

Participant Directed Services (PDS)

Employer Responsibilities and Expectations

As a participant or an appointed representative, you are in charge of services; you are to carry out employer related duties to ensure the program is being utilized properly. This form may serve as a guide for how you direct the program.

Responsibilities

Service Plan: The acting employer ensures the needs, goals, and duties follow Person Centered Principles. This means each duty and goal has been carefully considered and the participant's wishes and desires, and best interests are first and foremost. Should a need arise that has not been addressed in the service plan, you are responsible for identifying this with the case manager/service advisor to consider if changes are necessary. This enables you to have a basis for job expectations and job duties for employees you oversee.

Employees: There are several aspects regarding employees for which you need to be aware. Many of them are listed in this section.

Recruiting: You will be responsible for finding employees. You may find employees by many means, utilizing any internet sources, advertising on radio, newspaper, TV, flyers, word of mouth, or through organizations; it is your choice how you pursue employees.

Interviewing: It is highly advised each employee go through a screening process. Should you choose to interview candidates, it is recommended you determine the availability of the candidate, the experience the candidate may have with any vulnerable population, any education or training the candidate may have received, and skills that may be relevant to the job. It is highly advised you avoid questions pertaining to characteristics that are unrelated to job performance, such as religion, age, sexual orientation, as these can lead to discrimination claims.

Hiring: Candidates are required to complete an application, background checks, screenings, and trainings to be qualified. You are responsible as an Employer of Record for the fees associated with these qualifications.

Job Expectations: It is highly advised each employee be provided with a written or typed copy of job expectations and duties. These may include but not limited to: promptness, personal conduct while in the home/out in the community, how duties should be conducted for/ assisted with the participant, and others you feel are appropriate to the situation.

Disciplinary Action: In order to provide fairness to an employee, you should ensure you have a procedure in place for various events or causes of inadequate employment performance. It is highly advised you provide a written or typed copy of what warrants a verbal warning, a written warning, suspension, or termination of employment, or other means of disciplinary action. This provides clear instruction to the employee of your expectations, as well as supports you should unemployment claims be filed against you.

Authorizing Time: Your employees are responsible for submitting timesheets, including service documentation, for each day services are provided. You are responsible for authorizing that services were performed to your satisfaction, as well as meeting the terms of the service plan. Should you disagree with the hours performed or the statements of the duties provided, you should speak with your employee immediately to determine if revisions can be agreed upon. Should an agreement not be reached, you may need to consult with the Department of Labor to resolve the situation.

Employee Requirements:

Before employees can begin under PDS, the following requirements must be completed:

Criminal Record Check: The Administrative Office of the Courts (AOC) is the only required criminal background check for employees. The fee is twenty (\$20) dollars. An employee is prohibited from employment through PDS if results reveal a conviction specified in the waiver's respective regulation. You as an employer may decide to move forward with a potential employee if other convictions are revealed in those results.

Nurse Abuse Registry: An employee must have results of a check from the Nurse Abuse Registry; this may be completed online through the Kentucky Board of Nursing. Your case manager/service advisor may complete this check using any known names of the employee. If results reveal the employee is identified as being on the registry, the employee is prohibited from employment through PDS.

Kentucky Adult Caregiver Misconduct Registry: An employee must have results from the Kentucky Adult Caregiver Misconduct Registry. The check can be done online and not show any results. If any results are shown, then that employee is not eligible to work.

Central Registry Check: This is a requirement for employees with participants on all waivers. Results will be sent to the case manager/service advisor agency. The fee is ten (\$10) dollars. This check must be completed before starting employment for MPW (or within thirty (30) days of starting employment for ABI-A, ABI-LTC, HCB or SCL waivers); should results not return within that timeframe, the employee is considered suspended from PDS payment until results are obtained. If results reveal the employee is identified as being on the registry, the employee is prohibited from employment through PDS.

***Note:** Your employee may need to complete an out-of-state equivalent to these background checks if the potential employee has lived or worked outside the state of Kentucky within the last year.

Training: An employee is required to complete specific trainings; this depends upon which waiver for which you are enrolled. Your case manager/service advisor will guide you on what the trainings are, when they are due, and if they need to be renewed.

Screenings: Tuberculosis (TB) screening and a drug screening may be required; this depends upon which waiver you are enrolled in. Your case manager/service advisor will guide you on whether these are required, when they are due, and if they need to be renewed.

Annual Budget: A participant is able to access a dollar amount or units of service, expressed in hours, as long as medical Level of Care is met, Financial Eligibility is maintained and a prior authorization is active. This authorization may be renewed annually. The authorization is used to cover employees' wages for hours worked, and employer taxes incurred. A dollar amount may be requested to set aside for Goods and Services if necessary. Additional funding may be necessary to cover the care that is not addressed in the service plan; speak with a case manager/service advisor to further understand these circumstances.

