



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van Mitchell, Secretary

Memorandum

To: DDA Licensed Service Providers
DDA Coordination of Community Services Providers
Fiscal Management Service Providers
Support Brokers

From: Bernard Simons, Deputy Secretary, DDA

CC: DDA Headquarters and Regional Offices

Date: April 22, 2015

Re: Waiver Transition Guideline # 6
Family Member, Relative, Legal Guardian, and Legally Responsible Individual as a
Service Provider

THIS LETTER IS AVAILABLE IN ACCESSIBLE FORMATS. TO REQUEST ANOTHER FORMAT, PLEASE CONTACT HELPDESK.DDA@MARYLAND.GOV.

Waiver participants may utilize a family member (relative) or legal guardian to provide waiver services, under both the traditional and self-directed service models, with the exception of a legally responsible individual. A legally responsible individual is any person who has a duty under State law to care for another person and typically includes: (a) the parent (biological or adoptive) of a minor child or the guardian of a minor child who must provide care to the child or (b) a spouse of a waiver participant.

Whenever a relative/legal guardian is paid for the provision of a waiver service, the person must meet the provider qualifications that apply to that service and there must be a DDA approved provider agreement. In addition, other requirements such as the proper documentation and monitoring of the provision of services also apply.

In order to support the participant's best interest, voice, and choice in the person-centered planning process and to address concerns with conflict of interest, the following requirements were recommended by stakeholders and included in the approved Waiver.

A family member (relative) or legal guardian may be the paid employee of an adult participant, if the Individual Plan (IP) establishes that:

1. The choice of family member (relative) or legal guardian as a provider reflects the individual's wishes and desires;
2. The provision of services by the family member(relative) or legal guardian are in the best interests of the participant;

3. The provision of services by the family member (relative) or legal guardian are appropriate and based on the participant's individual support needs;
4. The services provided by the family member (relative) or legal guardian will increase the participant's independence and community integration;
5. There are documented steps in the IP that will be taken to expand the participant's circle of support so that they are able to maintain and improve their health, safety, independence, and level of community integration on an ongoing basis should the family member (relative) or legal guardian acting in the capacity of employee be no longer available.

DDA licensed providers agencies may hire a participant's family member (relative) or legal guardian as a staff member or contract with them if they are an approved Organized Health Care Delivery System (OHCDS). The licensed provider is responsible for ensuring the family member (relative) or legal guardian meet all staff qualifications and comply with all applicable program requirements and regulations including COMAR 10.09.26 and 10.22.20.

SUPPORT BROKER

A family member (with the exception of spouses, legally responsible adult and legal representative payees) may be the support broker of a participant self-directing services, if the IP establishes that:

1. Choice of family member as a provider truly reflects the individual's preferences, wishes and desires;
2. The provision of services by the family member are in the best interests of the participant;
3. The provision of services are appropriate and based on the participant's individual support needs;
4. The services will increase the participant's independence and community integration;
5. If the support broker is a family member then no other family member is a provider of direct services;
6. There are documented steps in the IP that will be taken to expand the participant's circle of support so that they are able to maintain and improve their health, safety, independence, and level of community integration on an ongoing basis should the support broker acting in the capacity of employee be no longer available.

The transition activities, on the follow page, are needed for individuals currently using family members, relative, legal guardian, and legally responsible individual as a service provider (paid employees and/or support brokers). Transition activities should be completed during annual team meetings or sooner and no later than August 2015.

Transition Roadmap

Entity	Action	Timeline
Person-Centered Planning Teams	<ol style="list-style-type: none"> 1- Identify family member, relative, legal guardian, and legally responsible individual as a service providers (i.e. CSLA, Support Broker, etc.). 2- Review criteria listed above for paid employee and support broker. 3- Provide assistance to expand the participant's circle of support. 4- Document results within the self-directed IP and submit to Regional Office 	<p>During quarterly or annual meeting</p> <p>Note: Must be completed by August 2015</p>
Service Providers	As appropriate, identify new staff, based on the participant's preferences, to replace legally responsible individual providing services.	Within 30 business days of knowledge
DDA Regional Office	Review and process self-directed IP to Fiscal Management Service providers.	Within 10 business days of receipt
Fiscal Management Service Providers	Review and process IP and Budget modification	Within 10 business days of receipt

Please send transition specific questions to communitypathways@maryland.gov.

For additional assistance on self-directed services, please contact Nancy Hatch, State Coordinator of Self-directed Services, at nancy.hatch@maryland.gov or Edward Willard, Director of Advocacy Supports, at Edward.willard@maryland.gov.