

WELCOME

Thank you for joining today's webinar!

BPHASA and the Arc Michigan SD Webinar Series **Arrangement Oversight and Responsibility**

We are waiting for more attendees to join.

The webinar will begin at 3:00 pm.

While we wait, a few housekeeping items:

- All webinar attendees have been muted and your videos are turned off
- Questions can be asked using the Q&A Function. The Webinar Moderator may answer your question during today's presentation but may also wait until the presentation is completed to provide a response via email.
- Following the webinar, participants will receive a PDF of the presentation and a link to a recording.
- We do not offer CEU's for this webinar series.
- To find recordings of previous Webinars or to access the Helpdesk please go to [Person Centered Planning Quality Improvement Project - Michigan \(arcmi.org\)](https://www.arcmi.org)

Thank you again for attending and we will begin soon.

ARRANGEMENT OVERSIGHT AND RESPONSIBILITY

A blurred background image of a business meeting. In the foreground, a person's hand is visible, holding a pen and pointing at a document. The document contains various charts, including a pie chart and bar graphs. The scene is overlaid with several realistic water droplets of varying sizes, some in sharp focus and others blurred, creating a sense of depth and freshness. The overall color palette is muted, with greys, blues, and oranges from the charts.



PLAN FOR
SELF-
DIRECTED
SERVICES
WEBINARS

Beginning – GOOD Person-
Centered Planning

Building a Budget

Setting Up an Arrangement

Arrangement Oversight and
Responsibility

OVERVIEW

The importance of information and assistance

- Key to prevention

Roles and responsibilities

- Key to implementation

Managing risk

- Key to oversight



**IT'S ALL
ABOUT
PREVENTION**

Training

Information and Assistance

Eliminate conflict of interest

Agreements

EOR TRAINING

It is required that the PIHP has a training on how to be an employer as an option for the EOR to take



Should include education on –

Recruitment,
wages,
benefits,
retention

Record
keeping and
reporting

Selecting,
hiring &
training the
right workers

General
labor laws as
an employer

Management
skills

USING THE AGREEMENT

INSERT Standard
CMH/PIHP NAMES

Then customize to EACH
person and plans for
Arrangement

This agreement is made on [insert date] between [insert name of PIHP/CMHSP] (“PIHP/CMHSP”) and [insert name of individual] (“individual”). The PIHP/CMHSP authorizes services and supports to individuals receiving mental health specialty services and supports and the individual is using self-directed services to access those supports. These arrangements include using the individual-centered planning process to determine the appropriate service and supports, develop an Individual Plan of Service (IPOS), and authorize an individual budget.

The purpose of this agreement is to define the responsibilities of the parties using self-directed services. This agreement may be changed only through a written agreement by both parties. Termination of this agreement does not affect the individual’s right to access services and supports through the PIHP/CMHSP. The individual has the right to local dispute resolution processes provided by the PIHP/CMHSP.

Funds in the individual budget are the responsibility of the PIHP/CMHSP and must be used consistently with Medicaid requirements. Providers must meet provider requirements and sign a Medicaid Provider Agreement with the PIHP/CMHSP. The authority over control and direction of the funds is delegated by the PIHP/CMHSP to the individual to enable the individual to use his or her services and supports in a way that best meets his or her needs.

The budget will be administered by the financial management service (FMS) [insert name and contact information for the financial management service provider], which will be responsible for completing and submitting paperwork for billing, payment for services when authorized by the individual, and handling the employer agent function. The financial management service will provide a monthly spending report to the individual and the PIHP/CMHSP.

Article I—PIHP/CMHSP RESPONSIBILITIES

The PIHP/CMHSP agrees to the following responsibilities:

1. Fund services and supports in the IPOS and the individual budget.
2. Inform the individual of the Medicaid requirements for providers (such as age, and relationship to individual).
3. If needed, assist the individual with obtaining required agreements from each provider.
4. Provide information on the documentation and reporting requirements for services and supports obtained through self-direction.
5. Provide monthly assistance in monitoring expenditures and reviewing financial reports.
6. Provide the individual with information on applicable dispute resolution procedures.
7. The PIHP/CMHSP will:
 - Work with the individual to develop an IPOS and an individual budget through a person-centered planning process.
 - Work with the individual to develop a back-up plan for essential services in case of worker absences, emergencies, or unforeseen circumstances.
 - [Insert other specific supports coordination roles to be provided by the PIHP/CMHSP.]

