Self-Determination Basics

An introduction to Self-Determination to support individuals and families.

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SequoiaSD

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For many individuals and families, the idea of self-determination is exciting. Who doesn't want more power and control over their services and supports? It is important to understand what it means to self-determine and the support available to you on your journey. Self-directing our care doesn't come naturally to anyone.

The goal of this Self-Determination Guide is to provide you with the basics. It gives an overview of Self-Determination, the people available to support you when you choose to self-determine, and some of the rules of the road that help you to stay on course.

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Understanding Self-Determination

What is Self-Determination?

Self-determination is a service model that helps people stay independent at home and in their communities. In self-determination, you decide how, when, and who provides your services and supports. It's not like traditional agency services because you get to hire your workers. The focus is on you, the program participant. You have the choice, control, and flexibility to choose supports that best fit your life. Over a million Americans currently use self-determination.

Why Choose Self-Determination?

Self-determination is grounded in the belief that people with disabilities know their needs best. And are in the best position to plan and manage their services. Self-determination promotes personal choice and control over the delivery of services.

RESPONSIBILITIES OF THE PERSON CHOOSING SELF-DETERMINATION PROGRAMS

The individual choosing to self-direct has responsibilities as an employer. They are responsible for:

- Hiring
- Training (if needed)
- Scheduling
- Managing those who work for them
- Managing their budget/authorizations

Key Support Roles and Responsibilities

There are individuals and organizations that support people choosing self-determineed programs. The roles and names often vary by state and program, but there are typically two key roles.

FINANCIAL ADMINISTRATIVE MANAGEMENT

Often called a Fiscal Intermediary, Fiscal Agent, or Financial Management Service. The Fiscal Agent is responsible for paying workers and vendors. The Fiscal Agent assists workers and vendors in completing required paperwork. They also issue payments and file state, local, and federal taxes.

INFORMATION AND ASSISTANCE

Often called Service Coordinator, Independent Facilitator, or Care Team. This person supports the individual who is self-determination. They usually assist with program eligibility and developing a Service Plan. They also help identify providers and assist with other employer-related duties. They check in with the individual who is self-directing to ensure they are healthy and safe.

Learn about which models are available in self-determination programs, then you can inquire about your eligibility for these services.

HOW TO GET STARTED

The first step is to find out about the different models of self-determination programs are offered in your state. A great place to start:

- The California Health and Human Services website: **chhs.ca.gov/**
- Your local Regional Center
- Your local Aging and Disability Resource Center

The Principles of Self-Determination

FREEDOM – to decide how to live your life.

AUTHORITY – over available resources and a specified budget. This authority can be different for each person. And can vary by program. Many programs have limited budget authority. You may need program approval to make changes.

SUPPORT – to arrange resources in ways that are important to you. The level of support relates to your outcomes, needs, and desires.

RESPONSIBILITY – for the thoughtful use of public dollars. This includes managing your approved services. And making sure you are not overspending or using more service than is approved.

ADVOCACY – of the important role that self-advocates play in the service system. It takes partnership with self-advocates to create effective change.

The History of Self-Determination

Beginning in the 1990s, a few states began to offer “consumer-directed” personal care services. The Robert Wood Johnson Foundation followed by awarding grants for self-determination demonstrations. The demonstrations were in 19 states and ran from 1997 to 2001. Later the Cash and Counseling demonstration began in three states. Cash and Counseling then spread to 12 other states from 1996 to 2013.

After these projects, self-determination became an important option for providing Home and Community Based Services (HCBS). Since then, there have been several initiatives that were federally and/or privately funded. These programs have helped to improve the development of self-determineed service options nationally.

SELF-DETERMINATION FAST FACTS

- Medicaid is the primary funding source for self-determineed services. Each Medicaid HCBS authority has differences in what is allowed in a self-determineed program.
- Every state and the District of Columbia has started at least one Medicaid waiver program or state plan option. Most states offer self-determineed services statewide.
- In 2023 it was reported that there were over 1.5 million people nationwide who were self-determination. This was a 23.16% increase from when the data was last collected in 2019.

The Benefits to Individuals & Families

Provides the opportunity to customize services to meet a person's goals and support needs.

Provides choice and control over the services received. With employer authority, individuals have control over employee management. This can include everything from hiring to termination.

Provides the chance to hire relatives. When permitted by the state, this can include a spouse. This often results in better, more consistent care. Provided by people with whom the individual is most comfortable.

The Benefits to Direct Care Workers

Provides options to work for individuals of their choice. This could be a relative or friend who needs supports.

Creates the chance to form close personal relationships with the people they are caring for.

Provides flexible wage ranges. This often results in direct care workers receiving wage rates higher than those typically paid by agency providers.

Self-Determination Program in California

The Self-Determination Program (SDP) in California is a way for people to have more control over their services. It is different from the traditional way of receiving services, where the regional center purchases services for individuals from its vendors. In the SDP, individuals and their families have more freedom and control. They choose the services and supports they want. A person's budget is used to purchase the services and supports needed. The purchased services must meet the objectives in the Individual Program Plan (IPP).

