Self-Direct With Employer Authority Option

SUPPORT BROKER HANDBOOK

February 9, 2012

The Montana Developmental Disabilities Program would like to acknowledge the contributions of the sources of information used in this Handbook. Information used in the development of this Handbook was originally produced by:

Manuals and Publications:
Idaho Department of Health and Welfare - Boise, ID
Louisiana Office for Citizens with Developmental Disabilities - Baton Rouge, LA
Minnesota Department of Human Services, Disabilities Services Division - St. Paul, MN
New Mexico Developmental Disabilities Supports Division - Albuquerque, NM
The University of New Mexico Health Sciences Center – Albuquerque, NM
Oregon Department of Human Services. Seniors and People with Disabilities, Office of Home and Community Supports – Salem, OR
Vermont Self-Determination Project – Waterbury, VT
Virginia Commonwealth University – Richmond, VA
Dane County Department of Human Services, Adult Community Services Division – Madison, WI

Publications and Articles:
Idaho Council on Developmental Disabilities – Boise, ID
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Disability Is Natural, www.disabilityisnatural.com
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American Express SmartBlogs, http://smartblogs.com/leadership
www.AllHealthcareJobs.com

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PURPOSE OF THE SUPPORT BROKER HANDBOOK

This handbook is written for the potential or working Support Broker and has several goals:

- **Ensure that you understand, agree with, and can state the philosophy that is the foundation of Self-Directed Services in Montana.**
- **Provide complete step-by-step information describing the Support Broker qualifying process, the function of the Support Team and the person-centered planning process and the skills needed to function with Employer Authority.**
- **Ensure that you know the job duties of a Support Broker.**
- **Give you the tools necessary to do your job.**
- **Give you guidelines on how to work with your employers and support networks to ensure their active participation in the processes to complete a Individual Care Plan and Cost Plan.**
- **Clarify the procedures, processes and rules that govern your role.**

A Word About the Handbook

This handbook includes both information for participants, family members and representatives acting with Employer Authority as well as information specific to the Support Broker function. All information included solely in the Support Broker Version is in green type.

Page numbers in this handbook will differ from those in the Employer Authority Handbook.

Guiding Philosophy, Values, Principles

Person-Centered Services Philosophy –

Persons Receiving Public Services have:

FREEDOM – the power to make choices that are best for the person and the opportunity to choose where and with whom the person lives, as well as how the person organizes all important aspects of his/her life.

AUTHORITY – the power to determine what is important to the person and the ability to control specific targeted amounts of public dollars.

SUPPORT – the power to prioritize the supports the person needs and ability to organize support in ways that are unique to the person.

RESPONSIBILITY – the power to manage the person's own life and the obligation to use public dollars wisely and to contribute to his/her community.

CONFIRMATION – the power to express one's self as a competent person and the recognition that people with disabilities themselves must be a major part of the redesign of the human service system of long-term care.

Values

PERSONAL CHOICE – People have more dignity when they have the ability to make their own choices about what they want and what is best for them.

PERSONAL RESPONSIBILITY – People should be responsible for the consequences of their decisions.

PRESERVATION OF THE FAMILY AND COMMUNITY – People thrive when they remain close to those who care about and love them.

NATURAL SUPPORTS – People learn and grow when the supports they receive flow from experiences, opportunities and relationships in their everyday lives.

GOOD STEWARDSHIP OF PUBLIC RESOURCES – People have a responsibility to their community and country to use the resources, including public funds wisely.

COORDINATION AND COOPERATION – People achieve more when they work smoothly with others so that everyone benefits.

HIGH QUALITY SUPPORTS AND SERVICES – People deserve the best support and services that are possible.

We Will:

- **Promote and recognize excellence in ourselves and others.**
- **Maintain a Person-Centered Philosophy.**

- **Promote awareness of issues related to disabilities in our communities.**
- **Work to eliminate barriers to quality lives for the people we serve.**
- **Support a full spectrum of service options.**
- **Support a wide range of relationships that support a full life for the people we serve.**
- **Support self-determination for the people we serve.**

Principles of Self-Determination:

Self-Determination is about asserting your right to life, liberty and the pursuit of happiness as a free citizen. It involves the freedom to make and spend your own money, choose your own relationships including to date and marry, to work, play and enjoy the activities of your life. It is the ability to make choices in your life even if your choices may not be the ones other people may make. It includes stepping up and accepting responsibility for your decisions, good and bad and the ability to take risks. It embraces life with dignity, self-sufficiency, respect, and possibilities.

People have a need for natural, supportive relationships in their lives. These relationships are important in achieving an emotionally healthy and happy life. Natural supports are any relationship that is meaningful, helpful and is not a paid service. Natural supports are the gifts and resources that family members, friends, church members, neighbors, co-workers and others in a person's life bring to their relationship. Natural supports are mutual between people who care about each other. A wealth of opportunity to support each other is available when a person reaches out and develops relationships within their neighborhood and community.

The ideal for all people is to be self-fulfilled and self-sufficient to the greatest extent possible. Many people will not be happy or successful when they are totally independent from others and may need the ongoing support of family or paid staff to provide for their needs.

The important questions are –
What can the person do for themselves?
What does the person need to be able to use his/her strengths to surmount barriers to living a quality life?
People develop self-esteem and express themselves as individuals based on their independence and choices. There is dignity in being free to act, being able to realize your own potential and succeeding in the face of challenges.

> **"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." - Margaret Mead**

General Overview For Supports Brokers

Self-Directed Services give participants who receive Developmental Disabilities Program (DDP) Waiver services and supports more flexibility in planning, and responsibility for directing, their services and supports. Participants and/or their designated representatives choose the type and frequency of supports they want, set their employee wages, and hire the person or agency they prefer to provide those supports.

Participants and/or their representatives can have more influence on the provision of their services and supports and develop service plans to include combinations of conventional agency-based and Employer Authority to develop self-designed systems of services and supports. The person may choose to act with Employer Authority to hire and manage the staff who provide paid daily direct services and supports or who provide respite for unpaid caregivers responsible for seven day per week, twenty-four hour care.

Participants or their representatives acting for them may also choose Employer Authority to purchase their own goods and services and negotiate with providers of services and vendors of needed environmental modifications and adaptive equipment.

Self-Direction provides new service opportunities, but is not a new program. Participants receiving DDP services in Montana have had the opportunity to self-direct their own services through agency based service options for many years through Person Centered Planning and Budget Authority.

Montana implemented the Self-Direction with Employer Authority option for respite services in 2009. This option has been exercised by families across Montana during the two years following implementation of this option. Currently, over 150 families self-direct respite in Montana.

In 2010, Montana submitted Waiver amendment requests to the Centers for Medicare and Medicaid Services (CMS) and these amendments were approved for implementation of Self-Direction with Employer Authority in the summer of 2011 for specified service categories under the 0208 Comprehensive Waiver, the 0371 Community Supports Waiver and the 0667 Children's Autism Waiver.

READINGS

The Importance of Belonging

David Pitonyak

This article first appeared in
TASH Connections, Volume 32, Issue 1/2—January/February, 2006

Most of what I do in my practice is not very complicated. I spend time with people in ordinary places and situations and try to get to know them. I always ask the person for permission to meddle in their business, and most people, even those without a formal means of communication, let me know that it's OK. What I am most interested in is the person's story, the people and events that have shaped their lives, the highlights and disappointments, the ordeals and accomplishments. What often emerges, if I listen carefully, is a very human story, one that is easy to identify with, one that is all at once extraordinary and ordinary.

More often than not, what I learn from these stories is that the root of the person's difficult behaviors is loneliness. Many of the people I meet in my practice have one thing in common - they have lost connections to the most important people in their lives. Some people have no contact with their families, or if they do, the contacts are infrequent or tentative at best. Sometimes family members are there, but the person has no friends, depending instead people who are paid to be with them.

Paid care givers can be wonderful company, but they frequently change jobs or assume new positions; the resulting instability can be devastating to someone who is fundamentally alone. Bob Perske (1988) describes how a person whose life is devoid of meaningful relationships might feel: "We have only begun to sense the tragic wounds that so many [persons with developmental disabilities] may feel when it dawns on them that the only people relating with them – outside of relatives – are paid to do so. If you or I came to such a sad realization about ourselves, it would rip at our souls to even talk about it."

I believe that loneliness is the number one cause of difficult behaviors. It is not the only cause, of course, it is just the most common one.

We are relational beings and the absence of meaningful relationships makes us sick. It wears us down to the point where we can't see straight. If you have difficulty believing it, if it seems too "touchy-feely," imagine yourself without the people you love for thirty days.

You have no idea where they have gone. Now imagine being without them for sixty days...or ninety...or more. How are you feeling? Are you sleeping well? What is your mood? My bet is that you are falling apart. My bet is that you are spiraling out of control. You want to be logical about all of this, but reason has taken a back seat to longing.

I met a man once who was very much alone in the world. When he was a young boy, his family sent him to an institution. He had troubling behaviors, including self-injury, that would not go away, regardless of the behavioral strategies people employed or the medications he was given. He refused to do things with other people and preferred to isolate himself in his bedroom, wrapped tightly in blankets; they said he was "resistant to our treatment efforts." After getting to know him better, I came to believe that his troubling behaviors and his resistance to relationships were the direct result of the trauma he endured when he was separated from his family as a young boy, and from the systematic abuse he suffered at the hands of his "care

givers," often in the name of treatment (e.g., time out, seclusion, over-correction). This is to say nothing of the constant turnover in his staff; losing them was common; losing the people he cared about was less common though far more devastating.

When I suggested that trauma and loneliness might be at the root of his difficulties, one member of his team said, "He's not lonely. He has one-to-one coverage." You can, of course, have ten-to-one coverage and be terribly alone. One way I like to explain the difference between coverage and relationships is to ask people to imagine that I have just returned home from a road trip. I pull up in my driveway, and discover that my wife, Cyndi, is not home. Another woman is standing at the
door and I ask, "Where is Cyndi?" She replies, "Cyndi is not home, but don't worry. We have you covered."

People generally laugh at this scenario; it's silly; preposterous, really. But it is exactly what happens to people who experience our services time and time again. The very fact that people laugh at the joke of another woman "covering" for my wife is indication that they know there is a huge
difference between "coverage" and "relationships." Our field keeps giving people coverage (and interventions) when what they desperately need is to belong.

There are many things we can do to help people find meaningful and enduring relationships (Pitonyak, 2004). As a starting point, I like the questions posed by Mary Romer (Romer, 2002). They strike me as fundamental to anyone's success: "Are enough people engaged in the person's life?" "Are there people who are imbued with the belief and hope for a brighter, better future for the person?" and, "If not, how might such people be found or how might that sense of hope be instilled in those committed to walking with the person?"

Dignity of Risk

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Anyone who leads a life of dignity and meaning takes risks. Each of us, in the pursuit of jobs, our personal and romantic relationships, our leisure activities, and our adventure has stepped into the unknown and risked failure, rejection, and even our physical well-being. Anything any of us have ever accomplished has come from some level of risk-taking. The benefits of succeeding in these situations, or from learning from our mistakes, are a crucial element in our development as independent people.

People who work and live with individuals with disabilities- usually with the best of intentions- often try to eliminate all of the risks and prevent any opportunities for failure in these individuals' lives. Some will even go to great lengths to prevent even minor failure, such as not allowing an individual with a developmental disability to lose at a minor board game. What can result is a life where an individual has never been tested, has never had the opportunity to grow, has never experienced the satisfaction of achieving something that was not certain to be achieved from the beginning.

Allowing individuals to take risks and step into the unknown is part and parcel with treating them as dignified adults. This is not equivalent to encouraging recklessness; allowing risk does not mean being unsafe or setting people up to fail. Rather, by supporting individuals in prudent risk-taking,

and utilizing the wealth of teaching opportunities it unearths, we can bring meaning into peoples' lives. Providing them with the opportunity to try new things, test their limits, and discover capabilities they never knew they had will help them to achieve goals that enrich their lives.

Imagine for a moment what it would be like if you were never allowed to take a risk, if others made all of your decisions for you, if others, not you, had the last word on what you were capable of. You certainly wouldn't deserve such a life; nor do the people we support.

Interdependence

Kathie Snow
(www.disabilityisnatural.com E-Newsletter)

No one is independent. Every person – from a newborn baby to a U.S. President, and anyone else – is dependent on others, in one way or another. *We are all interdependent.*

Yet in the disability arena, many worship on the "altar of independence." A variety of disability organizations, special educators, families and others have the goal of "helping people with disabilities achieve their highest level of independence."

What does this statement mean? Independence in what form? Financial, physical, decision-making, or what? What if children or adults with disabilities have a different definition than those who promote this goal? What does "highest level" mean, and who defines it? How could the goal be achieved if there's no consensus on what the words mean? This – an understanding of terminology – is one issue.

Another issue is arrogance. Those who push others to become independent are, themselves, not independent. Yet they presume to be, while presuming people with disabilities are not.

My son, Benjamin, was born with cerebral palsy. During physical therapy sessions when he was six, the therapist repeatedly cajoled, "Come on, Benjamin, don't you want to be independent?" Later that year, Benj resigned from his "therapy career" and we found other ways to help him do what he wanted to do. One day while helping him, I lapsed into "therapy speak," saying "This will help you be independent…" He turned to me and yelled, "I hate that word – please don't ever say it again!" And I never did.

It *does* reflect arrogance to imply or judge that another is not independent. If we're honest, perhaps we'll admit that what we're really saying is, "You should be normal." (And what does that mean?)

Shouldn't we discuss what independence means? If we do, it's likely that a consensus on meaning could *not* be achieved, and the word would be discarded as *unusable*. Then, hopefully, we would embrace interdependence.

What does interdependence look like? Think about your own life. You're probably dependent on family members for a variety of things, as well as co-workers, your auto mechanic, your bank, and other "providers of services." You're probably also dependent on assistive technology: your cell phone, computer, microwave oven, and more. Simultaneously, *others are dependent on you.* We're all interdependent. And if you're employed in the disability field, you're dependent on children and/or adults with disabilities for your job!

If we choose to value interdependent, we can move beyond some of the concepts tied to independence, like walking, talking, cooking, and other functional skills. Instead, we'll recognize the importance of relationships, reciprocity, inclusion in all areas, and other elements of an ordinary life. So many people with disabilities are lonely and isolated from the mainstream – connected only to family members and/or paid staff – and *are not given opportunities to experience interdependence.*

In the big scheme of things, what's really important? Pencil-writing, walking, bed-making, etc., or knowing how to be a friend, having opportunities to connect with – and help – others in ordinary activities, learning how to find the help you need from a variety of sources, and so on. And, yes, let's ensure the child or adult with disabilities has whatever assistive technology, supports and/or accommodations are needed to do these things.

There are only so many hours in the day; let's use our time wisely and focus on what's really important. There are only so many years in a person's life; let's not hold people with disabilities hostage to the undefinable "independence" goal. Let's do want it takes to ensure they're living wonderful, ordinary, and interdependent lives – right now!

J.T. Turnbull - Putting It All Together For a Life That Belongs To the Person

The Beach Center on Disability – (beachcenter@ku.edu)

On paper Jay Turnbull was a 41-year-old man with a severe intellectual disability (mental retardation), autism, a bi-polar disorder, and physical health issues. But to those who knew him, "J.T." (as he liked to be called – naming is part of self-determination) was an active, independent adult who knew what he wanted and how to get it …with a little help from his reliable allies.

What matters to J.T. was being physically and behaviorally well, having fun with friends and family, enjoying music, following a routine, and making his own choices. J.T. was lucky: What he valued most in life WAS his life. How many 41-year-olds with so many and such significant disabilities can say the same?
But the success of J.T.'s situation reflected more than sheer luck. J.T. and his reliable allies worked hard to ensure that he lived independently in an environment of his own choosing. ("Reliable allies" is a phrase that better characterizes the people who supported J.T. than the usual "person-centered planning team" or "group action planning team." It's better because it described J.T.'s life more in terms of what is typical for people without disabilities and less in terms that are usually used with people with disabilities.) They also made certain that home and work were places where J.T. could thrive. And a large part of the credit went not just to what J.T.'s life was but also how he paid for it. Participant directed funding – sometimes called consumer control of funding or self-determined funding – made it possible for J.T. and his reliable allies to be more creative and proactive, to dream and live big.

To understand how that is so, it's important to begin by making clear that all funds went directly for his benefit; some could be spent only for specific purposes, but others were not restricted.
J.T. worked half-time at the Beach Center on Disability where he earned a salary. His use of this money was unrestricted. He also received Social Security for Disabled Individuals (SSDI) because he was a "disabled adult person" who was the child of a person (his father, Rud) who now receives Social Security retirement benefits. Similarly, his use of this money was unrestricted. Further, he benefits from the rental-assistance program (so-called "Section 8") under the federal housing act.

This money was restricted; it was used to help pay his rent. Finally, he benefited from the federal Medicaid home-and-community-based services waiver (HCBS). Likewise, his use of this money was restricted to services that are reimbursable under Kansas' Medicaid plan.

J.T.'s reliable allies consisted of his parents, a paid housemate, a service coordinator at Cottonwood, Inc., (the local Community Developmental Disabilities Organization or CDDO), a job coach, co-workers, friends, various physicians and other professionals, and a "fiscal intermediary" (a Certified Public Accountant). Based on input from J.T. and his allies, J.T.'s father and legal co-guardian, Rud, and J.T.'s mother, Ann, built a budget to support J.T. according to J.T.'s preferences and needs. Rud then worked with the fiscal intermediary to assure that J.T.'s HCBS residential and day-service providers paid, the taxes on their wages withheld, and J.T.'s tax obligations, as an "employer," were paid to the federal and state governments. Rud also made sure that J.T. uses his rental-assistance benefit to subsidize his housing and that he expended his wages and SSDI benefits to satisfy his other choices and needs.
Because of the severity of his intellectual disability, J.T. could not count money or follow a budget. His housemate, Tom Riffle, oversaw J.T.'s household budget, always in consultation with J.T. Tom purchases clothing for J.T., and consults with Rud and Ann about hiring assistants and about their rates of pay. Note that Tom, Rud, and Ann determined the rates of pay of the people who support J.T. and are Tom's assistants. That is important: J.T. could not be "self-determined" unless he could hire the people he wanted to do the work he wanted them to do. And he could not do that unless he could set their rates of pay.

Tom also made sure that J.T. got to and from his work and appointments. J.T. thrived on order and, in fact, actively enforced his schedule by reminding his supporters when it's time to go somewhere. Tom accommodated J.T.'s wishes, contributing to his feeling that he was the center of his life and that others in his life were taking his needs and preferences into account.

Since Tom handled J.T.'s household account, he could honor J.T.'s tastes and preferences. For example, J.T. loved to have his choice of restaurants for lunch. That kind of a choice might seem insignificant to most people, but it, and comparable ones, were of enormous importance to J.T.

One of J.T.'s responsibilities at work was to sort the mail, with the assistance of a job coach. He also performed other tasks that require him to interact with others. For example, he designed and produced greeting cards on birthdays and major holidays, which he asked each staff member to sign.

J.T.'s vocabulary was limited, partly the result of his difficulty in processing sounds. A music therapist worked with J.T., teaching him to process sounds in ways he enjoyed. Speech therapy also helped J.T. with his articulation and to use an augmented e-mail program produced by Ablelink (www.ablelinktech.com) to communicate with his sisters and friends who were part of his life but lived far away. Ultimately, of course, the therapy enabled him to make known what he wanted and to socialize with others. It advances his self-determination and his integration into his community.

But music therapy was more than "therapy." It was a major source of J.T.'s "joy quotient" – the time when J.T. sang, played a guitar (rudimentarily, of course), kept rhythm with drums or bongos, found an outlet for his emotions, elevated his spirit and moods, and learned the songs that he invited his friends to sing with him at nearly every social event in his life. Music was a key to J.T.'s soul and to the hearts of those who knew him well and to those who were just entering his life.

His favorite song, "Annie's Song," by John Denver, beautifully expresses J.T.'s feelings: "Come, let me love you, let me give my heart to you…come, love me again." Those words express the reciprocity that existed in J.T.'s life, the interdependency that created "reliable allies" instead of "just" a "person-centered planning team" and the mutuality that acknowledged his positive contributions to others even as they made positive contributions to him.

He closed all of his parties with this song, with his fellow party-goers singing along, often with joyful tears in their eyes. Any service can be therapeutic. The trick was to turn the service into an occasion for joy. J.T. has found the way to do that.

J.T.'s music and speech therapy were paid for out of his HCBS funds. That was because they, like the internal-medicine, psychiatric, dental, and podiatric therapies he received, prevented him from having medical or behavioral conditions or episodes that would impair his health and jeopardize his living in the community (instead of a residential facility). Moreover, these therapies, like the others, didn't simply respond to his needs; they also responded to his preferences.

And that is a major point about participant directed funding: J.T. and his reliable allies could maximize his needs and his preferences by focusing on both, simultaneously, and by constantly keeping J.T. at the center of their concerns.

While participant direction can be empowering, there's a cost involved for families: time, especially if there is not a service broker available. While Rud typically devoted no fewer than 15 hours a month to paperwork, phone calls, crisis control, annual reporting, and other tasks, he maintained it's well worth the effort. "It allowed us to have absolute responsiveness to J.T.'s needs. We could control funds and use them more flexibly and responsively, putting together a unique package that is best for J.T. Yes, there was an administrative burden on the family, but there was such a benefit for J.T. Money, services, friends, and family: you can't have quality of life without all these."

In Kansas as in other states, provider agencies, individuals with disabilities, and their reliable allies are increasingly pursuing participant direction of HCBS funds. That is consistent with some of the principles that govern services to people with developmental disabilities, physical disabilities, and mental-behavioral health disorders: self-determination, community-based services, and support systems that are flexible, respond to needs and preferences, and safeguard a person's health and presence in the community.

"Putting it all together" summed up J.T.'s life. What's the "it" in that phrase? "It" included the various sources of money that supported J.T. and his reliable allies, services that responded to his needs and to his preferences, and policies (self-determination, also known as empowerment, integration, and individualized appropriate services) that enabled J.T. and his allies to aim high and attain the heights they seek. And aiming high and attaining the heights is what anyone wants out of life, most certainly Jay Turnbull.

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Self-Direct with Employer Authority Overview

The Self-Direct with Employer Authority option is a service delivery option which allows the participant/authorized representative to become the employer of the people he/she chooses to hire to provide supports for him/her. The employer is responsible for recruiting, training, supervising, and managing the staff he/she chooses to hire. This option gives people in services the most control over their supports, but also places the most responsibility on them.

The Self-Direct with Employer Authority option is based on the principles of self-determination, which means that the participant has the ability or right to make his/her own decisions, and includes the following:

- WHAT– Services and supports you receive based on your assessed needs.
- WHEN – services are provided to you.
- WHO – Provides services to you.
- HOW– Services are provided to you.

With the Self-Direction Employer Authority option, the participant controls the amount spent on wages and benefits for employees within the guidelines established by the program. The case manager will assist the participant in budgeting for payments of wages, required employment-related taxes, and fiscal agent fees.

The case manager will provide the participant with initial information on Self-Direction with Employer *Authority and will continue to assist the participant with the development of the Plan of Care, budget planning, ongoing evaluation of supports and services, and organizing the unique resources that the participant needs.

A fiscal agent will help the participant conduct the business of self-direction. The fiscal agent will process payroll for the participant's employees and make the required tax withholdings and deposits with state and federal agencies on the participant's and employee's behalf. The fiscal agent will send the participant reports of their spending

so that the participant can keep track of the amount of service hours used and the amount of money remaining in their individual cost plan.

Except in specific cases, when the service requires the employment of staff the participant/employer is expected to obtain the services of a paid Support Broker or have someone who can perform Support Broker duties (pass the same test) in an unpaid capacity for the first year after enrollment. The role of the Support Broker is to assist in the management of any self directed services, so the Planning Team may agree that a Support Broker is a good option to help with other services that don't require staff, like adaptive equipment as an example. The Support Broker has distinct duties separate from those performed by the case manager. Support Brokers provide only as much service as agreed upon by the planning team.

No self directed service expenses may be incurred prior to:

- The approval of the participant's Plan of Care and Individual Cost Plan (ICP).
- The fiscal agent ensuring that the self direct enrollment forms found in the Start-Up Packet are complete and the participant is notified that potential employees have met the eligibility criteria and are clear for hire.

