, a participant must reside in a home that is not rented, leased, owned, or operated by a provider agency¹. The services that may be self-directed are listed in Appendix E of the current approved Consolidated, P/FDS and Community Living waivers and any approved amendments.

¹ Participants who receive the Residential Habilitation, Life Sharing or Supported Living waiver services may self-direct Supports Broker services through participant direction when he or she has a plan to self-direct waiver services in a private home.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The Appropriate Developmental Programs Regional Office

Visit the Office of Developmental Programs Web site at
<http://www.dhs.pa.gov/provider/developmentalprograms/index.htm>

27 In ODP's AWC self-direction model, the AWC is a Medical Assistance provider enrolled as a provider
28 of ODP waiver services; the participant or surrogate acts as a Managing Employer who directs the
29 provision of waiver services provided by Support Service Professionals (SSPs). The Managing
30 Employer and the AWC enter into a joint-employment arrangement that specifies the roles and
31 responsibilities of both the AWC and the Managing Employer. Federal Medicaid law prohibits
32 individuals (including individuals and surrogates acting as Managing Employers) and SSPs from
33 receiving Medicaid funds directly. Because of this law, the AWC must perform payment-related
34 employer responsibilities on behalf of Managing Employers. The AWC is the "employer of record" of
35 the SSPs for all matters relating to applicable employment laws and requirements.

36
37 AWCs receive a monthly administrative fee for each participant supported by the AWC for purposes
38 of meeting the requirements established in this bulletin, in the applicable waiver, and in 55 Pa. Code
39 Chapter 6100. The administrative fee is the same for all AWCs and is included on the Medical
40 Assistance Fee Schedule. The administrative fee is included on participants' Individual Plans but is
41 not funded from the participants' individual budgets.

42
43 The AWC receives payments for services that may be self-directed and as specified on the Individual
44 Plan based on the ODP-established fee schedule rates for such services, which are used to
45 compensate SSPs for services rendered. Rates are structured such that they may or may not
46 include a benefit allowance. Benefit allowance rates are higher than rates that do not include a
47 benefit allowance. The purpose of the benefit allowance is to allow SSPs to use the additional funds
48 to purchase benefits such as insurance, retirement plans, and paid time off.

49
50 There may be multiple AWC providers that provide services in any geographic region. Any ODP-
51 enrolled and qualified provider may render AWC services in any county or counties.

52
53 AEs are responsible to ensure that anyone who is eligible to self-direct their services and wishes to
54 do so via the AWC model may do so.

55 56 **DISCUSSION:**

57 Choice and Control

58
59 All participants who self-direct their services have the right to receive those services in accordance
60 with the guiding principles of self-determination. This means that participant-directed services must
61 be provided in a manner that affords participants or their surrogates choice and control over the
62 services they receive and the qualified SSPs and vendors that provide the services.

63
64 Choice and control over services is protected by multiple regulatory requirements in 55 Pa.Code
65 Chapter 6100 (Relating to Services for Individuals with an Intellectual Disability or Autism), including
66 but not limited to the individual's rights to:

- 67 • Make choices and accept risks - § 6100.182(e)
- 68 • Refuse to participate in activities and services - § 6100.182(f)
- 69 • Control the individual's own schedule and activities - § 6100.182(g)
- 70 • Choose where, when and how to receive needed services - § 6100.182(k)
- 71 • Voice concerns about the services the individual receives - § 6100.182(l)
- 72 • Participate in the development and implementation of the individual plan - § 6100.182(n)

77 In the AWC model, choice and control over services received allows the Managing Employer to
78 perform activities that include, but are not necessarily limited to:

- 79
- 80 • Recruit and refer SSPs to the AWC for hire;
- 81 • Train SSPs to meet the individual’s needs as specified in the Individual Plan²;
- 82 • Determine SSP hours of work, schedules, and responsibilities in accordance with ODP
83 requirements and the Individual Plan;
- 84 • Manage the services provided by SSPs in a supervisory capacity; and
- 85 • Elect to dismiss an SSP from providing services and inform the AWC of the desire to dismiss
86 an SSP from providing service to the individual with or without cause.
- 87
- 88

89 Information about Self-Direction

90

91 Information about self-direction must be provided to each participant. The AE, SCO, Supports
92 Coordinator, and the AWC are all responsible to provide information to each participant on the option
93 to self-direct services through the AWC model. The AE is responsible to provide each participant with
94 information about participant direction at the time of ODP waiver enrollment. Supports Coordinators
95 and SCOs are responsible to provide each participant with information about self-direction in advance
96 of and during the planning process, annual individual plan review, and upon request. Supports
97 Coordinators also provide each participant with support and assistance in order to make the decision
98 to self-direct all or some of their services and will refer the participant to other resources as
99 necessary. The AWC is responsible to provide initial and ongoing orientation and skills training to
100 each participant relating to all aspects of self-direction, including but not limited to the roles and
101 responsibilities of the AWC and the Managing Employer.

102 Accountability for Performance

103

104

105 AWCs and Managing Employers are required to protect and promote individual choice and control
106 over how services are delivered. However, AWCs or Managing Employers are not exempt from
107 compliance with applicable waiver, regulatory, and ODP policy requirements or from applicable
108 Federal and State statutes and regulations and local ordinances.

109

110 AWCs must enter into and comply with the terms of the *ODP Provider Agreement for Participation in*
111 *Pennsylvania’s Consolidated, Person/Family Directed Support and Community Living Waivers*;
112 additionally, § 6100.801(d) specifies that AWCs must fulfill unmet responsibilities of the Managing
113 Employer. As such, AWCs are ultimately responsible for ensuring compliance with the roles and
114 responsibilities of both AWCs and Managing Employers set forth in Section A of this Bulletin.

