



# DEVELOPMENTAL PROGRAMS BULLETIN

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE

**April 28, 2008**

EFFECTIVE DATE

**July 1, 2008**

NUMBER

**00-08-08**

SUBJECT:

**Agency With Choice Financial  
Management Services (AWC FMS)**

BY:

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Deputy Secretary for Developmental Programs**

## SCOPE:

Administrative Entity (AE) Directors and Administrators  
County Mental Health and Mental Retardation (MR) Program Directors  
and Administrators  
Supports Coordination Entity Directors  
Agency With Choice Financial Management Services Providers

## PURPOSE:

The purpose of this bulletin is to clarify the Office of Developmental Programs (ODP) policy on the provision of the Agency With Choice Intermediary Service Organization (AWC ISO) option available to individuals with mental retardation or their surrogates<sup>1</sup> in the Pennsylvania Developmental Programs System who reside in their own private residence or the home of family. Such organizations are more recently known as Financial Management Services (FMS) organizations. While there are two FMS options selected by ODP (i.e., Vendor Fiscal [VF] and AWC), this bulletin focuses on the provision of AWC FMS. *Pennsylvania's Guide to Participant Directed Services* (PA Guide to PDS), developed by ODP, has detailed fact sheets and Agreement forms that describe the differences between the two FMS options.

<sup>1</sup>Not everyone can make legally binding decisions for themselves. This would include minor children and some adults who have substantial mental impairment. In these instances, a substitute decision-maker may be identified under State law. Substitute decision-makers have various legal titles, but for the purposes of this bulletin, they will be referred to as "surrogates." "Surrogates" include the following:

- Parents of children under 18 years of age under the common law and 35 P.S. § 10101.
- Legal custodian of a minor as provided in 42 Pa. C.S. § 6357.
- Health care agents and representatives for adults as provided in 20 Pa. C.S. Ch. 54.
- Guardians of various kinds as provided in 20 Pa. C.S. Ch. 55 (as limited by 20 Pa. C.S. § 5521(f)).
- Holders of powers of attorney of various kinds as provided in 20 Pa. C.S. Ch. 56.
- Guardians of persons by operation of law in 50 P.S. § 4417(c).

Any of these would be considered "legal representatives" as the Centers for Medicare and Medicaid Services uses that phrase. Please see *Application for a § 1915(c) Home and Community-Based Waiver: Instructions, Technical Guide and Review Criteria* [[www.cms.hhs.gov/HCBS/02\\_QualityToolkit.asp](http://www.cms.hhs.gov/HCBS/02_QualityToolkit.asp)].

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

**The Appropriate Developmental Programs Regional Office**

## BACKGROUND:

*Everyday Lives*, published in 1991 and updated in 2002 (*Everyday Lives: Making It Happen*), outlines the values and goals of individuals with mental retardation and the people who support them in Pennsylvania. One of the driving forces of *Everyday Lives* is the philosophy of *Self-Determination*. Self-Determination is the belief that one should have choice and control over all aspects of one's life, as referenced in Bulletin 00-03-05, *Principles for the Mental Retardation System*. This includes affording individuals and their surrogates choice and control over the services and supports they receive.

Individuals receive needed services and supports that are authorized in their Individual Support Plan (ISP), which is developed through a person-centered planning process. Historically, the Supports Coordinator (SC) or a provider agency arranged for and managed these services for individuals and their surrogates. Now, individuals who live in their own private residence or in the home of their family may assume more responsibility for arranging and managing their own services and supports by choosing a FMS option. Individuals and surrogates may choose to exercise **employer authority** and **budget authority** over their services by selecting one of the FMS options. Once selected they must fulfill the responsibilities associated with both employer authority and budget authority.

### ***Employer Authority***

Employer authority allows individuals or their surrogates to exercise choice and control over the qualified support service workers who provide services and supports authorized in the individuals' ISP. The type and level of employer authority is different in the two financial management models. Individuals or their surrogates may choose to be:

- A “**managing employer**” in a joint-employment arrangement with an AWC FMS provider, or
- The “**common law employer**”, also known as employer of record, of the qualified support service workers they hire directly in the VF FMS model.

In general, individuals or their surrogates who hire their qualified support service worker(s) directly are considered to be *common law employers* of these workers by the Internal Revenue Service (IRS). According to the IRS, a service recipient or his or her surrogate is the common law employer of his or her home-care service worker (such as support service worker) if he or she directs and controls the activities performed by his or her support service worker. This control refers not only to the results to be accomplished by the work but also the means and details by which that result is accomplished.<sup>2</sup> For the individual or his or her surrogate who does not want to be the common law employer of his or her qualified support service workers, the AWC FMS option affords those individuals with a high level of choice and control over their support service workers by allowing the individual or his or her surrogate to become the managing employer. They accomplish this by entering into a joint-employment relationship with the AWC FMS provider. The AWC FMS provider is the common law

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<sup>2</sup> See IRS Proposed Notice 2003-70. Q &A -5

employer and the individual or his or her surrogate is the managing employer of the individual's qualified support service workers.

The two FMS options (AWC and VF) have been selected by ODP because they provide individuals and surrogates with:

1. A high level of choice and control over their services and supports in the approved and authorized ISP.
2. The option of functioning as the common law employer by using a VF FMS or functioning as a joint-employer by using an AWC FMS.
3. Assistance with employer-related tasks (that is, management of payroll, employment-related taxes, and payment of workers' compensation insurance; assistance with orientation and training of workers (only AWC); and processing and paying one-time vendor payments).

Federal Medicaid law prohibits individuals or surrogates from receiving Medicaid funds directly. Only Medicaid Waiver providers may receive Medicaid funds directly. Due to this federal policy, an organization is needed to perform payment-related employer responsibilities for individuals or surrogates who exercise employer or budget authorities over Waiver services. ODP recognizes the complexity of performing the payment-related employer responsibilities and have therefore adopted the federal policy for base-funded individuals who exercise employer or budget authorities. Such organizations are known as Financial Management Services (FMS) organizations. FMS organizations were developed to perform two primary functions:

1. To reduce individuals' or surrogates' employer-related burdens associated with self-directed support services and enhance individual choice and control through the provision of appropriate fiscal and supportive services.
2. Assure the Commonwealth, AEs, and County Programs that support services are being provided in compliance with federal, state, and local tax and labor requirements related to the employment of qualified support service workers .

Individuals and surrogates must be fully informed about both FMS options, and may choose the model that best meets their needs. AEs and County Programs are responsible for ensuring that individuals and surrogates are provided information about the FMS options during intake. SCs are responsible to provide individuals and surrogates with information during the planning process and upon request.

### ***Budget Authority***

Budget authority, which is applicable in both the AWC and VF models, allows the individual or their surrogate to:

- Negotiate qualified support service worker wages within the established wage ranges and in accordance with Labor and Industry standards. The specific components to include in the support service worker wage and the service rate can be found in Sections F and G of this policy bulletin.
- Shift funds between authorized Participant Directed Services (PDS) included in the PDS portion of the ISP **with prior approval** from their SC.

Individuals or their surrogates who choose to become the managing employer must sign all ODP required agreements and forms associated with exercising employer and budget authority.

Effective July 1, 2009 ***expanded budget authority*** will be available only to individuals selecting the VF option. Expanded budget authority will be voluntary and affords the same benefits described above in budget authority with the additional ability to shift funds between the authorized Participant Directed Services included in the PDS portion of the ISP **without prior** approval from the SC. The SC must be notified within 7 calendar days of the change. Expanded budget authority will require additional policy and design requirements that will need to be developed prior to July 1, 2009 in order for the option to work effectively.

