



**Community Alternatives Program 1915 (c) HCBS
Waiver
July 2017**

**Department of Health and Human Services
Consumer-Direction CAP/C CME Training**



Training Objectives

- Overview of consumer-direction
- Consumer-direction assessment tools
- Evaluating the self-assessment questionnaire and identifying readiness to self-direct
- Enrollment in consumer-direction
- Care coordination and consumer-direction
- Ensuring health safety and well-being of consumer-directing beneficiary



Overview of consumer-direction



Overview of consumer-direction

Consumer-direction is an option in the CAP/C waiver that allows the CAP beneficiary or designee to act in the role of employer by:

- **Freely choosing who will provide care;**
- **Recruiting, hiring and firing employee(s);**
- **Negotiating the wages to pay employee(s);**
- **Selecting the hours of care that best meet family needs; and**
- **Creating a schedule and a task list that best meet family needs.**



Overview of consumer-direction

5 Principles of consumer-direction:

1. Freedom to determine a meaningful life by identifying the amount, frequency, and duration of needed services
2. Authority to control budget with assistance and support
3. Support in obtaining formal and informal resources to achieve goals and meet needs
4. Responsibility in using public funds wisely
5. Confirmation by embracing a leadership role



Overview of consumer-direction

Benefits of consumer-direction:

- Control over care plan and service provisions
- Greater access to care
- Reduction of unmet needs
- Freedom to select relatives, neighbors, church members, and friends to provide care
- Increased satisfaction of care
- Ability to negotiate wages to maximize available hours of care



Overview of consumer-direction

Provider-Directed care versus Self-Directed care

Provider-directed care

Hired staff is managed by in-home care agency

Job description & recruitment is routine and not person-centered

Pay rate based on market rates

In-home aide agency manages payroll, performance evaluations, and rescheduling of staff

The case manager takes lead coordinating the care needs

Self-directed care

Beneficiary is the employer

Beneficiary develops a person-centered job description and recruits the right employee(s)

Beneficiary negotiates rate of pay

Beneficiary supervises, manages, and trains employee(s)

Beneficiary takes lead in coordinating care needs



Overview of consumer-direction

Eligibility Criteria:

- Approved for enrollment in the CAP waiver
- Completion of a self-assessment questionnaire that identifies ability and readiness to direct care
- A display of cooperativeness with current plan of care
- Participation in and completion of a consumer-directed orientation and training sessions



