**Appendix E: Participant Direction of Services**

**Appendix E: Participant Direction of Services E-1: Overview (1 of 13)**

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

Opportunities for Participant Direction:

All waiver participants have the opportunity to: (1) exercise employer authority to recruit, hire, supervise and discharge qualified PDWs who provide PDCS and (2) exercise budget authority to purchase allowable and approved individual-directed goods and services using a PDS budget. Financial Management Services (FMS) and Support Broker services are provided as administrative activities by a single, District-wide Vendor Fiscal/Employer Agent (VF/EA) FMS-Support Broker entity selected through a request for proposal (RFP) process.

Waiver participants who choose to enroll in the Services My Way program and self-direct their PDCS and individual-directed goods and services have access to all other EPD Waiver services except Personal Care Aide (PCA) services. Thus, waiver participants may elect to receive either traditional HCBS or participant-directed HCBS or a combination of both. Duplication of services will not occur.

How Participants Access Participant-Directed Services:

Both current and new waiver participants have the opportunity to elect to enroll in the Services My Way program and self-direct approved PDCS and individual-directed goods and services.

Current Waiver Participants –

For current waiver participants, the assigned waiver case manager informs each waiver participant about the program and the opportunity to self-direct approved PDCS and individual-directed goods and services using standard, easily understandable information approved by DHCF each time a waiver participant is reassessed for services and each time the participant’s person-centered ISP is updated if the participant is not enrolled in the Services My Way program, as well as upon the participant’s request. All current waiver participants living in their own private residence or in the home of a family member have the option to enroll in the Services My Way program and develop a new person-centered ISP and a PDS budget that includes PDCS and individual-directed goods and services. The waiver case manager will discuss the traditional and participant-directed service delivery options to ensure each waiver participant understands the different opportunities available, their roles and responsibilities and options for receiving supports.

If a waiver participant wishes to enroll in the Services My Way program, the waiver case manager reviews the requirements of the program with the participant, and develops, with the participant, a revised person-centered ISP, including the participant-directed service option. The case manager sends the revised person-centered ISP to the Services My Way Program Coordinator. The Services My Way Program Coordinator then forwards the person-centered ISP to the VF/EA FMS-Support Broker entity. The VF/EA FMS-Support Broker entity assigns a support broker to the waiver participant and commences the enrollment process.

The support broker conducts a comprehensive orientation and training with the waiver participant and the participant’s authorized representative, if applicable, using standard, easy to understand materials approved by DHCF. The support broker also assists the participant and authorized representative, if applicable, in completing forms and agreements and providing required information as requested in the Participant/Representative Employer Enrollment Packet and PDW Employment and Individual-Directed Goods and Services Vendor Engagement Packet prepared and distributed by the VF/EA FMS-Support Broker entity and any other forms and/or agreements, as required by DHCF. Following training and completion of all required documentation, the participant’s PDS budget, developed by the participant, the authorized representative, if applicable, and the support broker, is submitted to the Services My Way Program Coordinator for review. Upon approval of the PDS budget, the Program Coordinator issues the appropriate service authorizations and submits the necessary information to the VF/EA FMS-Support Broker entity for enrollment of the participant and the participant’s PDW(s) into its system.

New Waiver Participants –

New waiver participants are connected with waiver services through the Aging and Disability Resource Center (ADRC) within the DC Office on Aging (DCOA). Medicaid Enrollment Specialists at the ADRC provide comprehensive options counseling and introduce EPD Waiver applicants to the Services My Way program and participant-directed services using standard, easily understandable information approved by DHCF. If an EPD Waiver applicant expresses an interest in enrolling in the Services My Way program, once the applicant is enrolled in the EPD Waiver and a case manager is assigned, the newly enrolled participant will work with the waiver case manager and support broker as described above for currently enrolled waiver participants.

Entities Supporting Individuals:

The VF/EA FMS-Support Broker entity selected through an RFP works with waiver participants enrolled in the Services My Way program to provide support and facilitate their success in self-directing their approved PDCS and individual-directed goods and services and managing their PDS budgets. The VF/EA FMS-Support Broker entity operates in accordance with 26 U.S.C. § 3504 and Rev. Proc. 70-6, as modified by REG-137036-08 and Rev. Proc. 2013-39, and provides both financial management services (FMS) and information and assistance (I&A) services as administrative activities. The scope of FMS and I&A services provided by the VF/EA FMS-Support Broker entity are described in detail in subsequent sections.

**Appendix E: Participant Direction of Services E-1: Overview (2 of 13)**

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

 The waiver provides for both participant direction opportunities as specified in Appendix E-2.

Supports and protections are available for participants who exercise these authorities.

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

Participant direction opportunities are available to participants who live in their own private residence or the home of a family member.

**Appendix E: Participant Direction of Services E-1: Overview (3 of 13)**

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

The waiver is designed to afford every participant (or the participant’s representative) the opportunity to elect to direct waiver services. Alternate service delivery methods are available for participants who decide not to direct their services.