## **DISCUSSION:**

This bulletin outlines the requirements related to the AWC FMS option. It describes how the AWC FMS can be used to assist individuals or their surrogates in accessing and managing certain services authorized in the individual's ISP. It outlines the responsibilities that individuals or their surrogates assume as the managing employer under the AWC FMS model (see Section A). It also outlines requirements of the AWC FMS, AEs, County Programs and SC Entities related to the AWC FMS option (see Sections B, C, D and E respectively).

Each AE is expected to have an AWC FMS provider available for individuals to utilize if they choose this option, no later than July 1, 2008.

Under the AWC FMS option, the individual or surrogate enters into a joint-employment arrangement with the AWC FMS and must work collaboratively with the AWC FMS to ensure the receipt of quality, needed support services from qualified support service workers. The AWC FMS provider is the employer of record responsible for certain employer functions, including:

- The completion and management of human resource paperwork.
- Qualified support service worker orientation and training with the individual or surrogate.
- Preparation and disbursement of qualified support service worker payroll in compliance with federal, state and local tax; labor; and workers' compensation insurance requirements.
- Assuring that Waiver and non-Waiver provider requirements are met.

## **POLICY:**

### **Availability and Knowledge:**

The AWC FMS option is only available to individuals who reside in their own private residence or the private home of a family member. The AWC FMS option must be made available to individuals who meet this criteria and are receiving Consolidated or Person/Family Directed Support (P/FDS) Waiver services. The AWC FMS option must be available in conjunction with Medicaid Waiver and base-funded support services. ODP encourages County Programs to make available this option to individuals who

receive base-funded services. Individuals living in licensed and unlicensed agency owned, rented, leased, or operated homes may not exercise self-direction options at this time.

AWC FMS is a service delivery option that utilizes local AWC FMS providers to perform certain administrative functions. The administrative functions performed by an AWC FMS provider are reimbursed as an administrative service, not a Waiver service; therefore, each AE is only required to contract with one AWC FMS provider. The administrative FMS service is not subject to free choice requirements. It is the responsibility of the AWC FMS providers, individuals or their surrogates, AEs, County Programs, SC Entities and ODP to be knowledgeable of all federal, state and local rules and regulations pertaining to Medicaid services, any amendments, and the provision of the AWC FMS option.

The current Waiver services available for administration and payment through the AWC model are located in Appendix E of the approved Consolidated and P/FDS Waivers, and any approved amendments, as well as in the PA Guide to PDS.

Base-funded services currently available through the AWC model may be provided as specified in the ISO/FMS payment agent column in current service definitions bulletin and the corresponding base-funded services approved and authorized in the individual's ISP.

### **Requirements For An Individual or Surrogate to Become a Managing Employer:**

The individual or surrogate must meet the following criteria in order to qualify as the managing employer:

- Be at least 18 years of age or older.
- Complete a State Police criminal background check as per the Older Adult Protective Services Act (OAPSA) [35 P.S. sec.10225.101 et.seq and 6 Pa. Code Chapter 15], and when serving a child under age 18, conduct child abuse clearances as per the Child Protective Services Law (CPSL) [23 Pa. C.S. Ch. 63].
- If the individual or surrogate has not been a resident of the Commonwealth for the 2 calendar years immediately preceding the date of request to become a managing employer, they must obtain a report of Federal Criminal History Record from the Federal Bureau of Investigation (FBI) in addition to the Criminal History Record from the State Police. This requirement also applies to surrogates who reside outside of Pennsylvania.
- Participate in the required training sponsored by ODP and the AWC FMS.
- Sign any and all agreements with ODP and the AWC FMS related to the AWC FMS option.
- Agree to perform all the tasks outlined in Section A of this bulletin.
- Agree to work with the SC to develop and revise the individual's ISP as needed and required and participate in the required ISP monitoring.

The cost associated with the above required criminal background checks, child abuse clearances and criminal history record will be included in the rate for the service. Please see Sections G and H of this bulletin for funding for the cost of background

checks for managing employers and the support service workers. The AWC FMS is responsible to ensure the above requirements are met. The AE or County Program is responsible to have procedures to validate that the AWC FMS has implemented the requirements prior to the individual or their surrogate becoming the managing employer.

### **Use of Agency With Choice FMS Providers by Individuals or Surrogates:**

An individual or surrogate who chooses to use an AWC FMS provider to facilitate the receipt of support services must be fully informed (receive initial and ongoing managing employer skills training) of the individual's right to choose and direct their support services and the workers who provide them, and their roles and responsibilities as the managing employer as well as those of the AWC FMS provider. Once fully informed, the individual or surrogate must review and sign an agreement developed and made available by ODP and distributed by the AWC FMS provider. The *Individual or Surrogate and AWC FMS Agreement form* is located in the PA Guide to PDS. In addition, all AWC FMS providers will use the standard *Authorized Surrogate Designation Form* developed and made available by ODP. The *Authorized Surrogate Designation Form* is also located in the PA Guide to PDS and will be distributed by the AWC FMS providers.

### **An Individual's Right to Have a Surrogate:**

When using the AWC FMS option, individuals 18 years or older have the right to identify a surrogate to function as the managing employer of the individual's support service worker(s), in accordance with the guiding principles of self-determination. Individuals also have the right to have a surrogate assist them in their responsibilities as the managing employer. If an individual wishes to select a surrogate, the surrogate must:

1. Effectuate, as much as possible, the decisions the individual would make if the individual made the decision.
2. Accommodate the individual, to the extent necessary, so that the individual can participate as fully as possible in all decisions that affect him or her. Accommodations must include, but not be limited to, communication devices, interpreters, and physical assistance.
3. Give due consideration to all information including the recommendations of other interested and involved parties.
4. Embody the guiding principles of Self-Determination referenced in Bulletin 00-03-05, *Principles for the Mental Retardation System*.

If a surrogate is desired or needed to support the individual in performing the managing employer functions, and a legal guardian has not been designated by a court or if the existing legal guardian is not willing or able to function as the surrogate, the following hierarchy should be followed in choosing a surrogate:

- The spouse (unless a legal action for divorce is pending).
- An adult child.
- A parent.
- An adult brother or sister.
- An adult grandchild.

- An adult who has knowledge of the individual’s preferences and values, including, but not limited to, religious and moral beliefs. The AE (for Waiver participants) or County Programs (for base-funded individuals) is responsible to ensure that the “other” surrogate is able to assist the individual with managing employer-related responsibilities, and complies with the requirements outlined in this bulletin.

The AWC FMS provider must recognize an individual’s surrogate as a decision-maker for the individual and provide them with all the information, training, and support it would typically provide an individual if he or she was using AWC FMS provider directly. The AWC FMS provider must fully orient and inform an individual’s surrogate of their rights and responsibilities in performing this role and in using AWC services. Once fully informed, the AWC FMS provider must have the surrogate review and sign the *Individual or Surrogate and Agency With Choice Agreement Form* located in the PA Guide to PDS. A signed copy of this agreement must be given to the individual, the surrogate, the AE or County Program and the individual’s SC. The original signed copy must be kept in the individual’s or surrogate’s file at the AWC FMS provider.

The AWC FMS provider must establish a file for each individual and surrogate. The surrogate’s file must reference the individual. The AWC FMS provider also must collect and maintain all required information, including contact information, in each individual’s file. Files, whether current or archived, must be maintained in a complete, confidential and secure manner.

