

**Commonwealth of Virginia
Department of Medical Assistance Services
Office of Community Living**

***Consumer-Directed
EMPLOYER OF RECORD MANUAL***



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CHAPTER ONE:

INTRODUCTION

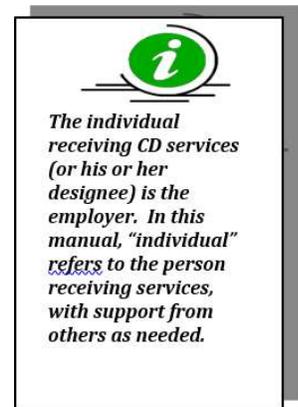
Consumer Directed (CD) services are support services that are necessary to enable an individual to remain at or return home rather than enter an institution. Services may include assistance with bathing, dressing, toileting, transferring, and nutritional support necessary for consumers to remain in their own homes or in the community. Services can also include supervision and respite services.

The decision to use consumer directed services means that the individual or someone the individual chooses will be the employer of the attendants providing the supports and services instead of agency directed care.

This Consumer-Directed Employer of Record (EOR) Manual provides information about the responsibilities and the benefits that come with consumer-direction, including hiring, training, supervising, and, if necessary, firing attendants who will be providing CD services to the individual.

CD services are available in the following Virginia Medicaid waivers, benefit, and program:

- 1) Commonwealth Coordinated Care Plus (CCC Plus) waiver**
- 2) Community Living (CL) waiver**
- 3) Family and Individual Supports (FIS) waiver**
- 4) EPSDT (Early and Periodic Screening, and Diagnostic and Treatment) Benefit**
- 5) Medicaid Works Program**



NOTE: Neither the Department of Medical Assistance Services (DMAS) nor the fiscal employer agent (F/EA) employs the attendant; the individual receiving CD services or their designee is the employer of record (EOR). Please review and refer to this manual often in order to carry out the responsibilities as an EOR. The table of contents will guide the employer through this EOR manual.

TERMS TO KNOW

- **Employer of Record (EOR)** – The person who performs the function of the employer in the consumer-directed model. The EOR may be the individual receiving the services or another person designated by the individual.
- **Individual** – The person receiving Medicaid waiver services/supports.
- **Services Facilitator (SF)** – The provider that is responsible for assisting the individual/EOR with the employer packet, hiring of an attendant, and coordination of other CD related services.
- **Fiscal/Employer Agent (F/EA)** – The DMAS or MCO Contractor who handles attendant payments for CD services on behalf of the EOR.
- **Attendant** – The person hired to provide consumer directed care or supports.

BENEFITS OF CONSUMER – DIRECT SERVICES

- Increased flexibility
- Accommodation of individual needs and preferences
- Responsibility to recruit, hire, employ, train and fire attendants
- Control of employment decisions
- Increased opportunity for choice of attendant who provides services

WHO IS ELIGIBLE FOR CONSUMER-DIRECTED SERVICES?

Individuals must be Medicaid eligible to receive a Medicaid waiver service. The local departments of social services determine Medicaid eligibility. If not yet enrolled in a Medicaid program that offers CD services, the DMAS website offers information which may be helpful; the website link is: <http://www.dmas.virginia.gov/#/longtermwaivers>.

- ✓ CD services are available in the following waivers, benefit, or program:
- ✓ Commonwealth Coordinated Care (CCC) Plus waiver
- ✓ Community Living (CL) waiver
- ✓ Family and Individual Supports (FIS) waiver
- ✓ EPSDT (Early and Periodic Screening, and Diagnostic and Treatment) Benefit
- ✓ Medicaid Works Program

An individual may not be eligible for CD services if any of the following exists:

- ✓ It is determined that he or she cannot be the employer, and no one else is able to assume this role,
- ✓ The individual wants CD services, but cannot assure health and safety or develop an adequate back-up support plan, or
- ✓ The individual has medication or skilled nursing needs or medical/behavioral conditions that cannot be met through CD services.

For individuals that are not eligible for CD services, agency directed supports may be available. The above will be reviewed during the LTSS screening process and periodically by the SF (Services Facilitator), support coordinator, care coordinator, DMAS and/or its authorized agent.

BACK UP SUPPORT PLAN

The individual receiving CD services must have a back-up support plan in the event the CD attendant cannot come to work, so the individual is not left without someone to perform the duties the attendant would usually do. The individual may choose a family member, neighbor, friend, or paid employee willing and available to assist the individual when needed as the back-up support plan. The individual should keep a list of names, telephone numbers, and hours that people are able to work as back-up supports.

Individuals who do not have a back-up plan are not eligible for CD services or Medicaid waivers until they have developed a back-up plan. The SF, case manager, or support coordinator may not be the back-up support for the individual.



COMMONWEALTH COORDINATED CARE (CCC) PLUS PROGRAM

Individuals enrolled in the Commonwealth Coordinated Care (CCC) Plus program are eligible to receive CD services while enrolled in the CCC Plus waiver, the EPSDT benefit, or Medicaid Works program, through their Managed Care Organization (MCO). MCOs are often referred to as health plans. Individuals will continue to work with a SF and will have the additional resource of an assigned care coordinator from the health plan to ensure that the individual's needs are met.

The role of the SF may be slightly different than described in this manual; if the EOR has questions, they should discuss them with the individual's MCO care coordinator or call the number on the back of the CCC Plus program identification card.

All individuals enrolled in the CCC Plus program receive the same level of necessary supports and services as those individuals who are not enrolled in the CCC Plus program. The CCC Plus MCO is responsible for authorizing services based on the plan of care developed by the care coordinator, the EOR, and the SF.

Each MCO contracts with a F/EA for CD services as follows:

Aetna Better Health of Virginia – Public Partnerships, LLC &
Consumer Direct Care Network (CDCN)
Anthem HealthKeepers Plus – Public Partnerships, LLC
Molina Complete Care – ACES\$ Financial Management Services
Optima Health Community Care – Public Partnerships, LLC
United Healthcare – Public Partnerships, LLC
Virginia Premier Elite Plus – Consumer Direct Care Network (CDCN)

WHICH SERVICES CAN BE CONSUMER-DIRECTED?

Companion Services are available only to CL and FIS Waiver individuals aged 18 or older. It is not available in the CCC Plus waiver, EPSDT benefit, or Medicaid Works. Companion services are defined as assisting adult individuals with housekeeping, shopping and community activities.

Personal assistance services help individuals with their activities of daily living (ADLs), such as dressing, bathing, toileting, eating, and assistance with self-administration of medication. They may also be used to support individuals with their ADLs at work and other places in their community. This service is available in the CCC Plus, CL, and FIS waivers, in Medicaid Works, and in the EPSDT benefit.

Respite services provide assistance and support to individuals that provide the unpaid primary caregiver (for example, a family member) time to do things that they need to do for themselves or other members of the family. A respite attendant assists the individual at home and in the community with tasks the family/caregiver normally helps with, giving the family/caregiver the needed time away.

NOTE: An attendant cannot provide skilled respite services. Skilled respite services means temporary skilled nursing services that **MUST** be performed only by a LPN or RN for the relief of the unpaid primary caregiver who normally provides the care. General respite services that do not require a LPN or RN are available in the CCC Plus, CL, and FIS waivers. Respite services are not available in EPSDT or Medicaid Works.

SERVICES EXCLUDED FROM CONSUMER- DIRECTED SERVICES

CD attendant services do not include nursing services, unless they are providing health care tasks that the individual would typically do themselves, but because of a disability, they are unable to do. The waiver individual must be able to supervise and direct their CD attendant in carrying out the tasks. Some examples may be helping the individual take some medications or placing dry dressings on wounds.

If the attendant provides any nursing services that are not directed and supervised by the individual and is not a task that would not be typically done by the individual during the time that Medicaid is paying for the service, the individual may be removed from CD services. If there are questions about what is considered a nursing service, talk to the SF. Attendants are not trained nor authorized to provide nursing services.

The individual may have skilled nursing needs and receive CD services if the skilled nursing service are provided by a non-Medicaid provider or a non-paid caregiver, are performed by the individual, or are provided through a skilled nursing or home health Medicaid benefit.

CHAPTER TWO: CHOOSING CONSUMER-DIRECTED SERVICES

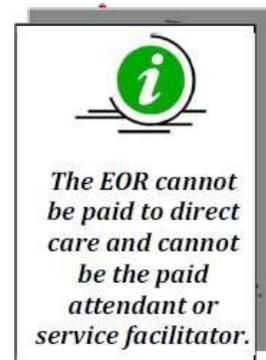
ROLE OF THE EMPLOYER OF RECORD (EOR)

For each individual receiving CD services, there must be an EOR (Employer of Record). This person is considered the employer of the attendants providing care/supports for the individual. An EOR must be at least 18 years old. A parent or other responsible party must act as the EOR for a child under the age of 18. In many cases, the EOR is the individual receiving services. In other cases, the EOR is a person designated by the individual receiving services to act as the employer. The EOR can only serve on behalf of one individual. The only exception when an EOR can serve multiple individuals is if the individuals receiving CD services reside at the same address. The EOR is the individual who will sign employee paperwork, manage attendants, and approve shifts.

NOTE: The EOR cannot be paid to direct care, cannot be the paid attendant, and cannot be the SF.

The duties of the EOR include:

- ✓ Recruiting, interviewing, hiring, training, directing and supervising all attendants;
- ✓ Firing an attendant, if necessary;
- ✓ Making schedules and tasks to be completed by each attendant;
- ✓ Managing and evaluating the work of each attendant;
- ✓ Keeping track of the services provided by the attendant; and
- ✓ Establishing a system for signing and submitting work shift entries to the F/EA on a timely basis.



Throughout this manual, the EOR is discussed as if he or she is the individual receiving services; however, the EOR may also be the representative of the individual

ROLE OF SERVICE FACILITATOR (SF)

The Services Facilitator (SF) is the person who supports the individual in consumer-directing services. The SF trains the EOR on the responsibilities of being an employer and how to manage attendants.

The role of the SF is to:

- ✓ Make sure the individual gets the services needed.
- ✓ Develop the service plan with the individual and the EOR.
- ✓ Provide the fiscal/employer agent the appropriate forms to start the process of establishing the EOR.
- ✓ Review this manual with the EOR.
- ✓ Submit requests for service authorization of CD services to the appropriate service authorization contractor.
- ✓ Train the EOR on the required tasks of an employer.
- ✓ Document services as required by the Department of Medical Assistance Services (DMAS).
- ✓ Assist the EOR when filling out paperwork for the Fiscal/Employer Agent.
- ✓ Conduct required routine and reassessment visits.
- ✓ Conduct the annual level of care review process.

EORs may discuss employer concerns and questions with their SF.. The member must choose the SF provider from the list of enrolled providers from DMAS or the MCO. For a list of current Virginia Medicaid enrolled Services Facilitators, visit the Virginia Medicaid Portal:

<https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/searchforproviders> Members enrolled in managed care for their consumer directed services must choose a SF from the MCO network of participating providers. Contact your MCO for a list of SF providers.

