



# Welcome to your Consumer Direct Care Network Tennessee's (CDTN) Consumer Direction Member Binder For CHOICES

At CDTN, one of our goals is to ensure you have all you need to be a successful employer. We've created this member binder as a tool to help you understand:

- The Consumer Direction (CD) program.
- Your role in the program.
- The roles of your Support Coordinator, and CDTN's Support Broker and Customer Service staff.

Sometimes your employee may need to see the payroll schedule or the CareAttend/EVV. Or you may need to reference the Consumer Direction Handbook to know who to call in a specific situation. All that and more is included in this binder! Feel free to add to it any new information you may receive from CDTN.

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### **"Consumer Direction Member Training Tab**

#### **Member Training Document**

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- Medicaid Fraud, Waste and Abuse Identification and Reporting
- Reportable Event Training
- CareAttend and EVV compliance Training
- DirectMyCare Training

#### **EOR Forms**

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- Service Agreement for Employee Pay
- Rate Changes

#### **Consumer Direction Handbook Daily Notes Tab**

- Daily Communication and Activity Logs

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- OSHA Employer Poster
- Worker Info Packet (back folder)

## Who Do I Contact?

### Contact Consumer Direct Care Network Tennessee (CDTN) to:

- Request check stop payments
- Ask about worker Direct Deposit enrollment & status
- Change worker payment preferences
- Request for paper mailing to be sent (paystubs)
- Reset a Portal or CareAttend username or password for either members or providers
- Identify timesheet payment amount(s), assist with review in CareAttend
- Inquire about an “online error” preventing a timesheet from being submitted
- Inquire about any technical issues preventing a timesheet from being submitted via CareAttend
- W-2 information
- Verification of Employment
- General EVV questions
- Report issues with CareAttend or DirectMyCare web portal

### Contact your CDTN Supports Broker to:

*If you don't know who is your Supports Broker, contact CDTN at one of the numbers listed below.*

- Directly assist workers to enroll in a Self-Directed/Consumer Directed Program
- Provide instruction and training on EVV timesheets to members and workers
- Provide instruction and training on the CareAttend mobile application
- Explain what timesheet pend messages are and what they mean
- Answer questions about the Program rules or how the Program works
- Explain the PCSP/ISP, authorizations, and budget
- Check on the status of a worker's enrollment packet
- Schedule or ask about home visits to provide further assistance
- Request guidance in how to locate a new employee
- Report an instance or allegation of abuse, neglect, exploitation or fraud
- Report a worker termination of employment
- Report a change in unpaid care or natural supports, if it impacts personal care needs
- Inquire about pay rates
- Identify timesheet payment amount(s)
- Inquire about the status of submitted timesheets
- Enroll a new worker
- Report status changes, including the beginning or end of hospitalizations or vacations that are out of state
- Change worker payment preferences
- Inquire about any technical issues preventing a timesheet from being submitted via CareAttend

### Call your MCO Support Coordinator, Care Coordinator, or DIDD Case Manager to:

- Ask general questions about the Program
- To make changes to your PCSP/ISP
- Changes in your Medicaid Status
- Changes in program eligibility
- Change in member address
- Change Authorized Representatives

### Contact Information:

- [InfoCDTN@ConsumerDirectCare.com](mailto:InfoCDTN@ConsumerDirectCare.com)
- [ConsumerDirectTN.com](http://ConsumerDirectTN.com)
- **CDTN Amerigroup** 888-398-0664
- **CDTN BlueCare Tennessee** 888-450-3240
- **CDTN United HealthCare** 888-444-3109
- **CDTN DIDD** 888-450-3242



# CHOICES Member Training



## Agenda

- ❖ Overview of the CHOICES program and self-direction
- ❖ The roles and responsibilities within the program and Consumer Direct Tennessee (CDTN)
- ❖ Reporting Requirements
- ❖ Time Approval in CareAttend and DirectMyCare





# Overview

## CHOICES Overview

- ❖ TennCare CHOICES in LTSS (or CHOICES for short) is TennCare's program for adults (age 21 and older) with a physical disability and seniors (age 65 and older)
- ❖ Helps with everyday activities that you may no longer be able to do for yourself as you grow older, or if you have a physical disability
- ❖ CHOICES can assist you with things like bathing, dressing, getting around your home, preparing meals, or doing household chores



## CHOICES Overview

- ❖ The program includes care in a nursing home, as well as certain services to help a person remain at home or in the community. These are called Home- and Community-Based Services (HCBS).
- ❖ You can see more information at: <http://www.tn.gov/tenncare/long-term-services-supports/choices.html>
- ❖ In 2008 new legislation was put into place called The Long-Term Care Community Choices Act of 2008



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## Self-Direction

- ❖ Participants enrolled in the CHOICES program can choose self-direction
- ❖ CHOICES offers four service options:
  - ❖ Personal Care
  - ❖ Attendant Care
  - ❖ In-Home Respite
  - ❖ Companion Care



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## Personal Care and Attendant Care

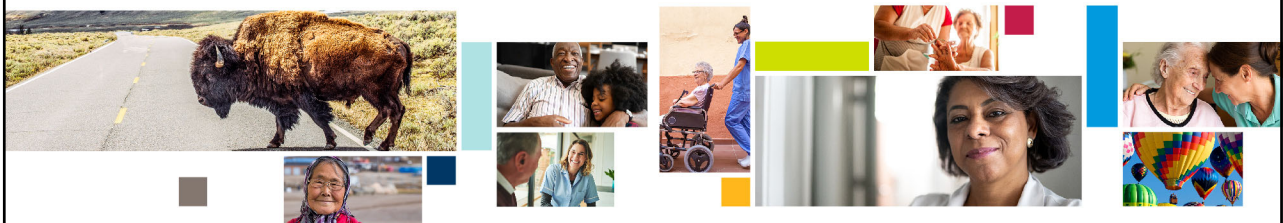
- ❖ Designed to assist an individual with daily activities of living
- ❖ Personal Care visits are hourly services of no more than four hours
- ❖ Attendant Care visits cover the same tasks, but are for longer periods of time
- ❖ Services that are covered include the following:
  - ❖ Eating
  - ❖ Toileting
  - ❖ Grooming



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## In-Home Respite

- ❖ Offered as needed for caregiver relief
- ❖ Only applies for routine family or other caregivers that are not paid to support the member
- ❖ Can be up to 216 hours per member per calendar year



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## Companion Care

- ❖ Someone hired who lives with the member in their home
- ❖ Helps with personal care or homemaker services whenever need
- ❖ Available only for members who need care throughout the day and night that can't be provided by unpaid caregivers, and only when it costs no more than other kinds of home care that would meet the member's needs



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## Roles and Responsibilities

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## Care Coordinator

- ❖ Meeting with the member to identify needs
- ❖ Educating the member on the CHOICES program
- ❖ Working with the member to develop a Person-Centered Support Plan (PCSP)
- ❖ Completing the Risk Assessment and Risk Agreement
- ❖ Ensuring the self-direction backup plan meets the member's needs



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## Care Coordinator

- ❖ Authorizing individual budgeted services
- ❖ Monitoring service provision for quality and appropriateness
- ❖ Receiving and reviewing all reports submitted by CDTN and the Supports Broker
- ❖ Maintaining monthly phone contact and completing face-to-face home visits
- ❖ Assisting members and representatives in understanding individual services
- ❖ Ensuring the PCSP stays up-to-date

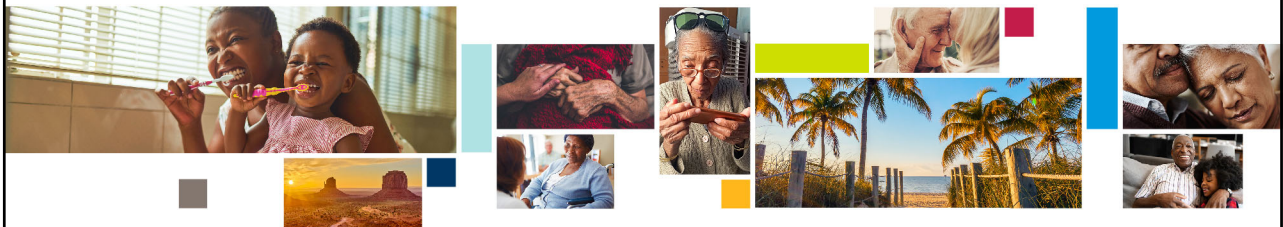


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# Supports Broker

- ❖ Assigned by CDTN
- ❖ Provides training and support to members and representatives on:
  - ❖ Understanding the program
  - ❖ Fulfilling the responsibilities of being an employer
  - ❖ Scheduling, training, and supervising self-directed workers
  - ❖ Aiding in developing the initial backup plan



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# Supports Broker

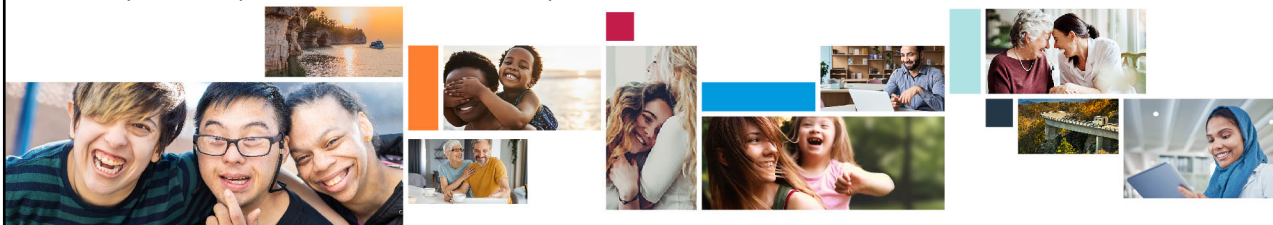
- ❖ Provides training and support on (continued)
  - ❖ Annual fraud, waste and abuse prevention, identification, and reporting training
  - ❖ Reportable events reporting training
  - ❖ EVV and the CareAttend app
- ❖ Processes all member and worker paperwork
- ❖ Tracks First Aid and CPR certifications



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## Consumer Direct Tennessee (CDTN)

- ❖ Provides training and support to workers
- ❖ Serves as the Fiscal Employer Agent
- ❖ Pays workers on behalf of the program members
- ❖ Withholds and deposits taxes and files tax and labor reports
- ❖ Ensuring the self-direction backup plan meets the member's needs
- ❖ Provides regular reporting on authorized units
- ❖ Responds to questions from members, representatives and workers



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## Consumer Direct Tennessee (CDTN)

- ❖ The CDTN website is available to assist with many other questions and concerns at:

**[www.ConsumerDirectTN.com](http://www.ConsumerDirectTN.com)**



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# Reporting

## Dignity of Choice

- ❖ The right of a person to make an informed decision to engage in experiences which are necessary for personal growth
- ❖ The occurrence and reporting of a Reportable Event does not necessarily mean that anyone should have done something differently to prevent the Reportable Event
- ❖ The CHOICES program is designed to encourage members to pursue and achieve their goals, which can mean taking informed, reasonable risks





# Reporting

- ❖ As a member in a TennCare program, you are required to report any instances of Medicaid fraud and abuse, as well as any instances of abuse, neglect, or exploitation
- ❖ Reportable events are separated into Tier One and Tier Two events, with other events that also need to be reported
- ❖ Tier one reportable events need to be reported to DIDD's Abuse Hotline within four hours of discovery, and a corresponding REF must be submitted within one business day using the Formstack Link on DIDD's website.



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# Tier One Events

Tier One events include:

- ❖ Alleged emotional or psychological abuse when medical intervention or treatment is necessary
- ❖ Alleged exploitation exceeding \$1000
- ❖ Alleged neglect which requires medical intervention or treatment and all neglect that is potentially felonious in nature when there is not an injury



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## Tier One Events

Tier One events include:

- ❖ Alleged physical abuse when medical intervention or treatment is necessary
- ❖ Alleged sexual abuse
- ❖ Excluding when an exception is granted by DIDD, members are required to immediately remove a worker or volunteer alleged to have acted in a manner consistent with physical or sexual abuse until DIDD has completed their investigation



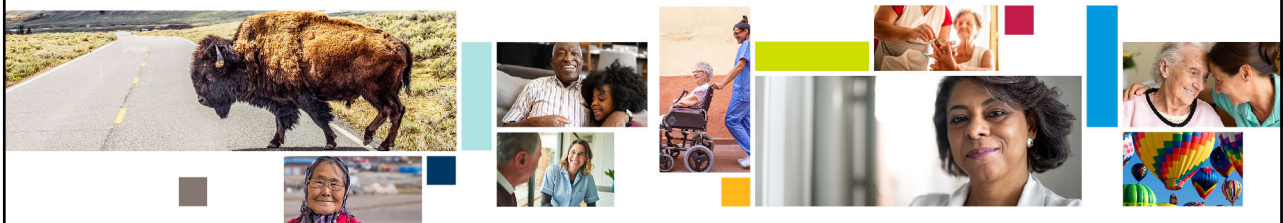
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## Tier One Events

Tier One events include:

- ❖ Unexpected or unexplained death of the member
- ❖ Serious injury of an unknown cause
- ❖ Suspicious injury in which abuse or neglect is suspected and requires medical intervention or treatment

**If the member you are caring for is at immediate risk, please dial 911**



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## Reporting Tier One Events

- ❖ Tier One Reportable Events must first be called into the DIDD Abuse Hotline (1-888-633-1313) within four hours of the occurrence or discovery of the event
- ❖ Tier One Reportable Events should also be reported to Adult Protective Services (APS), Department of Children's Services (DCS), or Law Enforcement as required by law
- ❖ A corresponding REF must be submitted to DIDD using the FormStack link within one business day of the hotline report
- ❖ The event must also be reported to CDTN and the Supports Broker



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## Reporting Tier One Events

If a Tier One Reportable Event, or any other event, poses an immediate threat to the health and safety of a member, workers are required to remain with the member until the threat is removed or the member receives needed medical treatment, if appropriate.

All abuse, neglect, and exploitation events also must be reported to Adult Protective Services within four hours.



