

# Appendix E: Participant Direction of Services

Applicability (from Application Section 3, Components of the Waiver Request):

<input checked="" type="radio"/>	<b>Yes. This waiver provides participant direction opportunities.</b> Complete the remainder of the Appendix.
<input type="radio"/>	<b>No. This waiver does not provide participant direction opportunities.</b> Do not complete the remainder of the Appendix.

*CMS urges states to afford all waiver participants the opportunity to direct their services. Participant direction of services includes the participant exercising decision-making authority over workers who provide services, a participant-managed budget or both. CMS will confer the Independence Plus designation when the waiver evidences a strong commitment to participant direction.*

Indicate whether Independence Plus designation is requested (select one):

<input type="radio"/>	<b>Yes. The state requests that this waiver be considered for Independence Plus designation.</b>
<input checked="" type="radio"/>	<b>No. Independence Plus designation is not requested.</b>

## Appendix E-1: Overview

- a. **Description of Participant Direction.** In no more than two pages, provide an overview of the opportunities for participant direction in the waiver, including: (a) the nature of the opportunities afforded to participants; (b) how participants may take advantage of these opportunities; (c) the entities that support individuals who direct their services and the supports that they provide; and, (d) other relevant information about the waiver’s approach to participant direction.

**Self-Directed Opportunities Available within the OBRA Waiver:**  
 All participants in the OBRA waiver have the right to make decisions about and self-direct their own waiver services and may choose to hire and manage staff using Employer Authority. Under Employer Authority, the participant serves as the common-law the employer and is responsible for hiring, firing, training, supervising, and scheduling their support workers. In addition, participants may choose a combination of service models to meet their individual needs. Participants are encouraged to self-direct their services to the highest degree possible. During the actual provision of services, the participant is responsible for directing the activities of their support worker.

**How Participants May Take Advantage of Self-Directed Opportunities:**  
 Participants may choose to self-direct their services during the development of the initial Individual Service Plan (ISP), at reassessment, or at any time. The participant’s Service Coordinator is responsible for presenting all available service options and ensuring that each participant understands the full range of opportunities within the waiver. As described in Appendix E-1-e below, the Office of Long-Term Living has developed standardized educational materials and promotional materials with information about self-direction for all waiver participants. OLTL has also developed and provided regional on-site training for Service Coordinators on self-direction to ensure information is provided accurately and consistently statewide.

As stated previously, the participant may utilize a combination of any model(s) to personalize their service plan. The ISP is developed in conjunction with the Service Coordinator, as described in Appendix D, to ensure that the participant’s service needs are met, and reflects the participant’s choice of model of service. Service Coordinators shall offer all participants who have chosen to

self-direct their services provider-managed services until the individual's support workers are hired. Participants may elect to change their service model at any time by notifying their Service Coordinator. Service Coordinators must work with participants to ensure they do not experience a disruption in services when participants choose to change service models.

#### Entities That Support Individuals:

Participants will receive a full-range of supports, ensuring that they are successful with the participant-directed experience. Individuals choosing Employer Authority will receive support from a certified Fiscal/Employer Agent (F/EA), Support Brokers, and Service Coordinators to assist them in their role as the common-law employer of their workers. The Fiscal/Employer Agent will:

- Enroll participants in Financial Management Service (FMS) and apply for and receive approval from the IRS to act as an agent on behalf of the participant;
- Provide orientation and skills training to participants on required documentation for all directly hired support workers, including the completion of federal and state forms; the completion of timesheets; good hiring and firing practices; establishing work schedules; developing job descriptions; training and supervision of workers; effective management of workplace injuries; and workers compensation;
- Establish, maintain and process records for all participants and support workers with confidentiality, accuracy and appropriate safeguards;
- Establish and maintain a separate bank account for the purposes of managing participant directed funds and provide a full accounting of the use of these funds;
- Conduct criminal background checks and when applicable, child abuse clearances, on potential employees;
- Assist participants in verifying support workers citizenship or alien status;
- Distribute, collect and process support worker timesheets as verified and approved by the participant;
- Prepare and issue support workers' payroll checks, as approved in the participant's Individual Support Plan;
- Withhold, file and deposit federal, state and local income taxes in accordance with federal IRS and state Department of Revenue rules and regulations;
- Broker workers' compensation for all support workers through an appropriate agency;
- Process all judgments, garnishments, tax levies, or any related holds on workers' pay as may be required by federal, state or local laws;
- Prepare and disburse IRS Forms W-2's and/or 1099's, wage and tax statements and related documentation annually;
- Assist in implementing the state's quality management strategy related to FMS;
- Establish an accessible customer service system for the participant and the Service Coordinator;
- Procure participant employer-related functions training for common-law employers through a Support Broker(s); and
- Provide written financial reports to the participant, the Service Coordinator and OLTL on a monthly and quarterly basis, and as requested by the participant, Service Coordinator, and OLTL.

