

**SUPPORTS WAIVER**  
**EMPLOYER OF RECORD**  
**GUIDEBOOK**

**DRAFT**

**Human Services Department**  
**Medical Assistance Division**

**2020**

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# IMPORTANT CONTACT INFORMATION

## REPORT ABUSE, NEGLECT OR EXPLOITATION

**24-HOUR ABUSE, NEGLECT & EXPLOITATION  
REPORTING HOTLINE  
1-800-445-6242**

## NEW MEXICO CRISIS AND ACCESS LINE

If you or a loved one is experiencing any kind of emotional crisis, mental health or substance use concern, you can find help 24 hours a day, seven days a week, by calling the New Mexico Crisis and Access Line or Peer to Peer Warmline.

Toll Free 1-855-662-7474  
<https://www.nmcrisisline.com/>

**CONDUENT- MEDICARE FINANCIAL MANAGEMENT AGENCY (FMA)**  
(State contractor that provides payment for the eligible participant's service providers and tracks participant's Support Waiver expenses)

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Toll Free 1-800-283-4465

**PARTICIPANT NAME & PHONE NUMBER:**

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**PARTICIPANT GUARDIAN NAME & PHONE NUMBER:**

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**COMMUNITY SUPPORTS COORDINATOR NAME & PHONE NUMBER:**

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# INTRODUCTION

## *Welcome to Supports Waiver!*

You have been given this Guidebook because you are an Employer of Record (EOR) for yourself or a participant that is receiving Home and Community Based Services (HCBS) through a Medicaid self-directed waiver program called Supports Waiver.

## *What is participant-direction?*

Self-direction means that the participant and their designated circle of support can:

- Identify / choose which services under the Mi Via waiver program they want to use
- Access services/supports  
Manage their services, supports and goods to meet the participant's individualized needs

The eligible participant decides:

- When services, supports and goods will be provided;
- Where the services, supports and goods will be provided;
- How they will be provided;
- Who will provide these services; and,
- Who will assist them with the planning and managing of their services, supports and goods.



### RESOURCE:

#### **Supports Waiver Website**

**<https://www.nmhealth.org/about/ddsd/pgsv/csw/>**

The EOR Guidebook should be used as a reference to answer questions you may have and will help you start your journey in becoming an Employer of Record. You will find guidance and resources to help you understand your responsibilities as an EOR.

If you have any additional questions outside of what the Guidebook offers, you may contact the participant's Community Supports Coordinator or the Financial Management Agency (FMA) for assistance.

# EOR OVERVIEW

## *What is an Employer of Record?*

An Employer of Record (EOR) is the individual responsible for directing the work of Supports Waiver employees and vendors for Supports Waiver participants. The EOR is not paid.

An EOR is the common law employer of workers who provide waiver services. The EOR is responsible for:

- A. Completing EOR required training detailed in SW Service Standards
- B. Finding Qualified Employees
- C. Finding Qualified Vendors. A Vendor can be a DOH approved provider or another agency that provides the service that you are looking for.
- D. Hiring Employees
- E. Training Employees and assuring required training is completed by employees and vendors according to the SW Service Standards
- F. Setting Employee Work Schedules
- G. Approving Employee Timesheets and Vendor Payments

Although the EOR is not paid, the EOR plays an important role in ensuring that the Supports Waiver participant gets their services and goods.

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**RESOURCE: Review Self-Directed Waiver “Know Your Rights Campaign”**

<https://www.nmhealth.org/about/ddsd/diro/kyrc/>

## *Who can be an EOR?*

- A Supports Waiver participant may be his or her own EOR unless the eligible participant is a minor or has an authorized representative (i.e. guardian) over financial matters in place.
- If the participant is not their own EOR, the EOR must be a legal representative of the recipient
- The EOR should be aware of the participant’s supports needs, and have an interest in ensuring that the participant gets their services and goods.

A person interested in becoming an EOR must complete the Employer of Record packet to establish themselves as the EOR and to use the FMA for payroll and other employment related functions.

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# EOR RESPONSIBILITIES

## A. Finding Qualified Employees and Vendors

Finding the qualified employees and vendors takes time. Plan accordingly and consider the following:

- What tasks need to be performed to meet the participant's individualized needs?
- What Supports Waiver Service will accomplish those needs?
- Once the task is determined, what knowledge or skills does an employee or vendors need in order to complete the identified tasks?
- What are the required minimum qualifications and training based on the Service Standards for Employees and vendors

Use all the resources available and consider whether the participant wants to hire friends, family members, or look for employees.