The Services Facilitator **cannot** be:

- ✓ The individual receiving services;
- ✓ The individual's spouse;
- ✓ The individual's parent, if the individual is a minor; or
- ✓ The EOR.

ROLE OF THE FISCAL EMPLOYER AGENT (F/EA)

The fiscal employer agent (F/EA) performs payroll activities on behalf of the EOR. This allows the individual to use waiver funds to hire and pay attendants. DMAS contracts with the F/EA to ensure that payment to the attendant is based on the approved service authorization, which documents the number of hours and services and shifts approved by the EOR. The F/EA keeps payment records and follows all tax rules on the EOR's behalf. **DMAS, the SF, and the F/EA do not employ the attendant(s); the EOR employs the attendant(s).**



The F/EA is responsible for:

- ✓ Management of enrollment packets
- ✓ Helping the EOR and attendants with the enrollment process
- ✓ Processing attendant employment and tax-related documents
- ✓ Payroll processing and issuance of paychecks to attendants every two weeks with the receipt of fully completed and signed shifts for DMAS-approved services
- ✓ Calculates, withholds, and deposits of State and Federal income tax, Medicare, Social Security, and unemployment taxes for attendants to maintain tax compliance
- ✓ Completes of criminal background checks for each attendant
- ✓ File monthly, quarterly, and annual forms and tax deposits with State and Federal agencies
- ✓ Issue W-2 Statements to each attendant every January
- ✓ Provide quarterly reports to the EOR showing services used and services remaining
- ✓ Answer all questions that the EORs and attendants have about payroll and services

NOTE: Refer to Appendix A, Page 37 of this manual for the current F/EA contact information and website links.

ROLE OF THE ATTENDANT

The attendant is the individual hired by the EOR who provides CD personal assistance, respite services, or companion services to the individual. The attendant provides those services that are authorized by DMAS or its designated service authorization agent.

The attendant should have the knowledge, skills and abilities to perform the functions and duties necessary to support the individual who is receiving services. Refer to Chapter Five of this manual for more information regarding attendant requirements.

Certain individuals are prohibited from serving as the attendant. The attendant cannot be the parent if the individual being served is a minor child or the individual's spouse. Companion services shall not be provided by adult foster care providers or any other paid caregivers for an individual living under the same roof.

The attendant must successfully pass a criminal background check through the Virginia State Police and a child protective services background check if they are providing care to a minor child. Refer to Chapter Five of this manual for more detailed information.

STEP PROCESS – JOB EXPECTATIONS FOR THE EOR

CHOOSING CD (CONSUMER-DIRECTED) SERVICES

The individual must be previously screened and enrolled in the CCC Plus, CL, and FIS waiver, be determined for a need for personal care through EPSDT, or qualify under the Medicaid Works aid category in order to choose CD services. When the individual chooses CD services or a combination of CD and Agency Directed (AD) services, they are given a list of possible services facilitators (SF). The individual chooses a services facilitator (SF) and then contacts the chosen SF directly. If the chosen SF agrees to provide services, the SF makes a visit to the individual.

COMPREHENSIVE VISIT

The SF meets face to face with the individual and the EOR as appropriate for the comprehensive initial visit and ensures that the individual is eligible to receive CD services. The SF reviews the Individual Selection of Consumer Directed Services Form (DMAS-489) and the Service Agreement between the Individual and the CD Services Facilitation Provider Form (DMAS-486). These forms explain responsibilities of the Individual and the EOR and the SF. They must be signed and dated by the Individual/EOR and the SF before the individual/EOR can begin employing an attendant in the program service. Copies must be maintained by the SF, and it is also recommended that the EOR maintain copies of these forms. Copies of these two forms are in Appendix C of this manual.

During the comprehensive visit, the SF will ask questions about the service needs and preferences and will work together with the individual to develop a person centered service plan that includes the types and amounts of services to be needed. After the visit, the SF will submit a service authorization (SA) request complete with all necessary documents to the appropriate entity based on the agreed upon service plan. The SF will contact the F/EA to request an Employer of Record enrollment packet that can be mailed to the EOR in order to get the individual/EOR enrolled with the F/EA. F/EAs also provide the enrollment packet online for download and completion.

COMPLETING THE VIRGINIA EMPLOYER OF RECORD ENROLLMENT PACKET

The EOR must enroll with the F/EA before services can begin. The EOR must fully complete and return all forms found in the Employer of Record Enrollment Packet. The EOR must mail or email the original completed packet to the F/EA who makes sure all employment rules are followed for payroll. When the packet has been successfully processed by the F/EA, the EOR is ready to hire an attendant.

EMPLOYER MANAGEMENT TRAINING

Within seven days of the initial comprehensive visit (or that same day), the SF must train the EOR on hiring, supervising, training, and firing attendants. The specific topics for training are documented on the Consumer Directed Individual Comprehensive Training Form (DMAS-488). This form must be completed by the SF during the training, and signatures of the Individual/EOR and the SF must be obtained after the training.

HIRING ATTENDANTS

The EOR selects and hires the attendant(s). The attendant(s) must fully complete the Attendant Application found on the F/EA website. After receipt of the application, the F/EA will send the EOR “The Attendant

Employment Welcome Packet” that the attendant must complete. Once the packet has been successfully processed, the attendant is considered in a “good to pay” status by the F/EA.

IMPORTANT: The attendant will not be paid for services provided until all information is received and processed by the F/EA and a service authorization has been approved. If the attendant begins providing services before the service authorization is approved and a problem arises such as the authorization for services is not approved or is approved for fewer hours than requested, the attendant will not be paid for hours that were worked beyond those that were approved. In this case, the EOR may be responsible for paying the attendant for the unauthorized hours. **Attendants cannot be paid with Medicaid funds for any time that the individual is not eligible for Medicaid, eligible for the applicable Medicaid waiver, benefit, or program, and authorized by DMAS or its contracting agent to provide the CD service.**

TIME SHIFTS

The EOR must train the attendants and provide feedback as appropriate on work shift entries. Using the Electronic Visit Verification (EVV) compliant mobile app or interactive voice response (IVR) system provided by the F/EA, the attendant will submit time to be confirmed by the EOR. The EOR and the attendant will determine the best system to enter and approve work shift entries. For assistance or questions regarding completing and submitting attendant time shifts, contact your F/EA or SF.

PAYROLL

The F/EA pays the attendant on behalf of the individual receiving services, less applicable taxes, patient pay deductions, and other withholdings, if appropriate. The individual receiving waiver services is responsible for paying the patient pay amount, if required, directly to the attendant. Patient pay amount is defined in more detail in Chapter Four of this manual.

SF FOLLOW-UP VISITS

- It is recommended that the SF visit the individual at least twice within 60 days of the first comprehensive meeting to monitor the CD services employment process
- The SF must visit at least semi-annually if only respite services or companion services are being provided.
- The SF must visit the individual once every 30 to 90 days if personal care services are being provided. The EOR and SF should agree upon the frequency of these visits. The SF may also visit more frequently as needed and/or requested by the individual.
- The individual or EOR may contact the SF at any time with questions.

QUARTERLY SERVICES REPORTS

The individual reviews the *Quarterly Services Report* provided by the F/EA. This is a report that provides information to the individual on the number of hours of service used, patient pay withheld, and how much each employee has been paid. This report will be sent to the EOR quarterly. Any errors noted should be immediately reported to the SF or F/EA.

CHAPTER THREE: DEFINING INDIVIDUAL NEEDS AND SERVICE PLANNING

THE SERVICE PLAN

Person-centered planning is based on a variety of approaches or tools to organize and guide life planning with individuals, their families, and friends. Focusing on the individual in person-centered planning ensures that the service plan moves beyond program planning and considers the whole picture of the individual's life. Furthermore, in person centered planning, it is the individual who directs the support and service planning process, with assistance from the SF and other involved family and friends.

The service plan identifies the following:

- An individual's care or support needs and preferences
- Tasks that the attendant will perform on a daily basis, or as needed,
- The individual's personal goals,
- Amount, frequency, duration, and scope of services,
- The type of provider to furnish each service,
- Back-up support plan, and
- Formal and informal supports



The individual may need CD services at separate times of the day (e.g., some hours in the morning and some in the evening). The service plan must show what activities will be done during each time period. The individual may have two different attendants: one for the morning and one for the evening, or one attendant who works both times. Either way, the total number of hours of services provided must be documented in the service plan and authorized by the service authorization contractor.

As the employer of the attendant, the EOR **must** monitor the delivery of the service plan and must maintain a copy of the service plan in the home. Payment may only be made for services that are authorized and documented in the service plan as provided.

SERVICE AUTHORIZATION

All CD services require service authorization by DMAS or the designated agent. Currently, KEPRO is the agent responsible for processing and authorizing Fee-for-Service service requests. The Department of Behavioral Health and Developmental Services (DBHDS) is responsible for processing and authorizing CL and FIS waiver requests. The health plans are responsible for authorizing service requests for those in managed care.

The EOR works with the SF to obtain service authorization before services can begin. Once authorization is completed by the service authorization contractor, services will be paid back to the approved start date of the authorization. **If the attendant begins providing services before the authorization is received, and a problem arises such as the authorization is not approved or is approved for fewer hours than requested, the attendant will not be paid or paid for all of the hours he or she may have worked. In this case, the individual may be responsible for paying the attendant for unauthorized or incorrect hours.**

Requests for changes to the service plan and authorizations must be submitted by the SF. The EOR is encouraged to contact the SF or case manager when unusual situations occur, or changes in hours and times of services may be needed.

It is also the responsibility of the SF to ensure that yearly requests for service authorization renewals are completed and submitted to the appropriate service authorization contractor in advance to avoid any service interruption or delays in payment to the attendant.

CHAPTER FOUR: RESPONSIBILITIES OF BEING AN EMPLOYER

RESPONSIBILITIES AS AN EMPLOYER OF RECORD (EOR)

When choosing CD services, as the employer, the EOR incurs all responsibilities of an employer. It is important that the EOR understand all that is required of an employer.

Eligibility: The individual receiving services must be eligible for Medicaid services and enrolled in one of Virginia's waivers, benefit, or program that allows CD services in order for the attendant to receive Medicaid payment for services rendered. Should eligibility be terminated, the EOR may be responsible for payment of services rendered during the period of ineligibility.

Service Plan: As the employer of the attendant, the EOR must agree to work with the SF to develop a service plan outlining the tasks and activities of daily living that the individual wants the attendant to perform. This plan will be written and available to the attendant to guide the supports and services that the individual wants the attendant to perform.

Back-up Plan: A back-up plan must be in place to cover unforeseen circumstances, when the attendant is not able to come to work such as an illness, or for scheduled vacations, holidays, etc. The back-up plan can be a family member, friend, neighbor, or other paid employee willing and able to assist when needed.

Documentation: The EOR should maintain a record that includes the service plan, attendant application(s), documentation of TB (Tuberculosis) testing, if required, and any other information relevant to being an EOR of CD services.