Employer Taxes: As an Employer of Record, you are responsible to the federal, state, and local government for any taxes associated with operating a business with employees. Your case manager/service advisor works in close connection with the Financial Management Agent (FMA) to provide detailed information about what dollars are submitted for federal and state unemployment taxes, FICA (Federal Insurance Contributions Act), and any local taxes associated with a city or county for which the participant resides. The FMA will express these taxes in a percentage that is added to the employees' wages as they submit timesheets. Percentages vary across the state depending on the participant's circumstance and changes in state and federal law, but the typical percentage is around 11.30% (this percentage is tacked on to every dollar utilized for employees' wages for billing through the FMA). This percentage can change annually, depending on any changes in federal tax laws; be aware these potential changes in federal tax will impact the amount of dollars you have available for employees from year to year. Because where you live may impact this percentage, the FMA will determine the exact percentage as part of your budget.

Unemployment awarded to any employee through a formal dispute of termination will increase your state unemployment tax rate, reducing the amount of dollars available for services fulfill the service plan, and possibly reducing the maximum wage payable to employees. It is highly advised to review the Job Expectations, Disciplinary Action, and Authorizing Time sections of this form to minimize the risk of this increase.

Services Available: The enrolled waiver has services defined in a very specific manner to meet your needs. Each of these services has a limit as to how many dollars can be accessed per hour, along with other limits as to how the service can be accessed. It is best to know what is available that may be at your disposal to best provide care. Your case manager/service advisor is available to provide details of these services.

Wages Available: As required by the Federal Labor Standards Act, you must offer employees a minimum of \$7.25 per hour; be aware this may change in the future. You must also be aware of the highest dollar amount you can provide, as described in the last section, each service has a different limit. The wage limit you provide may be influenced by employer tax rate that is mentioned above in the section **Employer Taxes**.

Hours Worked: You are in charge of setting times for when your employees are scheduled to work. It is best practice to work with an employee to schedule at least one (1) week ahead of time. Should scheduling need to change, it is also best practice to notify any changes to that schedule immediately, as unexpected or repeated disruptions can lead employees to search for employment elsewhere due to unpleasant working conditions. It is best to stay informed with your case manager/service advisor at least monthly to have a strong understanding of hours you have available for the following weeks and months, as well as understand how are hours are being spent among your employees.

An example in motion:

For MP, ABI, and ABI-LT participants only. You've got an employee set up, and you have a budget, but how does this work? A key factor in this process is always keeping in mind that, if you increase pay rate, or if tax rate increases, you will have to reduce your hours in order to remain within the issued annual budget. The same thing applies for the amount of hours worked; if you increase the amount of hours, you must decrease the pay rate of employees in order to stay within the issued annual budget.

You have an employee assigned at \$10.00 per hour; your annual budget is \$4,000.00; the case manager/service advisor has informed you that your employer tax rate is 11.24%; so how many hours can you have your employee work?

Since we have to designate 11.24% toward employer taxes, you must set aside \$449.60 for these taxes over the course of the year. This leaves your participant with \$3,550.40 to utilize yearly. Over 12 month span, a participant would average \$295.86 worth of services toward this employee. At \$10.00 per hour, the participant would have 29.5 hours of services on average per month..

Expectations

Communication and Attendance:

As the acting employer, you are considered the employer of record, therefore you have direct oversight of the employees and the responsibility of ensuring the service plan is followed. Should questions arise by the FMA or the case manager/service advisor, they will be expecting you to answer questions about the program operations or about an employee. Employees should only be bringing business concerns to you and not to the case manager/service advisor or the FMA. You must communicate well with your case manager/service advisor in order to establish and maintain fluid operation of PDS.

As a participant or as a representative, you are required to meet with a case manager/service advisor for a face to face visit to discuss how services are being performed. The case manager/service advisor will inform you of how often you need to meet, and what locations are acceptable. Failure to do so can lead to termination from the program.

Program Integrity:

A participant may be subject to disciplinary action within the program for various reasons. You have the responsibility to understand what may warrant a Corrective Action Plan (CAP) so that services are not in jeopardy of being lost in the home. Examples can be: Not following the service plan; failure to pay patient liability; a participant, family member, employee, or other person threatening or intimidating a case manager/service advisor or other program staff; the participant needs more care than the program can provide; prohibiting the case manager/service advisor or other staff from performing regulatory requirements. It is highly advised to have a detailed conversation with your case manager/service advisor about these and other possible scenarios.

Please choose from either option below.

- I have read this Employer Responsibilities and Expectations statement. I shall be acting as my own employer. In the future I may choose to appoint a representative at any point in time to act on my behalf. Should I have questions regarding any of the topics referenced above, or other concerns, I will address them with the case manager/service advisor with whom I am working for clarification.

_____ Participant's Signature	_____ Date	_____ Participant (print name)
_____ Guardian's Signature	_____ Date	_____ Guardian (print name)
_____ Case Mgr./Service Adv. Signature	_____ Date	_____ Case Mgr./Service Adv. (print name)

- I have read this Employer Responsibilities and Expectations statement. I choose to appoint the person named below to act on my behalf for all program decisions. In the future I may choose to change the appointed person at any point in time.

_____ Representative's Signature	_____ Date	_____ Representative (print name)
_____ Participant/Guardian's Signature	_____ Date	_____ Participant/Guardian (print name)
_____ Case Mgr./Service Adv. Signature	_____ Date	_____ Case Mgr./Service Adv. (print name)