**DRAFT** Keep in mind that the cost of recruiting service providers, such as placing advertisements in a newspaper, is the sole responsibility of the EOR and participant and there is no reimbursement for costs associated with recruiting or training service vendors.

Finding employees is the most important step in the hiring process. It is recommended that EORs consider the following steps before making final decisions to hire an employee:

1. Screen potential employees
2. Interview candidates
3. Check references



**TIP:** Recruiting is an ongoing activity. As the EOR directs services, the EOR will need to recruit employees for regular schedule and back up needs.

### **Screening Potential Employees**

Screening potential employees will assist the EOR in finding the right people to meet the needs of the participant. Please remember that not all applicants will meet the participant's needs and should be taken off the EOR's list of potential employees if they are not a good fit.

When screening potential employees, consider the following:

- Is the individual at least 18 years of age?
- What hours is the potential employee able to work?
- What days can the potential employee work?
- Does the potential employee have a valid driver's license?
- Does the potential employee have experience providing supportive care?
- Is the potential employee prepared to complete the required online training for the service they are being considered for? (Are any accommodations necessary?)



**RESOURCE:** For a complete list of all requirements, visit <https://www.nmhealth.org/about/ddsd/pgsv/csw/>  
The Supports Waiver Standards

*Interviewing Candidate*

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Interviews are a common method of screening potential employees. Interviews are a good way to determine if potential employees are qualified for, and a good fit to provide the services needed.

Conducting an interview allows the EOR the time to assess the potential employee's ability to work with the participant. This time can be used to give the potential employees a job description and discuss the duties required in providing the service. Prepare a few interview questions in advance to allow a better flow and to keep you on task. Here are few examples:

- Tell me about your experience working with individuals with disabilities?
- What are your strengths?
- What are your weaknesses?
- Why do you want this job?

Obtain the candidate's understanding of the set rate of pay and advise that a criminal background check and fingerprinting must be completed if an offer is made and accepted.

## Selecting Vendors

Interviews are an encouraged method of screening potential service vendors. EORs are encouraged to interview multiple vendors for the service that they are seeking.

Some examples of interview questions are below: How long has your agency been providing services?

- What feedback do you receive from individuals/families/guardians and can you provide me with references whom I may contact.
- How will the agency support my needs and what is important to me?



**RESOURCE:** Provider Selection Guide

<https://www.nmhealth.org/about/ddsd/pgsv/prvsel/guide/>

## Reference Checks

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If the EOR is unfamiliar with the work of a potential employee, the EOR may want to conduct a reference check. A reference check will provide the EOR with more information on the potential employee's work history and qualifications to perform job duties. To save time and effort during the hiring process, consider completing reference checks only for potential employees that the EOR intends to make a job offer to. Ask for references during the interview process.

Here are a few questions the EOR may use when checking references:

- Can you verify the candidate's employment, job title, and responsibilities?
- How do you know the candidate?
- What makes the candidate a good fit for this job?
- If you had the opportunity, would you re-hire this candidate?

Avoid any interview questions or reference checks related to age, gender, religion, race, ethnicity, or sexual orientation. As an employer, the EOR must abide by federal and state labor laws which protect individuals from discrimination. Questions of these sort cannot be legally asked.

## B. Hiring Employees and Vendors

When the EOR is not the participant themselves, the EOR should consider how to best include the participant in the interview and final decisions. The participant's comfort level and choice must be considered when making final hiring decisions. A participant or EOR can choose to hire employees or vendors to provide services.

Once a potential employee has been chosen, the EOR, will assist the potential employee with completing the paperwork that is required before, a potential employee can start to work. The following paperwork must be completed and submitted to the Financial Management Agency (FMA):

- ✓ Pre-hire Packet
- ✓ Employee Enrollment packet
- ✓ Fingerprint cards

Once a potential vendor has been chosen, the EOR, will assist the potential vendor with completing the paperwork that is required before, a potential vendor can start to work. A provider is referred to as a vendor. The following paperwork must be completed and submitted to the Financial Management Agency (FMA):

- ✓ Vendor Forms

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These documents are available from the FMA or the Community Supports Coordinator or on the New Mexico Medicaid Portal website:

<https://nmmedicaid.portal.conduent.com/static/ProviderInformation.htm#Self-DirectionForms>

### ***Employee Packet***

The Employee Packet is a set of documents that is reviewed by the FMA for all tax documents and is required to be completed by all employees who want to provide services to a participant.

What is included in the Employee Packet?

- i. Employee Information Form – This form will supply basic demographic information to the FMA to establish the employee's record in the FMA's database.
- ii. Employment Agreement – This document establishes the details agreed upon with each individual employee you have hired.

