

## Self-Directed Services - Family As Staff Form Guidance

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**\*All text in red indicates added/revised language since the prior release date**

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### AUDIENCE

- Participant’s Self-Directing Services
- Coordinators of Community Services
- Fiscal Management Services Providers
- Developmental Disabilities Administration (DDA) Regional Office (RO)

### PURPOSE

Participants self-directing services can hire a relative for the services as noted in this guidance as per the federally approved DDA operated Medicaid Waiver program.

Participants complete a DDA Family As Staff form when choosing to hire a relative. This form is used to inform their team, Coordinator of Community Services (CCS), Fiscal Management Services (FMS) provider and submitted to the DDA.

This guidance includes:

1. Updates to the previous DDA SDS Family As Staff Form;
2. Creates a streamline process to continue to use a relative hired under the Appendix K COVID-19 public health emergency authority after December 31, 2021; and
3. Clarifies when the DDA SDS Family As Staff form must be submitted with a Person-Centered Plan.

## DEFINITIONS

- A. “Annual Plan” means the person-centered plan completed within 365 days of the agreed upon Annual PCP date. This date is chosen by the person when they first enter services and the initial PCP is developed.
- B. “Coordinator of Community Services” or “CCS” means an individual who provides Coordination of Community Services either as an employee or contractor of a DDA provider licensed or certified/approved to provide Coordination of Community Service
- C. “DDA Medicaid Waiver program” means each Medicaid Home- & Community-Based Waiver program submitted by the Maryland Department of Health and approved by the Centers for Medicare & Medicaid Services pursuant to § 1915(c) of the federal Social Security Act, which is overseen and administered by DDA: Community Pathways, Community Supports and Family Supports.
- D. “Designated representative” means an individual who acts on behalf of the participant in managing the participant’s services under the self-directed services delivery model in accordance with applicable requirements.
- E. “Direct Support Staff” or “Direct Support Professional” (DSP) means an individual who is paid to provide direct care services to a participant.
- F. “Extraordinary Care” means care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of a participant without a disability or chronic illness of the same age and which is necessary to assure the health and welfare of the participant and avoid institutionalization.
- G. “Fiscal Management Services provider” or “FMS provider” means a DDA provider selected by and contracted with the DDA to provide fiscal management services to support each participant enrolled in the Self-Directed Services delivery model.
- H. “Initial PCP” means the first person-centered plan developed for a participant once they are approved for waiver services or is the new PCP for a different DDA program type. It is the first step in applying for another waiver program when the participant is already currently enrolled in another.
- I. “Legal guardian” means either:
  - 1. A natural or adoptive parent of an applicant or participant under the age of 18; or
  - 2. A person who has been appointed as guardian of the person or property of an applicant or participant by an order of a court of competent jurisdiction.
- J. “Legally Responsible Person” means an individual who has a legal obligation under the provisions of Maryland law to care for another individual. Under Maryland law, this may include a parent (either natural or adoptive), legal guardian, or individual otherwise legally responsible for the care of a minor (e.g., foster parent or relative appointed by court).
- K. “LTSS*Maryland*” means an electronic information system, developed, and supported by the Maryland Department of Health, used by DDA, the CCS, and DDA Providers to

create, review, and maintain records regarding an individual's eligibility status for DDA-funded services, the individual's Person-Centered Plan, and services and funding authorized by the DDA.