Participants may receive assistance and training from Support Brokers on their roles and responsibilities as a common-law employer. Support Broker services are designed to provide assistance as needed with employer-related functions and maintenance in order to support the participant's ability to self-direct their services. Support Broker services are optional services and may supplement, but do not replace, the supports provided by either the F/EA or Service Coordinator. To support a participant to self-direct, duties performed by a Support Broker may include assistance with:

- Understanding and/or fulfilling the responsibilities outlined in the Common Law Employer Agreement form and the Managing Employer Agreement form;
- Understanding and completing employer or managing employer related paperwork;

- Effective hiring techniques including creating job descriptions, ads for hiring, strategies for evaluating candidates, and informing candidate on selection or non-selection;
- Techniques for interviewing and conducting reference checks;
- Effective management and supervision techniques such as conflict resolution;
- Proper procedures for termination of workers or communication with the Service Coordination Entity regarding the desire for termination of workers;
- Review of workplace safety issues and strategies for effective management of workplace injury prevention;
- Techniques on scheduling paid and unpaid supports;
- Developing systems or finding help to manage finances and resources;
- Techniques related to problem-solving, decision-making, and achieving desired outcomes within self-directed services; and
- Assisting an individual to be a successful employer of self-directed services.

Support Brokers must work collaboratively with the participant’s Service Coordinator. The Support Broker assists individuals and representatives with being able to self-direct the individual's services and supports. Support Brokers may not replace the role or perform the functions of a Service Coordinator. No duplicate payments will be made.

In addition, individuals choosing to self-direct their services will receive assistance from their Service Coordinator to develop their Individual Service Plan (ISP). Once the ISP is developed, approved, and authorized, the participant is responsible for arranging and directing the services outlined in their plan with, as appropriate, information and support from the Service Coordinator. During the implementation and management of the ISP, the Service Coordinator will:

- Assist the participant to gain information and access to necessary services, regardless of the funding source of the services;
- Advise, train, and support the participant as needed and necessary;
- Assist the participant to develop an individualized back-up plan;
- Assist the participant to identify risks or potential risks and develop a plan to manage those risks;
- Recommend or arrange training on the topics of abuse, neglect, exploitation, and abandonment as defined by protective services statutes;
- Monitor the provision of services to ensure the participant’s health and welfare;
- Assist the participant in understanding and fulfilling their responsibilities outlined in the Common Law Employer Agreement form when the participant chooses to self-direct all or some of their services; and
- Assist the participant to secure training of support workers who deliver services that would require a degree of technical skill, and would require the guidance and instruction from a health care professional such as a Registered Nurse.

**b. Participant Direction Opportunities.** Specify the participant direction opportunities that are available in the waiver. *Select one:*

<input checked="" type="radio"/>	<b>Participant – Employer Authority.</b> As specified in <i>Appendix E-2, Item a</i> , the participant (or the participant’s representative) has decision-making authority over workers who provide waiver services. The participant may function as the common law employer or the co-employer of workers. Supports and protections are available for participants who exercise this authority.
<input type="radio"/>	<b>Participant – Budget Authority.</b> As specified in <i>Appendix E-2, Item b</i> , the participant (or the participant’s representative) has decision-making authority over a budget for waiver

	services. Supports and protections are available for participants who have authority over a budget.
<input type="radio"/>	<b>Both Authorities.</b> The waiver provides for both participant direction opportunities as specified in <i>Appendix E-2</i> . Supports and protections are available for participants who exercise these authorities.

c. **Availability of Participant Direction by Type of Living Arrangement.** *Check each that applies:*

<input checked="" type="checkbox"/>	<b>Participant direction opportunities are available to participants who live in their own private residence or the home of a family member.</b>
<input type="checkbox"/>	<b>Participant direction opportunities are available to individuals who reside in other living arrangements where services (regardless of funding source) are furnished to fewer than four persons unrelated to the proprietor.</b>
<input type="checkbox"/>	<b>The participant direction opportunities are available to persons in the following other living arrangements</b> <i>Specify these living arrangements:</i>

d. **Election of Participant Direction.** Election of participant direction is subject to the following policy (*select one*):

<input type="radio"/>	<b>Waiver is designed to support only individuals who want to direct their services.</b>
<input checked="" type="radio"/>	<b>The waiver is designed to afford every participant (or the participant’s representative) the opportunity to elect to direct waiver services. Alternate service delivery methods are available for participants who decide not to direct their services.</b>
<input type="radio"/>	<b>The waiver is designed to offer participants (or their representatives) the opportunity to direct some or all of their services, subject to the following criteria specified by the state. Alternate service delivery methods are available for participants who decide not to direct their services or do not meet the criteria.</b> <i>Specify the criteria</i>

e. **Information Furnished to Participant.** Specify: (a) the information about participant direction opportunities (e.g., the benefits of participant direction, participant responsibilities, and potential liabilities) that is provided to the participant (or the participant’s representative) to inform decision-making concerning the election of participant direction; (b) the entity or entities responsible for furnishing this information; and, (c) how and when this information is provided on a timely basis.