**Payment to Individuals or Surrogates Functioning as Managing Employers:**

The individual or surrogate may not receive payment for the functions that they perform as the managing employer. In addition an individual’s surrogate may not receive payment for any other ODP service that he or she provides to the individual.

**Responsibilities:**

**A. Individual or Surrogate Responsibilities Related to the AWC FMS Option:**

When using AWC FMS services, individuals or their surrogates must have the right to choose and direct the services in the individual’s approved ISP and the qualified support service workers who provide the services, in accordance with the guiding principles of self-determination and without excessive restrictions or barriers. Individuals and surrogates also have the right to access and participate in person-centered planning. AWC FMS providers must provide services in a manner that affords choice and control to both individuals and surrogates and must also provide supports that encourage the individual or surrogate to perform as the managing employer.

Individuals and surrogates are responsible for working collaboratively with their AWC FMS provider to meet shared objectives. These objectives include:

- Individuals receive high quality services.
- Individuals receive needed services from qualified workers.
- Services are provided in accordance with the guiding principles of self-determination, Medicaid and state-funded program requirements and the approved and authorized ISP.

The individual or surrogate as the managing employer of their qualified support service workers is responsible to:

1. Determine whether the individual, surrogate, or both will have signature authority and serve as the managing employer of qualified support service workers.
2. Recruit and refer qualified support service workers to the AWC FMS provider for hire and assignment back to the individual. In cooperation with the AWC FMS provider, a copy of the *Documentation of Support Service Worker (SSW) Qualification Form* must be completed and verified prior to the support service worker rendering service. This form is located in the PA Guide to PDS and should be completed on each support service worker by the individual or surrogate and the AWC FMS. The original signed copy will be maintained in the file at the AWC FMS office and a copy will be given to the individual or surrogate.
3. Negotiate wage for support service workers within the established range.
4. Recruit qualified vendors, small unlicensed providers<sup>3</sup> and individuals or providers to render transportation (mile)<sup>4</sup> to render services in accordance with the approved and authorized ISP.
5. Provide or participate in the provision of qualified support service worker orientation and training.
6. Determine schedules of qualified support service workers.
7. Determine tasks to be performed by qualified support service workers and where and when they are to be performed in accordance with the approved and authorized ISP.
8. Manage the day-to-day activities of qualified support service workers.
9. Verify time worked by qualified support service workers and approve and sign timesheets.
10. Approve and assure submission of support service worker timesheets, and all other invoices, to the AWC FMS provider for processing in accordance with the AWC FMS annual payment cycle and Labor and Industry standards. ISPs are developed and updated to ensure authorized services and supports are reflective of an individual's current, assessed needs. Therefore, if a timesheet or invoice is submitted to the AWC FMS provider by the individual or their surrogate that includes services or supports not authorized for the person or units and costs in excess of those authorized for the individual, the individual or their surrogate will be responsible for reimbursing the AWC FMS provider for the costs required to cover the excess amount(s) related to payment of the support service workers. Invoices related to units and costs in excess of the authorized ISP when the entity (provider or vendor) providing the service is not an employee of the AWC FMS provider, will be paid directly to the entity by the managing employer. In these situations, the managing employer must pay the

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<sup>3</sup> For the purposes of this bulletin, a small provider is defined as: an individual or agency that provides unlicensed services to a maximum of four individuals statewide.

<sup>4</sup> This transportation service is provided by providers, family members, and other licensed drivers for using vehicles to transport the person to services, resources, and activities specified in the person's ISP. The unit of service is one mile. The mileage reimbursement rate may not exceed the current reimbursement rate established for Commonwealth employees for such purposes.

- AWC FMS provider or the appropriate entity for any excess amount(s) through the use of their own personal funds or other non-ODP funds.
11. Report work-related injuries incurred by qualified support service workers to the AWC FMS.
  12. Complete an individual or surrogate satisfaction survey within 90 calendar days after first receiving FMS services and annually thereafter. This survey will be distributed by the AWC FMS provider.
  13. Receive initial managing employer skills training and additional skills training, as needed and requested, from the AWC FMS provider to perform as the managing employer of qualified support service workers.<sup>5</sup>
  14. Develop an emergency worker back-up plan in case a substitute support service worker is ever needed on short notice or as a back-up (short-term replacement worker). Back-up support service workers must meet all of the qualification criteria applicable to regular qualified support service workers.
  15. Assure all outcomes for Waiver services are documented by support service workers or the managing employer as required in Bulletin 00-07-01, *“Provider Billing Documentation Requirements for Waiver Services”*. Although this bulletin refers to “providers” or organizations, the requirements outlined in this bulletin also apply to Waiver services rendered by support service workers providing Waiver services through an AWC FMS provider.
  16. Evaluate whether qualified support service workers can perform necessary job functions as described in the person’s approved and authorized ISP.
  17. Ensure that the individual’s outcomes are being addressed by qualified support service workers.
  18. Inform the AWC FMS provider of any changes in the status of qualified support service workers, such as hours worked and change of address or telephone number, if known.
  19. Inform the AWC FMS provider that the individual wishes to dismiss the worker from working for him or her prior to the individual or surrogate dismissing the worker.
  20. Inform the AWC FMS provider of any changes in the status of the individual or surrogate, such as the individual’s or surrogate’s address, telephone number or if the individual is hospitalized.
  21. Inform the AWC FMS provider of satisfaction or concerns regarding the administrative services received from the AWC FMS provider. Examples of administrative services include orientation and managing employer training, worker training, processing of potential workers for hire, timely payment of support service workers.
  22. Track utilization of services and budget by reviewing standard reports provided by the AWC FMS provider to assure services are rendered in accordance with the authorized ISP.
  23. Participate in the required ISP monitoring visits with the individual’s SC.
  24. Sign all ODP standard agreements and forms with the AWC FMS provider and ODP.

An individual or surrogate who chooses to use the AWC FMS option to facilitate the receipt of authorized services must be fully informed of his or her roles and responsibilities related to using an AWC FMS provider, and those of the AWC FMS

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<sup>5</sup> Managing employer training must include instructions in the proper completion of required forms and progress notes.

provider. Once fully informed, the individual or surrogate must review and sign all agreements and forms developed and made available by ODP and distributed by the AWC FMS provider. The agreements and forms related to AWC FMS and managing employer responsibilities are located in the PA Guide to PDS. Signed copies of all agreements and forms must be given to the individual or surrogate, AE or County Program and the individual's SC. The original signed copies of each agreement and form must be maintained in the individual's or surrogate's file at the AWC FMS provider.