- L. "Participant" means an individual enrolled in, and receiving, DDA-funded services.
- M. "Person-centered plan" means a written plan that is developed by a planning process driven by the individual with a developmental disability in order to:
  - 1. Identify the goals and preferences of the individual with a developmental disability;
  - 2. Identify services to support the individual in pursuing the individual's personally defined outcomes in the most integrated community setting;
  - 3. Direct the delivery of services that reflect the individual's personal preferences and choice; and
  - 4. Identify the individual's specific needs that must be addressed to ensure the individual's health and welfare.
- N. "Regional Office" means one of the four local offices of the DDA, serving as the point of contact for applicants, participants, and DDA providers located in certain counties of Maryland. Each Regional Office has the authority to review individual PCPs and authorize funding for services. The Regional Offices are:
  - 1. Central Maryland Regional Office, serving Anne Arundel, Baltimore, Howard, and Harford Counties and Baltimore City;
  - 2. Eastern Shore Regional Office, serving Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties;
  - 3. Southern Maryland Regional Office, serving Calvert, Charles, Montgomery, Prince George's, and St. Mary's Counties; and
  - 4. Western Maryland Regional Office, serving Allegany, Carroll, Frederick, Garrett, and Washington Counties. "Relatives" means a natural or adoptive parent, stepparent, or sibling.
- O. "Revised PCP" means a plan developed when an active Initial or Annual PCP requires changes to services, outcomes, or other elements of the plan that reflect a change in the person's needs and wants. Reasons for a revision may include but are not limited to discontinuation, initiation or increase in a service; newly identified outcome, etc.
- P. "Self-directed services delivery model" means the method for delivery of Waiver program services to the participant that is an alternative to the traditional services delivery model, whereby the participant or the participant's designated representative manages aspects of service delivery.
- Q. "Spouse" means an individual legally married under the applicable laws to another individual.

- R. “Support Broker” means an individual hired by a self-directing participant to provide information and advice to make informed decisions related to day-to- day management of staff providing services within the available budget.
- S. “Team” means a group of individuals, chosen by the individual with a developmental disability or that individual’s legal guardian, to participate in development of the person-centered plan with the Coordinator of Community Services.

**What DDA Services Can Relatives Be Hired as Staff**

- A. Relatives can provide the following DDA waiver services:
  - 1. Community Development Services
  - 2. Employment Services (Ongoing job supports and follow along only)
  - 3. Nursing Support Services
  - 4. Personal Support Services
  - 5. Respite Care Services
  - 6. Support Broker Services
  - 7. Supported Living
  - 8. Transportation

Reference: [DDA federally approved Medicaid Waiver programs](#)

- B. Under the DDA Appendix K COVID-19 public health emergency authority participants are able to hire relatives and legally responsible individuals to deliver additional services until **June 30, 2022**. See additional information noted below under “Appendix K Flexibilities Hiring Relatives”

**When to Use the DDA SDS Family As Staff Form**

- A. The Family as Staff Form must be completed by the self-directing participant or another member of their team when:
  - 1. The participant is hiring a relative to provide an approved DDA eligible self-directed waiver service;
  - 2. The participant is submitting an Annual Person-Centered Plan (PCP) and a relative was chosen to provide a service; and
  - 3. The participant wants to continue to use a relative they hired during the Appendix K public health emergency authority to provide an eligible service as noted above.
- B. The DDA SDS Family as Staff form must be submitted to the participant’s CCS.

## Person Centered Plan Requirements

The DDA SDS Family As Staff form is required when hiring a relative and must be submitted with the following:

- A. Initial Person-Centered Plans;
- B. Revised Person-Centered Plans; and
- C. Annual Person-Centered Plans.

## Requirements for Relatives to be Hired as Staff

- A. The DDA Waiver services must be included in the participant's authorized Person-Centered Plan (PCP) and follow all of the program's rules and requirements.
- B. The request must be reviewed and approved by the DDA unless otherwise noted in this guidance.
- C. All relatives that are hired as staff must meet the minimum requirements to provide the DDA Waiver service they are hired to perform. Depending on the Waiver service, this may include background checks and CPR/First Aid certifications. Other training needs may be required, based on the participant's preferences, and needs.
- D. Relatives can be hired as staff or hired to be the support broker.
- E. The name of the specific service as included in the budget (such as Personal Supports) and permitted by the program should be listed. Please note that "Direct Support Staff" is not a service and should not be listed. Reference: Section 2 of the form - "Job They Will Have" column.
- F. Pay rates for Family as Staff on the form should be in alignment with the information provided on staff application and the approved budget sheets.
- G. A Designated Representative name and/or signature should not be completed unless the DDA's new Participant Agreement form has been completed and indicates that person as a Designated Representative.

