



CABINET FOR HEALTH
AND FAMILY SERVICES

Legally Responsible Individuals as Participant Directed Services

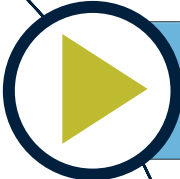



Employees

Training for 1915(c) Home and Community Based Services (HCBS) Waiver

Providers

June 10, 2024

Agenda

-  Implementing an Updated LRI Review Process
-  Allowing LRIs as PDS Employees
-  Defining Extraordinary Care
-  Entering an LRI Employee Request Review

Implementing an Updated LRI Review Process

Implementing an Updated LRI Review Process

1

To comply with Centers for Medicare and Medicaid Services (CMS) requirements

2

To have a consistent process across all 1915(c) Home and Community Based Services (HCBS) waivers

3

To screen LRI PDS employees who were hired without undergoing a review process

Implementing an Updated LRI Review Process



The updated process begins **July 1, 2024**. All applications will be submitted and reviewed using MWMA.



If an LRI is hired between May 1, 2024, and June 30, 2024, complete the [LRI Conditional Employment Letter](#) and upload to MWMA.

Allowing LRIs as PDS Employees

Allowing LRIs as PDS Employees

Who is considered an LRI?

Minor Child (Under 18)



- Parent
- Stepparent
- Adoptive Parent
- Guardian as defined by KRS 387.010(3)
 - “...an individual, agency, or corporation appointed by the District Court to have care, custody, and control of a minor and to manage the minor’s financial resources.”

While they are an LRI, foster parents cannot be paid PDS employees due to receiving payment from the state for the provision of foster care.

<https://bit.ly/KYPDSFosterCare>

Adult (18 and older)



- Spouse
- Guardian as defined by KRS 387.812(3)
 - “...a person appointed by the court to make decisions regarding the person of an adult...”

Allowing LRIs as PDS Employees

An adult PDS employee is **hiring a parent**. The **parent is not the participant's court-appointed guardian**.



**Review NOT
Required**

A minor PDS employee is **hiring a grandparent**. The **grandparent is not the participant's court-appointed guardian**.



**Review NOT
Required**

A minor PDS employee is **hiring a sibling**. The **sibling is the participant's court-appointed guardian**.



Review Required

Allowing LRIs as PDS Employees

Payment is intended for...

- When the LRI is the most appropriate person to deliver waiver services.
- When the services delivered are above and beyond what is typically provided to someone of the same age.
- Timeframes when waiver services are provided as outlined in the person-centered service plan.

Payment is not intended...

- As financial assistance, or a means of income.
- “When the services are those that these persons are already legally obligated to provide.”*

*See Section 4442.3.B.1 of the [CMS State Medicaid Manual](#)

Allowing LRIs as PDS Employees

Review Required at the Time of Hire

- PDS LRIs hired on or after July 1, 2024

Review Required at Participant's Recertification

- PDS LRIs who have **never** been reviewed
- PDS LRIs hired from March 2020 through April 30, 2024
- PDS LRIs hired conditionally between May 1, 2024, and June 30, 2024

No Review Required

- PDS LRIs who went through an approval process before March 2020
- Non-LRI PDS employees

Defining Extraordinary Care

Defining Extraordinary Care

Application for a §1915(c) Home and
Community-Based Waiver [Version 3.6, January 2019]

Instructions, Technical Guide and Review Criteria

Release Date:
January 2019



Disabled and Elderly Health Programs Group
Center for Medicaid and State Operations
Centers for Medicare & Medicaid Services
Department of Health and Human Services