DMAS Reviews: The EOR shall agree to be available for any DMAS reviews or audits. The EOR must provide documentation, upon request by DMAS or health plans, for audit purposes.

AGENT (F/EA)

Enrollment Packets: These forms must be completed and returned to the F/EA for processing. It is the EOR's responsibility to ensure the packets are sent to the F/EA before the attendant begins work. The EOR must complete all necessary forms found in the Employer of Record Enrollment Packet and the attendant must complete all necessary employee information in the *Attendant Employment Welcome Packet*. Contact the SF or the F/EA for help if needed.

Taxes: The F/EA will file and withhold all of the appropriate Employer Federal and State taxes on behalf of the EOR for CD services.

Criminal Background Checks: The F/EA will request the required criminal background records check. If the criminal record check shows that the attendant has a conviction of having committed a barrier crime, or the attendant has a substantiated finding in the Child Protective Services (CPS) Central Registry (if the individual is a minor), the EOR is prohibited from hiring or continuing to employ the attendant.

EOR RESPONSIBILITIES REGARDING ATTENDANTS

Training: The EOR must train and direct the attendant in providing the authorized services described in the service plan.

Scheduling: The EOR shall establish a mutually agreeable schedule with the attendant. The hours must be worked in accordance with the individual's approved service plan and authorization. The EOR and attendant are both responsible for providing adequate notice of changes in the attendant's work schedule. The attendant should notify the EOR as soon as possible in the event of illness, emergency or other instance that prevents the attendant from coming to work or arriving late. This will give the EOR time to arrange for assistance from someone else.



Equipment/Supplies: The EOR must provide any safety equipment and supplies necessary to provide care (e.g., if blood or other bodily fluids are handled, the employer provides protective gloves.) Recommendations regarding disposable items are based on current universal precaution guidelines from the Centers for Disease Control and Prevention at: www.cdc.gov. Examples of disposable items may include non-sterile disposable medical gloves, isolation gowns, and face protection such as face shields, masks or goggles. Refer to the CDC web site listed above for more detailed information on universal precautions. There is more information on universal precautions in Chapter Six of this manual.

Note: Medicaid may pay for protective gloves in some instances such as contact with blood or other bodily fluid. Medical supplies are accessed through a Medicaid enrolled durable medical equipment and supplies provider. Ask the SF for assistance, if applicable.

RESPONSIBILITIES REGARDING ATTENDANT PAY

Shifts: Approved methods for shifts must be properly completed and signed/approved by both the EOR and the attendant after work has been completed. Hours recorded on the shifts cannot exceed the authorized number of hours or the approved service authorization. Approved methods are provided by the F/EA and are compliant with federal requirements of EVV. For questions and instructions on completing work shift entries with EVV, please contact your F/EA or SF for assistance.

The following requirements must be followed for proper shift submission:

- ✓ It is the responsibility of the EOR to verify the attendant's reported hours worked as well as make sure that shifts are accurate and fully completed before it is submitted. This includes the submission of sick leave hours.
- ✓ Shifts can be entered electronically in the F/EA's mobile application or an interactive voice response

system through a telephone available from the F/EA.

- ✓ Biweekly time-entries must be signed, dated (month, day, year), and approved by both the EOR and the attendant after work has been completed. The signature can be captured electronically or verbally.
- ✓ Hours recorded on the time-entries cannot exceed the authorized number of hours on the approved service authorization.
- ✓ It is the EOR's responsibility to approve the time-entries within two business days from the end of the pay period.
- ✓ Any time-entry recorded before the end of the pay period will not be paid until the time period is completed.
- ✓ Incorrect time entries will be "denied" or "pending" and the attendant will not be paid until all issues are resolved.

IMPORTANT: The EOR must not share user names and passwords with the attendants. Doing so may allow the attendant to submit and approve shifts that have not been verified by the EOR. It is always a good idea to keep user names and passwords in a secure location to safeguard access by others. In addition, the attendant should not share user names or passwords with the EOR.

Patient Pay: The individual receiving services may have to pay a portion of the attendant's wages (the "patient pay" amount), if applicable. The individual will be notified by the local department of social services of any patient pay responsibility. The EOR agrees to make sure the individual receiving services pays the attendant the patient pay amount on a regular and timely basis. The patient pay should be paid to attendants on the pay date it was withheld from the attendant. This amount will not be included in the attendant's pay received from the F/EA.

Service Authorization: Payments made to attendants will be made only when there is a valid approved service authorization and based on the number of hours approved for the time period. Any work performed by the attendant when there is no valid service authorization will not be paid by DMAS or the F/EA. The EOR is responsible for payment of the unauthorized time including wages and applicable taxes. The EOR should work with the SF to ensure there is always a valid approved service authorization for the individual.

Medicaid Payment in Full: The EOR cannot supplement payments other than their obligation related to the patient pay as described above. Hired attendants must agree that payments made with Medicaid funds are considered payment in full. The pay rate is determined by the Virginia General Assembly and is not negotiable. Attendants may not be paid any extra amount above this rate.

Transportation: Attendants can transport individuals in their vehicles, but cannot get paid for both their time and transportation expenses by Medicaid. However, they may keep track of their mileage and related transportation expenses and may be able to count these as deductions on their income taxes, even if they are using the short form for filing their taxes. For assistance with tax advice, attendants can contact the Internal Revenue Service (IRS) or the Virginia Department of Taxation. Be aware that vehicles used for

transporting individuals, whether they belong to the individual or the attendant, must be currently registered through the Department of Motor Vehicles (DMV) and be properly insured based on the minimal liability insurance requirements. For more information, refer to the local Virginia DMV Office or the DMV web site at: <https://www.dmv.virginia.gov/#/>. Neither DMAS nor the Commonwealth has any liability if injury or other harm occurs during transportation of an individual.

Important Information: The EOR must acknowledge that Medicaid payments for services will not be made to attendants if any of the following circumstances exist:

- Services not performed or time not worked;
- Lack of service authorization for time worked;
- Services when the individual is hospitalized or in a nursing facility or ICF/IID;
- Incorrect or incomplete submission of shifts;
- The attendant has been convicted of a barrier crime; or
- Services rendered when the individual is not Medicaid eligible or no longer enrolled in a waiver, the EPSDT benefit, or Medicaid Works program.

Any false or misrepresentation of time, services, individuals, and/or other information is not permitted. If the EOR or the attendant approves/signs a shift that is determined to misrepresent information, the individual will lose the option of consumer-direction and will be reported to the Medicaid Fraud Control Unit. Payment of wages is from Federal and State funds. Any false claims, statements, documents, or concealment of material facts will be prosecuted under applicable Federal and State laws and may result in the loss of Medicaid coverage for the individual.

In the EOR Agreement (located on the F/EA web site) that is signed and dated by the EOR, it reads as follows:

I understand and acknowledge wages are from federal and state funds. Any untruthful submission of services provided in an attempt to obtain improper payment is subject to investigation as Medicaid Fraud. Medicaid Fraud is a felony and can lead to substantial penalties and/or imprisonment.

CHAPTER FIVE: HIRING AN ATTENDANT

This chapter covers the necessary steps for hiring an attendant, to include advertising, screening and interviewing applicants, making a decision, and conducting background checks and CPS registry, and TB testing.

WHO CAN BE AN ATTENDANT?

The attendant is the person who provides personal care or supports for the individual. The attendant is the person hired by the EOR who provides CD personal assistance, respite services, or companion services to the individual.

There are several things that a person must do before he or she can be hired as an attendant.

The attendant must:

- ✓ Be 18 years of age or older;
- ✓ Have the skills to perform services as specified in the individual's service plan;
- ✓ Have basic math, reading, and writing skills;
- ✓ Have a valid Social Security number and be authorized to work in the United States;
- ✓ Submit to a criminal history background records check through the Virginia State Police, and, if the individual being served is a minor, the Virginia Dept. of Social Services (VDSS) Child Protective Services (CPS) Central Registry;
- ✓ Demonstrate the capability to perform health maintenance activities required and that are in the service plan, or be willing to receive training in performing the activities;
- ✓ Not be a spouse of the individual receiving services or a parent or step parent of a minor child receiving the services;
- ✓ Not be the individual's Services Facilitator or Case Manager or Support Coordinator; and
- ✓ Not be the person designated as the EOR who is directing the care of the individual receiving services.

In addition, the attendant must:

- Protect the individual's health, safety and welfare by providing authorized services in accordance with the policies and standards of the applicable Medicaid waiver, benefit, or program.

- Maintain all confidential information regarding the individual and respect his or her privacy.
- Understand that the attendant is employed by the EOR, not the F/EA, the Services Facilitator, the Department of Medical Assistance Services (DMAS), nor the MCO.
- Understand that the property of the individual receiving services, including the telephone, is not to be used by the attendant for personal use unless mutually agreed upon by both parties prior to use of the property.
- Be punctual, neatly dressed, and respectful of all family members. All instructions regarding care must be carried out carefully.

ATTENDANT JOB DESCRIPTIONS

The EOR can develop a job description that reflects their needs, likes, and dislikes. The service plan can be the basis for the information and duties needed to be included in the job description.

The job description should explain:

- ✓ What duties the EOR/individual needs the attendant to perform;
- ✓ The hours the attendant needs to work for the individual; and
- ✓ How the attendant will do the job.

The key to success as an employer is a specific, easy-to-understand job description for the attendant. A job description is used to define the duties, manage time, and schedule the attendant. Its purpose is to provide the person who might become the attendant with a brief description of what the attendant will be doing each day to support the individual. Be realistic about what the attendant can do to support the individual and carry out the requirements of the service plan.

The EOR may require the attendant to have additional qualifications or perform specific duties related to the individual's needs. The individual may document these requirements in the job description and request that the attendant sign and date an agreement that documents the specific duties prior to beginning employment.

Note: A sample attendant job application is found at the end of this manual. This is an optional form to use; however, it may be helpful for the EOR.

ADVERTISING FOR AN ATTENDANT

Now that the EOR has created a job description, the next step is to advertise for an attendant, if there is not already someone in mind.

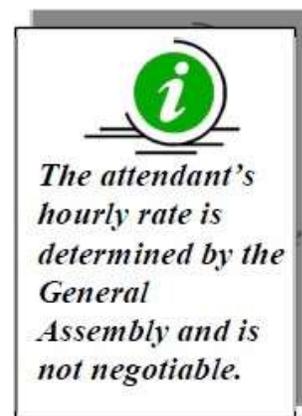
- ✓ The SF may help the EOR to find qualified applicants and will know how to access necessary community resources or know of some available candidates. The SF may help the EOR locate qualified applicants via family, friends, neighbors, or by placing job ads in local newspapers, or on community bulletin boards in local libraries, stores, colleges, hospitals, training centers, etc.
- ✓ The cost of recruiting for an attendant is the EOR's sole responsibility.
- ✓ DMAS does not reimburse the EOR or the SF for any expenses associated with the hiring process such as advertising or training attendants.