<p>The participant’s Service Coordinator is responsible for presenting all available service options and ensuring that each participant understands the full range of participant direction opportunities within the waiver. The Service Coordinator documents the participant’s choice of service delivery model on the ISP. Participants are also advised that they have the opportunity to change their model of service at any time throughout the year. Participants receive information about participant-direction at time of enrollment, on an annual basis and upon request.</p> <p>The Office of Long-Term Living has developed consistent materials to inform current and prospective waiver participants about the benefits and potential liabilities of participant-direction. Participant materials include a comprehensive participant reference manual which contains details about participant-direction roles, responsibilities, and informed decision-making. These materials</p>
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have been distributed to the Independent Enrollment Broker as well as all Service Coordination agencies, and are available on the OLTL website. This information is widely available and shared with individuals upon entering service, at monitoring contacts and during annual ISP updates each year thereafter. This information is written at a level that is easily understood using everyday common language to ensure accessibility, and is provided in advance of the ISP meeting to ensure that individuals have sufficient time to consider their options and the responsibilities.

The F/EA, a single statewide entity providing consistent functions across the Commonwealth, is responsible for providing orientation and training to the participant prior to employing their support service worker. Orientation is based upon a standard curriculum developed by OLTL and includes the following:

- Review of the information and forms contained in both the Employer and Support Service Worker enrollment packets and how they should be completed
- The role and responsibilities of the common law employer;
- The role and responsibilities of the F/EA;
- The process for receipt and processing timesheets and employee payroll checks;
- Effective practices for recruiting potential employees, hiring employees, training employees, supervising and managing employees and firing employees;
- The process for resolving issues and complaints; and
- Workers Compensation and the process for reviewing workplace safety issues.

In addition, the F/EA is responsible for providing ongoing skills training to participants and working with Service Coordinators to identify any participants who may need and/or desire additional employer skills training.

f. **Participant Direction by a Representative.** Specify the state’s policy concerning the direction of waiver services by a representative (*select one*):

<input type="radio"/>	<b>The state does not provide for the direction of waiver services by a representative.</b>
<input checked="" type="radio"/>	<b>The state provides for the direction of waiver services by representatives.</b> Specify the representatives who may direct waiver services: ( <i>check each that applies</i> ):
<input checked="" type="checkbox"/>	<b>Waiver services may be directed by a legal representative of the participant.</b>
<input checked="" type="checkbox"/>	<b>Waiver services may be directed by a non-legal representative freely chosen by an adult participant.</b> Specify the policies that apply regarding the direction of waiver services by participant-appointed representatives, including safeguards to ensure that the representative functions in the best interest of the participant:  Waiver services may be directed by a non-legal representative freely chosen by an adult participant or for any individual who is unable to: <ul style="list-style-type: none"> <li>• Understand his/her own personal care needs;</li> <li>• Make decisions about his/her own care;</li> <li>• Manage his/her lifestyle and environment by making these choices;</li> <li>• Understand or have the ability to learn how to recruit, hire, train, and supervise providers of care; or</li> <li>• Understand the impact of his/her decisions and assume responsibility for the results.</li> </ul> The individual, a Service Coordinator, the OLTL, or the F/EA may request a personal representative be appointed, if indicated. A personal representative may be a legal guardian, or other legally appointed personal representative, an income payee, a family member, or friend. The personal representative must be willing and able to fulfill the

responsibilities as outlined in the Personal Representative Agreement and must demonstrate:

- A strong personal commitment to the participant;
  - Assist the participant in identifying/ obtaining back up services when a support worker does not show;
  - Demonstrate knowledge of the participant's preferences;
  - Agree to predetermined frequency of contact with the participant as mutually determined by the participant, the personal representative and the Service Coordinator;
- and
- Be at least 18 years of age.

The Service Coordinator or F/EA may request a personal representative be appointed when circumstances indicate a change in the participant's ability to self-direct or when the participant demonstrates misuse of funds, consistent non-adherence to program policy or an ongoing health and welfare risk.

A representative may not be a paid attendant for the participant.

The F/EA must recognize the participant's personal representative as a decision-maker, and provide the personal representative with all of the information, training, and support it would typically provide to a participant who is self-directing. The F/EA must fully inform the personal representative of the rights and responsibilities of a representative. Once informed, the F/EA must have the representative review and sign the standard Common Law Employer Designation Form form, which must be given to the representative and maintained in the participant's file. The agreement lists the roles and responsibilities of the representative; states that the representative accepts the roles and responsibilities of this function; and states that the representative will abide by OLTL policies and procedures.

The Service Coordinator is responsible for ensuring the personal representative functions in the best interest of the participant through, at minimum, quarterly monitoring calls, by monitoring the personal representative's adherence to the Common Law Employer Designation Form, and ensuring services are being provided as outlined in the participant's ISP. When it appears the personal representative is not acting in the best interest of the participant, and there has been a negative impact on the participant's health and welfare and/or services have not been provided as outlined in the ISP, the Service Coordinator must explore other alternatives, such as appointing a new personal representative or transitioning the participant to the provider managed service delivery model as described in Appendix E-1-m below. The Service Coordinator is also required to report any incidents of suspected abuse, neglect and/or exploitation as described in Appendix G.

In addition, the F/EA is required to address and report any issues identified with the representative OLTL policy on incident reporting and report any incident of suspected fraud or abuse.