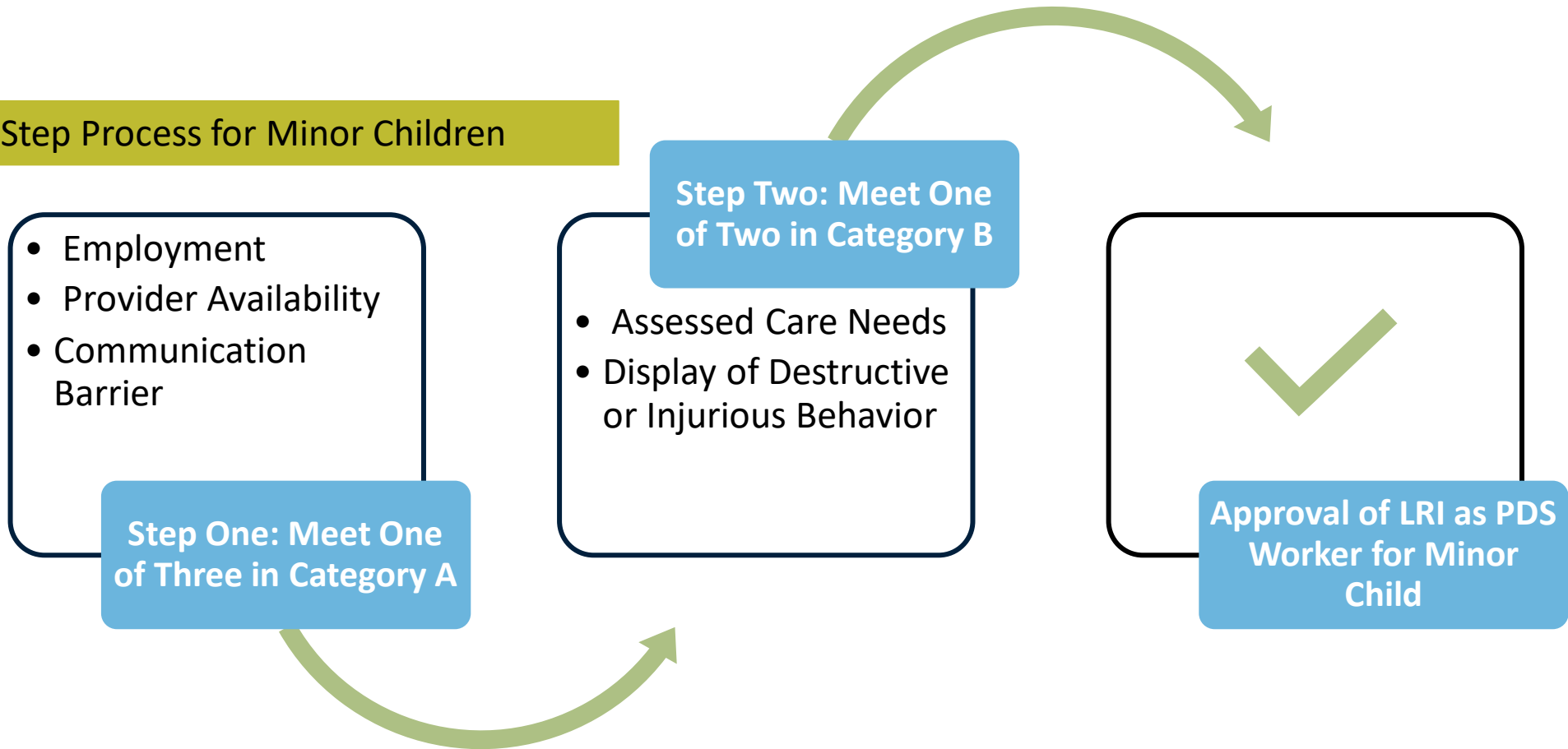
“Through an HCBS waiver, a state may elect to make payment for personal care or similar services that are rendered by legally responsible individuals when such services are deemed extraordinary care so long as the state specifies satisfactory criteria for authorizing such payments.”

“By extraordinary, CMS means care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which are necessary to assure the health and welfare of the participant and avoid institutionalization.”