## **B. Agency With Choice FMS Providers' Roles and Responsibilities**

The AWC FMS provider is responsible to:

1. Comply with the provisions of Title 55 Pa.Code Chapter 4300 regulations.
2. Comply with Waiver or non-Waiver requirements, policies and regulations to provide services to eligible persons.
3. Until June 30, 2009, sign the standard AE/Waiver Provider contract with the AE for Waiver services. Non-Waiver services provided by the AWC FMS provider must be covered in a separate non-Waiver contract with the County Program.
4. Have an executed Provider Agreement for Participation in Pennsylvania's Medical Assistance Program with ODP for the provision of Waiver services. This requirement also applies to any addendums to this agreement that are specific to AWC services.
5. Develop and implement systems and written procedures, internal controls and other safeguards that reflect ODP requirements, the guiding principles of self-determination (including the principles outlined in Bulletin 00-03-05, *Principles for the Mental Retardation System*), and ensure that individuals and their surrogates, rather than the AWC FMS provider, have the right to choose, direct, and control their services and the qualified support service workers who provide them without excessive restrictions or barriers. These procedures, internal controls and other safeguards must include, at a minimum:
  - a. A mechanism to process support service worker referrals made by individuals or surrogates in a manner that is efficient and does not discourage individuals or surrogates from choosing to recruit and refer their own support services workers.
  - b. Support service worker training requirements that are consistent with ODP provider qualification criteria and do not include additional training requirements that would delay or prevent the hiring of a support service worker referred to the AWC FMS provider by an individual or surrogate. No additional training can be prescribed or provided unless identified as needed in the ISP or is required to meet ODP provider qualification criteria, such as training required to obtain liability insurance coverage. If training is required to meet such criteria, written confirmation from the insurance agent is required. This information must be documented in the individual's file.
  - c. Qualified support service worker orientation and training that outlines and emphasizes the rights of the individual or surrogate as the managing employer to select and control services and workers, including information on the principles for the Developmental Programs system. The orientation and training must be customizable to individual or surrogate needs.
  - d. The option for individuals and surrogates to train their qualified support service workers themselves or participate in qualified support service worker training (initial and ongoing) provided by the AWC FMS provider.

- e. An assurance that the individual or surrogate, and not the AWC FMS provider, determines the terms and conditions of work (when and how services are provided, such as establishing work schedules, determining the conditions of work [for example, no smoking in the home, conditions under which a worker might be dismissed from working with the individual or surrogate], and the tasks to be performed).
6. Develop, document and implement internal controls that ensure that individuals or surrogates are afforded choice and control over the individuals' services and workers without excessive restrictions or barriers; and that activities and services are provided in accordance with written procedures and safeguards.
  7. Provide services in a manner that affords choice and control to both individuals and surrogates without excessive restrictions or barriers and encourages and supports them to function as the managing employer of their qualified support service workers.
  8. Respond immediately to contact from an individual or surrogate informing the AWC FMS provider of their wish to dismiss a particular qualified support service worker from working with the individual or surrogate.
  9. Identify the staff person(s) who will serve as the AWC FMS provider contact(s) for individuals or surrogates.
  10. Assume responsibilities of the employer of record and provide the following administrative services:
    - a. Establish and maintain all required records and documentation, to include a file for each individual and surrogate, when applicable, that includes all required information as per the current "*Provider Billing Documentation Requirements for Waiver Services*", Bulletin 00-07-01, and in a secure and confidential manner.
    - b. Verify qualifications of support service worker, vendors, small unlicensed providers and individuals or providers of transportation (mile), prior to service delivery and annually thereafter.
    - c. Verify the individual or surrogate meets the ODP requirements for becoming a managing employer prior to becoming the managing employer.
    - d. Obtain authorizations to conduct criminal background checks, child abuse clearances and FBI criminal history records, and process for managing employers and potential support service workers (refer to Sections F, G and H of this bulletin for the specific requirements and payment details).
    - e. Verify citizen and legal alien status of qualified support service workers.
    - f. Collect and process all required federal, state, and local human resources forms required for employment and the production of payroll (that is, tax, labor and citizenship).
    - g. Assist the individual or surrogate with the establishment of the worker's wage.
    - h. Assist the individual or surrogate with the supervision and management of support service workers as needed and requested.
    - i. Collect and process timesheets of qualified support service workers.
    - j. Compute, withhold, file, and deposit federal, state, and local employment taxes for qualified support service workers.
    - k. Compute and pay Workers Compensation as per the Pa. Workers Compensation Act of 1915, P.L. 736, No. 338, as amended (Title 77 of Purdon's Statutes).
    - l. Approve and pay wages to qualified support service workers in compliance with federal and state labor laws.

- m. Perform all end-of-year federal, state, and local wage and tax filing requirements, as applicable (that is, IRS Forms W-2 and W-3, state income tax reconciliation form).
  - n. In accordance with the approved and authorized ISP, the AWC FMS provider may administer payments for one-time only and ongoing services rendered by qualified vendors (such as providers of ramps, public transportation), small unlicensed providers, and for transportation (mile). If the managing employer allows the support service worker to render services in excess of the approved and authorized ISP the AWC FMS will pay the worker and will collect the rate reimbursement funds from the managing employer. If the managing employer allows services to be rendered in excess of the approved and authorized ISP by vendors, small unlicensed providers and transportation (mile) entities who are not employees of the AWC FMS, the managing employer will be responsible for payment directly to those entities. All incidents of this kind will be documented by the AWC FMS for corrective action and possible termination from the joint employment arrangement<sup>6</sup>.
  - o. Report mandatory reportable incidents that take place during the provision of services as described in Bulletin 6000-04-01, *Incident Management*, and any subsequent approved revisions.
  - p. Generate standard reports to the individual or surrogate, AE and County Program, as required. This includes but is not limited to the AWC FMS annual payment cycle and the monthly service utilization and budget reports on services rendered and funds spent as verified by invoices submitted by the managing employer. The utilization and budget reports must be provided to the managing employer and AE or County Program by the 15th of each month.
  - q. Ensure all ODP required agreements and forms related to the AWC FMS model are signed by the individual or surrogate.
11. Provide orientation and skills training to individuals and surrogates on how to manage Waiver or base-funded services received and how to perform as a managing employer of their support services workers.
  12. Provide additional skills training as needed and requested by the individual or surrogate.
  13. Document training provided to an individual or surrogate by the AWC FMS, and maintain the documentation in the file of the individual or surrogate.
  14. Develop procedures to track, monitor and address managing employer performance. This includes tracking performance as per the ODP managing employer agreements, implementation of training plans, and notification to the AE or County Program of recommendations for corrective actions and termination.
  15. Orientation and managing employer skills training to include information on managing employer responsibilities. The orientation and skills training must include, at a minimum, how to:
    - a. Recruit, screen, interview, select, and refer qualified support service workers to the AWC FMS for hire, to include encouraging equal opportunities to all prospective workers regardless of race, creed, color, national origin, sex, disability, marital status, or sexual orientation.

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<sup>6</sup> All involuntary terminations of joint employment arrangements must take place as per Appendix E-1-m of the approved Waivers, including approval by the appropriate ODP Regional Office.

- b. Determine the wage for support service workers.
  - c. Train or participate in the training of qualified support service workers.
  - d. Develop the schedules of qualified support service workers.
  - e. Supervise day-to-day activities of qualified support service workers.
  - f. Verify time worked by qualified support service workers and approve and sign timesheets.
  - g. Process, submit or verify the submission of timesheets and invoices in accordance with the payment cycle established by the AWC FMS.
  - h. Prepare and submit progress notes in accordance with Bulletin 00-07-01, *Provider Billing Documentation Requirements for Waiver Services*.
  - i. Report work-related injuries incurred by qualified support service workers to the AWC FMS provider.
  - j. Evaluate the performance of qualified support service workers.
  - k. Contact and inform the AWC FMS provider that the individual or surrogate no longer wishes to utilize a particular qualified support service worker.
  - l. Develop and implement an emergency back-up qualified support service worker plan. The *Emergency Back-Up Support Service Worker Designation* form is located in the PA Guide to PDS.
  - m. Identify changes in individual or surrogate contact information and health status (that is, hospitalization) and qualified support service worker contact information, hours, and employment status and report them to the AWC FMS provider.
  - n. Identify satisfaction or concerns with the receipt of support services and report them to the AWC FMS provider.
  - o. Track utilization of services and budget in accordance with approved and authorized ISP.
16. Dismiss an individual's qualified support service workers from AWC FMS employment for just cause without the consent of the individual or surrogate in accordance with established employment practices. Prior to dismissal of an individual's worker by the AWC FMS provider, the AWC FMS provider must contact the AE or County Program to inform and provide information on just cause for dismissal. The AWC FMS provider must also notify the individual or surrogate of the dismissal.
17. Administer the standard ODP individual and surrogate satisfaction survey, which will be distributed to the AWC FMS provider by the AE or County Program. The survey must be administered to each individual or surrogate within the first 90 calendar days of service provision and then annually thereafter. Survey results, and any plans of correction, must be reported to the AE or County Program within 60 calendar days of completion of the initial and annual surveys. All identified issues must be promptly resolved with the individual or surrogate, if possible.