The participant may choose to leave the Self-Direct with Employer Authority option at any time by contacting their case manager.

If the participant chooses to exit the Self-direct Employer Authority option they must remain with their provider agency for at least 90 days (3 months), unless otherwise agreed upon per the Porting Policy.

Differences in the Self Directed Service Delivery Models

Questions Regarding Self Direct Service Delivery Models	Employer Authority Option - (Participant or Authorized Representative as Employer)	Agency With Choice Option - (Agency as Employer)
Who is the legal employer?	Participant or Authorized Representative	Provider Agency
Who is responsible for hiring, training, scheduling, and dismissing employees?	Participant or Authorized Representative with assistance from Support Broker.	Provider Agency with input from the Participant or Authorized Representative
Who is responsible for payroll functions, withholding and depositing employment related taxes?	Fiscal Agent	Provider Agency
Who determines the wages for the employee(s)?	Participant or Authorized Representative with assistance from Support Broker.	Provider Agency
Who performs criminal background checks and ensures that potential employees are eligible for hire?	Fiscal Agent	Provider Agency
Who is responsible for the provision of Workers' Compensation?	Fiscal Agent	Provider Agency
Who is responsible for developing a back-up plan when employees are not available?	Participant or Authorized Representative, Support Broker and Case Manager.	Provider Agency
Who is responsible for monitoring service delivery?	Participant or Authorized Representative, Case Manager, and Quality Improvement Specialist with possible assistance from the Support Broker	Participant or Authorized Representative Provider Agency, Case Manager, and Quality Improvement Specialist
Who is responsible for managing and monitoring the self direct budget?	Participant or Authorized Representative with assistance from the Support Broker and Case Manager	Case Manager and Provider Agency

Options In Self-Direction

Participants have two options for self-directing their services and supports in Montana:

- **To act as the employer of record - referred to as Self-Direction with Employer Authority;**
- **To work with an agency which acts as employer of record – referred to as Self-Direction Agency with Choice.**

Access to Self-Direction with Employer Authority is limited for some participants based upon:

- **Living Arrangement – Available only to participants currently receiving Waiver services who reside in their own personal residence. A personal residence may include a family home, a rented home or apartment, a home or apartment shared with a roommate, or a residence that is owned by the participant. This option is not available to participants receiving Waiver services who live in residential settings which are congregate in nature. This would include settings where the participant is served in group settings such as licensed group homes, assisted living, supported living and nursing homes in which the caregivers are also responsible for other participants.**

  Fraud or Abuse of Public Funds – Employer Authority is not available to a participant or designated representative who has at any time been restricted from use of public funds due to fraud or misuse of public funds. The Self-Direction with Employer Authority Option may be chosen by a participant who designates a representative to act for the person as employer who does not meet this limitation.

  Participant On the Waiting List - A participant who has been determined to be eligible for Waiver services, but who does not currently have a allocated cost plan is not eligible to self-direct services until the person has been assigned to a Waiver "slot" and a cost plan has been allocated.

  Use the Guides

  The *Montana Self-Direct with Employer Authority - Employer Handbook* is the handbook that has been developed for participants in the Self-Directed Services with Employer Authority Option. It is given to each employer when the Employer Authority option is chosen and updated when changes or additions occur. The guide gives specific directions and instructions for participants and representative in management of services and suggests that they use their Support Broker to help develop the skills needed to be successful as employer of record.

  This Handbook includes the text of the *Montana Self-Direct with Employer Authority - Employer Handbook* with additional information specific to Support Brokers. Both handbooks may be found on the DDP website:

  www.dphhs.mt.gov/dsd/ddp.

Choosing Self-Direct With Employer Authority Option

The participant is informed of the Self-Direct with Employer Authority option by the case manager at the time of waiver enrollment, annually, and as requested by the participant/authorized representative. If the participant is interested in Self-Direction with Employer Authority, the planning team will discuss the differences between self direct service delivery options, roles and responsibilities of each option, and benefits and risks associated with Self-Direction.

To be considered for the Self-Direct with Employer Authority option, the participant must:

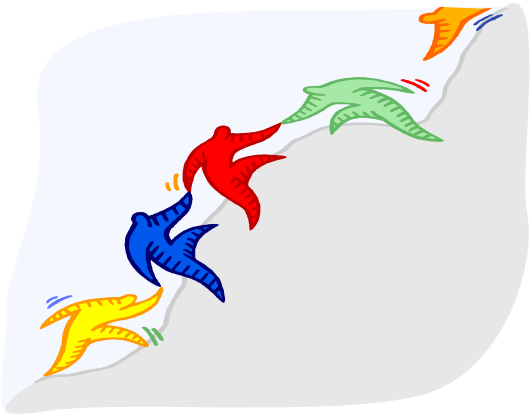
1. Be receiving DDP Medicaid waiver funded services.

2. Live in their natural home or private residence in which the participant's choice of service, support worker and schedule of service delivery would have no adverse effect on another participant receiving waiver services.

Note: *Eligibility for this choice does not include services in congregate settings such as group homes, where staff are responsible to provide direct care services to more than one participant at the same time.*

*Once the planning team agrees on participation in the Self-Direct with Employer Authority option, the case manager will ensure that the participant receives a copy of the Self-Direct with Employer Authority option Handbook (this handbook) and fiscal agent Start-Up Packet. The following activities will then be completed for a future start date:

- The Case Manager will help the planning team determine what supports and services the participant will need to Self-Direct With Employer Authority (more on page 52 **Service Planning**)
- The Case Manager will notify the provider agency, as necessary, of the participant's intent to port to Self-Direction.
- The Case Manager will develop the Individualized Cost Plan (ICP). (more on page 56 **Cost Plans**)
- The Support Broker (if agency employed), Case Manager, or fiscal agent will assist the participant with completing the required fiscal agent forms in the Start-Up Packet.
- The fiscal agent will inform the participant of the projected start date for employees to begin.



Determining Who Is the Employer

The **"EMPLOYER"** is the person that must be recorded by and registered with federal and state government agencies as the employer for legal purposes.

The **"PARTICIPANT"** is the participant receiving services. The participant may also be the employer.

For a **MINOR** aged **PARTICIPANT** (a participant under the age of 18), the **EMPLOYER** can be:

- the **parent**, or ***family member by definition**, of a minor aged individual participant, or
- the court appointed **guardian** of the participant, or
- the **authorized representative** of the participant, or
- the **participant**, if married or emancipated by the court.

For an **ADULT** aged participant (a participant age 18 or more), the **EMPLOYER** can be:

- the **PARTICIPANT**, or
- an **authorized representative** which may make decisions on behalf of the participant, or
- the court appointed **guardian** of the participant, or
- the **authorized representative** designated by the participant.

***FAMILY MEMBER** is: "natural parents, adoptive parents, licensed foster parents, grandparents, step-parents, sibling, aunt, uncle, guardians and an individual who has a legally granted conservatorship or properly executed power of attorney responsibility for overseeing the disabled persons finances or general care."

Employer Responsibilities

As an Employer in Self-Direction, the participant or authorized representative has additional benefits and responsibilities that are not a factor when using traditional provider agency services.

- The participant/representative has the benefit of hiring workers they choose, setting the hourly pay rate for employee(s), within the guidelines established by the Developmental Disabilities Program, and determines employee schedules.

- The participant/representative also has the responsibilities that come with being an employer. Although there can be assistance to help, the additional employer responsibilities are:
  - ✓ Recruit, hire, train, manage, and if necessary, dismissing employee(s).
  - ✓ Abide by non-discrimination laws and policies on the basis of race, religion, gender, sexual orientation, age, or disability.
  - ✓ Complete all employer-related paperwork and the duties related to timesheets and payroll.
  - ✓ Review payroll reports upon receipt to ensure that it is accurate. If not accurate, report the differences to the fiscal agent.
  - ✓ Ensure that employees complete the required service documentation, such as progress notes and timesheets.
  - ✓ Maintain all required documentation as specified in Section II: Service Planning and Documentation Requirements, "Record Maintenance Requirements".
  - ✓ Ensure that employees maintain the current training requirements. A copy of each employee's current training requirements must be on file with the fiscal agent in order for the employee to be paid for working with the participant.
  - ✓ Establish a mutually agreeable work schedule for employees. The employer will be personally responsible for any employee wages or supports that exceed the hours approved in the Plan of Care and/or service specifications, or if employees start work without proper notification from the fiscal agent.
  - ✓ Establish a list of tasks to be performed by employees. The participant's employees' tasks must correlate, or compare, with the service specifications

for the service that they are providing and with his/her approved Plan of Care.

- ✓ Follow the parameters, or limits, set in the participant's approved Plan of Care.
- ✓ Meet all his/her staffing needs.
- ✓ Have a functional, or working, back-up plan in place in the event that an employee does not show up for work.
- ✓ Inform the fiscal agent immediately if an employee is injured on the job.
- ✓ Inform the fiscal agent when an employee is dismissed.
- ✓ Wait until the fiscal agent clears the participant's potential employees for hire before the participant allows them to do any work for the participant.
- ✓ Participate in required training as requested by the Developmental Disabilities Program (DDP).
- ✓ Maintain his/her Medicaid eligibility.

Supports Available to Assist Employers

Case Management

All participants receiving DDP waiver services are provided case management from a DDP employed or DDP contracted Case Manager. When a participant chooses to self-direct with Employer Authority, the participant's Case Manager will continue to assist with the development and management of his/her Plan of Care and with gaining access to needed services including medical, social, educational, and other supports as identified. The Case Manager will monitor the implementation of the participant's Plan of Care and ensure appropriate follow-up occurs when problems arise in providing all services and supports as outlined in the Plan of Care.

Case Managers are responsible for:

- Completing initial and periodic reassessment of the participant to determine needs including taking client history and gathering information from a wide range of sources.
- Conducting MONA assessments for evaluation of resource levels when significant changes occur.
- Providing crisis intervention and management for participants when needed.
- Providing assistance and information in completing the Waiver 5 freedom of choice and consent form.
- Providing information about various settings for service delivery: facility-based, congregate care, community based, personal home.
- Providing information about all service options: traditional agency based, self-directed with agency support, self-directed with Employer Authority.
- Developing and periodic revising of the Plan of Care, specifying outcomes based on assessment of needs, ensuring active participation of the participant and others.
- Making referrals to link the participant with providers or other programs and services and assisting in scheduling those appointments for the participant.
- Monitoring and follow-up of activities through personal contact with the participant, family, providers, or other entities as frequently as necessary to ensure implementation and adequacy of all supports and services in accordance with the Plan of Care.
- Development and monitoring of cost plan and individual budgets.
- Coordinates information sharing with appropriate entities.

- Ensuring the participant's needs are being met through all services.
- Assisting the participant with making changes to his/her Plan of Care if his/her needs change.
- Assisting the planning team in determining what supports and back up strategies are needed to participate in Self-Direct with Employer Authority option (e.g. minimum number of workers needed, access to fax machine or internet, what areas of focus the Support Broker will address).

Support Brokers

Support Brokerage services assist the participant (or the participant's family or representative) in arranging for, directing, and managing services that are self-directed. They assist the participant in identifying and developing self-directed community resources. The Supports Broker provides supports in ways that are flexible and responsive to the participant. A Supports Broker is specially trained and certified to assist participants who Self-Direct their services with Employer Authority.

Supports Brokers may be employees of the participant who is self-directing services (or the participant's family or representative). Supports Brokerage is also available as an agency based service but any agency providing this service may not provide other DDP funded supports to the participant.

Except in specific cases, when the service requires the employment of staff the participant/employer is expected to obtain the services of a paid Support Broker or have someone who can perform Support Broker duties (pass the same test) in an unpaid capacity for the first year after enrollment.

The participant's planning team will review the need for services of a Supports Broker at each annual Planning meeting and what specific activities the Supports Broker will perform (within the service definition). Exceptions may be made for the following cases:

- Participants/employers who have been successfully self directing respite prior to January 1, 2012;
- Who receive support from unpaid persons (family members, representatives, etc.) who have passed the Support Broker test.
- Participants who are self directing a non-employee service such as adaptive equipment or individual goods.

Supports provided by Supports Brokers can include:

Providing Information to the Participant About:

- The person-centered planning process and how it is applied in Self-Direction with Employer Authority.
- The range and scope of individual choices, and options in Self-Direction with Employer Authority.
- The process for changing the plan of care and individual budget.
- Risks and responsibilities associated with Self-Direction and decision making with Employer Authority.
- Individual rights.
- Self-direction limitations or restrictions.
- Other subjects pertinent to the management and directing of Self-Directed services with Employer Authority.
- All Developmental Disabilities Program rules, policies, and procedures as they relate to Self-Direction with Employer Authority.

Providing Assistance to the Participant With:

- Defining the participant's goals, needs, and preferences in preparing for the development of the participant's Plan of Care.
- Developing practical skills training in hiring, arranging schedules, training, managing and terminating workers; problem solving and conflict resolution.
- Training employers on the material contained in this handbook (*Self-Direct With Employer Authority option Employer Handbook)*.
- Day-to-day management of the participant's self directed services budget.
- Developing emergency back-up plans for self directed services to prevent safety issues or crises.
- Identifying and obtaining self-directed services, supports, and resources.
- Recognizing and reporting of critical incidents such as abuse or neglect.
- Exercising independent self-advocacy.
- Developing and maintaining appropriate service documentation.
- Completing required forms (ex. fiscal agent documents, progress notes, timesheets, employee records) for participation in the Self-Direct with Employer Authority option. When needed, assist in the process for completing employee documentation (ex. developing a job description, task list, and work schedule for employees.)
- Ensuring that all required information is kept up-to-date in the service planning and documentation requirements. See Section II: Service Planning and Documentation Requirements, "Records Maintenance Requirements".

EXAMPLES OF TYPICAL ACTIVITIES OF SUPPORTS BROKERS AND CASE MANAGERS IN SELF-DIRECTED SERVICES

SUPPORTS BROKERS	CASE MANAGERS
May Provide Information to Participants About: • The person-centered planning process and how it is applied in Self-direction • The range and scope of individual choices, and options • The process for changing the plan of care and individual budget • Risks and responsibilities associated with self-direction and decision making • Free choice of providers • Individual rights • Self-direction limitations or restrictions • Other subjects in this handbook or otherwise pertinent to the management and directing of self-directed services **May Provide Assistance to the Participant With:** • Defining goals, needs, and preferences • Practical skills training in hiring, arranging schedules, training, managing and terminating workers; problem solving and conflict resolution • Managing the participant's self directed budget • Development of an emergency back-up plan for services which are self directed • Identifying and obtaining self-directed services, supports, and resources • Recognizing and reporting of critical incidents such as abuse or neglect • Independent advocacy • Other areas in this handbook or otherwise related to managing self directed services and supports. • Developing and maintaining appropriate documentation.	**Provides Assistance With:** • The program process of determining and reassessing eligibility for services • Crisis intervention and management for participants **Provides Information about:** • Various settings for service delivery: facility-based, congregate care, community based, personal home • Service options: traditional agency based, self-directed with agency support, self-directed with Employer Authority **Completes Tasks:** • Comprehensive initial and periodic reassessment of participant to determine needs including taking client history, gathering information from a wide range of sources • MONA assessments for evaluation of service levels when significant changes occur. • Development and periodic revision of the Plan of Care, specifying outcomes based on assessment of needs, ensuring active participation of the participant and others. • Referrals to link participant with providers or other programs and services and assisting in scheduling those appointments for the participant. • Monitoring and follow-up of activities through personal contact with the participant, family, providers, or other entities as frequently as necessary to ensure implementation and adequacy of supports and services in accordance with the Plan of Care. • Development and monitoring of cost plan and individual budgets • Coordination of information sharing regarding the participant with appropriate entities.

How Does a Person Become a Supports Broker?

A person providing Supports Broker services must be a minimum of 18 years old and pass a criminal background check prior to employment as a Supports Broker. Persons excluded from providing paid Supports Brokerage to a participant include:

- parents, spouses, or legal guardians of the participant (**note**: these persons may assume the duties of a Support Broker if unpaid);
- persons who work for an agency providing other paid supports to the participant;
- persons who function as conservator, payee or who have any other fiduciary responsibilities for the participant.

A person functioning as a Supports Broker must be able to demonstrate competence in abuse reporting, incident reporting, client rights, client confidentiality, fiscal agent service forms and billing **procedures, scheduling of direct support workers, on-call and emergency back-up support models,** person centered planning, individualized budgeting, recruitment, hiring and firing of direct support workers, the grievance/fair hearing process, negotiating service rates, DDP funded service options, and other skills and competencies as required by the DDP. *These areas are covered in the College of Direct Support courses and the Support Broker Certification training.

A person wishing to meet the qualifications must complete and maintain Supports Broker Certification through training provided by the Developmental Disabilities Program (DDP). The person wishing to be a certified Supports Broker must pass an initial qualifying examination, and will periodically require recertification. Costs for the attendee's food, travel, and lodging are not reimbursable through the participant's waiver cost plan. There is no fee to attend the training classes and enrollment is open to anyone. A list of Certified Support Brokers is available on the Developmental Disabilities Program website at:

http://www.dphhs.mt.gov/dsd/ddp/selfdirection.shtml

Supports Broker duties may be provided by an unpaid person if the person successfully completes the Support Broker certification examination.

Your Role as a Support Broker

Support Broker Job Description

Support Broker services are not standardized, fixed or delivered equally to each employer. In other words, the "job description" for a Support Broker will vary considerably depending on the needs and desires of the employer. It will be the duty of the employer and the planning team to determine the specifics of the Support Broker's roles and responsibilities.

A Support Broker may be an individual who works independently for the participant or representative or may be an employee of a provider agency which does not provide any other paid support to the participant. The Support Broker may be a person paid for their services or the role of a Support Broker may be filled by an unpaid person who has demonstrated the skills needed to be a Support Broker.

Support Brokers answer to the participant or their representative who is acting with Employer Authority, assisting the individual to develop and manage the supports they are self-directing. The Support Broker must provide supports in ways that are flexible, responsive to and controlled by the individual.

Support Brokers work part-time flexible hours. They develop an employment agreement with the employer which specifies their specific hours, job duties and rate of pay.

To be paid as a Support Broker, candidates must complete certification training provided by the Developmental Disabilities Program, DPPHS. They must pass a qualifying examination to be certified.

Depending on the requests and needs of each participant, the Support Broker may provide the following assistance when directed by the employer:

a) **Assist the participant, as needed, to meet his participant responsibilities as outlined in the *Self-Direction with Employer Authority – Employer Handbook* and to protect his own health and safety.**
b) **Assist the employer to learn and implement the skills needed to recruit, hire, and monitor Personal Support staff.**
c) **Assist the employer with submission of documentation as required;**
d) **Assist the employer to monitor and review the participant's budget;**
e) **Assist the employer to identify and develop natural supports within the community;**
f) **Assist the employer to complete updating processes as needed, including reviews of progress toward the goals identified in the participant's Plan of Care;**
g) **Assist the participant and/or employer in preparation for the self-directed portions of the person-centered planning process;**
h) **Develop a proposed self-directed plan with the participant and employer that includes identification of the supports that the participant needs and wants, and related risks identified with the participant's wants and preferences;**
i) **Assist in development of a proposed comprehensive risk plan for each potential risk that includes multiple alternative options in a backup plan should a support fail. This plan must be authorized by the planning team and Case Manager;**
j) **Assist the employer to negotiate rates for paid services and supports ;**
k) **Train the employer and staff to maintain documentation of supports provided by each Personal Supports staff and the participant's satisfaction with these supports;**
l) **Assist the employer to resolve employment-related problems; and**

m) Assist the employer to monitor the provision self-directed community resources.

Additional Notes regarding Roles of Support Brokers

A Support Broker is a personal champion hired either directly or through an agency by a participant, parent or representative to help them in the tasks of creating and implementing life choices, managing budgets, assisting with management of support staff, negotiating rates for supports, networking within their community, and expanding the circle of friends and other allies within their community.

The ideal Support Broker is a creative, multi-talented, well-connected individual with the skills to support and promote the rights, needs and talents of participants. The Support Broker's role is uniquely defined by each participant and employer with whom he or she works.

The role of Support Broker is a key element of a Person Centered, Self-Determined service system. Self-direction of services as an employer is incomplete without the availability of Support Brokers to assist in gaining skills needed to act with employer authority. Support Brokers have been beneficial across a wide variety of settings and services world-wide in assisting persons to be more effective in managing and directing their lives and their own services.

Support Brokers provide a skilled, technical service that is distinct from the role of Fiscal Agent, Advocate or Case Management. Like many professions within the service system, the broker's work may sometimes include elements of fiscal, advocacy and case management supports but brokers mainly provide technical assistance to help people identify and achieve changes they require in their lives, and need to be able to work in a system that recognizes and values this role.

The role of the Support Broker does not extend beyond the assistance with implementation of the Self-Direction with Employer Authority portions of the Plan of Care and monitoring and managing of those supports. Most people will need continuing help with case management, advocacy and financial administration, but there are different roles for Case Managers, Fiscal Agents, Advocates and they are kept separate from the Support Broker role.

There are a number of reasons:

- **First**, it helps to define the Support Broker role clearly, with a definite start and finish point. (People should, of course, be free to enter into a fresh agreement with the Support Broker later on, if they wish.)
- **Second**, the different roles are likely to require different skill levels and training.
- **Third**, there are conflicts of interest if the roles are combined in one person (and possibly even in one agency).
- **And finally**, there is the practical problem that should Support Brokers stay involved indefinitely; financial resources will rapidly be used up.

Support Brokers should have no conflicts of interest that prevent them from working fundamentally in alliance with people who use services, their families and allies, and with the wider community. Brokers need to be able to act in a manner that is free of loyalties to other entities within the service system.

Support Broker services are a capped service under the Waivers. Wages paid to Support Brokers need to be sufficient to ensure there are enough Support Brokers to provide a real choice. However, the amount of support provided by a Support Broker to individual participants needs to be managed to prevent undue drain on the financial resources of the participant.

People who need a Support Broker should not be discouraged from using one, and should be able to freely choose their broker. There needs to be an adequate supply of Support Brokers in Montana, in particular in the less populous areas of the State.

The Developmental Disabilities Program recognizes that there is a need for DDP assistance in the development of Support Brokers, to ensure that training and certification is available widely, requirements for certification are achievable and there is not an undue financial disincentive to become a Support Broker.

Support Brokers are offering a professional service, in the sense that they should be operating within a context of regulation that ensures minimum competences, accountability to each customer; and safeguards. Certification is intended to provide basic oversight and regulation. However, Support Brokers need to be strongly linked to local communities, and to the people who use their services. The challenge for the development of Support Broker resources is to make sure that Brokers don't become remote, bureaucratic, and unaccountable to the people they are intended to serve. State oversight is intended to allow the responsibility for the employment of individual Support Brokers to participants, family members, and their community allies.

Skill Set of a Support Broker

Values - A Support Broker is in a position of service. To do the job of a Support Broker, the broker must believe in the principles of self-determination. A Support Broker must believe that every person has the right and ability to make choices, good or bad. A Support Broker treats the people she or he encounters with dignity and respect.

Skills - To be an effective Support Broker, the person must have a wide skill set. The Support Broker needs to understand the "system" and how it works, how to negotiate rates, how Personal Support Plans are developed, develop a network of supports, find sources of services, etc. Most important, a Support Broker must be a careful listener. A Support Broker must be able to hear what the employer needs and wants. A Support Broker needs to be an effective advocate, communicator, and a diplomat.

Attitudes – People who have disabilities are often surrounded by unmotivated staff. As a Support Broker, it is vitally important that you enjoy what you do and be enthusiastic and positive. It is important to show a genuine interest in the concerns of your employer and take the work seriously. A sense of humor will take a Support Broker far. Many of the activities and changes a broker participates in are exciting and challenging. The Support Broker must be able to communicate the excitement of being an agent of change.

Decision Making Authority

It is important to emphasize that the Support Broker is not a decision maker in the development of services. The Broker provides only assistance in self-management of services by the participant and/or employer.

Support Brokers have no authority to determine or veto a plan or an element of a plan, or to talk to other people (e.g. case managers, support workers) to get or share information about the person they are working for, without the consent of the person (or, where necessary, the consent of the family on their behalf).