- iii. Self-Directed Provider Attestation Form – This form summarizes the Centers for Medicare and Medicaid Services (CMS) Settings Requirements for Home and Community Based Services (HCBS) Providers and your employee’s certification of its compliance.
- iv. Declaration of Relationship – Federal tax law contains exemptions from specific payroll tax withholdings based on certain familial relationships between you and the employee. Information provided on this form is used to properly apply the law.
- v. Federal W-4 Tax Withholding Form – This form notifies the FMA of the number of exemptions your employee will claim for Federal tax withholding purposes.
- vi. New Mexico State Withholding Form – This form notifies the FMA of the number of exemptions your employee will claim for State tax withholding purposes.
- vii. I-9 Employment Eligibility Verification Form – Both the participant/EOR and employee are responsible for completing this form. The employee is responsible for completing section 1. The participant is responsible for completing the information in Section 2. Both the participant/EOR and employee must sign the form. This form does not need to be returned to the FMA.
- viii. Direct Deposit Authorization (Optional) – This form is completed if the employee prefers their checks to be deposited directly into their bank account.
- ix. Publication 797 Earned Income Credit (Optional) – Publication 797 provides the employee with information regarding the IRS Earned Income Credit. If the employee has read the publication and would like to receive earned income credit through their paycheck, the employee can contact the IRS or go to the IRS website ([www.irs.gov](http://www.irs.gov)) to receive form W-5

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**TIP: One of the most common delays in employees and vendors starting work is incomplete paperwork. Ensure all required areas of the forms are completed prior to submitting the packet to the FMA. Keep a copy of the packet for your records and check with the FMA within 3-5 working days of submitting the packet to ensure they have received it.**

The participant's Community Supports Coordinator and the FMA can assist you by providing guidance on how to complete these forms.

Completed packets can be dropped off or mailed to the FMA at:

**Mailing Address:** Conduent  
PO Box 27460  
Albuquerque, NM 87125

**Physical Address:** 1720-A Randolph Road SE  
Albuquerque, NM 87106

**Toll Free 1-(866) 916-0310 Fax: 1-(866) 302-6787**



### **CHECKPOINT: What and who is the Financial Management Agency?**

The Financial Management Agency (FMA) is the state contractor that sends payment and completes payroll for the eligible participant's service providers and tracks participant's supports Waiver expenses. The FMA is responsible for:

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- Background Checks
- EOR enrollment
- Employee enrollment
- Processes employee payments
- Processes Vendor Payment
- Tracking Expenses
- Processing of tax related documents such as the W-2 and 1099

### **Background Check**

Before providing services, potential employees must complete a fingerprint-based background check and pass the New Mexico Consolidated On-line Registry (**NMCOR**) screening.

### **NMCOR Screening**

NMCOR is the State's current list of individuals who have substantiated (proven)

- Abuse;
- Neglect; and,
- Exploitation cases involving a recipient of care or services from a provider.

This screening is completed by the FMA usually within 24 hours from receipt of the employee packet.



**An employee may not begin working prior to the date he or she passes the NMCOR screenings and will not be paid for any services prior to this date.**

### ***Fingerprints***

Potential employees must be fingerprinted and pass a criminal history background check. Below are automatic **DISQUALIFYING CONVICTIONS**.

- homicide
- trafficking, or trafficking in controlled substances;
- kidnapping, false imprisonment, aggravated assault or aggravated battery;
- rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- crimes involving adult abuse, neglect or financial exploitation;
- crimes involving child abuse or neglect;
- crimes involving robbery, larceny, extortion, burglary, fraud, forgery,
- embezzlement, credit card fraud, or receiving stolen property; or
- an attempt, solicitation, or conspiracy involving any of the felonies in this previously listed

The EOR will receive notification through email or phone from the FMA regarding the potential employee's background check. If the employee is:

- ✓ **CLEARED**; the potential employee may begin or continue working

OR

**X DISQUALIFIED**; the employee must immediately stop providing services effective the date the FMA receives notification. The FMA will notify the EOR and will unlink the employee from the budget.



**TIP:** Fingerprinting can be completed at police stations and at vendors offering fingerprinting services. The FMA can provide you with information of where fingerprinting services can be completed in your area.

### C. Budgeting

The EOR will be making important decisions that will ultimately benefit how the participant is able to access their services, goods and supports. One of these decisions is using the established pay rates when hiring employees and vendors for services approved in the Supports Waiver budget.