### **C. AE Responsibilities Related to Waiver Participants:**

AEs must ensure consistent access to the AWC FMS option, by implementing the ODP policy requirements in this section.

AEs are responsible to ensure that SC Entities provide information to individuals or their surrogates on:

- Person-centered planning and other choice and control opportunities.

- Employer authority opportunities available in the Pennsylvania Developmental Programs System (such as, the two FMS options available).
- The benefits and the individual's or surrogate's responsibilities associated with each employer authority option.
- The FMS provider's role and responsibilities under each FMS option.
- The alternative service options to the FMS option (such as use of traditional providers).

AEs, in conjunction with the SC Entity, must assist individuals or their surrogates, upon request, with decisions related to self-direction, including whether to self-direct considering the benefits and responsibilities, and which FMS option to use. If an individual or their surrogate chooses the AWC FMS option for the first time, the AE must ensure the individual or their surrogate receives assistance to transition to an AWC FMS provider.

The AE must establish and implement written procedures for validating the AWC FMS provider's determination that managing employers meet ODP requirements. The AE must have written procedures for how they will work cooperatively with the AWC FMS provider to ensure all required ODP agreements and forms are completed by the managing employer (individual or surrogate) and the AWC FMS provider.

AEs are responsible to ensure that SC Entities use a person-centered planning process to develop ISPs for all individuals. It is the responsibility of AEs and AWC FMS providers to be knowledgeable about person-centered planning; the guiding principles of self-determination; the minimum guidelines for choice and control; all federal, state, and local rules and regulations pertaining to Waiver and non-Waiver services; the operation of an AWC FMS provider; and any Consolidated and P/FDS Waiver amendments. The AE, in cooperation with the AWC FMS and the managing employer, must track the utilization and budget in accordance with each authorized ISP. The AE will share any concerns related to the utilization and budget with the SC entity, the AWC FMS provider and ODP for follow up and resolution. The AE must have written procedures for tracking, monitoring and corrective action as it relates to performance of the managing employer. The AE will report any concerns and corrective action measures to ODP as required.

AEs must develop and implement written procedures and safeguards that reflect ODP policies and the guiding principles of self-determination, including those outlined in Bulletin 00-03-05, *Principles for the Mental Retardation System*. They must ensure that individuals and their surrogate, rather than the AWC FMS provider, have the right to choose, direct, and control the services in the approved and authorized ISP and the qualified support service workers who provide them, without excessive restrictions or barriers. The procedures and safeguards must ensure individuals or surrogates have the right to:

- a. Recruit and refer support service workers to the AWC FMS provider for hire and assignment back to the individual.
- b. Provide or participate in the provision of qualified support service worker orientation and training.
- c. Determine wages for the support service worker within the range.
- d. Determine schedules of qualified support service workers.

- e. Determine tasks to be performed by qualified support service workers and where and when they are to be performed in accordance with the approved and authorized ISP.
- f. Manage the day-to-day activities of qualified support service workers.
- g. Verify time worked by qualified support service workers and approve timesheets.
- h. Complete and maintain progress notes in accordance with Bulletin 00-07-01.
- i. Dismiss the individual's qualified support service workers from working in the individual's home as necessary and notify the AWC FMS provider of the individual's or the surrogate's wishes.
- j. Receive initial and ongoing managing employer skills training from the AWC FMS provider as needed and requested by the individual or surrogate.

AEs must ensure that the AWC FMS provider meet the needs of individuals in accordance with Waiver and non-Waiver service requirements. The AEs shall ensure that the AWC FMS provider meets applicable Waiver and non-Waiver requirements prior to their qualification and enrollment as AWC FMS providers and at least annually thereafter. Additionally the AE shall ensure the AWC FMS adheres to the qualification process for each service they propose to render. This shall be done in accordance with Bulletin 00-08-01, *Process for Qualification and Disqualification of the Waiver Providers*, or any approved revisions. AEs are responsible for working cooperatively with the AWC FMS provider to ensure the AWC FMS and managing employer verified that all vendors, small unlicensed providers, transportation (mile) providers and support service workers hired to work with individuals were qualified prior to services being rendered, and annually thereafter. Refer to Section I of this bulletin for additional information on qualification criteria. ODP recommends using the same qualification criteria for services provided through non-Waiver (base) funds.

AEs may not impose additional worker training requirements above and beyond the training requirements that ODP establishes in the provider qualification criteria for Waiver services.<sup>7</sup> The only exception is training identified as needed in the ISP or that is required to meet the ODP provider qualification criteria, such as training required to obtain liability insurance coverage. If training is required to meet such criteria, written confirmation from the insurance agent is required. This information must be documented in the individual's file.

When AWC FMS providers are utilized by Waiver participants, only Waiver administrative funds, not Waiver service dollars, may be used to reimburse AWC FMS administrative fees. Non-Waiver funds may be used to reimburse the AWC FMS administrative fees for non-Waiver participants.

AEs must provide the AWC FMS provider with electronic (HCSIS or other electronic access) or hard copy access to the following components of applicable ISPs, at minimum :

- The section(s) of an individual's ISP that outlines all authorized services and supports for which the AWC FMS provider is making payment.

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<sup>7</sup> Refer to appendix C of the current, approved Consolidated or P/FDS Waiver. This section of the Waivers provide requirements for both individual and agency providers.

- The budget for those authorized services and supports.
- Any updates that are made to these two documents that affect AWC FMS services.

This information must be provided to the AWC FMS provider within 24 hours of the authorization of services in the Annual Review Update ISP, the Fiscal Year Renewal ISP, and any ISP Critical Revision.

Each AE was required to offer AWC FMS services by July 1, 2005, as per Bulletin 00-04-01, *Intermediary Service Organizations*. An AWC FMS provider, under contract with an AE, must meet ODP requirements and have an executed Provider Agreement for Participation in Pennsylvania's Medical Assistance Program and have a standard AWC FMS addendum to this agreement with ODP. AEs that have a current contract with an AWC FMS provider must conduct a performance review of the AWC FMS provider using ODP's AWC FMS Provider Performance Review protocol within 60 calendar days of ODP issuing the protocol. For new AWC FMS providers, the Readiness Review must be conducted prior to the AWC FMS provider becoming operational.

AEs without a current contract with an AWC FMS must effectuate a contract no later than **July 1, 2008**. AEs may join with other AEs to contract with a private entity to provide AWC FMS to people under the jurisdiction of multiple AEs. Pending successful negotiation of a contract, the AE must assist interested individuals in utilizing an AWC FMS under contract with another AE.