[*Application for a §1915\(c\) Home and Community-Based Waiver Instructions, Technical Guide and Review Criteria – page 120*](#)

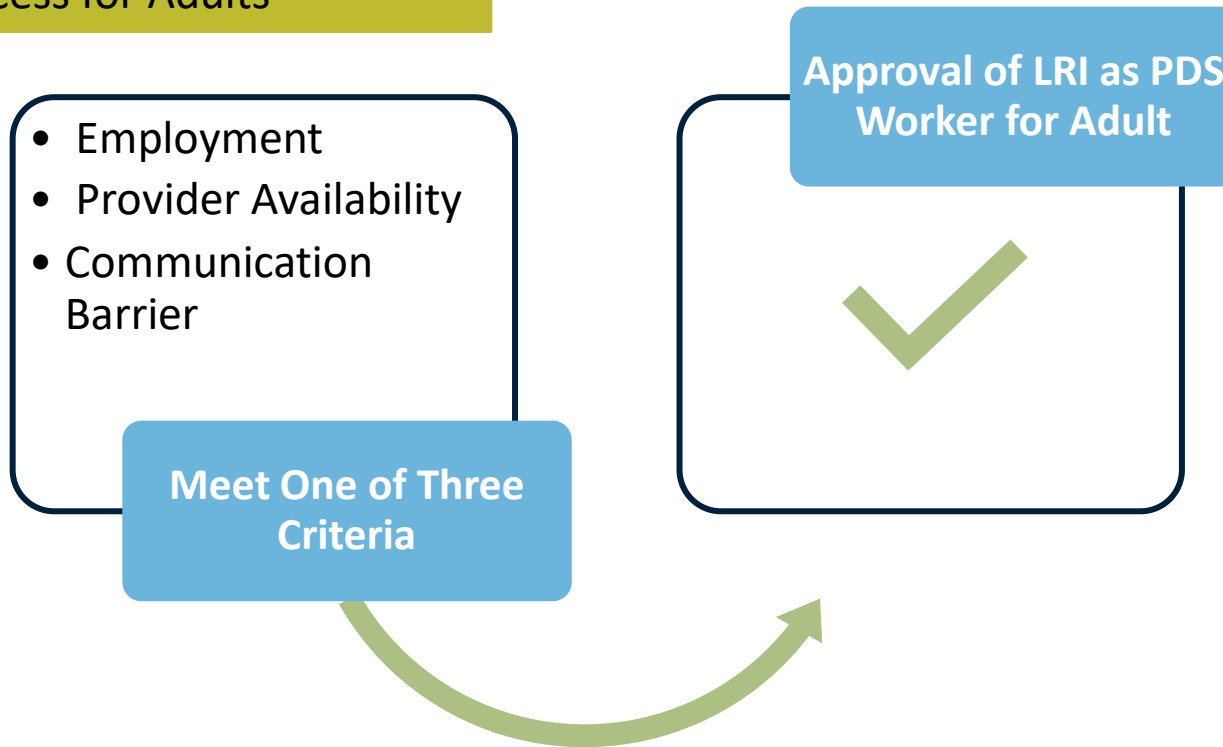
Defining Extraordinary Care

Two-Step Process for Minor Children



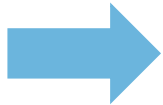
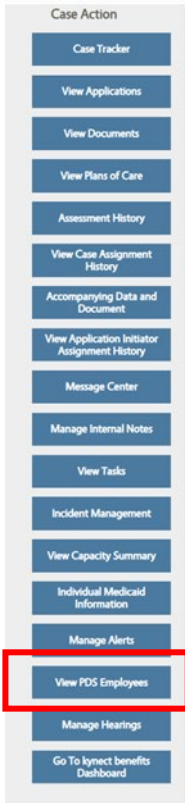
Defining Extraordinary Care

One-Step Process for Adults



Submitting an LRI Employee Review Request

LRI Employee Review Request



PDS Employees

Associated Employees

Status Changed Date	Action Taken By	Status	Action
10/11/2024	Name (CHFS Internal Reviewer)	Approved	Print
10/11/2024	Name (CHFS Internal Reviewer)	Review In Progress	
10/09/2024	Name (Case Manager)	Review Pending	Print
10/08/2024	Name (Case Manager)	In Progress	

[← Back](#) [Add Employee Approved Offline](#) [Create New Associated Employee](#)

Start an LRI Employee Review Request

1. Access the participant's **Individual Summary** screen and select **View PDS Employees** to be directed to the **Related Employees Landing Screen**.