Final decisions regarding the development of the Individual Family Support Plan (IFSP) /Personal Support Plan (PSP) and the Individual Cost Plan (ICP) are the responsibility of:

- **The adult participant;**
- **legal guardian if one exists, or in the absence of a guardian, a formally designated person of their choice to represent him or her in the decision making process, including acting with Employer Authority; or**
- **The parent or legal guardian is responsible for decisions made on behalf of a child participant;**
- **Case Manager/Family Support Specialist; and**
- **QIS in cases of Involuntary Exit from Employer Authority**

Decisions are subject to approval by the Regional Manager.

Your Employer

Your employer may be an adult Medicaid participant, the parent or legal guardian of a participant who is a minor child or a representative acting with Employer Authority for the participant who has developmental disabilities and needs services and supports. You may also be employed by an agency providing Support Broker services through the Self-Direction Agency with Choice option.

At a minimum, participants and other persons acting with Employer Authority who have not self-directed services prior to October 1, 2011 are expected to use a Support Broker upon beginning participant/employer authority. The Support Broker is needed to act as an ongoing link with personal network members, Personal Supports employees, vendors, professionals, and the wider community as well as to assist the participant/employer in carrying out the requirements of being the employer of record. Planning teams may determine when the services of a Support Broker continue to be needed or to determine that the services of a Support Broker are no longer needed by the participant and/or employer.

Q: What if more than one participant wants to use my services?
A: It is within the scope of this position to have more than one employer. As long as you fulfill the requirements with each employer and maintain the privacy of each participant, you may feel free to work for more than one employer.

Maintain Regular Contact

The number of contacts and the tasks to be performed by the Support Broker will be determined by the Planning Team, the participant/employer and the Support Broker. DDP does not specify a minimum number of contacts or a schedule of services to be provided. Contacts may be face-to-face, by e-mail or by telephone, but must be sufficient to perform the tasks and roles needed by the

participant and employer. Make sure your employer can easily contact you in case of an emergency. Have a back-up plan in case you are unavailable.

Support Broker Certification Process

The Application Process

How to Apply:

The application to become a Support Broker can obtained through request to kzeeck@mt.gov or may be found on the Developmental Disabilities Program web site: www.dphhs.mt.gov/dsd/ddp.

Minimum Requirements:

Individuals interested in becoming a Support Broker must complete the Department approved application to document that they are:

- 18 years of age, or older.
- Have skills and knowledge typically gained by completing college courses, community classes, or workshops that may count toward a degree in the human services field.
- Have at least two years of verifiable paid or unpaid experience with the target population, and knowledge of services and resources in the developmental disabilities field.
- Pass the Criminal History Background Check.

A person is not eligible to be paid as a Support Broker for a participant if:

- They are the participant's guardian, payee, or conservator.
- They are the participant's spouse.
- They are employed by an agency that provides paid community supports to the participant.

(Under the Self-Directed Services option, unpaid persons, including those identified as ineligible for payment under the waivers may perform the function and role of a Support Broker in an unpaid capacity.)

Criminal History Check

To be employed as a Support Broker, a person must pass a criminal background check. These checks will be completed whenever hired as a Support Broker either by the agency employing the person or by Acumen Fiscal Agent, LLC upon completion of the documentation provided the Fiscal Agent by the participant/employer when hiring the Support Broker.

The intent of these rules is to facilitate the protection of children and vulnerable adults by requiring criminal history checks of persons providing care, services, or assuming responsibility for these participants. The Developmental Disabilities Program will ensure that applicants meet criminal history check requirements prior to qualifying an applicant to become a Support Broker and approving service provisions.

Individuals that have any of the following felony convictions cannot work or provide service to participants: **HOMICIDE; ASSAULT; KIDNAPPING; SEXUAL CRIMES; OFFENSES AGAINST THE FAMILY; ARSON; OFFENSIVE, INDECENT, AND INHUMANE CONDUCT; WEAPONS; OFFENSES**

INVOLVING DANGEROUS DRUGS. Specific charges may be found in the DDP CRIMINAL HISTORY BACKGROUND CHECK POLICY Effective 8/06.

Individuals convicted of other crimes will be evaluated on a case-by-case basis.

If at any time during your employment as a Support Broker you are charged with any criminal activity which might impact your ability to work with vulnerable adults, you are required to report this charge immediately to your employer. A substantiated charge of abuse, neglect, exploitation, or a criminal conviction of any crime which would disallow you to work with Waiver participants must be reported to your employer immediately.

Training

Once your application is approved, you are eligible to participate in Developmental Disabilities Program sponsored training. DDP sponsored training is available through live training provided as scheduled on the DDP website as well as College of Direct Support Training as listed below:

Required College of Direct Supports Training for
Supports Brokers

SAFETY AT HOME AND IN THE COMMUNITY

- Risks, Choice and Common Sense
- Fire Safety
- Responding to Emergencies

MALTREATMENT

- Defining Abuse, Neglect and Exploitation
- Preventing Abuse, Neglect and Exploitation
- Reporting Abuse, Neglect and Exploitation
- Documenting Abuse, Neglect and Exploitation

INDIVIDUAL RIGHTS AND CHOICE

- Restrictions of Individual Rights
- Your Role in Supporting Expression of Rights and Facilitating Choice

DOCUMENTATION

- Effective Documentation
- Confidentiality in Documentation

he live portion of the certification training will be provided as needed to maintain an adequate pool of Support Brokers.

Persons wishing to be certified as Support Brokers must attend the DDP sponsored training with exceptions noted as follows 1) Persons who have acted with Employer Authority prior to October 1, 2011 or 2) Unpaid persons wishing to perform Support Broker roles may challenge the training by successfully passing the qualification examination without attending training.

Q: What kind of training do I need to be a Support Broker?
A: A Support Broker must pass an exam prior to providing any paid services to the participant. Taking the training courses provided by the Developmental Disabilities Program will help you pass the exam.

The Support Broker Examination

The Exam Process

The qualification exam is based on the self-direction program philosophy, concepts, rules, guidelines and procedures. The exam incorporates information from the live Support Broker Training, the required College of Direct Supports training and the Support Broker handbook.

This handbook is available on the State of Montana DDP web site. See the external web site regarding the Self-Directed Services Option at: www.dphhs.mt.gov/dsd/ddp.

Upon completion of the Support Broker training, passing of the criminal background check and successful completion of the qualification examination, a person will receive notification of certification as a Support Broker in Montana. The names of persons certified as Support Brokers in Montana will be maintained on the DDP web site. The exam is completed in two sections. The first portion of the exam is taken at the DDP Regional Office and is an open-book exam. Once you have completed this portion of the exam, you can take the second part. The second part of the exam is a take-home case study. The take-home portion requires that you develop a plan that will identify and address appropriate actions to be provided by the Support Broker to the participant and employee.

The following apply when completing the both parts of the exam:

- **The exam will be administered by the Developmental Disabilities Program staff in the DDP Regional Office.**
- **You are allowed to bring this handbook or other written material provided at the Support Broker training into the examination room. No cell phones, back packs, purse, or hand-held electronic devices will be allowed into the exam room for the formal exam.**
- **Children may not accompany applicants to the exam.**
- **The date and time must be scheduled in advance with the Regional Office Administrative Assistant. Walk-ins will not be accepted.**
- **The test is offered during a regular business day, during regular business hours and requires up to 90 minutes.**
- **You must present photo identification at the time of the exam.**
- **The exam will be taken in a separate room and must be completed in ink.**
- **The examination will be proctored by DDP staff.**
- **Once you have completed the formal part of the exam, the proctor will provide you with a practical exercise, and supporting documents. You can use any resources you choose to complete the practical portion of the exam.**
- **You have 5 working days to complete the exercise.**
- **Once you have completed the exercise to your satisfaction, return it to:**

Self-Direction Coordinator

Developmental Disability Program
111 Sanders
Helena, Montana 59604

- **Both the examination and the exercise will be graded by a staff member designated by the DDP.**
- **You must receive a score of 80 percent or better on the exam to pass.**
- **You will receive a written notice stating your results on the examination.**
- **If you fail the exam, you may take it up to three times in a 12 month period.**
- **You may request a consultation with the Regional Office Staff, to determine what areas of the test were problem areas that resulted in score of less than 80%.**
- **If you fail the exam three times, you must wait 12 months from the last failed exam date to re-take it.**

Q: How much does it cost to take the Support Broker exam?
A: There is no fee for the exam.

Passing the Exam

Once you have qualified to be a Support Broker, your name will be placed on a register of approved Support Brokers. This register is maintained by the Developmental Disabilities Program web site at: www.dphhs.mt.gov/dsd/ddp.

This website will also contain a list of Support Brokers who have been certified, are currently eligible to serve participants and their contact information.

Receiving Your Notice of Qualification

Here is a checklist of things you need to do to become a certified Support Broker:

- **Submit your complete application.**
- **Pass your criminal history check.**
- **Pass the qualification examination.**
- **Receive the letter with notification that you are a certified Support Broker.**

The letter will serve as your certificate and must be presented to your employer and to the Fiscal Employer Agent when you complete your employment packet. Upon receiving your Notice of Qualification, you will be qualified to work for adult participants, persons acting with employer authority for adult participants and for parents or legal guardians of minor children acting with employer authority.

Re-Certification

The date for your re-certification is two years from the date on your original Notice of Support Broker Certification.

To qualify for re-certification, you will need to complete the application for re-certification available on the website and verify you have completed 20 hours of continuing education during the two years previously. Hours of continuing education may be provided through attendance at classes, training,

conferences, College of Direct Support, or other online training which is related to your role as Support Broker. Questions regarding applicable training may be directed to the Self-Direction Coordinator at DDP.

Quality Assurance

The Support Broker functions are integral to the success of individuals in Self-Directed Services. As a Support Broker, you must be experienced in working with individuals with developmental disabilities. You must also be knowledgeable and qualified to fulfill this role with the participant. You must perform the functions required by Montana DDP policies and must be able to perform additional functions as needed by the participant and/or employer.

Plans of Care are reviewed by the Developmental Disabilities Program to assure that participant needs are met and significant risks are addressed. Monitoring review/survey of participant files are completed to assure compliance with rules. The survey is used to collect information from participants and monitor consumer satisfaction.

Terminating a Support Broker Certification

The Developmental Disabilities Program, may terminate a Support Broker certification at any time when it has been determined that DDP policies have not been followed or if there is credible evidence that a participant has been placed at risk due to actions of the Support Broker. In most cases, remediation will be attempted by the Regional Quality Improvement Specialist prior to revocation. Termination may occur in the event that a Support Broker fails to perform their job duties adequately despite attempts at correction.

An unpaid natural support person who has received certification may perform any duty of the Support Broker.

A master list of qualified Support Brokers is publicized on the Self-Direction web site at: **www.dphhs.mt.gov/dsd/ddp.** This list is available for the public to view. In order to protect your information, you will be asked on your Notice of Qualification to provide DDP the route through which you prefer to be contacted by prospective participant/employers.

Fiscal Agents

When the participant chooses Self Direct with Employer Authority, the person will be required to use the services of a fiscal agent.

The Fiscal Agent acts on behalf of the employer and assists them in managing some of the financial and tax responsibilities associated with being an employer. The fiscal agent does not participate in decision-making regarding the use of the funds received in the participant's cost plan and is not the legally responsible employer.

The fiscal agent:

- Processes financial matters for the employer self-directing services with Employer Authority;
- Receives and processes invoices, payroll, and distributes paychecks to employees and reimbursements for items;
- Processes required withholdings from employee payroll and mandated employment-related state and federal taxes for the employer;
- Verifies that fiscal agent employment-related paperwork is completed correctly;
- Notifies the employer if there are any errors which prevent employees' paperwork from being processed;
- Ensures that employees meet the qualifications for hire, including passing the criminal back-ground check and notify the employer when potential employees are ready to start working;
- Sends the employer payroll and spending reports every time payroll is processed.
- Provides workers' compensation insurance to all employees.

The employer must not allow any potential employee to begin working until the fiscal agent notifies the employer that each potential employee is cleared to work. It will take the fiscal agent a few days to process the employees' required paperwork. If the employer does not receive notification from the fiscal agent within a week, they should contact their Supports Broker or the fiscal agent.

It is important that the employer submit correctly completed forms to the fiscal agent in a timely manner to prevent any delays.

The employer should review each payroll report upon receipt to make sure that funds have been spent in a manner consistent with the submitted timesheets. Any differences in the payroll report should be reported to the fiscal agent. If the employer does not receive a report at the end of each payroll, they should contact their Supports Broker or the fiscal agent.

UNDERSTANDING FISCAL AGENTS

INTRODUCTION

Self-Direction with Employer Authority offers participants more control and wider choice of options than traditional services. With more control and options comes more responsibility, especially in the area of responsibilities as an employer. In traditional waiver services and the Self-Direction Agency with Choice Option, the qualified service provider agency bears the responsibility of ensuring that the tasks required of an employer are carried out.

In assuming Employer Authority, the participant or representative assumes this responsibility. The use of a Fiscal Agent can reduce the burden of this responsibility for participants and/or their representatives.

Medicaid State Plan regulations do not allow funds to be paid directly to private individuals to reimburse them for their expenses for services or to allow them to directly pay a provider of services. Payment must be made to an intermediary entity who is either a qualified Medicaid provider or to a party who is under administrative contract with the state. Fiscal Agents act as a neutral intermediary for receiving and disbursing public funds. This allows for fiscal accountability for government agencies and safeguards for the participants and their workers.

Participants or families who Self-Direct Services with Employer Authority in Montana under Montana DDP waivers are required to work with a Fiscal Agent. In Montana the Fiscal Agent is Acumen Fiscal Agent, LLC.

It is important that participants or their representatives with Employer Authority and the participant's team understand how the Fiscal Agent relationship affects the employer's data reporting responsibilities. This document describes how Fiscal Agents work and what issues employers and the team need to be aware of when collaborating with Fiscal Agents.

WHAT IS A FISCAL AGENT?

The Centers for Medicare and Medicaid Services (CMS) defines a Fiscal Agent as:

> *"A service/function that assists the family or participant to: (a) manage and direct the distribution of funds contained in the participant-directed budget; (b) facilitate the employment of staff by the family or participant by performing as the participant's agent such employer responsibilities as processing payroll, withholding and filing federal, state and local taxes, and making tax payments to appropriate tax authorities; and (c) performing fiscal accounting and making expenditure reports to the participant and/or family and state authorities."* (Centers for Medicare and Medicaid Services (2008) Application for a 1915(c) Home and Community-Based Waiver [version 3.5] Instructions, Technical Guide and Review Criteria)

A Fiscal Agent is an organization that assists a participant or representative acting with Employer Authority in managing employees and paying providers of supports and services identified in the participant's plan of care. Under the Montana DDP waivers, the participant and/or representative with Employer Authority is expected to be the major decision maker in the process of selecting the providers who receive funding for their services they are self-directing. The Fiscal Agent is not a qualified agency-based service provider nor does the Fiscal Agent employ the workers providing services to the participant.

The essential role of the Fiscal Agent is the agent's distribution of and accountability of Cost Plan funds for the participant. A Fiscal Agent fulfills a neutral role and does not make decisions about the amount or type of services the participant needs or the amount or type of services received. A Fiscal Agent is an administrative and financial agent that assists a participant to use the money received in the cost plan to pay for the services and providers of the supports needed. The Fiscal Agent handles the business matters related to payment for services and supports that have already been identified in the participant's plan of care and budget.

The Fiscal Agent manages the receipt of funds, makes payments, and accounts for expenditures made on behalf of the participant as directed by the participant, family, or representative. The Fiscal Agent in Montana also assists by reviewing provider qualifications to ensure compliance with identified standards.

KEY FUNCTIONS OF A FISCAL AGENT

FISCAL CONDUIT: Distributes funds to and/or on behalf of participants or their representative with Employer Authority. The Fiscal Agent may also complete administrative tasks such as collecting timesheets, processing invoices, etc.

AGENT FOR EMPLOYER OF RECORD: The Fiscal Agent is the agent for the participant. The participant with Employer Authority, or parent/guardian in the case of a child, is the legal employer of record of those employees providing support services. The Fiscal Agent is responsible for completing tax, labor, and social security documents as needed. The employer's Fiscal Agent calculates and files tax documents, distributes wages to support providers, manages workman's compensation, disability and benefit insurances, and verifies citizenship/legal alien status of support workers. The participant with Employer Authority hires supervises and discharges his or her support providers.

WHAT DOES A FISCAL AGENT DO?

Without the services of a Fiscal Agent, the participant or representative with Employer Authority would be responsible for compliance with state and federal labor laws, be responsible for filing tax records, and have additional obligations with regard to Social Security and Medicaid. Participants or representatives with Employer Authority must understand that, as the employer of record, they are ultimately legally responsible for how their funding is used and that all employer legal obligations have been met. A Fiscal Agent helps the participant or representative manage the paperwork responsibilities that come with being an employer.

A Fiscal Agent provides payroll services and record keeping functions. The Fiscal Agent will assist the participant or representative to complete payroll forms, pay staff, ensure tax compliance and prepare regular reports, including year-end statements. The Fiscal Agent reimburses for support services identified in the participant's budget.

A Fiscal Agent is required for all participants or representatives exercising Employer Authority to assist in providing accountability for funding. A participant or representative with Employer Authority cannot be his/her own Fiscal Agent and the Fiscal Agent cannot be a provider of other support services.

COMMUNICATION BETWEEN PARTICIPANTS AND FISCAL AGENTS

Effective communication between the employer and the Fiscal Agent is particularly important to ensure that each party fulfills its requirements and does not breach confidentiality.

The participant, family or representative will be expected to provide the Fiscal Agent with written invoices for services purchased, timesheets of employees and other documentation as required by the Fiscal Agent for processing of payment. Participants or representatives with Employer Authority must ensure that they and their providers report data to the Fiscal Agent accurately and on time.

The Fiscal Agent provides regular financial reports to inform the employer if money spent is within the budgeted amount for that support or service or if adjustments need to be made. Both the Fiscal Agent and participants or representatives with Employer Authority need to maintain an up-to-date record of current providers providing services and supports. Any changes in providers must be updated as they occur.

The Case Manager and/or Support Broker, along with the participant's planning team can assist the employer in working with the Fiscal Agent. In addition, persons who Self-Direct with Employer Authority are encouraged to develop networks of supports with other families whose members self-direct services. Shared experiences and insights will assist those families in developing skills that will help them to be more confident in working with employees, providers and fiscal agents.

Reviewing the Employee's Time Sheet

The participant/employer may ask the Support Broker for help reviewing employee time sheets.

The participant/employer has to sign each time sheet before the employee can get paid. The employer has the responsibility to make sure the time sheet accurately reflects dates, hours, and category of service actually provided. If they have trouble understanding the time sheet, help the participant/employer with this task.

Also, find out if there are natural supports that can help the participant/employer or if you can provide training or aids which will allow them to become more independent. The time sheet includes date of service, times of service, and service code. The codes are three digits and match the codes in the timesheet instructions. Time sheets and instructions are provided through the Fiscal Employer Agent.

Remember; help the participant/employer keep a file with copies of important documents. The employer needs to have copies of:

- **The complete Plan of Care.**
- **All workers employment agreements.**
- **Completed time sheets.**

Check the date(s) of service for accuracy. Did Jim clean the house on the date that is stated on the time sheet? If participant/employer is unsure, help them create a calendar or some other method to track when their workers come to work. Ask questions like, is Jim supposed to come once a week and when did he last come? Use your own observations to judge the situation. For example: Does the house look like it has been cleaned in the last week?

Check that the amount of hours for the service appears to be a reasonable match for the annual amount that has been allotted on the authorization sheet. If the authorization sheet states that chore services will cost $1,300 a year and the participant/employer tells you that Jim is supposed to come once a week, and that he pays Jim $6.25 per hour, use a calculator to determine if the information is reflected accurately. Jim should be working about three hours a week. The time sheet should reflect that.

If something doesn't look right to you, ask the participant/employer what they would like you to do about it. Encourage the participant/employer to talk to the planning team. Help the employer and the circle look at options and resolve any problems.

If services are not being provided that should be, do not take immediate responsibility or control of the situation UNLESS:

- **You think it will result in immediate threat to the health or safety of the participant/employer.**
- **You think it constitutes Medicaid fraud.**
- **In either of these cases, you must take immediate action. Provide immediate assistance to prevent further harm, if possible.**
- **Follow the reporting guidelines in Appendix C of the DDP Incident Management Policy to report to DDP, Adult or Child Protection, law enforcement and other entities in the case of abuse, neglect, or exploitation, or if you suspect Medicaid fraud.**

A Support Broker is a Mandatory Reporter under Montana Code. Required Reporters MUST immediately report the problem if you think there is an immediate danger or if you suspect Medicaid fraud.

Report other concerns immediately to the participant/employer and the DDP through completion of an Incident Report as described Appendix C of the Incident Management Policy.

KEY POINTS

- **A Fiscal Agent, Acumen, LLC, is required for all participants/employers who Self-Direct Services with Employer Authority in Montana.**

- **Fiscal Agents distribute funding and perform administrative tasks on behalf of participants who Self-Direct Services with Employer Authority.**

- **Fiscal Agents manage the financial paperwork requirements of being an employer for participants or representatives with Employer Authority.**

- **Fiscal Agents do not make decisions about what the participant needs or the amount or type of services received.**

- **Employers must ensure that they and their providers report data accurately and on time.**

Exit From
Self-Direct with Employer Authority Option

Voluntary Exit

The participant may choose to leave the Self-Direct Employer with Authority option at **any time**. The participant will need to contact his/her case manager so that arrangements can be made to assist the participant with transitioning to a provider agency. The case manager will provide the team with a list of agencies so the participant and team can agree on a qualified provider in his/her area.

In accordance to the porting policy, participants switching services from a traditional qualified provider agency back to Self Direction may be required to wait up to 90 days (3 months) before returning to the Self-Direct with Employer Authority option.

Involuntary Exit

The participant's plan of care includes advance notice that participation in self-direction may be ended in certain cases. When the participant, the participant's family and/or the participant's representative signs the cover page of the plan of care document, it indicates the participant understands, and agrees with, the need to comply with DDP requirements for participation in self-direction services. The Case Manager will review this section annually with the participant, family members, guardians, designated representatives and the other planning team members if one or more services are self directed.

A person who cannot or will not meet the requirements for participating in the Self-Direction with Employer Authority option despite reasonable efforts to ensure success will be considered for involuntary exit. If this occurs, agency-based services may be made available to the participant.

Involuntary exit procedures are discussed in this section. Criteria for events meeting Montana Developmental Disabilities Program for "involuntary exit" from Self-Direction with Employer Authority are:

- Immediate health and safety concerns
- Maltreatment of participants
- Suspected misuse of participant funds and resources (Medicaid Fraud)
- Failure to implement the approved support plan or comply with Self-Direction with Employer Authority requirements despite reasonable efforts to provide additional assistance and support as described below.
  (All criteria are explained in more detail below)

The following definitions and procedures should be used to provide direction to planning teams and Regional Office staff in carrying out decisions related to involuntary exits.

"Involuntary Exit" means only the Self-Direction with Employer Authority option is terminated. The participant still has a choice of Self-Direction Agency with Choice or traditional waiver services. Involuntary exit from Self-Direction with Employer Authority option is NOT subject to the Fair Hearing process since other service options are still available.

"Planning Team" In cases where the participant is being considered for involuntary exit, the planning team MUST include the Quality Improvement Specialist, the participant and Case Manager, and will also include the designated representative, guardian and Supports Broker if the participant has these persons supporting him/her.

"Immediate Concern" is:

- Any matter jeopardizing health and safety
- Evidence of unreported misuse of participant funds or resources (fraud)
- Maltreatment of the participant
- Unapproved expenditures.

"Misuse of Participant Funds or Resources" means when the cost plan is billed for services or supplies that are never received, not approved as eligible for payment under the current plan of care, or misused by providers of services to their benefit. This definition also includes exploitation of participants by caregivers. Examples may include billing for services not provided, billing for hours not worked, purchase of goods or services for the use of other persons than the participant. This can be considered as **Medicaid Fraud.**

"Failure to Implement Approved Plan of Care or Comply with Self-Direction with Employer Authority Requirements" means the failure of the participant or his/her guardian or representative to follow through on the agreements made in the plan of care or the requirements of self-direction with Employer Authority. Examples may include failure to report serious incidents, failure to ensure that services and supports are provided in a timely manner, failure to comply with documentation and audit requirements.

