



EXECUTIVE OFFICE OF
HEALTH AND HUMAN SERVICES

SAMPLE

Acquired Brain Injury/Moving Forward Plan Waiver Participant Agreement: Use of Fiscal Intermediary for Self-Directed Waiver Services

I participate in one of the following MassHealth waivers:

- Acquired Brain Injury Non-Residential Habilitation (ABI-N)
- Acquired Brain Injury with Residential Habilitation (ABI-RH)
- Moving Forward Plan Community Living (MFP-CL)
- Moving Forward Plan Residential Supports (MFP-RS)

I choose to use Acquired Brain Injury (ABI) or Moving Forward Plan (MFP) self-directed waiver services.

I understand that I must have authorization for ABI/MFP self-directed waiver services in my plan of care. My ABI/MFP waiver case manager or service coordinator helps me find services that meet my needs.

The Hiring Process

I understand that

- I am the employer of my direct care workers (DCWs) and must hire my own DCWs.
- My DCW must be at least sixteen (16) years of age.
- My DCW cannot be my spouse, surrogate, or legally responsible relative.
- MassHealth contracts with a fiscal intermediary (FI) who helps me with employer-required tasks.
- I must sign forms that allow the FI to act for me. The FI or my ABI/MFP waiver case manager or service coordinator will give me these forms.
- MassHealth and the FI cannot pay my DCW if my DCW is on the [List of Suspended or Excluded MassHealth Providers](#) maintained by the U.S. Department of Health and Human Services Office of Inspector General; or any other similar exclusion list. The FI or my ABI/MFP waiver case manager or service coordinator can provide me with more information about this.
- I must complete and submit all required new hire paperwork forms before hiring a DCW. My DCW will not be paid by MassHealth or the FI before new hire paperwork is processed, and they are issued a Unique Identification Number. The FI will not be able to pay my DCW if the paperwork is not completed and submitted to the FI in accordance with the FI's instructions.
- All DCWs must be eligible to work in the United States in accordance with federal law and I delegate my responsibility as the DCW employer to the FI, Tempus Unlimited, Inc., to sign the *E-Verify Memorandum of Understanding for Employers Using an E-Verify Employer Agent* on my behalf. Tempus will use E-Verify to electronically confirm my DCW's eligibility to work in the United States. MassHealth and the FI will not pay my DCW if my DCW is not authorized to work in the United States.
- The FI conducts a Criminal Offense Record Inquiry (CORI) on prospective DCWs. DCWs are required to pass a CORI, as determined by the FI in accordance with [101 CMR 15.09: Findings from CORI Investigation – Crimes Subject to Review](#). This policy is specific to DCWs in the ABI/MFP Waiver program and differs from the process for PCAs. I will not be able to hire a DCW who has not passed a CORI.

Payment to My Direct Care Worker

I understand that

- My DCWs' weekly timesheets must not have more units than the number authorized by my ABI/MFP waiver case manager or service coordinator for each self-directed service.
- I am responsible for paying my DCWs on my own if
 - I do not have authorization from my ABI/MFP waiver case manager or service coordinator, or
 - I do not have enough units left on my waiver authorization on the days my DCWs worked, or
 - I am not eligible for MassHealth or am not enrolled in an ABI or MFP waiver on the days the DCWs worked, or
 - I have my DCW do work that is not covered or allowed by the waiver.
- I must talk with my DCWs about hours that they are working for other waiver participants or personal care attendant (PCA) consumers.
- DCWs may not work over 50 hours per week in total across employers without an overtime authorization. I must work with my case manager or service coordinator to submit an overtime authorization request if needed.
- I will not schedule my DCW to work more than the weekly hour limit allowable by the PCA/Waiver Program Overtime Rules, as outlined in [130 CMR 422.000: Personal Care Attendant Services](#), HCBS Waiver Provider Bulletin 25, and any successor HCBS Waiver Provider Bulletins. This includes hours they work for other Waiver Participants or PCA Consumers.
- If I violate these policies, MassHealth and the FI are not responsible for paying my DCWs, and I will be responsible for paying DCWs from my own funds.
 - Wages paid to my DCWs who provide waiver Personal Care services are established through a collective bargaining agreement between the Service Employees International Union Local 1199 and the PCA Quality Home Care Workforce Council.
 - Wages paid to my DCWs who provide waiver Adult Companion, Chore, Homemaker, Individual Support and Community Habilitation, and Peer Support services are set by the Executive Office of Health and Human Services.