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# Adult Protective Services

To contact Adult Protective Services regarding an event, use their toll-free number:

- ❖ 1-888-277-8366

Additionally, local offices can be reached with these phone numbers

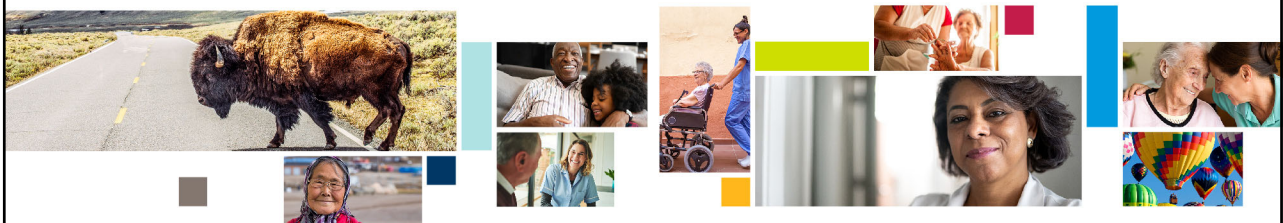
- ❖ Knoxville – 1-865-594-5685
- ❖ Chattanooga – 1-423-634-6624
- ❖ Nashville – 1-615-532-3491
- ❖ Memphis – 1-901-320-7220



# Adult Protective Services

Callers will need to provide:

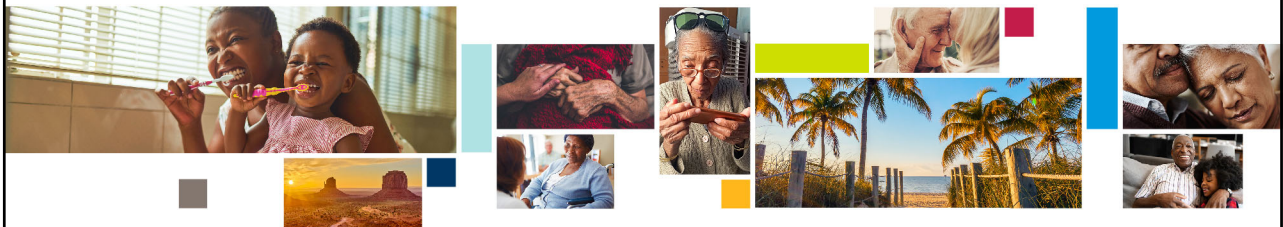
- ❖ Name of the member
- ❖ Address
- ❖ Age
- ❖ Phone Number
- ❖ Specifics of the reportable event





## Tier Two Events

- ❖ REF must be submitted to DIDD using the FormStack link within one business day of the occurrence or discovery of the event.
- ❖ The event must also be reported to CDTN and the Supports Broker



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## Tier Two Events

Tier Two events include:

- ❖ Alleged emotional or psychological abuse when no medical intervention or treatment is necessary, crisis intervention is not required, and the member is not at continued risk
- ❖ Alleged exploitation valued between \$250 and \$1000
- ❖ Alleged neglect when no medical intervention or treatment is necessary, and the member is not at continued risk of serious harm



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## Additional Reportable Events

- ❖ Additional reportable events and interventions, which are not related to abuse, neglect, or exploitation, should also be reported using the REF
- ❖ These include medical, psychiatric, and behavioral events
- ❖ Report the event to CDTN, the Supports Broker, and online to DIDD using the REF FormStack Link within one business day



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## Reportable Medical Events

A medical event is reportable if:

- ❖ Medical treatment occurs during the delivery of services or is discovered during the delivery of services
- ❖ Is outside of a diagnosed chronic condition
- ❖ Requires treatment at an emergency room or urgent care facility



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# Reportable Medical Events

Reportable medical events include:

- ❖ Cellulitis
- ❖ A choking episode requiring physical intervention
- ❖ Death (other than those that are unexpected or unexplained)
- ❖ Fecal impaction
- ❖ Flu



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# Reportable Medical Events

Reportable medical events include:

- ❖ Insect or animal bites requiring treatment by a medical professional
- ❖ MRSA
- ❖ Pneumonia
- ❖ Pressure Ulcer/Decubitus Ulcer
- ❖ Seizures that last more than five minutes, or more than one seizure within a five minute period without returning to a normal level of consciousness between episodes



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# Reportable Medical Events

Reportable medical events include:

- ❖ Sepsis
- ❖ Serious injury of known cause
- ❖ Severe allergic reaction requiring treatment by a medical professional
- ❖ Severe dehydration requiring treatment by a medical professional
- ❖ Skin infection
- ❖ UTI



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# Reportable Behavioral/Psychiatric Events

A reportable behavioral event is an event in which a person present a challenging action(s) which requires use of a behavior safety intervention or a restrictive behavioral procedure.

- ❖ REF is required within one business day for an event in which a person presents a challenging action(s) that requires use of a behavior safety intervention or a restrictive behavioral procedure that is NOT in their PCSP
- ❖ A consolidated REF is required monthly if the use of a behavior safety intervention or restrictive procedure IS in their PCSP



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# Reportable Behavioral/Psychiatric Events

A reportable psychiatric event is an event in which a person presents evidence of psychiatric destabilization which requires the use of a psychiatric intervention or crisis services that is not in their PCSP



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# Reportable Behavioral/Psychiatric Events

Reportable behavioral/psychiatric events include:

- ❖ Behavioral crisis requiring protective equipment, manual or mechanical restraints, regardless of type or time used or approved by the PCSP
- ❖ Behavioral crisis requiring emergency psychotropic medication
- ❖ Behavioral crisis requiring crisis intervention
- ❖ Criminal or probable criminal conduct



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# Reportable Behavioral/Psychiatric Events

Reportable behavioral/psychiatric events include:

- ❖ Engagement with law enforcement
- ❖ Physical aggression
- ❖ Property destruction exceeding \$100
- ❖ Psychiatric admission or observation
- ❖ Reportable behavior involving physical aggression and/or self-injurious behavior resulting in injury to another person

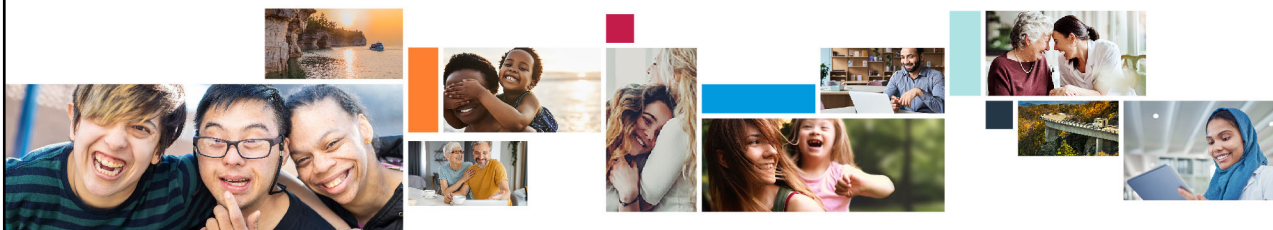


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# Reportable Behavioral/Psychiatric Events

Reportable behavioral/psychiatric events include:

- ❖ Self-injurious behavior that requires assessment and treatment beyond basic first aid by a lay person
- ❖ Sexual aggression regardless of the desire for participation on the part of the other person
- ❖ Suicide attempt



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# Reporting Requirements

- ❖ CDTN must immediately report all instances of suspected abuse, neglect, and exploitation
- ❖ All reportable events occurring during the provision of HCBS services by a CDTN employee must be reported following the REF reporting guidelines and copied to the member within the required timeframe



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# Reporting Requirements

- ❖ If a representative is alleged to have committed abuse, neglect, or exploitation:
  - ❖ They are removed from representative capacity during the investigation
  - ❖ During the removal, participation in the program is suspended unless another representative can be identified within five days
  - ❖ If the allegations are unsubstantiated, participation will be reinstated
  - ❖ If the allegations are substantiated, CDTN and MCO will work with the member to identify a replacement representative



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# Abuse, Neglect, and Exploitation

Abuse is defined as, “The knowing infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish”

Some examples of abuse may be:

- ❖ The member is over-medicated or over-sedated
- ❖ A worker hits the member
- ❖ A worker yells at a member to hurry up or do things differently



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# Abuse, Neglect, and Exploitation

Neglect is defined as, “A failure to provide goods or services necessary to avoid physical harm, mental anguish, or mental illness, which results in injury or probable risk of serious harm.”

Some examples of neglect may be:

- ❖ The member becomes dehydrated because a worker is not tending to their basic needs
- ❖ A worker does not keep the member’s personal dwelling free from hazards
- ❖ A worker leaves a member with balance problems alone in the bathroom



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## Abuse, Neglect, and Exploitation

Exploitation is defined as, “The deliberate misplacement, misappropriation, or wrongful, temporary, or permanent use of belongings or money with or without consent.”

Some examples of exploitation may be:

- ❖ A worker reads or withholds the member’s mail
- ❖ A worker has the member make purchases for them and does not repay the member
- ❖ A worker uses their relationship with the member to manipulate items from them, including jewelry, money, or other valuable personal belongings



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## Fraud, Waste and Abuse of Medicaid Funds

There are different types of misuse of Medicaid funds that you should be aware of:

- ❖ Fraud is using Medicaid funds to pay for something that is not allowed on purpose
- ❖ Waste is overusing, underusing, or misusing funds without knowing
- ❖ Abuse is behavior that results in Medicaid funds being used incorrectly or unnecessarily

The main difference between fraud and abuse is intent. There can be consequences, even if it was not done on purpose, including fines, disenrollment from the program, or jail.



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# Fraud, Waste and Abuse of Medicaid Funds

Fraud by a worker includes, but is not limited to:

- ❖ Being paid for care that the employee did not or is not allowed to provide
- ❖ Misrepresenting the hours worked/falsifying timesheets
- ❖ Using someone else's identity to work
- ❖ Helping someone else commit fraud



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# Fraud, Waste and Abuse of Medicaid Funds

Fraud by a member includes, but is not limited to:

- ❖ Allowing a worker to clock in and clock out for work without providing care
- ❖ Asking a worker to provide support or services to family members, or perform duties not outlined in the plan of care
- ❖ Receiving more units or hours of service than needed
- ❖ Approving worker time with the member is hospitalized or in a skilled nursing facility



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# Fraud, Waste and Abuse of Medicaid Funds

All program members, representatives, family members, workers, Supports Brokers, and Care Coordinators are responsible for reporting Medicaid fraud, waste, and abuse.

If you learn about fraud being committed you can report it to CDTN, the Supports Broker, or online.



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# Fraud, Waste and Abuse of Medicaid Funds

To report fraud and abuse online:

- ❖ Go to [www.tn.gov/finance/fa-oig](http://www.tn.gov/finance/fa-oig)
- ❖ Click on "Report Fraud" on the left hand side of the page

You can also call the following numbers to report fraud or abuse:

- ❖ Office of the Inspector General (OIG) - 1-800-433-3982
- ❖ Tennessee Bureau of Investigation (TBI) - 1-800-433-5454



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# Thank you



## EVV Compliance Requirements

- The Member/EOR/Authorized Representative is responsible for ensuring that all workers understand EVV requirements and are utilizing EVV compliant methods. At minimum, 90% of shifts submitted by each worker must be EVV compliant.
- As part of the enrollment process, all Members/EOR/Authorized Representatives review the EVV attestation form that states:
  - By agreeing and signing the EVV Attestation Form, the Member, Employer or Authorized Representative will confirm they received the following training:
    - Review of Electronic Visit Verification
    - Review of CareAttend System
    - Review method of time entry
    - Review time approval methods
    - Review how to download CareAttend app
    - Confirm Employee has been or will be trained in EVV requirements
    - Confirm understanding of an EVV compliant entry
    - Confirm understanding of EVV Regulations
    - Review of EVV Material; Quick Guide & FAQs
    - Confirm understanding consequences of non-EVV compliance can result in losing services in Consumer Direction

## IVR (Landline) /Alternate Option

- Members must register their landline telephone with CDTN. Members will do so by completing and sending an IVR Registration form to CDTN.
- Workers must call the IVR phone number from the Member's landline to start and end their shift. The worker will need to enter their 7 digit CDTN ID and their 4 digit IVR PIN. The default IVR PIN is 1234. The Worker can change their PIN by calling CDTN.
- The EOR must approve or reject the submitted shift. The EOR does so through the DirectMyCare portal.

## Creating an Account for CareAttend

- If you already have a user account for CareAttend, you can log into the app with that account.
- If you do not have a user account, follow the CareAttend registration instructions or call your CDTN Supports Broker to help you register.

# Approving a Shift IN CAREATTEND

## How To Approve a Shift

Once the worker ends their shift on the device, you will need to approve the shift. Follow these steps:

1. Review the **Service Details** (Fig. 01).
2. In the **Signature** section, tap inside the signature box (Fig. 02).
3. You may turn the device sideways to have a larger signature box (Fig. 03).
4. When you are finished signing, select the **Submit** button (Fig. 04).
5. You have now successfully approved the shift and can return the device to the Worker (Fig. 05).

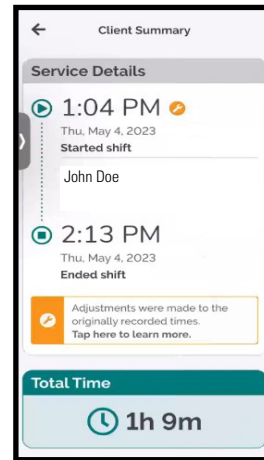


Fig. 01

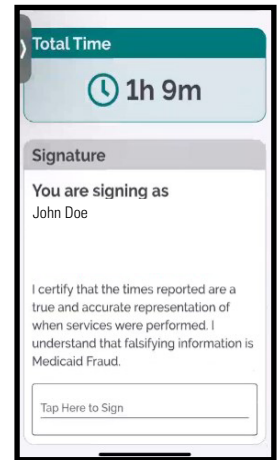


Fig. 02



Fig. 03

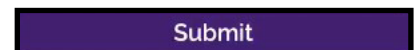


Fig. 04

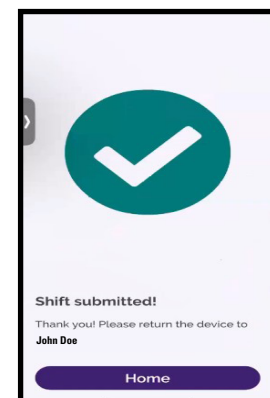


Fig. 05





# DirectMyCare Web Portal Activation

## RESET YOUR PASSWORD

1. From the DirectMyCare sign-in screen, select **"Forgot your Password?"** (Fig. 01).
2. On the next screen, enter your email address and select **"Send Verification Code"** (Fig. 02)

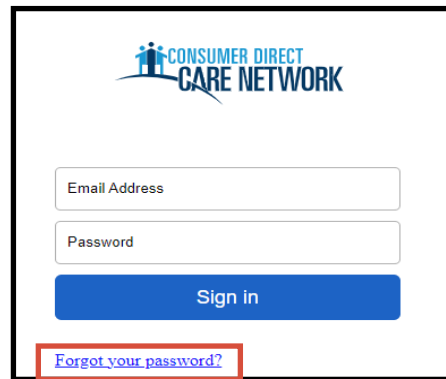


Fig. 01

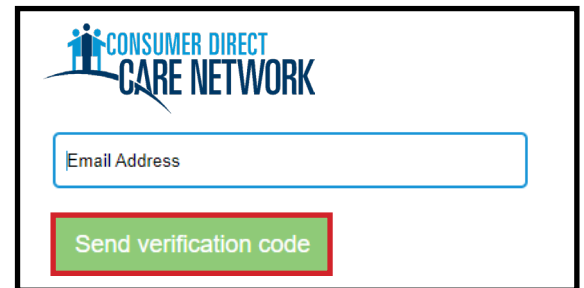


Fig. 02

## ENTER VERIFICATION CODE

3. **Open a new browser window** and check your email for the verification code. The email will come from **"Microsoft on behalf of Consumer Direct Care Network B2C"** (Fig. 03).
4. **Return to the registration page** and enter the code from your email into the verification box.
  - Select **"Verify Code"** (Fig. 04).

