

DDP QA Review Report summarizes the results of data gathered over a period time. Annual QA reports are generated for all waiver service providers by the DDP QIS.

**b. Methods for Remediation/Fixing Individual Problems**

i. Describe the State's method for addressing individual problems as they are discovered. Include information regarding responsible parties and GENERAL methods for problem correction. In addition, provide information on the methods used by the State to document these items.

The Department's process for addressing deficits is outlined in the DDP QA Review narrative and these standards apply to the providers of children's services and providers of case management services. The outcomes of deficit findings and remediation efforts may be reviewed in QA Reports, the Quality Assurance Observation Sheets (QAOS sheets) and the program deficiencies section of the CMS 372 Reports. The QAOS sheet remains the principle document used to resolve problems and compliance issues as they arise.

ii. Remediation Data Aggregation

**Remediation-related Data Aggregation and Analysis (including trend identification)**

Responsible Party (check each that applies):	Frequency of data aggregation and analysis (check each that applies):
<input checked="" type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly
<input type="checkbox"/> Operating Agency	<input type="checkbox"/> Monthly
<input type="checkbox"/> Sub-State Entity	<input type="checkbox"/> Quarterly
Other Specify: <input type="text"/>	<input checked="" type="checkbox"/> Annually
	<input type="checkbox"/> Continuously and Ongoing
	Other Specify: <input type="text"/>

**c. Timelines**

When the State does not have all elements of the Quality Improvement Strategy in place, provide timelines to design methods for discovery and remediation related to the assurance of Service Plans that are currently non-operational.

No

• Yes

Please provide a detailed strategy for assuring Service Plans, the specific timeline for implementing identified strategies, and the parties responsible for its operation.

Upon CMS approval of the children's autism waiver, DDP will implement a QA Review Section specific to and inclusive of the Appendix D performance measures. Hard copies of Excel spreadsheets will generate percent compliance data based on the performance measures. Annual DDP QA reviews of providers will also include narratives serving to summarize the numerical data contained in the excel worksheets. The QA narratives for all reviewed providers are posted on the DDP website, to enable potential service recipients and their families to make informed decisions and choices when selecting providers for waiver-funded services. Hard copies of the QA review reports, including hard copies of the worksheets, are maintained in the DDP central office.

The aggregation of statewide data based on the submittal of the worksheets to the DDP central office will begin with the DDP QIS submittal of the first QA Review. This will take place within one year of the day of the first child being enrolled in the waiver.

**Appendix E: Participant Direction of Services**

Applicability (from Application Section 3, Components of the Waiver Request):

- **Yes. This waiver provides participant direction opportunities.** Complete the remainder of the Appendix.  
**No. This waiver does not provide participant direction opportunities.** Do not complete the remainder of the Appendix.

*CMS urges states to afford all waiver participants the opportunity to direct their services. Participant direction of services includes the participant exercising decision-making authority over workers who provide services, a participant-managed budget or both. CMS will confer the Independence Plus designation when the waiver evidences a strong commitment to participant direction.*

**Indicate whether Independence Plus designation is requested (select one):**

- **Yes. The State requests that this waiver be considered for Independence Plus designation.**
- **No. Independence Plus designation is not requested.**

## **Appendix E: Participant Direction of Services**

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### **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.

Families using respite and transportation services may choose to self direct those services utilizing both budget and employer authority. A family member, or legal guardian may act as the employer of the employees with the support of a financial management service. The employer is responsible for hiring, training, supervising, scheduling and terminating their employees. The financial management service (FMS) is responsible for training employers on their responsibilities, and processing employer and employee paperwork. They conduct the List of Excluded Individuals and Entities (LEIE) and Medicare Exclusion Database (MED) background checks on employees and criminal background checks when requested by the employer. They process payroll and reimburse employees according to the submitted timesheet and individual cost plan. They withhold and pay all taxes and arrange for workers' compensation for all employees. They also provide reports to the employer, case manager and state.

