



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

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

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**MARYLAND MEDICAL ASSISTANCE PROGRAM**

August 3, 2015

To: Community First Choice (CFC) and Medical Assistance Personal Care (MAPC)  
Agency Personal Assistance Providers

From: Mark A. Leeds, Director   
Long Term Services and Supports Administration

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Please see the attached Frequently Asked Questions regarding the change to an agency-only model for the CFC and MAPC programs. Also attached are important reminders regarding the requirements for personal assistance agency providers.

As a reminder, the programs will change to an agency-only model October 1, 2015. All personal assistance agencies for these programs must be licensed as Residential Service Agencies (RSAs). Agency providers must follow the RSA regulations and practice within the scope of their license.

Please call Della Brown with questions or concerns at 410-767-5883, or email [gondella.brown@maryland.gov](mailto:gondella.brown@maryland.gov)

- Q. Do independent providers keep their participants when I hire them at my agency?
- A. Most likely, but the participant must choose your agency as well. Your agency will need to be the provider on the participant's approved plan of service before providing services. Participants are free to choose among any willing provider and there is no guarantee that participants will choose you for their service provider. They may change agency providers at any time.
- Q. Can participants change now or do they have to wait until October?
- A. Participants can change now. Participants must choose an agency by September 1<sup>st</sup>. Independent providers will not be paid for service on or after October 1<sup>st</sup>.
- Q. Do I have to hire independent providers?
- A. No, but it will be beneficial to your agency and the participants if existing provider relationships can be maintained. Independent providers bring experience, knowledge of the participant, and an established working relationship to your agency. Participants who want to continue working with their independent provider will be working together with their provider to choose an agency.
- Q. What if participants still want to self-direct their services?
- A. Participants still have the power to direct agency workers who are in their homes. CFC regulations require that agency workers accept instruction from the participant and allow participants to have a significant role in directing the care. Please see COMAR 10.09.84.06 for references.  
Specifically, agencies and their workers must allow participants to have a significant role in the:
- i) selection and dismissal of the worker of their choice, and
  - ii) delivery of their specific services and supports.
- Q. Is this temporary?
- A. No. The Department will work to develop new options for self-direction, but they will not be in place soon.
- Q. How do I get clients for my business? Can you send me clients?
- A. You may continue to market yourself to participants according to existing standards of practice. You cannot market your agency with supports planners as they are prohibited from recommending a specific agency to their participants. Supports planners must maintain a conflict-free position and cannot help you contact participants or send you clients. You may not interfere with a person's freedom of choice of providers according to your agreement with Medicaid.
- Q. I can't pay \$14 per hour. Did the State really pay that much?
- A. Yes. Under the existing CFC program, the independent provider rate includes a self-directed option that allows participants to set their own rate, within a specified range. The standard rate is \$12.58. But participants can choose to pay their providers any amount between \$11.75 and \$14.63 per hour. The current rate for agencies is \$16.48 per hour.

- Q. Do independent providers have to get CPR certified? What if it was waived for them before?
- A. Yes, all workers have to have a current CPR certification to work for an agency. This requirement is in the Residential Services Agency (RSA) regulations and cannot be waived by the program.

- Q. What are the requirements for waiving criminal backgrounds?
- A. The program does not have regulations or policies about offenses for agency providers. RSA regulations require a State criminal history records check or a private agency background check, which cannot be waived.

In the past, DHMH had the following requirements for independent providers. You do not have to follow these policies but can use them if they are helpful.

Independent providers were excluded from participation if they had been convicted of, received a probation before judgment for, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude or theft, or have any other criminal history that indicates behavior which is potentially harmful to participants. Exceptions could be made if the offense was more than 10 years old or if the criminal history did not indicate behavior that is potentially harmful to participants.

- Q. Do I have to hire independent providers as employees or can I use them as contractors?
- A. Each agency determines the employment or contractual status of their workers. You can contact the Department of Labor, Licensing, and Regulation for questions related to employment status.

<http://www.dllr.state.md.us/workplace/>

Worker Classification Protection Unit

Division of Labor and Industry

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- Q. Will nurse monitors from the health departments still visit my participants?
- A. Yes, the local health department nurse monitors will continue their visits to monitor the quality of the services provided. They need to see your medication administration records, care plans, and other documentation related to the personal assistance service you provide when they visit. You must give them your documentation.

- Q. Do I still have to send out a nurse?
- A. Yes. You are required to send a nurse every 4 months or more often as part of your license as a Residential Service Agency (RSA). You must still meet all of the requirements for your RSA license in the Code of Maryland Regulations (COMAR) 10.07.05.

- Q. What are the requirements for my RSA license?
- A. The full list of requirements can be found in COMAR online at <http://www.dsd.state.md.us/COMAR/ComarHome.html>. Some important requirements are listed in the attached document. Please note that this is not a full list and it is your responsibility to know and understand the RSA regulations.