

**CONSUMER EMPLOYER RESPONSIBILITIES Q & A
CM MANDATORY WEBINAR WEDNESDAY 1/17/18**

Questions?	Answers
I believe the old 737 listed an employer responsibility as having a backup plan for when their HCW cannot make it to work or is gone. I don't see the backup plan listed among the responsibilities today.	The need to assist the consumer with developing a back-up plan is a federal expectation that was determined to be a Case Management role. It was removed from the list of employer responsibilities.
Can a provider appoint a HCW to manage the employer duties?	No. No paid provider can or should appoint any person to do anything for the consumer. Only the consumer, their designated representative or Guardian can or should appoint anything for the consumer.
We sometimes have consumers who live in what I would consider unsafe housing. Special needs money only goes so far to help fix a house or if it is an old mobile home, it is not always able to be fixed. Do we still try to send HCWs or IHCA's into that situation?	In addition to special needs, K pan ancillary services may be able to correct some unsafe situations. HCW's should be advised of potentially unsafe situations before accepting work. If a portion of the home remains safe, for example, the bedroom, then the HCW may limit themselves to providing services where safe. Continue to provide the consumer options such as potentially moving from the unsafe housing to safer independent housing or a residential setting.
Can an Authorized Representative be paid by the family?	The Authorized Representative is the person designated on the DHS 0231. They can be a paid Medicaid provider, such as a HCW or AFH provider, however they should not get paid for acting in this role or ask for money from the consumer as the consumer is destitute.
We no longer have the STEPS program available to us in Harney County, how should we refer people?	Areas that don't have STEPS programs available, you should still continue to work with consumers to mitigate any identified issues. You should speak with them about the responsibilities that come along with being a Consumer-Employer. In addition to continuing to try to identify someone who might be able to be designated to manage their employer responsibilities should the issues continue.
When you say 'consumers that wish to manage the consumer employer responsibilities but have difficulties in doing so should be supported', what does that mean? Do you mean with things like STEPS referrals?	Yes, it means that we should work with the consumer to attempt to mitigate the concerns with resources such as STEPS or IHCA's. Only after all documented attempts at mitigation have failed should you consider no longer allowing in-home services with a HCW as a service option.

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<p>Can you talk about the bullet point in the transmittal about the rep being free of a criminal history, protective service, and credible allegations of fraud or collusion? Do we need to background check them? What about the fraud piece? We have several cases where we know fraud is occurring but the MFU is not wanting to pursue at this time even though they tell us what they have discovered is credible.</p>	<p>We do not require background checks be performed on potential representatives. If the office has knowledge of a negative background the appropriateness of the representative should be questioned. We should not approve representatives that we have concerns about.</p> <p>411-030-0040 Eligibility Criteria (d) The Department retains the right to approve the representative selected by an individual. Approval may be based on, but is not limited to, the representative’s criminal history, protective services history, or credible allegations of fraud or collusion in fraudulent activities involving a public assistance program.</p>
<p>What is the difference between an authorized representative, a consumer representative and a client representative?</p>	<p>See APD-AR-17-041 for the explanations repeated below.</p> <p>Authorized Representative: The representative for completing the initial Application and/or renewal applications for services and benefits. Only one person should be assigned this role (Must be documented on the DHS 0231).</p> <p>Client Representative: The representative chosen by the individual to act on their behalf in the event they can no longer make long-term care decisions. Only one person should be assigned this role (Must be documented on SDS 0737).</p> <p>Consumer Employer Representative: The representative responsible for assisting in developing the least costly service plan, including hiring, firing, scheduling time and overall management of Home Care Workers. Only one person should be assigned this role (Must be documented on SDS 0737).</p>
<p>Can you talk about safe service planning when we have a consumer who has not been safe with their HCWs, cannot be the employer clearly, yet we are going to try and give them the option to have an IHCW knowing that they will also lash out to the IHCA staff as well?</p>	<p>Any Home Care Worker (HCW) or In-Home Care Agency (IHCA) should be told of the risks and concerns before accepting the work. They may do their own assessing during the initial interview or Home visit. Ultimately, they will decide to accept the work or not. For consumers that do not understand their decisions and behavior there will be the need for further protection and for those that do understand the consequence of not attracting workers may lead to the loss of eligibility due to not receiving care for 14 days or more.</p>