115

116 Any failure by an AWC to meet the responsibilities set forth in this Bulletin may result in enforcement
117 action in accordance with §§ 6100.741-744 (Relating to Enforcement).

118

119 Any failure by a Managing Employer to meet the responsibilities set forth in this Bulletin or as
120 established by the AWC may result in termination of the Managing Employer agreement and/or
121 involuntary termination from the AWC model in accordance with Appendix E-1-m of the current ODP
122 waivers.³

² Chapter 6100 defines “Individual Plan” as “a coordinated and integrated description of person-centered activities, including services and supports for an individual.” For purposes of this Bulletin, the “Individual Plan” is the Individual Support Plan.

³ Termination from the AWC model will only be considered when the participant is acting as the Managing Employer. Prior to termination from the AWC model, the participant must be offered the opportunity to identify a surrogate who is able to meet the

123
124 **ODP Requirements and Standards**
125

126 Adherence to the following standards is required for AWC operation and Managing Employer
127 participation in the AWC model.

128
129 Surrogates
130

131 Participants may be required to or may choose to designate and authorize one surrogate to perform
132 Managing Employer responsibilities and functions on behalf of the participant. For participants under
133 the age of 18, a parent, legally responsible person, or court-appointed legal guardian must be the
134 surrogate and perform the Managing Employer responsibilities. A participant who is 18 years of age
135 or older who is unwilling or unable to function as a Managing Employer may choose to designate and
136 authorize a surrogate to perform the managing responsibilities and functions on the participant's
137 behalf. Surrogate designations must be made in writing and must be signed by the participant or the
138 participant's substitute-decision maker.

139
140 In addition to fulfilling the roles and responsibilities of a Managing employer as set forth in this
141 bulletin, a surrogate must:

- 142
- 143 • Be at least 18 years of age or older;
- 144
- 145 • Effectuate the decision the individual would make for himself/herself;
- 146
- 147 • Accommodate the individual, to the extent necessary that they can participate as fully as
148 possible in all decisions that affect them;
- 149
- 150 • Give due consideration to all information including the recommendations of other interested
151 and involved parties; and
- 152
- 153 • Embody the guiding principles of self-determination.
- 154

155 The AWC must recognize the surrogate as a decision-maker for the participant and provide the
156 surrogate with all the information and support it would typically provide the participant if the participant
157 was the Managing Employer. The AWC must fully orient and inform the surrogate of the surrogate's
158 rights and responsibilities in performing the Managing Employer role.

159
160 Managing Employer Prohibitions
161

162 Participants may only have one Managing Employer. The Managing Employer will either be the
163 participant or one designated surrogate.

164
165 Managing Employers may not provide and receive compensation for any ODP waiver services to
166 participants except for the Transportation Mile service.

167
168 Managing Employers may not submit a timesheet or invoice for services or supports not authorized
169 for the participant or that includes units and costs in excess of those authorized in the Individual Plan.
170 Managing Employers who submit such timesheets or invoices may be responsible for reimbursing the

responsibilities set forth in this Bulletin or as established by the AWC to act as the Managing Employer and/or offered the opportunity to receive Supports Broker services that may allow the participant to successfully continue acting as the Managing Employer.

171 AWC for the costs required to cover the excess amount(s) related to payment of the SSP or vendor.
172 The Managing Employer is solely responsible for any payments made to an SSP who is not
173 employed by the AWC or to an unauthorized vendor.

174 SSP Work Hours

175
176
177 Managing Employers may not schedule an SSP to work more than 40 hours per week; the purpose of
178 this limitation is to ensure that participants' health, safety, and quality of services provided are not
179 compromised by overwork. SSPs' work hours may only exceed 40 hours per week if doing so is
180 required due to unforeseen circumstances, including but not limited to:

- 181
182 • Unexpected circumstances such as inclement weather, sudden illness or the unplanned
183 extension of medical leave that prevents an SSP from arriving at the job site and where
184 another SSP/unpaid caregiver is not immediately available to work;
- 185
186 • The sudden loss of an unpaid caregiver which kept the provision of paid services at or below
187 40 hours per week; or
- 188
189 • An SSP unexpectedly quits or is terminated from employment such that one or more other
190 SSPs must work more than 40 hours per week on a temporary basis.

191
192 Managing Employers may with AWC approval schedule one or more SSPs to work more than 40
193 hours per week for a participant up to 13 weeks per fiscal year but may not exceed 13 weeks under
194 any circumstances.

195
196 All participants are required to have a back-up plan to address situations when an SSP does not
197 report to work for any reason. ODP recognizes that there may be extenuating circumstances that
198 cannot be addressed through the back-up plan. In the event that any of the situations in the bulleted
199 list above occur, ODP expects the back-up plan to be reviewed and revised, as necessary, to prevent
200 recurrence of the above situations.

201
202 The Managing Employer, with assistance from the AWC provider as appropriate, must notify the
203 participant's Supports Coordinator after the 40-hour limit has been exceeded 3 times. When the
204 Supports Coordinator is notified, the Supports Coordinator is expected to determine if the back-up
205 plan was reviewed and revised, as necessary, and if the back-up plan was implemented. The
206 Supports Coordinator and the Individual Plan team must then work to ensure that supports are
207 available to prevent continued scheduling of SSPs in excess of 40 hours per week by reviewing back-
208 up plans and assisting with the recruitment of SSPs as necessary. This is especially important if the
209 individual is enrolled in the P/FDS or Community Living waiver, as SSPs' working in excess of 40
210 hours per week incurs overtime costs that impact the amount of funds available for service provision
211 based on the cost per services in the Individual Plan, which has a per person per fiscal year funding
212 cap.