The DDP QIS will play a critical role in the sharing of information to waiver recipients' families regarding self-directed service options. The QIS will review the Waiver 5 Freedom of Choice form and the supplemental addendum form with every service recipient family potentially eligible to self direct their services, as defined in section E-1:C. This activity occurs annually. Individuals interested in pursuing the self-directed option and needing more information may access more details from their case manager. Information will also be made available from the DDP website, the FMS website and from DDP staff. Families who elect to self-direct their services will be assisted in doing so by their case manager, who will schedule a planning meeting for this purpose. Persons choosing to self direct will be assisted by their service provider and case manager in establishing the level of client involvement in recruiting and hiring staff. Persons choosing to self-direct may opt out of this option at any time, and receive services under the traditional model of service delivery.

Services that a service recipient family may choose to self-direct are indicated in Appendix C. All other waiver services may be purchased through an agency or individual with a DDP contract. All agencies with a DDP contract will be required to meet the requirements of an OHCDs, and will be designated as such in their DDP contract. This enables the agency to provide third party services from other entities if requested by the service recipient and/or their family. The rate paid to the recipient's provider agency for third party services cannot exceed DDP's standardized rate for direct payment for these services. There is no duplication of payment (pass through funding) in the coordination of third party services. The OHCDs function optimizes the ability of the recipient to choose their direct services staff and supports.

The family is not required to use their primary provider agency for the purchase of third party services. If requested by the family, the DDP will reimburse the alternative service provider directly, in accordance with the recipient's plan of care, individual cost plan and alternative service provider's DDP contract. In this case, the recipient/family is considered to be self-directing some, but not all, of their services.

The DDP QIS will review the Waiver 5 Freedom of Choice form and the supplemental addendum form with every service recipient and their family potentially eligible to self direct their services. This activity occurs annually. Individuals interested in pursuing the self-directed option and needing more information may access more details from their case manager. Information will also be made available from the DDP website, the FMS website, and from DDP staff. Individuals who elect to self-direct their services will be assisted in doing so by their case manager, who will schedule a planning meeting for this purpose. Persons choosing to self direct will be assisted by their service provider and case manager in establishing the level of involvement in the recruiting and hiring of staff and documenting choice from the available case management options. Persons choosing to self-direct may opt out of this option at any time, and receive services under the traditional model of service delivery.

## Appendix E: Participant Direction of Services

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### E-1: Overview (2 of 13)

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

*Select one:*

**Participant: Employer Authority.** As specified in *Appendix E-2, Item a*, the participant (or the participant's representative) has decision-making authority over workers who provide waiver services. The participant may function as the common law employer or the co-employer of workers. Supports and protections are available for participants who exercise this authority.

**Participant: Budget Authority.** As specified in *Appendix E-2, Item b*, the participant (or the participant's representative) has decision-making authority over a budget for waiver services. Supports and protections are available for participants who have authority over a budget.

- Both Authorities.** 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.**

**Participant direction opportunities are available to individuals who reside in other living arrangements where services (regardless of funding source) are furnished to fewer than four persons unrelated to the proprietor.**

- The participant direction opportunities are available to persons in the following other living arrangements**

Specify these living arrangements:

Participant direction opportunities are available to individuals who live in the home of a family member.

## Appendix E: Participant Direction of Services

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### E-1: Overview (3 of 13)

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

**Waiver is designed to support only individuals who want to direct their services.**

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

- The waiver is designed to offer participants (or their representatives) the opportunity to direct some or all of their services, subject to the following criteria specified by the State. Alternate service delivery methods are available for participants who decide not to direct their services or do not meet the criteria.**

*Specify the criteria*

The families of children along with the case manager discuss the self direct options. If a decision is made to move forward in gathering more information the case manager gives the family a Startup Packet from the financial management service (FMS) and the FMS is contacted to assist the primary caregivers and/or case manager to review the Startup Packet. If they choose this self direct option the FMS can assist them in enrolling in their FMS services and their case manager helps them in amending their plan of care and the individual cost plan to reflect the changes.

The individual's planning team reviews and approves the plan of care incorporating self direction. The proposal would also require approval by the DDP Regional Manager.

## Appendix E: Participant Direction of Services

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### 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.

