

# Appendix E: Participant Direction of Services

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

<input checked="" type="radio"/>	<b>Yes. This waiver provides participant direction opportunities.</b> Complete the remainder of the Appendix.
<input type="radio"/>	<b>No. This waiver does not provide participant direction opportunities.</b> 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):

<input type="radio"/>	<b>Yes. The state requests that this waiver be considered for Independence Plus designation.</b>
<input checked="" type="radio"/>	<b>No. Independence Plus designation is not requested.</b>

## Appendix E-1: Overview

- 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.

**Self-Directed Opportunities Available within the CHC Waiver:**  
 All participants have the option to make decisions about and self-direct their own waiver services as identified in Section E-1.g., below. Participants in the CHC Waiver may choose to hire and manage staff using Employer Authority or manage an individual budget using Budget Authority. In addition, participants may choose a combination of service models to meet their individual needs. Participants are encouraged to self-direct their services to the highest degree possible. During the actual provision of services, the participant is responsible for directing the activities of their direct care worker.

Under Employer Authority, the participant serves as the common-law employer and is responsible for hiring, firing, training, supervising, and scheduling their direct care worker. Budget Authority, known in Pennsylvania as Services My Way, provides participants with a broader range of opportunities for participant-direction. Services My Way provides participants with greater flexibility, choice and control over their services, by giving participants the opportunity to: 1) select and manage staff that performs personal assistance type services under the Participant- Directed Community Supports service definition; 2) manage a flexible Spending plan; and 3) purchase allowable goods and services through their Spending plan.

**How Participants May Take Advantage of Self-Directed Opportunities:**  
 Participants may choose to self-direct certain services during the development of the person-centered service plan (PCSP), at reassessment, or at any time. The participant’s Service Coordinator is responsible for presenting all available service options and ensuring that each participant understands the full range of self-directed opportunities within the waiver. The CHC-

MCO will provide all waiver participants with information about self-direction as part of the member handbook and orientation materials. Materials must be written at a level that is easily understood using everyday common language to ensure accessibility, and in alternate formats as needed by the participant.

As stated previously, the participant may utilize a combination of any model(s) to personalize their PCSP. The PCSP is developed in conjunction with the Service Coordinator and the waiver participant, as described in Appendix D, to ensure that the participant's service needs are met, and reflects the participant's choice of model of service. Service Coordinators shall offer provider-managed services to all participants who have chosen to self-direct their services until the individual's direct care workers are hired. Participants may elect to change their service model at any time by notifying their Service Coordinator. Service Coordinators must work with participants to ensure they do not experience a disruption in services when participants choose to change service models.

**Entities That Support Individuals:**

Participants will receive a full-range of supports, ensuring that they are successful with the participant-directed experience. Individuals choosing Employer or Budget Authority will receive support from certified Vendor Fiscal/Employer Agents (F/EA) and Service Coordinators to assist them in their role as the common-law employer of their workers. The F/EA will:

- Enroll participants in Financial Management Service (FMS) and apply for and receive approval from the IRS to act as an agent on behalf of the participant;
- Provide orientation and skills training to participants or their representative on required documentation for all directly hired direct care workers, including the completion of federal and state forms; the completion of timesheets; effective management of workplace injuries; and workers compensation;
- Establish, maintain and process records for all participants and direct care workers with confidentiality, accuracy and appropriate safeguards;
- Establish and maintain a separate bank account for the purposes of managing participant-directed funds and provide a full accounting of the use of these funds;
- Conduct criminal background checks and when applicable, child abuse clearances, on potential employees;
- Assist participants in verifying direct care workers citizenship or alien status;
- Distribute, collect and process direct care worker timesheets as verified and approved by the participant;
- Prepare and issue direct care workers' payroll checks, as approved in the participant's PCSP;
- Withhold, file and deposit federal, state and local income taxes in accordance with federal IRS and state Department of Revenue rules and regulations;
- Broker workers' compensation for all direct care workers through an appropriate agency;
- Process all judgments, garnishments, tax levies, or any related holds on workers' pay as may be required by federal, state or local laws;
- Prepare and disburse IRS Forms W-2's and/or 1099's, wage and tax statements and related documentation annually;
- Assist in implementing the state's quality management strategy related to FMS;
- Establish an accessible customer service system for the participant and the Service Coordinator;
- Receive, verify and process all invoices for Participant Goods and Services as approved in the Participant's Spending Plan (Budget Authority only); and
- Provide written financial reports to the participant, the Service Coordinator and the CHC-MCO on a monthly and quarterly basis, and as requested by the participant, Service Coordinator, and the CHC-MCO (Budget Authority only).