During the first three years of SDP, the program was limited to 2,500 individuals. Starting July 1, 2021, SDP was made available to all eligible individuals who receive services from a regional center.

The use of a Financial Management Services (FMS) company is a program rule. There are three different models of FMS:

1. Bill Payer
2. Sole Employer
3. Co-Employer

FMS providers may support any of the self-determination models. It is important to know that not all FMS providers offer all three options. You should check with the provider before making any decisions.

BILL PAYER OR FISCAL AGENT

This model is for people who want to buy goods or services from a business/vendor. Using this model means the participant does not plan to hire direct care providers or support workers.

SOLE EMPLOYER/FISCAL EMPLOYER AGENT

This model is for people who want to be the direct employer of the workers providing their services. Using this model means the participant or adult family member is the Employer of Record. And all direct care providers and support workers will be their employees.

CO-EMPLOYER

This model is for participants who don't want as much control over the employer roles and responsibilities. Using this model means the FMS is the Employer of Record, and all direct care providers and support workers will be employees of the FMS.

No matter which model you choose, the FMS will assist with the onboarding of workers and vendors. The FMS will also pay appropriate state and federal taxes. More information can be found at dds.ca.gov/initiatives/sdp. To enroll in SDP, talk to the regional center service coordinator.

Budget and Employer Authority

There are two fundamental parts of self-directed programs. These are Budget Authority and Employer Authority. These may differ in scope depending on the specific program and funding source.

BUDGET AUTHORITY

With budget authority, you have the ability and accept the responsibility to manage your self-directed budget. The scope of the budget authority can vary by program. Under full budget authority, you may be able to make decisions about the goods and services that are approved in your service plan. You are also responsible for managing the dollars that may be included in your participant-directed budget.

In programs with a limited scope for budget authority, you may not have the flexibility to manage the dollars in your budget. However, you still have responsibility for making sure that you do not use more service than has been approved.

EMPLOYER AUTHORITY

Under employer authority, you are supported to recruit, hire, train, and manage your Direct Care Workers. You may function as the common law employer or a co-employer depending on the self-directed model.

The Role of the FMS

An FMS provider does not manage a person's finances or budget. Instead, they assist people who self-determine their services. When a person participates in a self-determination program, they hire and manage their service providers or Direct Care Workers. This is called Employer Authority. The rules that govern the programs require the money paid to Direct Care Workers to go through a third party. This third party is often called:

- Fiscal Intermediary
- Fiscal Agent
- Fiscal Employer Agent
- Financial Management Service

The FMS is a special type of payroll processor. They are responsible for paying Direct Care Workers and vendors. The FMS assists Direct Care Workers and vendors in completing the required paperwork. They also issue payments and file state, local, and federal taxes. The goal of the FMS is to help make the administrative tasks of hiring and paying Direct Care Workers and vendors easy.

Your Role as the Employer

Recruiting, Interviewing, and Selecting Staff

Before recruiting a worker, it is important to consider what tasks need to be performed. As well as the knowledge or skills a person needs to have. Also consider your schedule. When do you want care? Finding the right worker can take time and patience. Even when you are fully staffed, it is important to plan for unexpected situations. These may include a worker quitting or being ill. Resources and tools for recruiting are available. This includes a pool of already employed workers.

Hiring

We will work with you to get your workers hired and started. This process includes completing paperwork and submitting documentation. It also includes completing State and Federal background checks. It is important to understand the hiring process. In particular, you cannot tell your worker that they can start working until your FMS has told you that they have been approved. You may also want to develop an agreement with your worker. This would include their schedule and specific expectations you may have.

Training

Providing care is very personal to each individual. This is why training is often a task done by you. Some states/programs may want caregivers to have specific training like CPR and First Aid certification. The focus is on your care preferences. This includes teaching the worker about your routines and lifestyle. You should also provide a detailed orientation of your home. Include a review of any equipment and medical devices used.

Managing/Supervising Staff

Providing feedback to your workers about their performance is important. This feedback helps build a healthy working relationship. It can be difficult to give feedback to workers you may be close to, such as a family member or friend. Having a schedule for feedback can ease anxiety and ensure a safe place to discuss issues or concerns. Providing feedback is also a good way to make sure that workers are thanked and praised for their work. If performance issues arise, be sure to address them. Discuss the problems and agree to improvement plans. It is also good to take some notes about the conversation. You may need to refer to them later if you have continued concerns.

Termination

There will be times when you decide that the supports a worker provides are no longer meeting your needs. You may choose to end a worker's employment. When doing so, it is important to communicate calmly and directly. Be clear about the issues that have arisen and make it clear you no longer want the person to work for you. It is also important to communicate to the FMS/Care Team immediately about the termination/dismissal. There may be documentation that the FMS requires. The FMS may need to pay the worker their final check before the scheduled pay date to ensure compliance with employment law.

Following Employment Laws and Program Rules

It is important that you understand employment laws. You may have a friend or relative who can provide you with support with these laws. Your FMS provider can also assist. Most common are issues about wages. This includes minimum wage, limits on work hours, and overtime. The other area of importance is the Federal laws that prohibit discrimination. You cannot discriminate because of the person's race, color, religion, sex, national origin, age, or disability. Sex includes gender identity, sexual orientation, and pregnancy.

