

# Operational Considerations for Self-directed Service Delivery Models

## *Home and Community-based Services (HCBS) Self-direction Series*

### **HCBS Self-direction Series**

This briefing paper series is designed for policymakers and stakeholders, to inform conversation and policy regarding HCBS self-direction and the direct service workforce. This brief is the third of four in the series and focuses on operational implications for self-directed service delivery models, such as monitoring self-direction in managed long-term services and supports, planning for daily and back-up supports, using worker registries, and ensuring appropriate training and certification.

Self-direction is now a well-established model of HCBS delivery. The number of states that offer a self-directed service option in their section 1915(c) HCBS waiver programs or their section 1915(i), (j), and/or (k) state plan options and the number of individuals using self-directed services has grown significantly in the past decade, and future growth is anticipated. Self-direction expands the existing direct service workforce by including opportunities to employ a non-traditional group of workers. This includes neighbors, friends, and relatives who know the individual and their care needs and from whom the individual feels comfortable receiving services. Research shows that over 50 percent of individuals using self-directed services choose to hire relatives or other people they know when given the option to do so.<sup>1</sup> Use of direct service

workers who are known to the individual self-directing services can create more continuity, as retention is enhanced when there is a good match between a worker and the person using supports.<sup>2</sup> This brief explores operational considerations of importance to states interested in implementing or expanding self-directed service options.

# Monitoring Self-direction in Managed Long-term Services and Supports (MLTSS)

## **U.S. Department of Labor Home Care Rule**

The U.S. Department of Labor's (DOL) Home Care Rule (Rule)<sup>3</sup> has and will continue to have an effect on the delivery of self-directed services and on direct service workers who provide these services. On October 1, 2013, the U.S. DOL issued a final version of the Rule to update the Fair Labor Standards Act regulations related to domestic service exemptions. The Rule extended minimum wage and overtime protections to home care workers, ensuring they have the same basic wage protections as most workers in the U.S., including those who provide similar types of assistance to older adults and people with disabilities residing in nursing facilities and group homes. The Rule also revised the definition of companionship services to clarify and narrow the duties that fall within that category. After the implementation of the Rule, a significant number of directly-hired direct service workers became entitled to overtime and travel pay.<sup>4</sup>

The relationship between the provision of self-directed services and MLTSS continues to present both challenges and opportunities. About half of states in the U.S. have implemented MLTSS, and the majority offer a self-directed service option in their HCBS waiver programs and state plan options.<sup>5,6</sup> Initially, many MLTSS providers had little experience in the provision of self-directed HCBS and how to incorporate it into MLTSS. While MLTSS appears to be promoting increased use of self-direction, how well MLTSS incorporates the service option into its operations is unclear.<sup>7</sup> By establishing effective quality monitoring procedures for the provision of self-directed services within a managed care environment, states can help to ensure that individuals are receiving the services they need and are supported in realizing the benefits of a self-directed delivery system.

## Planning for Day-to-day and Back-up Supports

Planning for day-to-day activities and the provision of back-up supports under self-direction is important for the successful delivery of self-directed services. Planning for daily supports can be achieved by individuals developing and implementing effective person-centered service plans, with assistance from support brokers as needed. Managing risk is critical. Support brokers may work with individuals to balance health and safety with choice and control when developing service plans. The effectiveness of service plans is monitored, and updated as needed, by the individual and supports broker during the service period.

Implementing an effective contingency or back-up plan and designating back-up direct service worker staff when the primary direct service worker cannot report for work are key elements in the delivery of effective self-directed services. A contingency or back-up plan must be included in the individual's person-centered service plan.<sup>7</sup> In addition, back-up plans should be monitored, and updated as needed, by the individual and supports broker during the service period. The individual or representative, with help from the supports broker if needed, is often required by states to formally designate one or more back-up direct service workers using an emergency direct service worker back-up designation form.

## Using Worker Registries to Facilitate Recruitment

Individuals and their representatives using self-directed services can find recruiting and retaining direct service workers a challenge due to the national direct service workforce shortage. In response, some states have implemented online worker registry platforms that enable individuals and representatives to identify and communicate with direct service worker candidates for potential hire. These registries can serve as a resource for individuals enrolled in self-directed services.<sup>8</sup>

Currently, 10 states have implemented 14 worker registry platforms. Eight states have implemented them on a statewide basis, while two states have implemented them on a regional basis. Seven registries use shared online platforms. Eleven registries are maintained by nonprofit organizations, and three are maintained by state agencies.<sup>8</sup>

Organizations maintaining registries oversee day-to-day operations and also may recruit users, provide technical support, or develop new registry features, among other activities. Challenges to maintaining registries may include sustainable funding and ongoing recruitment of registry users.<sup>8</sup> There are potential risks to states that host registries, such as the appearance of endorsing certain providers or being deemed a joint employer with liability for paying overtime. Most registries require 18 to 24 months before they are fully operational.<sup>9</sup>

## Ensuring Appropriate Certification and Training Requirements for Workers Providing Self-directed Services

State certification and training requirements for direct service workers providing self-directed services often are different than requirements for direct service workers in traditional service models and can vary widely by state. About one quarter of states have implemented online training registries that individuals and their representatives, agencies, and state program staff can use to verify that direct service workers have passed necessary background checks and training requirements. Among the states that have implemented registries, fewer than half require home health aide or certified nurse aide certification in order to provide personal care services.<sup>10</sup> Online training registries may raise concerns about the sensitivity of public contact information, particularly for direct service workers who are undocumented or domestic abuse survivors.<sup>11</sup>

When services are self-directed, the individual or representative often determines the training needs and trains, or arranges for training of, their directly-hired direct service workers. Under self-direction, individuals receiving services define their own employment qualifications and select their direct service workers using their preferred criteria.<sup>12</sup> If states implement broad training and credentialing requirements for direct service workers, they may make exceptions under the self-directed service option to ensure that individuals receiving self-directed services can continue to select, hire, train, and determine the terms and conditions of work of their direct service workers.