Tip: Only individuals with a Case Manager or Case Supervisor role in MWMA can submit an LRI Employee Review Request.

LRI Employee Review Request

PDS Employees

Associated Employees

AssociatedEmployeeID: 12345 Name: One, Employee M Relationship: Spouse Created Date : 08/14/2023 [Edit](#)

Status Changed Date	Action Taken By	Status	Action
10/11/2024	Name (CHFS Internal Reviewer)	Approved	Print
10/11/2024	Name (CHFS Internal Reviewer)	Review In Progress	
10/09/2024	Name (Case Manager)	Review Pending	Print
10/08/2024	Name (Case Manager)	In Progress	

[← Back](#) [Add Employee Approved Offline](#) [Create New Associated Employee](#)

Use this option to enter any LRI PDS employee reviewed for an HCB or SCL participant before March 2020.

Use this option to enter any new LRI PDS employee (hired July 1, 2024, or later) or any LRI PDS employee who has never been reviewed before.

LRI Employee Review Request

For LRI PDS Employees Approved Offline

To add an LRI PDS Employee **who has already been approved using the MAP-532**, please enter the following information for the LRI PDS employee:

PDS Employee Review

Employee Details

Employee Details

* Legal First Name M.I. * Legal Last Name

* Date of Birth:

* Last 4 digits of the employee's SSN:

Click to Show Legally Responsible Individual Relationship Types

Relationship	Description
Legal Guardian	KY Court Appointed Guardian of a Minor or Adult
Parent of Minor Child	Biological, Step, Adoptive, or Foster
Spouse	Legal Spouse of Individual

* Is the employee a legally responsible individual? YES NO

* LRI Relationship Type:

* Additional Relationship Types:

* [Add new Document](#)

Document Summary [View Documents](#)

Document Type	Document Upload	Status	Comments
	Date		

- Legal First Name and Last Name, Date of Birth, and last four digits of the employee's SSN.
- Select **Yes** next to "Is the employee a legally responsible individual?"
- Select the **Relationship Type** from the **LRI Relationship Type** dropdown.
- There is an option to enter an **Additional Relationship Type**. Select "No Relation" if there is no applicable additional relationship type.
- **The CM/CS must upload the approved MAP-532 for the LRI PDS employee.**

LRI Employee Review Request

For LRI PDS Employees Requiring Review

PDS Employee Review

Employee Details

Employee Details

* Legal First Name M.I. * Legal Last Name

* Date of Birth:

* Last 4 digits of the employee's SSN:

Click to Show Legally Responsible Individual Relationship Types

Relationship	Description
Legal Guardian	KY Court Appointed Guardian of a Minor or Adult
Parent of Minor Child	Biological, Step, Adoptive, or Foster
Spouse	Legal Spouse of Individual

* Is the employee a legally responsible individual? YES NO

* LRI Relationship Type: KY Court Appointed Legal Guardian

* Additional Relationship Types: Sibling

Back Reset Save Next

Selecting Create New Associated Employee takes you to the employee details screen. Please enter:

- Legal First Name and Last Name, Date of Birth, and last four digits of the employee's SSN.
- Select **Yes** next to "Is the employee a legally responsible individual?"
- Select the **Relationship Type** from the **LRI Relationship Type** dropdown.
- There is an option to enter an **Additional Relationship Type**. Select "No Relation" if there is no applicable additional relationship type.
- Click **Next**.

