

DD Waiver Program Case Manager Support Call

Participant Direction

Wyoming Department of Health
Division of Healthcare Financing
Home and Community Based Services Section
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**HOME AND
COMMUNITY-
BASED
SERVICES**

WYOMING MEDICAID
DIVISION OF HEALTHCARE FINANCING



Wyoming
Department
of Health

Good Afternoon. My name is Rita Munoz, and I am a Benefits and Eligibility Specialist for the Home and Community-Based Services Section of the Division of Healthcare Financing (Division). Today we will be discussing participant-directed services.



The purpose of this training is to explain the case manager's role when a participant chooses the participant-directed service delivery option.

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Training Agenda

- Define and explain participant direction
- Review the case manager's responsibility to the participant
- Review the case manager's responsibility to the employer of record
- Discuss the circumstances that may prohibit a participant from using participant direction

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At the end of this training, the following topics will have been introduced and explained:

- We will define participant direction, identify the services that are included, and explain when a participant may qualify for this service delivery model.
- We will review the case manager's responsibilities to the participant and the employer of record.
- Finally, we will discuss circumstances that may prohibit a participant from using the participant-directed service delivery option.



Case managers must ensure that participants have choice in how they receive their services.

Choice is a basic tenet of home and community-based waiver services. Participants must have the freedom to choose the services they receive and who provides their services, where they live, with whom they spend time, and what they want for their future. Having choice is paramount to human dignity.

Case managers are obligated to ensure that participants have choice in how they receive their services. Participant direction is one service delivery model, and participants must have information on what participant direction is, the benefits and risks associated with this option, and the responsibilities of the employer of record. Once the participant has this information, they can make an informed decision on if participant direction is right for them.

Authorities and Resources That Support Division Expectations

- Chapters 45 & 46 - Wyoming Medicaid Rules
- Supports and Comprehensive Waiver agreements
 - Appendix E - Participant Direction of Services
- Comprehensive and Supports Waiver Service Index



There are specific authorities and resources that support the Division's expectation of case managers. Chapter 45, Section 9 of Wyoming Medicaid Rules establishes rules for case managers. Chapter 46, Section 12 establishes rules related to participant-directed services.

Appendix E of the Comprehensive and Supports Waiver applications, which are approved by the Centers for Medicare and Medicaid Services (CMS), describes the authority that participants have to direct their waiver services and how participants are supported in directing their services.

The Comprehensive and Supports Waiver Service Index, or Service Index, outlines the services that are eligible for the participant-directed service delivery option, and establishes the scope and limitations of each service. Participant-directed services must meet the standards that are identified in the Service Index.

What is Participant Direction?



Before we dig into the roles and responsibilities of the various parties, we want to make sure everyone has a common understanding of what, exactly, participant direction is.

Participant Direction Defined

- Participant has decision-making authority and takes direct responsibility for managing their services and budget.
- Participant is responsible for managing all aspects of service delivery.
- Services promote personal choice and control.

Participant-directed services are those in which the participant, or their legally authorized representative if applicable, has decision-making authority over certain services and takes direct responsibility to manage their services and budget. Participant-directed services are an alternative to services that are delivered by an independent provider or provider organization. Participant direction promotes the participant's choice and control over the delivery of their waiver services, including who provides the services, how services are provided, and how the funds in their participant-directed budget amount are spent.

Throughout the person-centered planning process that is required for home and community-based services, the participant drives the process for selecting and organizing their services. However, with participant-directed services, the participant also takes on the role of the employer, and is responsible for managing all aspects of service delivery, including hiring, training, evaluating, and when necessary, firing employees.

A Word About the Employer of Record

The employer of record (EOR) is responsible for all aspects of managing employees and assuring that services are provided as outlined in the Individualized Plan of Care and Service Index.

- A participant can serve as the EOR
- A participant's legally authorized representative can serve as the EOR

Before we dig into the case manager's responsibilities, let's take a minute to define the employer of record. The employer of record, or EOR, is the person who is responsible for all aspects of managing the employees who deliver participant-direct services.

