

New Community Opportunities Center at ILRU Presents...



Centers for Independent Living as Financial Management Service (FMS) Providers Part 1: Basics

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3:00 P.M.- 4:30 P.M. EDT

Presenters:

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Financial Management Services (FMS)

- Why does FMS exist?
- Employer Authority and Budget Authority
- Why might a CIL be an FMS provider?
- Who is our competition?
- What states have opportunities for FMS?

Self Direction Programs

- Medicaid
 - Managed Care
- Veterans
- Older Americans Act
- Behavioral Health
- Private Pay

Financial Management Services

- Medicaid
 - Requires FMS
- Veterans
 - Requires FMS
- Older Americans Act
 - Usually requires FMS
- Behavioral Health
 - Expect to require FMS in the future
- Private Pay
 - Optional, but useful for families

Solving Liability Concerns and Administrative Burden

97%

of consumer direction programs use a third party Financial Management Services provider to handle payroll, taxes, insurances & budget management on consumer behalves

75%

use a Fiscal/Employer Agent model of Financial Management Services. In this model, the consumer is the common law employer (employer of record) and the Fiscal/Employer Agent performs all payroll, tax and insurance responsibilities. The Fiscal/Employer Agent takes on joint liability for the federal taxes under a special section of the Internal Revenue Code.

-From Inventory of Participant Direction, National Resource Center for Participant-Directed Services, 2011

Hallmarks of Self-Directed Services

- Participant directly hires, trains, supervises and discharges workers
- Workers may be consumer's friends, neighbors, family members or be identified from some other source (e.g. placing an ad in a newspaper)
- Participant manages allocation of his/her program resources
- Participant determines the mix of goods and services that meet his/her individual needs (ideally)

Questions?

Complexity in Managing Services and Supports

- Directly hiring non-agency workers means serving as an employer of those workers
- Employers have important responsibilities including:
 - Hiring, managing, scheduling, training, and discharging
 - Withholding, calculating, depositing and filing required taxes
 - Managing required insurance
 - Paying workers in accordance with federal, state and local laws

Why Financial Management Services?



- **When a consumer directly hires workers, the consumer is an employer of those workers.**
- **In general, consumer's directly hired workers **CANNOT** be paid as independent contractors.**
- **Appropriate taxes must be withheld, calculated, deposited and filed.**

As an employer, the consumer legally has the same administrative duties as any other employer. The consumer employer must manage federal, state and local taxes, unemployment insurance, workers' compensation insurance, garnishments and union

dues (if applicable).

When Employers Pay Employees They Generally Must...

- Withhold federal income tax from employee pay (optional for household employees)
- Withhold Social Security & Medicare taxes from employee pay
- File and deposit with the IRS withheld employee federal income, Social Security and Medicare taxes and the employer portions of Social Security and Medicare taxes
- File and deposit federal unemployment taxes
- File and deposit state unemployment taxes
- Maintain compliance with any employee state or local income or disability tax rules, including withholding from employee pay as well as filing and depositing with state and local tax agencies, as applicable

When Employers Pay Employees They Generally Must...cont'd.



- Provide employees with year-end information returns, such as Forms W-2
- Maintain compliance with state workers' compensation statutes
- Verify that employees are authorized to work in the United States
- Maintain compliance with other state rules, such as state pay day requirements
- Maintain compliance with the Federal Fair Labor Standards Act

FMS is a Participant Support

- FMS providers perform administrative responsibilities so that:
 - Consumers can focus on managing their services and supports
 - Tax, employment and insurance regulation compliance is maintained
 - Payments to consumer's providers are made in accordance with budget
 - Additional controls are in place to detect and prevent fraud and abuse

FMS Duties



- FMS provider:
 - supports the consumer through the administrative process of being an employer
 - supports the consumer to ensure workers are legally hired
 - can conduct criminal background checks on workers
 - ensures that workers and other providers are paid in compliance with applicable rules and regulations
 - makes payments in accordance with spending plans, authorizations and program rules
 - This includes paying workers, agencies, or other goods and services vendors

FMS Duties, cont'd.

- FMS provider:
 - has controls in place to detect and prevent fraud and abuse
 - helps protect the consumer by getting workers' compensation policies in place
 - generates reports for consumers and program administrative agencies showing expenditures and individual budget information
 - maintains fiscal accountability and oversight in a flexible program

What Determines the FMS' Duties?