#### How to Budget Accordingly

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Based on the participant's identified needs, the EOR will work with the participant and their Community Supports Coordinator to keep the budget within the participant's approved Individual Budgetary Allotment (IBA). The IBA is maximum budget amount established in the waiver for participant services and goods.

The participant's Community Supports Coordinator will assist in calculating total amounts for each service based on the participant's needs and the following:

- Frequency
- Duration
- Type of provider
- Cost
- Tax burden



**Always consult the approved Rates table and remember to include employer taxes in your budget calculation.**



**RESOURCE: Supports Waiver Rates and Service Codes**

<https://www.nmhealth.org/about/ddsd/pgsv/csw/>

The employee can set up direct deposit and receive payment directly through their designated bank account.

### ***D. Training and Managing Employees***

Once the employee has completed each stage of the hiring process and everything is in place, the participant's employee can start working. The EOR will:

- Train employees on specifics of the ISP related to the service they were hired for;
- Ensure that all employees, vendors complete DOH/DDSD/HSD required training for the Supports Waiver
- Prevent accidents in the workplace;
- Process Workers Compensation Claims; and
- Schedule Employees

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#### ***Training Employees***

The EOR will work with the participant and the employee to ensure that the employee is providing services in the way that supports the participant's preferences and choices.

#### ***Employee Pre-Service and Ongoing Training Requirements***

The EOR works with the Community Supports Coordinator to enter themselves and employees in the DDSD training database. The database provides access to the online trainings, creates a transcript for employees and provides for the ability for EOR to track completion.

<http://www.cdd.unm.edu/other-disability-programs/disability-health-policy/index.html>

While training employees on required elements not provided through DDSD training database, the EOR:

- ✓ Provides detailed directions in a manner that can be easily understood;
- ✓ Explains the types of tasks that need to be performed;
- ✓ Uses helpful tools like a checklist and provides a copy to the employee;
- ✓ Makes sure the employees understand the tasks by asking them to demonstrate the task. If the task is not completed correctly, take a moment to provide clarification;
- ✓ Always sets clear expectations during initial and ongoing training. The EOR should not ask employees to do work outside of the approved ISP or outside the qualifications of the employee;
- ✓ **Trains the employee to call 911** in case of an emergency and provides instructions on what they should do while help arrives;
- ✓ Lets employee know of any health and safety concerns in the event of emergency. This is best reinforced by keeping a list of:

- Medical conditions

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- Allergies
- Emergency contacts, such as doctors, specialist, and preferred hospital

Keep the list updated and readily available.



**Training will occur when an employee is first hired as well as ongoing. Ongoing training will assist with setting and maintaining a routine as well as introducing changes to daily tasks. Trainings will be provided through the Department of Health and by the EOR or Provider Agency.**

### ***Recognizing and Reporting Abuse, Neglect and Exploitation (ANE)***

ANE training is required for all EORs, employees and vendors. EORs and employees must take ANE Online training through the DDSD Training Hub. before working with a participant and annually thereafter.



**When in doubt, report. You may remain anonymous if you choose.**



**RESOURCE: Abuse, Neglect and Exploitation Online Training**  
<http://www.cdd.unm.edu/other-disability-programs/disability-health-policy/ddsd-courses/index.html>

### ***E. Scheduling Employees***

The EOR will establish a mutually agreeable schedule with employees. Please keep in mind that the EOR’s main concern is to access the services that the eligible participant needs in order to be healthy and safe.

When scheduling employees, setting expectations, and open communication will prevent employees from calling in late or not showing up to work at all. This will allow the EOR to find the gaps and fill them in with another employee.

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Employees should call in the event of:

- Illness;
- Emergencies; and
- Any other instance that prevents them from coming to work or arriving on time

### ***Creating a Backup Plan for Planned and Unplanned Events***

A backup plan is an alternate plan to cover unforeseen circumstances as well as planned events when the employee cannot work their regular schedule for:

- Unforeseen events can be illness or emergencies.
- Planned events can be holidays, planned vacations.

The backup plan should include:

- ✓ Paid and unpaid supports that will be available to provide services when regular scheduled employees cannot work
- ✓ A list of family members, neighbors, friends, or any other paid provider

The list should include:

- The name of the individual;
- Contact number;
- The service for which they will be utilized; and
- Dates/times they are available to assist.

The Community Supports Coordinator (CSC) will work with the participant and EOR on a backup plan.

## ***F. Authorizing Timesheets and Payments***

The EOR also has responsibility to manage employees and service records. This includes approving timesheets, signing payment request forms (PRFs), safeguarding protected health information, tracking expenses, keeping employee and vendor files, etc. Communicating with the FMA and correcting issues in a timely manner will ensure employees and vendors are paid correctly and on time.