Article II—INDIVIDUAL’S RESPONSIBILITIES

The individual agrees to:

1. Directly manage all, or a portion of, his or her services and supports.
2. Directly hire or contract with employees or providers who meet provider requirements.
3. Use services and supports consistent with the goals in the IPOS.
4. Provide the PIHP/CMHSP and/or the financial management service with all necessary documentation supporting expenditures of funds authorized in the individual budget.
5. Manage the use of funds so that expenses over the course of the year do not go over the individual budget.
6. Let the PIHP/CMHSP know of a change in circumstance or an emergency that may require a change in the IPOS or the individual budget.
7. When requested to do so, the individual agrees to provide feedback to the financial management service or PIHP/CMHSP to enable them to improve financial management service services.

The PIHP/CMHSP and individual agree to the terms and conditions of this agreement.

Individual* Date

PIHP/CMHSP Representative Date

SET BOUNDARIES AND LIMITS

(EXAMPLES)

1. **PERSON AGREES TO PARTICIPATE IN BUDGET MONITORING MEETINGS WITH CMHSP REPRESENTATIVE (NAME/ROLE) QUARTERLY AND AT LEAST 2 MONTHS PRIOR TO THE END OF THE CURRENT AUTHORIZATION/IPOS PERIOD.**

B. DUE TO ONGOING AND DOCUMENTED CONCERNS WITH ACCEPTABLE MA DOCUMENTATION VERIFICATION, PERSON AGREES TO PROVIDE CMHSP MA DOCUMENTATION WEEKLY FOR REVIEW. PERSON AGREES TO PARTICIPATE IN MEETINGS AND TRAINING, AS REQUESTED BY CMHSP, TO ENSURE MA DOCUMENTATION MEETS REQUIREMENTS. PERSON AGREES TO MAKE STAFF HIRED THROUGH SD ARRANGEMENT AVAILABLE FOR REQUESTED MEETINGS AND TRAINING ON MA DOCUMENTATION REQUIREMENTS.

- ***LIMITATIONS TO FULL CONTROL ESTABLISHED WITHIN THIS AGREEMENT WILL BE REVIEWED AT LEAST QUARTERLY. DEMONSTRATED INDEPENDENCE IN LIMITED AREAS WILL BE DISCONTINUED BY MUTUAL AGREEMENT. EFFORTS AND SUPPORT PROVIDED WILL BE DOCUMENTED BY CMHSP AND AGREED TO BY BOTH PARTIES.***
- ***THESE LIMITATIONS ARE EFFECTIVE UNTIL MM/DD/YY, WHEN THEY WILL BE REVIEWED AND ADJUSTED AS NECESSARY.***
- **THE PIHP/CMHSP AND PERSON AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.**

Article II—PERSON'S RESPONSIBILITIES *Customization of the agreement that limits or puts additional controls on the person's authority/responsibility must have supporting documentation of ongoing concerns and problem-solving efforts made prior to limiting the authority within the agreement. Depending on limitations made, joint-employment concerns may arise.

The person agrees to:

1. **Directly manage a portion or all of his or her services and supports. May specify which specific services the person is choosing to self-direct. If specific services are listed, agreement must be updated if/when changes occur.**
2. Directly hire or contract with workers or providers who meet MA provider requirements.
 - A. Due to ongoing and documented health and safety concerns, PERSON agrees to work collaboratively with CMHSP/FI representative to review credentialing results for all prospective employees. Hiring decisions will be made based on mutual agreement of background results.***
 - B. PERSON agrees to additional support and oversight of hiring decisions by CMHSP. Support and oversight will be limited to additional review of required background check results. PERSON and CMHSP agree to the following additional limitations to background check results:***
 - Drug convictions
 - etc
3. Use services and supports consistent with the goals in the IPOS.
4. Provide the PIHP/CMHSP and/or the Fiscal Intermediary with all necessary documentation supporting expenditures of funds authorized in the individual budget. **May specify agreed upon method of documentation and attach to agreement**
 - a. See Attachment C, Timesheet and Support Note***
 - b. Due to ongoing and documented concerns with acceptable MA documentation verification, PERSON agrees to provide CMHSP MA documentation weekly for review. PERSON agrees to participate in meetings and training, as requested by CMHSP, to ensure MA Documentation meets requirements. PERSON agrees to make staff hired through SD Arrangement available for requested meetings and training on MA documentation requirements.***
 - c. PERSON agrees to additional oversight and support by the CMHSP related to ensuring MA documentation is adequate to meet MA requirements. PERSON understands that continued non-compliance with MA documentation requirements may result in further limitations to control within SD Arrangement, including potential termination of Self Determination Agreement.***
5. Manage the use of authorized funds so that expenses over the course of the year do not go over individual budget. **May specify established process to be followed if/when over-expenditures occur.**
6. Let the PIHP/CMHSP know of a change in circumstance or an emergency that may require a change in the IPOS or the individual budget.
7. When requested to do so, the person agrees to provide feedback to the fiscal intermediary or PIHP/CMHSP to enable them to improve fiscal intermediary services.

(OPTIONAL) Article III: Limitations to SD Agreement: (examples)

1. Person agrees to participate in budget monitoring meetings with CMHSP representative (name/role) quarterly and at least 2 months prior to the end of the current authorization /iops period.

NOTHING
ABOUT ME,
WITHOUT
ME

PARTNERSHIP

SUPPORT

FREEDOM

RESPONSIBILITY

AUTHORITY

CONFIRMATION





ROLES

- CASE MANAGEMENT
- SD COORDINATOR
- FMS
- EMPLOYER OF RECORD
- EMPLOYEES

CASE MANAGEMENT ROLES AND RESPONSIBILITIES

ROLE

- WORK TO GET TO “YES”
- KEEP PERSON IN THE ROLE OF DIRECTING
- BROKER SUPPORT WHEN ASKED FOR
- SUPPORT – INFORMATION AND ASSISTANCE
- EOR MUST UNDERSTAND PROVIDER QUALIFICATIONS
- OVERSIGHT – MONITOR MEDICAID STANDARDS MET
- PREVENTION – AVOID MAJOR PROBLEMS
- PROVIDE NECESSARY CREDENTIALING

- REQUIRE WORKMAN’S COMP
- ESTABLISH BUDGET CAP
- HAVE A SYSTEM FOR BUDGET OVERSIGHT
- AUTHORIZE BUDGET FOR SAME TIMEFRAME AS IPOS
- ESTABLISH TRAINING RATE
- HAVE A PROCEDURE FOR DEALING WITH ISSUES OF NOT BEING ABLE TO PAY MEDICAID FUNDS

ISSUES

- NEVER THREATEN
- ENSURE EVERYONE UNDERSTANDS THE SD AGREEMENTS



SD COORDINATOR ROLES AND RESPONSIBILITIES

Internal Oversight of auths in Budgets

Have a relationship with the Managing Employer and EOR

Providing information about the SDS Process, roles of each person involved

Facilitate brainstorming and out of the box thinking

Assist with and facilitate enrollment with SDS Arrangement and FMS Provider

Assist with creation of the budget with the individual/family

Monitor and review budget with the individual/family to ensure they are staying within allocated funding

Problem solve issues/concerns with the individual/family related to budget/staff or the arrangement in general

Attend team meetings when invited

Guide and direct individual/family throughout the SDS process regarding hiring and managing their staff and provide guidance in general

Coordinate as needed with the FMS service provider and the individual/family

FMS ROLES AND RESPONSIBILITIES

- REPORTS

- MONTHLY BUDGET
- OVERTIME
- TRAINING
- SPENDING BUDGET -AGGREGATE

- COMMUNICATIONS

- LACK OF DOCUMENTATION
- TIMESHEET ISSUES
- BUDGET OVERAGES

ISSUES

COMMUNICATE WITH EOR FIRST
ONLY MAKE CMH, EOR AWARE- DOES
NOT FIX

NEVER TO:

REPRIMAND ANYONE

MAKE DECISIONS FOR EOR

REVIEW CLINICAL DATA

COMPLETE MEDICAID

VERIFICATION

MONITOR AUTHORIZATIONS

REVIEW REGULARLY AND ENSURE

CORRECT ACCOUNTING

EMPLOYER OF RECORD/MANAGING EMPLOYER ROLES AND RESPONSIBILITIES

Review and authorize timesheets	Develop job description	Determine employee benefits	Determine if/when overtime will be needed – make sure it is approved	Set schedules	Ensure services are being rendered
Stay in budget/must review budget report	Use budget to meet goals of IPOS	Stay within authorized amount of service	Inform CMH/FMS about changes	Supervise employees-	Medicaid Documentation-
Have a backup plan and use it when needed	Choose an FMS	Recruit employees	Interview prospective employees	Hire any qualified employee they choose	Authorize payment
	Supervise and evaluate employees	Determine schedule	Fire employees	Determine pay wages, benefits, etc. -	



SDS SUPPORT BROKER

SOME THINGS A BROKER **MAY** HAVE RESPONSIBILITIES FOR:

- HELP DEVELOP THE PERSON'S SKILLS NECESSARY TO SELF-DIRECT
- EXPLAIN THE RESPONSIBILITIES OF AN EMPLOYER (INCLUDING TAX AND LABOR LAW REQUIREMENTS)
- ASSIST THE PERSON WITH PAPERWORK SUCH AS EMPLOYEE PACKETS (I9, W4, EMPLOYMENT AGREEMENTS, ETC)
- HELP THE PERSON TO ACQUIRE AND DEVELOP SKILLS TO CREATE AND MANAGE THE INDIVIDUAL BUDGET
- PROVIDE SUGGESTIONS AND ADVICE AROUND STRATEGIES FOR DEVELOPING A WAGE FOR EMPLOYEES
- HELP TO DEVELOP AND DOCUMENT A SPENDING PLAN FOR THE BUDGET
- ACT AS A LIAISON BETWEEN THE PERSON AND THE FMS PROVIDER
- REVIEW INITIAL SPENDING PLANS AND ANY MODIFICATIONS
- ALERT INDIVIDUAL TO ANY PLANS THAT WILL NEED PRIOR AUTHORIZATION OR APPROVAL FROM THE CMH
- ACT AS AN ADVOCATE TO GET APPROVAL FOR SPENDING PLAN AND BUDGET
- HELP EVALUATE RISKS AND MAKE SURE URGENT NEEDS ARE MET WHEN DEVELOPING BACK UP PLANS
- PROVIDE SUGGESTIONS AND ADVICE ABOUT SERVICE OPTIONS
- HELP RECRUIT WORKERS AND/OR PROVIDE SUGGESTIONS AND ADVICE ABOUT MANAGING WORKERS (THEY DO NOT DO ANY RECRUITING, HIRING, SUPERVISING, OR DISMISSING THEMSELVES, ONLY PROVIDE INFORMATION AND ASSISTANCE)
- PROVIDE SUPPORT FOR MANAGEMENT ACTIVITIES – FOR EXAMPLE IS SOMEONE IS ANXIOUS ABOUT DISMISSING AN EMPLOYEE THE BROKER CAN BE THERE FOR SUPPORT
- ASSIST TO OBTAIN OTHER BENEFITS AND COMMUNITY RESOURCES NOT OTHERWISE COVERED BY CASE HOLDER OR SC ASSISTANT
- ADVOCATE FOR ANY INFORMATION, TRAINING OR ASSISTANCE THE PERSON NEEDS OR DESIRES FROM THE CMH
- REDUCE UNMET NEEDS
- HELPING WITH MEDICAID DOCUMENTATION REQUIREMENTS
- HELP WITH EVV (WHEN IT STARTS IN MI)
- ASSIST IN START UP TO MAKE SD LESS INTIMIDATING

EMPLOYEE ROLES AND RESPONSIBILITIES

Provide quality care

Understand the authority of their boss

Fully understand Medicaid & ORR rules





**CLAIMS/
MEDICAID
VERIFICATION
AUDITS**

Not the responsibility of
ANY party in the in SD
Arrangement

The FMS is NOT a third
arm of the claims
department

BUDGET MONITORING

- REPORTS
 - UNITS – OVER/UNDER UTILIZATION
 - *PEOPLE USE MORE SERVICES AT CERTAIN TIMES OF YEAR*
- COSTS
- OVERTIME
- WAGES AND HOW THEY CHANGE USE OF BUDGETS



AVOID JOINT EMPLOYMENT

The
biggest
factors in
whether
an entity
is a joint
employer
are:

- control over what the worker is paid,
- control over hiring and firing,
- control over worker training,
- control over worker performance, including scheduling and managing work.