PDS Employee Review

Employee Details * = Required field

Questions

Document Upload

Submit Request

The child's care needs have reduced or eliminated the legally responsible individual's ability to maintain paid employment in the past 12 months or longer and there is not an alternative caregiver who is functionally able to provide care.

Please Explain:

4000 of 4000 characters remaining

The legally responsible individual can demonstrate attempts within the first 30 days to recruit a qualified provider (traditional or PDS) but cannot secure one.

Please Explain:

4000 of 4000 characters remaining

The minor child has a communication barrier exceeding that of his or her age matched peers that impacts his or her ability to effectively communicate needs and wishes.

Please Explain:

4000 of 4000 characters remaining

The child's dependency in performing activities of daily living (ADLs) must be directly related to his or her disability and exceed that of his or her age-matched peers.

Please Explain:

4000 of 4000 characters remaining

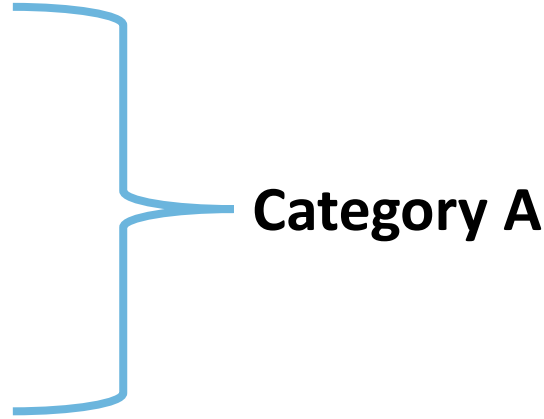
The child demonstrates destructive or injurious behaviors exceeding that of his or her age-matched peers, and such behaviors represent a risk of serious injury or death to self or others.

Please Explain:

4000 of 4000 characters remaining

LRI Employee Review Request

Child Questions – Apply to minor participants (younger than 18)



The **minor** participant's situation must meet **ONE** of the criteria **IN EACH CATEGORY** for the LRI to be approved.

LRI Employee Review Request

Child Questions – Apply to minor participants (younger than 18)

Category A

1. The child's care needs have reduced or eliminated the legally responsible individual's ability to maintain paid **employment** in the past 12 months or longer and there is not an alternative caregiver who is functionally able to provide care.
2. The legally responsible individual can demonstrate attempts within the first 30 days to **recruit a qualified provider** (traditional or PDS) but cannot secure one.
3. The minor child has a **communication barrier** exceeding that of his or her age matched peers that impacts his or her ability to effectively communicate needs and wishes.



Category B

1. The child's dependency in performing activities of daily living (ADLs) must be directly related to his or her disability and exceeds that of his or her age-matched peers.
2. The child demonstrates destructive or injurious behaviors exceeding that of his or her age-matched peers, and such behaviors represent a risk of serious injury or death to self or others.

The **minor** participant's situation must meet **ONE** of the criteria **IN EACH CATEGORY** for the LRI to be approved.

PDS Employee Review

Employee Details

Questions *Required field

The participant's care needs have reduced or eliminated the legally responsible individual's ability to maintain paid **employment** in the past 12 months or longer and there is not an alternative caregiver who is functionally able to provide care.

*Please Explain:

4000 of 4000 characters remaining

The legally responsible individual can demonstrate attempts within the first 30 days to recruit a **qualified provider** (traditional or PDS) but cannot secure one.

*Please Explain:

4000 of 4000 characters remaining

The participant has a **communication barrier** exceeding that of his or her age matched peers that impacts his or her ability to effectively communicate needs and wishes.

*Please Explain:

4000 of 4000 characters remaining

LRI Employee Review Request

Adult Questions – Apply to Participants Age 18+

The **adult** participant's situation must meet **ONE** of the criteria for the LRI to be approved.