"Additional Assistance & Support" means the actions and resources needed to assist the participant who continues to have difficulty meeting the requirements of Self-Direction with Employer Authority. This could include naming a representative or provision of a Supports Broker in cases in which the participant does not have these supports, as well as additional training or monitoring. This is assistance and support beyond that provided to all participants who self-direct with Employer Authority.
"Reasonable Efforts" is defined as documented instances of identified need as determined by the planning team for additional assistance and support. The documentation must include:

- Identification of the problem
- Corrective action needed
- A timeline in which to accomplish the action or change.

Procedures Related to Involuntary Exits

When areas of "immediate concern" arise the planning team will meet within five (5) working days to consider the need for corrective action which may include additional assistance and support. Immediate action such as exiting the participant from Self-Direction with Employer Authority may be implemented to prevent harm.

In the event that the planning team discovers evidence that meets the criteria for consideration of involuntary termination of Self-Direction with Employer Authority, the following steps will be completed to develop alternative service delivery:

- The Case Manager or Fiscal Agent receives or discovers unreported misuse of funds or resources, or an event determined by the planning team requiring corrective action occurs. In cases involving immediate risk of harm, the person may be exited immediately and be provided necessary supports to ensure safety.
- The Case Manager reports health, safety or abuse concerns to appropriate agencies such as Adult Protective or Child Protective Services. The Case Manager reports suspected misuse of participant funds or resources to the Quality Improvement Specialist (QIS).
- The planning team meets within five (5) working days to review the events requiring corrective action. A determination is made regarding appropriate actions to be taken to correct the situation up to termination of participation in self-direction with Employer Authority.
- If the determination is made to involuntarily exit the person from self-directing with Employer Authority, written notice is sent informing the participant. The Plan of Care is updated with the goal of retaining as many aspects of the person centered plan as feasible to reflect any needed changes to backup or emergency plans, as well as services approved and desired participant outcomes.

Additional Assistance and Support

The Developmental Disabilities Program ensures that information and assistance is available to support participants to be successful as the Employer Authority. The employer is encouraged to not be afraid to ask for help to resolve problems in plan implementation or service management. Participants, their guardians, and representatives have Supports Broker services available under the waiver as well as the help of their Case Manager to receive training and support in following through with responsibilities as the employer.

However, specific ongoing problems indicating a participant's need for additional assistance and support could be discovered by or reported to the Case Manager, or difficulties could be discovered during quality assurance monitoring or service audits. A person may be the subject of a maltreatment report, or difficulties may be reported by the Fiscal Agent regarding reimbursement issues.

While not an inclusive list, the matters below would indicate a need for additional assistance and support.

- Not spending enough for services needed to support health and safety without a reasonable explanation
- Over-spending at a rate that suggests the plan will not be sustainable over the service plan year
- On-going difficulty in arranging for services needed for health and safety
- Unapproved expenditures
- Failure to respond to notices requesting missing information or notifications from the Fiscal Agent.
- Not implementing the IFSP/PSP as approved.
- Failure to provide documentation of services received to appropriate entities.

Each discovery of non-compliance with the plan of care that requires a corrective action will result in a meeting of the planning team and be documented in the meeting notes. These notes will be sent to the team members.

Reported Misuse of Participant Funds or Resources

Recognizing that some participants may be vulnerable and may need assistance in the event of threat or coercion from their direct support worker or others, the process for involuntary exit from Self-Direction with Employer Authority must account for the timely reporting of misuse of participant funds and resources in the presence of coercion. Direct support workers can hold a great deal of power over people with needs for that support, so policy must allow people to act as needed to avoid negative consequences in the short run.

For example, someone may be asked to sign a false timesheet, and feel they must wait until the next worker comes on duty to report the matter in a timely fashion to their Case Manager. A participant cannot be expected to directly confront someone on whom they are dependent.

Those participants who report such events and seek appropriate help in a timely manner, and who are not willing participants in misuse of funds and resources, are considered in compliance with requirements and are not subject to involuntary exit.

Unreported Misuse of Participant Funds and Resources

If, however, the participant failed to report an incident as described above in a timely manner, the incident would be considered unreported misuse of funds and resources and would be cause for consideration of involuntary exit.

These actions would not necessarily prevent the participant from future Self-Direction with Employer Authority. Consideration of the safety and welfare of the participant by the planning team and needed supports to protect the participant from future risk would need to be established prior to continuation in, or reinstatement of, the Employer Authority option.

Readings

Exerpt from
Thinking About Support Broker Roles
Michael W Smull
(Impact, Volume 12, Number 4, Winter 1999/2000)

Real change needs to begin with an understanding of the desired outcomes and then move to developing the structures to support it. We need to begin by asking what do support brokers need to know and do?

I could say that the support broker's job is to help people have their own lives where they are supported by and contribute to their communities. While this is true, it is also too glib. "Sound-bite" advice is often a good way to help people remember complex ideas, but the ideas have to be explained first. If I had the opportunity to briefly explain what I meant, I would talk about roles and responsibilities mixed with values, gifts, and talents.
At its core, the work of a support broker is about partnership, partnership with those supported and those involved in their lives. Partnerships are built on a foundation of respect and trust. Unless people with disabilities and their families feel respected, the trust needed to share what is important and to take the risks inherent in growth will be absent. Without trust there will be no partnerships. Real success is easier with (and usually requires) a series of interlocking partnerships. Partnerships are needed between people with disabilities, their families, those who provide the support, and those who do the planning and funding. These partnerships require effort to establish and maintain. Some of what follows begins to describe what is necessary to create and sustain them.

It Begins with Listening
Everybody involved in these partnerships must feel that they are listened to. Compromise is often required and disagreements will sometimes occur, but everyone must feel that the service broker/support plan facilitator has listened to them. While everyone has ideas and important contributions to make in developing and implementing service plans, those involved must keep in mind that the individual with disabilities is the expert. They need to listen to what the person says with words and behavior about how they want to live, and act on what they say. They have to be careful to distinguish between what the person wants and what others want for the person. And they need to understand that what someone asks for may be limited by what they have tried. What someone is saying that they want is based, in part, on their experiences. People need opportunities to try things to see if they will like them.

After the person with disabilities, the most important people to listen to are family members. In many instances they were the only advocates who were present before the support broker met the person and they are advocates who will be there after the support broker is gone. Part of the role of the support broker is to help to maintain and enhance their relationships with the person as part of their work in representing the person. They need to understand and take into account the family's perspective. Where what family members want for the person is different from what the person wants for himself or herself, they need to understand why. Where there are differences that are substantial, they need to negotiate a compromise that maintains the relationship while creating a balance that works to the person. While there are notable exceptions, among the things that most people want and need are continued good relationships with their family.

Helping Find a Balance

Few people, regardless of the present or absence of disability labels, have a perfect life. What we all seek is a life has a balance that we see as positive. The support broker's job can be seen continuously working toward a balance that works for the person, a balance between what is important to the person and what is important to those who know and care about the individual, and between what is important to the person and for any issues of health and safety. It is important to remember that this is a journey, not an event. The best balance that can be achieved today is the starting point. As the person grows and changes, as others' perceptions of the person change, as our understanding deepens, opportunities for a better balance arise. Self-determination is not about a single effort; it is about pushing for the best immediate outcome, looking for new opportunities, and continuing to listen to the person. In seeking a balance that works for the person, the order in which you answer questions matters. For example, it is important to learn how somebody wants to live before you look at where. It is important to learn what would make the person happy, and then determine how they can be healthy and safe within the context of being happy.

It's About Control and Possibilities

Support brokers have to be able to facilitate the use of individual budgets. Skills in managing money are important, but money is only where it starts. It is really about control. If people can use and move their public dollars as makes sense to them, they are more likely to be listened to and achieve a balance that makes sense. Doing this requires that the public funding be seen as not just a way to buy services, but also as a way to leverage changes in the services available. With enough flexibility, money allocated to buy services can assist people in building community. Sometimes this occurs by paying people to "bridge" or "connect" with everyday community settings. Sometimes it occurs when co-workers are paid to provide the needed support. But, it all starts with seeing possibilities. The best support brokers are not trapped by what is; they lead a process where people go beyond the boundaries of the system and see the possibilities in the community.

It's Not Just One Person's Job

A service provider's response to this list of' responsibilities and activities may well be, "This is the ideal, but we'll never be able to afford it." If the support broker is the only one to do all of what is needed, it is unlikely that there will be the funding to have enough support brokers with all the needed skills and community connections. Central to achieving self-determination in service coordination is, again, partnerships. If the work is done in partnership, the broker does not have to be the only one doing it. With support, there are families, self-advocates, and service providers who are developing and implementing remarkable life plans. Ongoing, continuous learning is essential to success and can only happen in partnership.

Conclusion

Much of the creative thinking (and learning) about helping people live lives of their choosing, and be supported by and contribute to their communities, is happening within existing service systems. Whether part of more traditional service systems or part of new self-determination initiatives, successful service coordination depends on looking for opportunities to develop productive partnerships, listening to persons with disabilities and their families as they identify what they want and need for their lives, developing and implementing balanced plans, leveraging resources effectively, and seeing possibilities. It is about making sure that the truly important work in building a life is happening.

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Service Planning

The amount of services the participant requires is documented through a **Plan of Care**. The Plan of Care is developed using a person-centered planning process involving the participant, his/her case manager; his/her authorized representative, and others who the participant wishes to be involved. This group is referred to as the **planning team.** The Plan of Care is developed and updated each year by the planning team to determine:

- The participant's needs and the types of actions and supports required to meet those needs;
- The amount of time, frequency, and duration required for delivery of his/her services;
- The participant's personal outcomes, or goals, and the strategies to help the participant achieve or maintain his/her personal outcomes; and
- The people who will assist the participant in meeting his/her personal outcomes.

On an **annual** basis, the planning team will meet to review and revise the participant's Plan of Care and back-up plan for the upcoming service year. The Case Manager must also submit the participant's Individual Cost Plan (ICP) to the Regional Office for approval. These criteria are required for every person receiving services, and are not specific to participants wishing to enroll in the Self Direct Employer Authority option.

Modifications/Revisions to the Plan of Care

The participant or his/her authorized representative may request modifications/revisions to their Plan of Care by contacting the participant's Case Manager.

If there is an emergency situation, then the participant must notify his/her case manager as soon as possible so that arrangements can be made to modify their Plan of Care. Remember, the participant cannot put in place any changes to his/her Plan of Care without the prior approval of the Case Manager or Quality Improvement Specialist.

Planning Process and Plan Management When Self-Directing Services

Tasks Performed by the Participant/guardian in the planning process:

- Participate as a primary decision-maker, along with the Case Manager, in the formal and informal person-centered planning process that identifies strengths, needs, and preferences.
- Choose people to be involved in the planning team.
- Choose who will provide direct services, goods and supportive services to meet the needs identified within the plan of care which meet the Waiver service definitions.
- Negotiate payment rates for goods and services that are within the range of rates established by the DDP and are mutually agreeable to the employer and service provider. Rates cannot exceed the maximum rate set by the DDP.
- Develop a plan of service delivery and effectiveness. Outline desired outcomes and a process to document and measure achievement of these outcomes.
- Partner with case manager to monitor plan of care implementation, effectiveness and progress toward identified outcomes.
- Develop and revise back-up plans based on changing needs and circumstances.
- Initiate with the Case Manager the revision of the plan of care based on outcome measurements, changes in status of the participant, and budget status by notifying the Case Manager of significant changes in needs, functions, or conditions.

Identifying the Planning Team

The planning team is essential in developing and maintaining the independence of the participant.

The first step in building a Plan of Care is to identify the planning team. These are the people who will help to develop the Plan of Care. The planning team consists of people who encourage and care about the participant.

- Focus of the planning team: The participant's planning team should be built and operate with the primary goal of working in the best interest of the participant. The group's role is to give and get support for the participant and to develop a plan of action, along with and on behalf of the participant, to help the participant accomplish his personal goals.
- Primary members of the planning team are the participant, the participant's guardian (if there is one), and/or a designated representative of the participant if the participant has indicated a desire for a person to act in his/her behalf, and the Case Manager.
- A planning team may also include family members, friends, neighbors, co-workers, and other community members if the participant desires or if needed.

Using the Person-Centered Planning Process

Person-centered planning is the foundation of consumer-driven support planning. Person-centered planning means that participant needs and goals define the Plan of Care. One of the roles of the

planning team is to help the participant identify their needs which leads to short and long-term goals. This process will be documented on the annual planning team meeting.

The participant/employer may ask for help from the Support Broker when preparing for the planning meetings.

Ways to help the participant identify their goals and needs in preparation for the planning team meeting:

- **Discuss and clarify the participant's present goals and tasks prior to the planning meeting.**
- **Consider the needs and goals that have been identified in the current plan of care. Are they still meaningful to the participant's choices and desires for his/her life? If not, what would be needed to make them more in line with the participant's vision for their life?**
- **Consider health and safety risks and needs. Have needs changed? What still needs to be done to support the person's health and reduce risks?**

Cost Plans

The participant's individual cost plan (ICP) is based on the assessed needs documented in their IFSP/PSP (plan of care). The cost plan details the services and budget necessary as outlined in the plan of care and is approved by the DDP Regional Manager.

Remember, the participant as the employer is responsible for keeping track of the budget available for use in the Self-Direct With Employer Authority option. The employer should never ask employees to work more than the maximum budget approved in the participants ICP. If the employee does this, then the employer will personally be responsible to pay for the extra hours.

The budget report provided by the fiscal agent will let the employer know how much of the budget the participant has used. When in doubt, the participant or employer should contact their Support Broker or Case Manager for assistance.

Like the plan of care, the cost plan can be updated as needs change. However, any change to the cost plan should be the result of an update to the plan of care and is subject to Regional Manager approval.

Budget = Cost Plan

The Cost Plan is the amount of money that each individual can spend annually to purchase their Medicaid allowable supports and services. The Cost Plan is created through the planning process and is based on each participants assessed and identified needs. Each individual's cost plan is created and monitored by the Case Manager. The cost plan consists of all services, both self directed and traditional.

The employer must purchase Fiscal Agent services to participate in the Self-Direction with Employer Authority option. They will also use their budget to purchase other supports and services, including Support Broker services.

Support Brokers should be aware of all the self directed services and cost plan amounts for each participant/employer in order to assist them in managing their self directed budget. Expenditures must not exceed the limits of the Cost Plan or the expenses cannot be paid. If the participant/employer cannot manage their expenses to be within their Cost Plan, you may be requested to help them review other options. If a participant/employer exceeds their cost plan, they may be required to provide reimbursements out of their own pocket.

Allowable Services

The Cost Plan is used to purchase the participant/employer's needed supports and services. Budgeted self directed funds will pay for the Fiscal Agent , Support Broker, Personal Supports services, individual goods and services, equipment, and supplies and other supports and services identified in the Plan of Care. If the identified support requires specific licensing or certification within the State of Montana, the employer must ensure the applicable licensing or certification requirements are obtained.

The Support Broker may help the participant/employer understand the costs of each service they want to use. Make sure the activities/duties of employees are allowable, according to the waiver definitions for each service. The plan of care should list the waiver services and supports that are needed. As you are getting used to the process, the Case Manager may be able to provide some guidance in how to understand costs.

The services that can be self directed are listed in the table Self Directed Waiver Services and Limits section of this handbook. The specific waivers and service definitions for those listed can be found: http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml . Then click on the appropriate waiver : Children's Autism Waiver MT.0667.R00.00 , MT 0208.90.R04.02 Waiver, MT 0371 Community Supports Waiver . After you click on the appropriate waiver, go to Appendix C on the screen and scroll to the service name you are wishing to learn more about.

Negotiating Rates and Fees

A Support Broker may be requested to help the participant/employer negotiate wages for employees and fees for things such as having a contractor install a wheelchair ramp. The participant/employer has flexibility to negotiate employee wages as long as they do not exceed the maximum rate for that service or support. They can offer what they consider to be fair-market payment for the supports and services they require.

The minimum and maximum wage allowed for each service will be located in the blue section of the fiscal agent Start Up packet. As you review this information you will notice two amounts…one part has the Employee Hourly Wage, and the other part says Cost to You which is a higher amount. The additional cost comes from the employer's share of federal and state taxes they have to pay on employees. Support Brokers should familiarize themselves with all sections of the fiscal agent packet. The cost plan will be charged the amount listed in the Cost to You.

Once the wage is negotiated, the Case Manager has a tool available to them to help determine the exact Cost to You, and how much needs to be put into the cost plan for each service and for the fiscal agent fees. For the purchase of items or for fees, the Case Manager will need to approve them during the planning process. The Support Broker may be asked to do such things as research prices or get bids from contractors. Just how much of this assistance is needed should be agreed at the planning meeting.

Budget Oversight

One of the job duties of a Support Broker is to help the participant/employer manage their self directed budget. The participant/employer can lose their right to participate in Self-Direct with Employer Authority if they cannot stay within their budget.

The participant/employer will get a statement from the Fiscal Agent every time payroll or a purchase is made. (maximum is bi-monthly) The statement includes an account of what was spent the last pay period and how much money is left in the budget for each service. The statement will include specific amounts for each invoice that has been paid on their behalf. The Support Broker will need to find a good way to visually show the participant/employer how much money they are spending and how much they have remaining each month. There are many types of budgeting tools on the market that could be useful. The Case Manager does not receive these statements, but they have access to the cost plan account, and can monitor payments from there.

It is the task of the Support Broker to help the participant/employer resolve any difficulties by knowing who to contact. For payment ERRORS, contact the fiscal agent. The case manager would be appropriate to assist if it looks like the budget could be exceeded. Use the table in the fiscal agent Start Up Packet to help identify who to contact for certain issues.

It is important that participants and their representatives use natural (unpaid) supports as much as possible as each participant has a limited budget. Support Broker fees are capped and will comprise only one small part of that budget. It is anticipated that many employers will develop the skills needed to manage services effectively and will no longer need as much assistance in performing their roles. You need to be mindful of how much time you can spend with the person acting as employer helping with fulfilling the employer role. You should try to identify how many hours it will take to complete the duties you will fulfill at the direction of the employer. These duties and hours must not exceed the annual cap on the Support Broker Services.

As a Support Broker, you are responsible for being familiar with which expenses are, and which are not allowed by the Montana DDP Waivers and assisting the participant/employer in understanding this information

Back-Up Planning

As the employer hires their primary employees, they must also make arrangements for "back-up" employees to fill in when a regular employee is not available and for emergency situations. The participant's Supports Broker or possibly Case Manager will assist the participant in developing a back-up plan, which will outline what the participant will do if employees don't arrive to work as planned.

Paid Back-up employees must complete all of the same paperwork and qualifications as primary employees. Unpaid back-up assistance from family, friends, and others would not require the employee paperwork. If the participant must have services and an employee or unpaid caregiver is not available, the participant may need to include traditional DD agency-based services as part of his/her back-up plan.

The participant's plan of care must include a functional emergency back-up plan that consists of at least two options assuring that services identified as critical to his/her health and safety are provided as needed when a regular employee is not able to provide these services.

Methods the participant may use for back-up services include:

- Hire and use paid part-time and/or back-up employees.
- Develop options with the participant's family and friends to use as unpaid resources and supports.
- Connect with other people using the Self-Direct With Employer Authority option who may have employees willing to provide backup services.
- Have an agreement with traditional agency based services. Documented prior back-up arrangements MUST be made with any provider agency which would be providing this coverage before including coverage by a provider agency in the participant's back-up plan.

Identifying Related Risks

The safety and backup plans that are developed during the annual meeting to develop the Plan of Care are based on the participant/employer's needs for services to avoid a risk to health or safety.

A risk is a hazard that could endanger the participant's health or safety. The Support Broker will assist the participant/employer during preparation for the annual planning meeting to identify risks in their situation and to begin to identify multiple realistic backup strategies to address these risks.

For example:
If participant needs a Personal Support worker to supervise them to take their medication and prepare a meal every morning, they may be at risk if the Personal Supports employee unexpectedly does not come to work. The participant/employer needs to identify this risk and will need to identify multiple realistic backup strategies to manage this risk.

If a Personal Support employee does not show up to work, strategies may be identified so that:

- **The participant/employer has a current list of multiple back-up personal support workers, family members, neighbors, or friends who can be phoned on short notice and who are familiar with the participant and how to assist him/her and are willing to be available for emergency assistance.**
- **The participant/employer has identified a safe, available alternative place that has agreed to act as backup where the participant can go in an emergency situation.**

Many people with developmental disabilities are at high risk for the following health threatening conditions:

- **Seizures.**
- **Dehydration.**
- **Constipation.**
- **Choking.**

If the participant/employer has a history of these conditions, it is wise to consult with their physician so that the participant/employer can ensure that the Plan of Care includes safety plans to address these conditions.

Preparing For the Worst

Encourage the participant/employer to take preventive measures ahead of time. Remember, for each identified risk, identify multiple options to be included in the back up plans. Some options may include:

- **Have a list of natural supports and phone numbers handy; use natural supports if possible when the workforce is not fully staffed.**
  - **If the participant/employer doesn't have any natural supports, they should make sure a goal is identified to develop these supports.**
- **Discuss possible crisis situations with the participant/employer and their employees ahead of time. Prepare them to cope with emergencies, role-play, and identify hypothetical solutions.**
- **Create a list of community resources such as food banks, churches, senior centers, etc. when emergency assistance can be obtained.**

- **Keep a file on substitute employees; people who have passed the criminal history check and who want part-time work.**
- **Ensure the participant/employer has an accessible method to get hold of the employer, people in his/her support network or other natural support as needed.**
- **Network with other Support Brokers to share resources.**
- **Join the Montana Council on Developmental Disabilities Self-Directed Support Group. They can provide helpful advice and resources. Toll-Free Contact Number: 1/866-443-4332**
- **Maintain a working relationship with the Case Manager, Family Support Specialist, and/or Regional Office QIS staff; they may be able to help develop additional resources.**

You Have a Back-Up Plan, But Things Still Go Wrong Now What?

Is it an emergency or is it life threatening; if yes, call 9-1-1. Do not wait to see if you can handle this yourself.

- **If the situation does not place the participant's health and safety in immediate danger, take the time to consult with the participant/employer and their planning team to identify a solution together.**
- **Recurring crises may indicate there may be a need to a revision of the Plan of Care, increase in specific services, or a change in the category of service.**
- **Abuse, neglect, exploitation, and abandonment issues must be reported immediately to either law enforcement or adult/child protection.**
- **Work with the participant/employer, employees, and planning team to Identify root causes and look for solutions.**
- **Respond positively to a crisis situation.**
- **Consider all pieces of the puzzle and be creative in your solutions.**
- **Ask questions.**

Self-Directed Waiver Services and Limits

The participant's Case Manager will be able to identify which waiver the person is in and the different options available in each waiver. The following chart lists the services available to self direct with Employer Authority. The participant and his/her planning team will be able to use these categories to identify the service(s) that best meets their needs and preferences.

Each of those services has specific definitions and activities that are allowed to be reimbursed. Services provided by direct staff also have requirements and qualifications that they have to meet to provide that service. All of these details are listed in each Waiver. Questions regarding these details should be directed at the participant's Case Manager.

When the participant chooses to self direct a service, the participant/employer are agreeing to meet all of the requirements of that service, including the service description, qualifications of all persons providing the service, and documentation requirements.

Services available to Self Direct with Employer Authority are listed on the following page:

Services available to self direct with Employer Authority:

0208 Comprehensive Waiver	0371 Community Supports Waiver	0667 Children's Autism Waiver
Supports Broker	Supports Broker	Respite
Personal Supports	Personal Supports	Transportation of participant while providing respite
Respite	Respite	
Environmental Modifications/ Adaptive Equipment	Environmental Modifications/ Adaptive Equipment/ Specialized Medical Equipment	
Individual Goods and Services	Individual Goods and Services	
Personal Emergency Response System (PERS)	Personal Emergency Response System (PERS)	
Meals	Educational Services	
Community Transition Services	Health/Health Maintenance/ Safety Supports	
Transportation of participant while providing direct services	Transportation of participant while providing direct services	

**For complete descriptions of the waiver services click on http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml .
Then click on the appropriate waiver : Children's Autism Waiver MT.0667.R00.00 , MT 0208.90.R04.02 Waiver, MT 0371 Community Supports Waiver.
After you click on the appropriate waiver, go to Appendix C on the screen and scroll to the service name you are wishing to learn more about.