#### Information Provided to All 0667 Waiver Recipients' families

The self directed service options are available to all persons currently enrolled in the 0667 Waiver, subject to the criteria specified in E-1:c. A recipient's DDP resource allocation does not change as a function of enrollment in this service option. The self-directed options are briefly outlined to the family as part of the planning process and is reviewed by the family and case manager prior to the annual planning meeting. A reference to the self-directed service option is included on the Waiver 5 Freedom of Choice Form and the supplemental addendum form. This form is completed annually with the recipient's family by the DDP QIS. Family members expressing interest in self-directing services may request a copy of the DD Self Directed Waiver Option handout/FMS Startup Packet based on waiver language in Appendix E from their case manager. The DD Self Directed Waiver Option handout document is also available on the DDP website and the FMS paperwork is available on the FMS website. The handouts outline the benefits of self-direction, the responsibilities of the participant and others and the guidelines for enrollment, continued participation and dis-enrollment in self directed services. Family members desiring a more active role in the selection of their respite workers, and/or increased flexibility in scheduling their respite workers may be interested in choosing a self directed service option.

The self directed enrollment requirements are included in the FMS Startup Packet. The recipient's case manager may be asked by the family to provide assistance in any of the following activities:

- scheduling a planning meeting to initiate a self-directed service option.
- providing any other requested assistance related to initiating the self-directed option.

The planning document for self-directed services implementation (the IFSP) includes a narrative section describing the projected use of the resource allocation, services to be provided, proposed schedule and timeframes, a description of how health and safety issues will be addressed, including back up, emergency and on-call systems, the role of the primary service provider, the role of the case manager and the responsibilities of the family. The planning document must be signed off by the case manager and the primary caregiver. The signature of the FMS is not required on the plan of care. Once the decision has been made to use this service option by the recipient's family and their planning team the FMS service is contacted for enrollment purposes.

Current providers of services may require the recipient to give notice of intent to port, if the recipient chooses a new service provider as the primary service delivery agency.

## Appendix E: Participant Direction of Services

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### 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 does not provide for the direction of waiver services by a representative.

- 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:

## 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.

Participant-Directed Waiver Service	Employer Authority	Budget Authority
Respite	✓	✓
Transportation	✓	✓

## Appendix E: Participant Direction of Services

### E-1: Overview (7 of 13)

- 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:*

**Governmental entities**

- Private entities**

**No. Financial Management Services are not furnished. Standard Medicaid payment mechanisms are used.**  
*Do not complete Item E-1-i.*

## 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 covered as the waiver service specified in Appendix C1/C3**

**The waiver service entitled:**

- **FMS are provided as an administrative activity.**

**Provide the following information**

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

Contract entity.

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

The FMS is compensated by either a State pre-determined flat dollar amount or percentage amount of the total monthly payroll costs of all respite employees for each waiver participant, which ever amount is less.

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

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

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- ✓ **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:*

Provide for workers' compensation insurance for all employees. Conduct background checks, verify respite service qualified provider standards, monitor appropriate use of Montana Code Annotated 39-3-406(p) which states that certain employers are exempt from paying minimum wage and overtime if an employee is employed in domestic service employment to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves as provided under section 213(a)(15) of the Fair Labor Standards Act, 29 U.S.C. 213, when the person providing the service is employed directly by a family member or an individual who is a legal guardian.

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

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- ✓ **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**
- ✓ **Other services and supports**

*Specify:*

Maintain a secure FTP website that allows DD Program staff and case managers to track participant's budget and expenditures.

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**Additional functions/activities:**

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- ✓ **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:*

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- 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.

The DDP QIS will be responsible for monitoring the performance of the FMS through the QA review tool. This will occur on an annual basis.

## Appendix E: Participant Direction of Services

### E-1: Overview (9 of 13)

- 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 funded as a waiver service may be provided by a Family Support Specialist to waiver recipients in family settings between the ages of 15 months through age 7. This service is defined as Waiver-funded Children's Case Management (WCCM). The service definition may be reviewed in Appendix C-3.

Specific case management services provided to persons interested in or receiving self directed services may be reviewed in section E-1:e.