213
214 If a Managing Employer allows an SSP to provide services in excess of 40 hours per week, and the
215 provision of the service does not meet the criteria for an exceptional circumstance, the Managing
216 Employer is responsible for paying for the cost of the services provided. In these situations, the
217 Managing Employer must pay the AWC for any excess amount(s) through the use of their own
218 personal funds or other non-ODP funds.

219
220 Scheduling in excess of 40 hours for circumstances that are not due to an emergency or an
221 unplanned departure of a regularly scheduled SSP is expressly prohibited. Such scheduling may

222 result in termination of the Managing Employer agreement and/or involuntary termination from the
223 AWC model in accordance with Appendix E-1-m of the current ODP waivers.

224
225 It is strongly recommended that participants who consistently schedule SSPs in a manner
226 inconsistent with the above be encouraged to use Supports Broker services to support effective
227 resource utilization.

228 229 230 Restrictions on In-Home and Community Support / Companion Services Provided by Relatives

231
232 Participants' relatives are permitted to render both the In-Home and Community Support (IHCS) and
233 Companion services offered in ODP's waivers. "Relative" is defined in the approved Consolidated,
234 P/FDS and Community Living Waivers and any approved amendments.

235
236 Legal guardians (persons who have court-appointed authority to make decisions on behalf of a minor
237 or adult) may also render IHCS and Companion services.

238
239 The following restrictions apply to relatives and legal guardians who render the IHCS and Companion
240 services:

- 241
242 • Any one relative or legal guardian may not provide more than 40 hours per week of:
 - 243 ○ IHCS;
 - 244 ○ Companion, or
 - 245 ○ Any combination of IHCS and Companion
- 246
247 • Multiple relatives and/or legal guardians may not provide more than 60 cumulative hours per
248 week of:
 - 249 ○ IHCS;
 - 250 ○ Companion, or
 - 251 ○ Any combination of IHCS and Companion

252
253 Relatives and legal guardians may only exceed the above limitations if doing so is required due to
254 unforeseen circumstances, including but not limited to:

- 255
256 • Unexpected circumstances such as inclement weather, sudden illness or the unplanned
257 extension of medical leave that prevents an SSP from arriving at the job site and where
258 another worker/unpaid caregiver is not immediately available to work;
- 259
260 • The sudden loss of an unpaid caregiver whose assistance kept the provision of paid services
261 by relatives and legal guardians at or below 40/60 hours per week; or
- 262
263 • An SSP unexpectedly quits or is terminated from employment such that relatives and legal
264 guardians must perform paid work in excess of the 40/60-hour limitation.

265
266 Managing Employers may with AWC approval permit relatives/legal guardians to exceed the 40/60-
267 hour limitations up to 13 weeks per fiscal year but may not exceed 13 weeks under any
268 circumstances.

269
270 All participants are required to have a back-up plan to address situations when an SSP does not
271 report to work for any reason. ODP recognizes that there may be extenuating circumstances that

cannot be addressed through the back-up plan. In the event that any of the situations in the bulleted list above occur, the back-up plan must be reviewed and revised, as necessary, to prevent recurrence of the above situations.

The Managing Employer, with assistance from the AWC provider as appropriate, must notify the participant's Supports Coordinator after the 40/60-hour limitation has been exceeded 3 times. When the Supports Coordinator is notified, the Supports Coordinator is expected to determine if the back-up plan was reviewed and revised, as necessary, and if the back-up plan was implemented. The Supports Coordinator and the Individual Plan team must then work to ensure that supports are available to prevent continued provision of paid care by relatives/legal guardians in excess of the 40/60-hour limitation by reviewing back-up plans and assisting with the recruitment of SSPs as necessary.

If a Managing Employer allows relatives to provide services in excess of the 40/60-hour limitation, and the provision of the service does not meet the criteria for an exceptional circumstance, the Managing Employer is responsible for paying for the cost of the services provided. In these situations, the Managing Employer must pay the AWC for any excess amount(s) through the use of their own personal funds or other non-ODP funds.

Scheduling in excess of the 40/60-hour limitation for circumstances that are not due to an emergency or an unplanned departure of a regularly scheduled SSP is prohibited. Such scheduling may result in termination of the Managing Employer agreement and/or involuntary termination from the AWC model in accordance with Appendix E-1-m of the current ODP waivers.

It is strongly recommended that Managing Employers who employ relatives as SSPs in a manner inconsistent with the above be encouraged to use Supports Broker services to support effective resource utilization.

Medication Assistance

Pursuant to § 6100.182(k), an individual has the right to choose where, when and how to receive needed services. This includes assistance with medication. Additionally, the *Provider Agreement for Participation in Pennsylvania's Consolidated, Person/Family Directed Support and Community Living Waiver* requires that providers comply with ODP policy bulletins governing the Waiver Programs, to comply with the approved waivers, including all standards enumerated in the service definition(s) which the Waiver Provider will be rendering, and To deliver waiver services in accordance with the terms of the Individual Support Plan of each individual served by the Waiver Provider.

As such, all SSPs are required to provide assistance with medications as specified in the Individual Plan and/or in accordance with the ODP waiver service definition. Medication assistance includes but is not limited to:

- Storing the medication in a secure place;
- Helping the participant to remember the schedule for taking the medication;
- Offering the participant the medication at the prescribed times;
- Opening a medication container and removing the medication from the original container;
- Preparing the medication as ordered by the prescriber, and
- Placing the medication in a medication cup or other appropriate container, or into the participant's hand, mouth or other route as ordered by the prescriber.