Service Documentation & Reporting Requirements

Delivery of Services

Participants self-directing with Employer Authority are required to keep documentation of service delivery. There is no specified format, but the records must be legible and must verify that the service was provided.

The records which document services are usually referred to as progress notes. Progress notes are summary notes which must be completed by the participant's employees describing the day-to-day activities and progress toward achieving the participant's personal outcomes, as identified in their approved plan of care.

Progress notes must be complete and include enough information:

- To describe the participant's activities, procedures used with the participant, and incidents that happen during the employee's shift,
- To give a clear picture of the service provided to the participant,
- To show progress towards the participant's personal outcomes,
- To record any changes in the participant's medical condition, behavior, or home situation which may indicate a need for reassessment and plan of care change,
- To explain each entry on the staff's timesheet, and
- To document any changes or deviations from the schedules in the participant's approved plan of care.

The following are examples of general terms, when used alone, are **not** enough and do not provide adequate information for progress notes:

- "Supported (participant's name)_____"
- "Assisted _(participant's name)____"
- "_(participant's name)___ is doing fine"
- "(participant's name)___ had a good day"
- "Prepared meals"

All progress notes must be easily understood, written in ink, and include:

- The name of the person making the entry,
- The title of the person making the entry,

- A legible signature of the person making the entry,
- The full date of documentation and
- Service provided

The Support Broker can help train employees about adequate notes. Progress notes do **not** need to be submitted to the fiscal agent; however, the participant's case manager will routinely review notes to monitor how the participant is progressing toward their personal outcomes. In addition, all participants receiving waiver services are subject to periodic audits and documentation ensuring that services are provided as outlined in the participant's plan of care will be required. *A sample is located in Section VII – Appendix E-5 in the back of this handbook.

All documents that record information about the participant are confidential and covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II). These documents must be stored and used in a way that protects the participant's privacy and his/her right to keep personal information confidential. The participant and/or employer must have a system to store records so that they remain private. The participant's employees must also understand that they will be held accountable for keeping personal information confidential.

Incident Management Documentation and Reporting

Participants self-directing with Employer Authority must comply with the DDP Incident Management Policy.

Portions of the Incident Management Policy relevant to persons self-directing services can be found in **Section VII – Appendices – Incident Management Policy Information** of this handbook. Definitions of critical incidents and reporting requirements can be found in these appendices. The entire Incident Management Policy is at: www.dphhs.mt.gov/dsd/ddp/policiesprocedures.shtml and click on "Incident Management Policy".

Although some events might not require formal reporting, documenting changes in participant behavior, unusual events, changes in the condition of the living environment, and other information is helpful in recognizing patterns and identifying areas of concern.

Incident Reports must be completed for all critical incidents as outlined in the DDP Incident Management Policy. These reports may be submitted in hard copy to the Developmental Disabilities Program or may be submitted online using the THERAP website.

The required Developmental Disabilities Program Incident Report form must be used and is also included in Appendix B-4 at the end of this handbook. Remember, your Support Broker can assist you in understanding the policy, filling out the Incident Report Form, and meeting timelines.

The participant/employer may choose to complete hard-copies of the incident management report form. Upon completion, copies can be faxed to the Developmental Disabilities Program attn: Self-Directed Services Coordinator at 406-444-0230 or immediately mailed to:

Self-Directed Services Coordinator
Developmental Disabilities Program
Department of Public Health and Human Services
111 N. Sanders, PO Box 4210
Helena, Mt 59604

The State of Montana contracts with THERAP Services, LLC to provide web based documentation services. The participant, family and planning team may choose to use THERAP software for documentation of incidents. The participant/employer will need to have an account set up and complete training by contacting the Self Directed Services Coordinator.

Documentation Recommendations

Provider Records

It is recommended that this record information be maintained on all participants receiving waiver services:

Progress Notes - includes written documentation of each service provided to the participant, and records at a minimum the following information:

i. Date and time of service;
ii. Services provided;
iii. A statement of the participant's response to the service provided, including any changes in the participant's condition;
iv. Length of service, including time in and time out, if appropriate, to the service provided. Unless the participant is unable to do so, the service should be verified by the participant as evidenced by their signature on the service record.
v. A copy of the above information should be maintained in the participant's home unless it is necessary to keep it elsewhere.

Incident Reports

Current Plan of Care Including Any Changes

Cost Plan and Fiscal Agent Reports

If the participant/employer does not maintain similar documentation it could result in the recoupment of funds paid for undocumented services. An example of a progress note format that may be used is in the Appendices.

Support Broker Records

As a provider of services, the Support Broker will be expected to maintain records of services provided for each participant you serve.

Support Brokers should be sure to:

- Document services you provide to help your employer self-direct services.
- Document in writing, all of your contacts with your employer by phone, mail, email, or in person (it is recommended that you meet with your employer at least quarterly to review their satisfaction with services).
- Note in your document what took place during the contact, how long it lasted, and if there were any issues or concerns.
- Document in writing, all your contacts with the participant's planning team and persons in the participant's support network.
- Document in writing, all meetings with Personal Supports employees.
- Document in writing, any complaints and what follow-up was conducted.

- Your record should include the following information:
  - Date.
  - Who was involved?
  - Purpose or reason.
  - Brief summary of discussion.
  - Outcome.
  - Time spent.
  - Appropriate signature(s).

Health and Safety

By becoming a Support Broker, the broker also agrees to help protect the participant's health and safety. This is accomplished by identifying risk factors, developing safety plans, developing backup plans, and mitigating risks whenever possible. The Support Broker is responsible for communicating with the appropriate authorities if you believe the participant's health or safety is being threatened. This responsibility includes reporting if the participant is threatening their own health or safety in any way. They may be refusing to take medication or living in an unsafe environment. They may have given all their food to a friend and have no money left to buy more. They may be acting disoriented or confused and refusing to go to the doctor.

In a non-life threatening situation, you can call on the Case Manager, parent, representative, a guardian, other natural support, or contact a DDP staff member. In a life-threatening situation, you should immediately contact emergency services or law enforcement.

Complaints and Critical Incident Reporting

A complaint is a statement of dissatisfaction with services. A critical incident is a serious situation which results in an immediate threat to the participant's health, safety, or well being.

A complaint about Medicaid services or services related to the Self-Directed Services options should be made directly to the local regional Quality Improvement Specialist. The Quality Improvement Specialist will record the complaint and make sure it is investigated appropriately. A list of Quality Improvement Specialists can be found on the DDP website.

Support Brokers must be familiar with the DDP Incident Management Policy. Relevant information for participant's self-directing their services is found in Appendix VII-4 of this handbook. The complete policy is found on the DDP website :

www.dphhs.mt.gov/dsd/ddp/policiesprocedures.shtml

A critical incident needs to be reported to the DDP, the participant's Case Manager, the Regional Quality Improvement Specialist, and emergency services, such as law enforcement, or Adult Protection immediately. Incidents requiring completion of an Incident Report are defined in Appendix A and Appendix G of the DDP Incident Management Policy and can be found in the Appendices of this handbook.

An accident is a mishap or mistake which did not occur as a result of any purpose or intent. If an accident occurs that has physical, emotional, or legal ramifications for the participant, it must be reported to the appropriate entities. Notification requirements are listed in Appendix C of the DDP Incident Management Policy and can be found on the DDP website and in the Appendices of this handbook. If your employer is their own guardian, The Support Broker will need to discuss with the participant/employer to determine whether family members need to be notified.

Immediate Risk to Health and Safety

A Support Broker might discover that something that a worker or other person who is in contact with the participant is or is not doing can result in an immediate risk to the health and safety of the participant.

Examples of these situations may include: a person in contact with the participant may be endangering the participant through specific behaviors on their part or omission of services as a result of not having sufficient training or they may be purposefully harming, neglecting or exploiting the participant. Nursing and other health related services may be essential to the participant's health and safety and medical care may not be provided as directed under the plan of care. A person may have been involved in an incident with law enforcement or have been hospitalized. A participant may have ingested and inedible item. Descriptions of incidents which place the participant at risk are defined in the Incident Management Policy.

The Support Broker may not have witnessed the incident which places the participant at risk. The participant/employer might feel intimidated or bad for reporting problems and the Support Broker might only find out by reviewing time sheets or other documentation or may have a participant or other worker report it.

If services are not being provided that should be, do not take immediate responsibility or control of the situation UNLESS:

- **You think it will result in immediate threat to the health or safety of the participant/employer.**
- **You think it constitutes Medicaid fraud.**
- **In either of these cases, you must take immediate action. Provide immediate assistance to prevent further harm, if possible.**
- **Follow the reporting guidelines in Appendix C of the DDP Incident Management Policy to report to DDP, Adult or Child Protection, law enforcement and other entities in the case of abuse, neglect, or exploitation, or if you suspect Medicaid fraud.**

A Support Broker is a Mandatory Reporter under Montana Code. Required Reporters MUST immediately report the problem if you think there is an immediate danger or if you suspect Medicaid fraud.

Report other concerns immediately to the participant/employer and the DDP through completion of an Incident Report as described Appendix C of the Incident Management Policy.

Warning Signs That Someone May Be a Victim of Abuse, Neglect, or Exploitation

These "warning signs" should not be interpreted as proof that abuse, neglect, or exploitation is occurring. They should serve as indicators that a problem may exist and further investigation or discussion with the participant's planning team is needed. Any injury or condition that impacts the health and safety of the participant needs to be attended to immediately regardless of whether the cause is known.

Physical Indications

- An injury that has not received medical attention or that has not been properly cared for.
- An injury that is inconsistent with the explanation for its cause.
- An indication of pain or discomfort at being touched.
- Cuts, burns, puncture wounds, scratches, bruises, or welts anywhere on the body of the participant.
- An appearance of dehydration or malnutrition when there is no known cause of such condition.
- A shallow complexion or otherwise abnormal skin coloration.
- Dark circles around eyes, sunken eyes, or cheeks.
- Misuse of medication or inappropriate administration of medication by a caregiver.
- Soiled clothing or bed linens.
- "Doctor shopping," (i.e., frequent use of hospital emergency rooms or different doctors, Personal Support employees, or vendors)
- Chronic lack of necessities such as food, running water, heat, or electricity.
- Chronic lack of personal items such as a comb, soap, clean clothes, etc.
- Imposed isolation (i.e., the participant is discouraged or prevented by a caregiver or other family member from attending community events, church, the senior center, or from seeing friends and neighbors).

Behavioral Indications

- Fear.
- Anxiety, agitation.
- Anger.
- Withdrawal.
- Depression.
- Non-responsiveness, resignation, ambivalence.
- Excuses or implausible explanations, contradictory statements.
- Reluctance or hesitation to discuss certain subjects or to talk about a caregiver, family member, or other person on which the participant is dependent.
- Confusion, disorientation.

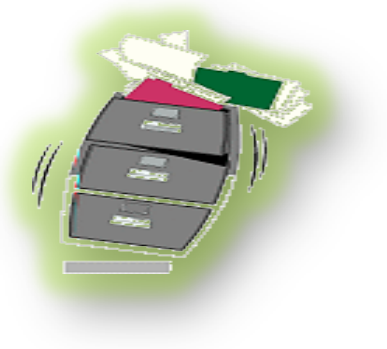
Suspect Caregiver Behavior

- Prevents the participant from speaking to or seeing visitors.
- Displays anger, indifference, aggression, or sexually suggestive behavior toward the participant.
- Has a history of substance abuse, sexual predation, mental illness, criminal behavior, or family violence.

- **Presents a "cold" demeanor (i.e., shows no affection, or is openly disrespectful of the participant).**
- **Flirts or uses sexual innuendo to communicate with the participant.**
- **Makes conflicting statements or offers implausible explanations regarding the participant's injuries or condition.**
- **Describes the participant as a burden or nuisance.**

Indications of Exploitation

- **Frequent expensive gifts to the caregiver from the participant.**
- **The participant's personal papers, credit cards, checks, or savings account paperwork is missing.**
- **The caregiver's name has recently been added to a bank account, deed, or title to property belonging to the participant.**
- **The participant has numerous unpaid bills.**
- **There is a new or recently revised will, but the participant is physically or cognitively incapable of writing or revising such a document.**
- **The participant has no concept of how much monthly income they receive.**
- **The participant's signature appears on a loan application.**
- **There are frequent checks for "cash" drawn on the participant's account (or frequent ATM withdrawals).**
- **There are irregularities on the participant's tax return.**
- **The caregiver refuses to allow the participant to spend their own money.**
- **Signatures on checks or other documents which are allegedly those of the participant do not resemble that participant's known signature or are otherwise suspicious in appearance.**



Records Maintenance Requirements

Participants self-directing with Employer Authority are expected to maintain a central records storage area in their home to organize where the participant's active personal information and employee records can be found.

Documentation of services must be maintained separately from employee records. The storage area for active records must contain records for at least the previous three months, but it is recommended that records for the previous year be stored in this area. In addition, archives of older service and employee records must be maintained in a secure storage area. This area may be outside of the employee's home, but the area must be secure and confidential.

Records requirements include the following agreements by the employer and DDP:

1. **Access:** The Montana Developmental Disabilities Program and all applicable local, state, and federal agencies or their representatives must have access to records to inspect, monitor, or evaluate the participant's records, books, and supporting documents that relate to services provided or purchased and compliance with federal and state regulations.

2. **Retention:** The employer must retain most forms while in effect, plus five years after service delivery or termination of the employee, or until all outstanding litigation (lawsuits), claims and audits are resolved. Service records must be maintained for eight (8) years following service delivery.

3. **Maintenance:** Active records must be accessible. Inactive records must be stored and maintained in a secure area to ensure the confidentiality and condition of the records. The stored records must be accessible for inspection. The employer is responsible for adequately maintaining and accessing the records.

4. **Confidentiality:** The employer must not release personnel information about an employee without the employee's written permission. A release signed by the employee would be required to give information to the fiscal agent, federal and state agencies including the participant's case manager and the Developmental Disabilities Program.

Service Records

The records storage area will need to contain all of the necessary and important information about the participant's care, supports, and services. This area is typically organized in a binder or file box in a locked closet or file cabinet.

Service records are confidential healthcare records and are covered by federal HIPAA regulation. Only those persons providing services to the participant and those persons who have a written release to receive service information may see these records.

Employee Records

The confidentiality of the participant's employee records is a requirement by law. Employee records must be stored in a locked place (e.g.: locked file cabinet, locked document box, etc.) separate from the participant's service documentation records, and not accessible to staff or persons who are not authorized to view these documents.

Details of the participant's employees' personal information, in particular those related to disciplinary action must remain between the employer and the employee unless the employee has signed a release of information that lists what information the employer can share with others.

Documentation required in active Service Records:

- The contact information and phone number for the participant's Case Manager;
- The participant's approved plan of care and any Revisions;
- The past twelve (12) months of progress notes;
- The past three (3) months of budget reports (as provided by the fiscal agent);
- Any critical incident reports;
- Seizure logs, if applicable.

Employee Records

The confidentiality of the records of the participant's employees is a requirement under employment law. Employee records must be stored in a locked place (e.g.: locked file cabinet, locked document box, etc.) separate from the participant's service documentation records, and not accessible to other staff or other persons who are not authorized to view these documents.

Details of the participant's employees' personal information, in particular those related to disciplinary action must remain between the employer and the employee unless the employee has signed a release of information that lists what information the employer can share with others.

Employment records to hire staff must be completed using the official format specified by the fiscal agent. These forms are found in the Start-Up packet which can be obtained from the participant's Case Manager or on the *Acumen website:

https://www.acumenfiscalagent.com/.

Records for former employees must be kept in a secure place for the following minimum time period:

- **Three (3) years** from the date of the last payment, or
- If there is a lawsuit or audit, until the issue or audit is complete.

Documentation required in Current Employee Records:

The past three (3) months of employee timesheets

- A copy of the Employee's employment documents, which includes the following:
  - Form I-9,
  - Form W-4,
  - Employment Application,
  - Provider Agreement, and
  - photocopy of the employee's Social Security card and ID card.
- Job Description(s) for the participant's employee(s);
- Employee Training documentation (CPR and First Aid certification cards, and record of disability-related training provided to each employee);
- Copy of the employee's license and automobile insurance if they are transporting the participant.

Employee Timesheets

Timesheets must be correctly completed and submitted to the fiscal agent by the payroll due date in order for the participant's employees to be paid on time. Each payroll due date can be found on the payroll schedule in the Start-Up Packet.

Timesheets may be mailed, faxed, or submitted online to the fiscal agent at anytime during the pay period, however they must be sent by the payroll due date. Timesheets sent to the fiscal agent after the payroll due date will be paid in the next payroll.

Timesheets will not be processed by the fiscal agent if required information is missing, such as the employee or personal identification number, service code, dates of services, check-in and check-out times, wage, or employee or employer signature. The fiscal agent will notify the employer of missing information.

The employer is responsible for reviewing every timesheet to ensure that it is filled out completely and accurately. Both the employer and the employee must sign each timesheet to attest, or agree, that the hours and services recorded on the timesheet were delivered and received in accordance with the participant's approved plan of care. Employers will not sign blank timesheets.

Remember, any time the participant/employer allows an employee to work hours before the employee is cleared by the fiscal agent to work, hours that are not

approved in his/her plan of care, and/or which are not in agreement with the service definition and limitations, any of following may occur:

- The employer can be disallowed from serving as the employer of record;
- The participant could be involuntarily terminated from the Self-Direct with Employer Authority option;
- The employer will be responsible for payment out of their own pocket.

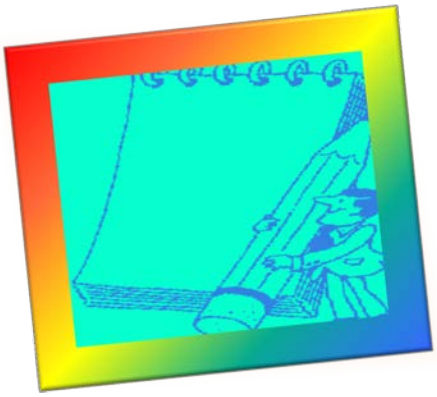
Medicaid Fraud

Medicaid fraud is committed when an employer or employee is untruthful regarding services provided or employee hours, in order to obtain improper payment. Medicaid fraud is a felony and conviction can lead to substantial penalties. Additionally, people convicted of Medicaid fraud will be excluded from any employment with a program or facility receiving Medicaid funding.

Examples of Medicaid fraud include:

- Submitting timesheets for services not actually provided (e.g., signing or submitting a timesheet for services which were not actually provided to the participant).
- Submitting timesheets for services provided by a different person (e.g., signing or submitting a timesheet for services provided by a different person than actually provided the service)
- Submitting twice for the same service (e.g., signing or submitting a timesheet for services which were paid for by another source, or signing or submitting two timesheets for the same time worked for payment from one source)

As required by the State of Montana, suspected cases of fraud will be referred to the Medicaid Fraud Unit at the Department of Justice for further investigation and possible prosecution.



Service Monitoring

The participant's case manager is responsible for ensuring that the information contained in the plan of care is accurate, for tracking ongoing progress of outcomes identified, and obtaining updated information about supports.

Once every quarter the participant's case manager will review the self directed services identified in the plan of care and determine progress on outcomes and identified needs.

Reviewed items may include:

- Determine if the participant's needs are being met through their self directed services;
- Review the information contained in the participant's "Service records" for accuracy and completion;
- Assess the participant's satisfaction with services; and
- Make necessary changes to the participant's plan of care.

The participant's Supports Broker may assist in presenting this information if desired.

The Developmental Disabilities Program requires the case managers for all participants receiving Medicaid services schedule a meeting of each participant's planning team once every 12 months at a minimum, to review outcomes, reassess needs and develop an up to date plan of care document.

READINGS

Pointers for Families and Individuals Who Want to Manage Their Own Services

By John Agosta

John Agosta is Vice President at the Human Services Research Institute, Tualatin, Oregon. He may be reached at 503/885-1436 or agosta@hsri.org

Adults with developmental disabilities want control over their lives. They also want to live in the community, work, have friends, be healthy, and stay safe. They want to live life just like any other citizen. Expectations like these are fueling a steady shift in service systems. Community systems are increasingly offering services that promote integration and self-direction. These approaches also provide greater opportunity for service recipients to have extensive control over managing their own services.

To succeed, however, adults with developmental disabilities often require support. As a result, families are increasingly taking an empowered role in managing services with and on behalf of their adult family members with disabilities. To effectively carry out this role, families should keep three pointers in mind: a) always start with person-centered planning and an individualized budget, b) dare to be creative about the supports your family member needs, and c) don't confuse the value of controlling one's life with controlling operational details.

Start with Person-Centered Planning and an Individualized Budget

Always start with person-centered planning and an individualized budget. Person-centered planning is a process that is directed by the individual (and perhaps family and support network members as well) to assess his or her strengths, preferences, capacities, and needs, and to specify the supports that must be offered to address those needs. An individualized budget that the person controls gives a boost to the process. This budget sets the amount of funding that is available to the individual to meet the specified needs.

Individual budgets are compiled in a variety of ways. Some states use systematic assessment to arrive at a data-based allocation. Others use means that invite open discussion and negotiation. Some combine the two methods. Even where discussion and negotiation are used, however, there is a limit to what any individual may ask for, given the need to assure that the overall budget is used efficiently to be able to respond to all individuals needing assistance. Each approach carries its own strengths and shortcomings. Regardless of the approach used, it is important that participants are treated equitably and that, ultimately, the process is fair to all.

Another issue related to budgets pertains to whether individuals should be told of their budget allocation before they engage in their planning process. Some say that if individuals know how much they've been allocated, they will needlessly spend to the cap. Others counter that withholding such information undercuts the planning process and subtracts power from the individuals to manage their own services. You may have no control over how individual budgets are figured, and you may or may not be told what the allocation is. If you aren't told, ask. Participate in a person-centered planning process with as much information about the amount allocated as possible. The more you know, the smarter you can be about tailoring services to a specified budget.

Dare to Be Creative About Supports

Dare to be creative about the supports you or your family member needs. A system that encourages self-determination must be flexible enough to accommodate a variety of life choices. The days of channeling individuals into a limited array of preset service options are over. Yet, "control" over a budget does not mean that you can use public money to purchase any support you want. Aside from needing to stay within an allocated budget, state agencies will want assurance that the supports purchased will address the needs specified in the person-centered plan. Agencies may also impose restrictions on services judged to be unsafe, untested or ineffectual. And, of course, if the services are being purchased through Medicaid – as most are today – state officials will insist that the services sought are "Medicaid reimbursable" and that a proper audit trail can be provided.

Before settling on a plan of supports, make sure you understand what supports are permissible and which are not. Understand what you or your family member wants. Be creative! Then, do your best to craft a supports plan that delivers what is needed and is acceptable to the funder.

Don't Confuse Controlling One's Life with Controlling Operational Details

Don't confuse the value of "controlling one's life" with "controlling operational details." Given careful planning and an individualized budget, the goal is for individuals to receive the supports they need to live the lives they want. Managing one's own services, however, can come with added responsibilities such as planning and securing services; tracking expenses; hiring, firing and paying workers; adhering to legal requirements; and maintaining needed paperwork. Do not confuse control over these operational details with self-determination.

In most instances, participants are offered administrative support to offset these management burdens. "Brokers" are often charged with developing person-centered plans, securing supports, and monitoring quality. "Fiscal intermediaries" handle much of the associated paperwork. Use these supports whenever you can. If they are not made available, insist that they become available. Families should not have to pay for the authority to manage services with time spent on administrative details.

Support the Individual's Wishes

For many families, managing services tied to a budget allocation is not a new idea. Family support programs for children have always embraced family empowerment themes and offered families great latitude in deciding what services were needed and how they were delivered. Systems that promote self-determination build on this experience, extending the idea of personal control over services to adults with developmental disabilities and, because of the nature and impact of disability, to their families. As self-determination practices evolve, however, a gritty question has emerged: "Who is the 'self' in self-determination?" Often, when we ask this question, the quick response is "the person with disabilities." Our conversations with self-advocates, however, make us wonder. We find that family members often take on a chief decision-making role, sometimes diminishing the role that individuals might play in controlling their own lives.