#### **D. County Programs Roles and Responsibilities Related to Base-Funded Individuals**

ODP encourages County Programs to ensure consistent access to the AWC FMS option, by implementing the ODP policy requirements in this Section.

County Programs should ensure that SC Entities provide information to individuals or surrogates on:

- Person-centered planning and other choice and control opportunities.
- Employer authority opportunities available in the Pennsylvania Developmental Programs system (such as the two FMS options available).
- The benefits and the individual's or surrogate's responsibilities associated with each employer authority option.
- The FMS provider's role and responsibilities under each FMS option.
- The alternative options to the FMS option (such as use of traditional providers).

County Programs, in conjunction with SC Entities, should assist individuals or their surrogates, upon request, with decisions related to self-direction, including whether to self-direct considering the benefits and responsibilities, and which employer authority option to use. If an individual or surrogate chooses the AWC FMS option, the County Programs should ensure the individual or his or her surrogate is provided with assistance to transition to an AWC FMS provider.

The County Program should establish and implement written procedures for validating the AWC FMS provider's determination that managing employers meet ODP requirements. The County Program should have written procedures for how they will work cooperatively with the AWC FMS provider to ensure all required ODP agreements and forms are completed by the managing employer (individual or surrogate) and the AWC FMS provider.

County Programs should ensure that SC Entities use a person-centered planning process to develop ISPs for all individuals. It is the responsibility of County Programs and any AWC FMS providers, to be knowledgeable about person-centered planning; the guiding principles of self-determination; the minimum guidelines for choice and control; all federal, state, and local rules and regulations pertaining to non-Waiver services; and the operation of an AWC FMS provider. The County Program in cooperation with the AWC FMS and the managing employer should track the utilization and budget in accordance with each authorized ISP. The County Program should share any concerns related to the utilization and budget with the SC entity and the AWC FMS provider for follow up and resolution. The County Program should have written procedures regarding tracking, monitoring and corrective action as it relates to performance of the managing employer. The County Program should report any concerns and corrective action measures to ODP.

County Programs should develop and implement written procedures and safeguards that reflect ODP policies and the guiding principles of self-determination, including those outlined in Bulletin 00-03-05, *Principles for the Mental Retardation System*. They should ensure that individuals and their surrogate, rather than the AWC FMS provider, have the right to choose, direct, and control the services in the approved and authorized ISP and the qualified support service workers who provide them, without excessive restrictions or barriers. The procedures and safeguards should ensure individuals or surrogates have the right to:

- a. Recruit and refer support service workers to the AWC FMS provider for hire and assignment back to the individual.
- b. Provide or participate in the provision of qualified support service worker orientation and training.
- c. Determine the wages for the support service worker within the range.
- d. Determine schedules of qualified support service worker(s).
- e. Determine tasks to be performed by qualified support service workers and where and when they are to be performed in accordance with the approved and authorized ISP.
- f. Manage the day-to-day activities of qualified support service workers.
- g. Verify time worked by qualified support service workers and approve timesheets.
- h. Complete and maintain progress notes.
- i. Dismiss the individual's qualified support service workers from working in the individual's home as necessary and after notify the AWC FMS provider of the individual's or the surrogate's wishes.
- j. Receive initial and ongoing managing employer skills training from the AWC FMS provider as needed and requested by the individual or surrogate.

Base funds are paid from the County Programs to the AWC FMS provider, pursuant to a contract, to pay qualified support service workers, unlicensed small providers and

vendors who deliver services and goods in accordance with a base-funded individual's authorized ISP. The contract must meet the requirements of 55 Pa.Code § 4300.139 (relating to Contract Requirements). The County Programs will also use base funds to pay the AWC FMS provider for the administration functions performed by the AWC FMS provider. This administrative fee should not be included in the individual's service budget amount.

County Programs must provide the AWC FMS provider with electronic (HCSIS or other electronic access) or hard copy access to the following components of applicable ISPs:

- The section(s) of an individual's ISP that outlines all authorized services and supports for which the AWC FMS provider is making payment.
- The budget for those authorized services and supports.
- Any updates that are made to these two documents that affect AWC FMS services.

This information must be provided to the AWC FMS provider within 24 hours of the authorization of services in the Annual Review Update ISP, the Fiscal Year Renewal ISP, and any ISP Critical Revision.

## **E. Supports Coordination Entity Responsibilities**

SC Entities are responsible for providing information from the PA Guide to PDS to individuals or their surrogates on:

- Person-centered planning and other choice and control opportunities.
- Employer authority opportunities available in the Pennsylvania Developmental Programs system (such as, the two FMS options available).
- The benefits and the individual's or surrogate's responsibilities associated with each employer authority option.
- The FMS provider's role and responsibilities under each FMS option.
- The alternative service options to the FMS option (such as use of traditional providers).

SC Entities must assist individuals or their surrogates, upon request, with decisions related to self-direction, including whether to self-direct considering the benefits and responsibilities, and which FMS option to use. If an individual or their surrogate chooses the AWC FMS option for the first time, the SC Entity, in conjunction with the AE or County Program, must assist the individual or their surrogate with his or her transition to an AWC FMS provider. The SC must update the ISP in a timely manner to reflect the needs identified by the team.

SC Entities must use a person-centered planning process to develop ISPs for all individuals. It is the responsibility of SC Entities to be knowledgeable about person-centered planning; the guiding principles of self-determination; the minimum guidelines for choice and control; all federal, state, and local rules and regulations pertaining to Waiver and non-Waiver services; the operation of an AWC FMS provider; and any Consolidated and P/FDS Waiver amendments. SC entities must work cooperatively with the AWC FMS, the AE or County Program and ODP as requested and required.

## F. Individual Support Plans and Budgets

AEs and County Programs must ensure that ISPs and budgets are developed through a person-centered process. The cost associated with the AWC FMS administrative fee is not included in the Individuals ISP Supports and Services budget. See Section H of this bulletin for more information on the FMS fee.

AEs and County Programs must provide AWC FMS providers with access either electronically (in HCSIS or other electronic access) or by hard copy, with the section(s) of an individual's approved and authorized ISP that outlines all services and supports for which the AWC FMS provider is making payment, the authorized budget, and all updates that are made to these two documents that affect AWC FMS. Authorized supports and services provided to individuals by the AWC FMS provider must be reflected in the individual's ISP.

The individual's authorized service budget should include the wage for the qualified support service worker and Waiver service rate, which includes:

- a. The hourly wage for the support service worker must include:
  - i. The hourly wage.
  - ii. Consideration for costs of employee benefits (optional).
- b. The service rate must include the payment for the wage for the support service worker as well as:
  - i. Employer related federal, state and local income taxes including FICA, Medicare and unemployment.
  - ii. All costs related to the purchase of workers compensation insurance.
  - iii. Costs associated with employee training.
  - iv. Costs associated with the agency's liability insurance.
  - v. Costs associated with the managing employer background checks and clearances.
  - vi. Costs for supplies necessary to complete an individual's service outcomes.

The SC, along with the individual or surrogate, will calculate the ISP budget. This will be accomplished by utilizing the ODP approved methodology for budget calculation. AEs and County Programs are responsible for approving and authorizing those proposed ISPs and budgets based on ODP established standards for ISP and budget approval and authorization. Once approved and authorized, individuals or their surrogates, AWC FMS providers, AEs and County Programs will be responsible to track authorized ISP service utilization and budgets by utilizing the monthly reports provided to them from the AWC FMS provider. These reports will be distributed by the AWC FMS provider by the 15<sup>th</sup> of every month.

