

Independent Provider Changes Frequently Asked Questions

General Questions:

1. What changes are you making and why?

The Executive Budget as introduced (HB 64) increases access to Medicaid Home and Community-Based Services (HCBS), and creates new opportunities for HCBS recipients to self-direct their services. This change is designed to give individuals more control over who provides their services, and how those services are provided. It also helps ensure we're in compliance with federal labor laws, protecting this important pool of providers.

This proposal does not eliminate independent providers, but rather transitions most independent providers to a new model. Under this model, which is called Employer Authority, individuals who self-direct their care and become the employer of record will be able to continue working with independent, or non-agency, providers. Individuals will recruit, hire, train, schedule, supervise, and fire (if needed) their providers as they do today. A fiscal intermediary, or Financial Management Service (FMS), will help individuals by performing payroll and other employment-related functions on their behalf. The State of Ohio pays the fiscal intermediary through a contract, ***so the cost of this service does not come from your waiver budget.***

2. Who made this decision?

This proposal is a part of the Executive Budget. It will be voted on by the State Legislature in June.

3. What is a self-directed waiver?

Under self-directed (or participant-directed) waivers, individuals receiving services are able to actually employ their providers. As a result, the providers are no longer "independent providers," they become employees of the person receiving services, or of an agency that partners with the individual.

4. Which of DODD's waivers are self-directed?

Currently, the Self-Empowered Life Funding (SELF) Waiver is the only waiver that has a self-directed option. DODD will add a self-directed option to the Individual Options (IO) and Level 1 waivers, the details of which will be determined by stakeholders. This will allow you to continue working with non-agency providers through Employer Authority.

5. What are the benefits of this new model?

There are several benefits to this change. Individuals will maintain choice and control around who provides their services, and how those services are provided. Providers will receive more individual-specific training, and have the cost of unemployment insurance and Workers' Compensation covered by their employer. Today, independent providers are responsible for those costs; since many independent providers decide to not pay for that coverage; this will be a new benefit for many.

6. Who do I contact to ask questions, or voice my opinion on this change?

DODD is gathering feedback, and answering questions. Call the Budget and Developmental Center Closure Hotline toll-free at 855-611-6446 (OHIO) or 614-728-5311, or [submit feedback online](#).

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For Individuals and Families:

7. What does it mean for individuals receiving services?

If you are working with agency providers, you are not affected.

If you are working with independent providers, you will need to self-direct your care. To continue working with your current providers, you will need to self-direct your care using Employer Authority. Currently, one of DODD's waivers is a self-directed waiver – the Self-Empowered Life Funding (SELF) Waiver. DODD will add a self-directed option to the Level 1 and Individual Options (IO) waivers.

8. What is Employer Authority?

Under participant-directed waivers, you may employ their providers in one of two ways:

- Under “Common Law Employer,” you are considered the legally responsible employer of the provider; you could be assisted by your representative to recruit, hire, schedule, supervise, train, and fire (if needed) your providers. A Financial Management Service (FMS) helps you by performing payroll and other employment-related functions on your behalf. The State of Ohio pays the FMS through a contract so the cost of this service does not come from your waiver budget.
- Under “Co-Employment,” you recruit and direct your providers, but they actually are employed by an agency; the agency performs all payroll and other employment-related functions for the workers. An agency provider certified by DODD may be a co-employer working with the individual, or this function may be performed by the FMS. The State of Ohio pays the FMS through a contract so the cost of this service does not come from your waiver budget.

9. What are my responsibilities if I use Employer Authority to work with non-agency providers?

Under Employer Authority, you are responsible for recruiting, hiring, training, scheduling, supervising, and firing (if needed) your non-agency providers – the same functions that you are responsible for today when working with independent providers, regardless of your waiver type.

You **are not** responsible for taxes and insurance, including Workers’ Compensation.

10. Can I just switch to a SELF Waiver so I know I can continue working with my current providers?

Each of DODD’s waivers serves different needs, and the Self-Empowered Life Funding (SELF) Waiver may or may not be right for you. You don’t need to move to another waiver to be able to self-direct your care – DODD will add a self-directed option to the IO and Level 1 waivers, which will allow you to continue working with non-agency providers through Employer Authority.

More [information about all of DODD’s waivers](#) is on DODD’s website.

11. I’m a parent or guardian and I’m also my son or daughter’s independent provider – can I become a non-agency provider?

A parent or guardian of an adult (over the age of 18) may become a non-agency provider. However, when a guardian is the non-agency provider, a third party must be designated in writing as the person responsible for directing care on behalf of the individual receiving services. Designating another person to direct the individual’s care **does not** transfer any legal authority or responsibility with respect to personal decision-making or financial matters from the individual/guardian to the designee.

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12. What's my liability?