- ✓ **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*):

Participant-Directed Waiver Service	Information and Assistance Provided through this Waiver Service Coverage
Respite	
Physical Therapy	
Speech Therapy	
Children's Autism Training	
Program Design and Monitoring	
Adaptive Equipment/Environmental Modifications	
Waiver Funded Children's Case Management (WCCM)	✓
Individual Goods and Services	
Transportation	
Occupational Therapy	

**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:

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## Appendix E: Participant Direction of Services

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### E-1: Overview (10 of 13)

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

- No. Arrangements have not been made for independent advocacy.**
- Yes. Independent advocacy is available to participants who direct their services.**

*Describe the nature of this independent advocacy and how participants may access this advocacy:*

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## Appendix E: Participant Direction of Services

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### E-1: Overview (11 of 13)

**i. 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:

Dis-enrollment from self-directed services for the purpose of enrollment in traditional services is always an available option for persons choosing to self direct their services. There is flexibility within this service for family members to choose the level of their involvement in the recruiting, selection and hiring of the direct support staff. Families are always free to choose a new service provider, as reviewed annually on the Waiver 5 Freedom of Choice form.

Those choosing to dis-enroll from the self-directed service option would contact their case manager to schedule a planning meeting. This meeting would determine precisely what the family wants with their resource allocation in a traditional model of service delivery. The recipient's family would need to choose one or more new service providers to provide traditional waiver services.

Under no circumstances will ongoing waiver-funded services be reduced or terminated if an individual is seeking a new provider, or seeking a traditional waiver service delivery model.

## Appendix E: Participant Direction of Services

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### 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.

The POC document includes a brief section requiring a check off box for families choosing to self direct one or more services. The boilerplate POC language provides advance notice to the family that participation in self-directed services may be involuntarily terminated, in the event the family does not abide by the Department requirements applicable to self-directed services. The signature page of the POC document indicates an understanding of, and agreement with, the need to comply with the Department requirements for participation in self-directed services. The child's case manager will review this section annually with families who choose to self-direct one or more services.

It is possible that a service recipient's family may not cooperate with, abide by, or utilize the services as outlined in the plan of care. In this event, a special planning meeting would be held by the case manager to discuss the issues involved with, for example, non-utilization of services. In this event a plan would be developed and implemented, serving to give the recipient and their family an opportunity to remain in self-directed services for a specified time period, contingent upon the recipient meeting agreed upon benchmarks written into the approved plan. Boilerplate language in the POC serving to address this issue follows:

Failure by the family to abide by the performance benchmarks written into the plan of care to address problems identified in managing self-directed services may result in the involuntary termination of self-directed services. In this event, agency-based services would be made available to the family.

In the event that health/safety issues pose undue risk to the recipient or others, and immediate intervention is deemed necessary by the team, the individual would be immediately enrolled in traditional services. Additional supports deemed necessary by the planning team to ensure the health and well-being of the recipient would be provided. For example, the planning team may request crisis grant funds from the DDP to increase the amount of direct care staffing provided to the recipient. Continued refusal by the recipient's family to address basic health and safety needs in traditional waiver services could result in the need for the team to initiate referrals to other agencies for the purpose of placement in a more appropriate setting. Waiver services would continue until a more appropriate living arrangement is made available.

A recipient whose basic health and safety needs cannot be adequately addressed in the opinion of the case manager and service provider may not remain in waiver services. In this event, placement in a more restrictive environment may be required.

**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.

Table E-1-n

Waiver Year	Employer Authority Only	Budget Authority Only or Budget Authority in Combination with Employer Authority
	Number of Participants	Number of Participants
Year 1	<input type="text"/>	10
Year 2	<input type="text"/>	10
Year 3	<input type="text"/>	10
Year 4	<input type="text"/>	10
Year 5	<input type="text"/>	10

**Appendix E: Participant Direction of Services**

**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. *Select one or both:*

**Participant/Co-Employer.** The participant (or the participant's representative) functions as the co-employer (managing employer) of workers who provide waiver services. An agency is the common law

employer of participant-selected/recruited staff and performs necessary payroll and human resources functions. Supports are available to assist the participant in conducting employer-related functions.