SCREENING APPLICANTS AND SCHEDULING INTERVIEWS

After placing the job ad, be ready to receive telephone calls. The EOR will want to ask which days and hours the applicants can work and discuss payment. The hourly rate is determined by the Virginia General Assembly and not by the EOR, SF, or the F/EA. If the applicant wants more pay than what is allowed, or cannot work the hours needed, the individual does not have to interview them. Asking these questions can save time by helping to screen out applicants who do not meet these basic criteria. Be sure that all applicants meet the basic qualifications for employment as identified earlier in this chapter.

The EOR may want to give a brief description of the job, hours, and pay rate to the applicant. Keep the job description near the telephone, along with paper and pencil for taking notes. The SF can offer guidance and additional training to the EOR about how to screen applicants, as necessary.

If the person is interested in the job, and the EOR is interested in meeting them, the EOR may set up a time to conduct a formal interview. The EOR may request a completed job application and/or resume from the applicant in advance of the interview, if possible.



INTERVIEWING APPLICANTS

The main purpose of the interview is to learn about the applicant, determine if they are qualified, and decide if the applicant is the person the EOR would like to hire to provide supports and services. It is recommended that the EOR meet the applicant in a public location (for safety reasons) to conduct the interview and complete an application if it was not received prior to the interview.

The purpose of the interview is to learn as much as possible about the applicant and to share information about the job and duties, so that both parties have enough information to make a good decision. The EOR may want to have someone that they trust present during the interview. During the interview, the EOR can assess many things about the person even without asking questions.

For example, is the applicant:

- On time for the interview?
- Dressed neat and clean?
- Interested in what you have to say?
- Polite?
- Answering questions completely?

When scheduling interviews, allow enough time between appointments to think about each applicant and write down some notes. It may be helpful to list the things that were important about each applicant.

Interview tips include:

- Introduce yourself and help the applicant feel comfortable.
- Have the written job description ready to give to the applicant and take some time to explain the duties, expectations and care needs of the individual.
- Talk about the rate of pay, how payment will be made and the number of hours required.
- Ask the applicant about their job history and relevant experience.
- Ask the applicant to provide a list of previous jobs and employers, and the reasons for leaving.
- Ask for at least two references from past employers and be sure to check the references provided.
- Ask the applicant why they want to perform this type of work.
- Explain that the applicant will have to submit to and pass a criminal background check, and CPS registry check if the individual being served is a minor child.
- At the end of the interview, thank the applicant for their time. You may tell them that they will be notified when a decision has been made. You should consider notifying all applicants of your final decision.

SAMPLE QUESTIONS TO ASK IN AN INTERVIEW

During the interview, the individual/EOR should keep in mind the qualities that are desired in an attendant. The attendant should be someone that the individual likes and respects. Some of the following questions may help determine if the individual/EOR and the attendant will get along. Other questions about things that are important to the individual may also be asked.

Sample Questions to Ask During an Interview:

Job Experience

1. What is your experience working with individuals with disabilities?
2. What classroom and “hands on” training have you had with personal care needs?
3. Are you sensitive to the personal space and preferences of others?
4. How do you show respect, dignity and consideration with the individuals you have worked with?
5. Are you on time for your daily job?

Food and Eating Arrangements

1. Do you like to cook? What do you cook?
2. If you like different foods than I do, will you prepare my meals?
3. Will you assist me if I need help with eating?

Transportation

1. How do you feel about helping me with errands?
2. Would you be willing to drive my car?
3. Are you willing to drive me in your car? If so, do you have insurance?
4. What can you tell me about your driving record?

Housekeeping

1. What experience have you had with housekeeping and laundry?
2. Do you like things very neat or are you not very particular?
3. Do you work better with a definite schedule for cleaning and laundry (e.g., vacuum on Monday, scrub floors on Tuesday, etc.), or do you like to decide for yourself?
4. Are you willing to clean and do laundry based on my preferences?

Personal Care (examples: bathing, dressing, toileting, hygiene, feeding, transferring, and mobility)

1. I will need your assistance with toileting and/or suppositories. Are you comfortable with this? Have you assisted someone with personal care in the past?
2. I will need your assistance with bathing. Are you comfortable with this? Have you assisted someone with personal care in the past?
3. Is there any part of my personal care needs that make you feel uncomfortable?
4. What experience have you had in providing personal care?

Preferred Activities and Other Questions

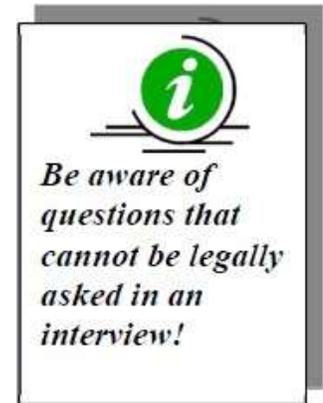
1. Do you smoke?
2. Do you like activities well-planned or do things on the spur of the moment?
3. How do you react if you have to change your plans at the last minute?
4. Why do you want this job?
5. Do you have any questions about the job description?
6. Do you have any concerns about this job?

The EOR May Not Ask Certain Questions During an Interview

When interviewing and hiring an attendant, federal and state law does not allow an employer to discriminate in employment decision.

Questions in the following categories cannot be legally asked:

- Age,
- Gender,
- Gender Identity,
- Religion,
- Race,
- Ethnicity,
- Sexual orientation,
- Marital status,
- Pregnancy,
- Childbirth or related medical conditions including lactation,
- Military status,
- Color
- Disability or
- National origin.



MAKING A DECISION ON AN APPLICANT

Choosing the right attendant is one of the most important decisions the individual can make. If possible, interview several people and consider the advantages and disadvantages of each person before making a choice of whom to hire. The EOR should not hire an attendant over the telephone. A face to face interview with any applicant is strongly recommended. Checking work references of applicants may help to decide whom to hire. The individual can call the applicant's previous employers and explain the job the person is applying for and ask if the applicant was dependable, honest, and got along well with others. There may be other questions that the individual wants to ask, such as whether the employer would hire the applicant again.

NECESSARY TASKS WHEN HIRING AN ATTENDANT

- When an attendant is hired, the EOR must request an attendant application form from the F/EA and have the attendant complete all the required fields. The F/EA will mail the *Attendant Welcome Packet* to the EOR. The EOR completes and submits the *Attendant Welcome Packet* to the F/EA and keeps copies for their records.
- The attendant must complete the required forms in the *Attendant Employment Welcome Packet* before the attendant starts work or can be paid. The F/EA will include a self-addressed stamped envelope in each packet. **NOTE: that the F/EA cannot pay for any services until a completed packet is received and processed for the attendant.**
- It is the EOR's responsibility to assure the forms are completed correctly and submitted to the F/EA. An attendant ID number will be issued by the F/EA when all applicable paperwork has been processed. The SF can assist with these tasks.
- Attendants must complete a separate *Attendant Employment Welcome Packet* for each EOR who employs them.
- A written agreement between the EOR and the attendant will help both the EOR and the attendant to know what is required of their job. The written agreement is a part of the *Employer of Record Welcome Packet* and must be completed and sent to the F/EA. This document addresses wages, scheduling, attendant qualifications, duties, and the mutual responsibilities.
- Review the schedule of days and times that the attendant is expected to work and what days the attendant will be off. **Document any sick leave taken by the CD attendant.** The back-up support plan should be used on the attendant's regular days off, if needed. Talk about the date that the attendant will begin work. Decide on a time to train the attendant.
- Review the service plan and how the attendant will support the individual. Show the attendant where the service plan is located in the home.
- Talk with the attendant about the shift due dates and payroll schedule. The first payroll will occur after all authorizations have been received and enrollment information is processed by the F/EA. EORs (or their SFs) can verify payroll status by accessing the F/EA Web Portal, and clicking on *Shifts* or *Timesheet List*. The attendant can also view their payroll status within the F/EA Web Portal.

BACKGROUND CHECKS

Criminal History Record Request

A *Criminal History Record Request* form must be submitted for every attendant that is hired. Crimes listed in the *Code of Virginia* §37.2-314 (FIS Waiver), §37.2-416 (CL Waiver) and §32.1-162.9:1 (CCC Plus Waiver) are considered barrier crimes and any conviction of any of these crimes would prohibit the attendant from receiving Medicaid payment for their services. The F/EA will notify the EOR when the background check indicates the attendant has been convicted of a crime. The F/EA will send the EOR a letter indicating if there is additional information needed.

CPS Central Registry

If the individual receiving CD services is a minor, a Virginia Department of Social Services (VDSS) *Child Protective Services (CPS) Request for Search of the Central Registry and Release of Information* form must be completed as part of the packet sent to the F/EA.

TUBERCULOSIS (TB) TESTING

Virginia Department of Health (VDH) regulations require attendants providing CD personal care, respite, and companion services to have TB tests performed, such as a skin test or blood test. Frequency of TB tests is determined by VDH. Most tests may be conducted at the local health departments. Based on the VDH guidelines, a positive test for TB infection only tells that a person has been infected with TB germs. It does not tell whether or not the person has active TB disease. Other tests, such as a chest x-ray and a sample of sputum, are needed to see whether the person has TB disease.

For more information, refer to the Virginia Department of Health's (VDH's) guidelines for TB screenings at: <http://www.vdh.virginia.gov/>

CHAPTER SIX: EVERYDAY EMPLOYER DUTIES

In this chapter, the everyday employer duties required for consumer-directed services are explained.

RECORD KEEPING

As an employer, the EOR should consider an organized record keeping system, such as a three-ring notebook or folders, to keep all papers related to the attendant.

Documents that should be kept include:

- ✓ The attendant's job application
- ✓ Notes from the interview
- ✓ Reference checks
- ✓ Copies of shifts submitted
- ✓ The agreement between the EOR and the attendant
- ✓ Record of training provided to the attendant

Accurate and complete records can resolve disagreements. Remember to sign and date any documentation. Accurate and organized records will also be beneficial for the EOR if a Medicaid review is conducted.

TRAINING NEW ATTENDANTS

The most important part of training the attendant is giving clear directions that can be easily understood. A checklist based on the service plan may help the attendant learn the routine.

The following is a list of training tasks the EOR may conduct with the attendant:

- ✓ The EOR may explain the types of tasks that will be performed. Have the attendant repeat the tasks explained to them and have them demonstrate the task to make sure they perform it correctly.
- ✓ Explain any health or safety emergencies that might happen.
- ✓ Medical conditions should be written down and include anything that the attendant must do in an emergency.
- ✓ Keep a list in the same place with the name of the individual's doctor and telephone number, allergies, and preferred hospital. Keep all contact numbers readily available.
- ✓ If there is an emergency, make sure the attendant knows to call 9-1-1, but that the attendant may also need to act first before calling 9-1-1.

- ✓ If a task needs to be performed in a certain way, explain how it should be done.
- ✓ Setting a routine of how and when tasks should be performed and regularly following that routine may help the attendant provide services in the manner preferred.
- ✓ Make sure the attendant knows how to properly work with the equipment, including safety precautions.
- ✓ **If a health or safety incident occurs with the individual, the attendant will need to know what steps to follow. Make sure there is a clear plan of where and how to report the incident.**
- ✓ Be sure to explain how to use each piece of equipment before allowing the attendant to use it. Make sure the attendant knows exactly what to do in case the equipment malfunctions.
- ✓ Personal preferences of the individual including when and how supports should be provided.