In addition, individuals choosing to self-direct their services will receive assistance from their Service Coordinator to develop their person-centered service plan. Once the PCSP is developed, approved, and authorized, the Participant is responsible for arranging and directing the services outlined in their plan, with, as appropriate, information and support from the Service Coordinator. During the implementation and management of the PCSP, the Service Coordinator will:

- Assist the Participant to gain information and access to necessary services, regardless of the funding source of the services;
- Advise, train, and support the participant as needed and necessary;
- Assist the Participant to develop an individualized back-up plan;
- Assist the Participant to identify risks or potential risks and develop a plan to manage those risks. This includes a review of workplace safety issues and strategies for effective management of workplace injury prevention;
- Recommend or arrange training on the topics of abuse, neglect, exploitation and abandonment as defined by protective services statutes;
- Monitor the provision of services to ensure the Participant’s health and welfare; and
- Assist the Participant to secure training of direct care workers who deliver services that would require a degree of technical skill and would require the guidance and instruction from a health care professional such as a Registered Nurse.

Participants who choose to manage an individual budget will receive assistance from Service Coordinators to implement, modify and manage the Spending Plan. The Service Coordinator will review and approve the participant’s Spending Plan. Once the Spending Plan is developed, approved and authorized, the participant is responsible for arranging and directing the services outlined in their plan. During the implementation and management of the Spending Plan, the Service Coordinator will assist the participant with the execution and development of the Spending Plan and monitor spending of the Spending Plan.

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

<input type="radio"/>	<b>Participant – Employer Authority.</b> As specified in <i>Appendix E-2, Item a</i> , 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.
<input type="radio"/>	<b>Participant – Budget Authority.</b> As specified in <i>Appendix E-2, Item b</i> , 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.
<input checked="" type="radio"/>	<b>Both Authorities.</b> The waiver provides for both participant direction opportunities as specified in <i>Appendix E-2</i> . 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:*

<input checked="" type="checkbox"/>	<b>Participant direction opportunities are available to participants who live in their own private residence or the home of a family member.</b>
-------------------------------------	--

<input type="checkbox"/>	<b>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.</b>
<input type="checkbox"/>	<b>The participant direction opportunities are available to persons in the following other living arrangements</b> <i>Specify these living arrangements:</i>

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

<input type="radio"/>	<b>Waiver is designed to support only individuals who want to direct their services.</b>
<input checked="" type="radio"/>	<b>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.</b>
<input type="radio"/>	<b>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.</b> <i>Specify the criteria</i>

**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.

<p>The Participant’s Service Coordinator is responsible for presenting all available service options and ensuring that each participant understands the full range of participant-direction opportunities within the waiver. The Service Coordinator documents the participant’s choice of service delivery model on the PCSP. Participants are also advised that they have the opportunity to change their model of service at any time throughout the year. Participants receive information about participant-direction at time of enrollment, annually during the PCSP annual review meeting and upon request.</p> <p>The CHC-MCOs or the F/EA shall develop consistent materials to inform current and prospective waiver participants about the benefits and potential liabilities of participant-direction. Participant materials include a comprehensive participant reference manual which contains details about participant-direction roles, responsibilities, and informed decision-making. These materials are available on the CHC-MCOs’ or the F/EA’s website. In addition, the CHC-MCOs will provide all waiver participants with information about self-direction as part of the Participant Handbook and orientation materials. This information will be shared with individuals upon enrollment, at monitoring contacts and during annual PCSP updates each year thereafter. Orientation materials must be written at a level that is easily understood using everyday common language to ensure accessibility, and in alternate formats as needed by the participant. In addition, orientation materials are provided in advance of the PCSP meeting to ensure that individuals have sufficient time to consider their options and the responsibilities.</p>
--

The F/EA is responsible for providing orientation and training to the participant prior to employing their direct care worker. Orientation is based upon a standard curriculum developed by the CHC-MCOs or the F/EA, approved by OLTL and includes, at minimum, the following:

- Review of the information and forms contained in both the Employer and Direct Care Worker enrollment packets and how they should be completed;
- The role and responsibilities of the common law employer;
- The role and responsibilities of the F/EA;
- The process for receipt and processing timesheets and employee payroll checks;
- The process for resolving issues and complaints; and
- Workers Compensation and the process for reviewing workplace safety issues and strategies for effective management of workplace injury prevention.