AWC FMS providers and AEs develop and implement written procedures for monthly tracking of services billed by the AWC compared to services authorized and the budget. County Programs should develop and implement similar procedures. ISPs are developed and updated to ensure authorized services are reflective of an individual's current, assessed needs. All services and supports must be approved and authorized in the ISP before qualified supports service workers, vendors, small unlicensed providers or transportation (mile) individuals or providers render the service. Therefore, if a timesheet or invoice is submitted to the AWC FMS provider by an individual or

surrogate for services rendered in excess of the approved and authorized ISP services and budget amount, the individual or surrogate will make payment to the AWC FMS per the *Individual or Surrogate and AWC FMS Agreement Form*. A copy of this Agreement Form is located in the PA Guide to PDS.

## **G. Establishment of Payment Wages for Qualified Support Service Workers and Waiver service rates**

### ***Waiver Services:***

Until June 30, 2009, AEs and the AWC FMS provider are responsible for developing wage ranges for support service workers that will be approved by ODP, in accordance with federal and state Department of Labor rules and regulations, to guide individuals or surrogates in determining the hourly wages paid to support service workers of Waiver services. This range should include the hourly wage to the support service worker plus consideration for the employee benefits cost.

Using the wage ranges approved by ODP, the individual or surrogate may select the hourly wage for the support service workers they hire. The individual or surrogate may include consideration for costs of benefits for the support service worker in the wage, however, this component is optional.

The AE, SC Entity, and individual or surrogate, in conjunction with the AWC FMS provider, is responsible to ensure the total rate for the service includes:

- The hourly wage of support service workers.
- Costs for benefits paid to workers (if indicated by the managing employer).
- Costs related to all required employer taxes and insurances.
- Costs for required managing employer background checks and clearances.
- Costs associated with employee training,
- Costs associated with the agency liability insurance, and
- Costs for supplies necessary to complete an individual's service outcomes.

### ***Wage Range Review process:***

Prior to the development of wage ranges, the AE and the AWC FMS organization must assess existing wages of the support service workers to identify impacts of the new wage ranges. After this analysis, the AE is responsible to provide ODP, through the appropriate Regional Office, with the following information to facilitate the review and approval or disapproval of the range:

- Specific information on the number of support service worker wages who could be impacted by the new wage ranges. This includes information on the number of support service workers who may be eligible for an increase in the wage, as well as those who may be negatively affected by the wage ranges.
- Detailed financial impact information, including the total cost of the new wage range, and any funding issues.

Approval of the wage ranges will not occur without the above information. The information will assist ODP in determining both the financial and individual impacts in order to minimize or eliminate the impacts where possible.

If a Waiver participant who is currently utilizing support service worker(s) with wages in excess of the wage range approved by ODP, the AE and AWC FMS must address the discrepancy in compliance with existing laws and labor and industry standards. If the AE and the AWC FMS are unable to resolve the wage discrepancy consistent with applicable laws and standards, the AE will notify the ODP Regional Office. ODP will then initiate a review of the situation, using a standard review process, and provide information to assist the AWC FMS, the managing employer, and the AE in the determination of the final wage of the worker(s). This review process may **only** be used for Waiver participants with worker(s) with existing wages in excess of the new wage range developed by the AE and the AWC FMS, and approved by ODP.

Once the total rate is determined, the individual or surrogate, along with the AWC FMS provider and the SC, will calculate the ISP budget. Effective July 1, 2009 the wage ranges for the support service workers of Waiver services and total service rate will be established by ODP.

### ***Non-Waiver Services:***

For non-Waiver (base-funded) services, County Programs are responsible to establish wage ranges (developed in accordance with federal and state Department of Labor rules and regulations) to guide individuals or surrogates in determining the hourly wages paid to their support service workers of non-Waiver (base-funded) services. Using the wage ranges, individuals or surrogates may select the hourly wage for the support service workers they hire. The wage range includes the hourly wage plus consideration for the costs of benefits which are optional.

County Programs, the SC Entity and the individual or the surrogate, in conjunction with the AWC FMS provider, is responsible to ensure the total rate for the service includes:

- The hourly wage of support service workers.
- Costs for benefits paid to the support service workers (optional).
- Costs related to all required employer taxes and insurances.
- Costs for required managing employer background checks and clearances.
- Costs associated with employee training.
- Costs associated with the agency liability insurance.
- Costs for supplies necessary to complete an individual's service outcomes.

Once this is determined, SC, along with the individual or surrogate and the AWC FMS provider will calculate the ISP budget.

County Programs should follow the same process that is used for Waiver services when establishing the wage ranges for support service workers who provide non-waiver (base) services. The only exception is that ODP does not approve the rate ranges. Instead the County Program must comply with 55 Pa.Code Chapter 4300 regulations and labor and industry standards in establishing wage ranges.

## **H. Payment to Agency With Choice FMS for Administrative Services Rendered**

AEs and County Programs must establish an administrative fee to be paid to AWC FMS providers that is consistent with 55 Pa.Code Chapter 4300 regulations. For Waiver participants this fee must be a monthly fee per participant. The monthly fee per participant for the contracted AWC FMS provider will be determined by the AWC FMS and the AE and will be approved by ODP. County Programs should consider utilizing a monthly fee per participant, however, ODP recognizes that for base-funded individuals with limited budgets there may be a more cost effective mechanism to develop the AWC FMS fee. The fee must be consistent with 55 Pa. Code Chapter 4300 regulations. County Programs should establish the most cost effective AWC FMS fee utilizing those regulations. If a monthly per participant fee is used, the fee must be the consistently applied for all individuals served by the AWC FMS provider. Effective July 1, 2009, the Waiver administrative fee will be established by ODP.

AEs must use administrative funds to cover the administrative fee of the AWC FMS provider for Waiver participants. The AE may **not** use Waiver service dollars to reimburse the AWC FMS provider for administrative services. The administrative fee cannot be included in the rate for any Waiver service. The administrative fee cannot reduce or cause any loss of authorized Waiver services to individuals effective with the issuance date of this bulletin.

The County Programs must use non-Waiver (base) funds to cover the administrative cost of ACW FMS providers for non-Waiver participants.

The administrative fee should include the costs associated with the AWC responsibilities as the FMS provider; the fees associated with conducting criminal background checks, FBI checks, and child abuse clearances for prospective support service workers; and other costs associated the qualification of support service workers. Fees associated with training for the support service workers, supplies necessary for the support service workers to complete the identified outcomes in the ISP, and the AWC liability insurance are included in the Waiver or base service rates and not the AWC administrative fee.

Until otherwise notified, the AWC FMS administrative fee will be billed to the AE or County Program outside of HCSIS and PROMISE. The AWC FMS provider will bill PROMISE for claims for Waiver services and non-Waiver services. Effective July 1, 2009, the AWC FMS will bill PROMISE and receive payment for Waiver services and Waiver administrative services through the Pennsylvania Treasury. Base-funded services and administrative fees will continue to be paid by the County Programs based on claims submitted to PROMISE.

## **I. Qualifications for Support Service Workers, Vendors, Small Unlicensed Providers, and Individuals Providing Transportation for Mileage Reimbursement**

All qualified support service workers, transportation (mile) providers, small unlicensed providers and vendors paid by the AWC FMS for Waiver services must meet the minimum provider qualification criteria established by the ODP in the appropriate approved Waiver(s). Provider qualification criteria are included in the Consolidated and P/FDS Waivers for each Waiver service. The qualification criteria must be verified prior to the delivery of services by a worker, vendor or provider, and at least annually

thereafter. ODP recommends using the Waiver qualification criteria for base-funded services.