Training must occur when an attendant is first employed and on a regular basis as needed. Regular training on how services and supports should be provided with the attendant is necessary to make sure that they are following the service plan.

PAID SICK LEAVE FOR CONSUMER DIRECTED (CD) ATTENDANTS

Beginning 7/1/2021, paid sick leave benefits will be available to eligible attendants. Attendants who work an average of 20 hours per week or 90 hours per month will be eligible to earn paid sick leave. Eligible attendants will earn 1 hour of sick leave for every 30 hours worked. The attendant can earn and use up to 40 hours of sick leave each fiscal year (July 1 to June 30).

CD Sick Leave Program Guidelines

Sick Leave Eligibility Determination

Attendants must work an average of 20 hours a week or 90 hours per month during a quarter to be eligible for paid sick leave. Time worked providing personal care/personal assistance, respite services, and companion services is included. In order to determine that an attendant is eligible to earn sick leave, the Fiscal/Employer Agents (F/EAs) will calculate the average number of hours attendants worked each week during the previous quarter. The quarters are as follows: July 1st – September 30th, October 1st – December 31st, January 1st – March 31st, and April 1st – June 30th.

Once an attendant has been determined to meet the eligibility requirements to earn sick leave, the quarterly calculation will not occur again until the end of the 4th quarter. Attendants that do not meet the eligibility requirements will be reassessed at the end of the next quarter to see if they are eligible for sick leave.

It is important that time worked is submitted and approved each week in order to be counted in sick leave calculations. Shifts worked must be reimbursed by the 20th day of the month after the quarter ends in order to be included in the eligibility determination. Sick leave calculations will occur on the 21st day after the quarter ends. Late submissions will affect the attendant’s eligibility for sick leave.

The sick leave eligibility determination is based on the EOR/attendant relationship. Some attendants work for more than one EOR. When determining eligibility, the hours worked for different EORs will be calculated separately.

Earning Sick Leave Hours

Eligible attendants will earn 1 hour of sick leave for every 30 hours worked. Accrual of sick leave will be retroactive to the beginning of the quarter in which the attendant became eligible for sick leave. Sick leave is first available for use in the second month after the quarter in which the attendant becomes eligible for sick leave.

Example: Quarter 1 (July 1 – September 30), the attendant is found eligible to earn sick leave. The total number of hours the attendant worked during Quarter 1 is 300 hours. The attendant earned 10 hours of sick leave that is available for use on November 1.

Quarter #	Months	Reimbursement Cutoff	Sick Leave Available for Use
1	July 1- September 30	October 20	November 1
2	October 1- December 31	January 20	February 1
3	January 1 –March 31	April 20	May 1
4	April 1 – June 30	July 20	August 1

An attendant can earn and use up to 40 hours of sick leave per State Fiscal Year (July 1 - June 30). Any unused sick leave hours at the end of the fiscal year will be carried over into the following fiscal year.

Using Sick Leave

Sick leave may be used for the following purposes:

- An employee’s or employee’s family member’s mental or physical illness, injury, or health condition; need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition ; or an employee’s need for preventative medical care.
- Family members includes a child, parent, spouse, grandparent, sibling, an individual for whom the attendant is responsible for providing or arranging care, and “any other individual related by blood or affinity whose close association with an employee is equivalent of a family relationship.”

Attendants are responsible to notify the EOR when they are using sick leave. The request to use sick leave may be made verbally, in writing, or by electronic methods or by any other means the EOR finds acceptable. The request, whenever possible shall include the expected duration of the absence. When the sick leave is foreseeable, the attendant shall make a good faith effort to provide advance notice to ensure that the member’s back-up plan is in place.

When an attendant uses three or more consecutive days of sick leave, the EOR may require reasonable

documentation that the paid sick leave has been used for one the purposes identified.

EORs cannot require the attendant to find a replacement attendant to cover the hours the attendant is taking sick leave. The EOR cannot require the attendant to work an alternate shift or make up for the use of sick leave.

EORs cannot retaliate against the attendant for using sick leave. The EOR cannot terminate, discipline, threaten, discriminate against, or penalize an attendant because the attendant requests or takes sick leave.

Sick leave must be submitted within 30 days of being used. Sick leave hours submitted for payment after 30 days will not be paid by the F/EA.

Sick leave will not be paid when employment is terminated. If an attendant has a sick leave balance at the end of their employment, the sick leave balance will not be paid out to the attendant.

For additional sick leave questions, please contact your fiscal employer agent or services facilitator.

CD ATTENDANT DOCUMENTATION FORM

EOR's are strongly encouraged to have the attendant document activities on a weekly basis. The *Consumer-Directed Attendant Documentation Form* (DMAS-487) may be used for this purpose. This form includes step by step instructions. Documentation of activities is important for the protection of both the EOR and the attendant. The documentation can be used to justify care if a shift is in question.

The EOR may use the CD Attendant Documentation Form as follows:

- ✓ One form should be used for each attendant each week.
- ✓ Place the dates for that week across the top of the form in the date line section.
- ✓ Circle the activities from the list in the left-hand column that the attendant performs.
- ✓ Place a check mark next to the activities that the attendant assists with for that date.
- ✓ Refer to the definitions on the instruction page for specific tasks.
- ✓ Any "Special Activities" as described on the form, should include written documentation in the "Notes" section describing the activity.
- ✓ The individual or EOR should sign and date the form after the week is completed. The attendant also signs and dates the form. By signing, both parties agree that the information is true and accurate.
- ✓ The EOR should keep the completed forms in a folder or notebook as a record of services provided.

Note: The *Consumer-Directed Attendant Documentation Form* is not to be sent to the F/EA or to DMAS. Again, this form is for EOR record keeping purposes only and as justification of care provided if a shift is in question. While the use of this form is optional, individuals are strongly encouraged to document the services provided by the attendant using this available form.

SHIFT SUBMISSION PROCESS

Attendants want to be paid on time! The EOR is responsible for ensuring the attendant is paid correctly and on time. It is very important to complete accurate shifts. Even a seemingly small error can cause a delay in payment to the employee. The next section offers some helpful tips for getting the shift through the first time.

Helpful tips for the EOR when submitting shifts:

- ✓ EOR should review shifts carefully before submitting them for payment.
- ✓ Be aware that the F/EA **cannot** change a shift under any circumstances.
- ✓ A signed/approved and accurate shift will authorize the F/EA to issue a paycheck to the attendant for DMAS authorized services.
- ✓ A shift can be submitted electronically or through the IVR telephone system but must be fully completed and signed/dated.
- ✓ Paychecks are issued every other week.
- ✓ When completing shifts, be aware of the number of hours that have been authorized and do not approve attendant shifts for more hours than have been authorized. Doing so will delay processing of the shift.
- ✓ When employing multiple attendants, be sure that the shift attendant hours do not overlap. The F/EA cannot pay for overlapping hours.
- ✓ Shifts must not be submitted to the F/EA until service authorization for the hours worked on the shift has been received and approved.
- ✓ Shifts can be paid up to 12 months from the date of service.

The F/EA will make payments to the attendant based on an assigned pay schedule. Depending on where the individual lives, the EOR will use either Payroll Schedule A or Schedule B. Both schedules can be found on the F/EA website. Refer to Appendix A., Page 37 of this manual for the F/EA website address.

JOB EVALUATIONS

Evaluations given to the attendant provide feedback about how he or she is doing on the job. Evaluations are important because they let attendants know what they are doing well (through praise) and how they can do better (through recommendations).

When the EOR evaluates the attendant, the EOR should give him or her time to react to the feedback. The EOR should give the attendant his or her full attention and really listen. After the attendant has finished speaking, the EOR should repeat in his or her own words what was said to make sure that the attendant understands. The EOR might begin with saying, “So what you are telling me is.....” or “So you are saying....?” This gives the EOR a chance to make sure that what the attendant has said is understood.

The EOR may use the attendant’s job description or a checklist that includes the job duties the attendant is expected to perform to help evaluate the attendant. Using the checklist and communicating regularly with the attendant helps the EOR to solve small problems before they become larger concerns. Checklists can protect both the EOR and the attendant by providing a written record of the duties of the job. They

are also helpful if the EOR is ever asked for a job reference for a former attendant or if the individual needs to explain why he or she fired an attendant.

*Evaluations of the attendant's performance should be completed by the EOR at least annually and retained in the individual's/EOR's records.

COMMUNICATING WITH THE ATTENDANT

Employers want attendants to be happy and satisfied with their work. Good communication is the key. An attendant who is pleased in the work setting may stay longer and do a better job.

Here are some general communication tips:

1. Attendants want to feel that their work is appreciated, needed, and important. Provide constructive feedback when there is a problem. Be open and honest; make suggestions about how the performance of a task should be completed and/or improved.
2. Don't let small problems become big problems. If there are concerns, problems or issues, talk about it as soon as possible.
3. Respect the attendant and treat them the way you would like to be treated. Be honest, fair, kind, respectful, and patient.
4. Although the attendant works for the individual, the individual should not ask the attendant to do work outside of the scope of the Plan of Care. The attendant hours and schedule agreed to and listed on the job description should be followed. Attendants should not be asked to complete tasks that are not in the job description.
5. Ask the attendant how he or she feels about the work and about the individual as an employer. Set up a regular time to share concerns and ideas about the work.

SAFETY AND UNIVERSAL PRECAUTIONS

The attendant and the individual should be safe at all times. It is important to be careful when handling human body fluids, such as blood, and other body fluids containing visible blood, mucous, urine, feces, vomit, and saliva. If there is a chance that the attendant will be in contact with bodily fluids, they should always wear disposable (plastic gloves that can be thrown away) gloves and coverings, such as aprons or eye goggles. This practice of universal precautions will help keep the individual and the attendant healthy.

Examples of universal precautions include wearing disposable gloves when changing bandages and/or assisting with bathing and treating the individual if they have broken skin. Disposable gloves are not to be washed or re-used. They are to be thrown away as soon as they become soiled, torn, or damaged, and replaced with a new pair.

Face masks or goggles are to be used when there is a chance the attendant might be splashed or sprayed with blood or another body fluid. For example, splashing could include a cut that is bleeding so much that some might splash on the attendant, or a container of urine that is accidentally spilled or dropped on the

floor. Sometimes a plastic apron or other protective clothing should be worn by the attendant to protect their own clothes from becoming soiled.

After taking off gloves, goggles or other protective items, the attendant should wash their hands and any other skin areas that might have touched the body fluid, with soap and water immediately. If the attendant touched any bodily fluids and is concerned, they should contact the local department of health or their primary care physician as soon as possible.

All of this information should be given to the attendant while the individual is training them. Remind the attendant daily of following these important health practices and universal precautions. If the attendant will be exposed to blood or other body fluids with blood in them, the individual *may* be able to obtain disposable gloves, gowns, or masks through Medicaid from a durable medical equipment and supply provider of the individual's choice.

