

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. Self-direction is a service delivery option which allows beneficiaries (or their authorized representative) to exercise employer authority in the delivery of their authorized self-directed services (community living supports).

1. Beneficiaries are informed of all available services and service delivery options, including self-direction, at the time of the initial assessment, annually, or as requested by beneficiaries or their authorized representative. Beneficiaries, who are interested in self-direction, need only notify their support coordinator, who will facilitate the enrollment process.

2. A contracted fiscal/employer agent is responsible for processing the beneficiary's employer-related payroll, withholding and depositing the required employment-related taxes, and sending payroll reports to the beneficiary or his/her authorized representative.

3. Support coordinators assist beneficiaries by providing the following activities:

- a. the development of the beneficiary's plan of care;
- b. organizing the unique resources the beneficiary needs;
- c. training beneficiaries on their employer responsibilities;
- d. completing required forms for participation in self-direction;
- e. back-up service planning;
- f. budget planning;
- g. verifying that potential employees meet program qualifications; and
- h. ensuring beneficiary's needs are being met through services.

B. Beneficiary Eligibility. Selection of the self-direction option is strictly voluntary. To be eligible to participate in the self-direction service option, waiver beneficiaries must:

1. be able to participate in the self-direction option without a lapse in or decline in quality of care or an increased risk to health and welfare;
2. complete the training programs (e.g., initial enrollment training) designated by OCDD; and
3. understand the rights, risks, and responsibilities of managing his or her own care and effectively managing his or her plan of care.

NOTE: If the waiver beneficiary is unable to make decisions independently, the beneficiary must have a willing decision maker (an authorized representative as listed on the beneficiary's plan of care) who understands the rights, risks, and responsibilities of managing the care and supports of the beneficiary within the plan of care.

C. Beneficiary Responsibilities. Responsibilities of the waiver beneficiary or his or her authorized representative include the following:

1. Beneficiaries must adhere to the health and welfare safeguards identified by the support team, including the following:

- a. the application of a comprehensive monitoring strategy and risk assessment and management system; and
- b. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver beneficiaries.

2. Waiver beneficiary's participation in the development and management of the approved personal purchasing plan.

a. This annual budget is determined by the recommended service hours listed in the beneficiary's POC to meet his needs.

b. The beneficiary's individual budget includes a potential amount of dollars within which the beneficiary, or his/her authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

3. Beneficiaries are informed of the self-direction option at the time of the initial assessment, annually, or as requested by beneficiaries or their authorized representative. If the beneficiary is interested, the support coordinator will provide more information on the principles of self-determination, the services that can be self-directed, the roles and responsibilities of each service option, the benefits and risks of each service option, and the process for enrolling in self-direction.

4. Prior to enrolling in self-direction, the beneficiary or his/her authorized representative is trained by the support coordinator on the process for completing the following duties:

- a. best practices in recruiting, hiring, training, and supervising staff;
- b. determining and verifying staff qualifications;
- c. the process for obtaining criminal background checks on staff;
- d. determining the duties of staff based on the service specifications;
- e. determining the wages for staff within the limits set by the state;
- f. scheduling staff and determining the number of staff needed;
- g. orienting and instructing staff in duties;
- h. best practices for evaluating staff performance;
- i. verifying time worked by staff and approving timesheets;
- j. terminating staff, as necessary;

- k. emergency preparedness planning; and
- l. back-up planning.

5. This training also includes a discussion on the differences between self-direction and other service delivery options (which includes the benefits, risks, and responsibilities associated with each service option) and the roles and responsibilities of the employer, support coordinator, and fiscal/employer agent.

6. Beneficiaries who choose self-direction verify that they have received the required training by signing the service agreement form.

7. Authorized representatives may be the employer in the self-directed option but may not also be the employee.

D. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver beneficiary may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

a. Proper arrangements will be made by the support coordinator to ensure that there is no lapse in services.

b. Should the request for voluntary withdrawal occur, the beneficiary will receive counseling and assistance from his or her support coordinator immediately upon identification of issues or concerns in any of the above situations.

2. Involuntary Termination. The department may terminate the self-direction service option for a beneficiary and require him or her to receive provider-managed services under the following circumstances:

a. the beneficiary does not receive self-directed services for 90 days or more;

b. the health, safety, or welfare of the beneficiary is compromised by continued participation in the self-direction service option;

c. the beneficiary is no longer able to direct his own care and there is no responsible representative to direct the care;

d. there is misuse of public funds by the beneficiary or the authorized representative;

e. over three payment cycles in the period of a year, the beneficiary or authorized representative:

i. permits employees to work over the hours approved in the beneficiary's plan of care or allowed by the participant's program;

ii. places barriers to the payment of the salaries and related state and federal payroll taxes of direct support staff;

iii. fails to follow the personal purchasing plan and the POC;

iv. fails to provide required documentation of expenditures and related items; or

v. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures; or

f. the beneficiary or the authorized representative consistently violates Medicaid program rules or guidelines of the self-direction option.

3. When action is taken to terminate a beneficiary from self-direction involuntarily, the support coordinator immediately assists the beneficiary in accessing needed and appropriate services through the ROW and other available programs, ensuring that no lapse in necessary services occurs for which the beneficiary is eligible. There is no denial of services, only the transition to a different payment option. The beneficiary and support coordinator are provided with a written notice explaining the reason for the action and citing the policy reference.

E. Employees of beneficiaries in the self-direction service option are not employees of the fiscal agent or the department.

1. Employee Qualifications. All employees under the self-direction option must:

- a. be at least 18 years of age on the date of hire;
- b. pass required criminal background checks; and
- c. be able to complete the tasks identified in the plan of care.

F. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the beneficiary and the primary companion care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2167 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1525 (October 2021), LR 48:1572 (June 2022).