*In general*, minimum requirements for Support Service Workers are:

1. At least 18 years old.
2. Complete a State Police criminal background check as per OAPSA (35 P.S. sec.10225.101 et.seq and 6 Pa. Code Chapter 15), and when serving a child under age 18 conduct child abuse clearances as per CPSL (23 Pa C.S. Ch. 63).
3. If the support service worker has not been a resident of the Commonwealth for the 2 calendar years immediately preceding the date of hire, completion of a FBI Criminal History Record is required in addition to a Criminal History Record from the State Police. This requirement also applies to support service workers who reside in a contiguous state.
4. Necessary pre-training or in-service training to implement the person's ISP.
5. Agreement to carry out the service-related responsibilities outlined in the person's ISP.

Please refer to the applicable Consolidated or P/FDS Waiver for a detailed list of provider qualification criteria<sup>8</sup>.

When transportation is provided either as a discrete service, for mileage reimbursement or as part of another service (such as home and community habilitation), the support service worker must meet the provider qualification criteria for transportation that are included in the approved Waivers. Please refer to the current, approved Consolidated or P/FDS Waivers for a complete list of provider qualification criteria. These criteria are listed in the *Provider Qualifications* section of each service. ODP recommends using these same criteria to qualify workers and providers of non-Waiver services.

Support service workers who serve individuals receiving Waiver or non-Waiver services must have a State Police Criminal Background Check completed. In addition, support service workers who serve minors receiving Waiver or non-Waiver services must also have State and Federal Child Abuse Clearances conducted. Support service workers who are from out-of-state and who serve individuals receiving Waiver or non-Waiver services must have a Criminal Background Check completed by the FBI.

The above-mentioned Criminal Background Checks must be obtained (that is, dated) within one year immediately preceding the support service worker's date of hire. The cost of conducting these criminal background checks will be included in the administrative fee paid to the AWC FMS provider. AEs or County Programs are responsible to monitor the AWC FMS provider to ensure that all support service workers hired by individuals or surrogates are qualified and meet the applicable Waiver or non-Waiver requirements. The AWC FMS provider must maintain documentation in the individual's file regarding the qualification of all support service workers. The qualification must be reviewed and updated on an annual basis. This does not require that background checks be done annually. New background checks must be completed when the person is hired, resigns their employment and then returns to work for the individual or surrogate, or works for a new individual or surrogate when the previous background check is dated more than one year prior to the date of hire.

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<sup>8</sup> Refer to Appendix C of the current, approved Consolidated and P/FDS Waivers.

As the managing employer, the individual or surrogate is responsible to ensure that transportation (mile) providers, support service workers, small unlicensed providers and vendors meet the qualification criteria for the service(s) the individuals or entities provide. In addition the individual or surrogate must provide documentation that these entities meet the applicable qualification criteria to the AWC FMS provider for verification of qualification. The *Documentation of Support Service Worker Qualification Form* is located in the PA Guide to PDS. This documentation must be verified by the AWC FMS provider and managing employer, initially (prior to delivery of services), and at least annually thereafter. The AE must validate that the qualifications process is completed by the AWC FMS and the managing employer as specified above. ODP encourages County Programs to implement a similar validation process for non-Waiver services.

#### **J. Monitoring the Quality of Supports and Services Provided to Individuals**

The individual or surrogate must monitor the quality of services received in accordance with the individual's ISP. Additionally, the individual's SC is responsible for the Supports Coordination functions of locating, coordinating, and monitoring services. Monitoring by the SC must be conducted at the minimum frequency outlined in Appendix D of the approved Consolidated or P/FDS Waiver for Waiver participants and at least annually for non-Waiver individuals, and at a level that would assure the health and welfare of the individual. This monitoring must be documented using the standard ISP monitoring tool, and must be entered in HCSIS.

AEs and County Programs must ensure that a person-centered planning process and self-directed support service are available to all individuals; and that services, self-direction opportunities, and safeguards for individuals' health and welfare and against fraud and abuse are uniformly implemented.

#### **K. Monitoring the Quality of Supports and Services Provided by AWC FMS Providers**

AEs must conduct an AWC FMS provider Readiness Review prior to a new AWC FMS provider becoming operational. The primary purposes of the Review are to determine:

1. If the AWC FMS provider has the systems, procedures, and internal controls documented and in place to perform the required tasks in accordance with Waiver and non-Waiver program requirements.
2. That the AWC FMS provider is able to provide individuals with high levels of choice and control over their support services and the qualified support workers who provide them.

The Readiness Review must be conducted using ODP's AWC Readiness Review protocol. One requirement of this Review is that the AWC FMS provider must have an automated AWC FMS Procedures Manual that documents the systems, procedures, and internal controls and other safeguards for all of the tasks it performs as an AWC FMS provider, and that reflects the guiding principles of self-direction.

The initial AWC FMS Readiness Review requirement is not applicable to AWC FMS providers with an existing contract with an AE. However, AEs with existing contracts

with AWC FMS providers are responsible for conducting a review of the FMS's operations within 60 calendar days of ODP issuing the AWC FMS Performance Review Protocol. In addition, AEs must conduct annual AWC FMS Performance Reviews using ODP's AWC FMS Performance Review Protocol.

In addition to conducting AWC FMS Readiness Reviews and ongoing Performance Reviews, AEs are responsible to:

- Ensure a current, signed Provider Agreement for Participation in Pennsylvania's Medical Assistance Program and standard addendum to this agreement with ODP between the AWC FMS provider and ODP is on file.
- Establish and maintain training records to ensure the AWC FMS provider is not imposing additional training requirements on workers as specified in Section B (number 5b) of this policy bulletin.
- Establish individuals' and surrogates' records, as required and maintain them in a secure and confidential manner.
- Ensure that all AWC FMS providers comply with 55 Pa.Code Chapter 4300 regulations.
- Distribute the individual and surrogate satisfaction survey, developed by ODP, to AWC FMS providers and receive survey results annually.
- Submit a summary of AWC FMS provider performance monitoring results to the ODP Regional Office at least annually.
- Ensure corrective action occurs for significant and recurring failure to perform the AWC FMS requirements, for example gross over and under utilization (utilization determined by the utilization criteria in the agreements), fraud, and ongoing and unresolved health and safety issues.

ODP will conduct a review of AWC FMS provider contracts with the AEs using the ODP AE Oversight procedures to ensure that AWC FMS providers under contract with AEs are in compliance with ODP requirements and have a current Provider Agreement for Participation in Pennsylvania's Medical Assistance Program and standard addendum to this agreement with ODP.

ODP encourages County Programs to conduct an AWC FMS Readiness Review for AWC FMS providers of non-Waiver services.

### **OBSOLETE BULLETINS**

Bulletin 00-04-01, *Intermediary Service Organizations*, which was issued on January 2, 2004, as it pertains to the AWC FMS option.

Bulletin 00-92-24, *County Responsibilities for Wavier Funded Habilitation in a Private Home*.

### **OBSOLETE RELATED DOCUMENTS**

*Guidelines for Operating a Vendor Fiscal/Employer Agent and Agency With Choice Intermediary Service Organization (Draft)* issued on May 6, 2003.