For more current information on universal isolation precautions, go to: www.vdh.virginia.gov/epidemiology/surveillance/hai/standardprecautions.htm

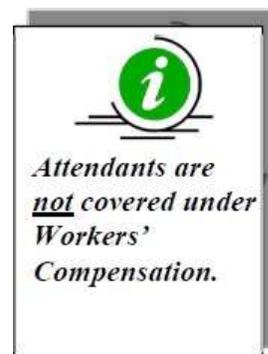
ACCIDENTS ON THE JOB

As the employer, the EOR needs to be aware of any dangers in the individual's home that might cause an accident or injury. The EOR is expected to give the attendant clear, safe directions while assisting the individual or doing household tasks. "Attendant safety first" is at the top of the list of the individual's duties as an employer.

If the employer isn't sure how to tell the attendant to do a certain task in the safest way (for example, help the individual transfer from the wheelchair to the toilet), have someone who has done this task before and knows the right way to do it work with the individual and the attendant to show the safest way to transfer.

There may be training videos available on the internet to demonstrate proper transfer techniques and individuals may choose to show this to new attendants as part of their training. Proper training and knowledge is critical to preventing injury to the individual or the attendant.

IMPORTANT: Attendants are not covered under Workers' Compensation through the Medicaid consumer-directed program.



CHAPTER SEVEN:

EMPLOYER/ EMPLOYEE RELATIONSHIP

PERFORMANCE EXPECTATIONS OF THE ATTENDANT

The EOR has job performance expectations of the attendant. Those expectations must be clearly spelled out. However, from time to time, difficult situations may arise between the EOR and the attendant. If there is a concern, the EOR and the attendant should first try talking about the problem together. Most of the time, talking it over and telling the attendant what is expected will help. Sometimes small problems can pile up or “mushroom” and become larger problems. Talking about the problems as they occur is a more proactive response than ignoring things of concern.

When talking to the attendant, here are some suggestions:

1. Calmly describe the attendant’s actions that are of concern. Make sure the concerns are about specific job duties or actions, not personalities. An example of a way to describe actions is, “You have been late for work the last four mornings.”
2. Describe how the problem impacts you and that you would like to resolve it. Don’t describe it as a win or lose battle. An example of how to do this is, “When you are late for work, I am late for work. What can we do to solve this problem?”
3. Describe the problem as specifically and clearly as possible and give examples. For example, the EOR/individual could say, “When you are late for work, I can’t get ready for work in time. I then miss the bus and I am late for work.”
4. Describe feelings and reactions to the attendant’s job performance. The EOR/individual might say, “When you don’t show up for work on time I get frustrated and anxious because I am scared that I am going to miss work. This makes me feel that you don’t value and respect my need to be at work on time.”
5. Describe any part of the problem that may be the individual’s responsibility. An example is, “I know I didn’t tell you that the next bus that goes by my job gets me there an hour late.”

After listening and talking together, try to agree on a plan that will solve the problem. Sometimes it’s hard to tell people that you’re unhappy with them. If the EOR/individual is concerned about talking with the attendant about performance concerns, ask a trusted family member or the SF for help in communicating with the attendant and working through the issues.

FIRING AN ATTENDANT

If repeated discussions and helpful guidance does not fix the problem, the EOR may have to give the attendant a warning. Let the attendant know that the EOR/individual is not happy with the way the attendant is doing the job. Explain the reasons for being unhappy and give examples. Ask the attendant for their

understanding of the concern and give them a certain amount of time (maybe a week or so) to change. As the EOR/employer, you may fire the attendant immediately if a serious matter has taken place. It is a good idea to write down (or have someone write down for the individual), the problems that the individual is having with the attendant

If things don't improve after talking over the concerns and discussing any changes that might be needed, the attendant's employment may need to be terminated. As the EOR/employer, you have this right.

NOTICE OF DISCONTINUED EMPLOYMENT

When an attendant is fired or leaves employment for any reason, the EOR/employer must submit a *Notice of Discontinued Employment* form (found on the F/EA website) to the F/EA as soon as possible. This action will prevent the possibility of future shifts from being approved for payment for dates after the *Notice of Discontinued Employment* form is received by the F/EA.

FINDING A NEW ATTENDANT

If the back-up attendant cannot help the individual until a new attendant is hired, the individual may request a list of potential attendants from their SF. The individual may use this list to find a new attendant or a substitute until another attendant can be found.

If hiring or keeping an attendant is difficult for the individual, this may put their health and safety at risk. This may especially be a problem if the back-up support plan cannot meet all of the individual's needs over time. In this case, the EOR and the SF may need to talk about obtaining agency-directed services for the individual until other more permanent arrangements can be made. The individual and the EOR may decide that hiring or keeping attendants is not working out and realize that there is no longer an interest in CD services. The EOR may ask the SF and the case manager, as appropriate, to help obtain other services that better meets the individual's needs.

ABUSE, NEGLECT, OR EXPLOITATION

Abuse and neglect may be defined as physical, verbal, sexual, mental or emotional abuse and/or neglect toward an individual, often someone who is vulnerable due to a variety of reasons such as age, health, dependency, cognitive deficits, or disability. Exploitation is defined as taking advantage of someone, often an elderly individual or individual with a disability by misusing their money or personal property. Detailed definitions and examples are defined at the Virginia Department of Social Services (VDSS) website at this link: <http://dss.virginia.gov/family/as/aps.cgi>.

If an attendant has abused or neglected the individual under their care, or suspicion of financial exploitation exists, the individual/employer has the right to fire the person immediately. In this case, the employer should immediately report the abuse, neglect, or exploitation to Adult Protective Services (APS) or in the case of child abuse or neglect, Child Protective Services (CPS), in the individual's city/county locality social services department where they reside and to their Services Facilitator or case manager or CSB support coordinator.

Anyone may report suspected child abuse or neglect to local departments of social services or the statewide **Child Abuse and Neglect Hotline** 24 hours per day, seven days a week. The statewide toll free hotline number within Virginia is: #800-552-7096.

Anyone may report suspected adult abuse, neglect, or financial exploitation to local departments of social services or the statewide **Adult Protective Service (APS) Hotline** 24 hours per day, seven days a week. The statewide toll free hotline number within Virginia is: #888-832-3858.

Attendants and Services Facilitators are mandated reporters in the Commonwealth of Virginia. As such, they are required to report any suspected abuse, neglect, or exploitation of the individual immediately to the local department of social services in the locality in which the individual resides or to the Statewide, toll-free hotline numbers listed above. The VDSS mandated reporters training and resources for APS and CPS may be located on the VDSS website at: <http://dss.virginia.gov/family/as/aps.cgi> (for APS) <http://dss.virginia.gov/family/prevention.cgi> (for CPS).

FRAUD AND ABUSE

The Attendant and the EOR/Individual who hires and supervises the attendant are responsible for reading and adhering to the applicable guidelines, State and Federal regulations, tax laws, and to the requirements set forth in this “Consumer-Directed Employer of Record Manual”. The attendant and the employer certifies by his or her signatures on all required forms and shifts that the information submitted to DMAS and the F/EA is true, accurate, and complete.

Unethical practices or questionable or inaccurate record documentation, shifts, or other required documentation is subject to review and audit at any time by the DMAS or its contractors. Investigations of allegations of provider fraud are the responsibility of the Medicaid Fraud Control Unit in the Office of the Attorney General for Virginia. It is imperative that attendants and the employer/individual adhere to all of the requirements of this program to avoid any suspicion of fraudulent activity. This is also applicable to Services Facilitators, who are enrolled Medicaid providers of service.

Some Tips to prevent potential Fraud and Abuse are as follows:

- The EOR should never share their F/EA web portal login/password with anyone. It is important that the EOR never share their password with the attendant. Doing so could lead to approval of fraudulent shifts and improper Medicaid payments.
- The EOR should never sign shifts before the attendant hours are filled in and the EOR has reviewed for accuracy.
- When employment of an attendant ends under any circumstance it is important for the EOR to submit a *Notice of Discontinuation of Employment* form to the F/EA as soon as possible. This will prevent payment to the attendant past the last day actually worked.

APPENDIX A: RESOURCE INFORMATION AND CONTACTS

DMAS PROGRAM INFORMATION

For CCC Plus, CL, and FIS Waiver information, visit the DMAS web site at:
<http://www.dmas.virginia.gov/#/longtermwaivers>

DMAS EPSDT Benefit (Early and Periodic Screening, and Diagnostic and Treatment):
<http://www.dmas.virginia.gov/#/maternalepsdt>

For Medicaid Works information: <https://www.dmas.virginia.gov/#/medicaidworks>

DMAS Provider Call Center (for Services Facilitators): 1-800-552-8627

DMAS Recipient Helpline (for Medicaid individuals): 1-804-786-6145

DMAS Agency Electronic Information Inquiry: dmasinfo@dmas.virginia.gov

FISCAL EMPLOYER AGENTS (F/EA)

Consumer Direct Care Network (CDCN)

NOTE: For Fee-for-Service members and individuals in the Virginia Premier CCC Plus health plan

Website: www.consumerdirectVA.com
Email: InfoCDVA@ConsumerDirectCare.com
Phone number: 1-888-444-8182
Fax number: 1-877-861-4523 (shifts only)1-877-571-8649 (FARFS only)

Public Partnerships LLC (PPL)

NOTE: For individuals in the Aetna, Anthem, Optima, and United CCC Plus Health Plans

Website: <http://www.publicpartnerships.com/programs/virginia/index.html>
Phone number: 1-833-549-5672
Fax number: 1-866-709-3319
Email: pplVA@pcgus.com

ACCESS Financial Management Services

NOTE: For individuals in the Molina Complete Care CCC Plus Health Plan

Website: <https://www.mycil.org/access-virginia.html>
Phone number: 1-833-955-4545
Fax number: 1-888-862-3840
Email: SupportVA@mycil.org

APPENDIX B: DEFINITIONS USED IN CONSUMER DIRECTED

Agency-Directed (AD) Services – A service for which a provider (not the individual receiving services) is responsible for directing and managing services in accordance with the service plan.

Attendant – The person hired to provide consumer-directed personal assistance. The attendant is the person who provides personal care or supports for the individual. This term is also used in this manual to describe persons who provide respite or companion services through consumer-directed services. The attendant is also referred to as the “employee” in this manual.

Barrier Crimes – Serious offenses that, if found in an employee’s or potential employee’s Criminal Background History Record, are grounds for not being hired or immediate dismissal. The list includes such crimes as murder, abduction, assault, robbery, arson, or abuse and neglect.

Companion Services – Services available only to CL and FIS Waiver individuals who must be age 18 or older. Companion services are defined as assisting adult individuals with housekeeping, shopping and community and social activities.

Community Services Board (CSB) – A community services board (CSB) is the point of entry into the publicly-funded system of services for mental health, intellectual disability, and substance abuse. CSBs provide pre-admission screening services 24-hours per day, 7 days per week. In Virginia, there are 40 CSB’s located throughout the Commonwealth to serve the general public.