A participant may serve as the employer or, if the participant has a legally authorized representative, the representative may serve as the EOR. When we refer to the EOR, we are referring to the individual who is serving as the employer. Please be advised that, if the participant has been found incompetent to make legal decisions, they cannot act as the EOR.

Qualifying Participants

- Live in their own residence, home of a family member, or other living arrangement where services are provided to three or fewer people.
- Can act as the employer or has a legally authorized representative who can serve in the capacity of the employer.

Every participant must be educated on the participant-directed service delivery option. However, the participant must meet certain qualifications in order to engage in this option.

In accordance with Chapter 46, Section 12, the participant must live in their own private residence, or live with a family member. They may have other living arrangements as long as no more than three people who are not related to the landlord are receiving services, regardless of how those services are funded.

In order to qualify for participant-directed services, the participant, or their legally authorized representative, must be able to serve as the employer of the employees who provide the participant-directed services. The participant cannot select someone other than their legally authorized representative to serve as the employer.

Qualifying Services

- Child Habilitation
- Community Living
- Companion
- Homemaker
- Individual Habilitation Training
- Personal Care
- Respite
- Supported Employment



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The Service Index identifies the services that can be delivered through participant direction.

These services are:

- Child habilitation;
- Community living, excluding host home services;
- Companion;
- Homemaker;
- Individual habilitation training;
- Personal care;
- Respite; and
- Supported employment, excluding group services.

Participant Directed Services are Waiver Services!

- Must be performed as described in the service definition.
 - 15 minute units
 - Daily and group rates are not available
- Must fit within the participant-directed budget.

Participant-directed services are waiver services. The employee who provides participant-directed services must deliver the service in accordance with the service definition and the participant's individualized plan of care, or IPC. This means that the employee must provide the necessary supervision, must follow identified service caps, and must be able to provide all aspects of the service, including personal care activities.

Participant-directed services can only be delivered as 15 minute units. Daily rates are not available. It is important for the case manager to keep an eye on this, because if the service is delivered for a 24 hour period, it can burn through the number of overall units the participant has available. Group rates are not available for participant-directed services.

When a participant chooses the participant-directed service delivery option, they will work with their case manager to establish how much of their individual budget amount, or IBA, will be used for these services. These services must then fit within that budget, or the case manager must modify the IPC to add more money into the participant-directed budget. All of the participant's services, whether traditional or participant-directed, must fit within the participant's overall IBA.

Responsibilities of the Case Manager



The case manager has specific responsibilities when a participant on their caseload chooses the participant-directed service delivery option. These responsibilities are identified in the case management definition located in the Service Index.

Offer Choice

- At least one time per year
- Review requirements of the EOR
 - Hiring, firing, and training staff;
 - Setting staff work schedules; and
 - Monitoring and working within the budget

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In accordance with Chapter 46, Section 12, the case manager must talk to the participant about their option to direct their waiver services at least once a year. The case manager is required to review the responsibilities of the EOR, which include:

- Hiring, training, evaluating, and if necessary, firing employees;
- Setting work schedules;
- Ensuring that services are being delivered in accordance with the participant's IPC and Service Index; and
- Monitoring the participant's budget to ensure they don't overspend the money they have available.

The case manager should ensure that the EOR understands their role and legal responsibilities.

Complete and Submit Referral Form

Document Center

Select Organization: Wyoming Department of Health Division of Healthcare Financing & Be... ▾

Document Type: Forms ▾

View Type: Table Icons

Show: 10 ▾ entries

Search: WY Referral Form

Document Name	Document Description	Download File
WY Referral Form	WY Referral Form	

Showing 1 to 1 of 1 entries (filtered from 12 total entries)

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Case managers are responsible for completing the referral form and submitting it to ACES\$. This referral is needed in order to register for participant-delivered services.