*\*If you need a new verification code, click **"Send new code."***

5. Select **"Continue."**

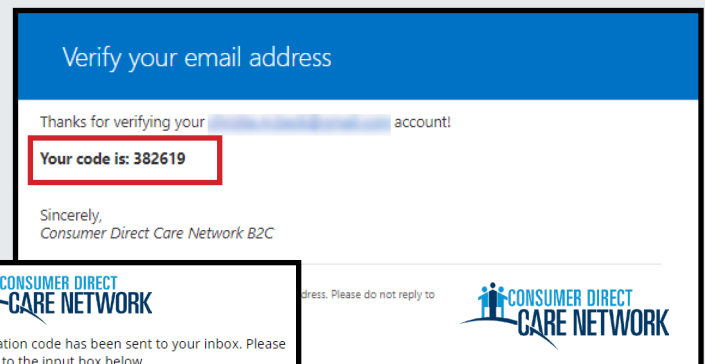


Fig. 03

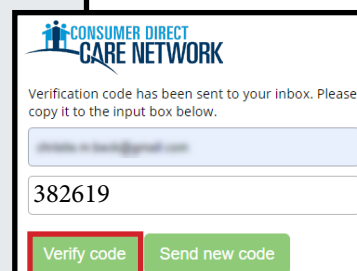
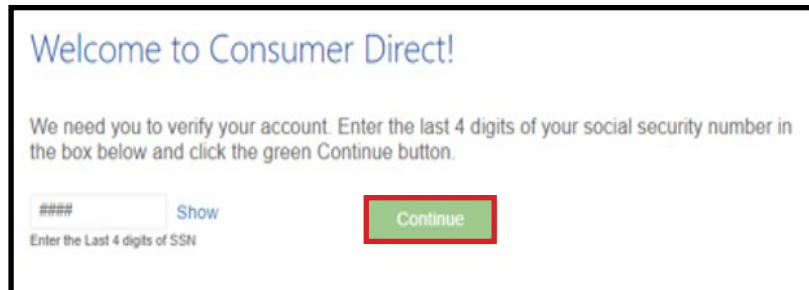


Fig. 04

## CREATE PASSWORD

6. Create a **new password** and confirm it. The password must contain:
  - A minimum of 8 characters
  - Lowercase and uppercase letters
  - At least 1 numeric character
  - At least 1 special character
7. When finished, you will be logged into the DirectMyCare web portal.
8. Verify the last 4 digits of your **Social Security Number**, then select “**Continue**” (Fig. 05).
9. You will get a confirmation message that you are logged into the DirectMyCare web portal. Follow the instructions in the message to continue (Fig. 06).



Welcome to Consumer Direct!

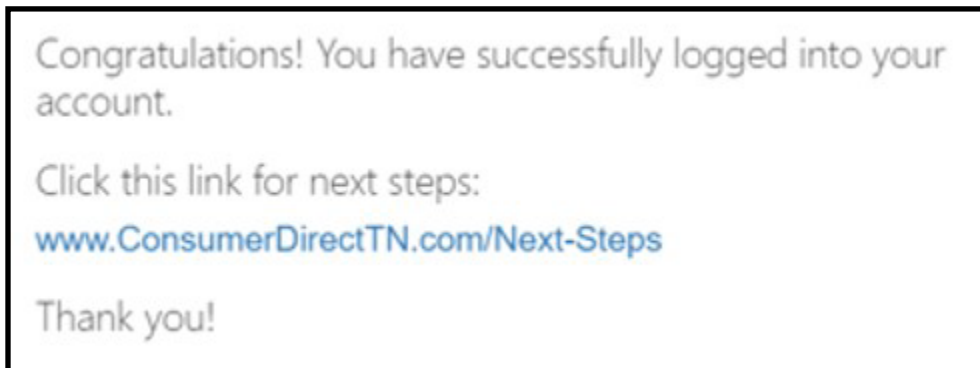
We need you to verify your account. Enter the last 4 digits of your social security number in the box below and click the green Continue button.

#### Show

Enter the Last 4 digits of SSN

Continue

Fig. 05



Congratulations! You have successfully logged into your account.

Click this link for next steps:

[www.ConsumerDirectTN.com/Next-Steps](http://www.ConsumerDirectTN.com/Next-Steps)

Thank you!

Fig. 06

# EMPLOYER OF RECORD

# Approve or Reject Time IN DIRECTMYCARE.COM

If your Worker enters an exception or makes an adjustment to their shift, you can use the web portal to approve or reject their adjusted shift.

## Employer of Record: Time Approval

1. If you are the Employer of Record, sign in to the CDCN web portal, **DirectMyCare.com**, by entering your email address and password. Click **Sign In** and you will be redirected to the dashboard.
2. On the dashboard, click the **Time Entry** button in the upper right of the screen and you will be redirected to the time entry approval screen.
3. From the dropdown, select the Worker whose time you are reviewing.
4. You can choose to approve one shift at a time, a row at a time, or an entire week at a time.
  - **To approve one shift**, click in a cell where time has been submitted. When you click in a cell, the cell color changes and you will see a pane on the right side of the screen. Review all information in the pane and if correct, click the **Approve** button.
  - **To approve an entire row or week**, click the appropriate checkbox on the left side of the grid. Click the **Approve** button in the lower right of the screen.
5. After clicking the **Approve** button an attestation will open where you agree that shift details are true and accurate. Click **Ok** to agree that the information entered is accurate.

## Employer of Record: Time Rejection

1. If you are the Employer of Record, sign in to the CDCN web portal, **DirectMyCare.com**, by entering your email address and password. Click **Sign In** and you will be redirected to the dashboard.
2. On the dashboard, click the **Time Entry** button in the upper right of the screen.
3. From the dropdown, select the Worker whose time you are reviewing.
4. To reject a shift, click in the cell where time has been submitted. Make sure only shifts that you want to reject are selected. When you click in the cell, the cell color changes and you will see a pane on the right side of the screen.
5. Click the **Reject** button.
6. The rejected shift will be returned to the Worker and marked with a red X. After a shift is rejected, it cannot be adjusted by the Worker. The Worker will need to submit a new shift.

## How do I correct a shift entered from EVV?

If an attendant submitted the shift for the Employer's approval but it needs to be changed, it is important that the Employer reject the shift in the web portal. The rejected shift will be returned to the Worker. After a shift is rejected, it cannot be adjusted by the Worker. The Worker will need to delete that shift and enter a new one.

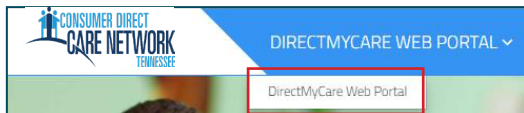


# Setting Your IVR Pin

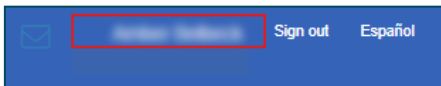
Workers will need to complete the IVR Registration form found on the CDTN website for each Member.

## Locating your User ID

1. Sign into the DirectMyCare web portal from the CDTN website.



2. Select your name in the top right corner to view your profile.



3. Your Person ID is your User ID for the IVR.

User Profile		
Basic Information		
First Name	:	John
Last Name	:	Smith
Email	:	john.smith@consumerdirectcare.com
Role	:	Healthcare Provider
Person ID	:	12345678
Company	:	ABC
Program	:	XYZ
IVR PIN	:	98765432

## Creating your PIN

1. Using your phone number, call into the IVR system (Fig. 01).
2. When prompted, enter your **User ID** followed by the **pound sign (#)**.
  - If # is not entered, system will say "invalid entry."
3. When prompted, choose a **6-digit PIN**
4. The system will read your PIN back to you:
  - Press 1 to keep and use this PIN.
  - Press 2 to create a new PIN.

**IVR:** English: **877-532-8537**  
Spanish: **855-581-0509**

Fig. 01

## Changing your PIN

1. Using your phone number, call into the IVR system (Fig. 01).
2. When prompted, enter your **User ID** followed by the **pound sign (#)**.
  - If # is not entered, system will say "invalid entry."
3. When prompted, press **\* to change your PIN**.
4. Choose your **new 6-digit PIN**.
5. The system will read your PIN back to you:
  - Press 1 to keep and use this PIN.
  - Press 2 to create a new PIN.



# Troubleshooting

## User ID is Invalid

If the caller does not enter # sign after User ID, they will get a “User ID is invalid” message.

## No Options Given to Record Time

If the IVR system does not recognize the phone number you are calling from, it will ask for your User ID and PIN. However, you will not hear options to record time or advance in the IVR system. IVR requires you to use the Member’s landline phone that is on file with CDTN. If the member needs to update their phone number, they will need to contact CDTN or their Supports Broker.

## IVR System Options

The options in the IVR system are as follows:

- “To record a timesheet entry, press ONE” – this is for Workers who want to record an EVV compliant IVR shift.
- “To record a fob entry, press TWO” – this is for Workers who want to record an EVV compliant fob shift.

## I Don’t Remember My PIN #

Caller must use 6-digit PIN, followed by #. If forgotten, change your PIN by selecting \*key after entering your User ID.

## When will Consumer Direction Services Start?

- When will your worker start working? How will you know?
  - When CDTN has received and processed all the member's paperwork, all the worker(s) paperwork,
  - the worker(s) background check has come back as passed, and FA/CPR certs have been received; CDTN sends notice to the MCO that the member is ready to being services.
- The MCO will then give an authorized date for services to start.
  - Your Support Broker will call you and your worker with this start date.
- What's your worker's schedule?
  - You have recommended number hours of care per week based on the Person Centered Support Plan. As the employer, you can determine when your worker works based on your needs and the amount of hours authorized on your plan of care.
- How will your worker be paid?
  - Payroll is bi-weekly, please reference payroll calendar
  - CDTN must have valid authorizations from the MCO and an approved timesheet from the employer in order to pay the worker
  - Timesheets are completed using CDTN's Electronic Visit Verification technology called CareAttend

## Employer of Record (EOR) Forms

### Becoming an Employer of Record

- What does it mean to be an Employer of Record?
  - You employ your workers (CDTN does not employ them).
  - Serve as employer (set schedule, assign job duties, review and approve timesheets).
- How do I become an Employer of Record?
  - IRS and state forms (following slides).
- What if I already have an Employer Identification Number?
  - You will need to select someone else to be the Employer of Record.
  - Or if your EIN is not being used, SB can provide direction for contacting IRS.
- Can someone else be Employer of Record for me?
  - Yes.
- Will this affect my personal income taxes?
  - No.

## Employer of Record Documents ... IRS Form SS-4

- This is a one-page form. You are asked to review, sign and date the form.
- This form tells the IRS that you are going to be an employer. After CDTN submits this form, the IRS will assign you an Employer Identification Number. This is what the IRS uses to identify employers when filing tax returns and depositing withholding taxes.
- We have entered CDTN's address in lines 4a and 4b so that IRS paperwork relating to this program will not be sent to your home – *it will come to us instead.*

Form <b>SS-4</b> (Rev. December 2019) Department of the Treasury Internal Revenue Service		<b>Application for Employer Identification Number</b> (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) Go to <a href="http://www.irs.gov/FormSS4">www.irs.gov/FormSS4</a> for instructions and the latest information. See separate instructions for each line. Keep a copy for your records.		OMB No. 1545-0003
1 Legal name of entity (or individual) for whom the EIN is being requested		HCSR		EIN
Type or print clearly.	2 Trade name of business (if different from name on line 1)	3 Executor, administrator, trustee, "care of" name		
	4a Mailing address (room, apt., suite no. and street, or P.O. box)	5a Street address (if different) (Don't enter a P.O. box.)		
	4b City, state, and ZIP code (if foreign, see instructions)	5b City, state, and ZIP code (if foreign, see instructions)		
	6 County and state where principal business is located			
7a Name of responsible party		7b SSN, TIN, or EIN		
8a Is this application for a limited liability company (LLC) (or a foreign equivalent)?		8b If 8a is "Yes," enter the number of LLC members		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		0		
8c If 8a is "Yes," was the LLC organized in the United States?		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
9a Type of entity (check only one box). Caution: If 8a is "Yes," see the instructions for the correct box to check.				
<input type="checkbox"/> Sole proprietor (SSN) <input type="checkbox"/> Estate (SSN of decedent) <input type="checkbox"/> Partnership <input type="checkbox"/> Plan administrator (TIN) <input type="checkbox"/> Corporation (enter form number to be filed) <input type="checkbox"/> Trust (TIN of grantor) <input type="checkbox"/> Personal service corporation <input type="checkbox"/> Military/National Guard <input type="checkbox"/> State/local government <input type="checkbox"/> Church or church-controlled organization <input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government <input type="checkbox"/> Other nonprofit organization (specify) <input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises <input checked="" type="checkbox"/> Other (specify) <b>HCSR</b> Group Exemption Number (GEN) if any				
9b If a corporation, name the state or foreign country (if applicable) where incorporated		State	Foreign country	
10 Reason for applying (check only one box)				
<input type="checkbox"/> Started new business (specify type) <input type="checkbox"/> Banking purpose (specify purpose) <input type="checkbox"/> Hired employees (Check the box and see line 13.) <input type="checkbox"/> Changed type of organization (specify new type) <input type="checkbox"/> Compliance with IRS withholding regulations <input type="checkbox"/> Purchased going business <input checked="" type="checkbox"/> Other (specify) <b>HCSR</b> <input type="checkbox"/> Created a trust (specify type) <input type="checkbox"/> Created a pension plan (specify type)				
11 Date business started or acquired (month, day, year). See instructions.		12 Closing month of accounting year <b>December</b>		
13 Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14.		14 If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability generally will be \$1,000 or less if you expect to pay \$5,000 or less in total wages.) If you don't check this box, you must file Form 941 for every quarter.		
Agricultural <b>0</b>		Household <b>0</b>		Other <b>0</b>
15 First date wages or annuities were paid (month, day, year). Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) <b>N/A</b>				
16 Check one box that best describes the principal activity of your business.				
<input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Health care & social assistance <input type="checkbox"/> Wholesale-agent/broker <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-other <input type="checkbox"/> Retail <input checked="" type="checkbox"/> Other (specify) <b>HCSR</b>				
17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided. <b>HCSR</b>				
18 Has the applicant entity shown on line 1 ever applied for and received an EIN? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
If "Yes," write previous EIN here				
Third Party Designee	Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.			
	Designee's name <b>Mikayla Brinda</b>	Designee's telephone number (include area code) <b>406-532-8502 ext. 8</b>		
	Address and ZIP code <b>100 Consumer Direct Way, Suite 304, Missoula, MT 59808</b>	Designee's fax number (include area code) <b>406-532-8588</b>		
Under penalty of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.				Applicant's telephone number (include area code)
Name and title (type or print clearly) <b>Home Care Service Recipient</b>				Applicant's fax number (include area code)
Signature		Date		
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.		Cat. No. 16065N		Form <b>SS-4</b> (Rev. 12-2019) 05151



## Employer of Record Documents ... IRS Form 2678

- This is a 1-page form. You are asked to sign and date the form in the boxes below boxes 9 and 10.
- This form tells the IRS that you are giving CDTN permission to complete tax processes on your behalf for this program.
- This form only allows us to withhold taxes from your employee's paychecks and deposit those taxes with the IRS. It does not allow CDTN access to any of your personal income tax information.