**Appendix E: Participant Direction of Services E-1: Overview (4 of 13)**

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

All waiver participants receive information about using participant-directed services (PDS). As noted above, information regarding PDS is initially be provided to new waiver participants by Medicaid Enrollment Specialists at the ADRC, and to current waiver participants by their waiver case managers. For all waiver participants, the waiver case manager documents the participant’s choice of service delivery model in the person-centered ISP. Waiver case managers also advise participants of their opportunity to change their method of waiver service delivery at any time. Waiver case managers also re-introduce and provide information about PDS to waiver participants each time the participant is reassessed for services and each time the participant’s person-centered ISP is updated if the waiver participant is not already enrolled in the Services My Way program, as well as upon the participant’s request.

Orientation and training materials provided to participants and their authorized representatives, as appropriate, include, but may not be limited to, details about self-directing their PDS, managing their PDS budget, using FMS and support broker services, being a common law employer, and general Medicaid and non-Medicaid rights and responsibilities.

DHCF has distributed these materials to the Medicaid Enrollment Specialists at the ADRC and to all waiver case managers as part of their PDS training. The materials are also available on the DHCF website. The materials are written to comply with all relevant federal and District standards regarding language access.

The support broker is responsible for providing orientation and training to the participant/representative employer prior to employing a PDW. Initial orientation and training is based upon a standard curriculum developed by DHCF and includes the following:

• Review of the information and forms contained in both the Participant/Representative Employer Enrollment and PDW Employment and Individual-Directed Goods and Services Engagement Packets and how they should be completed;

• The role and responsibilities of the common law employer;

• The role and responsibilities of the VF/EA FMS Division and support broker;

• The process for receipt and processing PDW timesheets and payroll checks;

• The process for purchasing approved individual-directed goods and services from vendors, including submitting invoices for payment;

• Effective practices for recruiting, hiring, training, supervising, managing and firing PDWs;

• The process for resolving issues and complaints; and

• Reviewing workplace safety issues, obtaining workers’ compensation insurance coverage and reporting PDW workplace injuries.

In addition, the support broker is responsible for providing ongoing skills training to participants and working with the participant’s case manager and VF/EA FMS Division to identify any participants who may need and/or desire additional employer skills training.

**Appendix E: Participant Direction of Services E-1: Overview (5 of 13)**

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

 The State provides for the direction of waiver services by representatives.

**Specify the representatives who may direct waiver services: (check each that applies):**

Waiver services may be directed by a legal representative of the participant.

Waiver services may be directed by a non-legal representative freely chosen by an adult participant.

**Specify the policies that apply regarding the direction of waiver services by participant-appointed representatives, including safeguards to ensure that the representative functions in the best interest of the participant:**

The participant may designate an authorized representative to exercise employer-related responsibilities. An authorized representative is a person who is the participant's substitute decision-maker, family member, or any other identified individual who willingly accepts responsibility for performing employer and budget management tasks that a participant is unable to perform him or herself, and includes serving as the common law employer of the participant’s PDW(s).

An authorized representative must evince a personal commitment to the participant, be willing to follow the participant's wishes and respect the participant's preferences, while using sound judgment to act in the best interest of the participant. The authorized representative must be actively engaged in the participant’s life and live in his or her community. An authorized representative also must execute a Designation of Authorized Representative form.

A participant may only designate one (1) authorized representative at a time, and may revoke an authorized representative designation at any time by notifying the support broker, who will assist the participant to complete the required form. A participant may have one (1) of three (3) types of authorized representative. These include:

Pre-determined Representative – A legal guardian or other court-appointed representative in place at the time of the participant’s enrollment in the Services My Way program.

Voluntary Representative – An individual twenty-one (21) years of age or older who is actively engaged in the participant’s life and lives in the participant’s community.

Mandated Representative – An individual who meets the criteria of a voluntary representative who is designated by the participant if DHCF or its agent determines that the participant requires an authorized representative in order to continue participation in the Services My Way program.

DHCF may determine that a participant requires an authorized representative to continue participation in the Services My Way program if the participant has demonstrated an inability to self-direct his/her services after additional counseling, information, remedial training and/or assistance has been offered by the participant’s support broker.

If DHCF determines that a participant requires an authorized representative to continue participation in the Services My Way program, DHCF must issue a written notice to the participant, support broker, and waiver case manager, which:

i. Informs the participant that designation of an authorized representative is required in order to continue participating in the Services My Way program;

ii. Details the reason(s) that designation of an authorized representative is required;

iii. Provides instructions on designating an authorized representative; and

iv. Provides information on the participant’s right to appeal the determination by filing a notice of appeal with the Office of Administrative Hearings.

No authorized representative may receive any monetary compensation for serving as a participant’s authorized representative for the Services My Way program. An authorized representative may only serve one (1) Services My Way participant, and may not serve as a paid PDW for the participant. All authorized representatives must meet the following requirements:

i. Effectuate, as much as possible, the decision the waiver participant would make for him/herself;

ii. Accommodate the participant, to the extent necessary, so he/she can participate as fully as possible in all decisions; and

iii. Give due consideration to all information including the recommendations of other interested and involved parties.