- g. Participant-Directed Services.** Specify the participant direction opportunity (or opportunities) available for each waiver service that is specified as participant-directed in Appendix C-1/C-3. *(Check the opportunity or opportunities available for each service):*

Participant-Directed Waiver Service	Employer Authority	Budget Authority
Respite	✓	<input type="checkbox"/>
Personal Assistance Services	✓	<input type="checkbox"/>

- h. Financial Management Services.** Except in certain circumstances, financial management services are mandatory and integral to participant direction. A governmental entity and/or another third-party entity must perform necessary financial transactions on behalf of the waiver participant. *Select one:*

<input checked="" type="radio"/>	<p><b>Yes. Financial Management Services are furnished through a third party entity.</b> <i>(Complete item E-1-i).</i></p> <p>Specify whether governmental and/or private entities furnish these services. <i>Check each that applies:</i></p>
<input type="checkbox"/>	<b>Governmental entities</b>
<input checked="" type="checkbox"/>	<b>Private entities</b>
<input type="radio"/>	<p><b>No. Financial Management Services are not furnished. Standard Medicaid payment mechanisms are used.</b> <i>Do not complete Item E-1-i.</i></p>

- i. Provision of Financial Management Services.** Financial management services (FMS) may be furnished as a waiver service or as an administrative activity. *Select one:*

<input type="radio"/>	<p>FMS are covered as the waiver service specified in Appendix C-1/C-3</p> <p><b>The waiver service entitled:</b></p>
<input checked="" type="radio"/>	<p><b>FMS are provided as an administrative activity.</b></p> <p><i>Provide the following information</i></p>
<b>i.</b>	<p><b>Types of Entities:</b> Specify the types of entities that furnish FMS and the method of procuring these services:</p> <p>Financial Management Services are provided to participants across the Commonwealth by one qualified Fiscal Employer Agent, which was selected through a competitive procurement process (RFA).</p> <p>In early 2012, the Department of Human Services issued a Request for Application (RFA) to secure up to three entities that will provide Vendor F/EA Financial Management Services throughout the Commonwealth or on a regional basis for participants who receive participant-directed services in the OBRA waiver. One statewide vendor F/EA was selected as a result of the RFA.</p>
<b>ii.</b>	<p><b>Payment for FMS.</b> Specify how FMS entities are compensated for the administrative activities that they perform:</p> <p><input type="checkbox"/> •The statewide F/EA receives a monthly per participant administrative fee for the FMS administrative service provided by the F/EA. The monthly administrative fee was established through the competitive procurement process. The selected vendor must apply the monthly per participant fee consistently with each participant enrolled with the vendor.</p>

	<p>•A one-time start-up administrative fee is available for each participant for required activities related to the participant’s enrollment with the selected vendor. The start-up administrative fee will be authorized for each participant in the month prior to authorization of the ongoing monthly per participant administrative fee. The one-time start-up administrative fee is established by DPW.</p> <p>The one-time per participant start-up fee and the ongoing per member per month administrative fee may not be billed simultaneously. Payment for Financial Management Services is not based on a percentage of the total dollar volume of transactions that the FMS entity processes. The percentage of FMS costs relative to the participant’s service costs are independent of one another, as service costs are based upon the assessed needs of the participant.</p>						
iii.	<p><b>Scope of FMS.</b> Specify the scope of the supports that FMS entities provide (<i>check each that applies</i>):</p> <p>Supports furnished when the participant is the employer of direct support workers:</p> <table border="1" data-bbox="331 695 1479 905"> <tr> <td data-bbox="331 695 391 737">✓</td> <td data-bbox="391 695 1479 737"><b>Assists participant in verifying support worker citizenship status</b></td> </tr> <tr> <td data-bbox="331 737 391 779">✓</td> <td data-bbox="391 737 1479 779"><b>Collects and processes timesheets of support workers</b></td> </tr> <tr> <td data-bbox="331 779 391 821">✓</td> <td data-bbox="391 779 1479 821"><b>Processes payroll, withholding, filing and payment of applicable federal, state and local employment-related taxes and insurance</b></td> </tr> </table> <p>✓ <b>Other</b> <i>Specify:</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> • Enroll participants in FMS and apply for and receive approval from the IRS to act as an agent on behalf of the participant;</li> <li>• Provide orientation and skills training to participants on required documentation for all directly hired support workers, including the completion of federal, state, and local tax forms; the completion of timesheets; good hiring and firing practices; establishing work schedules; developing job descriptions; training and supervision of workers; effective management of workplace injuries; and workers compensation;</li> <li>• Conduct criminal background checks, child abuse clearances when applicable, on potential employees;</li> <li>• Distribute, collect and process support worker timesheets as verified and approved by the participant;</li> <li>• Prepare and issue support workers' payroll checks, as approved in the participant’s Individual Support Plan;</li> <li>• Compute, withhold, file, deposit and track federal, state and local income taxes in compliance with all federal, state, and local requirements;</li> <li>• Broker workers’ compensation for all support workers through the appropriate agency;</li> <li>• Process all judgments, garnishments, tax levies, or any related holds on workers' pay as may be required by federal, state or local laws;</li> <li>• Prepare and disburse IRS Forms W-2’s and/or 1099’s, wage and tax statements and related documentation annually;</li> <li>• Assist in implementing the state's quality management strategy related to FMS</li> <li>• Establish an accessible customer service system for the participant and Service Coordinator.</li> </ul>	✓	<b>Assists participant in verifying support worker citizenship status</b>	✓	<b>Collects and processes timesheets of support workers</b>	✓	<b>Processes payroll, withholding, filing and payment of applicable federal, state and local employment-related taxes and insurance</b>
✓	<b>Assists participant in verifying support worker citizenship status</b>						
✓	<b>Collects and processes timesheets of support workers</b>						
✓	<b>Processes payroll, withholding, filing and payment of applicable federal, state and local employment-related taxes and insurance</b>						