We understand that this can be a complex and touchy issue related to the age of the individual, the person's intellectual disability, the culture of the individual family, and the nature of the decisions that must be reached. Still, people with developmental disabilities urge their family members to think hard about how decisions are reached over services. And so, there is a fourth pointer for families: Self-determination is ultimately about supporting the individual to live the life he or she

wants, not the life that family members want him or her to live. Given this counsel, we look forward to the strong partnerships that will certainly emerge, within the context of self-determination, between adults with developmental disabilities and their families. After all, we understand that self-determined individuals come from knowledgeable, empowered families.

Section III: Employee Qualifications

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Personal Assistance What It Is and What It Is Not – Judith Snow

Who Can Be An Employee?

*The participant or representative acting with Employer Authority may employ persons to provide assistance and support. Employees must meet all qualifications identified in the Qualifications and Required Training for Employees (next section) for each of the service(s) they may be delivering.

*In general terms, a person who is fiscally responsible for the care of a participant cannot be a paid employee for supporting that individual. Examples of persons with these responsibilities include spouses, parents of minor children, legal guardians with fiscal authority, or representative payees. Services and supports may be provided by a family member or legal guardian if the participant or other designee is the employer. *(Refer to Section I – Determining Who is the Employer).* Parents or others disallowed from providing paid support to their own family member can provide support to another family/participant in which case they may receive reimbursement.

A person can work at another job (for example at WalMart) and still be a direct service employee in this program. Along the same line, a person can work with several different participants who are self directing with employer authority, however, that person must complete fiscal agent employee paper work for each participant/employer they will be working for. This can allow multiple employees to work for multiple participants and for employers to combine and/or create employee pools for service coverage.

A person providing unpaid, natural supports may perform any duty to help meet identified needs on the participant's Plan of Care. Unpaid persons do not have to meet minimum training or other requirements. If any person at any time, will be reimbursed through a cost plan for providing assistance and support, they are subject to the training, qualifications, and other requirements.

Qualifications and Required Training of Employees

All employees the participant hires to provide direct services must meet minimum qualifications established by the waiver for each service.

First Aid Certification

Depending on the service provided, some employees are required to maintain **current** First Aid certification throughout the course of their employment. If the employees' First Aid certification expires, then the employee may not be paid for providing services to the participant under the Self-Direct with Employer Authority option. Resources for training are listed in Appendix D at the end of this handbook.

College of Direct Support

Depending on the service provided, some employees are required to complete training modules in the College of Direct Support. This is an on-line training *(there is no fee to the employer or the employee) and can be completed through any computer with internet access. Contact the Developmental Disabilities Training and Development Specialist *(listed in Appendices)* for assistance in accessing this website.

Other useful information and subject matter is also available in the College of Direct Support. Employers may look at the CDS training list and consider other courses they want their employees to complete. Any training offered through CDS can be accessed by the employer and employees at no cost. Contact the DDP Training and Development Specialist for more information for assistance in accessing this website and setting up employees.

Remember, it is the participant's responsibility, as the employer, to ensure that his/her employees maintain the appropriate training certifications. A copy of the employee's current training certification card(s) must be on file with the fiscal agent *within 30 days of hire for the employees to continue to be paid for providing services to the participant.

Required College of Direct Supports Training for
Direct Service Employees

TIER I

1. **SAFETY AT HOME AND IN THE COMMUNITY**
   - Lesson 1 Risks, Choice and Common Sense
   - Lesson 2 Fire Safety
   - Lesson 3 Responding to Emergencies

2. **MALTREATMENT OF VULNERABLE ADULTS AND CHILDREN**
   Lesson 1 Defining Abuse, Neglect and Exploitation
   Lesson 2 Preventing Abuse, Neglect and Exploitation
   Lesson 3 Reporting Abuse, Neglect and Exploitation
   Lesson 4 Documenting Abuse, Neglect and Exploitation

3. **INDIVIDUAL RIGHTS AND CHOICE**
   Lesson 2 Identifying Restrictions of Rights
   Lesson 4 Your Role in Supporting Expression of Rights and Facilitating Choice

7. **DOCUMENTATION**
   Lesson 3 Effective Documentation
   Lesson 4 Confidentiality in Documentation

Employees providing services to the participant should be aware of how to use emergency assistance systems and be:

- knowledgeable of the participant's physical and mental conditions;
- knowledgeable of the participant's common medications and related conditions

The participant's employees should be competent in understanding rules, policies and procedures that include, but are not limited to, how to:

- protect the participant's health and safety;
- protect the participant's individual rights;
- follow reporting procedures;
- recognize and prevent abuse, neglect and exploitation;
- apply training techniques; and
- safely manage their own and the participant's behavior.

(These are accomplished through a combination of the CDS training and training from the employer, with possible assistance from the Support Broker)

The participant, the participant's representative or family can also require other qualifications. For example, the participant may require knowledge of sign language, or the ability to prepare special diets.

Specific Staff Qualifications for each service:

Respite:

Staff qualifications and conditions of self direct service delivery:

- Must be a minimum of 16 years of age
- Not required to pass a criminal background check when employed by participant, family or guardian
- For participants under 18 years old may be provided by the participant's relatives, but may NOT be provided by the parents/legal guardian.
- For participants over 18 years old may be provided by the participant's parent or relatives, but may NOT be provided by the participant's primary caregiver, spouse or a legally fiscally responsible person.
- Must be knowledgeable of the physical and mental conditions of the recipient;
- Knowledgeable of the common medications and related conditions of the recipient; and
- Capable of administering basic first aid.
- If providing transportation to the participant, the employee must have:
  a. A valid Montana driver's license;
  b. Adequate automobile insurance as determined by the department;
  c. Assurance of vehicle compliance with all applicable federal, state and local laws and regulations

Personal Supports:

Staff qualifications and conditions of self direct service delivery:

- Must be a minimum of 18 years of age
- Must pass a criminal background check
- Must receive in-service training in abuse reporting, incident reporting, client rights, client confidentiality, service documentation requirements, first aid, and other identified needs.
- For participants under 18 years old may be provided by the participant's relatives, but may NOT be provided by the parents/legal guardian.
- For participants over 18 years old may be provided by the participant's parent or relatives, but may NOT be provided by the spouse or a legally fiscally responsible person.
- If providing transportation to the participant, the employee must have:
  a. A valid Montana driver's license;
  b. Adequate automobile insurance as determined by the department;
  c. Assurance of vehicle compliance with all applicable federal, state and local laws and regulations

Supports Broker:

Staff qualifications and conditions of self direct service delivery:

- May be provided by a person the participant, the participant's family or representative has hired or
- May be provided by an agency contracting with DDP to provide this service. The participant's parents, spouse, legal guardian or employees of agencies providing other DDP funded services to the participant cannot be hired as the participant's supports broker.
- Any persons who function as the participant's conservator, payee, or who have any other money management responsibilities for the participant cannot be the participant's Supports Broker.
- Must be a minimum of 18 years of age
- Must pass a criminal background check
- Must be certified as Supports Brokers before being hired.
- Must be competent in the areas of:
  - ✓ abuse reporting,
  - ✓ incident reporting,
  - ✓ client rights,
  - ✓ client confidentiality,
  - ✓ fiscal management service forms and billing procedures,
  - ✓ scheduling of direct service workers,
  - ✓ on call and emergency back-up support models,
  - ✓ person centered planning,
  - ✓ individualized budgeting,
  - ✓ recruitment, hiring and firing of direct support workers,
  - ✓ the grievance/fair hearing process,
  - ✓ negotiating service rates,
  - ✓ DDP funded service options,
  - ✓ other skills and competencies as required by DDP and DPHHS.
- Must maintain certification in accordance with DDP requirements.

Criminal Convictions Background Check

A criminal conviction background check must be obtained and verified by the fiscal agent before the participant can hire a potential employee, except when the staff will only be providing respite services. This check provides assurance that employees do not have a criminal convictions history that would prevent them from working in a Medicaid funded program. The applicant must authorize the fiscal agent to access his/her criminal convictions history through the "*Employee Agreement Form*" found in the Start-Up Packet.

The fiscal agent will notify the participant/employer once the applicant is cleared for hire. It will take the fiscal agent approximately four (4) business days to process the criminal conviction history check. If the participant does not receive the results within this timeframe they should notify the fiscal agent.

Some criminal convictions prevent employment as a paid employee. If there is a criminal conviction that does not prevent employment, the participant/employer will be given a choice if they still want the applicant working with the participant. If the participant/employer decides that they still want to hire the applicant then they must complete a "*Criminal Background Check History Acknowledgement and Waiver*" form (provided by the fiscal agent) to acknowledge that the employer has been informed of the applicant's criminal conviction and still wants to hire him/her. The completed form must be signed by the participant/employer, and submitted to the fiscal agent before an applicant will be cleared to work with the participant.

Note: Eligibility for a former employee must be re-established based on the date he/she is re-applying for employment. Qualifications must be confirmed and current as if the former employee had never worked for the employer before.

Criminal Offenses Prohibiting Employment

A participant may not be employed if he/she has been convicted of a felony offense listed below:

HOMICIDE
1. deliberate homicide
2. mitigated deliberate homicide

ASSAULT
1. assault
2. aggravated assault
3. intimidation
4. mistreating prisoners
5. partner or family member assault
6. criminal endangerment
7. assault on peace officer or judicial officer
8. assault on minor
9. assault with a weapon
10. stalking
11. malicious intimidation or harassment relating to civil or human rights

KIDNAPPING
1. kidnapping
2. aggravated kidnapping

SEXUAL CRIMES
1. sexual assault
2. sexual intercourse without consent
3. deviate sexual conduct
4. incest

OFFENSES AGAINST THE FAMILY
1. aggravated promotion of prostitution
2. endangering welfare of children
3. unlawful transactions with children
4. sexual abuse of children
5. ritual abuse of minor

ARSON

OFFENSIVE, INDECENT, AND INHUMANE CONDUCT
1. cruelty to animals

WEAPONS
1. carrying concealed weapons
2. carrying a concealed weapon while under the influence
3. carrying concealed weapon in prohibited place
4. possession of a destructive device
5. firing firearms

OFFENSES INVOLVING DANGEROUS DRUGS

1. criminal distribution of dangerous drugs
2. criminal possession with intent to distribute
3. criminal distribution of dangerous drugs on or near school property
4. criminal production or manufacture of dangerous drugs

THEFT/FRAUD

PRE-RELEASE WORKERS

Effective 8/1/06, participants in pre-release programs are not eligible to be considered for employment in agencies funded by the Developmental Disabilities Program

READINGS

Personal Assistance
What It Is and What It Is Not
by Judith Snow, MA

Personal assistance is a form of support for people who are labeled disabled. People who have been given a disability label are people who have an unusual limitation in their physical functions, their thinking and/or their emotional expression. For example, they may use a wheelchair for mobility, or their speech may be inarticulate or they may have thoughts and perceptions that other people don't have.

Until recently society has had only four responses to a person who becomes classified as disabled as a result of birth anomalies, injury or illness. The first response is to go to great efforts to bring or return the person to "normal" functioning - whatever "normal" is in any particular society. When these efforts are successful a person can keep their status as an "ordinary citizen".

When a person cannot achieve "normal" status, sometimes their differences opened a specific role for them in their community. For example, until very recently, a person with visual impairment would expect to learn to cane chairs and the community would expect that role to be reserved for that individual. Formerly, in some aboriginal communities, a person who had thoughts considered irrational would become a wandering storyteller, freely seeking and receiving friendship, food and shelter for weeks at a time in different homes.

When these responses to troubling differences don't work, compassionate custodial care has often been the next response. People with different abilities frequently spent their lives in home-bound or institution-bound situations, being looked after and/or guarded by others. Thus communities everywhere often supported, and still maintain, asylums of various types.

In the last fifty years many people with physical, cognitive or emotional support needs, along with family and friends, have fought for the opportunity to live, work, and participate like "regular folk". They needed a different response than society has been accustomed to providing. They weren't going to become "normal", they didn't want to settle for stereotypical roles, they didn't need to be "cared for" and they certainly weren't prepared to die. Leaders invented the unique support they required and fought to make it widely available.

They invented personal assistance. What is personal assistance? It is not being a nurse, a butler or a housekeeper although at times it may resemble these roles. Personal assistance is functional support provided through a personal relationship. It is a response that makes it possible for people with unusual abilities to participate fully in the community, contribute to society.... and have great lives.

Personal assistance involves assisting in the daily tasks that a person cannot carry out by themselves or that they find so time consuming as to interfere with other important activities. These tasks fall in the areas of hygiene, nutrition, grooming, mobility, and communication. The need to perform these tasks can arise anywhere, anytime - at home, at work, out shopping, visiting friends, etc. Personal assistants are the important "sidekicks" who assist people with these essential activities, making everyday participation a reality.

The types of tasks performed by personal assistants are the same in all situations. The actual functions vary depending on the individual who is being supported. For example, one individual who uses a wheelchair and is an accountant may require help with showering (hygiene), food preparation (nutrition), support to get into a suit and tie (grooming), chauffeuring of their accessible van (mobility), and filing and desk set up at work (communication). A person who has cognitive differences and owns her own baking business may require someone to remind her about showering (hygiene), make a shopping list with her for her home and business kitchens (nutrition), coach her on clothing selection (grooming), assist with budgeting for bus tickets (mobility), and do invoicing and bookkeeping for her baking business (communication). A third person who has extreme mood swings and is an artist may need physical assistance to bathe when depressed, coaching in food selection, reminders about the need to shop for clothes, support to recognize when not to drive, and assistance with advertising and selling creations.

Personal assistance is paradoxical in nature. Like other forms of support, well executed personal assistance is nearly transparent. Just as I don't want to be conscious of the elevator that is transporting me hundreds of feet in the air, and I soon stop noticing the hum of the refrigerator that is preserving a week's supply of food, a skilled personal assistant can perform his or her functions without overshadowing the contributions and personality of the person who is being assisted. When I am giving a speech to two thousand people, the audience remains unaware of the bathing, grooming, wheelchair maintenance, chauffeuring, and note taking that got me to the podium.

Unlike an elevator or refrigerator, though, the person of the personal assistant is an essential element of the job. Personal assistance is an ongoing transaction between two people. It is a dance which is led by the person who is building and fulfilling their place in the community and who relies on the interface their assistant provides to be able to function in an otherwise inaccessible world.

Each person in the dance must be fully committed to the dance. The personality, interests and skills of the assistant and the supported person must complement each other. Each must bring a willingness to be with each other, open themselves to each other, be honest, straightforward and respectful, and each must responsibly ensure that the leader of the dance really leads. The leader is, of course, the supported individual.

Personally, I hire only energetic people who love to drive, are physically well and strong, and who are motivated to change the world. Why? Because I travel a lot as part of my work, I am active for fourteen to eighteen hours a day, I go into inaccessible places fairly often and I am an activist building an Inclusive world. My personal assistants have to be quick, strong and motivated just to keep up with me. Another person with the same sort of quadriplegia could be much more interested than I am in neighborhood activities, like gardening, church and going to movies and theatre. Their personal assistants would need to very different persons.

These essential qualities of personal assistance – transparency and relationship – are rarely understood or recognized. A number of standard practices still exist that diminish the potential of this support. First, individuals are rarely provided with the money and the opportunity to hire their own assistants. Instead money flows to agencies and schools which, in turn, hire a cadre of workers and assign them a "case load". Supported individuals have no choice over the identity of their assistants, their job descriptions, or the type and means of their training. Consequently, the personal nature of the working relationship doesn't get established and the support doesn't become transparent. The subsequent activity cannot lead to sustained community participation.

Another limitation on the full development of personal assistance has been that resources are typically doled out in meager amounts. Most personal assistants are underpaid and so leave their jobs too soon. This creates instability and emotional stress for the supported individual, their family and friends. Also, because of lack of funds, many people who use personal assistance have fewer hours of support than they really need to become full participants in society. While nursing and group homes still have ample resources and continue to contribute to isolation and dependence, the support that truly leads to community participation is rendered inadequate.

Yet another limitation on the full development of personal assistance has been that resources typically are allocated only to individuals who can already show that they can direct their own "care", or to family members of those who have the "potential" to be self directing. This leads to a vicious circle. Personal assistance creates the capacity to be responsible. Without personal assistance many individuals who function in unusual ways have no means to develop and demonstrate their own capacity to create and manage their community roles and personal accountabilities. If access to personal assistance depends on first demonstrating capacity, many individuals will forever remain segregated and helpless.

In 1979 I was a chronically ill patient in a state supported hospital for people who are expected to die of their physical problems. In 2001 I am a self employed homeowner who works internationally, employing four individuals. Neither my physical limitations nor my mental acuity have changed much over the years. What did change was that the province of Ontario, Canada was persuaded in 1980 to pay me to hire my own personal assistants. I was put in the driver's seat of my own life.

Another limitation on the acceptance of personal assistance as the ideal support vehicle is that the powerfully personal nature of good support rarely gets recognized and nurtured. A well supported individual and a truly attentive personal assistant typically form a good friendship - one that often lasts long after the job has ended, and may even deepen into love. Agencies often try to ignore or forbid such intimacy, leaving both supported individual and assistant vulnerable to a host of difficulties.

Confusion of roles, emotional fragility, misunderstandings, even abuse are rampant in agency-driven support. Caregivers blame the clients and the service users blame the agency and staff. In reality, the problems arise because the essentially intimate nature of personal assistance is being ignored or suppressed. Rather than guide and encourage two people to take on a uniquely vibrant journey in their lives, agency driven policy usually assumes that nothing is going on and mandates that nothing will happen – instituting denial. Both people are expected to act like robots, and the capacity of the relationship is diminished, leading to less participation from supported individuals and dissatisfaction among workers.

In reality intimacy is an ordinary aspect of personal assistance. This intimacy is not sexual. It arises because people are in physical and emotional contact, sharing a deeply personal experience. Their communication has the potential to reach profound, nonverbal levels. Any intimacy has the capacity to spark love and hate. Personal assistants and supported individuals experience this emotional, spiritual roller coaster as an almost daily matter of their lives. This must be recognized as a fact. People on both sides of the relationship must be offered support to recognize the true nature, value and power of their experience.

I have an active support circle of friends and colleagues. I also have four to six personal assistants at any particular time. Several members of my support circle make themselves available to hear assistants' concerns, explanations and proposed solutions. My support circle does the same for

me. From time to time, and especially when there is a problem, a circle member will bring us together so we can talk about our realities.

Many of my personal assistants have worked for me for at least three years. Several have remained my friends long after working for me. I believe that this has been made possible because we are sustained by my community in negotiating the intimate aspects of our journey together.

Personal assistance is an essential evolution in human support. It makes it possible for a much wider diversity of people to live, thrive and take their place in the world. As a community support, personal assistance deserves better funding, deeper understanding, greater visibility and wider availability. Governments must adopt personal assistance as the support of first choice, not last. Schools must list personal assistance as a valued career choice. We all must recognize that this support is as essential to fifteen percent of our population as transportation and sewage disposal is to all citizens. Our communities will be stronger when we recognize, celebrate and adequately resource this relationship-based vehicle for creating and sustaining full participation.

INCLUSION PRESS

Section IV: Recruiting, Interviewing, and Hiring Applicants

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Job Descriptions

Information in this section is excerpted from:
Recruiting, Managing, and Training of Personal Assistants: A Handbook for People with Disabilities by the Coalition of Texans with Disabilities and the Texas Planning Council for Developmental Disabilities

For detailed Montana Employer information/laws go to:
http://dli.mt.gov/resources/laws.asp

An important key to the participant's success is a specific, easy-to-understand job description for employees. The job description must be consistent with the participants approved plan of care, including the services and duties identified to meet the participant's needs.

Service Descriptions can be found on the Developmental Disabilities Program website at:
http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml .

When accessing the website,

1. Click on the appropriate waiver :
   Children's Autism Waiver MT.0667.R00.00 ,
   MT 0208.90.R04.02 Waiver,
   MT 0371 Community Supports Waiver.

2. After clicking on the appropriate waiver, go to Appendix C on the screen and scroll to the service name you are wishing to learn more about.

Remember, employees are only paid to provide those supports needed to help the participant reach the outcomes approved in the plan of care. Services that do not meet the waiver categories from the plan of care will not be paid under the waiver.

Before talking with prospective employees, the participant/employer should write out a brief description of the job to provide the potential employee with details of what they would be doing to support the participant. A job description is used to define duties and manage the time of the participant's employees. It is not meant to replace

any training or specific directions but is useful in deciding what training an employee will receive. The job description should be ready to hand out when a possible employee is interviewed.

The following are some reasons why it is important to have a job description:

- The participant/employer will have identified exactly what supports he/she needs from the staff.
- It can be used to help develop questions when the employer interviews applicants.
- It gives applicants a clear idea of what the position requires.
- After the employee has been hired, it may serve as a checklist of duties.
- It may be used as a way to evaluate the employee's job performance.
- It will help the employer know what is and what is not okay to ask the employee to do.
- It may help settle disagreements between the employer and the employee about the duties of the job.
- It helps keep the lines of communication open.

A job description should include the anticipated days and times the participant wants the employee to report to work, the employee's duties (including the assistance the participant needs in reaching personal outcomes as identified in the approved plan of care), and any special requirements the employer has for the employee to meet the participant's needs. An example job description is available in Appendix E-2 at the end of this handbook.

Recruitment and Advertising

Now that the participant/employer has completed the job description, they are ready to recruit and advertise for potential employees. There are many methods of advertising and recruitment that the participant can use when looking for good, dependable employees. Do not discount any possibility. Below are some suggestions for finding prospective employees:

- Newspaper Advertisements
  Classified ads in newspapers are an efficient method to reach a large audience. Neighborhood newspapers are cheaper than major citywide newspapers, and are good to target potential employees who live closer to his/her home.

- Local Newsletters
  Sometimes disability and other community organizations and churches will run short ads in their newsletters.

- Colleges and Universities
  Colleges can be an excellent source for finding employees. Many students are looking for extra income to help them through college. Students that have majors in the area of health and human services are often looking for work experience. To advertise a position, contact the career placement office or the student housing office on campus. The participant might also try health related education departments such as physical therapy, occupational therapy, and nursing.

- Word of Mouth
  Don't forget to ask family, friends and neighbors if they, or if they know of anyone who would make a good employee for the participant. Let them know what qualifications the participant are looking for, and ask them to tell others about the position, too.

- Local Agencies
  Social service organizations often keep a registry or list of direct service workers who may have received some basic training or have work experience.

- Bulletin Boards in High Traffic Areas
  Hang flyers on bulletin boards in high traffic areas, such as: grocery stores, banks, apartment buildings, restaurants, community centers, and churches.

- Local Employment Offices/Rehabilitation Agencies
  One source often overlooked is rehabilitation agencies. Talk to their staff, hang flyers, and get the word out.

- Networking
  Exchange of information, names, resources, and services among and between other participants/employers who are self directing with employer authority. Web applications such as Facebook or Twitter could be useful tools to share information.

Contents of an Advertisement

The more complete the information in the advertisement, the more the participant can be sure that the prospects that contact the participant are truly interested, and potentially qualified for the job. It is a good idea to include:

1. The participant's first name (It is recommended **NOT** to use the participant's last name.)
2. Job title and a short description of the job
3. Phone number

Helpful information the participant may include:

1. Hours
2. Qualifications required
3. Compensation and benefits offered
4. General Location

It is **not** a good idea to include the participant's address or other private information in the advertisement.

The participant/employer may want to have the first meeting with an applicant in a public place rather than in his/her home.

The following is a sample advertisement that the participant/employer can use as a guide:

> **Personal Supports Worker** - Needed to assist male with physical disabilities needing supports in the areas of personal care, shopping, and light housekeeping in the Helena area. Part-time, 4 days/week. Flexible schedule available. Drivers license preferred. This is an ideal position for a college student. $__.__/hr. Call (406) 111-1111 evenings for more information.

To ensure consistency, it's recommended that applicants fill out a job application. A sample Job Application is at the end of this handbook in Appendix E-1, or in the fiscal agent Start-Up packet.

Screening Applicants

The Initial Telephone Contact

Give a brief description of the duties of the position, amount of hours the job requires, and the amount and method of pay and any benefits the participant will be providing.