Consumer-Directed (CD) Services – CD services are support services that are necessary to enable an individual to remain at or return home rather than enter an institution. Services may include assistance with bathing, dressing, toileting, transferring, and nutritional support necessary for consumers to remain in their own homes or in the community. Services can also include supervision and respite services.

Criminal Background Records Check – A requirement of all CD employees prior to their employment. The CD services facilitator and the F/EA assist individuals/EORs in processing these checks through the Virginia State Police.

Department of Behavioral Health and Developmental Services (DBHDS) – The state agency that is responsible for managing mental health, substance abuse, behavioral health and developmental services.

The DBHDS is responsible for daily operations, determining eligibility, and service authorizations for the Community Living (CL), Family & Individual Supports (FIS), and Building Independence (BI) waivers in Virginia.

Department of Medical Assistance Services (DMAS) – The state agency that is responsible for managing Medicaid-funded long-term services and supports programs, including waivers. DMAS is responsible for determining waiver eligibility for the CCC Plus waiver.

Department of Social Services (DSS) – The Local Departments of Social Services are the county or city agencies responsible for determining financial eligibility for Medicaid. These agencies also handle Child and Adult Protective Services.

Emergency Back-Up Plan – A plan developed by and for an individual using CD services, regardless of the waiver, that identifies a family member, neighbor, friend, or paid employee willing and available to assist an individual in case the CD employee/attendant is unable to work as expected or terminates employment without notice. Individuals who do not have a back-up plan are not eligible for CD services or Medicaid waivers until they have developed a back-up plan.

Employer Management Training – Training provided by the CD services facilitator to the CD employer within 7 days of authorization of services (at the Initial Comprehensive Visit) that explains the CD employer’s responsibilities.

Employer of Record – (EOR) – The individual receiving CD services from a personal attendant who is hired, trained, and supervised by the individual/EOR. The EOR may also be the individual’s representative. In this manual, the person receiving waiver services is referred to as “the individual.”

EPSDT (Early and Periodic Screening, and Diagnostic and Treatment) – The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. EPSDT is key to ensuring that children and adolescents receive appropriate preventive, dental, mental health, developmental, and specialty services.

Fiscal/Employer Agent (F/EA) – The DMAS contractor that pays the attendant, makes sure that payment is within the approved number of hours of service, and follows all hiring and tax rules on the individual’s behalf as the employer/EOR of an attendant.

Individual – The Medicaid individual or user of Medicaid services. Because of support provided by family members and other caregivers, the term “individual” often implies “with support and assistance from others.”

Medicaid – The joint federal and state program to assist states in furnishing medical assistance to eligible persons.

Patient Pay – The amount of money paid directly to the attendant by the individual, if applicable. Patient pay is determined by the local department of social services and must be established before an attendant is hired. More detailed information on patient pay is located in Chapter Four.

Personal Assistance Services – Assistance with activities of daily living, instrumental activities of daily living, access to the community, self-administration of medication, or other medical needs, and the monitoring of health status and physical condition.

Rate of Pay – This is the attendant’s hourly rate established by the Virginia General Assembly for consumer-directed services. This rate is not negotiable.

Respite Care – Services provided to eligible individuals who are unable to care for themselves; provided on an episodic or routine basis because of the absence or need for relief of those unpaid persons or primary caregiver(s) normally providing the care.

Service Authorization (SA) – Prior approval for specific services provided by DMAS or its designated agent. KEPRO is the current SA agent for the FFS CCC Plus waiver, EPSDT, and Medicaid Works individuals and the health plans conduct authorization for CCC Plus waiver, EPSDT, and Medicaid Works managed care members. DBHDS is the current SA agent for the CL and FIS waivers.

Services Facilitator (SF) – For consumer-directed services, the person who guides the individual receiving services in hiring, training, and supervising attendants as needed for the following waivers, benefits, and programs: CCC Plus, CL and FIS waivers, EPSDT, and Medicaid Works. For the FIS and CL Waiver, this person may also be the Case Manager or Support Coordinator.

Service Plan – A form that is completed by the individual, together with the services facilitator, that lists the individual’s personal outcomes and all the tasks that the attendant will perform on a daily basis, based on the individual’s needs, as well as informal supports in the community. The service plan must contain the types of services to be furnished, the amount, frequency, and duration of each service, and the type of provider to furnish each service. Payment may only be made for services that are authorized in the service plan.

SAMPLE ATTENDANT APPLICATION

(Note: You may use this form or develop your own.)

Name: _____

Phone: _____

Street Address:

City _____ **State** _____ **ZIP Code:**

How long have you lived there? _____

Sex: _____ **Are you age 18 or over?** _____

In case of emergency, notify:

Experience in attendant work/nursing/companion services?

How long? _____ **If so, where?**

Hours available to work: _____ **Part-time** _____ **Days** _____ **Nights**
_____ **Weekends** _____

Back-Up _____ **Date Available:** _____

How many hours per week?

Are you willing and able to do emergency back-up work?

Do you have reliable, steady transportation to and from work?

Do you have a valid, current Virginia Driver's License?

Have you ever been convicted of a crime or other criminal offense?

If so, explain.

Are there any jobs that you would not want to do (e.g., work for opposite sex, duties listed in job description, etc.)?

The answers given in this application are true and complete to the best of my knowledge. I authorize investigation of all statements contained in this application for employment as may be necessary in arriving at an employment decision. I understand that this application is not a contract of employment.

Applicant Signature

Date

SAMPLE JOB DESCRIPTION FOR AN ATTENDANT

Note: You may use this form or develop your own.)

I use an attendant to assist and support me in the following ways

Weekdays: _____ **Weekends:** _____ **Evenings:** _____

I need my **attendant** to help me with activities of daily living that include:

Bathing:

Transferring:

Feeding/eat

Grooming:

Hygiene:

Toileting:

Dressing:

I need my **attendant** to help me on the job by:

I need my **attendant** to help me with the following special activities (after getting trained and being

Checked from time to time by a nurse)

Bladder care:

Bowel care:

Wound care:

Range of motion Exercise:

I need my **attendant** to support me in these other ways

Help with medication / self-Administration:

Lifting up to 50 pounds:

Meal preparation:

Housekeeping:

Laundry:

Grocery Shopping:

Making sure I am safe:

Going with me to appointments or social/recreational activities:

NOTE: I expect my attendant to be on time, neat, honest, and to enjoy working with people. I ask that you dress casually. Please give me at least two hours' notice if you are going to be late or sick and at least one week's notice for planned days off. Please give me two weeks to a month's notice if you have to leave this job. When providing personal care services to me (or my child), please inform me (the employer) if you notice any bruises, scrapes, or skin problems. Please feel free to ask any questions about my personal care or other needs. I feel more comfortable when people understand the purpose behind the support I need. The hourly wage for Consumer-Directed Services is determined by the Virginia General Assembly and is not negotiable.

**VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
SERVICE AGREEMENT BETWEEN THE INDIVIDUAL AND THE
CONSUMER-DIRECTED SERVICES FACILITATION PROVIDER**

This agreement is made between _____ hereafter referred to as “Consumer Directed (CD) Service Facilitator” a _____, hereafter referred to as “Individual”, for the purpose of establishing the relationship, roles, and responsibilities of the parties. The CD service facilitator is a CD services facilitation provider enrolled in and authorized to provide services through the Virginia CD Service Programs of the waiver services program in which the individual is enrolled. The individual is eligible to receive CD personal care, respite services, and/or companion services, depending upon the services that are allowed in his or her service plan.

A. Individual

1. By this agreement, the individual chooses the CD service facilitator as the qualified provider of services facilitation services that the individual is authorized to receive through the Medicaid Waiver. The individual understands that the services that the CD service facilitator will provide are limited to those activities and tasks related to the individual’s approved service plan.
2. The individual agrees to follow the policies and procedures of the CD service facilitator, of the CD service facilitator’s designees, and of the Virginia CD Services Programs, including:
 - a) Reporting to the CD service facilitator any changes that would affect the individual’s eligibility or need for CD services;
 - b) Receiving training and assistance from the CD service facilitator and participating in training for employees, as necessary, to ensure the individual’s health and safety and the individual’s continued participation in the CD Services Program(s);
 - c) Allowing the CD service facilitator and/or representatives of the Virginia CD Services Program(s) into the individual’s home at least once per month to monitor the individual’s participation in the Program(s); and
 - d) Making available for the CD service facilitator’s inspection and copying documents and records required for the individual’s continued participation in the Virginia CD Services Programs.

The individual understands that failure to follow these policies and procedures may result in the individual’s termination from the Virginia CD Services Program(s).

3. The individual understands his or her right to select employees, make decisions about, direct the provision of, and control the CD service(s) to the maximum extent that the individual desires and is capable. The individual understands that he or she may request and receive assistance and support from the CD services facilitator in coordinating the individual’s CD services.
4. The individual is responsible for timely completion and delivery of employee time sheets according to the payroll schedule established by the fiscal agent. The individual understands that late arrival of time sheets may result in delays in the employee being paid.
5. The individual agrees to pay, through a fiscal agent acting on the individual’s behalf, the employee’s wages in full on a regular schedule for the approved hours worked by the employee.

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**SERVICE AGREEMENT BETWEEN THE INDIVIDUAL AND THE CD SERVICES
FACILITATION PROVIDER – page 2**

6. When an employee’s employment ceases, the individual agrees to notify the CD service facilitator and fiscal agent of the date and reason the employment ceased.

B. CD Service Facilitator

1. As an authorized service provider in a Department of Medical Assistance Services (DMAS) Waiver Services Program, and as the service facilitation provider selected by the individual, the CD service facilitator agrees to provide service facilitation services in accordance with DMAS regulations, policies, and guidelines.

2. The CD service facilitator will provide management training and skills development for the individual.

3. The CD service facilitator agrees to supervise the service plan in a manner that ensures the individual’s health, safety, and personal autonomy, including periodic monitoring of the provision of the services. The CD service facilitator agrees to ensure that services provided to the individual are authorized and appropriate.

4. The CD service facilitator agrees to maintain appropriate records and to provide the individual with information necessary for the individual’s continued participation in the Virginia CD Services Program(s).

C. Regulations

Any applicable federal, state, and/or local regulations, including this CD Waiver Services Employer Manual, pertaining to the provision and receipt of CD services are hereby incorporated by reference in this agreement. This includes agreeing to be available for any DMAS quality management reviews (QMRs).

D. Duration and Modification of Agreement

This written agreement constitutes the entire agreement and understanding between and among the individual receiving CD waiver services and the CD service facilitator. This agreement shall be in effect as of the date the agreement is signed by the individual and the CD service facilitator. The agreement can be modified by agreement of both parties. This agreement may be terminated immediately by either of the parties upon breach of any of its terms. This agreement may be terminated without cause upon ten (10) days’ written notice of one party to the other.

Individual’s / Employer of Record’s Signature

Date

CD Service Facilitator’s Signature

Date

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This form must be signed and a copy maintained in the employer’s and the service facilitator’s records.