Specify the types of agencies (a.k.a., agencies with choice) that serve as co-employers of participant-selected staff:

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- ✓ **Participant/Common Law Employer.** The participant (or the participant's representative) is the common law employer of workers who provide waiver services. An IRS-Approved Fiscal/Employer Agent functions as the participant's agent in performing payroll and other employer responsibilities that are required by federal and state law. Supports are available to assist the participant in conducting 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**
  - Refer staff to agency for hiring (co-employer)
  - Select staff from worker registry
- ✓ **Hire staff common law employer**
  - Verify staff qualifications
- ✓ **Obtain criminal history and/or background investigation of staff**

Specify how the costs of such investigations are compensated:

The costs of such investigations are covered by the FMS entity.

- ✓ **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)**
  - Discharge staff from providing services (co-employer)
- Other

Specify:

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## Appendix E: Participant Direction of Services

### 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
- ✓ Authorize payment for waiver goods and services
- ✓ Review and approve provider invoices for services rendered
- ✓ Other

Specify:

The methodology used to authorize payments for services, and to review and approve reimbursements to direct workers based on the delivery of agreed upon services will vary depending on the category of service. The delivery of services is based on the Individual Cost Plan (ICP) and the planning document. All services outlined in the ICP document will correspond to a need outlined in the plan of care.

## **Appendix E: Participant Direction of Services**

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### **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.

Individuals enrolled in the Children's Autism Waiver are enrolled in self-direction with budget authority for all the "ancillary" services, which are capped, in aggregate, at \$4,000 annually. The ancillary services include speech therapy, adaptive equipment/environmental modifications, transportation, respite, occupational therapy and individual goods and services. The primary CAW services, based on projected costs, include children's autism training, program design and monitoring and case management, in that order. Families may reallocate ICP funds, using budget authority, for reimbursement of the ancillary services only.

Participant control of the budget is limited to moving funds around between the ancillary services, and rates paid for services are less than or equal to the maximum reimbursement rates for services as outlined in the DDP Rates Manual for the CAW. The rates specified in the DDP CAW Rates Manual are less than or equal to the projected service rates outlined in the Appendix J tables.

All Children's Autism Waiver services are based on assessed needs and rates paid for these services are outlined in the CAW Rates Manual. The rate schedules are updated annually (subject to rebasing or legislative appropriation) and are posted on the DDP website. More information about the rate setting methodologies used by the DDP is available from the DDP Rates Project Manager. Access to the Rates Project Manager is available by telephone, internet to the DDP website, or by fax to the DDP central office.

## **Appendix E: Participant Direction of Services**

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### **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.

Currently, all waiver recipients and persons acting on their behalf are informed of the details of the recipient's Individual Cost Plan (ICP). The cost plan details are based on the outcome of the planning process, which, in turn, is based on assessments and the expressed desires of the recipient's family. The ICP functions as the contractual basis between the recipient's family, the provider, and the DDP in the delivery of services.

If the quantity and type of services outlined in the cost plan are not considered adequate in meeting the needs of the recipient, additional funds may be requested on behalf of the recipient, family or agency providing the services by the case manager or by service provider agency staff. Requests for additional funding go to the DDP Regional Manager. Funds are available for the purpose of adjusting cost plans with either regional discretionary funds or crisis pool funds.

The plan of care document is designed to all facets of a service recipient's life. Typically, the provider internal grievance procedure is enacted when there is failure to achieve IFSP team consensus on an issue affecting the child or family. Adverse actions not resolved by the provider's internal grievance policy would lead to a DDP administrative review and ultimately, a Fair hearing, as outlined in the DDP Wiver 5 form.

## Appendix E: Participant Direction of Services

### 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.**

**The participant has the authority to modify the services included in the participant directed budget without prior approval.**

Specify how changes in the participant-directed budget are documented, including updating the service plan. When prior review of changes is required in certain circumstances, describe the circumstances and specify the entity that reviews the proposed change:

## Appendix E: Participant Direction of Services

### 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:

The participant has the capacity to move funds between ancillary services outlined in the cost plan and to make changes in the service categories to be delivered, subject to the limitations outlined in Appendix E-2.b.ii. Both would require team agreement and final approval from the regional manager on the ICP changes.