In addition, the F/EA is responsible for providing ongoing training to participants and working with Service Coordinators to identify any participants who may need and/or desire additional training related to the F/EA's processes.

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

<input type="radio"/>	<b>The state does not provide for the direction of waiver services by a representative.</b>
<input checked="" type="radio"/>	<b>The state provides for the direction of waiver services by representatives.</b> Specify the representatives who may direct waiver services: ( <i>check each that applies</i> ):
<input checked="" type="checkbox"/>	<b>Waiver services may be directed by a legal representative of the participant.</b>
<input checked="" type="checkbox"/>	<p><b>Waiver services may be directed by a non-legal representative freely chosen by an adult participant.</b> 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:</p> <p>Waiver services may be directed by a non-legal representative freely chosen by an adult participant or for any individual who is unable to:</p> <ul style="list-style-type: none"> <li>• Understand his/her own personal care needs</li> <li>• Make decisions about his/her own care</li> <li>• Manage his/her lifestyle and environment by making these choices</li> <li>• Understand or have the ability to learn how to recruit, hire, train, and supervise providers of care; or</li> <li>• Understand the impact of his/her decisions and assume responsibility for the results.</li> </ul> <p>When circumstances indicate a change in the participant's ability to self-direct or when the participant demonstrates misuse of funds, consistent non-adherence to program policy or an ongoing health and welfare risk, the Service Coordinator will convene the Person-Centered Planning Team (PCPT) to explore the appointment of a representative.</p> <p>A personal representative may be a legal guardian, or other legally appointed personal representative, an income payee, a family member, or friend. The personal representative must be willing and able to fulfill the responsibilities as outlined in the Personal Representative Agreement and must demonstrate:</p> <ul style="list-style-type: none"> <li>• A strong personal commitment to the participant;</li> </ul>

	<ul style="list-style-type: none"> <li>• Assist the participant in identifying/ obtaining back up services when a direct care worker does not show;</li> <li>• Demonstrate knowledge of the participant’s preferences;</li> <li>• Agree to predetermined frequency of contact with the participant as mutually determined by the participant, the personal representative and the Service Coordinator; and</li> <li>• Be at least 18 years of age.</li> </ul> <p>A representative may not be a paid support service worker for the participant.</p> <p>The F/EA must recognize the participant’s personal representative as a decision-maker and provide the personal representative with all of the information, training, and support it would typically provide to a participant who is self-directing. The F/EA must fully inform the personal representative of the rights and responsibilities of a representative. Once informed, the F/EA must have the representative review and sign the standard Common Law Employer Designation form, which must be given to the representative and maintained in the participant’s file. The agreement lists the roles and responsibilities of the representative; states that the representative accepts the roles and responsibilities of this function; and states that the representative will abide by OLTL policies and procedures.</p> <p>The Service Coordinator is responsible for ensuring the personal representative functions in the best interest of the participant through, at minimum, quarterly monitoring calls, by monitoring the personal representative’s adherence to the Common Law Employer Designation form, and ensuring services are being provided as outlined in the participant’s PCSP. When it appears the personal representative is not acting in the best interest of the participant, and there has been a negative impact on the participant’s health and welfare, and/or services have not been provided as outlined in the PCSP, the Service Coordinator and PCPT must explore other alternatives, such as appointing a new personal representative or transitioning the participant to the provider managed service delivery model as described in Appendix E-1-m below. The Service Coordinator is also required to report any incidents of suspected abuse, neglect and/or exploitation as described in Appendix G.</p> <p>In addition, the F/EA is required to address and report any issues identified with the representative and adhere to OLTL policy on incident reporting and report any incident of suspected fraud or abuse.</p>
--	--

**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. *(Check the opportunity or opportunities available for each service):*

<b>Participant-Directed Waiver Service</b>	<b>Employer Authority</b>	<b>Budget Authority</b>
Participant-Directed Community Supports	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Participant-Directed Goods and Services	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Respite	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Personal Assistance Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>

	<input type="checkbox"/>	<input type="checkbox"/>	
--	--------------------------	--------------------------	--

**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:*

<input checked="" type="radio"/>	<b>Yes. Financial Management Services are furnished through a third party entity.</b> <i>(Complete item E-1-i).</i> Specify whether governmental and/or private entities furnish these services. <i>Check each that applies:</i>
<input type="checkbox"/>	<b>Governmental entities</b>
<input checked="" type="checkbox"/>	<b>Private entities</b>
<input type="radio"/>	<b>No. Financial Management Services are not furnished. Standard Medicaid payment mechanisms are used.</b> <i>Do not complete Item E-1-i.</i>