	<ul style="list-style-type: none"> <li>• Assist participants in verifying support workers citizenship or alien status;</li> <li>• Procure participant employer related functions training for common-law employers through a Support Broker(s); and</li> <li>• Provide written financial reports to the participant, the Service Coordinator and OLTL on a monthly and quarterly basis, and as requested by the participant, Service Coordinator, and OLTL.</li> </ul>
	Supports furnished when the participant exercises budget authority:
<input type="checkbox"/>	<b>Maintains a separate account for each participant's participant-directed budget</b>
<input type="checkbox"/>	<b>Tracks and reports participant funds, disbursements and the balance-of participant funds</b>
<input type="checkbox"/>	<b>Processes and pays invoices for goods and services approved in the service plan</b>
<input type="checkbox"/>	<b>Provide participant with periodic reports of expenditures and the status of the participant-directed budget</b>
<input type="checkbox"/>	<b>Other services and supports</b> <i>Specify:</i>
	Additional functions/activities:
<input checked="" type="checkbox"/>	<b>Executes and holds Medicaid provider agreements as authorized under a written agreement with the Medicaid agency</b>
<input checked="" type="checkbox"/>	<b>Receives and disburses funds for the payment of participant-directed services under an agreement with the Medicaid agency or operating agency</b>
<input type="checkbox"/>	<b>Provides other entities specified by the state with periodic reports of expenditures and the status of the participant-directed budget</b>
<input type="checkbox"/>	<b>Other</b> <i>Specify:</i>
<b>iv.</b>	<p><b>Oversight of FMS Entities.</b> Specify the methods that are employed to: (a) monitor and assess the performance of FMS entities, including ensuring the integrity of the financial transactions that they perform; (b) the entity (or entities) responsible for this monitoring; and, (c) how frequently performance is assessed.</p> <p>The statewide F/EA contractor is an IRS-Approved Fiscal/Employer Agent and functions as the participant's agent in performing payroll and other employer responsibilities that are required by federal and state law, in accordance with the OLTL F/EA contract requirements. The F/EA FMS provides specific employer agent functions that support the participant with the employer-related functions.</p> <p>The OLTL Quality Management and Efficiency Teams (QMET) conducted a Readiness Review of the selected vendor prior to serving waiver participants. The purpose of the Readiness Review was to assess and document the status of the selected vendor's readiness to meet the requirements as outlined in the competitive procurement documents.</p>

OLTL will monitor the selected vendor to ensure that the contract deliverables are met and participants are in receipt of Financial Management Services in accordance with their ISP. The statewide vendor will be monitored by QMET annually. OLTL will monitor the FMS organization's performance of administrative activities, as well as adherence to contract conditions and waiver requirements. These requirements include, but are not limited to, participant satisfaction, timeliness and accuracy of payments to workers, accuracy of information provided to participants and workers by the F/EA, timeliness and accuracy of tax filings on behalf of the participant, and executed agreements between the F/EA and the workers or other vendors. If the F/EA is not in compliance with contractual or waiver provisions, OLTL will issue a Statement of Findings. The F/EA will be required to develop a Corrective Action Plan (CAP) in response to each finding and remediate areas of non-compliance. The CAP is due to OLTL within 15 days of issuance of findings to the F/EA. OLTL reviews and approves or disapproves the CAP within 15 days of receipt. OLTL will conduct follow-up monitoring activities to ensure the CAP is instituted and identified issues are remediated. In addition to the process described above, OLTL will monitor performance through the use of monthly utilization reports, quarterly and annual status reports, as well as problem identification reports. These reports cover activities performed and issues encountered during the reporting period. OLTL will also conduct on-site monitoring more frequently if utilization or problem identification reports indicate additional review is necessary. Service Coordinators will also be required to report any issues with the statewide FMS organization's performance to OLTL.

Lastly, the F/EA will conduct a Common Law Employer Satisfaction Survey using the survey tool provided by the Department. The survey must be conducted 60 days after enrolling a new common law employer and annually. Survey data must be collected and analyzed by the F/EA, and a report must be prepared and submitted to OLTL based upon specifications determined by the Department.

Through the established claims oversight process, OLTL will monitor claim submitted by the F/EA to ensure the payments to the vendor for both administrative fees and services are in accordance with all applicable regulations and requirements.