Supports Broker Use

322
323 The Supports Broker service is available to participants who elect to self-direct their own services.
324 The Supports Broker service is designed to assist participants or their designated surrogate with
325 employer-related functions in order to be successful in self-directing some or all of the participants'
326 needed services.

327
328 Supports Brokers work collaboratively with the AWC, the Managing Employer, the participant's
329 Supports Coordinator, and the Individual Plan team. Supports Brokers may not replace the role of or
330 perform the functions of a Managing Employer. The Supports Broker assists and supports
331 participants or their designated surrogate in performing the functions of the Managing Employer.
332

333 Supports Broker Services may be provided by SSPs hired by the Managing Employer and AWC or by
334 individual or agency Supports Brokers that enroll with the Department of Human Services to render
335 services. When Supports Broker services are provided by agency providers, the agency provider
336 may provide other waiver, intellectual disability or autism services, but the Supports Broker provider
337 must be conflict free. When an AWC provides both Supports Broker services and other participant
338 directed waiver services to the same participant and the Supports Broker is not an SSP, there must
339 be clear documentation that the participant selected the AWC as the Supports Broker from a choice
340 of all available options. Nothing precludes a participant in the AWC model from using a Supports
341 Broker agency other than the AWC.
342

343 SSP Training Requirements

344

345 In accordance with § 6100.142, all SSPs must complete an orientation training prior to working alone
346 with individuals and within 30 days after hire or starting to provide a service or support to an
347 individual. The orientation must be provided by the AWC and encompass the following areas:
348

- 349 1. The application of person-centered practices, community integration, individual choice and
350 assisting individuals to develop and maintain relationships.
- 351 2. The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in
352 accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—
353 10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults), the Child
354 Protective Services Law (23 Pa.C.S. §§ 6301—6386), the Adult Protective Services Act (35
355 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.
- 356 3. Individual rights.
- 357 4. Recognizing and reporting incidents.
- 358 5. Job-related knowledge and skills.

359 In accordance with § 6100.143, all SSPs must complete training related to job skills and knowledge
360 each year that must be provided by the AWC and encompass the following areas:
361

- 362 1. The application of person-centered practices, community integration, individual choice and
363 assisting individuals to develop and maintain relationships.
- 364 2. The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in
365 accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—
366 10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults), the Child
367 Protective Services Law (23 Pa.C.S. §§ 6301—6386), the Adult Protective Services Act (35
368 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.
- 369 3. Individual rights.
- 370 4. Recognizing and reporting incidents.
- 371 5. Implementation of the individual plan if the person provides an HCBS or base-funding service.

372 There is no minimum number of hours for the annual training, but SSPs must receive annual training
373 in the above topics sufficient to meet the needs of the participants served.

374 Only SSPs who work fewer than 30 cumulative days within a 12-month period are exempt from all of
375 the requirements at §§ 6100.141— 6100.143

377 **SECTION A: ROLES AND RESPONSIBILITIES OF AGENCIES WITH CHOICE**

378 The AWC is responsible for all of the following:
379

- 380 1. Compliance with all applicable waiver, regulatory, and DHS policy requirements, including but
381 not limited to 55 Pa.Code Chapter 1101 (Relating to General Provisions) and the requirements
382 set forth in this Bulletin.
- 383 2. Completing and complying with the terms of the *ODP Provider Agreement for Participation in*
384 *Pennsylvania's Consolidated, Person/Family Directed Support and Community Living Waivers.*
385
- 386 3. Compliance with the following sections of 55 Pa.Code Chapter 6100:
387
388 a. General provisions as specified in §§ 6100.1—6100.3
389
390 b. General requirements as specified in §§ 6100.41—6100.44 and 6100.46— 6100.56.
391
392 i. Compliance with § 6100.54 (Relating to recordkeeping) includes, but is not
393 limited to, developing and maintaining all forms and documents that Managing
394 Employers and SSPs are required to completed in accordance with applicable
395 ODP requirements as well as all forms and documents required by other state
396 and federal agencies such as the Internal Revenue Services, the Pennsylvania
397 Department of Labor and Industry, the Pennsylvania Worker's Compensation
398
399
400
401

Insurance Fund, and the United States Citizen and Immigration Services Department.

- c. Training as specified in §§ 6100.141— 6100.143, with the following exceptions:
 - i. Staff are not required to receive 24 hours of training as specified in § 6100.143(a) and 12 hours of training as specified in § 6100.143(b), with the understanding that the identified staff must receive annual training in the topics identified in these regulations sufficient to meet the needs of the participants served;
 - ii. Staff are not required to attend the training course in § 6100.143(c)(5), and
 - iii. Staff who work fewer than 30 cumulative days within a 12-month period are exempt from all of the requirements at §§ 6100.141— 6100.143
 - d. Individual rights as specified in §§ 6100.181—6100.186.
 - e. Individual plan as specified in §§ 6100.221— 6100.227.
 - f. Restrictive procedures as specified in §§ 6100.341— 6100.350.
 - g. Incident management as specified in §§ 6100.401— 6100.404.
4. Meeting the qualifications for each Waiver service the AWC intends to provide prior to rendering the service.
 5. Developing and implementing systems and written procedures and internal controls that reflect ODP's mission, vision, and values in accordance with *Everyday Lives: Values in Action* that include, at a minimum, how the AWC will do all of the following:
 - a. Protect Managing Employers' right to choose, direct, and control their services and the SSPs who provide them without restrictions that exceed the standards established by this bulletin.
 - b. Manage SSP referrals in a manner that does not limit or discourage Managing Employers from recruiting and referring potential SSPs of their choosing.
 - c. Providing SSP training and orientation that emphasizes the Managing Employer's right to select and control services and workers.
 6. Producing service utilization reports and provide them to the Managing Employer on a monthly basis.
 7. Submitting claims to the Department for services authorized and rendered.
 8. Monitoring SSP scheduling and taking appropriate action in response to scheduling in excess of 40 hours per week as described above.
 9. Monitoring SSP scheduling and taking appropriate action in response to situations where In-Home and Community Support and Companion services provided by relatives exceed the allowable maximum as described above.