If the applicant is interested, ask applicable questions, and record answers:

- Will the applicant give me his/her name, phone where the applicant can be reached, and address?
- What days/hours is the applicant available to work? Does the applicant have any times when he/she is more/less available that I need to consider? Are there days the applicant definitely cannot work?
- Have the applicant ever assisted or worked for a person with a disability before? (If yes) Tell me a little about the kinds of tasks the applicant performed.
- Does the applicant have reliable transportation?
- Is the applicant at least the age required for the service and does the applicant have a valid Social Security number?
- Is the applicant allergic to pets? (If the participant has a pet in his/her home)
- Are there tasks the applicant objects to performing (i.e. bathing, toileting, and dressing)?
- Does the applicant have any experience in lifting, transferring, and positioning? (If the participant needs assistance with these activities)
- Can the applicant cook and would the applicant mind doing housework?

Tell the applicant the employer will call back to make an appointment for an interview (if the employer is interested in a face-to-face interview).

Even if the applicant is unsuitable for the job, always thank them for their interest.

Conducting an Interview

The Personal Interview:

Call those applicants that appeared to be good prospects and schedule each for a face-to-face interview. When scheduling the interview, the employer may consider meeting at a "neutral" location outside of his/her home for personal safety purposes. Allow plenty of time between each interview.

The interview is important because this is the time when the employer lets the applicant know about the job in detail and gathers information about the person that the employer may hire as an employee. Consider asking a friend or family member to join the participant so that the employer can compare his/her assessments of the applicant.

Ask the applicant to bring:

1. A Montana Identification Card or Drivers License, Social Security card,
2. Proof of automobile insurance (if the applicant will be driving their own car as part of the job),
3. Names and numbers of at least three (3) references, and
4. Proof of address when the applicant comes for an interview.

When the applicant arrives there are a few suggestions that can make the interview successful. Some things may need to be repeated from the telephone contact for clarification purposes:

- Help the applicant feel as comfortable as possible, and get to know each other a little.
- Tell the applicant about the participant's disability in general. The employer will speak more in specifics during training if the applicant is hired.
- Ask the applicant to see his/her identification. Examples include a valid Montana Drivers License or Identification Card with a picture, and Social Security card.
- Ask the applicant to fill out an employment application. Employment applications are useful because they are a good way to keep up with the applicants that the employer has interviewed. They also simplify record keeping and are an easy way to have quick access to the information the employer will need to make a final decision. It will give the employer good information to ask questions about during the interview as well as provide a

good resource for back-up or substitute workers if the participant's regular employee is unable to get to work.

- Give him/her a copy of the job description to read and explain the duties and responsibilities of the job thoroughly. Ask if he/she can safely perform the functions of the job (i.e. lifting, transferring, etc.).
- Ask the applicant to tell the employer about him/herself. Be sure to ask questions about past work history, reasons for leaving other employment, any past experience with personal assistance, and why they are interested in this position. Ask if the participant may contact former employers for a job reference. Ask about their career goals and why they are pursuing this type of work.
- Describe the work schedule, pay method, any benefits and leave plan, and the employer's method of evaluating an employee.
- Give the applicant an opportunity to ask questions.

Tell the applicant the employer will call as soon as a decision is made. (Be sure to contact the applicant even if the employer decides not to hire him/her). Thank them for their interest and time.

Sample Questions for a Face-to-Face Interview with an Applicant

The following are a few sample questions the employer can ask during the personal interview to help choose the participant's assistant:

- How far does the applicant live from the job? (Turnover tends to be higher among workers who commute long distances.)
- Has the applicant had any experience giving personal care?
- Tell me how the applicant approaches multiple tasks to ensure that all are performed.
- Is the applicant comfortable performing personal care duties such as bathing and toileting?
- What does the applicant think will be the best and worst part of this job? What did the applicant like best and least about his/her last job?
- What are the applicant's best and worst qualities?
- Why is the applicant interested in being a personal assistant?
- Give me an example of how the applicant has handled disagreements with his/her past employers.
- Describe a hypothetical "scenario," and ask what the applicant would do in that situation.

When interviewing applicants, apply the same standard that is applied to selection of job applications – ask only about things that are directly related to the job requirements for the position under consideration. Do not ask personal questions that do not apply directly to the job requirements. Remember, it is against the law, to discriminate against an applicant because of his/her race, color, religion, gender, sexual orientation, natural origin, or disability. Ask all the applicants the employer interviews the same questions to ensure the employer can compare their responses fairly.

The following are guidelines on what the employer can or cannot ask during an interview:

Subject	Do NOT Ask or Do	May Ask or Do
Marital Status	Is the applicant married? Single? Divorced? Engaged? Separated? Maiden Name?	**AFTER** hire, marital status fo insurance or tax purposes
Children	Does the applicant have children? How old? Who takes care of them? Does the applicant plan to have children?	AFTER hire, number and ages of children for insurance needs only.
Housing	Does the applicant own his/her home? Does the applicant rent? Does the applicant live in an apartment or a house?	If the applicant has no telephone, how can I reach th applicant?
Criminal record	Has the applicant ever been arrested or spent time in jail?	Has the applicant ever been convicted of a serious crime
Military status	What type of military discharge does the applicant have? In what branch did the participant serve?	Is the applicant a veteran? Doe the applicant have job-related military experience?
National origin	Of what country is the applicant a citizen? Nationality of his/her parents? Native born or naturalized? What languages does the applicant use?	Is the applicant a U.S. citizen? I not, does the applicant have th legal right to remain permanently in the U.S?
Age	How old is the applicant?	Is the applicant over 18? AFTE hire, exact age or date of birth can be asked.
Ethnic background	Any questions about ethnic origin are not permitted nor are any comments regarding complexion of color on skin.	
Religion		AFTER hire, the employer may ask about religious observance that may interfere with work.

Checking References

Before the employer decides which applicant(s) they want to hire, check their work and personal references. Checking references is essential and can give the employer valuable information about the applicant. Be sure to ask the applicant his/her current employer can be contacted for a reference check.

The employer can ask the following, but the previous employer is not legally required to provide the employer the information:

1. Did (name of applicant) work with the employer during (dates of employment)?
2. What kind of work did he/she do for the employer?
3. Why did (name of applicant) stop working for the employer?
4. Did he/she arrive to work on time?
5. Would the employer hire him/her again?
6. What were his/her strengths?
7. What could have been improved about his/her job performance?

Statistics indicate that if the applicant has held three or more jobs in the last five years, it is a sign they may not last. Be sure to check both work and personal references. A sample reference check form is in Appendix E-4 at the end of this handbook.

Making the Decision

It is important to think carefully about the people that the employer has interviewed. Think about the information the employer received from the interviews and how the applicant responded. How something is said can be as important as what is said. Think about what the references told the employer.

Here are some questions the employer may want to ask him/herself when considering those interviewed:

- Was there anything that stood out in the interviews?
- Did the employer feel comfortable with this person?
- Did the applicant seem uncomfortable about some of the employer's questions? Which ones?

If the employer is having trouble deciding, talk to the Supports Broker or Case Manager. Sometimes talking about things with someone else can help the employer decide which applicant is the best choice.

If the employer has decided on an applicant to hire, contact the potential employee and ask if he/she is still interested in the job. If they are, then ask them to complete the required forms in the Start-Up Packet.

Wait until the fiscal agent notifies the employer that the applicant is clear for hire before allowing the applicant to do any work. The fiscal agent usually notifies the employer of an applicant's eligibility for hire within four (4) business days.

Notify the applicant of his/her **start date**, which can be no earlier than the date the fiscal agent clears the applicant for hire.

Getting Started With/Training New Employees

After the applicant has been cleared for hire by the fiscal agent, he/she may begin working with the participant.

On the employee's first work day, the employer should summarize many of the things discussed during the job interview. The employer will review the authorized tasks that the employee will be doing with the participant, showing them where necessary supplies are kept and how the participant would like things done. The employer will also go over the employee's work schedule so that everyone is clear on what days the employee will be coming, how many hours they will work each day, and the procedure for completing timesheets and progress notes. Then, the employer will want to share all of the information the employee needs to give the best care and protection if an emergency occurs.

Employees need to know the following information:

- Personal information that the staff needs to know about the participant's abilities to perform daily activities;
- Any health issues that will require special actions on the employee's part.
- How to correctly use any special equipment that helps with daily activities or maintains the participant's health.
- Steps in carrying out assigned tasks & procedures;
- Any allergies or special dietary concerns and how the participant would like the employee to respond to these concerns.
- If the participant needs assistance with self-administration of medication.
- Who to contact in case of an emergency.
- How to get out of the house in case of an emergency.
- The best times for the employer and employee to contact each other and the phone numbers where each of the persons can be reached.
- Incident management and reporting;
- Documentation and where to find it;

The employer should be sure that each employee agrees to the following:

- The specific tasks the employee will perform with the participant;
- The hours and days the employee is expected to work and the need for advanced notice to the participant/employer when the employee is unable to work the scheduled hours;
- The rate of pay, pay period, and pay days;
- Overall expectations related to the employee's job performance; and
- Under what conditions the employee may be released or fired from his/her duties.

Tips for Training New Employees

Training is one of the most important parts of managing employees. The participant is the expert in knowing care needs. Even experienced employees need to be trained in how the participant wants things done.

There is more than one way to train employees. Some people will respond well to oral directions while others may respond better to hands-on demonstrations.
If the participant is training a new employee, here are things that the participant may want to do:

- Give a lot of examples and explain any technical terms the participant use.
- Talk about any symptoms or health concerns they need to be aware of. Include anything that may arise and how to handle the situation.
- As the participant goes through his/her routine, explain why tasks need to be done. This will help the employee realize the importance of these tasks.
- Provide training on how to operate any life support equipment the participant has. Include how to properly handle and clean this equipment or any other medical supplies the participant uses.
- Ask employee for feedback as things are explained. Maybe there is a way the employer could be clearer in his/her explanations.
- Stress the importance of documentation of tasks and times.

By providing good training up front, the participant may increase the chances of his/her employee being able to be more effective at their job. Taking more time to provide training in the beginning can lead to better overall results. Be patient with employees; learning how to do new things may take awhile. Don't become frustrated if the employee does not catch on right away.

The employer should document all training provided to employees and keep it in each employee's file. Documentation should include the name of the employee, the date(s) the training was provided, and topics covered.

The *"Developmental Disabilities Program Self Directed Services Training Plan Checklist*" is included in the Appendix F of this handbook and will be **required** in plans of care for participants Self Directing with Employer Authority.

Setting Schedules, Pay Rates and Job Duties

Setting Employees' Work Schedule

The participant/employer will set employees' work schedules based on service specifications in the approved Plan of Care and budget. The schedule that is developed should meet the participant's needs and be clear to everyone.

Here are some suggestions, to develop a schedule:

- Schedule employee(s) on a monthly basis. If changes need to happen, there is time to work out the details.
- Post the schedule in at least one place.
- Give a copy of the schedule to employees.
- Give advance notice for schedule changes (both the participant and the employee). For example, if the participant is going on vacation, tell employees ahead of time about the change in the work schedule.

Specify with staff their hours, the number of hours per day, and days per week that the participant expects them to be on the job. Stress the importance of a regular schedule and advanced notice of days or hours they are not available. Stress arriving and leaving on time.

Setting Employees' Hourly Pay Rates & Benefits

The participant/employer will set an hourly pay rate for employees within DDP approved rate guidelines.

Check the "Paying for Your Supports" section in the fiscal agent Start-Up Packet to find out how much the participant/employer can pay employees for each service.

Setting Employees' Specific Tasks

Tasks are activities that employees do to assist the participant in maintaining independence and meeting personal outcomes. Examples of tasks include assistance with bathing, driving, cleaning, and cooking. Remember, employees need to document the tasks they complete on a daily basis.

Tasks can be scheduled on a daily basis and/or on a weekly basis. Here is an example of a morning task schedule:

6:00 – 6:30	Get up; assist with showering, dressing, and brushing hair and teeth
6:45 – 7:15	Make breakfast, assist with eating, clean up dishes
7:15 – 7:45	Assist with toileting, make lunch, and take medications
8:00 - 8:30	Wait and assist with carpool to work.
	Shift done after leaving for work with carpool

Here is an example of a weekly task schedule:

Monday	Daily tasks and pool therapy
Tuesday	Daily tasks, ironing, clean bathrooms
Wednesday	Daily tasks, clean kitchen and refrigerator
Thursday	Daily tasks and pool therapy
Friday	Daily tasks and clean bathroom and living room
Saturday	Daily tasks and laundry
Sunday	Daily tasks, grocery shopping, and errands

Remember, the participant/employer will set specific tasks based on the outcomes and actions, as specified in the approved plan of care. The employee's specific tasks should be listed on his/her job description.

READINGS

Recruiting Through All Cycles
Best Practices Tips for Screening Resumes and Candidates
Based on an article By John Vlastelica

How do you screen the masses quickly and effectively so that you spend your limited time on the candidates who are most likely to succeed? How do you improve your chances of filling that precious head count with a top performer?

Best Practice Resume Screening

1. Ensure your posting is attracting the right kind of applicant. Some active job applicants may apply for anything – even if they're not remotely qualified – so it's key that you outline more than just years of experience, educational and certification requirements, and healthcare buzzwords in your postings. Be specific about the kind of track record and accomplishments your ideal applicant must have.
2. Look beyond keywords. Smart candidates have figured out that if they load up their resumes with more healthcare related buzzwords, they're more likely to rise to the of the search results. We want candidates with hands-on experience using the skills listed on our job postings. So, focus on resumes that show where and when the skill was used. Keywords that show up in the bullets under job overviews are typically better than keywords that show up at the top or bottom of resumes in the skills section.
3. Get help by creating a questionnaire. Create a simple, 10 question or less questionnaire to help you rank your applicants. Use questions that pull our more details about the key skills and accomplishments you need. Refer to job duties and responsibilities from your job profile and postings to develop the questions. "How many years have you been responsible for (key responsibility)?" "What specific (job duty) skills have you used?"
4. Think about what your ideal resume would look like. Make sure you are clear about what you want before screening starts. Are the "must haves" really must haves, or is there flexibility? Why would one resume go into the "yes" pile while a similar one might go into the "no" pile? Are there some alternative experiences that you like just as well as the requirements on the job posting? Are you all over the place – unsure what you want? Locking down resume profile expectations will save time for everyone and focus your resume screening efforts.
5. Focus on deal breakers . When you screen candidates ensure you are crystal clear about deal breaker qualifications so you can screen out unqualified applications so you invest time with interviewees who are most likely to meet your needs. While it would be nice to know where you want to be in 5 years, that's not generally where you want to focus. Instead you want to ensure each candidate has the required capabilities, meets your required salary and eligibility requirements, and genuinely wants to do this type and level of work.
6. Get examples of related accomplishments – Ideally you want to focus on the applicants who have already accomplished the type of goals your positions will focus on. Sure, responsibilities, years of experience, positions held, and credentials should be reviewed. But focusing toward on-the-job skills and job-specific accomplishments yields better candidates. What have they delivered to other employers? What kinds of consumers of their services have there been? What kinds of skills have they used? What kinds of resources and who have they worked with? These are questions that will really help you predict on-the-job success and performance.

7. **Work through a real problem or skill demonstration – While it is true that past performance is a good indicator of future performance, sometimes nothing beats present performance like a live demonstration of a skill or a real-time problems solving exercise. If possible, identify the type of challenge your successful hire will likely face on the job; nothing too hard and nothing that requires an intimate understanding of your situation, processes or culture – but something that you would want your top candidate to be able to tackle successfully. Ask them what they would do first, how they would do it, why they would do it that way, what they would do if they ran into this problem, and who they would involve.**
8. **In this economy, there is a greater risk of applicants who just want and need a job. Generally, we want and need people who are genuinely motivated to do this type and level of work. So be sure to dig into what they loved about their past jobs and what they hope to find if they get this job. Then compare their answer to your offering. Is it a good, honest match?**
9. **Protect your reputation as an employer – Just because there may be several or very few applicants, don't forget that you are building your credibility – your reputation as an employer – one employee at a time. Even though you will be in the driver's seat, you need to treat every candidate and employee with respect. Start your interviews on time, ask fair and relevant questions, let them ask you questions, and always follow-up.**

John Vlastelica is a former corporate recruiting leader with Amazon.com and Managing Director of Recruiting Toolbox, Inc. He is a specializing consultant that helps recruiters and hiring managers recruit more effectively.

The Best Recruits May Not Be Who You Think

By MIKE MICHALOWICZ

My best employee of all time was nicknamed Shaq. When I hired him, Shaq was barely qualified to use a computer, let alone conduct detailed forensic examinations on hard drives. I hired Shaq because during his interview he clearly demonstrated that he was intelligent, had a lot of energy and seemed to come out on the "glass half full" side of things during stressful situations.

When hiring new employees, most recruiters consider qualifications first – and last. They're looking for someone with the best education, the most experience and the most impressive skills. This is a mistake because you can teach employees what you want them to know, you can give them the experience you want them to have, but you can't change who they are on a fundamental level.

Their attitude, values, willingness and work ethic are all ingrained in them.
The most effective way to hire fantastic, loyal employees who will fit into your company culture and help you meet your goals is to hire them for their inherent abilities (that which can't be taught), such as personality, learning style and core values. You do this by identifying behavior patterns during the interview process.

I didn't hire Shaq just because he exhibited the attributes I was looking for in an employee. I hired Shaq because during his interview he demonstrated that he had a pattern of making intelligent decisions, and was energetic and positive in his approach. People will behave as they have in the past. If you ask questions designed to identify the patterns, you can predict how prospective employees will behave in similar situations.
The interview technique isn't easy because you have to be careful not to pass judgment on the answers. If your interviewee says, "I was class valedictorian," you say, "That's interesting... tell me more." If the interviewee says, "I killed the class valedictorian and buried him in my backyard," you say, "That's interesting... tell me more." (And call the police as soon as the candidate leaves the building.)

Here's how the interview process works. You might ask, "In high school, which class did you like the least?" When the candidate tells you he hated English class you say, "That's interesting... tell me more. Why didn't you like English class?"

Let's imagine the candidate answers, "The teacher was a dictator. I had to follow rules that made no sense." Now that you have this first bit of information, you start looking for a pattern.
Still looking for the pattern you ask, "What about your first job?" After you get through "tell me more," the candidate says, "I loved my colleagues, but I couldn't stand the bureaucracy. They had me filling out irrelevant forms all the time."

A pattern is starting to become clear. Do you see it? This candidate doesn't like rules. If your company depends on employees adhering to strict guidelines, he's not a good fit. If, on the other hand, you're looking for an independent type of person, he has potential.

This hiring practice takes time. Your interviews won't be over in 15 minutes and you won't hire employees based on shiny resumes and gut instinct. Instead, your interviews will probably last two hours, and you'll make a decision based on your confidence that the candidate you hire will behave exactly as you need him to – because now you know how he's behaved in similar situations in the past. While it may take a bit longer up front, you'll save time and money in the long run because this method reduces turnover and increases morale.

Hire the candidates with the most potential to succeed in your company, regardless of experience. The right people will be able to handle anything you throw at them. If they're anything like Shaq, it will be nothing but net.

About the Author: Mike Michalowicz is the author of "The Toilet Paper Entrepreneur." He is an advocate of a business philosophy by the same name, believing the greatest business successes come from underfunded, inexperienced entrepreneurs. His website is www.ToiletPaperEntrepreneur.com

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Teaching the Participant/Employer to be a Good Employer

The Support Broker may be asked to help the participant/employer supervise and monitor their employees. Employers vary greatly in their ability to manage their employees. What can you do to help maximize the participant/employer's ability to manage?

You can help the participant/employer become more independent in their role through these strategies:

- **Develop a written list of rules and expectations of the employee.**
- **Reiterate that the employment agreement is an "at will" contract and explain what it means to be an "at will" employee.**
- **Review the terms and conditions of the employment agreement with the participant/employer.**
- **Update job requirements as needed. (A new employment agreement needs to be developed if the employee's job duties or categories change or the hourly wage changes.)**
- **Set up a regular time to discuss issues and concerns between the employee and the employer.**
- **Keep written records of all meetings between the participant/employer and the employee.**
- **Establish review periods and decide what, and how, tasks will be reviewed (remind the participant/employer to keep records of the reviews).**
- **Make sure that regular documentation is kept of hours worked and what services were provided.**
- **Encourage consistency regarding expectations of the employee.**
- **Actively discourage any abuse or exploitation of the employee, intentional or accidental, by the participant/employer, and help the participant/employer to maintain appropriate personal boundaries.**
- **Encourage proactive problem solving.**
- **Set up regular times and methods to reinforce positive work habits, attitudes, and task completion.**
- **Identify training opportunities for the employee that are free or to which the participant/employer can contribute.**
- **Set a good example; encourage the participant/employer by modeling positive and pro-active communication with the employee.**

Managing Employees

REMEMBER: The Supports Broker may provide the participant/employer assistance with the functions identified in this section.

Be sure to protect the confidentiality of employee records. Make certain that employee records are stored in a secure place where they are not easily accessed by other people. This can be as simple as a locked file box or file cabinet kept in a closet. Details of disciplinary action must remain between the participant/employer and employee unless the employee has signed a release of information.

Overall Expectations for Employees

It is important for the employer to discuss with employees their expectations, the importance of having open communication, and how the employee's job performance will be evaluated. The participant/employer and the employee will have expectations of each other. The participant/employer should explain how issues will be addressed and resolved and the communication style the participant responds to best. The following open-ended questions are a guide to start the communication process:

<u>Discussions the participant/employer should have with each employee:</u>

1. What the employer expects from the employee.
2. What the employee should expect from the employer.

<u>Issues the participant/employer should address with each employee at the start of employment:</u>

1. Their approach to dealing with problems or issues.
2. The criteria to be used for the employee's performance evaluation.
3. Possible reasons for dismissal from this job (examples: abuse, neglect, exploitation, unexcused absences, etc).

Develop a graduated disciplinary process that both the employer and employee can understand and work with.

Documentation of Management Activities

The participant/employer should document all employee-related issues including:

- Training the employee attends and information the employer gives to the employee.
- Things the employer feels the employee does that are good and notable.
- Problems the employer has with employee's performance and actions and events that may or may not lead to termination of the employee.
- Completion of training or probationary periods
- Other job related information that affects the management of employees.

It is good management practice for the employer to review all written documentation with the employee periodically. Use the documentation as a way to problem solve with the employee and discuss what they think and how to make the work better.

Documentation of events leading up to termination of an employee is necessary to provide important information:

- If the employee files a wrongful termination complaint with the Montana Department of Labor, the documentation may be required to defend the employer actions in a hearing.
- If the employee files a complaint of discrimination with Montana Department of Labor the documentation may be required to defend the his/her actions in a hearing or a wrongful discharge or discrimination lawsuit.

Details of events leading up to termination of an employee should be documented to prevent misunderstandings and confusion and to document how the participant have tried to resolve the issue.

Conflict Resolution

As with any employment situation, there may be some areas of conflict at times between the participant/employer, and employees. Sometimes conflict is due to poor job performance on the part of the employee. Perhaps the training received did not address procedures and techniques that the employee needs to perform. If the participant/employer suspects this might be the case, focus training on the aspects of the job that are causing the employee difficulty. Many times this "refresher course" will solve what seems to be a serious problem.

Punctuality (arriving on time, following work schedule, doing tasks at specified times) may be a problem for some people. If a pattern begins, talk to the employee as soon as possible and convey the importance of timeliness. Be sure to document all problems and conversations.

There are other times when an employee and employer simply do not get along due to personality differences. Document problems, conversations, training, and other steps used. Before the employer gives up completely on the relationship here are a few suggestions to try to solve the problem:

1. **Keep the lines of communication open.** When a conflict arises, do not shut down. Keep talking, and try to find out the true reasons behind the conflict. The problem will not go away by ignoring it.
2. **Bring in a third person to help settle the conflict.** The Support Broker who is objective and neutral about the situation, can often help with a resolution that both parties can live with.
3. **Look to the employee's written agreement for resolution.** A written agreement helps prevent or clear up disagreements about duties, salary, time off and benefits. This is another good reason to have a clearly written agreement between the employer and his/her employee.
4. **Look for compromise in genuine differences of opinion.**

Termination of Employees

If all else fails the employer may need to take the responsibility of terminating (firing or dismissing) the employee. It may be due to failure to follow safety procedures, chronic lateness, inability to follow directions, or personality conflicts, but whatever the reason, it is never easy to do. The exact method the participant/employer may use is up to them.