Stay organized:

- ✓ Keep a calendar with important due dates and deadlines such as when timesheets must be entered and approved, when vendor Requests for Payments (RFPs) are due and must be approved
- ✓ Establishing a filing system for RFPs and invoices
- ✓ Keep a journal with notes related to EOR duties

### ***Access to FMA online system***

Prior to entering and approving timesheets online, the EOR must have access to the FMA online system. To get access:

1. Send a request to the FMA for access to FMA online system
2. Create a username and password
3. Complete FMA online system Training

The EOR will need to go through the "Charge Entry and Charge Review" training. There will be a quiz at the end that needs to be completed before the EOR is granted access to FMA online system.

After completing the required training and quiz, all FMA online system menu options for employers will become available.



**RESOURCE:** You will be provided with the weblink to the FMA online system, instructions on how to access and use the system including user names and passwords.

### ***Approving Timesheets***

**Timesheets:** used to pay for services provided by hourly employees

Timesheets are entered and approved in the FMA online system.

The EOR is responsible for:

- Ensuring that employees are paid correctly and on time;
- Reviewing timesheets carefully to ensure the hours reported are the hours worked and there is documentation supporting start and end time, nature of service, name of recipient and location of service;,
- Ensuring that the employee is not working more than the authorized hours and the time worked does not overlap or become duplicated.

Timesheets are submitted and processed on a two-week pay schedule. Reviewing and approving timesheets accordingly will prevent delay in payment.

### ***Approving Payment Requests Forms***

**Payment Request Forms (PRFs):** used to pay for one-time and ongoing vendor services. These services may include:

- Assistive Technology
- Non-Medical Transportation passes or mileage
- Vehicle Modifications
- Environmental Modifications
- SW Services provided by a vendor agency versus direct hire employee such as CCS – Group,

Vendors will submit a PRF to the EOR for review and signature. Once the EOR has reviewed, approved and signed the PRF, the EOR must submit the PRF to the FMA for processing. Payment requests cannot be submitted through the FMA online system, but they can be dropped off, mailed or faxed.

PRFs and invoices may be submitted to the FMA on any day of the week and are processed in approximately 2 weeks. The EOR will be:

- Completing
- Signing
- Submitting PRFs

Make sure that the service the EOR is requesting payment for has been provided. Do not sign PRFs that are blank or pre-dated.

Payment requests must:

- Fall within the approved ISP/budget year;
- Match the approved budget amount for the service/good and
- Be signed and dated accordingly

The FMA will mail the vendor check to the EOR and the EOR will forward the check to the vendor as soon as possible to ensure prompt payment. The vendor can set up direct deposit and receive payment directly through their designated bank account.

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Although PRFs and invoices must be faxed to the FMA for processing the EOR will have access in FMA online system to review payments and monitor them as they are being processed.



**TIPS:** A copy of the PRF and the current payroll schedule can be found in FMA online system under “Forms”- “General Materials”. Use this information to identify when pay periods start and end and when employees will get paid.

The EOR may want to provide a copy of the payroll schedule to employees and add the timelines to your calendar.

### ***Incorrect and/or Incomplete Timesheets and PRFs***

If a timesheet or invoice is submitted to the FMA and it does not contain the appropriate signatures or information, the FMA will contact the EOR to notify that payment could not be made. If the FMA is not able to contact the EOR via phone call, the FMA will send an e-mail and will copy the eligible

participant's Community Supports Coordinator. If the EOR does not have an e-mail address in FMA online system, the FMA will send an e-mail to the Community Supports Coordinator regarding the details. The Community Supports Coordinator will contact the EOR for further actions.

If the EOR is notified of an incorrect or incomplete timesheet or PRF, the EOR will need to:

1. Gather or correct the information requested by the FMA (example: copy of an invoice or receipt from the vendor, correct amount requested, etc.)
2. Submit the corrected PRF or requested information to the FMA by dropping it off, fax or by mail



**CHECKPOINT: Who can sign timesheets and PRFs?**

Only an EOR may approve employee timesheets and PRFs.

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***Timesheets and PRFs Safeguards***

When the EOR approves a timesheet or signs a PRF, they are certifying that the service has been provided. A timesheet and/or PRF must only be signed by the EOR after the service has been provided.



***EOR cannot pre-sign blank forms. This is considered Medicaid Fraud.***

If a vendor requests a signed PRF prior to rendering services, remind them of this requirement and do not provide a vendor with a signed, but otherwise blank PRF. This is considered **Medicaid Fraud** and can result in:

- Technical assistance;
- Fraud referral to Office of the Inspector General (OIG); and
- Termination from the program.