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

<input type="radio"/>	FMS are covered as the waiver service specified in Appendix C-1/C-3 <b>The waiver service entitled:</b>
<input checked="" type="radio"/>	<b>FMS are provided as an administrative activity.</b> <i>Provide the following information</i>
<b>i.</b>	<b>Types of Entities:</b> Specify the types of entities that furnish FMS and the method of procuring these services: Financial Management Services are provided to participants across the Commonwealth by qualified Fiscal Employer Agent(s). The CHC-MCOs are responsible for Fiscal/Employer Agent (F/EA) functions and must process, file, and pay all state and federal taxes on behalf of participants and their direct service workers. The CHC-MCOs must operate as a Vendor Fiscal/Employer Agent (F/EA) or subcontract this function. The F/EA is required by contract to operate in accordance with Section 3504 of the Internal Revenue Code, per Revenue Procedure 70-6 and Section 3504 Agent Employment Tax Liability proposed regulations (REG-137036-08) issued by the IRS on January 13, 2010. The F/EA must meet all applicable Participant Direction-related Federal and State requirements. The CHC-MCO must meet all additional requirements as stated in the CHC Agreement.
<b>ii.</b>	<b>Payment for FMS.</b> Specify how FMS entities are compensated for the administrative activities that they perform: Payment for Financial Management Services will be made by the CHC-MCO.
<b>iii.</b>	<b>Scope of FMS.</b> Specify the scope of the supports that FMS entities provide <i>(check each that applies):</i> Supports furnished when the participant is the employer of direct direct care workers:
<input checked="" type="checkbox"/>	<b>Assists participant in verifying support worker citizenship status</b>
<input checked="" type="checkbox"/>	<b>Collects and processes timesheets of support workers</b>
<input checked="" type="checkbox"/>	<b>Processes payroll, withholding, filing and payment of applicable federal, state and local employment-related taxes and insurance</b>

✓	<p><b>Other</b> <i>Specify:</i></p> <ul style="list-style-type: none"> <li>• Enroll participants in FMS and apply for and receive approval from the IRS to act as an agent on behalf of the participant;</li> <li>• Provide orientation and skills training to participants on required documentation for all directly hired direct care workers, including the completion of federal, state, and local tax forms; the completion of timesheets; effective management of workplace injuries; and workers compensation;</li> <li>• Conduct criminal background checks and when applicable, child abuse clearances on potential employees;</li> <li>• Distribute, collect and process direct care worker timesheets as verified and approved by the participant;</li> <li>• Prepare and issue direct care workers' payroll checks, as approved in the participant's Individual Support Plan;</li> <li>• Compute, withhold, file, and deposit federal, state and local income taxes in accordance with all federal IRS and state Department of Revenue rules and regulations;</li> <li>• Broker workers' compensation for all direct care workers through the appropriate agency;</li> <li>• Process all judgments, garnishments, tax levies, or any related holds on workers' pay as may be required by federal, state or local laws;</li> <li>• Prepare and disburse IRS Forms W-2's and/or 1099's, wage and tax statements and related documentation annually;</li> <li>• Assist in implementing the state's quality management strategy related to FMS</li> <li>• Establish an accessible customer service system for the participant and the Service Coordinator.</li> <li>• Assist participants in verifying direct care workers citizenship or alien status; and</li> <li>• Provide written financial reports to the participant, the Service Coordinator and the CHC-MCO on a monthly and quarterly basis, and as requested by the participant, Service Coordinator, and CHC-MCO.</li> </ul>
Supports furnished when the participant exercises budget authority:	
✓	<b>Maintains a separate account for each participant's participant-directed budget</b>
✓	<b>Tracks and reports participant funds, disbursements and the balance-of participant funds</b>
✓	<b>Processes and pays invoices for goods and services approved in the service plan</b>
✓	<b>Provide participant with periodic reports of expenditures and the status of the participant-directed budget</b>
□	<p><b>Other services and supports</b> <i>Specify:</i></p>
Additional functions/activities:	
✓	<b>Executes and holds Medicaid provider agreements as authorized under a written agreement with the Medicaid agency</b>
✓	<b>Receives and disburses funds for the payment of participant-directed services under an agreement with the Medicaid agency or operating agency</b>