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<p>In a recent case, the MFU gave us language to use on a letter. Would you advise that we use their language over the language in the transmittal? Perhaps it can be a hybrid of both.</p>	<p>Without knowing the specific MFU letter you are referring to, we cannot tell you which to use at this time.</p>
<p>Question about the statement that ‘if issues continue to persist within a 12 month period...’ when it comes to giving a verbal warning about consumers unwillingness to do their CEP duties correctly, does that mean that the CM has discretion on when to send that written warning within that 12 month period? Or do they need to wait and allow the consumer to continue not doing their duties for a full 12 months? Please clarify.</p>	<p>The intent here is that if sometime within the 12 months of receiving the verbal/written warning, the CM may proceed to the next step. The CM has some discretion on when the next step should be implemented, however there is no need to wait an entire 12 months of the consumer not managing their duties before moving to the next step.</p>
<p>What about for intake? Do we need to go through the closing steps (verbal and written warnings) or can we deny based on concerns?</p>	<p>Central office is working on standard ways to determine if someone can manage their employer responsibilities. Until there is further guidance, if you believe a person would be at risk by approving a plan please staff the case with central office policy for direction.</p>
<p>Recently we have heard emphasizing getting 737s signed, but we all remember being told 231s could not be HCWs because authorized representatives guide the client’s care so there is a conflict of interest for an authorized rep to be a paid HCW. However, client reps could be anyone the client chose, including HCWs. Then today we heard someone say near the end that paid HCWs could not be client reps either. Do we need to redo 737s if they are wrong? Please clarify.</p>	<p>I wouldn’t assume they need to be redone. The person can identify who they would like to be their decision-maker as we do not know where the person will be or what role the person they chose will be in when they cannot make decisions any more. For example, someone selects their daughter, who today is the paid HCW, but the individual is able to be the consumer employer rep and make other long-term care decisions. This same person decides to move to an ALF. While at the ALF she becomes more confused and is no longer able to make her own decisions. That is when we will use her 737 designated person, which in this case was her former HCW daughter. Same scenario but there is no move to the ALF and the person is still at home and loses the ability to make decisions. We will go to the 737 knowing she wants her daughter in this role. Now the daughter has to choose. Be the decision-maker or the paid worker but cannot be both. If the daughter chooses to be the paid worker we will appoint someone in the order listed on the 737 as we disclosed.</p>

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<p>Can you clarify: the 737 appoints both a client representative and a consumer employer representative, are you saying that a family member who is a HCW can't be a client representative? (someone who can help them make long-term care decisions only if a doctor or health care professional determines that the person can no longer make their own decisions).</p>	<p>You will notice that the 737 allows for 3 choices of representative. The reason for this is that the choice is for future use when the person is no longer able to make LTC decisions as you outline in your question. When the time comes the first choice may no longer be available or may not be suitable. So yes, we are saying if they choose their daughter as their first choice and the daughter is the HCW then the daughter will not be used because of the conflict of interest. We will move to their second choice or if none to the order of the list disclosed on the 737</p>
<p>Are you saying that a client rep via the 737 can be the HCW as well? If so, can they also be counted as a Direct Contact?</p>	<p>No, if they need to act as the client representative they cannot be a paid HCW or Medicaid provider.</p>
<p>Regarding appointed reps: If a consumer has no family, manages their own CEP, and lives with the HCW daughter who we cannot put on the new 737 as an appointed rep, who does the state go to if they mark 'no' on the form to choose a rep and one becomes necessary – back to the HCW daughter?</p>	<p>If they can manage their own care a consumer employer representative is not needed. They would check the box saying they choose to manage their own employer duties. They should still designate who they would want to make decisions for them (the client representative) if they could no longer do so.</p>
<p>Who will be following up with the Guardianship? Case managers or central office?</p>	<p>The current process is for Case Managers to work with Adult Protective Services if there is a need for Guardianship.</p>
<p>For staff that missed this presentation, is there an idea of how long it may take until a recording of this presentation is available online?</p>	<p>Generally the audio recordings of Mandatory Webinars such as this one are posted on the Case Management Tools website on the 'Mandatory Case Management In-Service Webinars' page within 24 hours.</p>
<p>How are you wanting us to address these cases where there is just a 'rep' on paper and not actually managing the plan? How often and how available do they need to be available do they need to be?</p>	<p>Case Managers should have conversations now with representatives clarifying expectations. You should assess how the person is doing with managing the responsibilities by talking to the representative and the HCW's. Are there clues to the lack of employer capabilities?</p> <p>Locate, screen, hire: Do they flounder when a worker quits and a new one needs to be located. Is there a need to exceed the weekly cap due to inability to find/recruit new workers?</p>