Form **2678 Employer/Payer Appointment of Agent**  
(Rev. August 2014) Department of the Treasury - Internal Revenue Service OMB No. 1545-0740

**Use this form if you want to request approval to have an agent file returns and make deposits or payments of employment or other withholding taxes or if you want to revoke an existing appointment.**

**For IRS use:**

- If you are an employer or payer who wants to request approval, complete Parts 1 and 2 and sign Part 2. Then give it to the agent. Have the agent complete Part 3 and sign it.

**Note.** This appointment is not effective until we approve your request. See the instructions for filing Form 2678 on page 3.

- If you are an employer, payer, or agent who wants to revoke an existing appointment, complete all three parts. In this case, only one signature is required.

**Part 1: Why you are filing this form...**

(Check one)  
 You want to **appoint** an agent for tax reporting, depositing, and paying.  
 You want to **revoke** an existing appointment.

**Part 2: Employer or Payer Information: Complete this part if you want to appoint an agent or revoke an appointment.**

1 Employer identification number (EIN)  -

2 Employer's or payer's name (not your trade name)

3 Trade name (if any)

4 Address  
   
Number Street Suite or room number  
    
City State ZIP code  
    
Foreign country name Foreign province/county Foreign postal code

5 Forms for which you want to appoint an agent or revoke the agent's appointment to file. (Check all that apply.)

	For ALL employees/ payees/payments	For SOME employees/ payees/payments
Form 940, 940-PR (Employer's Annual Federal Unemployment (FUTA) Tax Return)*	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Form 941, 941-PR, 941-SS (Employer's QUARTERLY Federal Tax Return)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Form 943, 943-PR (Employer's Annual Federal Tax Return for Agricultural Employees)	<input type="checkbox"/>	<input type="checkbox"/>
Form 944, 944(SP) (Employer's ANNUAL Federal Tax Return)	<input type="checkbox"/>	<input type="checkbox"/>
Form 945 (Annual Return of Withheld Federal Income Tax)	<input type="checkbox"/>	<input type="checkbox"/>
Form CT-1 (Employer's Annual Railroad Retirement Tax Return)	<input type="checkbox"/>	<input type="checkbox"/>
Form CT-2 (Employee Representative's Quarterly Railroad Tax Return)	<input type="checkbox"/>	<input type="checkbox"/>

\*Generally you cannot appoint an agent to report, deposit, and pay tax reported on Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, unless you are a home care service recipient.

Check here if you are a home care service recipient, and you want to appoint the agent to report, deposit, and pay FUTA tax for you. See the instructions.

I am authorizing the IRS to disclose otherwise confidential tax information to the agent relating to the authority granted under this appointment, including disclosures required to process Form 2678. The agent may contract with a third party, such as a reporting agent or certified public accountant, to prepare or file the returns covered by this appointment, or to make any required deposits and payments. Such contract may authorize the IRS to disclose confidential tax information of the employer/payer and agent to such third party. If a third party fails to file the returns or make the deposits and payments, the agent and employer/payer remain liable.

**9**  Sign your name here   
Date


Print your name here   
 Print your title here   
 Best daytime phone

**10** **Now give this form to the agent to complete.**

For Privacy Act and Paperwork Reduction Act Notice, see the Instructions. IRS.gov/form2678 Cat. No. 107700 Form 2678 (Rev. 8-2014)

## Employer of Record Documents...Tennessee Form LB-0927

- This is a 1-page form. You are asked to sign and date at the bottom of the first page.
- This form tells the Tennessee Department of Labor and Workforce Development that you have authorized CDTN to represent you in matters of state unemployment insurance.
- This form establishes CDTN as the mailing address on your employer account.



State of Tennessee  
 Department of Labor and Workforce Development  
 Employer Services Unit  
 220 French Landing Drive, Floor 3-B  
 Nashville, Tennessee 37243-1002

### DECLARATION OF REPRESENTATIVE

This is to certify that (Representative): Consumer Direct For Tennessee as Fiscal Agent

Located at: 100 Consumer Direct Way, Suite 304

City: Missoula State: MT Zip Code: 59808

Phone: 406.532.8502 ext 8 Fax: 406.532.8588

is authorized to represent (Employer): \_\_\_\_\_

Employer's Federal Employer Identification Number: \_\_\_\_\_ Applied For

Employer's Tennessee Employer Account Number: \_\_\_\_\_ Applied For

before the Tennessee Department of Labor and Workforce Development (TDLWD) for the item(s) checked below:

<input checked="" type="checkbox"/> for completing and filing quarterly Premium and Wage Reports	<input checked="" type="checkbox"/> for benefit charge management*
--	---

\*Benefit Charge Management includes receiving and responding to any time sensitive request(s) for separation information and notice(s) of claim filed and, responding to any summary of benefits charged. It also includes representation for the purpose of filing appeals and appearance in connection with those appeals before Appeal Boards of the TDLWD.

Summaries of benefit charged are mailed to the primary address of record.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

This authorization supersedes all similar authorizations. This form also authorizes the TDLWD to, in accordance with applicable law, release to the Representative any documentation relating to the Employer's account that it could release to the Employer.

Employer Name: \_\_\_\_\_

Trade Name: \_\_\_\_\_

Mailing Address: 100 Consumer Direct Way, Suite 304

Missoula MT 59808

Required:

Authorized Employer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name of Signer: \_\_\_\_\_ Title: Household Employer

Return to: Tennessee Department of Labor and Workforce Development  
 Employer Services Unit  
 220 French Landing Drive, Floor 3-B  
 Nashville, TN 37243

Phone: 615-741-2486  
 Fax: 615-741-7214

LB-0927 (Rev. 07-14) RDA 1559

## Consumer Direction Hourly Rates

As the employer you have to set your workers' wages using hourly rates approved by TennCare. Below is a chart that shows you the updated rates, as applicable, and what your options are for paying your workers. You must pick a rate that is in this chart and matches with the type of service that worker is providing.

Type of Service	Gross Hourly Rates
Attendant Care	\$9.87
	\$12.34
	\$14.81
	\$16.04
	\$17.28
	\$18.51
Personal Care Visit	\$9.87
	\$12.34
	\$14.81
	\$16.04
	\$17.28
	\$18.51
In-Home Respite	\$9.64
	\$12.05
	\$14.46
	\$14.85
	\$15.13

Companion Care	Gross Daily Rates
24/7	\$157.82
24/5	\$145.09
Back-Up Pay	\$145.09

\*\*Note - The IRS has criteria to determine if your workers are exempt from certain federal taxes (FICA & FUTA) based on the employer/employee relationship. The IRS requires your worker take the exemption if the worker is your child, your parent, or your spouse. This means their net pay amount will be closer to their gross pay amount. However, no taxes will be paid into Social Security or Medicare for them.



Worker Name	Employer of Record Name	Member Name

Please select at least one service type below and enter the wages to be paid to the Worker. Complete either the Hourly Services or Companion Care section, not both.

<input type="checkbox"/> <b>Hourly Services – Service Name, Service Codes and Hourly Pay Rate:</b>	
<input type="checkbox"/> Attendant Care \$_____ per hour <input type="checkbox"/> Personal Care Visits \$_____ per hour <input type="checkbox"/> In-home Respite \$_____ per hour	
<input type="checkbox"/> <b>Companion Care</b>	
<input type="checkbox"/> Companion Care 24/5 \$_____ per Day.	
<input type="checkbox"/> Companion Care 24/7 \$_____ per Day.	
<input type="checkbox"/> Back-up Companion Care* \$_____ per Day <i>*Back-up Companion Care is only available at a daily rate. This is care provided when the regular Companion is sick or unexpectedly not available to work. The daily rate can't be paid as a part of ongoing Companion Care services.</i>	
<b>Difficulty of Care Exclusion (Companion Care Only):</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No <b>I attest that I qualify for IRS Difficulty of Care income tax exclusion.</b> I live full-time (24/7) in the same house as the Member. State and Federal income taxes will not be withheld from my pay. For more information please refer to <a href="https://www.irs.gov/pub/irs-drop/n-14-07.pdf">https://www.irs.gov/pub/irs-drop/n-14-07.pdf</a>	
<b>Room and Board (Companion Care Only):</b>	
<input type="checkbox"/> Room – The Employer will provide the Worker a room and use of common spaces in the Member’s home.	\$_____ per Month*
<input type="checkbox"/> Meals – The Employer will provide the Worker meals in the Member’s home.	\$_____ per Month**
<i>*Estimated market value of the room and use of common spaces. Or estimated rent that would be paid for a similar room in the area.          **Estimated amount spent on groceries to feed the Worker.          Note: The cost of room and board is NOT paid by TennCare<sup>SM</sup>. Adequate sleeping facilities must be provided for the Worker if sleep time is excluded from time worked.</i>	

**Back-up Support (check one):**

Yes  No The Worker will serve as back-up if other Workers are unable to provide services.

**Agree and Sign:**

The Worker and Employer of Record have:

- Read all of this form.
- Agree that the details provided are accurate and complete.
- Discussed and agreed to the above-listed services and/or hourly rate details.







CHOICES PROGRAM  
**SERVICE AGREEMENT – WAGE MEMO**

This form is not intended to create a contract of employment or rate of pay for a specific period of time.

\_\_\_\_\_  
*Employer, Member or Representative Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Worker Signature*

\_\_\_\_\_  
*Date*



**Do you need free help with this letter?**

**If you speak a language other than English, help in your language is available for free. This page tells you how to get help in a language other than English. It also tells you about other help that's available.**

**Spanish: Español**

ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Kurdish: کوردی**

ئاگاداری: ئهگهر به زمانی کوردی قهسه دهکهیت، خزمهتگوزاریهکانی یارمهتی زمان، بهخوڕایی، بو تو بهردهسته.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Arabic: ربيّةعلا**

وظةعلم: اذا ملكتتةغلا ربيّةعلا اتمدخدةعاسملا ويةغلا رةفوتمكلا انجام.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Chinese: 繁體中文**

注意：如果您使用繁體中文，您可以免費獲得語言援助服務。

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Vietnamese: Tiếng Việt**

CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Korean: 한국어**

주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**French: Français**

ATTENTION : Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Amharic: አማርኛ**

ማስታወሻ: የሚናገሩት ቋንቋ አማርኛ ከሆነ የትርጉም እርዳታ ድርጅቶች፣ በነጻ ሊያግዝዎት ተዘጋጅተዋል።

- CDTN Amerigroup: 888-398-0664 (መስመር ለተሰናዥው:TRS:711 )
- CDTN BlueCare Tennessee: 888-450-3240 (መስመር ለተሰናዥው:TRS:711 )
- CDTN UnitedHealthcare: 888-444-3109 (መስመር ለተሰናዥው:TRS:711 )
- CDTN TennCare DIDD: 888-450-3242 (መስመር ለተሰናዥው:TRS:711 )

**Gujarati: ગુજરાતી**

**સુચના:** જો તમે ગુજરાતી બોલતા હો, તો નિ:શુલ્ક ભાષા સહાય સેવાઓ તમારા માટે ઉપલબ્ધ છે.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Laotian: ພາສາລາວ**

**ໂບດລາບ:** ຖ້າວ່າ ທ່ານເວົ້າພາສາ ລາວ, ການບໍລິການຊ່ວຍເຫຼືອດ້ານພາສາ, ໂດຍບໍ່ເສັຽຄ່າ, ແມ່ນມີພ້ອມໃຫ້ທ່ານ.

- CDTN Amerigroup: 888-398-0664 (TRS:711)
- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
- CDTN UnitedHealthcare: 888-444-3109 (TRS:711)
- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**German: Deutsch**

**ACHTUNG:** Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung.

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- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
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**Tagalog: Tagalog**

**PAUNAWA:** Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad.

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- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Hindi: हिंदी**

**ध्यान दें:** यदि आप हिंदी बोलते हैं तो आपके लिए मुफ्त में भाषा सहायता सेवाएं उपलब्ध हैं।

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- CDTN BlueCare Tennessee: 888-450-3240 (TRS:711)
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**Serbo-Croatian: Srpsko-hrvatski**

**OBAVJEŠTENJE:** Ako govorite srpsko-hrvatski, usluge jezičke pomoći dostupne su vam besplatno.

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**Russian: Русский**

**ВНИМАНИЕ:** Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода.

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**Nepali:**

**नेपाली**

ध्यान दिनुहोस्: तपाईंले नेपाली बोल्नुहुन्छ भने तपाईंको निम्ति भाषा सहायता सेवाहरू निःशुल्क रूपमा उपलब्ध छ ।

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- CDTN TennCare DIDD: 888-450-3242 (TRS:711)

**Persian:**

**فارسی**

**توجه:** اگر به زبان فارسی گفتگو می کنید، تسهیلات زبانی بصورت رایگان برای شما فراهم می باشد.

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# Consumer Direction Handbook

Including simple tips on being an  
employer and directing your own care

¿Necesita un manual de TennCare<sup>sm</sup> en español? Para conseguir un manual en español, llame a **Consumer Direct Care Network** al **888-532-1907**.

**We do not allow unfair treatment in TennCare<sup>sm</sup>.**

No one is treated in a different way because of race, beliefs, language, birthplace, disability, religion, sex, color, or age. Read more about your right to fair treatment in you TennCare<sup>sm</sup> Member Handbook.

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## Introduction

This handbook tells you about Consumer Direction in the CHOICES program. It includes some tips on how to hire your own workers and direct your own care. You'll get more information and training from your Supports Broker.

## What is Consumer Direction?

**Consumer Direction** is a way of getting some of the kinds long term services and supports you need. Long Term Services and Supports are sometimes called "LTSS" for short. They are also known as **Home and Community Based Services** or HCBS.

Consumer Direction gives you more choice and control over WHO gives your LTSS and HOW your care is given. To make these choices, you must accept the responsibility of being an employer to the worker or workers providing your services.

In Consumer Direction, **you** actually employ the people who give some of your long-term services—they work for you (instead of a service provider agencies). This means that you must be able to do the things that an employer would do. These include things like:

- Find, interview, and hire workers to provide services for you.
- Define workers' job duties.
- Develop a job description for your workers.
- Train workers to deliver your care based on your needs and preferences.
- Provide a safe working environment.
- Set the schedule at which your workers will give your care.
- Make sure your workers enter, in the EVV system, of the time worked everyday.
- Make sure your workers provide only as much care as you are approved to receive by your Managed Care Organization (you can talk to your CHOICES Care Coordinator about this).
- Monitor to make sure that no worker gives you more than 40 hours of care in a week, if the worker does work over 40 hours in a week, overtime must be paid.