	✓	<b>Provides other entities specified by the state with periodic reports of expenditures and the status of the participant-directed budget</b>
	✓	<p><b>Other</b> <i>Specify:</i></p> <p>The F/EA must provide accurate and timely reports monthly to common law employers, service coordinators, and the CHC-MCO. These reports include service utilization, written notification of over and underutilization, and notification of any common law employer who does not submit timesheets for two or more consecutive payroll periods.</p>
iv.		<p><b>Oversight of FMS Entities.</b> 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.</p> <p>The CHC-MCOs will monitor the F/EA annually to ensure that the contract deliverables are met, and participants are in receipt of Financial Management Services in accordance with their PCSP. The CHC-MCOs will monitor the FMS organization's performance of administrative activities, as well as adherence to contract conditions and waiver requirements. These requirements include, but are not limited to, participant satisfaction, timeliness of processing employer and employee paperwork, timeliness of and accuracy of payments to workers, accuracy of information provided to participants and workers by the F/EA, timeliness and accuracy of tax filings on behalf of the participant, and executed agreements between the F/EA and the workers or other vendors. It will also include timeliness of criminal background checks and child abuse clearances as needed. If the F/EA is not in compliance with contractual or waiver provisions, the CHC-MCOs will identify and remediate any noncompliance. The CHC-MCOs will monitor performance through the use of monthly utilization reports, quarterly and annual status reports, as well as problem identification reports. These reports cover activities performed and issues encountered during the reporting period. The CHC-MCOs will also conduct on-site monitoring more frequently if utilization or problem identification reports indicate additional review is necessary. CHC-MCOs will also be required to report on the FMS organization's performance to OLTL via an identified operations report.</p> <p>In the event the CHC-MCOs do not contract with a Vendor Fiscal/Employer Agent and serve as the F/EA, OLTL would conduct all monitoring activities consistent with the requirements above.</p> <p>Lastly, the CHC-MCOs or the F/EA will conduct a Common Law Employer Satisfaction Survey using the survey tool approved by the Department. The survey must be conducted 60 days after enrolling a new common law employer and annually. Survey data must be collected and analyzed by the CHC-MCOs or the F/EA, and a report must be prepared and submitted to OLTL based upon specifications determined by the Department.</p>

- 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*):

<input type="checkbox"/>	<p><b>Case Management Activity.</b> Information and assistance in support of participant direction are furnished as an element of Medicaid case management services.</p> <p><i>Specify in detail the information and assistance that are furnished through case management for each participant direction opportunity under the waiver:</i></p>				
<input type="checkbox"/>	<p><b>Waiver Service Coverage.</b> Information and assistance in support of participant direction are provided through the waiver service coverage (s) specified in Appendix C-1/C-3 (check each that applies):</p>				
	<table border="1"> <thead> <tr> <th data-bbox="310 522 899 594">Participant-Directed Waiver Service</th> <th data-bbox="904 522 1492 594">Information and Assistance Provided through this Waiver Service Coverage</th> </tr> </thead> <tbody> <tr> <td data-bbox="310 600 899 642">(list of services from Appendix C-1/C-3)</td> <td data-bbox="904 600 1492 642" style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>	Participant-Directed Waiver Service	Information and Assistance Provided through this Waiver Service Coverage	(list of services from Appendix C-1/C-3)	<input type="checkbox"/>
Participant-Directed Waiver Service	Information and Assistance Provided through this Waiver Service Coverage				
(list of services from Appendix C-1/C-3)	<input type="checkbox"/>				
<input checked="" type="checkbox"/>	<p><b>Administrative Activity.</b> Information and assistance in support of participant direction are furnished as an administrative activity.</p> <p><i>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:</i></p>				
	<p>The F/EA will be paid directly by the CHC-MCOs.</p> <p>Participants will obtain enrollment and informational materials from the CHC-MCO or selected F/EA organization under contract with the CHC-MCO. In addition, the CHC-MCO or F/EA is responsible for providing orientation and training to the participant prior to employing their direct care worker. Orientation is based upon a standard curriculum approved by OLTL and includes the following:</p> <ul style="list-style-type: none"> <li>• Review of the information and forms contained in both the Employer and Direct Care Worker enrollment packets and how they should be completed</li> <li>• The role and responsibilities of the common law employer;</li> <li>• The role and responsibilities of the F/EA;</li> <li>• The process for receipt and processing timesheets and employee payroll checks;</li> <li>• The process for resolving issues and complaints; and</li> <li>• The process for reviewing workplace safety issues and strategies for effective management of workplace injury prevention.</li> </ul> <p>Any required updates to the orientation curriculum must also be approved by OLTL.</p> <p>Individuals choosing to self-direct their services will also receive assistance and support from their Service Coordinator. The Service Coordinator will:</p> <ul style="list-style-type: none"> <li>• Provide participants with information regarding self-direction on an ongoing basis, including information about responsibilities, rights and concepts of self-direction;</li> <li>• Work with the F/EA and the participant as necessary to ensure all enrollment and employment paperwork is completed and sent to the F/EA;</li> <li>• Assist the participant to secure training of direct care workers who deliver services that would require a degree of technical skill, and would require the guidance and instruction from a health care professional such as a Registered Nurse;</li> <li>• Recommend or arrange training on the topics of abuse, neglect, exploitation and abandonment as defined by protective services statues;</li> <li>• Assist the participant in communicating with the F/EA as needed;</li> </ul>				