The Human Services Department (HSD) will refer cases related to Medicaid Fraud to the Office of Inspector General (OIG) for investigation.

### ***Timely-Filing Requirements***

All payment requests forms must be submitted within 90-days of the date the service was provided.

If timesheets or invoices are submitted more than 90 days after the service has been provided, payment will not be processed and the EOR will be notified.

### ***Electronic Visit Verification (EVV)***

EVV (Electronic Visit Verification) is a telephone and computer-based system that:

- Electronically verifies that the direct care worker visits occur; and
- Documents the time the service begins and ends.

EVV is required by the 21st Century Cures Act that was enacted by Congress in December 2016 and mandates that states require EVV use for Medicaid-funded Personal Care Services (PCS) and Home Health Care Services (HHCS) for in-home visits by a provider.

EVV data will assist both providers' and the State's efforts to protect the health and safety of Medicaid recipients who use these services.

EVV collects:

- Type of service;
- Individual receiving service;
- Date of service;
- Location of service;
- Individual providing service; and,
- Time service begins and ends.

EVV does not restrict the location in which a service is delivered.

Supports Waiver Services that require EVV are Personal Care Services and Respite .

## ***G. Monitoring Provision of Services and Expenses***

On a monthly basis, whether telephonically or in person, the participant will meet with the Community Supports Coordinator to ensure services and supports are meeting the eligible participant's needs. The Community Supports Coordinator will review the

budget, what has been spent and what funds have not been spent or “overutilized” or “underutilized.”

Overutilization is when the approved services and supports are used excessively or too much resulting in the eligible participant’s budget depleting or running out quicker than expected.

Underutilization is when the approved services and supports are used too little.

Both, over or underutilization, are signs of improper monitoring and implementation of funds.

Overutilization causes gaps in services by the end of the year and natural supports must be accessed to fill in these gaps. Usually, if there are funds available in other areas, a revision can be submitted to help fill in gaps.

Underutilization of services and supports can put the eligible participant at risk if the eligible participant’s needs are not met. Keep in mind that funds are allocated because there are identified needs associated with health and safety. If the services are not used, needs might go unmet.



**TIPS:** The EOR can use FMS online system to run pending reports as often as needed. The EOR also can renew claims and pending charges. Monitoring the participant’s spending closely will allow the participant to plan and adjust accordingly.

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When monitoring services and expenses:

- ✓ Ensure that employees are providing the services they were hired for.
- ✓ Review timesheets to ensure the right number of hours are being reported for the specific period that is being submitting.
- ✓ Ensure PRFs have the proper cost for the proper service as approved.
- ✓ Do not let employees work more hours than what has been approved.
- ✓ Do not pre-sign or pre-date PRFs for services that have not yet been provided.

# PREVENTING ACCIDENTS IN THE WORKPLACE

Every employer should provide a safe environment for the individuals they support and their employees. A few things on preventing injury are listed below:

- Be aware of any dangers in the eligible participant's home that might contribute to accidents and injuries.
- This also includes providing employees with the tools needed to perform tasks in a safely manner.
- If the eligible participant uses any durable medical equipment, make sure that employees are trained in the proper use of them, as well as maintaining and properly cleaning the equipment.
- During transfers, ensure the proper number of employees are involved to complete safe transfers.
- Remove any barriers that would contribute to falls (such as small rugs, extension cords, slippery floors, etc.)
- Ensure employees wear proper clothing and appropriate Personal Protective Equipment to complete the assigned tasks, this might include wearing non-slip shoes.
- Provide training materials on proper lifting and moving techniques.
- Provide current information regarding any Public Health Order from Department of Health.

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## Workers Compensation Claims

Workers Compensation is available for injured employees through coverage provided by the FMA. Seek assistance and guidance from the FMA as needed.

If an employee needs to file a Workers Compensation Claim:

1. The EOR or employee will first contact Cress Agency at 505-938-2424.
2. Cress Agency will send the EOR a First Report of Entry form.
3. This form will need to be filled out completely by the EOR and employee.
4. Once the First Entry form is filled out, it must be sent to New Mexico Mutual. New Mexico Mutual is the insurance company that the workers compensation claim is filed through.
5. New Mexico Mutual will assign an individual adjuster to the claim.
6. The adjuster will contact the employee and the EOR to confirm the incident.
7. If the employee has been off work for more than 2 weeks, workers compensation payments will begin.
8. Any medical bills will need to be sent to the adjuster.