Revised 07/2009 (originally in 2005 Consumer-Directed Employer Manual)

Virginia Department of Medical Assistance Services

Consumer-Directed Attendant Documentation Form

(Personal/Respite/Companion Care)

Consumer's Name: **Consumer Medicaid**

Attendant's Name:

In the activity list in the left column, circle the service(s) that the attendant provides. Place the date under the day of the week and place a ✓ next to the activity(ies) that the attendant assists the consumer with for that date. Refer to the attached list of definitions for the activities..Activities listed under "Special Maintenance Activities" must have written documentation in the "Notes" section below.

Day:	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Date: (Month/Date/Year):	/ /	/ /	/ /	/ /	/ /	/ /	/ /
Activities of Daily Living (ADLs)							
Bathing							
Dressing/Undressing							
Toileting							
Transferring							
Eating/Feeding							
Ambulation (Walking, Wheeling, Stair Climbing)							
Turning/Changing of Position							
Personal Grooming							
Supervision							
Instrumental Activities of Daily Living (IADLs)							
Meal/Snack Preparation							
Cleaning Kitchen							
Cleaning Other Areas Used by Consumer							
Making Bed/Changing Bed Linen							
Shopping/Making Shopping List							
Laundry (Consumer's)							
Money Management							
Medical Appointments							
Work/School/Social							
Transportation							
Using Telephone							
Other							
Special Maintenance Activities							
Bowel/Bladder Program							
Wound Care							
Range of Motion (ROM) Activities							
Vital Signs							
Assist with Self-Administration of Medication							
Other							
Supervision							

Notes:

Instructions for Consumer-Directed Attendant Documentation Form

INSTRUCTIONS

1. Use one form for each attendant each week. Place dates for the week across the top shaded date line.
2. In the activity list in the left column of the form, circle the service(s) that the attendant provides.
3. Place a ✓ next to the activity or activities that the attendant assists the consumer with for that date. Refer to the definitions below for the activities.
4. Activities listed under “Special Activities” must have written documentation in the “Notes” section of the form.
5. The consumer or the employer of record must sign and date the form after the week is completed. The attendant must also sign and date the form. By signing, both parties agree that the information is true and accurate.
6. Consumers should keep the completed forms in a folder or notebook as a record. **The form is not to be sent to DMAS or the F/EA.** The services facilitator (SF) may make a copy or review the form as agreed between the consumer and the SF. The use of the form is voluntary at this time.

DEFINITIONS

- **Bathing:** Includes all or part of getting in and out of the tub, preparing the bath (e.g., turning on the water), sponge bath, actually washing oneself and towel drying.
- **Dressing/Undressing:** Getting clothes from closets and/or drawers, putting them on, fastening, and taking them off. Clothing refers to clothes, braces and artificial limbs worn daily.
- **Toileting:** Getting to and from the bathroom, getting on/off the toilet, cleansing after elimination, managing clothes, and flushing the toilet.
- **Transferring:** The ability to move between the bed, chair, vehicle, and/or wheelchair.
- **Eating:** The process of getting food/fluid by any means into the body.
- **Ambulation:** Ambulation is the ability to get around indoors (walking) and outdoors (mobility), climb stairs and wheel.
 1. **Walking:** The process of moving about indoors on foot or on artificial limbs.
 2. **Wheeling:** The process of moving about by a wheelchair.
 3. **Stair Climbing:** The process of climbing up and down a flight of stairs from one floor to another.
- **Turn/Change of Position:** Assisting with changing the position of the body to avoid pressure of skin, soft tissue, muscle, and bone against a hard surface that could lead to skin breakdown.
- **Personal Grooming:** Includes brushing teeth, combing and arranging hair, and basic hygiene.
- **Supervision:** Overseeing the health, safety, and welfare of the individual.
- **Meal/Snack Preparation:** Plan, prepare, cook, and serve food.
- **Cleaning Kitchen:** Washing and putting away dishes, wiping surfaces, etc.
- **Cleaning Other Areas Used by Consumer:** Light housework such as dusting, vacuuming, cleaning floors, and cleaning the bathroom used by the consumer.
- **Making Bed/Changing Bed Linens:** Removing bed linens and replacing with fresh ones; arranging bed linens neatly.
- **Shopping/Making Shopping List:** Listing items needed from store; getting to and from the store, obtaining groceries and other necessary items such as clothing, toiletries, household goods and supplies, paying for them, and carrying them home.
- **Laundry (the consumer’s):** This includes putting clothes in and taking them out of the washer/dryer and/or hanging clothes on and removing them from a clothesline, and ironing, folding, and putting clothes away.
- **Money Management:** Managing day-to-day financial matters such as paying bills, writing checks, handling cash transactions, and making change.
- **Medical Appointments:** Scheduling and attending necessary medical appointments.
- **Work/School/Social:** Participating in community activities including work, school, and social/recreational activities.
- **Transportation:** Includes the ability to either transport oneself or arrange for transportation, to get to and from, and in and out of the vehicle (e.g., a car, taxi, bus, or van).
- **Using the Telephone:** Look up telephone numbers, dial, hear, speak on, and answer the telephone.

SPECIAL ACTIVITIES

The following activities, when part of an individual’s Plan of Care or Individual Service Plan, require physician orders, training of the attendant, and monitoring by a licensed registered nurse (RN) or primary care physician and special documentation by the Consumer-Directed Services Facilitator, as appropriate per waiver.

- **Bowel/Bladder Program:** Assistance/training with duties related to incontinence of bowel and/or bladder elimination.
- **Routine Wound Care:** Attending to an open or break of the skin (that does not include sterile technique or sterile dressing).
- **Range of Motion (ROM):** The extent to which a joint is able to go through all of its normal movement. ROM exercise helps increase or maintains the flexibility and movement in muscles, tendons, ligaments, and joints.
- **Assist with Self-Administered Medication:** Assisting with the administration of medication (not to include in any way determining the dosage of medication).
- **Vital Signs:** The temperature, pulse rate, and respiratory rate of an individual. May include notations on seizure chart.

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES CONSUMER-DIRECTED INDIVIDUAL COMPREHENSIVE TRAINING FORM

(Check (✓) the box after completing each part of the training.)

I. Consumer-Directed Attendant Services

- A. Definition of services
- B. The approach to provision of services (e.g., personnel involved including service facilitator, fiscal agent). Individual should read and sign service agreements for service facilitator and fiscal agent if they have not been signed.
- C. Role of the attendant in the provision of services
- D. Must have authorization prior to hiring an attendant. If there is no authorization, then the individual is liable for payment until authorization is received.

II. The Individual of Attendant Services

- A. Inventory of the individual's needs (assessing needs as an individual (e.g., habits, personal care))
- B. Selecting Attendants
 - 1. Creating an attendant job description (discuss sample)
 - 2. Advertising for attendants (discuss sample)
 - 3. Assessing an attendant's application
 - 4. Required qualifications of attendants
 - 5. Screening applicants and scheduling interviews
- C. Hiring Attendants
 - 1. Obtaining attendant work record
 - 2. Interviewing a prospective attendant (questions to think about)
 - 3. Consumer selection of attendant
 - 4. Recordkeeping
 - 5. Completing the Employment Packet

III. Employing Attendants

- A. Philosophy/Policies of Attendants
- B. Payroll Requirements for Each Attendant
 - 1. Employment eligibility verification (I-9)
 - 2. W-4 Form completion
- C. Competency Determination of Attendants

IV. Contractual Agreements (including the agreement between individual and attendant). Show sample attendant agreement and sample contract.

CONSUMER-DIRECTED INDIVIDUAL COMPREHENSIVE TRAINING FORM – page 2

V. Training Attendants

- A. The Provision of Services by the Attendant
 - 1. Included services/excluded services
 - 2. Sample attendant duties checklist

- 3. Attendant job evaluations
- B. Communicating with the Attendant
 - 1. Creating a good work environment
 - 2. Establishing rapport
 - 3. Resolving conflict
- C. Important Considerations
 - 1. Firing the attendant
 - 2. Emergency back-up attendant
 - 3. Substitution of attendants
 - 4. Accidents on the job
 - 5. Unexpected death and the attendant

VI. **Completing Attendant Time Sheets**

- A. Certification of services rendered (explanation of time sheet)
- B. Understanding of relinquishment of patient co-pay amount
- C. Discontinued employment

This form must be completed by the CD Service Facilitator during the training of the individual/employer of record and signatures obtained after the training. This form must be maintained in the individual's file by the Service Facilitator.

Individual's / Employer of Record's Signature

Date

CD Service Facilitator's Signature

Date

DMAS-488 - Revised 0709 (originally in 2005 Consumer-Directed Employer manual)

**VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
INDIVIDUAL SELECTION OF CONSUMER-DIRECTED SERVICES**

I have selected _____ (hereafter referred to as Service Facilitator”) as the approved Services Facilitation provider to coordinate my consumer-directed (CD) services through the Virginia CD Services Programs. The service facilitator has informed me regarding how much control I have over the employees who will provide my personal assistance, respite, and/or companion services. I understand that the waiver will allow me to exercise my right to direct and supervise my CD services in a manner that is consistent with my needs, capacity, and interest in directing my own services.

Individual as the Employer

1. Under the _____ attendant(s) who will provide my services. In selecting CD services, I understand that I choose to be the legal employer of the attendants who will provide my services. As their employer, I have the right and responsibility to hire and direct them in the provision of my services and to perform and fulfill the duties of an employer, including recruiting, selecting, hiring, training, supervision, authorization of the payment of wages, and dismissing employees, as necessary. I understand that I can also receive, at my request as needed, assistance from the service facilitator in performing these tasks. I also understand that the Department of Medical Assistance Services or its designated agent will fulfill my payroll and fiscal duties and obligations as an employer by being appointed as my payroll and fiscal agent, to act on my behalf, by signing the necessary forms in the *Employment Packet*.
2. Once I select and hire an attendant, I will notify the CD Service Facilitator. I will have the attendant sign the required forms in the *Employment Packet*, including a Criminal History Record Request. If the attendant has been convicted a crime as specified as a barrier crime for the waiver in which I am enrolled, I agree to dismiss him or her and search for another attendant.
3. I will establish the attendant’s schedule to provide services within the limits established in my service plan.
4. I understand that I have the primary responsibility for making arrangements for back-up services in the event an attendant is unable to work on a regularly scheduled workday. I agree to use family, friends, and neighbors as sources of back-up services where possible.
5. I am responsible for supervising the attendant’s record of hours worked. The attendant’s and my signatures on the time sheet attest that all times submitted for payment are actual and accurate. I understand that the Virginia CD Services Programs will only pay for hours consistent with my service plan.

My signature indicates that I have been informed of and accept my rights and responsibilities as an employer in the Waiver Program in which I am enrolled.

Individual’s / Employer of Record’s Signature

Date

CD Service Facilitator’s Signature

Date

This form must be signed and a copy maintained in the employer’s and the SF’s records.

Revised 07/2009 (originally in 2005 Consumer-Directed Employer Manual)

DMAS-489