- Monitor under-utilization and over-utilization and contact the participant and the CHC-MCO to resolve potential service delivery problems
- Support the participant in problem-solving, decision-making, and recognizing and reporting critical incidents; and
- Monitor the provision and utilization of services to ensure the participant’s health and welfare.

In addition to the above, the Service Coordinator is also responsible for the following activities when the participant chooses to exercise budget-authority:

- Explain the method for developing the individual budget and share the budget amount with the Participant during the PCSP process;
- Ensure that allowable expenditures for goods and services are made using the participant’s individual budget;
- Counsel the participant on the budget and other issues as necessary;
- Assist the participant with service plan modifications within limits of the individual budget; and
- Notify the F/EA regarding changes to the individual budget and spending plan.

The CHC-MCOs will monitor the F/EA annually to ensure that the contract deliverables are met and participants are in receipt of Financial Management Services in accordance with their PCSP. The CHC-MCOs will monitor the FMS organization's performance of administrative activities, as well as adherence to contract conditions and waiver requirements. These requirements include, but are not limited to, participant satisfaction, timeliness of processing employer and employee paperwork, timeliness of and accuracy of payments to workers, accuracy of information provided to participants and workers by the F/EA, timeliness and accuracy of tax fillings on behalf of the participant, and executed agreements between the F/EA and the workers or other vendors. If the FMS organization is not in compliance with a contractual or waiver provisions, the CHC-MCOs will identify and remediate any noncompliance. The CHC-MCOs will monitor performance through the use of quarterly and annual status reports as well as problem identification reports. These reports cover activities performed and issues encountered during the reporting period. The CHC-MCOs will also conduct on-site monitoring more frequently if utilization or problem identification reports indicate additional review is necessary. CHC-MCOs will also be required to report on the FMS organization’s performance to OLTL via an identified operations report.

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

<input checked="" type="radio"/>	<b>No. Arrangements have not been made for independent advocacy.</b>
<input type="radio"/>	<b>Yes.</b> Independent advocacy is available to participants who direct their services. <i>Describe the nature of this independent advocacy and how participants may access this advocacy:</i>

**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:

Participants have the option to transition from participant-directed services to the provider-managed service delivery model at any time by contacting their Service Coordinator who will guide them through the process of transition. The Service Coordinator is responsible for transitioning the participant to the traditional model of service and ensuring that there is not a break in service during the transition period and supports are in place.

- 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 provider-managed services instead, including how continuity of services and participant health and welfare is assured during the transition.

OLTL will require participants, or personal representatives, who demonstrate the inability to self-direct their services whether due to misuse of funds, consistent non-adherence to program policy or an on-going health and welfare risk, to transition to provider-managed services.

Involuntary Termination from participant direction may also occur after the CHC-MCO determines that there has been a negative impact on the participant’s health and welfare and/or services have not been provided as outlined in the PCSP. The Service Coordinator may recommend involuntary termination, but the Service Coordinator must exhaust all available supports, such as appointing a personal representative, before recommending involuntary termination.

In any event, involuntary termination would only occur after a thorough review of the participant’s health and welfare needs as identified in the service plan and after a team meeting with the participant, the participant’s Service Coordinator, and any family, friends and advocate if requested by the participant and a review of the recommendations by the CHC-MCO.

The Service Coordinator is responsible for transitioning the participant to the traditional model of service and ensuring that there is not a break in service during the transition period.

In the event of termination, the participant has the right to an appeal and, subsequently, a State Fair Hearing.

- 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.