Waiver participants and authorized representatives are responsible for working collaboratively to ensure that:

i. Waiver participants receive needed PDCS from qualified PDWs; and

ii. PDCS services and individual-directed goods and services are provided in accordance with the participant’s person-centered ISP and PDS budget.

The following safeguards are in place to ensure that an authorized representative functions in the best interests of the participant: Authorized representatives are required to complete and sign an Authorized Representative Designation Form, which includes attestations that the representative will make decisions in the participant’s best interest, has not been convicted of a felony, and will attend initial orientation and ongoing training as required by DHCF. The performance of authorized representatives will be continually monitored by the participant’s support broker and waiver case manager, either of whom may alert the Services My Way Program Coordinator if there is a concern regarding whether the representative is acting in the participant’s best interest. PDWs may also alert the participant’s support broker or waiver case manager with any concerns regarding a representative’s performance.

**Appendix E: Participant Direction of Services E-1: Overview (6 of 13)**

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

See table in PDF.

Employer authority and budget authority are available for Participant-Directed Community Support. Budget authority is available for Individual-Directed Goods and Services.

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

Yes. Financial Management Services are furnished through a third party entity. (Complete item E-1-i).

Specify whether governmental and/or private entities furnish these services. Check each that applies:

Private entities

**Appendix E: Participant Direction of Services E-1: Overview (8 of 13)**

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

FMS are provided as an administrative activity.

**i. Types of Entities: Specify the types of entities that furnish FMS and the method of procuring these services:**

FMS are provided to all waiver participants enrolled in the Services My Way program by a single District-wide VF/EA FMS-Support Broker entity, selected through a competitive procurement process.

**ii. Payment for FMS. Specify how FMS entities are compensated for the administrative activities that they perform:**

The VF/EA FMS-Support Broker entity receives a per participant per month administrative fee for the financial management services provided that is established through the competitive procurement process. The selected vendor must apply the per participant per month fee consistently for each participant actively enrolled with the vendor.

The VF/EA FMS-Support Broker entity receives a separate per participant per month administrative fee for the support broker service provided by the VF/EA FMS-Support Broker entity, established through the competitive procurement process. The selected vendor must apply the per participant per month fee consistently for each participant actively enrolled with the vendor.

The VF/EA FMS-Support Broker entity receives a separate one-time set-up fee for enrolling the participant/representative employer with the VF/EA FMS-Support Broker entity. The one-time set-up fee is consistent for each participant/representative employer.

The VF/EA FMS-Support Broker entity receives a separate one-time set-up fee for enrolling a qualified PDW in its PDW payroll system. The one-time set-up fee is consistent for each PDW.

**iii. Scope of FMS. Specify the scope of the supports that FMS entities provide (check each that applies):**

Supports furnished when the participant is the employer of direct support workers:

Assists participant in verifying support worker citizenship status

Collects and processes timesheets of support workers

Processes payroll, withholding, filing and payment of applicable federal, state and local employment-related taxes and insurance

Other

Specify:

The VF/EA FMS/Support Broker entity operates in accordance with 26 U.S.C. §3504 and Rev. Proc. 70-6, as modified by REG-137036-08 and Rev. Proc. 2013-39, as well as applicable federal and District labor, citizenship and immigration, and workers’ compensation requirements. The entity offers the following FMS:

• Obtaining federal and District approval to perform as a VF/EA (e.g., filing and submission of IRS Forms 2678 and 8821, and DC powers of attorney for income tax and unemployment tax filing and payments);

• Preparing and maintaining a DC-specific VF/EA FMS-Support Broker Policies and Procedures Manual that includes written policies, procedures and internal controls for all VF/EA FMS and Support Broker tasks and updating it as needed and at least annually;

• Staying up-to-date with all federal and state program, labor, employment tax and workers’ compensation insurance requirements related to participant/representative employers, their PDWs, and VF/EA FMS;

• Developing a transition plan for when/if the VF/EA FMS – Support Broker entity changes to facilitate the transition process and in accordance with DHCF requirements;

• Receiving and disbursing Medicaid funds and monitoring any balances;

• Submitting claims for Medicaid reimbursement for PDCS and individual-directed goods and services rendered;

• Submitting invoices to DHCF for VF/EA FMS and Support Broker administrative fees;

• Providing customer service (i.e., toll free phone and TYY numbers and informational materials that comply with all federal and District standards regarding disability and language access) per DHCF requirements;

• Preparing and distributing Participant/Representative-Employer Enrollment Packets;

• Collecting and processing the completed forms, agreements and information requested in the Participant/Representative-Employer Enrollment Packets;

• Preparing and distributing the PDW Employment and Individual-Directed Goods and Services Vendor Engagement Packets;