If this happens, you may not be able to stay in consumer direction

- Supervise your workers.
- Evaluate your workers' job performance.
- Address problems or concerns with your workers' performance.
- Fire a worker when needed.
- Decide how much your workers will be paid (from a range of rates set by the State).
- Review the time your workers report to be sure it's right.
- Ensure there are good notes kept in your home about the care your workers provide.
- Develop a backup plan to address times that a scheduled worker doesn't show up (you can't decide to just go without services).

- Activate the backup plan when needed.

### **Using a Representative as the Employer of Record for Consumer Direction**

What if you can't do some or all the things listed above? Then, you can choose a family member, friend, or someone close to you to do these things for you. It's called an "Employer of

Record." It's important that you pick someone who knows you very well that you can depend on. The person you pick to be your Employer of Record should not abuse alcohol or drugs. They shouldn't have a history of abusing, neglecting, or exploiting you or anyone else.

To be the Employer of Record, the person must:

- Be at least 18 years of age.
- Know you very well.
- Understand the kinds of care you need and how you want care to be given.
- Know your schedule and routine.
- Know your health care needs and the medicine you take.
- Be willing and able to do all of the things that are required to be in Consumer Direction.
- Live with you in your home OR be present in your home often enough to supervise staff. This usually means at least part of every worker's shift. But, it may be less as long as it's enough to be sure you're getting the quality care you need.
- Be willing to sign a Representative Agreement, saying they agree to do all of the things required for Consumer Direction.

Your Representative can't be paid to do these things for you. And, they can't be paid to give any of your care through Consumer Direction.

Your Care Coordinator will help you complete a self-assessment. It will help decide if you need an Employer of Record.

What if you need a Representative but don't have (or want) anyone to serve in that role? You may not be able to get care through Consumer Direction. If so, you'll get the covered services you need through provider agencies.

### **Help you'll receive in Consumer Direction**

You or your representative will have help doing some of the things you must do as an employer. The help will be provided by Consumer Direct Care Network (CDTN). There are 2 kinds of help you'll receive:

- CDTN will help you and your workers with paperwork and payments.
- They'll help you fill out the paperwork you must complete to be an employer.
- They'll help your workers fill out the paperwork they must complete to be your employees.
- They'll provide training for you (see *Training your workers* below for the training that you provide), your Representative, and the workers you pick.
- They'll make sure the workers you pick are qualified to deliver your care, and that they have a background check performed and are not on an exclusionary list that would not allow them to work for you.



- Once you know when you want to get your services based on your approved Person-Centered Support Plan (PCSP), they'll help you check to make sure your worker is using the EVV system the right way.
- They'll pay your workers for the approved service they give.
- They'll withhold, file and pay all required payroll taxes

CDTN will hire or contract with a Supports Broker for you. A Supports Broker is a person who will help you with the **other** kinds of things you must do as an employer. These are things like:

- Find and interview workers
- Write job descriptions
- Train workers
- Schedule workers based on your PCSP
- Develop an initial backup plan to address times when a scheduled worker doesn't show up

BUT, your Supports Broker CAN'T supervise your workers. You or your Representative must be able to do that by yourself.

Besides helping you with the things listed above, CDTN is required:

- To report any suspected abuse, neglect or financial exploitation by your workers, your Representative for Consumer Direction, or others.
- To report:
  - Severe injuries that occur while you're getting care through consumer direction
  - Mistakes your workers make giving you medicine (if you elect to self- direct health care tasks)

TennCare<sup>sm</sup> will pay Consumer Direct Care for the help they give.

### **Who can be in Consumer Direction?**

To be in Consumer Direction:

- You must be either enrolled in CHOICES Group 2 or CHOICES Group 3. **For more information on CHOICES Group 2 or Group 3, please refer to your TennCare<sup>sm</sup> member handbook.** Those are parts of the CHOICES program for people who receive home care or HCBS.
- You can't live in a Community-Based Residential Alternative facility. This includes an Assisted Living Facility, Community Living Support Housing, or Adult Care Home. If you live in one of these places, the facility provider will give you the help you need.
- You must need one or more of the services that can be provided through Consumer Direction. The services you need are listed in your PCSP. Your PCSP is written by you and your Care Coordinator based on an assessment of your needs.
- You must be able to do all the things required to employ your own staff. OR, you must have a qualified Representative for Consumer Direction who signs an agreement to do all of these things.
- You must have a signed Person-Centered Support Plan which includes things to help keep you healthy and safe in your home. This includes any additional risks that may result from choosing

to hire your own workers through Consumer Direction.

- Your TennCare<sup>sm</sup> health plan (MCO) must be able to safely meet your needs in your home while you're in Consumer Direction.

You must have a backup plan that will make sure your needs are met when a scheduled worker fails to show up.

- You and your workers must agree to use the services of Consumer Direct Care to help you.

## Services available in Consumer Direction

These are the services that can be provided through Consumer Direction. The kind and amount of care you'll get depends on what you need. Those services are listed in your PCSP. You **can't** get more services by choosing to be in Consumer Direction, even if the amount you pay your workers is less than it would cost to get care through a provider agency. You can **only** get the services you need that are listed in your PCSP.

- **Personal care visits** (up to 2 visits per day) – Short visits lasting no more than 4 hours at a time and are at least 4 hours apart. Someone will help you do things like get out of bed, take a bath, get dressed, fix and eat meals, or use the bathroom.
- **Attendant care** (up to 1080 hours per calendar year or up to 1,400 hours per calendar year if you need help with household chores like laundry or sweeping) – The same kinds of help you'd get with personal care visits, but for periods of time that are longer than 4 hours or are less than 4 hours apart. You can only get attendant care when your needs can't be met with personal care visits.
- **In-home respite care** (up to 216 hours per calendar year) - Someone to come and stay with you in your home for a short time so your caregiver can get some rest.
- **Companion Care** (Only available for persons enrolled in CHOICES Group 2) – Someone you hire who lives with you in your home to help with personal care whenever you need it. (Available only for people in Consumer Direction who need care throughout the day and night that can't be provided by unpaid caregivers. And only when it costs no more than other kinds of home care that would meet your needs.)

You can choose to get some of these services through Consumer Direction **and** get some home care from providers that contract with your TennCare<sup>sm</sup> health plan. BUT, you must use contract providers for care you can't get through Consumer Direction.

### Transportation

In Consumer Direction, you can have your workers go with you into the community. The things they're helping you with must be part of the service they're providing. For example, you can have a worker go with you to a doctor's appointment. They can go with you to help you grocery shop or pick up medicine.

You can also decide to have a worker drive you to those places in the community—if they're willing to. They must have a valid driver's license and proof of insurance. AND, they must give CDTN a copy.

If you're going to have a worker go with you or drive you places, it must be part of the job description. It must be listed in the "Tasks to be performed" for that service in your Service Agreement. If it is, the

time spent doing those things can be paid as part of the hourly wage for that service. The cost of travel back and forth (including gas) cannot. You and your worker

must decide first whose car they'll drive. And you must decide if you'll pay for gas or pay the worker back for gas or mileage. This must be part of your Service Agreement.

No additional hours of service will be approved for your workers to go with you or drive you places. And, no additional payment will be made through CHOICES. The cost of transportation is not covered for services provided through Consumer Direction.

### **Self-Direction of Health Care Tasks**

If you decide to be in Consumer Direction, you have another choice to make. You can have the workers you hire also help you with medication administration and other health care tasks that are medically necessary—as long as you and your doctor say it is OK. It's called "Self-Direction of Health Care Tasks."

If you need help with your medicine and don't have family members to help you, normally only a nurse could give you medicine. But, in Consumer Direction, you can have your workers help you with your medicine and other health care tasks that are medically necessary instead of a nurse.

You can't hire someone JUST to give you medicine. Giving your medicine or having your worker help with other health care tasks is something extra you can have a worker do while he is giving your other care.

It's your job to talk with your doctor about having your workers help you with your medicine and other health care tasks that are medically necessary. It is either your representative or your responsibility to train the worker for any specific tasks you need provided. If your doctor says it's OK and you decide to self-direct your workers to give you medicine and assist with other health tasks that are needed:

- It must be written in your PCSP.
- It must be included in the "Tasks to be performed" for that service in your Service Agreement.
- You or your Representative must train your workers on how to give your medicine and perform other needed tasks.
- Your backup plan for Consumer Direction must say who will give your medicine and assist with other health care tasks if your worker doesn't show up.

Talk with your care coordinator if you have any questions about self-direction of health care tasks.

### **Backup Plan for Consumer Direction**

In CHOICES, you must have a backup plan for times when a scheduled worker doesn't show up. You'll need backup for *all* of the home services you receive, including those you get through Consumer Direction. The backup plan for Consumer Direction says how you or your Representative will be sure your needs are met if a scheduled worker doesn't show up. It includes:

- The name and phone numbers of people who have agreed to help you

- The kind of help they can provide
- When they can help you
- The order in which they should be contacted

Your backup may be family members, friends, and neighbors who have volunteered to help you at no charge. It could also be Consumer Directed workers who have agreed to provide paid backup for other workers. It could even be a provider agency you've contacted that has agreed to provide paid backup for you. Your MCO will **not** have provider agencies waiting to step in if your workers don't show up. **Developing a backup plan for your Consumer Directed workers is your responsibility.** But, your Supports Broker can help you with your first backup plan.

You or your Representative must find the people (or provider agencies) who can serve as back-up. You (or your Representative) must contact each person or provider to see if they're willing and available to provide backup care. CDTN must follow up with each of them to confirm that they've agreed to provide backup care. CDTN will share this information with your MCO.

Your Care Coordinator must review your backup plan. Your Care Coordinator must agree that your backup plan is adequate *before* you can start receiving care through Consumer Direction. When you have to use your backup plan, your Care Coordinator will make sure it works for you. They'll make sure you're not going without needed services. And, if needed, your Care Coordinator will help you make changes to your backup plan.

It's your responsibility to call in backup help when a Consumer Directed worker doesn't show up. You can't just go without care. To continue receiving care through Consumer Direction, you must be able to get the care you need.

## Being an Employer in Consumer Direction

### Writing a job description

Before you start looking for a worker to provide services for you, it's a good first step to write a job description. It's a good idea even if you plan on hiring a friend or family member. A job description helps you decide what kinds of help you need, and what you're looking for in a worker. It also helps your workers know what you expect.

You can use the job description as a guide when screening or interviewing applicants. You can make sure applicants are willing and able to give the kinds of help you need.

You can also use it to help you train the workers you hire, and to monitor their performance. Are they doing the things you hired them to do?

The job description should include:

- A summary of basic job duties
- Qualifications the person must have
- Specific information on how you want the job performed

- Days and times you need help

You should discuss the job description with your workers and make sure they agree to perform the care you need. Have them sign a copy of the job description or attach it to your Service Agreement.

If your needs change, you can update the job description. Review the job description with your workers any time it changes and at least once a year.

### **Deciding how much to pay your workers**

There are several rates that can be paid for **most** of the services available through Consumer Direction. These rates are set by the State. For **most** services, you can decide which rate you'll pay each worker for the services they provide. You can pay different workers a different rate, but you can only set one rate for each worker. How do you know which rate to pay? Here are some things you may want to think about:

- How much experience does the worker have providing care for you or for others?
- Will care be provided during "normal" work hours? Or, will the worker provide care in the evenings or on weekends?
- What kinds of tasks will the worker perform? Are they simple tasks, or do they require more skill and effort? Is there heavy lifting involved?
- Will the worker be helping you with your medicine or other health care tasks?
- Will the worker be going with you or transporting you into the community?

Your Supports Broker will talk with you about the rates you can choose to pay. You don't get to set your worker's rate for Companion Care. The rates are already set by the State. The rate is based on the number of days each week you need live-in help. If you need live-in help 7 days a week, there's one rate. If you have other help on the weekends and only need live-in help 5 days a week, there's a different rate. There's a daily rate for Companion Care. BUT, it's **only** for backup care. It can be paid to a qualified worker when your live-in Companion is sick or unexpectedly not able to work. BUT, the daily rate can't be paid as part of ongoing Companion Care services.

### **Minimum requirements for workers**

A person must meet all of these requirements to be a worker in Consumer Direction:

- 18 years of age or older.
- Not the member's Representative for Consumer Direction.
- Not the member's spouse, legal guardian or Power of Attorney.
- Able to perform all of the services (including tasks) needed by the member.
- Able to provide care at the schedule needed by the member.
- Able to read, write, understand instructions and communicate with the member.
- Have a valid Social Security number and authorized to work in the United States.
- Have and pass a criminal record check performed, including checks of the abuse and sexual offender registries.
- Complete all required training (including CPR and First Aid).
- Complete all required paperwork to provide care through Consumer Direction.



- Sign a Medicaid Agreement and obtain a Medicaid provider number.
- Have a valid driver's license and proof of insurance (if they'll drive you places).

### **Hiring friends and family**

You may already know who you want to hire to give your care. It could be a friend or family member. BUT, you can't hire your spouse, your Representative for Consumer Direction, a legal guardian, or Power of Attorney to provide care. AND, you can't pay family members or others to provide care they would have given for free. CHOICES only pays for care to meet needs that **can't** be met by family members or others who help you.

You **can't** pay anyone who lives with you to provide Personal Care Visits, Attendant Care, or In- Home Respite Care. AND, you **can't** hire any of these people to give Companion Care (Only available if you are enrolled in CHOICES Group 2):

- An immediate family member (including a spouse, parent, grandparent, child, grandchild, sibling, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter- in-law, or son-in-law. Adopted and step members count.)
- Anyone you live with (or that you have lived within the last 5 years)

### **Finding workers**

If you don't already know who you want to hire, there are lots of ways to find workers. Be sure friends and family members know you're looking to hire someone to help you. You can make a flyer or advertisement. You can post it on bulletin boards at local employment offices, grocery stores, churches, colleges or social service agencies—any place you think you may find people looking for work. Call first or talk with someone to find out about rules they may have for posting flyers.

You can also run an ad in the employment section of local college or community newspapers. If you run an ad, be sure to ask how much it will cost first. If it's a daily paper, Sunday ads probably cost more than weekday ads. It's OK to ask for help trying to keep the cost as low as possible. It's also OK to call around and check prices before you decide where to place your ad. In making an ad or flyer, be careful to not include too much information. Never include your name, instead describe yourself. For example, "Young man who uses a wheelchair needs help with..." or "Elderly woman looking for help with ...". And never give your home address. It may be best to have interested people respond by phone. That way, you can screen them first.

### **Screening people you may want to hire**

Once you identify people interested in working for you, you may want to screen them first. Screening means that you ask some questions to find out more about that person. It will help you decide if you want to interview that person. Screening is usually done over the phone, but it could be done through email or other ways too.

Screening helps the applicant understand what you're looking for in an employee and what to expect. You can use the job description as a guide. Tell each applicant you screen that you're required by law and TennCare<sup>SM</sup> rules to conduct a criminal background check, and that you will be checking references. You may also want to mention the rate (or range of rates) you're willing to pay, and make sure the applicant is still interested.

Ask and answer only job-related questions during the screening. Don't ever give out personal information, except what the person must know in order to decide if they can deliver the care you need.