<b>Table E-1-n</b>		
	<b>Employer Authority Only</b>	<b>Budget Authority Only or Budget Authority in Combination with Employer Authority</b>
<b>Waiver Year</b>	<b>Number of Participants</b>	<b>Number of Participants</b>
<b>Year 1</b>		288
<b>Year 2</b>		326
<b>Year 3</b>		15633
<b>Year 4</b> (only appears if applicable based on Item 1-C)		24100
<b>Year 5</b> (only appears if applicable based on Item 1-C)		25914



## Appendix E-2: Opportunities for Participant-Direction

**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:*

<input type="checkbox"/>	<p><b>Participant/Co-Employer.</b> 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.</p> <p>Specify the types of agencies (a.k.a., “agencies with choice”) that serve as co-employers of participant-selected staff:</p>
<input checked="" type="checkbox"/>	<p><b>Participant/Common Law Employer.</b> 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.</p>

**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:*

<input checked="" type="checkbox"/>	<b>Recruit staff</b>
<input type="checkbox"/>	<b>Refer staff to agency for hiring (co-employer)</b>
<input type="checkbox"/>	<b>Select staff from worker registry</b>
<input checked="" type="checkbox"/>	<b>Hire staff (common law employer)</b>
<input checked="" type="checkbox"/>	<b>Verify staff qualifications</b>
<input checked="" type="checkbox"/>	<p><b>Obtain criminal history and/or background investigation of staff</b></p> <p>Specify how the costs of such investigations are compensated:</p> <p>To ensure all participants make an informed choice of service and service delivery, criminal background checks are mandatory for individuals performing personal assistance services. The CHC-MCO or the subcontracted F/EA secures and pays for the criminal background check as described in Appendix C-2-a. In addition, child abuse clearances are required for all direct care workers providing services in homes where minor children reside. Please see Appendix C-2-b for additional information.</p>
<input checked="" type="checkbox"/>	<p><b>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. Specify the state’s method to conduct background checks if it varies from Appendix C-2-a:</b></p>
N/A	

<input checked="" type="checkbox"/>	<b>Determine staff duties consistent with the service specifications in Appendix C-1/C-3.</b>
<input checked="" type="checkbox"/>	<b>Determine staff wages and benefits subject to applicable state limits</b>
<input checked="" type="checkbox"/>	<b>Schedule staff</b>
<input checked="" type="checkbox"/>	<b>Orient and instruct-staff in duties</b>
<input checked="" type="checkbox"/>	<b>Supervise staff</b>
<input checked="" type="checkbox"/>	<b>Evaluate staff performance</b>
<input checked="" type="checkbox"/>	<b>Verify time worked by staff and approve time sheets</b>
<input checked="" type="checkbox"/>	<b>Discharge staff (common law employer)</b>
<input type="checkbox"/>	<b>Discharge staff from providing services (co-employer)</b>
<input type="checkbox"/>	<b>Other</b> Specify:

**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:*

<input checked="" type="checkbox"/>	<b>Reallocate funds among services included in the budget</b>
<input checked="" type="checkbox"/>	<b>Determine the amount paid for services within the state’s established limits</b>
<input checked="" type="checkbox"/>	<b>Substitute service providers</b>
<input checked="" type="checkbox"/>	<b>Schedule the provision of services</b>
<input checked="" type="checkbox"/>	<b>Specify additional service provider qualifications consistent with the qualifications specified in Appendix C-1/C-3</b>
<input checked="" type="checkbox"/>	<b>Specify how services are provided, consistent with the service specifications contained in Appendix C-1/C-3</b>
<input checked="" type="checkbox"/>	<b>Identify service providers and refer for provider enrollment</b>
<input checked="" type="checkbox"/>	<b>Authorize payment for waiver goods and services</b>
<input checked="" type="checkbox"/>	<b>Review and approve provider invoices for services rendered</b>
<input type="checkbox"/>	<b>Other</b> Specify:

**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 budget is developed based on the Person-Centered Service Plan (PCSP). The amount of the individual budget is based on the amounts of service that are authorized in the PCSP and are reflected in a participant's Spending Plan. The process for PCSP development is the same for all participants in the CHC Waiver, regardless of service model. The Service Coordinator reviews the participant's needs with the participant and ensures that the PCSP includes sufficient and appropriate services and provides the support that an individual needs or is likely to need in the home and community and to avoid institutionalization. Once the participant determines that they wish to self-direct, the number of units of Personal Assistance and Respite Services are multiplied by the rate for Personal Assistance Services that has been established by the CHC-MCO. This resulting amount represents the participant's individual budget amount and represents the amount that would have been paid on the participant's behalf if they used provider-managed services. Service Coordination and the F/EA service fee are not included in the participant's individual budget amount and is not reflected in the participant's Spending Plan.