• Collecting and processing the completed forms, agreements and information requested in the PDW Employment and Individual-directed Goods and Services Vendor Engagement Packets;

• Enrolling participant/representative employers with the VF/EA FMS-Support Broker entity;

• Enrolling PDWs in the VF/EA FMS-Support Broker entity’s payroll system;

• Facilitating the criminal background check process for prospective PDWs;

• Reporting PDWs in the DC New Hire Reporting System;

• Assisting participant/representative employers with determining citizenship and legal alien status by processing the US CIS Form I-9;

• Collecting and processing PDWs’ timesheets in accordance with a participant’s person-centered ISP and PDS budget;

• Processing PDW payroll including paying wages in compliance with the DC Living Wage Act and filing and paying federal and District of Columbia required taxes;

• Processing garnishments liens and levies against PDWs’ wages;

• Processing end-of-year federal and state tax activities including IRS Forms W-2, FICA refunds, and DC tax reconciliations, as required;

• Receiving and processing invoices from individual-directed goods and services vendors for payment;

• Processing returned payments (i.e. payroll checks or payments to individual-directed goods and services providers) in accordance with the District’s Unclaimed Property Law;

• Managing the receipt and renewal of workers’ compensation insurance policies for waiver participant/representative-employers;

• Establishing and maintaining current and archived records and files in a confidential and secure manner and for required time period;

• Implementing and testing a disaster recovery plan for electronic data and files;

• Preparing and submitting DHCF required reports; and

• Executing Medicaid provider agreements for PDWs and individual-directed goods and services vendors as authorized under a written agreement with the Medicaid agency and maintaining them on file.

**Supports furnished when the participant exercises budget authority:**

Maintains a separate account for each participant's participant-directed budget

Tracks and reports participant funds, disbursements and the balance of participant funds Processes and pays invoices for goods and services approved in the service plan

Provide participant with periodic reports of expenditures and the status of the participant- directed budget

**Additional functions/activities:**

 Executes and holds Medicaid provider agreements as authorized under a written agreement with the Medicaid agency

Receives and disburses funds for the payment of participant-directed services under an agreement with the Medicaid agency or operating agency

Provides other entities specified by the State with periodic reports of expenditures and the status of the participant-directed budget

Other

Specify:

The VF/EA FMS-Support Broker entity must provide accurate and timely reports monthly and annually to the participant/representative employer, support broker, waiver case manager and the Services My Way Program Coordinator. This report details service utilization in comparison to the participant’s PDS budget and any over- or under-utilization.

In addition, the VF/EA FMS-Support Broker entity must provide required reports that address service utilization and expenditures on the individual and aggregate levels on a quarterly and annual basis to DHCF and its designees.

**iv. Oversight of FMS Entities. Specify the methods that are employed to: (a) monitor and assess the performance of FMS entities, including ensuring the integrity of the financial transactions that they perform; (b) the entity (or entities) responsible for this monitoring; and, (c) how frequently performance is assessed.**

DHCF will monitors and assesses the readiness and ongoing performance of the VF/EA FMS-Support Broker entity through a number of monitoring activities. DHCF conducted an on-site readiness review of the VF/EA FMS-Support Broker entity prior to the contract award. DHCF also conducts an annual VF/EA FMS-Support Broker Entity Quality Assessment and Performance Review using the methods described in Appendix A (5) and (6). The VF/EA FMS-Support Broker entity is required to prepare and submit monthly utilization and expenditure reports to DHCF. DHCF’s Office of Contracts and Procurement (OCP), in collaboration with the Health Care Delivery Management Administration’s (HCDMA) Division of Quality and Health Outcomes (DQHO), will address other quality assurance related issues as they arise.

DHCF conducts a participant/representative employer satisfaction survey within sixty (60) days of the participant enrolling in the Services My Way program, and on an annual basis thereafter. DHCF analyzes the survey results and includes them in the VF/EA FMS-Support Broker entity annual performance review.

Furthermore, the integrity of financial transactions performed by the FMS is ensured through inclusion of *Services My Way* participants in the quarterly compliance reviews conducted by the EPD Waiver oversight and monitoring team, as discussed in Appendix I.

The scope of this post-payment review process is as follows: Data is selected for review by identifying beneficiaries at random from the list of *Services My Way* participants, such that at least ten percent (10%) of the beneficiaries included in the review are *Services My Way* participants. The frequency of this post-payment review process is quarterly. The methodology used to ensure the integrity of payments made by the VF/EA FMS-Support Broker entity is as follows: MMIS paid claims to the VF/EA FMS-Support Broker entity are compared to PDW timesheets signed by participant/representative-employers during the quarter under review. If discrepancies between the paid claims and signed timesheets are found, the VF/EA FMS-Support Broker entity and the participant/representative-employer(s) are notified, and a referral is made to DHCF’s Division of Program Integrity for investigation. In addition to the quarterly reviews conducted to ensure compliance with the EPD Waiver program’s performance measures, the VF/EA FMS-Support Broker entity is included as an EPD Waiver provider in the oversight and monitoring team’s annual oversight and monitoring review, as discussed in Appendix I.