**RESOURCE: Workers Compensation Claims**

- Cress Agency  
Phone 505-938-2424 or 505-938-2416
- New Mexico Mutual  
Phone: 505-345-7260 or  
Fax: 505-345-0656  
Email: [mmclaims@newmexicomutual.com](mailto:mmclaims@newmexicomutual.com)

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## MEDICAID FRAUD, ABUSE & WASTE

Records, timesheets and PRFs can be reviewed and audited at any time.

EORs and the employees must adhere to the program rules and requirements to avoid suspicion of fraudulent activity.

Examples of what can be considered Medicaid Fraud, Waste and Abuse:

- Approving timesheets or PRFs for time or services not rendered.
- Utilizing FMA checks to purchase goods that are not approved in the budget.
- Altering employee/vendor payment checks.
- Paying for services or goods that violate Federal or State statutes, rules or guidance.
- Paying for services or goods for someone else other than the eligible participant.
- Forging signatures in timesheets or PRFs.
- Claiming services while the eligible participant is in the hospital, nursing home, rehabilitation facility, etc.

HSD will refer cases related to Medicaid fraud to the OIG for investigation. False claims have federal and civil penalties and fines.



**The EOR holds significant responsibility to prevent abuse of the eligible participant's funds.**

# PROPERLY STORING SERVICE RECORDS

As an EOR it is important to keep records that show that services have been provided as outlined in the ISP and Budget. The Supports Waiver program rules require that every EOR maintains records for a minimum of 6 years from the first date of service.

Important documents to keep include but are not limited to:

- Approved ISP and Budget;
- Copies of signed Employee and Vendor Agreements;
- Copies of invoices, PRFs, mileage sheets, or timesheets;
- Receipts for goods purchased;
- Daily progress notes; and
- Attendance logs.

These documents needed to complete EOR responsibilities may also be requested by the Human Services Department (HSD) or Department of Health (DOH) during program audits. In addition, the EOR must protect employees' privacy and confidentiality. The EOR must have a secure place to store paper and electronic files and keep them as secure in case they are needed.

# DRAFT



**TIPS: Making one file for each employee will help the EOR with organization.**

## ***HIPAA and Protected Health Information***

HIPAA stands for Health Insurance Portability and Accountability Act. HIPAA was passed in 1996. The purpose of HIPAA was to:

- Set national standards for the protection of health information and improve healthcare delivery
- Sets basic privacy protections for individuals.

There are two parts to HIPAA:

1. The Privacy Rule

The Privacy Rule created protections for protected health information (PHI) held by covered entities. Examples of covered entities are health care providers such as NMDOH, or healthcare plans, etc.

The Privacy Rule ensures that an individual's PHI is only shared on a need to know basis.

The Privacy Rule protects health information in all forms:

- Electronic
- Verbal
- Written

## 2. The Security Rule

The Security Rule is a set of guidelines protecting PHI that is created, received, maintained or transmitted electronically by covered entities.

The Security Rule includes:

- Administrative safeguards
- Physical safeguards
- Technical safeguards

These covered entities should be used to ensure the confidentiality, integrity, and availability of electronic protected health information.

# DRAFT



### **CHECKPOINT: What is considered protected health information (PHI)?**

PHI is information that identifies, or could be used to identify, a client, either by itself or when combined with other information. Examples of PHI include but are not limited to:

- Name
- Address
- Social security number
- Telephone number
- Email address
- Dates such as date of birth, admission date, discharge date
- Medical record number
- Health plan account numbers

## How to Protect PHI

### Spoken Communication

- Watch what you say, where you say it, and to whom.
- Close doors when discussing private information.
- Do not talk about health information matters in front of others.
- If someone asks you a question involving personal information, make sure that person has a “need to know” before answering.

### Telephone Communication

- Do not leave messages on answering machines or voicemail with health information.
- When talking on the phone, be aware of who can overhear your conversation.

### Medical Records

- Make sure medical records are viewed only by those who need to see them.
- Store them in an area not easily accessible to non-essential staff/others.
- Do not leave medical records lying around unattended or in an area where others can see them.
- Don't leave files on car seats, lock them in the trunk.

### Trash

- Shred all papers containing personal health information.
- Put trash cans and shredders as close as possible to fax machines and desks where personal health information is used.

### Fax Transmissions

- Do not leave papers containing private information on the fax machine.
- Pre-program frequently faxed numbers into the fax machine to reduce errors.
- If possible, notify the receiver when you are sending a fax.