Here are some quick tips and reminders about screening applicants:

- Call people back as soon as possible.
- Provide basic information about the job and ask if it sounds like something they're interested in and able to do.
- Ask a few questions:
  - Why are you interested in this kind of work?
  - What training or experience do you have?
  - Are there any parts of the job you may not be able to do? You may want to ask specifically about things like lifting, transfers, help with bathing or toileting, or medication. If you need someone to accompany or transport you into the community, you may want to ask about that too.
- Be organized and take notes. It will be difficult to remember each applicant's responses.
- You may want a family member or friend to help you. You can also ask your Supports Broker.
- Don't answer any personal questions.

If, at the end of your screening, you think you'd like to interview this person, you can set a time while you're on the phone. If you're not sure, you can politely end the conversation by saying, "Thank you for your time. I'll be making my final selections by (date) and will contact my top choices to set up an interview. Thanks again, good-bye."

Remember...you don't have to interview everyone. Let each person know you'll call them back if you decide to interview them.

### **Interviewing**

Once you've screened applicants, you're ready to interview applicants you may want to hire.

A face-to-face interview gives you the chance to learn as much as you can about the person applying for the job. It also gives the applicant a chance to learn more about the job—what you need and expect—so both of you can make a good decision. This works best if you're prepared.

It's a good idea to have questions ready that you want to ask. Here are some examples. Pick those that make sense for you. Add other questions about the kind of help you need.

- Tell me a little about yourself.
- Tell me about your work experience.
- What do you like best and least about the work you have done in the past?
- Do you have any training or experience helping someone who is elderly or who has a disability? Give me some examples.

- Are you comfortable around people with disabilities?
- Are you prompt and reliable?
- How much notice would you need if I need extra help and I am approved for more hours of care?
- Would you be able to help me with lifts or transfers using the right equipment?
- Can you think quickly on your feet? Give me some examples.
- How do you handle differences of opinion with an employer? Can you give an example?
- How do you handle constructive criticism? Can you give an example?
- How do you deal with another person's anger or frustration?
- Do you feel comfortable helping bathe someone?
- Do you feel comfortable helping with toileting?
- Are there things you don't feel comfortable doing?
- Do you have reliable transportation to and from work?
- Describe your best qualities.
- Describe your worst qualities.
- What's your pet peeve?
- Do you prefer/require lots of supervision, or just a task list?
- Do you have any questions/concerns about the job?

Questions you CAN'T ask during a screening or interview

When you're an employer, you must be fair to all of the people who apply to work for you. To help you treat people fairly, there are questions you shouldn't ask during a screening or interview, or use as reasons to hire (or not hire) someone. It's against the law to not hire a person for any of these reasons:

- **Marital/Parental Status**
  - Don't ask applicants if they're married, pregnant or planning to become pregnant.
  - Don't ask if applicants have children, the number or age of their children, or about childcare.
  - You may ask if a person can work the hours you need help, but you must ask all applicants (men and women) the same question.
  - Don't ask the applicant about the names of family members or where they work.
- **National Origin or Native Language**
  - Don't ask about a person's birthplace or citizenship. You can ask, "If hired, can you provide proof that you're eligible to work in the U.S.?" But, you don't need to ask since all new employees must complete the federal I-9 form and provide that proof. If you decide to ask the question, you must ask all applicants (not just someone you think may not be a U.S. citizen).
  - Don't ask the person about their native (or first) language. It's OK to make sure the applicant can clearly understand and communicate with you in order to do their job. But, you can't simply ask what language the person speaks.

- **Age**
  - Never ask an applicant's age except to make sure the person is at least 18 years old, which is required for Consumer Direction.
- **Religion, Schools, and Organizations**
  - Don't ask any questions about religious beliefs. Don't ask if the person goes to church or where they go to church. It's OK to be sure they understand the work schedule and can provide care when you need it.
  - Don't ask the person about their star (or zodiac) sign.
  - Don't ask where a person goes to school. But, you can ask about education the person has completed that may help them do the job.
  - Don't ask about clubs or organizations the person belongs to.
- **Criminal Record**
  - Don't ask if the person has ever been arrested. But you may ask about a conviction if it's related to the job. For example, you could ask if the applicant has ever been convicted of driving under the influence if the person you're hiring will be driving you into the community. Remember, all workers must have a criminal background check performed in order to provide care in Consumer Direction.
- **Discharge from Military Service**
  - You can ask about military service, but can't ask about the type of discharge. That's because it might be a way to learn about other things you can't ask about—like disabilities or arrests.
- **Race**
  - You can't ask about or discriminate against any applicant based on their race.
- **Disabilities and Health Problems**
  - With the passage of the Americans with Disabilities Act of 1990 (ADA), you must be very careful when asking questions about an applicant's abilities (or disabilities). You can't ask if the person has any disabilities or health problems. Instead, describe the requirements of the job and focus on the applicant's ability to meet them. You can ask applicants if they're able to perform all the required tasks safely.
  - What if an applicant voluntarily discloses a disability or has an obvious disability? If you think it may be necessary to make changes so the applicant can perform the job, you may ask limited follow-up questions to decide what those changes might be. But, never ask questions about the kind or severity of the person's disability.
- **Sex**
  - You can't discriminate against any applicant based on their gender.
- **Political Party**
  - You can't ask about their political party the person belongs to or how they vote.
- **Job Attendance**
  - You should tell applicants when care will be needed and make sure they can work the hours that you need them. It's also OK to ask about an applicant's attendance

record at previous jobs. (People miss work for lots of reasons, not just illness.) But, you can't ask how many absences at a prior job were due to illness. You can't ask about job-related injuries or workers' compensation claims. Don't ask about the health of family members or others in their life either. Under the ADA, you can't decide not to hire someone because they have a relationship or association with a person who has a disability.

- **Drug Use**

- It is OK to ask an applicant about current use of illegal drugs. BUT, you can't ask about prior use of illegal drugs or about any prescription drugs they now take. AND, you can't ask the person if they have any addictions.

- **Finances**

- You can't ask if the person owns or rents their home.
- You can't ask if the person owns a car, unless the job includes transporting you into the community, and the person will need to drive their own car.
- You can't ask the person's credit rating.

Set a day and time for the interview that works for you and the applicant. Decide where you'll meet. If you're interviewing in your home, give the person directions to your house. If you prefer not to interview in your home, find another place that works for both of you. Be sure you have each other's phone number in case one of you needs to change the time.

#### When the applicant arrives

Pay close attention. Do they look neat and clean? Are they dressed appropriately? Do they seem comfortable around you? Do you feel comfortable around them? Find out as much as you can about them. You will be hiring someone who may perform very personal tasks for you. Your decision may be based on just a few contacts. Make the interview count. Your health and safety depend on the choice you make.

- Try to help the applicant feel comfortable. You can ask, "Did you have any trouble finding the house?" Talking about the weather is always safe and helps people relax.
- Have the applicant fill out a job application. (CDTN will give you one.) Then give them the job description. Have the applicant read the job description while you look over the application. Pay attention to:
  - How does it look? Is it neat?
  - Past experience
  - Is it complete? (Does it include work experience and education?)
  - What are the employment patterns? (Are there frequent job changes?)
- Be sure to ask about:
  - Gaps in employment (any time period of over one month)
  - Things that are missing (education, former employers)
  - Inconsistency (information or dates that don't make sense)

(If you have questions about any of the information on the application, ask them during the



interview.)

- Explain your disability/needs, as you feel comfortable.
  - Give information that would be important for someone to understand if they were helping you.
  - Review the job description.
- Ask the Interview Questions.

After you finish your questions, ask applicants if they have any questions. The questions they ask can tell you a lot. Be sure not to talk too much—you want to learn about them.

#### Things to look out for

- An applicant who:
  - Has alcohol on their breath
  - Appears unclean (dirty hair, dirty fingernails, messy clothes)
  - Is rude or disrespectful
  - Is late
  - Discloses confidential or negative information about previous employer
  - Takes control of the interview
  - Seems to have pity toward you
  - Makes little eye contact (Keep in mind it might also mean the person is shy or from a culture that thinks too much eye contact is disrespectful.)
  - Begins the interview by telling you all the things s/he can't do or all the times they can't work
  - Can't provide references or contact information for former employees (Even someone who just moved should have friends or previous employers elsewhere.)
  - Says they just really need a job and will take anything for now
  - Looks to a non-disabled person in the room for guidance or directs responses to that person

#### Be sure to discuss

- Duties and responsibilities of the job
- Specific hours and days of work
- Rate of pay
- Arranged time off
- How they will be trained
- How their performance will be evaluated
- How much notice is expected from the worker and employer for termination of services
- Be sure to take good notes during the interview. You can refer back to your notes to decide who you want to hire. You don't have to do the interview alone. You can ask a friend or family member to sit in on the interview with you. You can also ask your Supports Broker. It may also

be helpful to have someone else to compare notes with after the interview.

### Here are some quick tips and reminders about interviewing applicants

- Hold the interview in a place that's safe for you.
- Having a second person sit in is a good idea for safety, and because that person may notice things during the interview that you don't.
- Eliminate distractions. Turn the TV and radio off. Make sure pets and children will not interrupt.
  - Recognize that it's natural to feel nervous when interviewing, the prospective worker is probably nervous too.
  - Being prepared for the interview will lower your anxiety level.
  - Having a friend or family member with you may help calm your nerves.
- Be Prepared. Before the interview, make sure you have:
  - A blank application form (CDTN will give you one)
  - A job description
  - Information about your disability
  - Information about special equipment you use
  - A way to record your impressions (write them yourself, have a tape recorder or ask a friend to take notes)
  - A list of the interview questions you will ask (see list of suggested questions we have included in this handbook)
- Planning the Interview Questions
  - Decide ahead of time what questions you will ask, and write them down.
  - Frame your interview questions to give you the information you need. (At the very least you want someone who is trustworthy, reliable and responsible. Ask questions that will give you that information).
  - By using the same list of questions for each applicant, you will be able to compare their responses more easily.
  - Don't ask illegal questions. (See the "Questions You CAN'T Ask in a Screening or Interview" page.)

### **Narrowing down the applicants**

Once you've completed your interviews, you're ready to choose your top candidates. Review the answers the applicants gave you to the interview questions along with notes you made. If you had a friend or family member with you during the interviews, compare notes with them.

After you've considered everything and picked the best ones, you need to **check references**. This is an important step. Never hire someone without talking with each of the references they provide. You should also call former employers if they're not listed as references.

Keep a list of names and numbers of your other top choices, even if the first one accepts. You may want to hire more than 1 worker. OR, you may want to see if others would be willing to be backup workers when your regular worker can't be there. You may also want to come back to this list if the worker you hire doesn't work out.

## **Making an offer**

Only after these steps have been completed are you ready to make an offer. Call and offer the job to the person you want to work for you. If they accept, you'll need to meet with the worker to fill out the employment packet provided by CDTN. Your workers must complete and submit all required paperwork to CDTN and complete all required training **before** they can begin work. CDTN will let you know when your workers are ready to start.

## **Background and registry checks**

If they accept the offer, then CDTN will do the background check and check the abuse and sexual offender registries. They must pass these checks before they can begin to work for you. What if they don't? You can choose to hire a worker who fails the background check (not the registry checks) IF you review the results and determine with your Care Coordinator that the results are acceptable. Think carefully before deciding to do this. If you decide to hire someone with a criminal history, you do so at your own personal risk.

## **Training your workers**

There are different kinds of training your workers must complete. All workers must complete this training, even friends and family. Some of the training will be provided or arranged by CDTN. There's a list of training topics CDTN must cover.

In addition, you must train your workers on how to provide care for you. Schedule a time to orient and train your new worker.

You'll want to review the job description again, but in more detail. In addition to talking about each of the tasks to be performed, you'll explain how you want each of those tasks performed. Even if your worker has experience, your situation is unique and different. Set the tone that you are the employer. Even if you talked about some of these things in the interview, it's important that you do it again.

Training a new worker should include:

- A tour of your living space.
  - Show your new worker where supplies and equipment are kept.
- Talk about your disability.
  - Discuss your disability and anything specific your worker should know (i.e., Do you get more fatigued as the day goes on? Are you sensitive to cold? Do you have days on which you can do more for yourself than other days?).
- Explain and demonstrate worker duties.
  - Give an overview of the job duties. Use the job description.
  - Talk about how you want each task to be performed; give step-by-step instructions, including the order in which they should be performed. Be specific.
  - If possible, have someone there who helps you that can help demonstrate the tasks.
- Safety and Security
  - Lifts and Transfers - Review safe procedures for completing lifts and transfers.

- If you're requiring your worker to lift you, train them in proper lifting procedures to avoid injury to either one of you.
- Discuss safety guidelines for any disability-related equipment the worker will be expected to use.
- Reinforce safety guidelines for any household appliances or equipment the worker will be expected to use.
- Discuss what to do in case of an emergency with your worker.
- Universal Precautions - Reinforce the importance of washing hands thoroughly before preparing food, and before and after personal care duties. Discuss the use of plastic gloves if preferred.

- Expectations – Review the following topics:

Job Description and Performance Expectations. Be sure to stress the following topics:

- **Confidentiality** - What you say and do in your home should remain confidential. The kind of help being provided by your worker is not to be discussed with their friends, family members or other individuals they may work for. Be specific. Some people think if they are not saying something bad about you, it is not a violation of confidentiality. The worker should be reminded that it is not only disrespectful, but that violating confidentiality can be grounds for termination.
  - Punctuality – Make sure your worker understands the importance of reporting to work on time. If late, this can result in your care not being provided as needed. It can also cause problems with the electronic visit verification (EVV) system and your worker's paycheck.
  - Record Keeping – Make sure your worker understands the importance of using then EVV application when starting and ending your care. If they don't it WILL cause your worker to not be paid timely. It can also lead to that person not being able to be your worker anymore
  - Notice of time off - What are your expectations?
  - Mutual Respect - Let your worker know the kind of behavior you expect and what they can expect from you in return.
  - Acceptable Behavioral Standards – Be clear about what you think is appropriate work behavior and what is not. (how you speak to each other, dress standards, etc.)
- Review the rate of pay and appropriate schedule, and make sure your worker checks in/checks out with the EVV application.

### **General supervision**

Being a good employer requires that you talk with your workers on a regular basis to let them know if they're doing a good job. You should tell them the things they're doing well, and areas where they could do better. If there are problems, you should address them with the worker right away.

Talk with and treat your worker as you would like to be treated. Be clear about job duties and about their performance. Be respectful when giving direction and feedback.

Feedback should also be specific. Say, “You did a good job of cleaning the kitchen yesterday after dinner,” rather than just “Good job.” Tell your worker, “I need you to give me more time to move from my bed to the chair,” rather than “You move too fast.”

### **Performance evaluation**

In addition to providing your worker with regular feedback, it’s important to formally review their job performance at least once a year. The formal performance evaluation should review the good and bad things you’ve already talked about with your worker. If there are problems your employee needs to work on, you should talk with them about ways to improve performance, agree on what these are and set a timeframe to re-evaluate.

File the evaluation and your notes of the discussion in the binder CDTN gives you.