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

Case Management Activity. Information and assistance in support of participant direction are furnished as an element of Medicaid case management services.

**Specify in detail the information and assistance that are furnished through case management for each participant direction opportunity under the waiver:**

Case management services facilitate coordination of all waiver services, including participant-directed services, provided to participants so that services are delivered in a well-coordinated, safe, timely and cost-efficient manner that addresses the participant’s specific needs. Case management services for all waiver participants are detailed in Appendix D. In addition to all responsibilities detailed in Appendix D, a participant’s waiver case manager performs the following information and assistance tasks related to PDS:

• Conducts initial outreach and education on the Services My Way program for waiver participants using standard outreach and PDS information materials, and documents the participant’s decision on whether or not to use PDS.

• Re-introduces the Services My Way program to waiver participants not enrolled in PDS each time the participant’s person-centered ISP is updated, each time the participant is reassessed, and upon the participant’s request.

• Identifies waiver participants’ desired outcomes for using PDS under a person-centered planning process and includes PDS in the participant’s person-centered ISP.

• Provides copies of the participant’s updated and approved person-centered ISP and authorized representative, as appropriate, the waiver participant’s support broker, and the Services My Way Program Coordinator.

• Monitors participant/representative employer performance in using PDS in collaboration with the participant’s support broker.

• Participates in the Remediation, Training and Termination process with the Services My Way Program Coordinator, VF/EA FMS Division, support broker and other entities, as appropriate.

• Assesses participants’ and representatives’, as appropriate, receipt of and satisfaction with PDS in collaboration with the participant’s support broker.

**Waiver Service Coverage. Information and assistance in support of participant direction are provided through the following waiver service coverage(s) specified in Appendix C-1/C-3 (check each that applies):**

See table in PDF.

Information and assistance services are provided through the following waiver services: case management, participant-directed community support, and individual-directed goods and services.

Administrative Activity. Information and assistance in support of participant direction are furnished as an administrative activity.

**Specify (a) the types of entities that furnish these supports; (b) how the supports are procured and compensated; (c) describe in detail the supports that are furnished for each participant direction opportunity under the waiver; (d) the methods and frequency of assessing the performance of the entities that furnish these supports; and, (e) the entity or entities responsible for assessing performance:**

The Support Broker Division of the VF/EA FMS-Support Broker entity furnishes information and assistance (I&A) supports to participants enrolled and their representatives as appropriate. As detailed above, the VF/EA FMS-Support Broker entity will receive a consistent per participant per month fee for support broker services.

A waiver participant’s support broker furnishes the following I&A supports related to PDCS and individual-directed goods and services:

• Provides initial orientation and skills training to participants and authorized representatives, as appropriate, on using the Services My Way program, self-directing their PDS and managing their PDS budget, using FMS and support broker services, being a common law employer, and general Medicaid and non-Medicaid rights and responsibilities.

• Provides ongoing skills training to participants and authorized representatives, as appropriate, on using the Services My Way program, self-directing their PDS and managing their PDS budget, using FMS and support broker services, being a common law employer, and general Medicaid and non-Medicaid rights and responsibilities as needed.

• Assists participant/representative employers in completing the forms and agreements included in the Participant/Representative-Employer Enrollment Packet and Participant-directed Worker (PDW) Employment and Individual-Directed Goods and Services Vendor Engagement Packet.

• Assists participant/representative employers in developing, implementing, monitoring effectiveness and revising, as needed, emergency back-up and natural support plans and designated emergency back-up staff and natural supports.

• Assists waiver participants in designating an authorized representative, as necessary, assessing effectiveness of the authorized representative and selecting a new authorized representative if needed.

• Develops, with the participant and authorized representative, as appropriate, the participant’s PDS budget for approval by the Services My Way Program Coordinator.

• Updates, with the participant and authorized representative, as appropriate, the participant’s PDS budget and submits the revised budget for approval by the Services My Way Program Coordinator.

• Develops with the participant and his/her representative, as appropriate, proposals to reallocate PDS budget funds from labor to individual-directed goods and services or vice versa and submits them for approval by the Services My Way Program Coordinator.

• Assists the participant and authorized representative, as appropriate, in tracking PDS expenditures in accordance with the participant’s PDS budget.

• Assists participants and authorized representatives, as appropriate, in making decisions about purchasing individual-directed goods and services.

• Assists participants and authorized representatives, as appropriate, in resolving issues as they arise.

• Conducts periodic in-home visits and phone calls with participants to monitor that their PDS is being provided in accordance with the participant’s person-centered ISP and PDS budget, their health and safety and to answer questions or concerns.

• Assesses effectiveness of participants’ authorized representative and suggests modification, as needed.

• Assesses effectiveness of participant/representative employer’s emergency PDW backup plan and designated staff and suggests modifications, as needed.