Since the referral form is owned by ACES\$, the Division does not keep the form on their website. If you visit the *DD Forms* tab of the [HCBS Document Library](#) page of the Division website, you will find a link to the Participant-Direction Referral Form. When you select that option, you will be rerouted to the ACES\$ Document Center. Once you are in the ACES\$ Document Center, you will need to select the Wyoming Department of Health as the organization, and then use the search bar to search for WY Referral Form.

Financial Management Services

- Supports the EOR in meeting responsibilities:
 - Verifying employee citizenship and qualifications;
 - Conducting activities related to payroll, taxes, and insurance;
 - Facilitating background screenings;
 - Tracking employee payments; and
 - Tracking and reporting on the participant-directed budget.



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It is important for the case manager to understand the role of the Financial Management Services Agency (FMS). The FMS helps the EOR to meet their responsibilities. The FMS manages the financial and tax responsibilities that are associated with being an employer, and makes sure that payments are within the participant-directed budget and follow program rules.

The FMS agency is responsible for:

- Assisting the EOR with verifying an employee's citizenship status;
- Collecting and processing timesheets;
- Withholding, filing, and paying applicable federal and state employment-related taxes and insurance;
- Verifying employee qualifications and maintaining documentation of compliance;
- Facilitating background screenings, including the abuse registry screening process;
- Tracking and reporting how much money has been paid to employees; and
- Providing the EOR with periodic reports of how much has been spent from, and the status of, the participant-directed budget.

The Division contracts with ACES\$ for FMS services.

Interact with FMS

- During referral and enrollment
- If questions arise with employee paperwork
- When an employee is authorized to begin work



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Case managers are responsible for interacting with ACES\$ during the referral and enrollment process. If ACES\$ has questions or needs additional information, it is up to the case manager to work with the participant to get the information, and then submit the requested information on to ACES\$. The case manager may need to help the EOR with submitting employee paperwork, and may need to follow up with the EOR if ACES\$ has questions or concerns about that paperwork. Once an employee is approved to work, ACES\$ will send the case manager an email to that effect. The case manager must forward that information on to the EOR, and remind the EOR that the employee cannot be paid through the waiver until a modification to the IPC has not been completed in EMWS and the employee has been authorized by ACES\$.

Assist EOR with Employee Paperwork

- Case manager can answer questions but cannot complete EOR tasks such as:
 - Completing paperwork;
 - Conducting employee training;
 - Approving timecards; and
 - Disciplining or firing employees.

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As mentioned previously, case managers must be available to assist the EOR with completing employer paperwork, and address questions as they arise.

It is important to note that it is the EORs responsibility to complete the paperwork. While the case manager's role is to provide support and guidance, case managers must make boundaries clear in order to ensure that they are not making decisions or acting on behalf of the EOR for any employment-related responsibilities. Case managers must not complete paperwork, conduct employee training, approve employee time cards, or discipline or fire employees. If these boundaries are breached, the case manager may be at risk of being considered an employer and jointly liable for actions of the employer and employees.

If the case manager has concerns about the EORs ability to perform the required tasks, they should discuss these concerns with the EOR and address ongoing concerns with the participant's plan of care team. The case manager can contact the area BES to brainstorm ideas for addressing these concerns with the team.

Conduct Regular Follow-Up and Monitoring

- Assure service delivery aligns with IPC
 - Document in Case Management Monthly Review form
- Review time sheets
- Determine participant's budget usage and monitor their budget
 - Report improper usage to Division

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Case managers are responsible for conducting regular follow up with the EOR in order to assure that the participant-directed services are being delivered as outlined in the participant's IPC, and align with the scope, limitation, and service caps established in the Comprehensive and Supports Waiver Service Index. Additionally, as specifically outlined in the Service Index, case managers must conduct a quarterly service observation for each habilitation service, and a semi-annual service observation for each non-habilitation service. Regular follow up and service observations must be documented on the Case Management Monthly Review Form.