- j. Information and Assistance in Support of Participant Direction.** In addition to financial management services, participant direction is facilitated when information and assistance are available to support participants in managing their services. These supports may be furnished by one or more entities, provided that there is no duplication. Specify the payment authority (or authorities) under which these supports are furnished and, where required, provide the additional information requested (*check each that applies*):

<input type="checkbox"/>	<p><b>Case Management Activity.</b> Information and assistance in support of participant direction are furnished as an element of Medicaid case management services.</p> <p><i>Specify in detail the information and assistance that are furnished through case management for each participant direction opportunity under the waiver:</i></p>
<input checked="" type="checkbox"/>	<p><b>Waiver Service Coverage.</b> Information and assistance in support of participant direction are provided through the waiver service coverage (s) specified in Appendix C-1/C-3 (check each that applies):</p>

	Participant-Directed Waiver Service	Information and Assistance Provided through this Waiver Service Coverage
	Service Coordination	✓
✓	<p><b>Administrative Activity.</b> Information and assistance in support of participant direction are furnished as an administrative activity.</p> <p><i>Specify (a) the types of entities that furnish these supports; (b) how the supports are procured and compensated; (c) describe in detail the supports that are furnished for each participant direction opportunity under the waiver; (d) the methods and frequency of assessing the performance of the entities that furnish these supports; and (e) the entity or entities responsible for assessing performance:</i></p> <p>In early 2012, the Department of Human Services issued a Request for Application (RFA) to secure up to three entities to provide Financial Management Services throughout the Commonwealth or on a regional basis for participants who receive participant-directed services in the OBRA waiver. One statewide vendor F/EA was selected as a result of the RFA.</p> <p>The selected F/EA organization receives a monthly per participant administrative fee for the FMS administrative service provided by the F/EA. In addition, a one-time start-up administrative fee is available for each participant for required activities related to the participant's enrollment with the selected vendor. The initial start-up administrative fee will be authorized for each participant in the month prior to authorization of the ongoing monthly per participant administrative fee. The monthly administrative fee was established as part of the competitive procurement process; the one-time start-up administrative fee is established by DHS.</p> <p>Participants will obtain enrollment and informational materials from the selected F/EA organization under contract with OLTL. In addition, the F/EA is responsible for providing orientation and training to the participant prior to employing their direct care worker. Orientation is based upon a standard curriculum developed by OLTL and includes the following:</p> <ul style="list-style-type: none"> <li>• Review of the information and forms contained in both the Employer and Direct Care Worker enrollment packets and how they should be completed</li> <li>• The role and responsibilities of the common law employer;</li> <li>• The role and responsibilities of the F/EA;</li> <li>• The process for receipt and processing timesheets and employee payroll checks;</li> <li>• Effective practices for hiring, training, and supervising employees;</li> <li>• The process for resolving issues and complaints; and</li> <li>• The process for reviewing workplace safety issues.</li> </ul> <p>In addition, the F/EA is responsible for procuring employer-related training and support through a Support Broker(s). Participants may receive assistance and training from Support Brokers on their roles and responsibilities as a common-law employer. Support Broker services are designed to provide assistance as needed with employer-related functions and maintenance in order to support the participant's ability to self-direct their services. Support Broker services are optional services and may supplement, but do not replace, the supports provided by either the F/EA or Service Coordinator. To support a participant to self-direct, duties performed by a Support Broker may include assistance with:</p> <ul style="list-style-type: none"> <li>• Understanding and/or fulfilling the responsibilities outlined in the Common Law Employer Agreement form and the Managing Employer Agreement form;</li> <li>• Understanding and completing employer or managing employer related paperwork;</li> <li>• Effective hiring techniques including creating job descriptions, ads for hiring, strategies for evaluating candidates, and informing candidate on selection or non-selection;</li> <li>• Techniques for interviewing and conducting reference checks;</li> </ul>	

- Effective management and supervision techniques such as conflict resolution;
- Proper procedures for termination of workers or communication with the Service Coordination Entity regarding the desire for termination of workers;
- Review of workplace safety issues and strategies for effective management of workplace injury prevention;
- Techniques on scheduling paid and unpaid supports;
- Developing systems or finding help to manage finances and resources;
- Techniques related to problem-solving, decision-making, and achieving desired outcomes within self-directed services;
- Developing, modifying, and negotiating an individualized spending plan; and
- Assisting an individual to be a successful employer of self-directed services.

Support Brokers must work collaboratively with the participant's Service Coordinator. The Support Broker assists individuals and representatives with being able to self-direct the individual's services and supports.

Individuals choosing to self-direct their services will receive assistance and support from their Service Coordinator. The Service Coordinator will:

- Provide participants with information regarding self-direction on an ongoing basis, including information about responsibilities, rights and concepts of self-direction;
- Inform participants of the availability of a Support Broker to provide assistance with employer-related functions and maintenance in order to support the participant's ability to self-direct their services;
- Work with the F/EA and the participant as necessary to ensure all enrollment and employment paperwork is completed and sent to the F/EA;
- Assist the participant in understanding and fulfilling their responsibilities outlined in the Common Law Employer Agreement form when the participant chooses to self-direct all or some of their services;
- Assist the participant to develop job descriptions for support workers to be employed by the participant. Job descriptions must be consistent with the individual service plan;
- Assist the participant to secure training of support workers who deliver services that would require a degree of technical skill, and would require the guidance and instruction from a health care professional such as a Registered Nurse;
- Recommend or arrange training on the topics of abuse, neglect, exploitation and abandonment as defined by protective services statutes;
- Assist the participant in communicating with the F/EA as needed;
- Monitor under-utilization and over-utilization and contact the participant and OLTL to resolve potential service delivery problems;
- Support the participant in problem-solving, decision-making, and recognizing and reporting critical incidents; and
- Monitor the provision and utilization of services to ensure the participant's health and welfare.