- 453
454 10. Developing and implementing a process for enrolling Managing Employers.
455
456 11. Developing a Managing Employer agreement⁴ that addresses, at a minimum:
457
458 a. The roles and responsibilities of the AWC as specified in this Bulletin;
459
460 b. The roles and responsibilities of the Managing Employer as specified in this Bulletin;
461
462 c. The AWC's process for identifying concerns and implementing actions to address the
463 Managing Employer performance;
464
465 d. The AWC's process for ensuring that participants and the surrogates have the right to
466 choose, direct, and manage their services;
467
468 e. The 40-hour restriction on SSP scheduling;
469
470 f. The 40/60-hour restrictions on IHCS and Companion services by relatives, and
471
472 g. The conditions under which the Managing Employer agreement will be terminated in
473 accordance with Appendix E of the applicable waiver.
474
475 12. Ensuring that the Managing Employer complies with the requirements of the Managing
476 Employer agreement.
477
478 13. Identifying and implementing actions to address Managing Employer performance in
479 accordance with the Managing Employer agreement.
480
481 14. Performing all duties associated with employment of SSPs as specified in Attachment A of this
482 Bulletin.
483
484 15. Providing Managing Employer skills training that includes, at a minimum, all of the items
485 specified in Attachment B of this Bulletin, and any other training requested by the Managing
486 Employer, the Administrative Entity, or ODP.
487
488 16. Reporting and investigating incidents in accordance with 55 Pa.Code §§ 6100.401-404
489 (Relating to Incident Management) and developing and implementing procedures to ensure
490 that the Managing Employer reports incidents to the AWC such that the AWC meets the
491 timeframes specified at 55 Pa.Code § 6100.401 (Relating to types of incidents and timelines
492 for reporting).
493
494 17. Ensuring that SSPs who provide assistance with medications receive training on medication
495 assistance specific to the needs of the participants whom the SSPs will be assisting.
496
497 a. Training may be provided by the Managing Employer with assistance from the AWC if
498 requested by the Managing Employer.
499

⁴ A model Managing Employer agreement is attached to this Bulletin as Attachment C. AWCs are not required to use the Department's model agreement and may develop their own agreements if desired.

- b. The AWC may at its discretion require Managing Employers and/or SSPs to complete a Department-approved medication administration course as described at § 6100.468.

- 18. Processing and providing vendor goods and services authorized by the Department or the AE covered by the monthly per individual administrative fee.
- 19. Distribution of a customer satisfaction survey to participants supported by the AWC, collect and analyze survey responses, and act to improve services.
- 20. Fulfilling any unmet responsibilities of the Managing Employer, including but not limited to the responsibilities listed at Section A-II, Managing Employer Responsibilities.
- 21. Complying with the closure requirements in accordance with § 6100.801(i)-(j).

SECTION B: ROLES AND RESPONSIBILITIES OF MANAGING EMPLOYERS

The Managing Employer is responsible for all of the following:

- 1. Complying with the AWC Managing Employer agreement.
- 2. Completing, signing, and returning all forms and documents required by the AWC.
- 3. Participating in all Managing Employer orientation and skills training sessions as required by the AWC.
- 4. Establishing wages and benefit allowances for all SSPs within the current ODP-established wage ranges and benefit allowance notices.
- 5. Reporting abuse, suspected abuse and alleged abuse of an individual in accordance with § 6100.46 (Relating to Protective services).
- 6. Ensuring that written, oral and other forms of communication with the participant and persons designated by the participant occur in a language and means of communication understood by the participant or a person designated by the participant.
- 7. Recruit and refer qualified SSPs to the AWC for possible hire.
- 8. Training SSPs on the individual's needs and methods of service delivery as specified in the Individual Plan.
- 9. Developing and managing SSP work schedules in accordance with ODP requirements.
- 10. Developing, implementing, and revising back-up plans for SSPs and unpaid supports.
- 11. Managing SSPs.
- 12. Verifying hours worked by SSPs.
- 13. Completing, approving, and submitting SSP time sheets and vendor invoices in accordance with AWC and Department of Labor and Industry Standards.

