

# Understanding Employer Authority



Department of  
Developmental Disabilities

# What's Different?

<b>Traditional Models</b>	<b>Employer Authority</b>
Independent contractors or agencies decide how to carry out the services in the ISP.	The individual receiving services or a representative directs the workers how to carry out services in the ISP.
Provider carries out employer responsibilities (recruiting, hiring, training, scheduling, etc.)	The individual receiving services or a representative carries out employer responsibilities.

# Types of Employer Authority

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## Common Law Employer:

The individual receiving services is the “employer of record.”

## Co-Employer or Agency with Choice:

An agency employs workers on the individual’s behalf. The individual schedules/manages workers

## Support to Individuals

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- Parents exercise Employer Authority for minor children.
- Guardians may exercise Employer Authority for people they represent.
- Individuals may designate someone to help with Employer Authority (representative).
- Financial Management Service (FMS) is provided by the state.

# Funding the FMS

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- The agency is under contract with DODD to provide support with Employer Authority.
- Funding for this support **DOES NOT** come out of waiver funds.

# FMS Functions

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- Complete new employee paperwork
- Collect and process worker's timesheets
- Perform payroll functions
  - Withhold and pay payroll taxes
    - Federal (Income Tax/Medicare)
    - Federal Unemployment (FUTA)
    - State Unemployment (SUTA)
  - Pay Worker's Compensation premiums
  - Issue paychecks (electronically)
  - Issue W2s
- Submit waiver utilization reports to board and individual

## How it Works

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- Person-centered planning determines level of support required.
- The FMS receives a payment authorization for each worker.
- The worker completes a timesheet.
- The individual verifies timesheet.
- The worker sends the timesheet to the FMS.
- The FMS issues paychecks on the 15<sup>th</sup> and the end of each month.
- The FMS bills the waiver to get reimbursed.

# Benefits

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- Individuals
  - maintain choice
  - exercise control over services
- Providers
  - receive more individual-specific training
  - Employer covers cost of unemployment insurance.
  - Employer covers cost of Worker's Compensation.

# Liability

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## Workplace safety:

Any in-home care worker, whether an independent contractor or employee, may file a lawsuit against a homeowner/individual if injured while providing care.

However, employers and employees can be assured that employees are covered under Worker's Compensation.

# Liability

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## Employer Liability:

Any employer may face some potential liability. However, no lawsuits have been filed against individuals directing services in Ohio.

Resources are available to individuals/families about how to minimize this risk under Employer Authority (interview guides, supervision handbooks, etc.).

# Common Questions

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Can a parent/guardian still provide services under Employer Authority?

Yes, a parent of an adult (over 18) or a related guardian may still provide services.

However, when a guardian is the provider, someone else must be designated as the person responsible for directing the individual's care.

## Common Questions

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Will the pay rate to providers be the same for workers under Employer Authority as it is for independent contractors?

The rates for the new service models have not been determined. However, since workers under Employer Authority are “employees” and not independent contractors, some changes will be made to the rate structure.

# Rate Differences

	Independent Contractor Rates	Employer Rates
Federal income tax/Medicare (Employer share)	Included in rate	Included in rate
Federal income tax/Medicare (Employee share)	Included in rate	Not included in rate (employees pay)
Federal/state unemployment (Employer share)	Included in rate (not always paid)	Included in rate
Worker's Compensation (Employer share)	Included in rate (not always paid)	Included in rate
Supervisor cost	Not included in rate	Included in rate
Not direct service (staff meetings, travel to/from, etc.)	Included in rate, lesser percentage than employer rate	Included in rate
Administrative costs	Included in rate, lesser percentage than employer rate	Included in rate

# Common Questions

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Will workers under Employer Authority still be certified by DODD?

Yes, providers will still apply for certification by DODD as they do today. All background checks and required training will continue to be required. Applications will continue to be submitted through our Provider Certification Wizard (PCW).

# Common Questions

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Will non-agency providers continue to be enrolled as waiver providers?

Yes, non-agency providers who are serving individuals with Employer Authority will continue to be certified by DODD and will continue to be Medicaid-waiver providers.

# Common Questions

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Will Employer Authority be used for all services?

The services for which Employer Authority may be exercised have not yet been determined. DODD has formed a workgroup that will recommend the services and the settings in which Employer Authority may be used.

# Common Questions

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Can individuals still use an agency as a service provider?

Yes, individuals may continue to use agency providers. Agencies may be used as traditional providers or as co-employers.

# Common Questions

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Will all agencies be home health agencies?

No, some agencies certified by DODD are home health agencies. However, many agencies certified by DODD are not. Individuals may choose any agency certified by DODD to provide services.

# Common Questions

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Does this shift from independent providers to Employer Authority apply to Supported Living or other services funded through county boards?

No, this shift to an Employer Authority model applies only to Medicaid-funded home and community-based services, including the IO and LV1 Waivers.

# Common Questions

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Is Employer Authority being added to the Transitions DD (TDD) Waiver?

No, all individuals enrolled in the TDD Waiver will be transferred to the IO Waiver over a 2-year period beginning 7/1/15.

# Timelines

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- Initial workgroup meeting occurs 3/30/15
- Employer Authority will be available before any changes are made to Medicaid agreements for independent providers.

# Information Sharing

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- Additional information is available at <http://dodd.ohio.gov/ourfuture/Pages/default.aspx>
- A webinar is being scheduled for April to provide additional information on the role of an FMS.

# How to Provide Input

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- Feedback/suggestions may be submitted through DODD's online feedback form

<https://doddportal.dodd.ohio.gov/contact/Feedback/Pages/default.aspx>

- Feedback/suggestions may be submitted to Gary Tonks who is a member of the waiver workgroup