Case managers are responsible for reviewing service utilization and documentation. This includes a review of employee time cards to ensure that the time being recorded aligns with the service documentation and that the employee is using the required electronic visit verification (EVV). Case managers should ensure that the employees being hired to perform participant-directed services are not the biological, adoptive, or step parents, legally authorized representatives, or spouse of the participant, as these individuals are prohibited from being reimbursed for participant-directed services under any circumstances.






Case managers must review the participant's budget usage to ensure that the budget is being spent on pace with the planned services, and that the budget will last the full plan year. Ongoing monitoring of the participant-directed budget is critical to ensuring that participants can be successful in using participant-directed services. If the case manager identifies improper usage of the participant-budget, they must report it to the Division.

Employee time cards and budget information can be accessed through the ACES\$ portal at

[https://login.mycil.org/.](https://login.mycil.org/)

Modify the IPC as Needed

Self-Directed Services

Type	Service
 Fiscal Employer Agent - Acces\$	Community Living Services (Basic - Individual) - Formerly Supported Living
 Fiscal Employer Agent - Acces\$	Companion Services (individual)
 Fiscal Employer Agent - Acces\$	Individual Supported Employment
 Fiscal Employer Agent - Acces\$	Personal Care
 Fiscal Employer Agent - Acces\$	Respite
 Fiscal Employer Agent - Acces\$	Respite (Group)
 Fiscal Employer Agent - Acces\$	Companion Services (Group up to 3)

Amount \$ 46178.58

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Case managers must ensure that the participant's IPC accurately reflects the services that the participant chooses to receive through the participant-directed service delivery method and, if needed, make modifications to the IPC.

Case managers can identify participant-directed services and modify the participant-directed budget at the bottom of the *Service Authorization* screen in the Electronic Medicaid Waiver System (EMWS). Simply scroll down to the *Self-Directed Services* tab to identify the services that will be delivered through participant direction and the dollar amount that will be added to the budget for that service. Please remember that, if the participant is adding participant-directed services for the first time, the case manager will need to ensure that the participant has received a letter from ACES\$ that verifies their enrollment with ACES\$.



Understanding the Role of the EOR

This is not a training for or about the EOR, but it is important that case managers understand the roles and responsibilities of the EOR in order to support them.

The EOR - A Recap

- Only the participant or legally authorized representative can be the EOR.
- The EOR is responsible for all aspects of managing employees and assuring that services are provided as outlined in the IPC and Service Index.

**IN CASE YOU
MISSED IT**

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In case you missed it, the EOR is the person who is responsible for all aspects of managing the employees who deliver participant-direct services. The participant must serve as the EOR unless they have a legally authorized representative. If the participant has a legally authorized representative, then only the legally authorized representative may serve as the EOR. No one else can serve as the EOR. Legally authorized representatives are defined in Chapter 1 of Wyoming Medicaid Rules.

The EOR is the only individual authorized to sign time sheets and submit required documents related to participant-direction. The EOR cannot delegate these tasks to anyone else.

Ongoing Monitoring

- Ensure participant needs are being met.
- Ensure employees are not misusing waiver funds.
- Ensure participant-directed budget is utilized in accordance with the participant's needs and IPC.



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Employees who deliver participant-directed services are employed by the EOR. The Division is not responsible for certifying the employee, so it is the EOR's responsibility to monitor and evaluate the work that the employee performs.

EOR monitoring takes on a couple of different roles. First, the EOR should monitor the participant and their services to ensure that the participant's needs are being met and that the services align with the Service Index. If necessary, the EOR should work with the employee to provide additional training or guidance in order to support the participant and, when necessary, work with the case manager to modify the IPC.

Second, the EOR should monitor the participant's budget to ensure it is being used as indicated in the participant's IPC. The participant's budget must cover the services that span the entire plan year, so if they the budget is overspent at the beginning of the plan year, the participant may be left without needed services before a new plan year begins. The EOR is responsible for identifying these potential concerns early and making necessary changes in order to ensure the participant's services span the plan year. Overall, the EOR must ensure that employees are not misusing waiver funds or conducting fraudulent activities.