LRI Employee Review Request

Adult Questions – Apply to participants (18 and older)

1. The participant's care needs have reduced or eliminated the legally responsible individual's ability to maintain paid **employment** in the past 12 months or longer and there is not an alternative caregiver who is functionally able to provide care.
2. The legally responsible individual can demonstrate attempts within the first 30 days to **recruit a qualified provider** (traditional or PDS) but cannot secure one.
3. The participant has a **communication barrier** exceeding that of his or her age matched peers that impacts his or her ability to effectively communicate needs and wishes.

The **adult** participant's situation must meet **ONE** of the above criteria for the LRI to be approved.

LRI Employee Review Request

Documents Review

PDS Related Employee

- ✓ Employee Details
- ✓ Questions
- Document Upload**
- Submit Request

Documents Needed *=-Required field

What is Needed	Types of Document Accepted
Document that authorizes the individuals' electronic signature	MAP-11X

Document Summary [View Documents](#)

Document Type	Document Upload Date	Status	Comments
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[Back](#) [Done](#)

Upload any supporting documentation using the **Documents Needed** screen.

At a minimum, the LRI Attestation Form **must be uploaded**.

Other documents may include a doctor's letter, test results, a behavior support plan, documentation of attempts to hire other employees, or employment records for the LRI. **No additional documents** aside from the attestation **are required**.

Select **Done** when you have finished any uploads.

LRI Employee Review Request

PDS Employee Review

- ✓ Employee Details
- ✓ Questions
- ✓ Document Upload
- Submit Request**

Submit Request *=Required field

Is there any additional information that may uniquely qualify this employee to provide services for this individual?

4000 of 4000 characters remaining

E-Signature

Provide an electronic signature to certify responses are accurate and correct.

* I certify the information contained above is accurate and correct to the best of my knowledge.

* First Name M.I. * Last Name

Submit Request

If there are any details supporting the need to hire the LRI, please include those in the box. Adding details here **is not required**.

Once you are ready to submit the request, sign it by clicking the box and entering the case manager's first and last name. Select **Submit Request**.

LRI Employee Review Request

Potential Outcomes of LRI PDS Employee Review

Lack of
Information
(LOI)

Denial

Approval

LRI Employee Review Request

Lack of Information (LOI) - Questions

The screenshot shows a web form titled "PDS Employee Review". On the left is a navigation menu with four items: "Employee Details" (with a green checkmark), "Questions" (highlighted in blue), "Document Upload", and "Submit Request". The main content area is titled "Questions" and includes a red asterisk indicating a required field. A checkbox is checked, with the text: "The participant's care needs have reduced or eliminated the legally responsible individual's ability to maintain paid employment in the past 12 months or longer and there is not an alternative caregiver who is functionally able to provide care." Below this is a text input field labeled "*Please Explain:". Underneath is a "Latest Comment" section with the text "Example of a comment here." and a "View Comments" link. At the bottom of the form is another text input field labeled "*Response to Comments" with a character count "4000 of 4000 characters remaining".

- LOIs go back to the MWMA user who submitted the request.
- The reviewer will leave comments, which are visible to the submitter.
- The submitter must use the **Response to Comments** box to respond to the comments.
- The submitter can check any previously **unchecked** boxes but cannot uncheck previously **checked** boxes.

LRI Employee Review Request

Lack of Information (LOI) – Document Upload

PDS Related Employee

- ✓ Employee Details
- ✓ Questions
- Document Upload**
- Submit Request

Documents Needed *--Required field

What is Needed	Types of Document Accepted	Updated on Screen?
Document that authorizes the individuals' electronic signature	MAP-11X	
OTHER	Example Comments Shown Here	<input checked="" type="checkbox"/>

Document Summary [View Documents](#)

Document Type	Document Upload Date	Status	Comments
MAP-11X	12/21/2023	Completed	

[Back](#) [Done](#)

- On the Document Upload screen, any reviewer comments will be viewable under the **Types of Documents Accepted** as an **OTHER** type.
- The **Done** button will not be enabled until all documents are uploaded and the **Updated on Screen** box is checked.
- Once the LOI is resubmitted, the task will return to the reviewer.