The Importance of Community Connections

Our communities are more diverse when the people in them are involved and connected. Communities need the gifts and talents of all their members. Every person has talents to share. These gifts and talents are the building blocks of healthy communities. Being connected in a community fosters belonging. It also gives people a sense of purpose.

Community Connection Offers:

- Chances to learn, work, and play alongside others.
- Life skills that lead to greater independence.
- A path forward for those who feel isolated or unwanted.
- Access to activities and services not available in segregated settings.
- The ability to improve physical health, emotional well-being, and self-confidence.

BUILDING AND GROWING COMMUNITY CONNECTIONS INCLUDES:

- Identifying interests, passions, gifts, and talents
- Identifying places to share gifts and talents
- Consistently showing up at community places (restaurants, gyms, libraries, etc.)

Fraud and Abuse

It is important to know that research done by Applied Self-Direction indicates that, contrary to often-held beliefs, there is not a high prevalence of fraud in self-directed programs. In fact, it is estimated that the rate is as low as .02% and there are very few fraud convictions. Most of the concerns that arise in self-directed programs are due to a lack of understanding and/or confusion about how the programs work. By and large, people utilizing self-directed programs are strong stewards of the public dollars they receive.

What is Fraud and Abuse?

FRAUD - An intentional deception or misrepresentation. The goal is to take money from Medicaid long-term care programs. It is important to remember that fraud is an intentional act.

ABUSE - Actions by providers, caregivers, or vendors. When these actions directly or indirectly cause the program unnecessary costs.

The most common types of fraud and abuse

BILLING FOR SERVICES THAT WERE NOT PROVIDED

Example: When a person may be scheduled to receive a service but is unable to attend. Then the provider bills for the service even though the person did not receive it.

BILLING FOR HOURS/TIME NOT WORKED

Example: This can occur when a direct care worker is scheduled and does not show up for the shift. Then the worker puts those hours on their timesheet. Showing that they worked the scheduled shift.

SERVICES PROVIDED DURING INSTITUTIONAL STAYS

Example: Most of the time, long-term care services cannot be billed when a person is in an institutional setting. These settings include hospitals or nursing homes. Direct care staff cannot be paid for care they may provide in an institutional setting.

FALSIFYING SIGNATURES AND/OR HOURS ON A TIMESHEET OR INVOICE

This can occur in several ways:

- If a direct care staff person fills out a timesheet or invoice. Signs the timesheet, and also signs for the person for whom they provide care.
- If the program participant signs a blank timesheet and has the worker complete it without review.
- If the direct care worker submits their time to the person for whom they provide care. Then after the program participant signs the timesheet/invoice. The direct care worker adds hours to the timesheet/invoice.
- If the program participant terminates a direct care worker and does not inform the FEA. And then the worker continues to submit hours and signs for both parties.

DOUBLE BILLING

- Example: This most often occurs when a direct care worker submits hours for the same time and day, for two different program participants who do not live in the same location. Or if two staff submit hours for the same service when they are not approved to do so.

KICKBACKS

There are two primary situations that can occur:

- A program participant hires a direct care worker and asks the worker to give them a percentage or amount from their check.
- A provider/vendor agrees to provide services with the promise that the program participant will receive a portion of the provider/vendors' reimbursement.

Electronic Visit Verification (EVV)

What is EVV?

The 21st Century Cures Act is a federal law that was passed in 2016. It requires each state to collect visit information. This information is collected using an electronic visit verification (EVV) system. The law helps make sure that people receive the services they need. If states do not follow this law, they will lose money for Medicaid services.

How it Works

EVV uses technology to make sure that members and participants receive the services they need. Workers check in at the beginning and check out at the end of each visit. They use a smartphone or tablet, small digital device, or landline telephone. The EVV system captures six key pieces of information:

- Who receives the service
- Who provides the service
- What service is provided
- Where the service is provided
- The date of service
- The time the service begins and ends

Your Responsibilities

You are responsible for making sure your workers use the EVV system. If you work with a provider agency, it is the provider agency's responsibility to make sure their workers use the EVV system.

EVV System

Each Fiscal Employer Agency (FEA) can choose to use their own EVV application or the one provided by the state.

EVV IS ONLY REQUIRED FOR CERTAIN SERVICES. THESE MAY INCLUDE:

- Personal care and self-determineed personal care services
- Routine supportive home care services
- Home health care services
- Nursing services

About Us

Our role at SequoiaSD is to support individuals in directing and managing their services. We support two of the three models of Fiscal Management Services in California – Bill Payer and Sole-Employer. SequoiaSD serves individuals with disabilities, along with their families, direct care workers, and support teams.

Our goal is to help people remain in their homes and thriving in their communities. The company is guided by its mission: “To support our neighbors who are aging or have disabilities to live their best lives by self-directing when, where, and how they receive their supports and services.” This mission is personal to our team and is woven into every aspect of our work.

We are based in Dana Point and continue to expand our partnerships with regional centers. Information for contacting us is below.

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