Research indicates that directly-hired direct service workers may have different training needs than their agency counterparts. First, directly-hired workers are often family members and live with, or close to, the individual receiving care. Second, supports provided to individuals who are self-directing tend to vary from one direct service worker to another, and oftentimes, the assistance and

tasks provided are not typically provided by an agency direct service worker due to agency restrictions.<sup>13</sup>

Standard basic training, however, may cover important topics such as safe lifting, transferring, infection control, and universal precautions that may still be relevant for directly-hired workers and help protect the direct service worker, as well as the individual, from injury or illness. States offering self-directed service options or planning to implement self-directed service options may consider how to balance the rights of individuals and representatives to self-direct with the need to ensure appropriate training for directly-hired direct service workers.<sup>14</sup>

**For more information, please view the other briefs in this HCBS self-direction series:**

*Origins and Benefits of Self-Direction*

*Key Components of Self-Directed Services*

*Self-Direction Research Compendium*

Preparation of this document was funded by the Centers for Medicare & Medicaid Services, Contract # HHSM-500-2014-000331 to The Lewin Group.

## References

- <sup>1</sup> The National Resource Center for Participant-Directed Services. (2013). *The 2013 National Inventory of Participant-Directed Programs* [Data file]. Chestnut Hill, MA: Boston College Graduate School of Social Work.
- <sup>2</sup> Medicaid and CHIP Payment and Access Commission (MACPAC). (2022). *Issue Brief: State Efforts to Address Medicaid Home- and Community-Based Services Workforce Shortages*. Retrieved from <https://www.macpac.gov/wp-content/uploads/2022/03/MACPAC-brief-on-HCBS-workforce.pdf>.
- <sup>3</sup> Home Care Rule, 29 C.F.R. §552.
- <sup>4</sup> Doty, P.J., Squillace, M. R., & Kako, E. (2019). *Analysis of State Efforts to Comply with Fair Labor Standards Act Protections to Home Care Workers*. Department of Health and Human Services Office of Disability, Aging, and Long-Term Care Policy. Retrieved from <https://aspe.hhs.gov/system/files/pdf/263206/FLSAimpl.pdf>.
- <sup>5</sup> Medicaid and CHIP Payment and Access Commission (MACPAC). (2020). *Report to Congress on Medicaid and CHIP*. Retrieved from <https://www.macpac.gov/wp-content/uploads/2020/06/June-2020-Report-to-Congress-on-Medicaid-and-CHIP.pdf>.
- <sup>6</sup> A state Medicaid agency that has implemented MLTSS with self-directed services is [TennCare](#).
- <sup>7</sup> Edwards-Orr, M., Morris, M., DeLuca, C., Sciegaj, M., & Ujvari, K. (2020). *National Inventory of Self-Directed Long-Term Services and Supports Programs*. AARP Public Policy Institute. Retrieved from <https://www.appliedselfdirection.com/sites/default/files/SD%20LTSS%20National%20Inventory%20Report%202019.pdf>.
- <sup>8</sup> PHI. (2020). *Matching Service Registries*. Retrieved from <https://phinational.org/advocacy/matching-service-registries/>.
- <sup>9</sup> Texas Health and Human Services. (2018). *Community Attendant Registry Feasibility Study*.
- <sup>10</sup> Direct service workers working in the District of Columbia's Services My Way Program are exempt from this requirement. They are called participant-directed workers and requirements include: (1) being at least 18 years of age, (2) completing and receiving a clean criminal background check as requested by the District of Columbia for similar types of workers, (3) receiving D.C. Department of Health Care Finance minimum required training (First Aid and CPR), (4) receiving customized training provided by the participant or representative-employer, (5) being willing and able to perform the service-related responsibilities documented in the waiver participant's person-centered Individual Service Plan, and (6) having a valid driver's license and required insurance if transporting the participant in the community.
- <sup>11</sup> Bryant, B. (2019). *Caregiver Registry Trend Raises Unionization, Privacy Concerns*. Home Health Care News. Retrieved from <https://homehealthcarenews.com/2019/04/caregiver-registry-trend-raises-unionization-privacy-concerns/>.
- <sup>12</sup> Under the Vendor Fiscal/Employer Agent Financial Management Services (FMS) model, the individual or their representative, as the common law employer, recruit and hire their direct service workers. Under the Agency with Choice FMS model, the individual or their representative select their direct service workers and refer them to the FMS entity for hire and assignment back to them.
- <sup>13</sup> McGaffigan, E. B. (2009). *Issue Brief: Do Participant-Directed Workers Require the Same Training as Agency Workers? Using Research to Inform Policy*. National Resource Center for Participant-Directed Services. Retrieved from <https://www.appliedselfdirection.com/resources/issue-brief-do-participant-directed-workers-require-same-training-agency-workers-using>.
- <sup>14</sup> Resources for Integrated Care. (2015). *Training and Credentialing: Resources for Health Plans*. Retrieved from <https://www.resourcesforintegratedcare.com/wp-content/uploads/2015/02/TrainingAndCredentialing-ResourcesForHealthPlans.pdf>.