- 551
552 14. Evaluating SSP performance.
553
554 15. Understanding and implementing Individual Plans.
555
556 16. Protecting and supporting the exercise of individual rights as specified at §§ 6100.181 – 182
557 and §§ 6100.184-185.
558
559 17. Participating in the Individual Plan process in accordance with § 6100.222 (Relating to
560 Individual Plan Process).
561
562 18. Implementing the Individual Plan in accordance with § 6100.224 (Relating to implementation of
563 the individual plan), including requesting updates to the Individual Plan.
564
565 19. Monitoring service utilization in accordance with the participant’s Individual Plan.
566
567 20. Providing full and free access to participants’ Supports Coordinators for purposes of monitoring
568 or related activities.
569
570 21. Creating service notes in accordance with § 6100.226 (Relating to Documentation of Claims)
571 and ODP bulletin 00-18-04, Interim Technical Guidance for Claim and Service Documentation,
572 or its successor.
573
574 22. Creating progress notes in accordance with § 6100.227 (Relating to Progress Notes) and ODP
575 bulletin 00-18-04, Interim Technical Guidance for Claim and Service Documentation, or its
576 successor.
577
578 23. Reporting work-related injuries incurred by SSPs to the AWC.
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580 24. Reporting suspected Medicaid fraud by SSPs or vendors to the AWC.
581
582 25. Reporting incidents specified at § 6100.401 (Relating to types of incidents and timelines for
583 reporting) to the AWC.
584
585 26. Notifying the AWC of any changes to Managing Employer or SSP demographics, including but
586 not limited to changes to addresses and telephone numbers.
587
588 27. Notifying the AWC of SSP performance issues, such as failure to report for work.
589
590 28. Notifying the AWC of the desire to discontinue receiving services from an SSP, i.e. dismissing
591 an SSP from employment such that the SSP will no longer render services to the participant.
592
593 29. Completing the annual AWC Satisfaction Survey.
594
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597 **SECTION C: ROLES AND RESPONSIBILITIES OF ADMINISTRATIVE ENTITIES**
598

599 The Administrative Entity is responsible for all of the following:
600

- 601 1. Ensuring that anyone who is eligible to self-direct their services and wishes to do so via the
602 AWC model is able to do so.
603
604 2. Providing participants with information about participant direction during intake and enrollment,
605 and upon request by the participant or ODP.
606
607 3. Be knowledgeable about all regulations, waivers, and policies relating to the AWC model.
608
609 4. Performing all other functions specified in the Administrative Entity Operating Agreement,
610 including but not limited to service authorization, Incident Management, performing AWC
611 provider monitoring / Quality Assessment and Improvement activities, voluntary and
612 involuntary termination of a Managing Employer, and voluntary and involuntary termination of
613 participation in the AWC model.
614
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618 **SECTION D: ROLES AND RESPONSIBILITIES OF SUPPORTS COORDINATION** 619 **ORGANIZATIONS** 620

621 In addition to all applicable Chapter 6100 and Waiver requirements, the Supports Coordination
622 Organization is responsible for all of the following:
623

- 624 1. Providing participants with the ODP developed or approved information such as consumer
625 guides to self-direction, ODP policy bulletins on participant direction, and ODP established
626 wage ranges during the planning process, annual service plan review meetings, and upon
627 request.
628
629 2. Providing the participant with a basic overview of the AWC option and the responsibilities
630 associated with each service delivery option during the planning process, annual service plan
631 review meetings, and upon request.
632
633 3. Providing the AWC's contact information in the participant's AE of registration during the
634 planning process, annual service plan review meetings, and upon request.
635
636 4. Providing participants with support and assistance to make the decision to exercise participant
637 direction authority and refer participants to other resources such as Supports Brokers, as
638 necessary.
639
640 5. Identifying and addressing concerns related to participant health, safety, and service delivery
641 resulting from Managing Employer performance, and report same to the AWC, AE, and/or
642 ODP as appropriate.
643
644 6. Supporting the participant with designating a surrogate when needed.
645
646 7. If a participant is involuntarily terminated from the AWC model, providing the participant with
647 options to choose an agency-based service options to meet their needs, and working with the
648 participant, surrogate, and individual plan team to ensure an effective transition between
649 participant directed and traditional services so that there are no gaps in service, that
650 participant's health and welfare is protected, and services are provided in accordance with the
651 authorized individual plan.

- 652
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654 8. If a participant is involuntarily terminated from the AWC model, providing the participant with
655 options to choose an agency-based service options to meet their needs.
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704 **ATTACHMENT A**

705
706 **AWC Employer Responsibilities**

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708 The AWC as the employer of record is responsible for all of the following:

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- 711 1. Hiring SSPs referred by Managing Employers;
 - 712 2. Processing SSP employment documents;
 - 713 3. Verifying that SSPs meet the qualification standards outlined in Appendix C-1 and C-3 of the
714 applicable ODP waiver;
 - 715 4. Obtaining criminal background checks and child abuse checks on prospective SSPs in
716 accordance with 55 Pa.Code §§ 6100.47-49 (Relating to criminal history checks);
 - 717 5. Preparing and disbursing payroll checks to SSPs;
 - 718 6. Providing workers compensation for SSPs;
 - 719 7. Computing, withholding, filing, and depositing federal, state, and local employment taxes for
720 SSPs.
 - 721 8. Applying the provisions of the Employee Retirement Income Security Act (ERISA) as
722 applicable;
 - 723 9. Providing the SSP orientation specified at § 6100.142(b)(1)-(5) prior to working alone with
724 individuals, and within 30 days after hire or starting to provide a service or support to an
725 individual, unless the SSP works fewer than 30 cumulative days in a 12-month period;
 - 726 10. Providing annual training to SSPs in the content areas specified at § 6100.143(c)(1)-(4) and
727 (6), unless the SSP works fewer than 30 cumulative days in a 12-month period;
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755 **ATTACHMENT B**

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757 **Managing Employer Skills Training Topics**