<u>The employer must notify the fiscal agent whenever an employee is terminated or when an employee stops working for the employer.</u>

It is recommended that the employer make arrangements for back-up coverage prior to terminating an employee.

Below are **suggested** ways to handle the difficult task of terminating an employee:

- Do it in person or over the phone if the participant/employer feels more comfortable with this approach. (The participant/employer may want to have a third party such as the Support Broker or a friend with them when terminating an employee.)
- Do not drag it out, be direct, and come straight to the point.
- Some suggested phrases to use are: "I am sorry, but .... I do not feel you are appropriate for this job,"…."You are not fulfilling your job obligations,"….or "I won't need your services anymore."
- Be sure to have the employee sign his/her current timesheet before leaving. Submit the timesheet to the fiscal agent with termination information. When an employee is terminated, the fiscal agent must process the last paycheck within a certain number of days based on state law.
- If the employee has a key to the participant's residence or anything else (credit cards, ATM card, etc.) that must be returned, be sure to collect the items before the last paycheck is processed.
- The terminated employee may talk to other employees about the situation. The employer must maintain confidentiality related to that employee's issues.
- Analyze what went wrong to avoid similar situations in the future with other employees. Be proactive when similar situations occur with others.

Remember, it is against the law to terminate or lay off an employee because of age, race, religion, gender, sexual orientation, national origin, or disability.

Disciplining and Dismissing Staff

The Support Broker may have to help the participant/employer discipline or dismiss their employee(s) which can be a painful, embarrassing, or difficult task. Prompt the participant through the following steps:

- **Document.**
  - **Keep copies of all documentation. If there are on-going problems with minor issues such as lateness, inappropriate behaviors or language, record them. If the participant/employer gives an employee a verbal warning or asks you to do it for them, put it in writing and ask the participant/employer or the participant's guardian to sign and date it.**
- **Get the participant/employer or the participant's guardian involved.**
  - **Except in cases which present a threat to health or safety, the participant/employer makes the final decision. If they are uncomfortable with an attitude or behavior displayed by an employee, talk about it with them, help them to identify the issue, and encourage them to talk to the employee about it.**
  - **Ask the participant/employer to get feedback from their planning team about the issues that concern them with a employee.**
- **Attempt correction first.**
  - **If the issue is an ongoing minor annoyance, which is not immediately threatening to safety or health, attempt a plan of correction first.**
  - **Encourage the participant/employer to identify what action might resolve the problem and discuss it with the employee.**
  - **Set a specific, measurable and objective benchmark, "Within the next month, you will not be more than ten minutes late to work and you will call ahead of time if you are going to be late".**
  - **Write down the plan of correction and have everyone sign it.**
- **Be direct and calm.**
  - **Stay calm. If you feel you are getting angry or defensive, stop the discussion.**
  - **Help the participant/employer stay calm by being a good role model. End the conversation if the participant/employer gets emotionally upset.**
  - **Stay objective while facilitating and assisting the participant/employer.**
  - **If the participant/employer wants help making a decision, remain objective and help them explore their options.**
- **Put it in writing.**
  - **If the participant/employer decides that a employee needs to be dismissed, help them put it in writing. It can be very simple and the employer does not need to give a reason if they do not want to. Date and have the participant/employer sign the memo.**
- **Have a back-up plan.**
  - **Make sure you have a back-up plan. When an employee is dismissed it may leave a gap in the services the participant/employer needs. You may need to have a back-up plan in place immediately.**
  - **Report the termination of employment to the Fiscal Agent. You will be given a form on which to report the termination.**

Performance Evaluations

Give employees a copy of the job description when they first start working so they will know the areas in which they will be reviewed. Also let them know if a pay raise is attached to results of their evaluation. The employer should have on-going conversations with each employee so they know if they are meeting the participants/employer's expectations. If there are problems, the participant/employer should address the issues with the employee immediately and document these incidents and any follow up actions.

The participant/employer should be proactive in dealing with employee job performance issues and conflicts. Proactive means to address a situation before it becomes a problem. There should be no negative issues in the performance evaluation that has not already been discussed with the employee.

When the employer meets with an employee for the evaluation, there should be two-way communication – the employer listens to the employee and the employee listens to the employer. Have some ideas of what the employer wants to say in each area of the evaluation but also be prepared to listen to comments from the employee.

It is a good idea to conduct at least an annual evaluation of the employee's job performance.

Sample evaluations the participant/employer can use or adapt for use with the employee is included in Appendix E-3 of this handbook.

Employer Liability

Employees should not be subjected to circumstances that would create a hostile work environment. Such an environment can include many things, but an employee should never be subjected to sexual harassment or belittlement, jokes, or prejudice because of his/her age, race, color, religion, gender, national origin, or disability. In addition, the work environment must be free from recognized hazards that are causing or likely to cause death or physical harm.

The employer retains control over the hiring, training, managing, and firing of employees. The employer is responsible and liable for any negligent acts or omissions by the employee, the participant/employer, the authorized representative, or by other people in the workplace.

Workers compensation insurance is a required part of participation in the Self-Direct with Employer Authority option. Workers compensation insurance covers an employee's on-the-job injury. Upon hire employees are automatically covered by workers compensation insurance.

Remember, employees of participants in the Self-Direct with Employer Authority option are **not** employees of the fiscal agent, or any other state or federal agency.

READINGS

Symptoms of In-Human Human Services

Adapted from Kathleen Ryan and Daniel Ostreich's Driving Fear from the Workplace: How to Overcome the Invisible Barriers to Quality, Productivity, and Innovation. San Francisco: Jossey-Bass.

Over-attribution of troubles to people with challenging behaviors.

Development of plans without input from the person or the people who know the person best.

Development of policies and procedures without input from people most directly affected.

Resignation of high-quality performers and creative thinkers.

Us" versus "Them" talk.

Complaining after a meeting is over.

Expensive training programs aimed to "fix" employee performance.

Meetings where no one asks questions or no problems are solved.

Recurrent absenteeism and tardiness Problems

Could care less" approach to work.

Stressful work conditions or relationships.

Widespread dissatisfaction with promotions, assignments, and terminations.

Threatening behavior by supervisors, managers, or employees.

Lack of suggestions for improvement.

Issues are not openly discussed; if they are discussed, no real changes take place.

Many layers of approval for simple transactions.

Loss of customers who complain about poor service.

Resistance to performance appraisals.

People feeling they get no feedback.

An overly large number of policies; an enforcement approach to rules; arguments about the rules.

Instances of unethical behavior

Negative feelings about the organization; lack of pride; cynicism.

A very active rumor mill.

Imagine that employers made these assumptions about employees:

Want to take responsibility for their work and want to do a good job.

Care about their work beyond the money they get to perform it.

Can consider the "big picture"

Are willing to take responsibility for their mistakes.

Are capable of establishing their own structures in order to maintain focus.

Want to contribute freely.

Are fully capable of understanding budgetary and political realities.

Do not just focus on entitlements and rights.

Are intrinsically honest and trustworthy.

Imagine that employees made these assumptions about managers:

Are sensitive to the personal issues and interests of employees.

Enjoy open, participative, problem-solving.

Want the workload to be fair and reasonable.

Work to find solutions that are both technically and politically sound.

Pride themselves on working fairly and objectively.

Want input on decisions.

Are willing to put the success of the organization, welfare of employees, and service to consumers before private interests.

Do not think that they are better than their employees.

Are honest and would consider retaliation a serious sign of weakness.

5 Interview Questions Every Small Business Owner Should Ask

James Clear
September 5, 2011

Hiring is one of the most important and critical tasks for any small business owner. After all, your business is only as good as your people.

But how do you know who the good people are? And how do you determine which candidates will perform to your expectations? Anyone can put on a good show for a few hours during an interview. What you want are people who will still be good in a few months.

Nothing is certain, of course, but the five questions below will help you see deeper into the candidate's mind and make the decision that is best for you.

1. Give an example of a time when you had to make a quick decision

Small businesses are, by definition, small. That means that everyone has to share the responsibility. You need employees who can take initiative when necessary and make a decision when it needs to be made. This question forces candidates to demonstrate that they have had to deal with these make-a-call-and-make-it-now circumstances.

2. Give an example of a time when you exceeded expectations

This question gives the candidate a chance to brag about their accomplishments, but the real value can be found in analyzing their approach and thought processes.

Some candidates exceed expectations because little is expected of them in the first place. Others exceed expectations because they understand the root causes of a problem and the nature of the circumstances...and then they take action based on those understandings.

You'll know if you've found the latter based on how the candidate describes the problems faced and their approach to the situation.

3. Convince me that you can adapt to a wide range of people, situations and environments

The goal of this question is two-fold.

First, employees that can adapt to a variety of circumstances are crucial in a small working environment. At some point, it's likely that they will be asked to do something that is outside their normal job description. Employees have to be OK with that and capable of handling such a change.

Additionally, you are asking them to convince you of something. This will give you an insight into how persuasive the candidate can be. Persuasion is critical. If you can't be persuasive, then you will lose.

4. What have you done that demonstrates initiative and willingness to work?

In all likelihood, your employees will be trained on-the-job. It is important to hire individuals that take action and aren't afraid to get into the thick of things. Employees need to be ready to jump in and willing to work through the sticking points when they come along.

Moreover, success is all about trust. You need employees that you can depend on and believe in, even when you aren't around. If you fill your positions with individuals that are self-motivated and take action, then you can be sure that the work is moving forward.

5. Why should we hire you?

In a small environment, candidates will have to prove themselves over and over again. Give them a chance to prove themselves right away.

This question is the perfect way to open things up and allow the candidate to show you what they bring to the table. It's also an opportunity for them to display talents that you might not have thought to ask about during the interview.

Sometimes the most compelling qualities are hidden within our stories. A good manager can pull those stories out as the conversation progresses and this question helps to accomplish that.

James Clear is the founder of Passive Panda. He is an award-winning writer on business strategy and entrepreneurship.

Why True Leadership Involves Less Talking and More Listening

Mary Schaefer, Re-Imagine Work
SmartBlog on Leadership.com

Have you heard of the book "The One Minute Manager"? I know a guy I call the 18-Minute Manager, or Jake for our purposes. Jake was having a hard time getting through to his employee , Sophie , about significant problems with her performance. I agreed to sit in the next meeting he had with her.

Less talking, more listening. Jake started the meeting and talked for 18 minutes. He did not pause. He did not ask Sophie one question. Soon he dismissed Sophie from the room. As she left, I asked her what she heard Jake say. She said, "I don't know what he's talking about." I seriously doubt that, but I don't blame her for saying it.

As human beings, we can be uncomfortable with conflict or confrontation. Despite the temptation to avoid a conversation that raises defenses, leaders guide employees through it. It is both unkind and irresponsible not to.

It takes a leader to do it well. To conduct these conversations as a leader would, it is your job to invite the other person into the conversation, keep their defenses down, and create a space for them to see how they are accountable and show you are on his or her side at the same time. How can you, too, achieve this?

1. **Get it all out.** Like Jake, you might have a certain level of frustration. Don't take this for granted. If you have a lot to say, write it out or vent to and appropriate partner. Do this before you get in front of the employee.
2. **Keep your part brief.** Practice and plan to only say two sentences and one question at any one time. The longer you talk, the more they build up their defenses. The more airtime us use, the less likely you'll uncover what's in the employee's head that you need to address.
3. **Get them talking as quickly as possible.** After appropriate greetings and getting comfortable, an employer in Jake's position could start with: "Sophie, you and I have talked about an aspect of your performance a few times now. I want to make sure you understand the impact it's having on both your co-workers and your own performance . What have you been thinking about this?
4. **Dialogue, dialogue, dialogue.** Don't just plunge forward as if with a script. Ask questions building on their responses. Be curious. If you offer two statements, use them to summarize what you heard. An opinion or fact may be appropriate at some points. But remember, you are to lead them through a discussion to where they can examine their own thinking and behavior that is causing them problems.
5. **Inspire hope and action.** Keep going with the good questions and assertions, using their responses until you have a plan of action you both can go forward with. It should not all end up on your to-do list. The person in front of you should leave the room encouraged and realize one action they can take immediately to improve.
6. **This approach, to me, is true leading.** When people are sitting there, already feeling defensive, we as humans can only take in so much at one time. Taking that into

consideration, by planning and putting your own frustrations aside will allow you to lead the employee through a discussion that helps them think through what got them there and how to see their way to success.

Negotiations and Resolving Conflicts: An Overview

Adapted from a presentation by
E. Wertheim
College of Business Administration
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"Be unconditionally constructive. Approach conflict resolution with this attitude –'I accept you as an equal partner; I respect your right to differ; I will be receptive.' Some may criticize my approach as being too soft. But negotiating by these principles is a sign of strength."
R. Fisher and R Ury, Getting to Yes

"Have unlimited patience. Never corner an opponent and always assist the other person to save his face. Put yourself in his shoes – so as to see things through his eyes. Avoid self-righteousness like the devil – nothing is so blinding."
B. H. Liddell Hard, Historian

Basic Issues in Conflict Management

- What are the personal and organizational consequences of the conflict?
- What are the behavior patterns that characterize the conflict?
- What are the substantive vs the emotional issues?
- What are the apparent underlying and background conditions that lead to the conflict?

Few of us enjoy dealing with conflicts. This is particularly true when the conflict becomes hostile and when strong feelings become involved. Resolving conflict can be mentally exhausting and emotionally draining.

But it is important to realize that conflict that requires resolution is neither good nor bad. There can be positive and negative outcomes. The important point is to manage the conflict, not to suppress conflict and not to let conflict escalate out of control. There are many times when we should use conflict as a critical aspect of creativity and motivation.

Major Causes of Conflict

Opposing interests or perceived opposing interests are the core of most conflicts. Potential causes of conflict:

- Competition for scarce resources, time
- Ambiguity over expectations, responsibilities and authority
- Differences in perceptions, styles, attitudes, communication problems, individual differences
- Increasing interdependence as boundaries between individuals and groups become increasingly blurred
- Reward systems: complex and often contradictory incentives
- Differentiation: division of labor, differences in goals, seeing situations differently
- Equity vs equality: tension between the belief that we should be rewarded relative to our perceived contributions and belief that everyone should receive the same or similar outcomes.

Understand the context for conflict:

- What are the important consequences of the conflict?
- What are future consequences of the conflict?

- What are the patterns of the conflict?
- What are the issues in the conflict?
- Are the issues based on perceptions and feelings or substance?
- What background factors lead to the conflict?

Getting To Win-Win Solutions

In general, most successful negotiators try for a win-win or aim at a situation where both sides feel they have won. Negotiations tend to go much better if both sides perceive they are in a win-win situation or both sides approach negotiation wanting to "create value". Most situations involve where we want or need an ongoing relationship with the other person.

Almost all conflict management negotiations have at least some elements of win-win. Success often depends on finding these win-win aspects in the situation. And yet we will sometimes be in situations where the other person either does not wish to reach a win-win solution or does not realize it is in her best interest to reach a collaborative solution. It becomes necessary to open lines of communication, increasing trust and cooperation.

Collaboration Critical Points

- Plan and have a concrete strategy: be clear on what is most important to you.
- Separate personalities from the problem
- Emphasize win-win solutions
- Focus on interests not positions
- Create options for mutual gain: generate a variety of options before deciding what to do.
- Aim for an outcome based on an objective standard
- Consider the other party's situation and needs
- Know your best alternative to a negotiated alternative
- Pay lots of attention to the flow of the negotiation
- Take intangibles into account
- Use active listening strategies

Elements of the Collaboration Process

It is very important that the other person doesn't feel that he or she lost in the making of the decision. If we push people to the point where they see themselves as likely to lose, the results are often lack of commitment to the agreement. Even worse, the other person will often retaliate and fight back. Resolutions that are most satisfactory and durable are ones that address the needs of both parties.

Address the problem at hand, instead of the persons involved. Avoid the tendency to attack the other personally; if the other person feels threatened, he will most often defend his self-esteem. Maintain a rational, goal oriented frame of mind; if you are attacked personally, don't get hooked into an emotional reaction; let the other person blow off steam without personalizing it; try to understand the problem behind the aggression.

Be an active listener. Good communication is critical and is easily forgotten in the midst of conflict. This includes continuously checking to see if you are understanding the other person. Restate the

other person's position to make sure you are hearing the person correctly. Focus on the future; talk about what needs to be done, tackle the problem jointly.

To successfully resolve conflict it is important to focus on the other person. We need to figure out what the other person's goals, needs and positions are as well as their underlying interests. We need to think about the personality of the other person. An important part of this is to recognize that people place very different values on issues than ourselves. We must attempt to understand how the other person sees reality, not just how we see reality.

A critical element in collaboration is to come to understanding the other person's underlying interests and needs. With probing and exchanging information we can find the commonalities between us and minimize the differences that seem to be evident. Acquire as much information about the other's interests and goals. What are the person's real needs vs wants; who must he/she appease? Be prepared to frame solutions in terms of her interests.

A key element is problem identification. It is important to define the problem in a way that is mutually acceptable to both sides. It is more likely to be effective to define the problem as "I need to understand this better" or "I don't understand this" rather than "You're not doing this very well."

There should be a lot of information exchange that will help develop a common definition of the problem. Once both parties are aware of the cause of the conflict, they are aware of their emotional reactions to it. Once aware of thoughts and emotions, the parties can form specific strategies to use in negotiating a solution.

Create common alternatives with low-cost concessions that might have high value to the other person. Frame options in terms of the other person's interests; look for alternatives that allow the other person to declare a victory.

Try to have your results based on some objective standard. Base your decision of principles and results, not emotion and pressure. Try to find agreeable criteria that both parties can use to evaluate alternatives. Don't base decisions on emotional pleas, assertiveness or stubbornness.

Try to explore the other person's best alternative and be aware of your own. If the alternatives to reaching an agreement are unattractive, you are in a better position to resolve the problem.

There can be a tendency to think about conflict as an isolated incident. It is more useful to think of it as a process, or a complex series of events over time. Conflict episodes typically are affected by preceding events and in turn produce results and outcomes that affect the conflict.

Pay particular attention to these generalizations:

- Conflict is an ongoing process that occurs against a background of continuing relationships and events.
- Conflict involves the thoughts, perceptions, memories and emotions of the people involved
- Begin with a positive approach; try to establish rapport and mutual trust before starting; try for a small concession early on.

- Pay little attention to early offers; these are starting points and tend to be extreme and idealistic; focus on the other person's interests and your own
- goals and principles while you generate possible solutions.

Translate the strategies into behavior.

So, what if one person is not willing to collaborate?

It is not easy to shift situations in which conflicts have escalated and the atmosphere becomes charged with anger, frustration, mistrust and a sense of futility. Original issues become blurred and ill-defined and new issues are often added to the conflict. Even if one side is willing to make concessions, often hostility prevents agreement. The following techniques might be used in this situation:

- Find ways to defuse the tension: Reduce tension with humor; let the other person vent; make a small initial concession as a sign of good faith;
- Increase the accuracy of the communication: listen hard in the middle of the conflict; rephrase the other's comments to make sure the person is heard correctly; reflect the person's views back to them;
- Control the issues: search for ways to slice the large issues and generalities into smaller pieces; depersonalize the conflict – separate issues from personalities;
- Establish common ground: since conflict tends to magnify differences and minimize similarities, look for greater common goals; identify how you are in the situation together; find a common problem; focus on what you have in common;
- Focus less on position and more on each other's needs and figure out how to move toward meeting them;
- Make a "yesable" proposal; refine the demands; reformulate; repackage; sweeten the concession; emphasize positive aspects;
- Find a legitimate or objective criteria to evaluate the solution.
- When the other person pushes, don't push back: don't counterattack; rethink the attack as an attack on mutual problems; ask questions instead of making statements; respond with prolonged silence in the face of unreasonable behavior.
- Offer non-specific compensation: each side gets something low priority that they want while another low priority concession is made to the other person in another area; create additional resources that are achievable to help both parties reach their goals; log-roll – each party makes concessions on low-priority issues in exchange for concessions in higher priority issues; one party gets something it wants while the costs to the other are reduced or eliminated.

Be discrete in what you say, but discretion should not be confused with misrepresentation. An old British Diplomat Service handbook states the following and it still may be useful:

"Nothing may be said that is not true, but it is unnecessary, as it is sometimes undesirable to say everything relevant which is true; and the facts given may be arranged in any convenient order. The

perfect reply to an embarrassing question is one that is brief, appears to answer the question completely. If challenged, it can be proved to be accurate in every word), gives no opening for awkward follow-up questions, and discloses really nothing." If you are not prepared to disclose information, a good technique is to answer a question with a clarifying question.

Dealing with Difficult People

Hostile –
Stand up for yourself; use self-assertive language
Give them time to run down…avoid a confrontation

Complainers
Listen attentively; acknowledge their feelings; avoid confrontation
State the facts without apology…use problem solving skills

Making Claims
Keep asking open ended questions; be patient waiting for a response
If no response occurs, tell them what you plan to do, because no discussion has taken place

Superagreeable People
In a non-threatening manner, work hard to find out why they will not take action
Let them know you value them as people
Be ready to compromise and negotiate, and don't allow them to make unrealistic commitments
Try to discern the hidden meaning in their humor

Negativists
Do not be dragged into their despair…do not try to cajole them out of their negativism
Discuss the problems thoroughly, without offering solutions
When alternatives are discussed, bring up negatives yourself and manage the discussion
Be ready to take action alone, without their agreement

Know-it-alls
Bulldozers: Prepare yourself; listen and paraphrase their main points; question to define the problems
Balloons (people who inflate and distort facts): State facts or opinions as your own perception of reality; find a way for balloons to save face; confront in private

Indecisive Stallers
Raise the issue of why they are hesitant…possibly remove the staller from the situation
If you are the problem, ask for help…keep the action steps in your own hands

R. M. Branson, Coping with Difficult People

Kruchlist – How to Indicate That We Still Have a Way to Go and Still Leave the Door Open

Gentle Krunches:

- Where do we go from here?
- What are we talking about?
- What can we do about this?

- This doesn't work for us
- I have a problem with this.
- How can you help me with this?
- This isn't really what I expected.
- I know we can do better.
- Let's take another look at this.
- That would be really tough for us.
- I hope we can work this out.
- Can we talk?
- Can you work with me on this?

Middle of the Road Krunches

- You have to do better than this.
- That's not acceptable to me.
- I'm disappointed in your suggestion.
- Run that by me again
- That won't do
- That's a pretty big demand
- Can we be reasonable?
- I don't think we are communicating
- You're not giving me anything to work with
- Perhaps we have a misunderstanding here
- I'm looking for a better plan
- I can't do that
- We still are not there
- We are not speaking the same language
- It won't fly

More Aggressive Krunches

- What?
- Ouch!
- Time out!
- No way!
- You're not close

Responses to Krunches

Make a suggestion
What are you looking for?
What could you live with?
What do you need?
What do you have in mind?
What is fair?
What is the problem?
What were you thinking about?
If you were in my shoes, what would you do?

Section VI: Safety and Welfare

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Protecting Your Property

Following are tips on protecting your property:

To protect your property:

- **Make an inventory.** You should list valuable items, the date of purchase, and the original price. Save receipts and serial numbers if possible. Better yet, take photographs or make a video recording of your valuables. Give a copy of your inventory to your insurance agent, family member, and/or friend; If you have a loss, it will help establish proof of value for filing an insurance claim.
- **Mark valuable items.** Marking things most likely to be stolen like the TV and stereo, will help police trace them and return them to you if they are recovered.
- You may consider purchasing a homeowner's or rental insurance policy to help you recover some of your property in case of fire, flood, theft, or other loss.
- When you must terminate an employee, you may want to:
    - Check your telephone bill and make sure there are no phone calls charged by an ex-employee.
    - Check credit card bills for charges you did not make, and if you allowed your employee to withdraw money with your ATM card, change your PIN number.
- Be sure to get your keys from your employee when you are terminating. Change your locks if the employee does not return your keys.

If the ex-employee threatens you during the termination conference, be sure to notify your Support Broker or Case Manager of the threat. You may also need to contact the police. You may want to notify neighbors and others that you have terminated the employee and ask them to check on you if they see the ex-employee around your house.