The Fiscal Intermediary's Responsibilities

I understand that the FI will

- Receive and process my DCWs' timesheets or punches submitted using EVV.
- Make payroll payments to my DCWs for me.
- Make correct withholdings from my DCWs' paychecks.
- Where applicable, make deductions for PCA union dues and fees and send these monies to the union.
- Send all money withheld from my DCWs' paychecks to the proper agencies.
- Pay my federal, state, and local employment taxes for me.
- Pay my unemployment insurance taxes for me.
- Buy workers' compensation insurance in my name to cover my DCWs.
- Get employer identification numbers (EINs).

- Fill out, file, and save copies of required employment forms.
- Send me summaries of my payrolls and my tax filings.
- Send me summaries (payroll cover sheets) that describe the number of hours allowed for me for each self-directed waiver service on my waiver approval, the number of hours I have used for each service, and the number of hours that remain on my waiver approval. I understand I can share this information with my DCW so that we both know if there are enough hours remaining on my waiver approval for them to work and get paid.

My Responsibilities as the Employer of my DCWs


I understand that the FI will do certain employer-required tasks, but that I must

- Complete all paperwork required by the FI. I understand that the FI will not be able to pay my DCWs if the paperwork is not completed and submitted to the FI following their instructions.
- Tell the FI any time I hire or fire a DCW, any time that I move, and any time one of my DCWs moves.
- Tell the FI and my ABI/MFP waiver case manager or service coordinator when I am admitted to a hospital, nursing facility, or other inpatient facility.
 - I understand that MassHealth and the FI cannot pay for my DCWs when I am in a hospital, nursing facility, or other inpatient facility.
 - I understand that any payments made while I am in a such a facility may be the subject of some action taken by MassHealth, which may include termination of my self-directed waiver services or other penalties, and may result in reporting to the state's Bureau of Special Investigations (BSI) or the Attorney General's Office Medicaid Fraud Division (MFD), or both, for fraud investigation.
- Tell my DCWs that they will get their payments electronically through direct deposit in their bank accounts or through a debit-card service offered by the FI. The FI can provide the forms needed for my DCWs to process payment electronically.
- Inform my DCW that they may not share a bank account with me or my Surrogate.
- Make sure that each week my DCWs sign and fill out their timesheets.
- Make sure that each of my DCW's timesheets show the correct days and hours they worked and the correct service they provided.
- Send my DCWs' completed timesheets to the FI, following the FI's instructions and in the timeframe provided by the FI.
- Use the Electronic Visit Verification (EVV) system in place of a paper or other timesheet, as directed by MassHealth, unless I and my DCW qualify for an EVV exemption.
- Ensure my DCWs are aware of the federal requirement to use EVV for timesheet submission (unless approved for an EVV exemption) and ensure that my DCW correctly completes, signs, and submits their time in a way that accurately reflect the days and hours my DCW worked for me.

(Continued on following page)

SAMPLE

**Waiver
Signature Date**

 Waiver participant signature **Waiver Participant Signature**

Date _____


Waiver participant printed name **Waiver Participant Printed Name**

Waiver participant email address **Waiver Participant Email Address**

Waiver participant ID (assigned by FI) **Waiver Participant ID**

OR

**Legal
Signature Date**

 Legal guardian signature **Legal Guardian Signature**

Date _____

Legal guardian printed name **Legal Guardian Printed Name**

Legal guardian email address **Legal Guardian Email Address**