LRI Employee Review Request

Lack of Information (LOI) – Document Upload

PDS Related Employee

- ✓ Employee Details
- ✓ Questions
- Document Upload**
- Submit Request

Documents Needed *--Required field

What is Needed	Types of Document Accepted	Updated on Screen?
Document that authorizes the individuals' electronic signature	MAP-11X	
OTHER	Example Comments Shown Here	<input checked="" type="checkbox"/>

Document Summary [View Documents](#)

Document Type	Document Upload Date	Status	Comments
MAP-11X	12/21/2023	Completed	

[Back](#) [Done](#)

- On the Document Upload screen, any reviewer comments will be viewable under the **Types of Documents Accepted** as an **OTHER** type.
- The **Done** button will not be enabled until all documents are uploaded and the **Updated on Screen** box is checked.
- Once the LOI is resubmitted, the task will return to the reviewer.

LRI Employee Review Request

Potential Outcomes of LRI PDS Employee Review

Lack of
Information
(LOI)

Denial

Approval

- Certified Letter Sent to Participant
- Case Manager Receives Copy
- Reconsideration and Appeal Rights

LRI Employee Review Request


Participant Rights for LRI Employee Request Denials

Participant can appeal if an LRI is denied.

- Letter includes directions.
- Appeal request must be sent within 30 days of date on letter.
- Appeals made to the Office of the Ombudsman.

Participant can request a reconsideration.

- DMS will review reconsideration requests.
- CM submits reconsideration request.

 **Department for Medicaid Services**
Division of Community Alternatives
275 E Main St 6W-B Frankfort, KY 40621
P: 502-564-7540 | F: 502-564-0249 | www.chfs.ky.gov

Andy Beshear, Governor **Eric C. Friedlander**, Secretary **Lisa D. Lee**, Commissioner **Pam Smith**, Division Director

Member Name
MAIN ST
LEXINGTON, KY 45646

Dear Member,

A request for a legally responsible individual (LRI) to provide your PDS [services\(\)](#) was received for the following individual:

Employee Name	SAMPLE DENIAL
Date of Birth	1/1/1990
Relationship to the Individual	Spouse

This letter is to inform you that the request been denied, and the individual is not eligible to be a paid PDS employee for the following reason:

-[reviewer comments]

You have right to appeal as it says in 907 KAR 1:583. Only you, your guardian or your PDS representative may request an appeal. Send the request within thirty (30) calendar days of the date of this letter to:

Office of the Ombudsman and Administrative Review
Attn: Medicaid Appeals and Reconsiderations
275 East Main Street, 2E-O
Frankfort, KY, 40621

At the hearing, you can have someone else speak for you, such as your guardian, authorized representative, legal counsel, a relative, a friend, or other spokesperson or you may represent yourself. If you want legal help, you may be able to get it free from your local legal aid office at 1-800-277-5733.

If you have any questions about the review, please contact the Ombudsman's office at 502-564-5497.

LRI Employee Review Request

Potential Outcomes of LRI PDS Employee Review

Lack of
Information
(LOI)

Denial

Approval

- Letter Sent to Participant
- Case Manager Receives Copy
- Hiring of LRI PDS Employee Can Proceed

Resources

LRI PDS Employee Q&A for Providers

June 21
2:30 – 3:30 p.m. Eastern

<https://bit.ly/PDSLRIProviderQA>

PDS Policy Questions

DAIL

(877) 315-0589

HCBIquiries@ky.gov

Technical Questions

MWMA

(844) 784-5614, option 1

MedicaidPartnerPortal.Info@ky.gov

Links

PDS Frequently Asked Questions

<https://bit.ly/KyPDSFAQ>

LRI Conditional Employment Letter

<https://bit.ly/LRIConditional>

DMS PDS Website

<https://bit.ly/DMSWaiverPDS>

DMS LTSS Website

<https://bit.ly/KYMedicaidLTSSInfo>