AVOID JOINT EMPLOYMENT

THE CMHSP CANNOT:

- MAKE HIRING OR FIRING DECISIONS
- REQUIRE EMPLOYEES BE PLACED ON THEIR PROVIDER PANEL
- SUPERVISE THE INDIVIDUAL'S EMPLOYEES
- SET EMPLOYEE SCHEDULES
- DENY PAYROLL FOR WORK THAT HAS BEEN COMPLETED AND APPROVED BY THE EMPLOYER (WITHIN BUDGET)
- SET MORE RESTRICTIVE QUALIFICATIONS FOR EMPLOYEES THAN THE MEDICAID MINIMUM
- DETERMINE WAGES, BENEFITS, ETC.
- REFUSE TO PAY OVERTIME APPROVED BY THE EMPLOYER

The background of the slide is a dark, muted blue-grey color. It is decorated with numerous water droplets of various sizes, some appearing as simple circles and others as more complex, elongated shapes with highlights and shadows, giving them a three-dimensional appearance. The droplets are scattered across the frame, with a higher concentration in the upper and right-hand areas.

THESE ARE NOT CMH
EMPLOYEES OR CONTRACTORS

CONVICTIONS FOR FRAUD, WASTE, ABUSE BY
SELF-DIRECTION WORKERS NATIONALLY

0.0002%

DATA FROM FY2020

WAS DUE
DILIGENCE
DONE?

WAS THERE:

EDUCATION ON RESPONSIBILITIES

SUPPORT

OVERSIGHT AND PREVENTION

CUSTOMIZED AGREEMENT

COMMUNICATION

TRAINING AND/OR RE-TRAINING

ADHERENCE TO POLICY AND

GUIDANCE

ARE YOU SUPPORTING THE ARRANGEMENT?

IMPROVE SUCCESS RATE

DILIGENTLY PROVIDING INFORMATION AND SUPPORT
WORKING WITH THE TEAM TO FIGURE OUT HOW TO
MAKE IT WORK

TRUSTING THAT THE FMS CAN PERFORM THEIR DUTIES
WITHOUT UNNECESSARY INTERFERENCE

TRAIN UNTIL CONFIDENT THE EOR WILL FOLLOW
MEDICAID RULES AND MANAGE EMPLOYEES TO THE
SAME DEGREE AS A CONTRACTED PROVIDER

UNDERSTAND THAT THE EOR HAS THE SAME NEEDS AS
ANY EOR

MOST IMPORTANTLY UNDERSTAND THAT THE EOR
MAY MAKE MISTAKES, PLAN FOR THEM!

INCREASE LIKELIHOOD OF FAILURE

DISTRUSTING THAT THE EOR CAN MANAGE THE
ARRANGEMENT

ACTING AS IF THIS IS A TRADITIONAL MODEL OF
SERVICE

HAVING FMS WITHHOLD PAY

SCRUTINIZING DOCUMENTATION THAT MEETS
MEDICAID RULES

NOT ALLOWING EOR TO PERFORM TYPICAL
ADMIN AND MANAGEMENT FUNCTIONS

PUNITIVE ACTIONS WHEN A MISTAKE IS MADE

LABOR LAWS



Min wage and
overtime



Engaged to wait



Employee must be paid
for all hours worked

<https://www.dol.gov/agencies/whd/direct-care>

PROVIDER QUALIFICATIONS

Employer of record may not directly hire staff who do not meet qualifications as set by the state

- Cannot be credentialed

if an EOR is hiring staff who cannot meet these qualifications (ie not in good standing with the law)

- Written direction from CMH indicating Medicaid funds cannot be used to purchase that worker's services must be provided

FRAUD, WASTE, ABUSE

Responsibility of Employer of Record and the CMH

Prevention

- Budget reports & monitoring
- Adjusting budget to make up for overage
- Work with employer on issues around
 - Documentation
 - Training
 - Timesheet issues

PROVIDER QUALIFICATIONS ONCE HIRED

Ensuring ongoing compliance with ONLY staff qualification training is ultimately the EOR's responsibility

- Support EOR to be proactive (use FMS if in contract) - Reminders
- Ensure they know what consequences are for missed deadlines

If provider is non-compliant - Support EOR (and the arrangement) to provide supervision and possible temporary suspension of worker until qualifications are met.