The Service Coordinator is responsible for explaining the method for developing the individual budget and sharing the budget amount with the participant during the PCSP process. The participant works with the Service Coordinator to determine how the budget can be utilized to best serve their needs while maintaining their health and welfare.

A Spending Plan is developed that uses the available monies to purchase goods and services in a manner that allows the participant increased control and flexibility in the way their services are delivered. The Spending Plan also identifies the timing for spending throughout the timeframe of the participant's plan. The F/EA must pay the invoices in accordance with the Spending Plan as authorized by the participant.

Information about participant-directed services, including the method for determining the individual budget, is made available through the SMW training manual, online and the standard participant information materials developed by the CHC-MCOs or the F/EA and approved by OLTL.

- 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.

During the PCSP process, the Service Coordinator notifies the participant of the individual budget amount. In the event that participant needs change, the participant may request an adjustment to their individual budget by contacting their Service Coordinator. As described in Appendix D, the Service Coordinator will reassess the participant's needs and request approval of the revision from the CHC-MCO as appropriate. The participant will be notified of the approval or denial of the request. The participant has the right to the fair hearing and appeals process as outlined in Appendix F.

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

<input type="radio"/>	<b>Modifications to the participant directed budget must be preceded by a change in the service plan.</b>
<input checked="" type="radio"/>	<b>The participant has the authority to modify the services included in the participant-directed budget without prior approval.</b>



	<p>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:</p>
	<p>Participants have flexibility to manage their services and modify their Spending Plan without requiring the prior preparation of a revised PCSP. Funds in the participant's Spending Plan may be reallocated without modifying the PCSP when:</p> <ol style="list-style-type: none"> <li>1. The participant wants to change an employee's start time.</li> <li>2. The participant wants to distribute work hours more evenly by assigning more hours to one employee, and this change will not exceed the budget limit.</li> <li>3. The participant wants to change how an employee will do assigned tasks.</li> <li>4. The participant wants to reschedule an employee from one day to the next.</li> <li>5. The participant needs to use the back-up plan.</li> </ol> <p>Participants must notify the F/EA when they plan to exercise their authority to reallocate funds within three days of implementing the changes. Upon making the change the participant must meet with the Service Coordinator to document the changes in the Spending Plan.</p> <p>Any changes that do not meet the criteria above require a change to the PCSP and the Service Coordinator's submission to the CHC-MCO for approval prior to implementation. To initiate a change of this scope, the participant must meet with his/her Service Coordinator to amend their PCSP and Spending Plan. The Service Coordinator will review and approve the amendment. Once the approval is granted the participant will submit an amended plan to the F/EA.</p>

- 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:

<p>Monitoring oversight of the Spending Plan is the dual responsibility of the Service Coordinator and the F/EA. The F/EA will provide written financial reports to the participant, the Service Coordinator and the CHC-MCO on a monthly and quarterly basis, and as requested by the participant, Service Coordinator, and the CHC-MCO. The participant, Service Coordinator and CHC-MCO will receive written notification from the F/EA when utilization exceeds the monthly budget by 10% or more or when monthly utilization is 80% or less. If those events occur three times over 12 consecutive months, then the CHC-MCO may terminate the consumer-directed services after following the process of involuntary termination outlined in E-1-m.</p> <p>The participant is responsible for developing a monthly Spending Plan, with assistance as needed, which will be approved and authorized by the Service Coordinator and will be utilized to track over and under expenditures.</p> <p>The F/EA will monitor expenditures, flag significant budget variances, and ensure that the purchase of goods and services and submitted timesheets match the participant's Spending Plan. The F/EA will not reimburse services not documented or authorized in the Spending Plan.</p>
---

The Service Coordinator will track under-utilization and over-utilization and contact the participant and the CHC-MCO to resolve potential service delivery problems. The Service Coordinator must monitor the Spending Plan to assure that expenditures remain consistent with the individual budget, and review the monthly financial reports for the following:

- Under Spending – the participant spends less than 80% of what was authorized for the month, unless there was a hospitalization or other reason for low spending;
- Uneven Spending – the participant’s employee’s hours are disproportionately being used, e.g., the first two weeks at 75% and the last two weeks at 25%;
- Additional Hours – the participant’s employees are being paid additional hours;
- Turnover – high turnover of employees. This should be reviewed over a series of months; and

Excessive use of agency services for gap filling purposes instead of using back-up services.