## **Signing a Service Agreement**

You or your Representative for Consumer Direction must sign a Service Agreement with each worker you employ. It’s like a contract that sets out what each of you agree to do.

The Service Agreement must include:

- The services the worker will provide
- The rate the worker will be paid
- Any self-directed health care tasks the worker will perform while giving your care

A worker can’t start giving your care through Consumer Direction until:

- They have completed all required paperwork and training.
- Passed a background check.
- Been found by CDTN to meet all other requirements to be a worker in Consumer Direction.
- AND signed a service agreement.

### **Setting and changing your workers’ schedule**

Your PCSP lists the services you need. For example, it may say you need 20 hours of Attendant Care per week. This is how services are approved by your MCO—based on the type of service you need, how much of each service you need.

Once you hire workers to give your care through consumer direction, you must decide the hours that each of your employees will work. The schedule for your employees must match the amount that’s in your PCSP.

So, if you have 2 workers and need the services listed above, one worker might deliver your 5 hours of Attendant Care Visits on Monday and Thursday mornings, and the other might give your 10 hours of Attendant Care services on Saturday. You get to decide how to schedule your workers to give your care, based on your preference and needs listed in your PCSP.

You may choose to have a worker provide more than one service for you. For example, the same worker may provide both Personal Care Visits and Attendant Care. That’s fine as long as they don’t provide more than 40 hours of care each week. Workers can’t work overtime in the

CHOICES program. (This doesn't apply to Companion Care since companions aren't working all the time. They're providing care off and on throughout the day and night, when you need it.)

Your worker will need to record all time worked by checking in and out for each shift using an EVV compliant time entry method. They may use CareAttend mobile app. If your worker cannot use the CareAttend app you will need to notify your Support Broker. You are responsible for reviewing and approving all time entries. You can do this by using the CDTN web portal, CareAttend app or via telephone.

What if you want to change your workers' schedule? You can, but the hours cannot be more than what is listed in your PCSP. What if you want to change the number of hours you receive care? You must contact your Care Coordinator and they will discuss this with you. Your MCO will have to send CDTN a new authorization to give your care based on the new number of hours.

*If a worker gives you more care than what is on your PCSP the worker may not get paid.*

### **When Things Don't Work Out – Firing an Employee**

Firing a worker is never easy. The worker may be a nice person who is just not meeting your needs.

If you decide to fire a worker, you may want to have another person with you when you tell them. This could be a family member, friend, or your Supports Broker. If you think the worker may become angry or do something to harm you, you should not be alone when you have this discussion.

If possible, do some advance planning. Decide what the final date of employment will be. Try to have another worker ready to give your care. If not, make sure the people in your backup plan are ready to give your care while you find someone.

You should fire a worker right away if your worker has:

- Stolen something from you (this includes using your money or a debit or credit card to buy something without your OK)
- Neglected or abused you, or threatened to harm you
- Done anything that places you at serious risk of harm
- Severely violated your Service Agreement

Any actions that are against the law should be reported to the police. This should be reported to the MCO, they will submit an incident form and follow their protocol.

CDTN will file the report if notified first and will work with the Member to terminate/disassociate the worker in CareAttend Portal and assist with hiring a new employee.

If you must terminate your worker's employment:

- Keep written notes of the discussion and your reasons for letting them go. This will protect you in case of a later dispute.
- Keep employment records for a while.
- Make sure you get back any keys or other items the person has.



If there are things the worker does well, you can offer to write a letter of reference highlighting those skills.

### **Protecting Property and Personal Safety**

When you receive care at home, it's a good idea to take a few simple steps to protect your safety and your property.

To protect your property:

- Make an inventory of valuable items in your home, the date of purchase and the price. Give a copy of the inventory to your insurance agent or a family member. If you have a loss it will help you file a claim.
- Mark valuable items so that if they are stolen they are easier to recover.
- Consider buying homeowner's or renter's insurance to help recover items in case of theft or other loss.
- Check your phone bill and credit card bill to ensure that charges are not being made by someone else.
- Make sure you get keys back from any ex-employee. Change your locks if any keys are not returned by ex-employees.

To protect your personal safety:

- If anyone threatens you, notify police as well as neighbors and family/friends. Make sure neighbors and family/friends are aware if you fire an employee.
- Always dial 9-1-1 in an emergency.

### **Meeting Your Needs While You Get Started in Consumer Direction**

It may take a while to get your care started through Consumer Direction. You must complete required paperwork and training. Then, you must find workers to hire. They must complete required paperwork and training and pass a background check.

We want to make sure you get the care you need while you're getting started in Consumer Direction. So, your care coordinator will help you choose a contracted provider agencies that can give your care until your workers are ready. Then, you can start getting the care through Consumer Direction.

## Withdrawal from Consumer Direction

Deciding you don't want to be in Consumer Direction anymore

What if you decide you don't like hiring or managing your own workers?

- You can withdraw from Consumer Direction at any time.
- You can choose to keep getting some services through Consumer Direction and decide to use provider agencies for other services.
- You can start getting all your care through provider agencies. It's up to you.

To end Consumer Direction of any or all services, call your Care Coordinator. They will work with CDTN. After you contact your Care Coordinator, you will need to let your workers know that you will no longer need their services after a certain date. Work closely with your Care Coordinator to be sure you allow enough time to get provider agencies in place before you stop getting care through Consumer Direction.

### **When your MCO decides it's not safe for you to be in Consumer Direction anymore**

If your Care Coordinator feels it is unsafe for you to continue getting care through Consumer Direction OR you are not able to manage your workers, you may not be able to stay in Consumer Direction. This includes things like:

- Your Representative is not able to help you anymore and you don't have anyone else.
- You can't find or keep workers to give your care.
- Your backup plan isn't working.
- Your workers are not using the EVV system

Your Care Coordinator can recommend that you stop being in Consumer Direction, but the final decision is made by TennCare<sup>sm</sup>. Before your Consumer Direction ends, you'll get a letter. That letter will say how to appeal if you think you can make sure your workers use the EVV system and it's safe for you to stay in Consumer Direction.

If you stop getting care through Consumer Direction, you'll get the care you need from providers contracted with your MCO. What if you've been getting Companion Care through Consumer Direction? You can get other kinds of care that will meet your needs. Companion Care is only available through Consumer Direction. Your Care Coordinator will work with you to update your PCSP and help you choose a contracted Provider.

## Appendix

### Sample Job Description:

#### **Attendant Care services needed for a 35-year-old female with physical disabilities.**

**Duties include:** assistance with bathing, dressing, personal hygiene, toileting (including bowel and bladder care), eating, and range of motion exercises. Accompany into the community as needed. Give medication during hours care is provided.

**Education and Experience:** No degree required. Prefer someone with experience providing attendant services in the home for a person with disabilities.

**Salary Range:** \$10.00 to \$12.50 an hour depending on experience.

**Hours:** 5 hours per day, Monday, Wednesday and Friday, from 7:00 a.m. to noon and some weekend hours.

**Other Requirements:** The person selected should be prompt, reliable, able to work independently and have good personal hygiene. The person selected must submit to a criminal background check.

### Sample Want Ads:

**Wanted:** Person to work full-time as an Attendant for a person with a physical disability. Some light housekeeping and cooking required. Wages based on experience. Call Deborah at (XXX) 555-XXXX.

**Need dependable person** to provide personal care visits for a person with a disability. 6 p.m. to 9 p.m. M-F.  
Salary  
\$8.00/hour. Call Bill at (XXX) 555-XXXX.

Dear Employer:

Consumer Direct Care Network Tennessee would like to thank you for preparing and submitting tax documents necessary to establish a payroll account. The purpose of this letter is to distribute workplace posters that are required by the government for all employers. Thanks for your cooperation.

### Workplace Posters

All employers are required to post the enclosed posters per federal and state regulation. CDTN advises that workplace posters be posted in a conspicuous location where work is performed by your employees. The posters provide general information about workplace safety, minimum wage regulations, unemployment insurance procedures, discrimination policies, and Employee leave regulations. Sample images of these posters are presented below.



### Questions?

If you have any questions regarding the payroll service, or about workplace posters, please contact

**CDTN at 888-532-1907.** Thank you for your attention. Sincerely,



U.S. Department of Labor



# Job Safety and Health IT'S THE LAW!

## All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

*This poster is available free from OSHA.*

**Contact OSHA. We can help.**

## Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.





Departamento de Trabajo  
de los EE. UU.

**OSHA**<sup>®</sup>

Administración de  
Seguridad y Salud  
Ocupacional

# Seguridad y Salud en el Trabajo

## ¡ES LA LEY!

### Todos los trabajadores tienen el derecho a:

- Un lugar de trabajo seguro.
- Decir algo a su empleador o la OSHA sobre preocupaciones de seguridad o salud, o reportar una lesión o enfermedad en el trabajo, sin sufrir represalias.
- Recibir información y entrenamiento sobre los peligros del trabajo, incluyendo sustancias tóxicas en su sitio de trabajo.
- Pedir una inspección confidencial de OSHA de su lugar de trabajo si usted cree que hay condiciones inseguras o insalubres. Usted tiene el derecho a que un representante se comuniquen con OSHA en su nombre.
- Participar (o su representante puede participar) en la inspección de OSHA y hablar en privado con el inspector.
- Presentar una queja con la OSHA dentro de 30 días (por teléfono, por internet, o por correo) si usted ha sufrido represalias por ejercer sus derechos.
- Ver cualquier citación de la OSHA emitidas a su empleador.
- Pedir copias de sus registros médicos, pruebas que miden los peligros en el trabajo, y registros de lesiones y enfermedades relacionadas con el trabajo.

*Este cartel está disponible de la OSHA para gratis.*

**Llame OSHA. Podemos ayudar.**

### Los empleadores deben:

- Proveer a los trabajadores un lugar de trabajo libre de peligros reconocidos. Es ilegal discriminar contra un empleado quien ha ejercido sus derechos bajo la ley, incluyendo hablando sobre preocupaciones de seguridad o salud a usted o con la OSHA, o por reportar una lesión o enfermedad relacionada con el trabajo.
- Cumplir con todas las normas aplicables de la OSHA.
- Notificar a la OSHA dentro de 8 horas de una fatalidad laboral o dentro de 24 horas de cualquier hospitalización, amputación, o pérdida de ojo relacionado con el trabajo.
- Proporcionar el entrenamiento requerido a todos los trabajadores en un idioma y vocabulario que pueden entender.
- Mostrar claramente este cartel en el lugar de trabajo.
- Mostrar las citaciones de la OSHA acerca del lugar de la violación alegada.

Servicios de consulta en el lugar de trabajo están disponibles para empleadores de tamaño pequeño y mediano sin citación o multa, a través de los programas de consulta apoyados por la OSHA en cada estado.





# EMPLOYEE RIGHTS

## UNDER THE FAIR LABOR STANDARDS ACT

### FEDERAL MINIMUM WAGE

# \$7.25

 PER HOUR

BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

**OVERTIME PAY** At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek.

**CHILD LABOR** An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hours restrictions. Different rules apply in agricultural employment.

**TIP CREDIT** Employers of “tipped employees” who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employers must pay tipped employees a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.

**PUMP AT WORK** The FLSA requires employers to provide reasonable break time for a nursing employee to express breast milk for their nursing child for one year after the child’s birth each time the employee needs to express breast milk. Employers must provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

**ENFORCEMENT** The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The Department may litigate and/or recommend criminal prosecution. Employers may be assessed civil money penalties for each willful or repeated violation of the minimum wage or overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA’s child labor provisions. Heightened civil money penalties may be assessed for each child labor violation that results in the death or serious injury of any minor employee, and such assessments may be doubled when the violations are determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA.

**ADDITIONAL INFORMATION**

- Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions. Certain narrow exemptions also apply to the pump at work requirements.
- Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.
- Some state laws provide greater employee protections; employers must comply with both.
- Some employers incorrectly classify workers as “independent contractors” when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA’s minimum wage and overtime pay protections and correctly classified independent contractors are not.
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

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# DERECHOS DE LOS TRABAJADORES

BAJO LA LEY DE NORMAS JUSTAS DE TRABAJO (FLSA—siglas en inglés)

## SALARIO MÍNIMO FEDERAL

# \$7.25

POR HORA

A PARTIR DEL 24 DE JULIO DE 2009

**La ley exige que los empleadores exhiban este cartel donde sea visible por los empleados.**

### PAGO POR SOBRETIENTO

Por lo menos tiempo y medio (1½) de la tasa regular de pago por todas las horas trabajadas en exceso de 40 en una semana laboral.

### TRABAJO DE MENORES DE EDAD

El empleado tiene que tener por lo menos 16 años para trabajar en la mayoría de los trabajos no agrícolas y por lo menos 18 años para trabajar en los trabajos no agrícolas declarados peligrosos por la Secretaría de Trabajo. Los menores de 14 y 15 años pueden trabajar fuera del horario escolar en varias ocupaciones que no sean de manufactura, de minería, y que no sean peligrosas con ciertas restricciones al horario de trabajo. Se aplican distintos reglamentos al empleo agrícola.

### CRÉDITO POR PROPINAS

Los empleadores de “empleados que reciben propinas” que cumplan con ciertas condiciones, pueden reclamar un crédito de salario parcial basado en las propinas recibidas por sus empleados. Los empleadores les tienen que pagar a los empleados que reciben propinas un salario en efectivo de por lo menos \$2.13 por hora si ellos reclaman un crédito de propinas contra su obligación de pagar el salario mínimo. Si las propinas recibidas por el empleado combinadas con el salario en efectivo de por lo menos \$2.13 por hora del empleador no equivalen al salario mínimo por hora, el empleador tiene que compensar la diferencia.

### MADRES LACTANTES

La FLSA exige que los empleadores le proporcionen un tiempo de descanso razonable a la empleada que sea madre lactante y que esté sujeta a los requisitos de sobretiempo de la FLSA, para que la empleada se extraiga leche manualmente para su niño lactante por un año después del nacimiento del niño, cada vez que dicha empleada tenga la necesidad de extraerse leche. A los empleadores también se les exige que proporcionen un lugar, que no sea un baño, protegido de la vista de los demás y libre de la intrusión de los compañeros de trabajo y del público, el cual pueda ser utilizado por la empleada para extraerse leche.

### CUMPLIMIENTO

El Departamento tiene la autoridad de recuperar salarios retroactivos y una cantidad igual en daños y perjuicios en casos de incumplimientos con el salario mínimo, sobretiempo y otros incumplimientos. El Departamento puede litigar y/o recomendar un enjuiciamiento criminal. A los empleadores se les pueden imponer sanciones pecuniarias civiles por cada incumplimiento deliberado o repetido de las disposiciones de la ley del pago del salario mínimo o de sobretiempo. También se pueden imponer sanciones pecuniarias civiles por incumplimiento con las disposiciones de la FLSA sobre el trabajo de menores de edad. Además, se pueden imponer sanciones pecuniarias civiles incrementadas por cada incumplimiento con el trabajo de menores que resulte en la muerte o una lesión seria de un empleado menor de edad, y tales evaluaciones pueden duplicarse cuando se determina que los incumplimientos fueron deliberados o repetidos. La ley también prohíbe tomar represalias o despedir a los trabajadores que presenten una queja o que participen en cualquier proceso bajo la FLSA.