- Worked hours must be paid, so planning is necessary

DO NOT STOP PAYMENT FOR TRAININGS THAT ARE UNRELATED TO STAFF QUALIFICATIONS

FRAUD, WASTE, ABUSE

Suspected of Employer of Record

- Services must continue
- Options
 - include increased oversight and monitoring of service delivery
 - temporary addition of provider-controlled services
 - temporarily suspending the arrangement → provider-controlled services

Suspected of Employee

- Temporary suspension (EOR or CMH)
- Cooperation

FRAUD, WASTE, ABUSE

Confirmed by Employer

- CMH responds on an individual basis
 - Unintentional –
 - Counseling, Re-education
 - Heightened oversight
 - Intentional
 - End self-directed services arrangement
 - Services **MUST** continue – plan for transition

Confirmed by Employee

- Intentional
 - Termination of employee or Medicaid Agreement
- Unintentional
 - Counseling, Re-education
 - Heightened oversight



FMS ANNUAL PERFORMANCE MONITORING MUST INCLUDE:

Verification that the FMS is fulfilling contractual requirements;

Verification of demonstrated competency in safeguarding, managing and disbursing Medicaid and other public funds;

Verification that indemnification and required insurance provisions are in place and updated as necessary;

Evaluation of feedback (experience and satisfaction) from individuals using FMS and other FMS performance data with alternate methods for collections data from individuals using services (more than mailed surveys); and

An audit of a sample of individual budgets to compare authorizations versus expenditures.

A vertical blue bar on the left side of the slide, decorated with several translucent, 3D-style bubbles of varying sizes. The bubbles are light blue with white highlights, giving them a sense of depth and movement.

COMMUNICATION AND SUPPORT

EDUCATE EARLY AND OFTEN

PARTIES MUST WORK TOGETHER –
GET TO “YES”

PROBLEM SOLVE, PREVENT ISSUES

PROVIDE SUPPORT TO ACHIEVE
COMPLIANCE



**WHAT
QUESTIONS
DO YOU
HAVE?**

PRESENTED BY:

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Resource links

All these resources can be found at the Arc Michigan Person Centered Planning Quality Improvement Project Website:

[PERSON CENTERED PLANNING QUALITY IMPROVEMENT PROJECT - MICHIGAN \(ARCFMI.ORG\)](https://arcmi.org/person-centered-planning-quality-improvement-project-michigan)

or by following the direct links provided

- TECHNICAL GUIDE (SAMPLE AGREEMENTS FOUND IN APPENDIX)
 - [HTTPS://ARCFMI.ORG/WP-CONTENT/UPLOADS/SITES/15/2022/04/SELF-DIRECTION TECHNICAL GUIDE.PDF](https://arcmi.org/wp-content/uploads/sites/15/2022/04/self-direction-technical-guide.pdf)
- SD FREQUENTLY ASKED QUESTION
 - [HTTPS://ARCFMI.ORG/WP-CONTENT/UPLOADS/SITES/15/2022/08/SELF-DIRECTION-FAQ-8.22.PDF](https://arcmi.org/wp-content/uploads/sites/15/2022/08/self-direction-faq-8.22.pdf)
- YOU CAN SUBMIT QUESTION TO THE SD HELPDESK
 - [HTTPS://ARCFMI.ORG/PCPQISDHELPDESK/](https://arcmi.org/pcpqisdhelpdesk/)
- RECORDINGS OF THIS SELF-DETERMINATION WEB SERIES AND OUR PCP SERIES
 - [HTTPS://ARCFMI.ORG/PROJECTS/PCPQI/WEBINARS/](https://arcmi.org/projects/pcpqi/webinars/)