The OLTL Quality Management and Efficiency Teams (QMET) conducted a Readiness Review of the selected F/EA prior to serving waiver participants. The purpose of the Readiness Review was to assess and document the status of the selected vendor's readiness to meet the requirements as outlined in the competitive procurement documents. OLTL will monitor the selected F/EA to ensure that the contract deliverables are met and participants are in receipt of Financial Management Services in accordance with their ISP. The statewide F/EA will be monitored by QMET annually. OLTL will monitor the FMS organization's performance of administrative activities, as well as adherence to contract conditions and waiver requirements. These requirements include, but are not limited to, participant satisfaction, timeliness and accuracy of payments to workers, accuracy of information provided to participants and workers by the F/EA, timeliness and accuracy of tax filings

on behalf of the participant, and executed agreements between the F/EA and the workers or other vendors. If the FMS organization is not in compliance with a contractual or waiver provisions, OLTL will issue a Statement of Findings. The F/EA will be required to develop a Corrective Action Plan (CAP) in response to each finding and remediate areas of non-compliance. OLTL will conduct follow-up monitoring activities to ensure the CAP is instituted and identified issues are remediated. In addition to the process described above, OLTL will monitor performance through the use of quarterly and annual status reports as well as problem identification reports. These reports cover activities performed and issues encountered during the reporting period. OLTL will also conduct on-site monitoring more frequently if utilization or problem identification reports indicate additional review is necessary.

**k. Independent Advocacy** (*select one*).

<input checked="" type="radio"/>	<b>No. Arrangements have not been made for independent advocacy.</b>
<input type="radio"/>	<p><b>Yes.</b> Independent advocacy is available to participants who direct their services.  <i>Describe the nature of this independent advocacy and how participants may access this advocacy:</i></p>

**l. Voluntary Termination of Participant Direction.** Describe how the state accommodates a participant who voluntarily terminates participant direction in order to receive services through an alternate service delivery method, including how the state assures continuity of services and participant health and welfare during the transition from participant direction:

Participants have the option to transition from the participant direction to the provider managed service delivery model at any point during their waiver enrollment. When a participant voluntarily chooses to terminate participant direction, they will contact their Service Coordinator who will guide them through the process of transition. The Service Coordinator is responsible for transitioning the participant to the traditional model of service and ensuring that there is not a break in service during the transition period. The change in models will be reflected on a revised ISP.

**m. Involuntary Termination of Participant Direction.** Specify the circumstances when the state will involuntarily terminate the use of participant direction and require the participant to receive provider-managed services instead, including how continuity of services and participant health and welfare is assured during the transition.

Participants, or personal representatives, who demonstrate the inability to self-direct their services whether due to misuse of funds, consistent non-adherence to program policy or an on-going health and welfare risk, will be required to transition to provider managed services.

Involuntary Termination from participant direction may also occur after it has been determined that there has been a negative impact on the participant’s health and welfare and/or services have not been provided as outlined in the ISP. The Service Coordinator may recommend involuntary termination, but the Service Coordinator must exhaust all available supports, such as employing the assistance of a Support Broker or appointing a personal representative, before recommending involuntary termination.

In any event, involuntary termination would only occur after a thorough review of the participant’s health and welfare needs as identified in the service plan and after a team meeting with the participant, the participant’s Service Coordinator, and any family, friends and advocate if requested by the participant and a review of the recommendations by OLTL.

The Service Coordinator is responsible for transitioning the participant to the traditional model of service and ensuring that there is not a break in service during the transition period.

The participant has the right to an Appeal and Fair Hearing and will be given this opportunity as outlined in Appendix F-1 Right to a Fair Hearing.

- n. **Goals for Participant Direction.** In the following table, provide the state’s goals for each year that the waiver is in effect for the unduplicated number of waiver participants who are expected to elect each applicable participant direction opportunity. Annually, the state will report to CMS the number of participants who elect to direct their waiver services.