### INFORMACIÓN ADICIONAL

- Ciertas ocupaciones y ciertos establecimientos están exentos de las disposiciones del salario mínimo, y/o de las disposiciones del pago de sobretiempo.
- Se aplican disposiciones especiales a trabajadores de Samoa Americana, del Estado Libre Asociado de las Islas Marianas del Norte y del Estado Libre Asociado de Puerto Rico.
- Algunas leyes estatales proporcionan protecciones más amplias a los trabajadores; los empleadores tienen que cumplir con ambas.
- Algunos empleadores clasifican incorrectamente a sus trabajadores como “contratistas independientes” cuando en realidad son empleados según la FLSA. Es importante conocer la diferencia entre los dos porque los empleados (a menos que estén exentos) tienen derecho a las protecciones del salario mínimo y del pago de sobretiempo bajo la FLSA y los contratistas correctamente clasificados como independientes no lo tienen.
- A ciertos estudiantes de tiempo completo, estudiantes alumnos, aprendices, y trabajadores con discapacidades se les puede pagar menos que el salario mínimo bajo certificados especiales expedidos por el Departamento de Trabajo.



DIVISIÓN DE HORAS Y SALARIOS  
DEPARTAMENTO DE TRABAJO DE LOS EE.UU.

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# EMPLOYEE RIGHTS

## FOR WORKERS WITH DISABILITIES PAID AT SUBMINIMUM WAGES

This establishment has a certificate authorizing the payment of subminimum wages to workers who are disabled for the work they are performing. Authority to pay subminimum wages to workers with disabilities generally applies to work covered by the **Fair Labor Standards Act (FLSA)**, **McNamara-O'Hara Service Contract Act (SCA)**, and/or **Walsh-Healey Public Contracts Act (PCA)**. Such subminimum wages are referred to as "commensurate wage rates" and are less than the basic hourly rates stated in an SCA wage determination and/or less than the FLSA minimum wage of **\$7.25 per hour**. A "commensurate wage rate" is based on the worker's individual productivity, no matter how limited, in proportion to the wage and productivity of experienced workers who do not have disabilities that impact their productivity when performing essentially the same type, quality, and quantity of work in the geographic area from which the labor force of the community is drawn.

*Employers shall make this poster available and display it where employees and the parents and guardians of workers with disabilities can readily see it.*

### WORKERS WITH DISABILITIES

Subminimum wages under section 14(c) are not applicable unless a worker's disability actually impairs the worker's earning or productive capacity for the work being performed. The fact that a worker may have a disability is not in and of itself sufficient to warrant the payment of a subminimum wage.

For purposes of payment of commensurate wage rates under a certificate, a worker with a disability is defined as: An individual whose earnings or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed.

Disabilities which may affect productive capacity include an intellectual or developmental disability, psychiatric disability, a hearing or visual impairment, and certain other impairments. The following do not ordinarily affect productive capacity for purposes of paying commensurate wage rates: educational disabilities; chronic unemployment; receipt of welfare benefits; nonattendance at school; juvenile delinquency; and correctional parole or probation.

### WORKER NOTIFICATION

Each worker with a disability and, where appropriate, the parent or guardian of such worker, shall be informed orally and in writing by the employer of the terms of the certificate under which such worker is employed.

### KEY ELEMENTS OF COMMENSURATE WAGE RATES

- **Nondisabled worker standard**—The objective gauge (usually a time study of the production of workers who do not have disabilities that impair their productivity for the job) against which the productivity of a worker with a disability is measured.
- **Prevailing wage rate**—The wage paid to experienced workers who do not have disabilities that impair their productivity for the same or similar work and who are performing such work in the area. Most SCA contracts include a wage determination specifying the prevailing wage rates to be paid for SCA-covered work.
- **Evaluation of the productivity of the worker with a disability**—Documented measurement of the production of the worker with a disability (in terms of quantity and quality).

The wages of all workers paid commensurate wages must be reviewed, and adjusted if appropriate, at periodic intervals. At a minimum, the productivity of hourly-paid workers must be reevaluated at least every six months and a new prevailing wage survey must be conducted at least once every twelve months. In addition, prevailing wages must be reviewed, and adjusted as appropriate, whenever there is a change in the job or a change in the prevailing wage rate, such as when the applicable state or federal minimum wage is increased.

### WIOA

The Workforce Innovation and Opportunity Act of 2014 (WIOA) amended the Rehabilitation Act by adding section 511, which places limitations on the payment of subminimum wages to individuals with disabilities by mandating the completion of certain requirements prior to and during the payment of a subminimum wage.

### EXECUTIVE ORDER 13658

Executive Order 13658, Establishing a Minimum Wage for Contractors, established a minimum wage that generally must be paid to workers performing on or in connection with a covered contract with the Federal Government. Workers covered by this Executive Order and due the full Executive Order minimum wage include workers with disabilities whose wages are calculated pursuant to certificates issued under section 14(c) of the FLSA.

### FRINGE BENEFITS

Neither the FLSA nor the PCA have provisions requiring vacation, holiday, or sick pay nor other fringe benefits such as health insurance or pension plans. SCA wage determinations may require such fringe benefit payments (or a cash equivalent). Workers paid under a certificate authorizing commensurate wage rates must receive the full fringe benefits listed on the SCA wage determination.

### OVERTIME

Generally, if a worker is performing work subject to the FLSA, SCA, and/or PCA, that worker must be paid at least 1 1/2 times their regular rate of pay for all hours worked over 40 in a workweek.

### CHILD LABOR

Minors younger than 18 years of age must be employed in accordance with the child labor provisions of the FLSA. No persons under 16 years of age may be employed in manufacturing or on a PCA contract.

### PETITION PROCESS

Workers with disabilities paid at subminimum wages may petition the Administrator of the Wage and Hour Division of the Department of Labor for a review of their wage rates by an Administrative Law Judge. No particular form of petition is required, except that it must be signed by the worker with a disability or his or her parent or guardian and should contain the name and address of the employer. Petitions should be mailed to: Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, D.C. 20210.



WAGE AND HOUR DIVISION  
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# DERECHOS DE EMPLEADOS

## PARA TRABAJADORES CON DISCAPACIDADES QUE PERCIBEN UN SALARIO INFERIOR AL MÍNIMO

Este establecimiento cuenta con un certificado que autoriza el pago de salarios inferiores al mínimo a trabajadores discapacitados por el trabajo que realizan. La autorización para pagar salarios inferiores al mínimo a trabajadores con discapacidades por lo general se aplica a trabajo regido por la **Ley de Normas Justas de Trabajo** (FLSA, por sus siglas en inglés), la **Ley de Contratos por Servicios McNamara-O'Hara** (SCA, por sus siglas en inglés) y/o por la **Ley Walsh-Healey Sobre Contratos Públicos** (PCA, por sus siglas en inglés). Tales salarios inferiores al mínimo se conocen como "tasas salariales conmensurables" y son inferiores a las tasas básicas por hora establecidas en la determinación de salarios de la SCA y/o inferiores al salario mínimo de \$7.25 por hora según la FLSA. Una "tasa salarial conmensurable" se basa en la productividad individual del trabajador, no importa cuán limitada sea, en proporción al salario y a la productividad de los trabajadores experimentados que no tienen discapacidades que impactan su productividad cuando realizan esencialmente el mismo tipo, calidad y cantidad de trabajo en el área geográfica de la que proviene la fuerza laboral de la comunidad.

**Los empleadores deben hacer disponible y exhibir este cartel en un lugar donde los empleados y los padres y tutores de los trabajadores con discapacidades lo puedan ver claramente.**

### TRABAJADORES CON DISCAPACIDADES

Los salarios inferiores al salario mínimo según la sección 14(c) no se aplican a menos que la discapacidad del trabajador realmente perjudique sus ingresos o su capacidad productiva para el trabajo que realiza. El hecho de que el trabajador pueda tener una discapacidad no es en sí suficiente para justificar el pago de un salario inferior al mínimo.

Para efectos de las tasas salariales conmensurables según un certificado, un trabajador con una discapacidad se define como: Una persona cuyos ingresos o capacidad productiva se ve afectada por una discapacidad física o mental, incluidas aquellas relacionadas con la edad o las lesiones, para que se realice el trabajo.

Las discapacidades que pueden afectar la capacidad productiva incluyen una discapacidad intelectual o de desarrollo, una discapacidad psiquiátrica, una discapacidad auditiva o visual, y algunas otras discapacidades. Lo siguiente normalmente no afecta la capacidad productiva con el propósito de pagar tasas de salarios conmensurables: discapacidades educativas, desempleo crónico, recibo de beneficios sociales, falta de asistencia a la escuela, delincuencia juvenil y libertad condicional o bajo palabra.

### NOTIFICACIÓN AL TRABAJADOR

El empleador debe informar oralmente y por escrito a cada trabajador con una discapacidad y, cuando corresponda, al padre o tutor de dicho trabajador, sobre los términos del certificado según el cual dicho trabajador está empleado.

### ELEMENTOS CLAVES DE LAS TASAS DE SALARIO CONMENSURABLE

- **Norma de trabajadores no discapacitados**—El indicador objetivo (generalmente un estudio del tiempo de la producción de trabajadores que no tienen discapacidades que perjudiquen su productividad para el trabajo) contra el cual se mide la productividad de un trabajador con una discapacidad.
- **Tasa de salario prevaleciente**—El salario que se paga a trabajadores experimentados que no tienen discapacidades que perjudiquen su productividad por el mismo trabajo o trabajo similar y que realizan tal trabajo en el área. La mayor parte de los contratos SCA incluye una determinación de salario que especifica las tasas del salario prevaleciente que se tiene que pagar por el trabajo sujeto a SCA.
- **Evaluación de la productividad del trabajador con una discapacidad**—Medida documentada de la producción del trabajador con discapacidad (en términos de cantidad y calidad).

Los salarios de todos los trabajadores que perciben salarios conmensurables tienen que ser revisados, y ajustados si corresponde, en intervalos periódicos. Como mínimo, la productividad de los trabajadores asalariados por hora tiene que reevaluarse al menos cada seis meses y tiene que realizarse un estudio nuevo de salarios prevalecientes al menos una vez cada doce meses. Además, se tienen que revisar, y ajustar según corresponda, los salarios prevalecientes siempre que haya un cambio en el trabajo o en la tasa del salario prevaleciente, tal como cuando se incrementa el salario mínimo aplicable estatal o federal.

### WIOA

La Ley de Innovación y Oportunidades Laborales de 2014 (WIOA, por sus siglas en inglés) enmendó la Ley de Rehabilitación al agregar la sección 511, la cual impone limitaciones en el pago de salarios inferiores a los mínimos a las personas con discapacidades al exigir el cumplimiento de ciertos requisitos antes y durante el pago de un salario inferior al mínimo.

### ORDEN EJECUTIVA 13658

La Orden Ejecutiva 13658, que establece un salario mínimo para contratistas, estableció un salario mínimo que generalmente tiene que pagarse a los trabajadores que cumplen un contrato o en conexión con un contrato sujeto al Gobierno Federal. Los trabajadores sujetos a esta Orden Ejecutiva y a los que se les debe el salario mínimo completo de la Orden Ejecutiva incluyen a los trabajadores con discapacidades cuyos salarios se calculan conforme a los certificados emitidos según la sección 14(c) de la FLSA.

### BENEFICIOS COMPLEMENTARIOS

Ni la FLSA ni la PCA tienen disposiciones que requieran vacaciones, días festivos, o paga por enfermedad, ni otros beneficios complementarios como seguro de salud o planes de pensión. Las determinaciones de salario de SCA pueden requerir pagos de dicho beneficio complementario (o un equivalente en efectivo). Los trabajadores a los cuales se les paga según un certificado que autoriza tasas salariales conmensurables tienen que recibir enteramente los beneficios complementarios adicionales enumerados en la determinación de salario de SCA.

### SOBRETIEMPO

En general, si un trabajador se encuentra realizando un trabajo sujeto a la FLSA, SCA y/o PCA, se le tiene que pagar a ese trabajador tiempo y medio, es decir, 1 1/2 de su tasa regular de pago por todas las horas trabajadas después de las 40 horas en una semana laboral.

### TRABAJO DE MENORES DE EDAD

Los menores de edad de menos de 18 años tienen que ser empleados de acuerdo con las disposiciones federales para el trabajo de menores de edad de la FLSA. Ninguna persona menor de 16 años de edad puede ser empleada en la manufactura o en un contrato de la PCA.

### PROCESO DE SOLICITUD

Los trabajadores con discapacidades a los que se les paga salarios inferiores al salario mínimo pueden solicitarle al Administrador de la División de Horas y Salarios del Departamento de Trabajo que un Juez de Derecho Administrativo haga una revisión de las tasas de sus salarios. No se requiere ningún formulario particular de solicitud, excepto que tiene que ser firmado por el trabajador con una discapacidad o su padre o tutor y tiene que contener el nombre y la dirección del empleador. Las solicitudes se pueden enviar por correo a: Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210.



DIVISIÓN DE HORAS Y SALARIOS

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# TENNESSEE LAW PROHIBITS DISCRIMINATION IN EMPLOYMENT

IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY PERSON BECAUSE OF RACE, COLOR, CREED, RELIGION, SEX, AGE, DISABILITY, OR NATIONAL ORIGIN IN RECRUITMENT, TRAINING, HIRING, DISCHARGE, PROMOTION, OR ANY CONDITION, TERM OR PRIVILEGE OF EMPLOYMENT.

*If you feel that you have been discriminated against, contact the Tennessee Human Rights Commission.*



## LA LEY DE TENNESSEE PROHIBE LA DISCRIMINACIÓN EN EL EMPLEO

ES EN CONTRA DE LA LEY DISCRIMINAR EN CONTRA DE CUALQUIER PERSONA DEBIDO EN BASE A LA RAZA, COLOR, CREDO, RELIGIÓN, SEXO, EDAD, INCAPACIDAD U ORIGEN EN EL SELECCIÓN, ENTRENAMIENTO, EMPLEO, AL DESPEDIR, PROMOVER O CUALQUIER CONDICIÓN, TÉRMINO O PRIVILEGIO DE EMPLEO.

*Si usted cree que ha sido víctima de discriminación, comuníquese con la Comisión de Derechos Humanos de Tennessee.*

### CONTACT US/PARA MAS INFORMACIÓN:

TENNESSEE HUMAN  
RIGHTS COMMISSION



WILLIAM R. SNODGRASS TENNESSEE TOWER  
312 ROSA L. PARKS AVENUE  
23RD FLOOR  
NASHVILLE, TENNESSEE 37243-1102

PHONE: (615) 741-5825 OR  
1-800-251-3589  
ESPAÑOL: 1-866-856-1252  
[WWW.TN.GOV/HUMANRIGHTS](http://WWW.TN.GOV/HUMANRIGHTS)