- A lot, but an important determinant of an FMS provider's duties is the type of authority offered for consumers within the program
- These include:
 - Budget Authority
 - Employer Authority
- The original "Cash & Counseling" program had both budget authority and employer authority
- In the Veteran-Directed HCBS program, both budget authority and employer authority are required

Budget Authority

- Budget Authority means that a consumer has choice and control over what goods and services to purchase within their spending plan and how to allocate their money within their spending plan
- The FMS entity's role is to:
 - Maintain separate accounting for each consumer-directed budget
 - Process invoices (vendors) & timesheets (workers) in accordance with each consumer's budget
 - Only pay those invoices and timesheets that are approved in the budget and meet other program requirements
 - Prepare reports showing budget amounts, spending and amounts remaining

Employer Authority

- Employer Authority means that a consumer can directly hire workers of his/her choice and will train, manage, schedule and dismiss workers.
- The FMS entity's role is to:
 - facilitate employment of workers by the consumer or representative by performing certain employer responsibilities as an agent of the consumer employer
 - process payroll
 - withhold and deposit applicable employee Federal, State and Local income taxes

Employer Authority, cont'd.

- The FMS Entity's role is to:
 - file and deposit applicable employer Federal, State and Local employment taxes, including unemployment, Social Security and Medicare taxes
 - file employer tax returns and issue year-end wage and earnings statements (e.g. IRS Forms W-2, IRS Forms 1099, State Forms W-2, 1099 or equivalent)
 - support the consumer to maintain compliance with applicable workers' compensation regulations
 - support the consumer to review worker authorization information and collect applicable employment forms from workers

Questions?

Why consider FMS?

- This is a tough business
 - Steep learning curve
 - Significant investment required
 - Financial risk often involved
 - Legal risk
- FMS offers another opportunity to be involved in self direction in a deep and meaningful way
 - FMS is critical to self direction program operations
 - CILs are uniquely positioned to support participants to self direct through FMS
 - Opportunity to diversify revenue

Who is our competition?

- For-profit companies with deep FMS expertise
- Non-profit entities with deep FMS expertise
- For-profit and non-profit home health agencies who also provide FMS in self direction
- Sometimes, other CILs

How do programs choose FMS providers?

- Medicaid
 - FMS as a Medicaid service
 - Consumers must have the choice of any qualified provider
 - *Result = multiple to many FMS providers*
 - FMS as an Administrative function
 - Program procurement process, usually guided by state procurement rules
 - Request for Proposal
 - Request for Bid
 - Request for Qualifications
 - Contract
 - *Result = One to a few FMS providers*

Medicaid Managed Care

- When self direction is offered through Medicaid Managed Care, often (but not always) the Managed Care Organization (MCO) determines how FMS is delivered
 - The MCO often purchases it from an FMS provider that they select
 - Working with an MCO can be a good way to get FMS experience without a state procurement process

How do programs choose FMS providers?

- Veteran-Directed HCBS
 - Aging Network Entities (ADRCs, AAAs, ASAPs, SUAs) decide how FMS will be provided
 - They provide it in-house (not often)
 - They purchase it from an FMS provider without experience with VD-HCBS (sometimes)
 - They purchase it from an FMS provider with experience with VD-HCBS (most often)
 - Sometimes state procurement rules govern the process, but most often the private Aging Network Entities decide how to provide/purchase FMS

How do programs choose FMS providers?

- Older Americans Act
 - Aging network entities tend to decide how FMS will be provided or purchased
- Behavioral Health
 - To be seen
- Private Pay
 - Not required, but can be helpful to families.

Program Procurement Process

- Most programs procure with a structured, scored process, such as a Request for Proposal
 - Proposals may be 50 – 150+ pages in length. Great effort expended to respond to detailed, technical proposals
 - Usually, experience with FMS is required, often of the same size and scope of the opportunity in question
 - Competing against established, experienced providers
- To qualify to provide as Medicaid service:
 - must exhibit proof of meeting qualifications
 - made available for consumers to choose you

How long might the work last?

- FMS provider contracts secured by a procurement process like an RFP usually last for around 3 years, often with options for extensions
- Switching costs are high
 - Programs want to make a good selection so they can keep the same FMS provider for as long as their procurement rules allow them

How long might the work last?

- Work secured by qualified provider lasts as long as the provider is selected by consumers and continues to meet qualifications
- Contracts without a formal RFP process usually last as long as specified by contract

Information on States

- California Regional Centers for ID/DD population consider less established providers
- DC is expected to pursue self direction and FMS but will likely require FMS provider with experience
- Kansas currently takes any qualified provider for one of their self direction programs
- Missouri PCA CDS program takes any qualified provider
- North Carolina just delayed an RFP; looking for a single provider with experience

Information on States, cont'd.

- Texas takes any qualified provider for their CDSA program
- Wisconsin counties have contracts for provision of Family Care FMS providers and sometimes work with providers with less experience
- *Watch states moving to Medicaid Managed Care*
 - Develop relationships with MCOs

Questions?

Many free resources at www.participantdirection.org

I'm happy to help: mollie.murphy@annkissam.com

Cell: 617-953-3914



Wrap Up and Evaluation

Please *click the link below* to complete your evaluation of this program:

<https://vovici.com/wsb.dll/s/12291g5667b>

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