### Computers

- Develop a personal password which is hard to guess and change it as instructed.
- Position your monitor so it is not facing where someone could view identifiable health information.
- Never leave a computer unattended without logging off.
- Double-check the address before sending any e-mail.
- Do not send confidential information via e-mail. Consider searching for a free system/software which allows secure or encrypted e-mails.

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## DEFINITIONS

**Authorized annual budget (AAB):** The total approved annual amount of the eligible participant's Supports Waiver services and goods.

**Back Up Plan:** A backup plan lists who the EOR will contact in an emergency or if a regularly scheduled employee is unable to report to work. The Emergency Back-Up Plan is mandatory and must be completed in the SSP.

**Community Supports Coordinator Provider:** The agency or an individual of the eligible participant that provides community supports coordinator services to you. The community supports coordinator agency will assist the eligible participant in arranging for, directing and managing the Supports Waiver services and support, as well as developing, implementing and monitoring the services and support plan.

**Community Supports Coordinator:** Community Support Coordinator (CSC) Services are intended to educate, guide, assist and monitor the participant to make informed planning decisions about services and supports through a person-centered planning process.

**Department of Health (DOH):** Operates the supports waiver program.

**Employer of Record (EOR):** The assigned individual that is responsible for directing the work of the employees. The EOR is responsible for recruiting, hiring, managing and terminating all employees as appropriate. The EOR is responsible for directing the work of any vendors contracted to perform services. The EOR tracks expenditures for employee payroll, goods, and services. EORs authorize the payment of timesheets by the FMA.

**Electronic Visit Verification (EVV):** A telephone and computer-based system that electronically verifies that the direct care worker visits occur and documents the time the service begins and ends.

**Employee:** person who is employed by the EOR and provides services to the eligible participant. In order to provide services to an eligible participant and receive payment for delivered services, the employee must meet qualifications set forth in the waiver, regulations and standards; complete and sign an employee agreement and all required tax documents.

**Employer Authority:** The Employer of Record (EOR) is the employer of service providers and vendors. The FMA serves as the eligible participant's agent in conducting payroll and other employer-related responsibilities that are required by Federal and State law.

**Financial management agency (FMA):** The state contractor that provide payment for Supports Waiver service providers and track the expenses.

**Human Services Department (HSD):** Administers the Supports Waiver program.

**Participant:** The individual who meets medical and financial eligibility and is approved to receive services through the Supports Waiver program.

**Payment Request Form (PRF):** The form that an EOR completes, signs and submits to the FMA for vendor payments. These may be for one-time purchases or ongoing services.

**Person-Centered Planning:** A way to help the eligible participant plan their services and supports to live a full life in the community. The eligible participant's plan is written in his or her words, and says what her or her goals, preferences, and interests are. There are four steps in the person-centered thinking, person-centered planning and person-centered practice process:

1. Assessment
2. Person-centered planning meetings
3. Writing the plan
4. Reviewing the plan

**Self-direction:** Participants identifies, accesses and manages the services (among the state-determined waiver services and goods) that meet their assessed therapeutic, rehabilitative, habilitative, health or safety needs to support the eligible recipient to remain in their community. Participants in self-direction have employer authority and budget authority over waiver services and take direct responsibility to manage their employees and vendors within a system of available supports.

**Individual and support plan (ISP):** The plan that includes the Supports Waiver services that meet the eligible participant's individualized needs.

**Timesheet:** Reported worked hours for each employee. Timesheets lists the dates and times worked and must be approved by the EOR for payment.

**Vendor:** A vendor is employed by and provides services to the eligible participant. In order to provide services and receive payment for delivered services, the vendor must meet qualifications set forth in the waiver, regulations and standards and complete and sign a vendor agreement and all required tax documents.

## ADDITIONAL RESOURCES



### **Supports Waiver Service Standards:**

<https://www.nmhealth.org/about/ddsd/pgsv/csw>



### **The New Mexico Administrative Code for Supports Waiver Home and Community-Based Services Waiver:**



### **Self-Direction FMA Forms (Supports Waiver & Self-Directed Community Benefit):**

<https://nmhealthportal.com/clients/status/ProviderInformation.htm#Self-DirectionForms>

# DRAFT

Self-direction is a tool that leads to self-determination, through which participants can have greater control over their lives and have more freedom to lead a meaningful life in the community. Within the context of Supports Waiver, self-direction means participants choose which services, supports and goods they need. Participants also decide when, where and how those services and supports will be provided and who they want to provide them. Participants decide who they want to assist them with planning and managing their services and supports. Self-direction means that participants have more choice, control, flexibility, freedom and responsibility.