The employer and the case manager would be responsible for monitoring the expenditure of the individual's cost plan. The FMS sends an expenditure report, to the employer and case manager, after each payroll

following the reimbursement of self-directed services to help decision makers in determining if adjustments are needed in spending patterns to prevent a shortfall, or if underutilization of services is taking place.

## **Appendix F: Participant Rights**

### **Appendix F-1: Opportunity to Request a Fair Hearing**

The State provides an opportunity to request a Fair Hearing under 42 CFR Part 431, Subpart E to individuals: (a) who are not given the choice of home and community-based services as an alternative to the institutional care specified in Item 1-F of the request; (b) are denied the service(s) of their choice or the provider(s) of their choice; or, (c) whose services are denied, suspended, reduced or terminated. The State provides notice of action as required in 42 CFR §431.210.

**Procedures for Offering Opportunity to Request a Fair Hearing.** Describe how the individual (or his/her legal representative) is informed of the opportunity to request a fair hearing under 42 CFR Part 431, Subpart E. Specify the notice(s) that are used to offer individuals the opportunity to request a Fair Hearing. State laws, regulations, policies and notices referenced in the description are available to CMS upon request through the operating or Medicaid agency.

The W-5 Freedom of Choice and Consent form is completed annually for all recipients in the waiver. This form requires the Family Support Specialist, or the Quality Improvement Specialist to explain the right to fair hearing in the event the recipient or family is denied the provider or service of choice. In addition to the W-5 form, the Explanation of ICF/MR Services and Fair Hearing Rights form provides more detail regarding the fair hearing process and the process used by the Department to commit persons to the State ICF-MR. This form is also used to ensure consistency in the sharing of this information with recipients and others. ARM 37.34.918 outlines the choice of services and choice of provider protections afforded to waiver recipients. ARM 37.34.919 outlines the Fair Hearing process used by the Department. Not all Department decisions can be appealed, as outlined in 37.34.902. Legal clarification of 37.34.902 follows:

#### **37.5.131 DEPARTMENT HEARING PROCEDURES, SCOPE, AND SUBORDINATION TO CERTAIN OTHER LAW**

- (1) There is no right to a hearing in any matter except as specifically provided by law, including department rule.
- (2) There is no right to a hearing in a contract dispute between the department and any other person or entity except as specifically provided by the terms of the contract or as specifically provided by state law.
- (3) The rules in this chapter are subject to the provisions of any applicable federal statute or regulation, whether now in existence or hereafter adopted.
- (4) The rules in this chapter are subject to any other provision of Montana statute or department rule applicable to the particular program or matter at issue.

Interpretation of 37.5.131- This language is for the purpose of recognizing that mandatory federal provisions for federally authorized programs are to be implemented and will govern over contrary language in the Department's general rule set. This preemption is inclusive of program specific fair hearing rules that are expressly cross-referenced in the general fair hearing rules such as the ARM 37.34.919 referenced in the context of ARM 37.5.115. ARM 37.5.115 references hearing rights for Developmental Disabilities Programs as follows:

- (1) Hearings relating to the Developmental Disability Services program are available as follows:
  - (d) hearings contesting adverse department determinations regarding services under the Medicaid Home and Community Services program for persons with developmental disabilities are available to the extent provided and according to the procedures specified in ARM 37.5.304, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.316, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, and 37.5.337, subject to the provisions of ARM 37.34.919;

**37.34.918 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: INFORMING BENEFICIARY OF CHOICE** (1) A person determined by the department to require the level of care provided in an ICF/MR must be given a choice between placement in an ICF/MR or in the medicaid home and community services program.

(2) The person or legal representative must be informed of the feasible alternatives in the community, if any, available under the medicaid home and community services program. (History: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205, MCA; NEW, 1992 MAR p. 1490, Eff. 7/17/92; TRANS, from SRS, 1998 MAR p. 3124.)

#### **37.34.919 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: NOTICE AND FAIR**

**HEARING** (1) The department will provide written notice to applicants for and recipients of medicaid home and community services when determinations are made by the department concerning their status pertaining to level of care and selection or denial for placement.