## Service Exceptions and Limitations

- A. Nursing Support Services
  - A relative cannot be paid either directly or indirectly, to provide Nursing Support Services unless otherwise approved by the DDA due to extraordinary circumstances.
- B. Personal Support Services
  - A relative that provides Personal Support Services may not be paid for more than 40 hours per week, unless authorized by the DDA.
- C. Spouses cannot serve as a direct support professional for the following DDA waiver services:
  - Personal Support Services;
  - Respite Care Services;
  - Community Development Services;
  - Employment Services;
  - Supported Living; and
  - Transportation.

- D. Support Broker Services
  - A relative who is paid for Support Broker Services cannot:
    - Work more than 40 hours per week;
    - Serve as a designated representative or manage the participants self-directed services; or
    - Provide any other DDA waiver services.
  - A spouse can provide Support Broker Services but cannot be paid for the service.
- E. Supported Living
  - A relative that provides Support Living cannot live in the participant's residence.

## Appendix K Flexibilities Hiring Relatives

- A. Under the DDA Appendix K authority, participants self-directed services may hire relatives and legally responsible individuals to deliver services. Reference: [DDA COVID-19 Resources](#)
- B. Participants can continue to employ a relative after **June 30, 2022**, for the following services only:
  1. Community Development Services
  2. Employment Services (Ongoing job supports and follow along only)
  3. Nursing Support Services
  4. Personal Support Services
  5. Respite Care Services
  6. Support Broker Services
  7. Supported Living
  8. Transportation
- C. If the relative was hired during the public health emergency for a service **is not noted above under B.**, then the participant has the options to hire a new staff member that is not a relative, hire a vendor, or hire a provider.

## DDA SDS Family As Staff Appendix K Unwinding Streamline Process

The following process will be used to inform the team and the DDA of the choice to continue to employ a relative as staff after **June 30, 2021**.

- A. The participant or a member of their team must complete the DDA SDS Family As Staff.
- B. The form must be sent to the participant's CCS.
- C. The CCS will:
  1. Confirm with the participant their choice to hire the relative and ensure the form is complete.
  2. Forms that meet the following criteria will be uploaded to the participant's record in the LTSSMaryland-DDA Module Client Attachments and a copy sent to the FMS
    - i. Section 1: My Family as Staff Choice – one option only is selected. Options include: #1 I do not want to hire a relative, #2 I want to hire a relative to be my Support Broker, or #3 I want to hire a relative(s) to be my Direct Support Staff.
    - ii. Section 2: Family as Staff
      - (a) Name of person, relationship, job they will have, rate of pay, and hours per week are completed
      - (b) Job noted is for one of the allowable services

- (c) Hours per week not to exceed a total of 40 hours for all services provided by one family member
  - (d) Hiring the person is in the best interest of the participant
  - (e) Check marks are noted for all attestations (e.g., This is my choice and is supported by my team.)
  - (f) All applicable signatures are noted
3. Forms that do not meet the above criteria will be sent to the DDA Regional Office SDS Lead for review.
- D. To avoid disruption in payment for services, form should be completed as soon as possible.

### DDA SDS Family As Staff Appendix K Unwinding FAQs

A. When does the Appendix K flexibility for hiring relatives end?

Participants are able to hire relatives as staff under the Appendix K flexibility until **June 30, 2022**.

B. Can participants continue to use relatives hired under Appendix K after **June 30, 2022**?

Yes. Participants can choose to continue to have relatives hired during the public health emergency as staff for the following allowable DDA Waiver services only:

- Community Development Services
- Employment Services (Ongoing job supports and follow along only)
- Nursing Support Services
- Personal Support Services
- Respite Care Services
- Support Broker Services
- Supported Living
- Transportation

C. Does a DDA SDS Family as Staff Form need to be submitted for relatives hired during the public health emergency?

Yes. A DDA SDS Family as Staff form must be submitted (for allowable services noted above) by the participants or a member of their team, to the Coordinator of Community Services (CCS).

D. If family members were working as staff prior to the health emergency and are listed as staff in the plan and/or on an older version of the Family as Staff form, is this new form due before **June 30, 2022**?

If a participant previously completed the Family as Staff form process for a relative is noted in a DDA approved plan, then they do not need to take any action related to that relative until the next Annual or Revised PCP is completed.