• Assesses effectiveness of participant/representative employer’s natural supports plan and delegated natural supports and suggests modifications, as needed.

• Reports critical incidents as a mandatory reporter.

• Participates in the Remediation, Training and Termination process with Services My Way Program Coordinator, waiver case manager, VF/EA FMS Division, and other entities, as appropriate.

As noted above, DHCF conducts an annual VF/EA FMS-Support Broker Entity Quality Assessment and Performance Review. All quality assessments and performance reviews of the VF/EA FMS-Support Broker entity include the I&A services described above. DHCF also conducts participant/representative employer satisfaction surveys within sixty (60) days of enrollment in the Services My Way program and annually thereafter. The surveys address satisfaction with the I&A services described above.

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

 No. Arrangements have not been made for independent advocacy.

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

Waiver participants have the option to transition from participant direction to the provider- managed service delivery model at any time. This is accomplished by the participant completing the Voluntary Participant Termination Notice and sending it to the Services My Way Program Coordinator for processing. The Program Coordinator will then inform the participant’s support broker and waiver case manager of the participant’s decision. The waiver case manager will then guide the waiver participant through the transition process and be responsible for transitioning the waiver participant to the traditional model of service. The waiver case manager will ensure there is no break in service during the transition period and coordinate the approval by DHCF or its designee of the request to initiate agency-based personal care aide services.

**Appendix E: Participant Direction of Services E-1: Overview (12 of 13)**

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

Remediation, Training and Termination Protocol

DHCF has developed a remediation, training and termination protocol for participant/representative-employers who fail to comply with the terms of the Participant/Representative Employer Agreement. Non-compliance with the Participant/ Representative Employer Agreement may be discovered by the VF/EA FMS-Support Broker entity, the participant’s support broker, the waiver case manager, or DHCF staff.

Participant/representative-employers are generally allowed three (3) episodes of non-compliance in the Services My Way program. The third episode of non-compliance necessitates the participant’s termination from the Services My Way program and transition to agency-based personal care aide services.

First Episode of Non-Compliance: When a participant/representative-employer is found to be out of compliance with the Participant/Representative Employer Agreement for the first time, the following steps occur:

A. The Services My Way Program Coordinator issues a notice of non-compliance to the participant/representative-employer, the support broker, and the waiver case manager, which:

i. Identifies the issue of non-compliance and requests that the issue be corrected (if possible), and not repeated;

ii. Details requirements of the Corrective Action Plan (CAP) the participant will create to address the issue;

iii. Offers training and/or technical assistance;

iv. Encourages the participant/representative employer to direct questions to the support broker, including requesting training, obtaining assistance in preparing the CAP, and designating an authorized representative;

v. Identifies consequences of further non-compliance with the Participant/Representative Employer Agreement; and

vi. Provides details on the participant’s appeal rights for termination from the program, should three (3) episodes of non-compliance occur.

B. Within five (5) business days of issuing the notice of non-compliance, the support broker contacts the participant/representative-employer to discuss the episode of non-compliance.

C. Within five (5) business days of the above mentioned contact, the participant, with the assistance of the authorized representative and/or the support broker, if needed, draft and sign a written CAP regarding the episode of non-compliance.

i. The support broker provides copies of the signed CAP to the waiver case manager and the VF/EA FMS-Support Broker entity.

ii. The support broker is responsible for monitoring the CAP. If the participant or authorized representative, as applicable, fails to implement all or a portion of the CAP, this is considered an episode of non-compliance and is reported to the Services My Way Program Coordinator.

Second Episode of Non-Compliance: When a participant/representative-employer is found to be out of compliance with the Participant/Representative Employer Agreement for a second time, the following steps occur:

A. The Services My Way Program Coordinator issues a second notice of non-compliance to the participant/representative-employer, the support broker, and the waiver case manager, which contains all the information detailed above for the initial notice of non-compliance.

B. Within five (5) business days of issuing the second notice of non-compliance, the support broker contacts the participant/representative-employer to discuss the episode of non-compliance.

C. Within five (5) business days of the above mentioned contact, the participant, with the assistance of the authorized representative and/or the support broker, if needed, draft and sign a written CAP regarding the episode of non-compliance. As detailed above, the support broker is responsible for monitoring the CAP, and failure to implement all or a portion of the CAP is considered an episode of non-compliance.

Third Episode of Non-Compliance: When a participant/representative-employer is found to be out of compliance with the Participant/Representative-Employer Agreement for a third time, the following steps occur:

A. The Services My Way Program Coordinator issues a termination notice to the participant/representative-employer, the support broker, and the waiver case manager, which:

i. Identifies the three (3) episodes of non-compliance;

ii. Clearly states that DHCF is terminating the participant’s enrollment in the Services My Way program, per notice provided in the first and second notices of non-compliance;

iii. Informs the participant that he/she will be transitioned to agency-based personal care aide services, per notice provided in the first and second notices of non-compliance; and

iv. Provides information regarding the participant’s right to appeal the Services My Way program termination decision by filing a notice of appeal with the Office or Administrative Hearings.