Termination of Participant- Directed Services



Participant-directed services may be terminated for many reasons, which are outlined in Chapter 46, Section 12.

Voluntary Termination of Services

- Participant may voluntarily terminate participant-directed services at any time.
- Case manager shall:
 - Work with participant to transition services; and
 - Disenroll participant from FMS services within thirty (30) calendar days.

A participant or legally authorized representative may choose to voluntarily terminate participant-directed services at any time during the plan year. If the participant chooses to end these services, the case manager is responsible for working with the participant to help them transition to other available services or providers.

The case manager must disenroll the participant from ACES\$ services within thirty calendar days of being notified that the participant has chosen to terminate participant-directed services.

Involuntary Termination of Services

- The EOR misuses waiver funds.
- The participant's needs are not being met.
- The participant exceeds their budget.
- The Division identifies fraud or criminal activity.
- The participant chooses not to receive participant directed services for ninety calendar days after active enrollment begins.

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There are also situations in which the Division may require the participant to end participant-directed services. These situations are also established in Chapter 46, Section 12.

A participant may have their participant-directed services involuntarily terminated if:

- The EOR is found to have misused waiver funds;
- The participant's health and welfare needs are not being adequately met;
- The participant exceeds the budget amount authorized in the IPC for participant-directed services;
- The Division identifies situations involving fraudulent or criminal activity associated with participant-directed services; or
- The participant declines participant-directed services for ninety calendar days after they are actively enrolled with ACES\$.

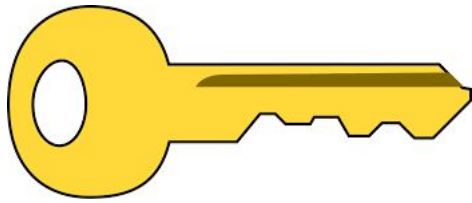
If the Division terminates participant-directed services, the case manager is still responsible for working with the participant and legally authorized representative to help them transition to other available services or providers.

Administrative Hearing



A participant who is involuntarily terminated from participant-directed services shall receive written notice and may request an administrative hearing.

If a participant is involuntarily withdrawn from participant-directed services, it is considered an adverse action. The participant will receive written notice from the Division, and may request reconsideration or an administrative hearing.



TAKEAWAYS

1. Only the participant or legally authorized representative serves as the EOR.
2. The case manager has specific responsibilities when a participant on their caseload chooses the participant-directed service delivery option.
3. The case manager must conduct regular follow-up and monitoring of the participant-directed services, documentation, and budget, the same way they do for traditional services.

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Before we end today, we'd like to remind case managers of the key takeaways of today's training.

1. The participant or legally authorized representative serves as the employer of record, or EOR. This means that they are legally responsible for hiring, training, evaluating, and if necessary, firing employees. If the participant has been found incompetent to make legal decisions, they cannot act as the EOR.
2. The case manager has specific responsibilities when a participant on their caseload chooses the participant-directed service delivery option. These responsibilities include offering choice, completing and submitting the ACES\$ referral form, interacting with ACES\$ during the participant referral and enrollment period, and supporting the EOR as they complete employee paperwork.
3. Just like the follow-up and monitoring they do for traditional services, the case manager must conduct regular follow-up and monitoring of the participant-directed services, documentation, and budget. They must conduct regular follow up with the EOR in order to assure that the participant-directed services are being delivered as outlined in the participant's IPC, and align with the scope, limitation, and service caps established in the Service Index. They must review employee time cards and ensure that the employee is using the required EVV. Finally, they must review the participant's budget usage to ensure that the budget will last the full plan year, and report improper usage to the Division.

Questions???

Contact your Provider Support or Benefits and Eligibility Specialist

<https://health.wyo.gov/healthcarefin/hcbs/contacts-and-important-links/>

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Thank you for taking time to participate in today's training on participant-directed services. If you have questions related to the information in this training, please contact your Provider Support or Benefits and Eligibility Specialist. Contact information can be found by clicking on the link provided in the slide.