<b>Table E-1-n</b>		
	<b>Employer Authority Only</b>	<b>Budget Authority Only or Budget Authority in Combination with Employer Authority</b>
<b>Waiver Year</b>	<b>Number of Participants</b>	<b>Number of Participants</b>
<b>Year 1</b>	700	
<b>Year 2</b>	560	
<b>Year 3</b>	400	
<b>Year 4</b> (only appears if applicable based on Item 1-C)	210	
<b>Year 5</b> (only appears if applicable based on Item 1-C)	210	

## Appendix E-2: Opportunities for Participant-Direction

**a. Participant – Employer Authority** Complete when the waiver offers the employer authority opportunity as indicated in Item E-1-b:

**i. Participant Employer Status.** Specify the participant’s employer status under the waiver. *Select one or both:*

<input type="checkbox"/>	<p><b>Participant/Co-Employer.</b> The participant (or the participant’s representative) functions as the co-employer (managing employer) of workers who provide waiver services. An agency is the common law employer of participant-selected/recruited staff and performs necessary payroll and human resources functions. Supports are available to assist the participant in conducting employer-related functions.</p> <p>Specify the types of agencies (a.k.a., “agencies with choice”) that serve as co-employers of participant-selected staff:</p>
<input checked="" type="checkbox"/>	<p><b>Participant/Common Law Employer.</b> The participant (or the participant’s representative) is the common law employer of workers who provide waiver services. An IRS-approved Fiscal/Employer Agent functions as the participant’s agent in performing payroll and other employer responsibilities that are required by federal and state law. Supports are available to assist the participant in conducting employer-related functions.</p>

**ii. Participant Decision Making Authority.** The participant (or the participant’s representative) has decision making authority over workers who provide waiver services. *Select one or more decision making authorities that participants exercise:*

<input checked="" type="checkbox"/>	<b>Recruit staff</b>
<input type="checkbox"/>	<b>Refer staff to agency for hiring (co-employer)</b>
<input type="checkbox"/>	<b>Select staff from worker registry</b>
<input checked="" type="checkbox"/>	<b>Hire staff (common law employer)</b>
<input checked="" type="checkbox"/>	<b>Verify staff qualifications</b>
<input checked="" type="checkbox"/>	<p><b>Obtain criminal history and/or background investigation of staff</b></p> <p>Specify how the costs of such investigations are compensated:</p> <p>To ensure all participants make an informed choice of service and service delivery, criminal background checks are mandatory for individuals performing personal assistance services. In addition, as described in Appendix C-2-b, child abuse clearances are required when a minor child resides in the participant’s home. The FMS agency secures and pays for both the criminal background check and child abuse clearances.</p>
<input checked="" type="checkbox"/>	<p><b>Specify additional staff qualifications based on participant needs and preferences so long as such qualifications are consistent with the qualifications specified in Appendix C-1/C-3. Specify the state’s method to conduct background checks if it varies from Appendix C-2-a:</b></p> <p>To ensure all participants make an informed choice of service and service delivery, criminal background checks are mandatory for individuals performing personal assistance services. In addition, as described in Appendix C-2-b, child abuse clearances are required when a</p>

	minor child resides in the participant's home. The FMS agency secures and pays for both the criminal background check and child abuse clearances.
✓	<b>Determine staff duties consistent with the service specifications in Appendix C-1/C-3.</b>
✓	<b>Determine staff wages and benefits subject to applicable state limits</b>
✓	<b>Schedule staff</b>
✓	<b>Orient and instruct-staff in duties</b>
✓	<b>Supervise staff</b>
✓	<b>Evaluate staff performance</b>
✓	<b>Verify time worked by staff and approve time sheets</b>
✓	<b>Discharge staff (common law employer)</b>
☐	<b>Discharge staff from providing services (co-employer)</b>
☐	<b>Other</b> Specify:

**b. Participant – Budget Authority** Complete when the waiver offers the budget authority opportunity as indicated in Item E-1-b:

**i. Participant Decision Making Authority.** When the participant has budget authority, indicate the decision-making authority that the participant may exercise over the budget. *Select one or more:*

☐	<b>Reallocate funds among services included in the budget</b>
☐	<b>Determine the amount paid for services within the state's established limits</b>
☐	<b>Substitute service providers</b>
☐	<b>Schedule the provision of services</b>
☐	<b>Specify additional service provider qualifications consistent with the qualifications specified in Appendix C-1/C-3</b>
☐	<b>Specify how services are provided, consistent with the service specifications contained in Appendix C-1/C-3</b>
☐	<b>Identify service providers and refer for provider enrollment</b>
☐	<b>Authorize payment for waiver goods and services</b>
☐	<b>Review and approve provider invoices for services rendered</b>
☐	<b>Other</b> Specify:

**ii. Participant-Directed Budget.** Describe in detail the method(s) that are used to establish the amount of the participant-directed budget for waiver goods and services over which the participant has authority, including how the method makes use of reliable cost estimating

information and is applied consistently to each participant. Information about these method(s) must be made publicly available.

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- iii. **Informing Participant of Budget Amount.** Describe how the state informs each participant of the amount of the participant-directed budget and the procedures by which the participant may request an adjustment in the budget amount.

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- iv. **Participant Exercise of Budget Flexibility.** *Select one:*

<input type="radio"/>	<b>Modifications to the participant directed budget must be preceded by a change in the service plan.</b>
<input type="radio"/>	<b>The participant has the authority to modify the services included in the participant-directed budget without prior approval.</b> Specify how changes in the participant-directed budget are documented, including updating the service plan. When prior review of changes is required in certain circumstances, describe the circumstances and specify the entity that reviews the proposed change:

- v. **Expenditure Safeguards.** Describe the safeguards that have been established for the timely prevention of the premature depletion of the participant-directed budget or to address potential service delivery problems that may be associated with budget underutilization and the entity (or entities) responsible for implementing these safeguards:

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