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759
760 1. Completing the Managing Employer Agreement and all other AWC-required forms.
761
762 2. Completing Authorized Surrogate Designation forms.
763
764 3. Equal employment practices in hiring prospective SSPs regardless of race, creed, color, national origin,
765 sex, disability, marital status, or sexual orientation.
766
767 4. SSP recruitment techniques.
768
769 5. Referring prospective SSPs to the AWC for hiring.
770
771 6. Recruit and refer qualified SSPs to the AWC FMS organization for possible hire.
772
773 7. Determining wages and optional benefit allowances for qualified SSPs in accordance with ODP-
774 established wage ranges and benefit allowances.
775
776 8. Developing and managing SSP work schedules.
777
778 9. Developing, implementing, and revising back-up plans for SSPs and unpaid supports.
779
780 10. Managing SSPs.
781
782 11. Verifying hours worked by SSPs.
783
784 12. Time sheet completion and submission.
785
786 13. Evaluating SSP performance.
787
788 14. Understanding and implementing Individual Plans, including techniques to train SSPs on the content of
789 individual plans.
790
791 15. Protecting and supporting the exercise of individual rights as specified at §§ 6100.181 – 182 and §§
792 6100.184-185.
793
794 16. Implementing the Individual Plan in accordance with § 6100.224 (Relating to implementation of the
795 individual plan), including requesting updates to the Individual Plan.
796
797 17. Restrictive procedure use, which includes, at a minimum:
798 a. The prohibition or use of specific types of restrictive procedures;
799 b. The circumstances in which a restrictive procedure may be used;
800 c. Monitoring and controlling the use of restrictive procedures.
801
802 18. Monitoring service utilization in accordance with the participant’s Individual Plan.
803
804 19. Creating service notes in accordance with § 6100.226 (Relating to Documentation of Claims) and ODP
805 bulletin 00-18-04, *Interim Technical Guidance for Claim and Service Documentation*, or its successor.
806
807 20. Creating progress notes in accordance with § 6100.227 (Relating to Progress Notes) and ODP bulletin
808 00-18-04, *Interim Technical Guidance for Claim and Service Documentation*, or its successor.

- 809
810 21. Reporting work-related injuries incurred by SSPs to the AWC.
811
812 22. Reporting suspected Medicaid fraud by SSPs or vendors to the AWC.
813
814 23. Reporting incidents specified at § 6100.401 (Relating to types of incidents and timelines for reporting)
815 to the AWC.
816
817 24. Notifying the AWC of SSP performance issues, such as failure to report for work.
818
819 25. Notifying the AWC of the desire to discontinue receiving services from an SSP, i.e. termination of the
820 SSP's employment.
821
822 26. Completing the annual AWC Satisfaction Survey.
823
824 27. Fraud, waste, and abuse prevention to include, at a minimum:
825

826 **Falsifying Claims/Encounters**

- 827 • Billing for services not rendered
828 • Billing separately for services in lieu of an available combination code
829 • Misrepresentation of the service/supplies rendered (billing brand name for generic drug, upcoding to
830 more expensive service than was rendered, billing for more time or units of service than provided)
831 • Altering claims
832 • Submission of any false data on claims, such as date of service, provider or prescriber of service
833 • Duplicate billing for the same service
834 • Billing for services provided by unlicensed or unqualified persons
835 • Billing for used items as new

836 **Administrative/Financial**

- 837 • Falsifying credentials
838 • Fraudulent enrollment practices
839 • Fraudulent third-party liability reporting
840 • Offering free services in exchange for a recipient's Medical Assistance identification number
841 • Providing unnecessary services/overutilization
842 • Kickbacks-accepting or making payments for referrals
843 • Concealing ownership of related companies

844 **Recipient Fraud and Abuse**

- 845 • Forging or altering prescriptions or orders
846 • Using multiple ID cards
847 • Loaning his/her ID card
848 • Reselling items received through the Medical Assistance program
849 • Intentionally receiving excessive drugs, services or supplies
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ATTACHMENT C

Model Managing Employer Agreement Form

Agency With Choice Financial Management Services
MANAGING EMPLOYER AGREEMENT FORM

I understand that "Participant Direction" means that the individual or their surrogate has the ability to exercise decision-making authority over some or all of the individual's supports and services authorized in the Individual Support Plan (ISP). The individual or surrogate elects and accepts the responsibility for self-directing or managing those supports and services and is, therefore, recognized

PARTICIPANT INFORMATION		
First Name	Middle Name	Last Name
Social Security Number	Email	Date of Birth (mm/dd/yyyy)
Physical Address (Street Address, Including Apt. #)		County
City	State	Zip Code
Phone 1	Phone 2	Email Address:

as the "Managing Employer."

MANAGING EMPLOYER INFORMATION (Complete if the Participant is Choosing a Surrogate)			
First Name	Middle Name	Last Name	
Relationship to Participant <input type="checkbox"/> Parent <input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Legal Guardian <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Other: _____			Gender <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other
Physical Address (Street Address, Including Apt. #)			
City	State	Zip	County
Mailing Address (Street Address, Including Apt. #) – if different than the physical address			
City	State	Zip	County
Phone	Phone2	Preferred Method of Communication <input type="checkbox"/> Email <input type="checkbox"/> Mail <input type="checkbox"/> Phone / Voicemail	

877 **Requirements:**

878 In the AWC model, choice and control over services received allows the Managing Employer to
879 perform activities that include, but are not necessarily limited to:

- 880 • Recruiting and referring SSPs to the AWC for hire;
- 881 • Training SSPs to meet the individual's needs as specified in the Individual Plan;
- 882 • Determining SSP hours of work, schedules, and responsibilities in accordance with ODP
883 requirements and the Individual Plan;
- 884 • Managing the services provided by SSPs in a supervisory capacity; and
- 885 • Electing to dismiss an SSP from providing services and inform the AWC of the desire to
886 dismiss an SSP from providing service to the individual with or without cause.
- 887 • In addition to fulfilling the responsibilities of a Managing Employer as set forth in the Participant
888 Directed Services Agency With Choice Financial Management Bulletin XX-19-XX a Managing
889 Employer/Surrogate must:
 - 890 • Be at least 18 years of age or older;
 - 891 • Carry out the decision the individual would make for himself/herself;
 - 892 • Accommodate the individual, to the extent necessary that they can participate as fully as
893 possible in all decisions that affect them;
 - 894 • Give consideration to all information including the recommendations of other interested and
895 involved parties; and
 - 896 • Embody the guiding principles of self-determination.