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	<p>Supervise and train HCW: Do HCW questions indicate they have not been trained? Does the HCW indicate they never see the Consumer Employer Representative?</p> <p>Schedule the work, leave, and coverage: Is the coverage at the times the consumer needs the help or in blocks of time convenient to the worker?</p> <p>Track the hours: Are vouchers consistently completed accurately?</p> <p>Recognize/Correct work problems: Does the Consumer Employer Representative solve problems or do they fall to the Case Manager?</p> <p>Terminate unsatisfactory workers: Does the Consumer Employer Representative take steps to correct deficiencies and terminate if needed?</p> <p>Workplace safety: Does the Consumer Employer Representative assist in creating a safe environment for HCW's?</p>
<p>What if the HCW/relative acting as a rep is paid through an IHCA, can they be the rep then or is there still a conflict of interest?</p>	<p>You may do one of two things....Once you are made aware that an IHCA care giver is a relative and is also designated as a consumer's employer representative you should contact the IHCA and let them know that the current care giver (the family member) cannot provide paid services for this consumer and that another care giver must be sent to provide services for this consumer. Or you may inform the consumer that they must identify a different employer representative. So yes, there is still a conflict of interest.</p>
<p>If a rep is out of state and visiting often the client is unable to sign vouchers, who would sign the voucher? How do CMs monitor the client rep duties with high caseloads to ensure they are not 'just on paper'?</p>	<p>Consumer Employer Representatives are expected to be able to perform all of the employer responsibilities. Current direction is that these functions cannot be adequately performed remotely. Any exception to this should have central office approval.</p>

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When someone has behaviors that are inappropriate based on the diagnosis, is due process still required / appropriate?	If we are denying or reducing benefits or a request due process is always required.
What if the CM is aware that the consumer is a sexual predator, what steps or suggestions do we offer to this consumer?	Consumer or Representative need to be able to manage the employer responsibilities which include maintaining a safe workplace. Potential workers need to be informed of known risks and may or may not accept the job.
How do we determine when 'within 12 months' to take action? Is this worker discretion? Should we be addressing this every month? Every 3 months? Or once a year?	The purpose of the time period is to provide support and encourage the success of the consumer or representative in performing the employer duties. Documenting failures over the 12 months supports the denial despite our best efforts to support the individual. If the plan is not working continue to offer options such as Agency services or residential settings. The consumer may voluntarily choose a direction or option that they can better manage. If you believe that there needs to be earlier action due to safety or other concerns please staff the case with central office policy staff.
Is the state exploring getting some kind of agency or pool of representatives that we can use if clients have no one to act on their behalf?	Yes, we have proposed this as a potential need and possible solution. We are researching what other states are doing and considering the options. No final decision has been made.
Does due process apply to EWE?	Yes.
I have referred to the state office for STEPS and have not received any response that they received my email. What do you suggest I do?	Please email either STEPS.OHCC@state.or.us or call 1-877-867-0077 for questions about the STEPS program.
Will there be outreach to find IHCA's in Eastern Oregon?	There is nothing formal in the works at this time. If however, you hear of a company that might be interested, please have them contact Darwin Frankenhoff at 503-947-5162, our IHCA Policy Analyst.
Will the Client Employer Booklet be updated?	Yes, but we don't have an estimated date of completion.
How long should we wait for STEPS referral to follow through? Do we have to follow-up? Will the STEPS representative contact the CM?	Someone from the STEPS program should contact the consumer within 5 working days after receiving the referral. Consultants are to conduct the initial meeting within 10 business days of the initial contact, if the consumer accepts the services. If a consumer calls you after that time period, you may contact either STEPS.OHCC@state.or.us or call 1-

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	<p>877-867-0077 for questions about the STEPS program. Additionally, if the consumer denies services, or the coordinator is unable to make contact, they are to let the CM know.</p>
Can you link the tools page you have reference a few times. I've been looking but can't find it?	<ul style="list-style-type: none">- Case Management Tools page- STEP Information and Referrals<ul style="list-style-type: none">o STEPS.OHCC@state.or.us