B. Within five (5) business days of issuing the termination notice, the support broker contacts the participant/representative-employer and addresses the following topics:

i. Reference to the first and second notices of non-compliance and the termination notice;

ii. Review of the consequences of three (3) episodes of non-compliance;

iii. Explanation of the process to transition the participant to agency-based personal care aide services; and

iv. Explanation of the participant’s right to appeal the Services My Way program termination decision and the appeal process.

Credible Allegations of Fraud, Theft, or Other Criminal Behavior

In the case of a credible allegation of fraud, theft, or any other criminal behavior committed by a Services My Way participant, the participant is not referred to the remediation, training and termination protocol, and is not afforded three (3) episodes of non-compliance. The participant may be terminated from the program immediately upon completion of an investigation by the DHCF Division of Program Integrity substantiating the credible allegation of criminal behavior.

A. If the DHCF Division of Program Integrity receives a credible allegation of fraud, theft, or any other criminal behavior by a Services My Way participant, the Division completes an investigation of the allegation and issues a report detailing its findings. If the report finds the allegation to be substantiated, DHCF then convenes a termination committee comprised of staff from multiple divisions as well as executive management to review the report and determine whether to terminate the participant based on the findings documented in the report.

B. If a participant is terminated from the program under these circumstances, the Services My Way Program Coordinator sends a termination notice to the participant/representative-employer, the support broker, and the waiver case manager, which:

i. Clearly states that DHCF is terminating the participant’s enrollment in the Services My Way program, due to a substantiated allegation of fraud, theft or other criminal behavior;

ii. Explains the allegation, the investigation process, and the findings of the investigation, and includes a copy of the investigation report;

iii. Explains the process to transition the participant to agency-based personal care aide services, if appropriate; and

iv. Provides information regarding the participant’s right to appeal the Services My Way program termination decision by filing a notice of appeal with the Office of Administrative Hearings.

If a participant files a notice of appeal with the Office of Administrative Hearings within thirty (30) days of the date on the termination notice, the participant remains enrolled in the program and continues to receive PDCS services and individual-directed goods and services included in the participant’s approved PDS budget while the appeal is pending.

Transition Safeguards

The following safeguards are in place to ensure continuity of services and protect participant health and welfare during the transition: The transition to agency-based personal care aide services only occurs following receipt and explanation of the termination notice and the completion of any ensuing appeal of the termination decision. Within five (5) business days of issuing the termination notice, the support broker contacts the participant to discuss the process for transitioning to agency-based personal care aide services with support from the waiver case manager. As in the case of voluntary termination, the waiver case manager is responsible for guiding the participant through the transition process and for coordinating the approval of the request to initiate agency-based personal care aide services. The waiver case manager ensures there is no break in service and monitors participant health and welfare during the transition.

**Appendix E: Participant Direction of Services E-1: Overview (13 of 13)**

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

Year 1: 160

Year 2: 180

Year 3: 200

Year 4: 220

Year 5: 240

**E-2: Opportunities for Participant Direction (1 of 6)**

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

**i. Participant Employer Status. Specify the participant's employer status under the waiver.**

 Participant/Common Law Employer. The participant (or the participant's representative) is the common law employer of his/her participant-directed workers. The VF/EA FMS-Support Broker entity, operating in accordance with 26 U.S.C. §3504 and Rev. Proc. 70-6, as modified by REG – 137036-08 and Rev. Proc. 2013-39, functions as the agent to the participant/representative-employer to do either all that is required of the employer for wages paid on the employer’s behalf or all that is required of the payer for requirements of backup withholding as required by federal and state law. Supports are available to assist the participant in performing the employer-related functions.

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

Recruit staff

Hire staff as common law employer

Verify staff qualifications

Obtain criminal history and/or background investigation of staff

Specify how the costs of such investigations are compensated:

Each potential PDW completes and pays for the combined FBI and District of Columbia criminal background check. Completing and passing the combined criminal background check is a condition of employment as a PDW. The criminal background check will be facilitated by the VF/EA FMS Division. If a PDW does not pass the required criminal background check, the participant/representative employer and the Services My Way Program Coordinator are notified.

Specify additional staff qualifications based on participant needs and preferences so long as such

qualifications are consistent with the qualifications specified in Appendix C-1/C-3.

Determine staff duties consistent with the service specifications in Appendix C-1/C-3.

Determine staff wages and benefits subject to State limits

Schedule staff

Orient and instruct staff in duties

Supervise staff

Evaluate staff performance

Verify time worked by staff and approve time sheets

Discharge staff (common law employer)

Other

Specify:

Benefits to PDWs include the payment of Medicare and Social Security taxes (FICA), federal and state unemployment insurance taxes, and workers compensation insurance coverage, as well as any other benefits specifically required by DC or federal law as of the effective date of this renewal.