897 **Roles and Responsibilities of the Managing Employer**

898 The Managing Employer of the qualified Support Service Professional is responsible for:

- 899 1. Complying with the AWC Managing Employer agreement.
- 900 2. Completing, signing, and returning all forms and documents required by the AWC.
- 901 3. Participating in all Managing Employer orientation and skills training sessions as required by
902 the AWC.
- 903 4. Establishing wages and benefit allowances for all SSPs within the current ODP-established
904 wage ranges and benefit allowance notices.
- 905 5. Reporting abuse, suspected abuse and alleged abuse of an individual in accordance with §
906 6100.46 (Relating to Protective services).
- 907 6. Ensuring that written, oral and other forms of communication with the participant and persons
908 designated by the participant occur in a language and means of communication understood by the
909 participant or a person designated by the participant.
- 910 7. Recruiting and referring qualified SSPs to the AWC for possible hire.
- 911 8. Training SSPs on the individual's needs and methods of service delivery as specified in the
912 Individual Plan.
- 913 9. Developing and managing SSP work schedules in accordance with ODP requirements.
- 914 10. Developing, implementing, and revising back-up plans for SSPs and unpaid supports.
- 915 11. Managing SSPs.

- 916 12. Verifying hours worked by SSPs.
- 917 13. Completing, approving, and submitting SSP time sheets and vendor invoices in accordance
918 with AWC and Department of Labor and Industry Standards.
- 919 14. Evaluating SSP performance.
- 920 15. Understanding and implementing Individual Plans.
- 921 16. Protecting and supporting the exercise of individual rights as specified at §§ 6100.181 – 182
922 and §§ 6100.184-185.
- 923 17. Participating in the Individual Plan process in accordance with § 6100.222 (Relating to
924 Individual Plan Process).
- 925 18. Implementing the Individual Plan in accordance with § 6100.224 (Relating to implementation of
926 the individual plan), including requesting updates to the Individual Plan.
- 927 19. Monitoring service utilization in accordance with the participant’s Individual Plan.
- 928 20. Providing full and free access to participants’ Supports Coordinators for purposes of monitoring
929 or related activities.
- 930 21. Creating service notes in accordance with § 6100.226 (Relating to Documentation of Claims)
931 and ODP bulletin 00-18-04, Interim Technical Guidance for Claim and Service Documentation, or its
932 successor.
- 933 22. Creating progress notes in accordance with § 6100.227 (Relating to Progress Notes) and ODP
934 bulletin 00-18-04, Interim Technical Guidance for Claim and Service Documentation, or its successor.
- 935 23. Reporting work-related injuries incurred by SSPs to the AWC.
- 936 24. Reporting suspected Medicaid fraud by SSPs or vendors to the AWC.
- 937 25. Reporting incidents specified at § 6100.401 (Relating to types of incidents and timelines for
938 reporting) to the AWC.
- 939 26. Notifying the AWC of any changes to Managing Employer or SSP demographics, including but
940 not limited to changes to addresses and telephone numbers.
- 941 27. Notifying the AWC of SSP performance issues, such as failure to report for work.
- 942 28. Notifying the AWC of the desire to discontinue receiving services from an SSP, i.e. dismissing
943 an SSP from employment such that the SSP will no longer render services to the participant.
- 944 29. Completing the annual AWC Satisfaction Survey.

945
946 **Attestation**

947 *I, _____(Name of Managing Employer)_____, have received and understand the*
948 *orientation, training, and written information provided to me related to using self-directed support*
949 *services under the Medicaid Waiver, my role as a Managing Employer of qualified Support Service*

950 Professionals (SSPs), and how to work with the Agency With Choice Financial Management Service
951 (AWC FMS) organization.

952 I understand I have the right to choose, refer to the AWC FMS for hire, and once hired, direct my
953 qualified Support Services Professionals and perform the tasks as described in this agreement.

954 I understand and agree with my role and responsibilities as the Managing Employer.

955 I understand that my support services, or those of the Participant for whom I am serving as Managing
956 Employer, must be provided in accordance with my approved and authorized Individual Support Plan
957 (ISP) or that of the Participant for whom I am serving as Managing Employer I understand that if I
958 allow services to be rendered in excess of my approved and authorized ISP or that of the Participant
959 for whom I am serving as Managing Employer, I will be responsible for payment of those services.

960 I agree to abide by applicable Office of Developmental Programs' Waiver and non-Waiver policies,
961 and _____(Name of AWC FMS)_____ and Administrative Entity procedures and
962 requirements.

963

By signing below, I attest that I have read this Managing Employer Agreement in its entirety (four pages). I understand that I must sign and return the form as a condition of the program and that I cannot begin enrollment in the Participant Direction Services Program until this form is completed and returned to AWC FMS. I further attest by signing below that I understand what is being required of me and agree to abide by its terms and conditions. I further understand and agree that violation of any of the terms or conditions of this Agreement may result in termination of this Agreement.

964 **Signatures:**

965 _____
966 Individual Date

967 _____
968 Managing Employer Date
969 (if different than the individual)

970 _____
971 AWC FMS Director

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