As an employer, you may face some potential liability. However, no lawsuits have been filed against individuals directing services in Ohio. Resources such as interview guides and supervision handbooks are available to you minimize this risk under Employer Authority.

Any in-home care worker, whether an independent contractor or employee, may file a lawsuit against you if they are injured while providing care. Under Employer Authority, employers and employees are covered under Workers' Compensation.

For Independent Providers:

13. What does it mean for providers?

Agency providers are not affected.

Independent providers will be able to continue providing services as a non-agency provider if the individual they are working with self-directs their care using Employer Authority. Currently, one of DODD's waivers is a self-directed waiver – the Self-Empowered Life Funding (SELF) Waiver. DODD will add a self-directed option to the Individual Options (IO) and Level 1 waivers.

14. What are my options as an independent provider?

You can continue providing Medicaid-funded Home and Community-Based Services waiver services if you seek employment through an agency, or if you provide services to an individual who is using a self-directed option and uses Employer Authority.

15. Do these changes apply to Supported Living or other services funded through county boards?

No, this shift to an Employer Authority model applies only to Medicaid-funded home and community-based services.

16. Do these changes apply to Adult Foster Care/Ohio Shared Living?

No, this shift to an Employer Authority model does not apply to Adult Foster Care/Ohio Shared Living.

17. Is Employer Authority being added to the Transitions DD (TDD) Waiver?

No. There is not a need to add the self-directed option to the TDD waiver because all individuals enrolled in the TDD Waiver will be transferred to another waiver, and the TDD Waiver is being eliminated.

18. Can I become a new non-agency provider after the state moves to an agency-only model?

Yes. The Ohio Department of Developmental Disabilities will accept new non-agency providers if they are providing services under Employer Authority for an individual on a self-directed waiver.

19. How do I become a non-agency provider?

A non-agency provider must be certified by the Ohio Department of Developmental Disabilities. They must provide services directly and cannot employ, or contract with, anyone else to provide the services.

Basic requirements for certification include a successful background check, a high school diploma or GED, valid certification in first aid, and valid certification in CPR. More information about [how to obtain certification](#) is available on DODD's website.

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20. After this change, will there be a difference in how I operate today?

When a provider operates under Employer Authority, they are considered a non-agency provider rather than an independent provider. While there may be no difference in how services are provided, under self-direction, the individual, not the provider, direct services; the individual tells the provider how it will be done, similar to an employer. As an independent provider, providers have more autonomy to determine how to carry out services. Under participant-direction, There may be changes to the HR functions of a provider's job, such as how to submit hours, and billing.

21. Will the pay rate to providers be the same for workers under Employer Authority as it is for independent providers?

The rates for the new service models have not been determined. However, since workers under Employer Authority are employees and not independent contractors, some changes will be made to the rate structure. Under this new rate structure, the cost of unemployment insurance and Workers' Compensation are covered either by the FMS on behalf of the individual employing the worker, or through an agency employing the worker on the individual's behalf— these are costs independent providers are paying today. Some independent providers have chosen to not pay for unemployment and Workers' Compensation coverage, and therefore don't have access to these benefits; these providers now will have these benefits.

22. Will workers under Employer Authority still be certified by DODD?

Yes, providers will still apply for certification by DODD as they do today. All background checks and required training will continue to be required. Applications will continue to be submitted through our Provider Certification Wizard (PCW).

23. Will non-agency providers continue to be enrolled as waiver providers?

Yes, non-agency providers who are serving individuals under Employer Authority will continue to be certified by DODD and will continue to be Medicaid waiver providers.

24. Will Employer Authority be available for all services?

It hasn't been decided which settings and services can be provided under Employer Authority. DODD has formed a workgroup that will recommend the services and the settings in which Employer Authority may be used.

25. If I am provider who does not bill Medicaid, will I be able to continue to provide services as a traditional independent provider? If so, do I still need to be certified by DODD?

Yes, providers who do not bill Medicaid still will be able to provide services as a traditional independent provider, as long as they are certified by DODD. This may include providers who receive only local funding to provide residential or other supports to individuals who are County Board-eligible. DODD is researching if there needs to be changes made to Provider Certification rule is to clarify that independent providers may obtain DODD Certification, even though they cannot receive a Medicaid agreement after these changes go into effect.

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26. How do I start my own agency?

An agency provider is an entity that employs at least two people who provide services to individuals with developmental disabilities; in essence, the agency owns and operates a small business. Because of that, there are additional requirements to become an agency, including having a chief executive officer with one year of paid, full-time work experience in providing services to individuals with developmental disabilities, and demonstrated experience in supervision of staff, personnel matters, financial management, and supervision of services. Also, agency owners must have a four-year degree, or four years of experience serving individuals with developmental disabilities.

More information about the [requirements and the process to become an agency owner](#) is available on DODD's website.