**E-2: Opportunities for Participant-Direction (2 of 6)**

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

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

Reallocate funds among services included in the budget

Determine the amount paid for services within the State's established limits

Substitute service providers

Schedule the provision of services

Specify additional service provider qualifications consistent with the qualifications specified in Appendix C-1/C-3

Specify how services are provided, consistent with the service specifications contained in Appendix C-1/C-3

 Identify service providers and refer for provider enrollment

**E-2: Opportunities for Participant-Direction (3 of 6)**

**b. Participant - Budget Authority**

**ii. Participant-Directed Budget Describe in detail the method(s) that are used to establish the amount of the participant-directed budget for waiver goods and services over which the participant has authority, including how the method makes use of reliable cost estimating information and is applied consistently to each participant. Information about these method(s) must be made publicly available.**

The participant-directed services (PDS) budget is developed based on the following methodology:

(1) A person-centered ISP is developed based on the results of a comprehensive assessment for long term care services and supports using a standard tool. The process for person-centered ISP development is the same for all waiver participants, regardless of service model. (2) Then, the total assessed hours per week for PDCS is determined and converted to hours per month. (3) Then, total PDCS hours per month are multiplied by the traditional rate of payment for PCA services. (4) The total amount computed in Item 3 is then reduced by a pre-determined percentage to reflect the administrative overhead amount in the traditional PCA rate. (5) The resultant amount represents the participant’s PDS monthly allocation amount, which will be used to compute his/her PDS budget.

The participant’s PDS budget is developed by the participant/representative-employer and the support broker by executing the following steps:

(1) The PDS budget contains two (2) cost components: PDCS labor and individual-directed goods and services. (2) The participant determines the wage rate paid to the PDW(s) based on the wage range prescribed by DHCF, which shall be no less than the DC living wage and no more, including employment taxes and insurance amounts, than the current rate paid for agency-based personal care aide services. (3) Individual-directed goods and services will be determined based on available funds remaining in the PDS budget after the PDCS budget amount is determined. This methodology will be used to determine PDS budgets for all participants.

The Services My Way Program Coordinator provides the participant’s PDS monthly allocation amount, calculated using the methodology described above, to the participant/representative-employer and the support broker. The participant/representative-employer then works with the support broker to determine how the PDS budget will be developed to best serve the participant’s needs while maintaining health and welfare.

The support broker submits the PDS budget to the Services My Way Program Coordinator, who must approve all PDCS and individual-directed goods and services requested in the budget. Once approved, the PDS budget is provided to the VF/EA FMS-Support Broker entity, which must pay PDWs for approved PDCS services rendered and invoices from vendors for approved individual-directed goods and services in accordance with the PDS budget.

Information about the PDS budgeting process is available through the outreach and training materials provided by DHCF and its agents and is accessible to the public via the DHCF website.

**E-2: Opportunities for Participant-Direction (4 of 6)**

**b. Participant - Budget Authority**

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

As detailed above, the Services My Way Program Coordinator provides the PDS monthly allocation amount to the participant/representative-employer and the support broker, who then develop a detailed PDS budget based on the monthly allocation amount.

If the participant’s needs change at any time, the participant, with assistance from the support broker and authorized representative, if applicable, may request an adjustment to the PDS budget. The Program Coordinator will provide the participant, the support broker, and the authorized representative, if applicable, with written notice of the approval or denial of the request. If the participant disagrees with the Program Coordinator’s determination, the participant may request a redetermination of the request. The participant also has the right to appeal the determination by filing a notice of appeal with the Office of Administrative Hearings.

**E-2: Opportunities for Participant-Direction (5 of 6)**

**b. Participant - Budget Authority**

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

Modifications to the participant directed budget must be preceded by a change in the service plan.

**E-2: Opportunities for Participant-Direction (6 of 6)**

**b. Participant - Budget Authority**

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

DHCF has implemented a number of safeguards to prevent the premature depletion of the PDS budget and address potential service delivery problems that may be associated with budget underutilization.

(1) The VF/EA FMS Division prepares and issues a monthly PDS budget report to participant/representative-employers, support brokers, waiver case managers, and the Services My Way Program Coordinator. This report provides the PDS budget amount, services used, and expenditures incurred for the current month and year to date, as well as the remaining balance. The support broker reviews this report with the participant/representative-employer as needed and addresses any questions.

(2) The VF/EA FMS Division monitors PDCS utilization by pay period. The VF/EA FMS Division issues a report to the participant/representative employer, the support broker, the waiver case manager and the Services My Way Program Coordinator if significant over- or under-utilization of PDCS services is found. The support broker reviews the report with the participant/representative employer and addresses any questions. If over-utilization of PDCS services is found, the VF/EA FMS Division collects the amount of the overage from the participant/representative-employer. Significant over-utilization of PDCS services is considered an episode of non-compliance with the terms of the Participant/Representative-Employer Agreement and results in referral of the participant/representative-employer to the remediation, training and termination protocol detailed above, which requires the participant/representative employer to prepare a CAP detailing how the participant/representative employer will remedy the issue.