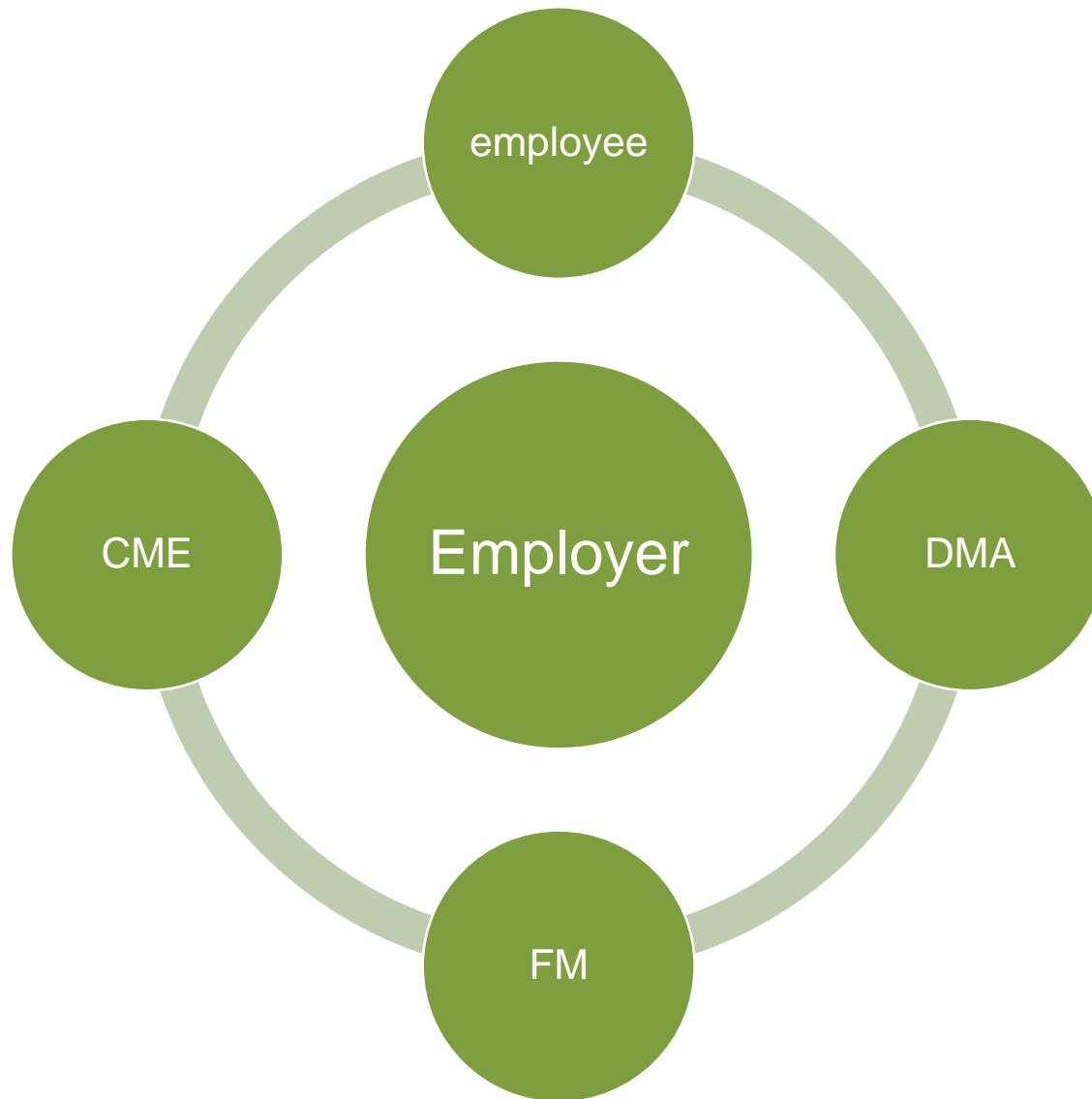
Overview of consumer-direction

Directable services:

- Personal care assistance: T2027
- Respite personal care assistance: S5150
- Pediatric personal care: T1019
- Respite pediatric personal care: T1004

Overview of consumer-direction

Key players



Overview of consumer-direction

Key player; **CAP beneficiary** is the employer of record and responsible for:

- Recruiting, hiring, training, supervising, and terminating the employee(s)
- Negotiating rate of pay for employee(s)
- Developing job description and work schedule for employee(s)
- Maintaining records of timesheets and task sheets
- Assisting in the development of the consumer-directed person-centered plan of care
- Creating an emergency back-up and disaster plan to ensure care needs are met during an emergency or unplanned occurrence
- Monitoring care expenditures to ensure alignment with plan of care in terms of pay rate and approved hours
- Collectively collaborating with the care advisor and the financial manager to manage health, safety, and well-being

Overview of consumer-direction

Employer of record:

- **Develops a job description that includes:**
 - Task list
 - Time schedule
 - Other job requirements
- **Maintains confidentiality in the areas of:**
 - Wages
 - Personnel issues
- **Conducts performance evaluations to monitor:**
 - Performance of tasks
 - What is working and not working
 - Areas of improvement



Overview of consumer-direction

Key player; Case Management Entity- Care advisor is a person assigned to support the beneficiary in completing tasks in consumer-direction such as:

- Facilitating trainings and orientation sessions
- Assisting with referral to financial manager and obtaining required documents (referral form, participant information)
- Assisting in creating plan of care; emergency and disaster back-up plan
- Assisting in managing health care expenses
- Coordinating traditional services in the event of an emergency or unplanned occurrence

Overview of consumer-direction

Key player; **Division of Medical Assistance (DMA)** is the agency designated to manage the CAP waiver programs. The agency oversees the management and operation of CAP providers by:

- Developing and managing CAP programs policies and processes
- Making initial and ongoing trainings available to direct service providers and the beneficiaries
- Monitoring critical incident reports to ensure health, safety, and well-being of beneficiaries in consumer-direction
- Creating technical guide for the administration of consumer-direction
- Providing oversight to CAP providers
- Reviewing plans of care

Overview of consumer-direction

Key player; **Financial manager** is an agency that assists in managing financial administrative functions of consumer-direction such as:

- Providing training to educate beneficiary on financial aspect of consumer-direction
- Establishing an IRS Employee Identification Number (EIN) for the purpose of becoming an employer of record
- Provides beneficiary with a pay rate range based upon authorized services and Medicaid maximum limits
- Completing criminal background and NC Health Care Registry checks
- Processing payroll
- Maintaining records

Overview of consumer-direction

Key player; personal assistant is the person hired by the CAP beneficiary to carry out tasks to meet the health care needs of the beneficiary. The personal assistant completes and maintains responsibility for the following tasks:

- Assisting the beneficiary with ADL's, IADL's, and limited home maintenance tasks
- Adhering to the required tasks identified in the beneficiary's plan of care
- Completing tasks and timesheets correctly; signing and submitting to the beneficiary for approval by the agreed upon date
- Discussing job related concerns with the beneficiary when they occur to seek and implement a resolution to concerns
- Notifying the beneficiary of any changes in personal information such as name, address, and telephone number, as soon as they occur
- Maintaining confidentiality

Overview of consumer-direction

Compliance with Fair Labor Standards Act Final Rule

- **Minimum wage protection**
 - All employees must be paid at least the current state minimum wage
- **Overtime protections**
 - Any time worked over 40 hours must be compensated at time and half of the pay rate
- **Live-in domestic service employees**
 - Individuals who reside in the home of a beneficiary are exempt from overtime protection

Consumer-direction assessment tools



Assessment Tools

1. Self-assessment questionnaire
2. Emergency back-up and disaster plan
3. Joint employment assessment (economic realities test)

Self-assessment questionnaire

Self-assessment questionnaire is an assessment tool used to identify willingness and intellectual ability to self-direct.

- Determines if consumer-direction is the right fit
- Identifies total care needs of the beneficiary to assist in the development of a care plan and task list
- Identifies if availability of time is sufficient to commit to the tasks required to be an employer
- Identifies informal network to ensure availability of potential employee(s)
- Determines training needs for the employee as well as the individual who is self-directing

Completing the self-assessment questionnaire

- The individual responsible for directing care will complete the self-assessment.

Parents of a minor, legal guardians, and representatives

- Questions related to health and services needed should be answered from the perspective of the beneficiary.
- Questions related to consumer-direction responsibilities should be answered from the perspective of the individual responsible for directing care.



Emergency back-up and disaster plan

Emergency back-up and disaster plan is used to communicate the special care needs in times of a crisis or unavailability of the personal care assistant.

- Emergency plan should include:
 - Primary caregiver name and contact number
 - Name and number of an emergency contact person
 - Evacuation plan
 - Doctor's name and contact information
 - Poison control contact information
 - Medication list
 - Allergies
- Emergency plan should be used when:
 - Regularly scheduled employee(s) is unavailable
 - Care needs changes
 - Primary caregiver is unavailable
 - Emergency situations

Emergency back-up and disaster plan

- **Disaster plan must include the following:**
 - Important people to contact
 - Type of shelter that may meet special needs
 - Need for special equipment at a shelter
 - Special care needs requirements
 - Displacement contact number so check of well-being may be verified and to arrange for the continuation of services
 - Evacuation plan
 - Registration with Emergency Management Services
- **Disaster plan should be used in event of:**
 - fire
 - hurricane
 - tornado
 - flood
 - other natural disaster

Joint employment assessment

- Joint employment is whether the CAP beneficiary is economically dependent on the case management entity or DMA.
- The CAP consumer-direction program has low-control functions and processes; and permits the beneficiary considerable discretion to perform nearly all employer functions. DMA is not considered a joint employer.
- Implication of joint employment – responsible for complying with Fair Labor Standard Acts obligations such as paying workers minimum wage, overtime, and travel time between assignments.

Joint employment assessment

Assessment questions to identify your agency as a joint employer:

1. Power to hire and fire – fully at the discretion of the beneficiary with a minimum requirement of background check and CPR certification.
2. Control over the wages or other employment benefits – fully allowing the beneficiary to set wage rate with minimum restrictions such as a wage range.
3. Hours and scheduling- fully allowing the beneficiary to create a person-centered plan of care.

Joint employment assessment

- 4. Supervises, directs, or controls work – fully allowing the beneficiary to take lead of managing personal assistant with minimal care advisement that only focus on health, safety, and well-being.**
- Administrative functions such as payroll, maintaining records, issuing payments, processing taxes, and ensuring worker's compensation are tasks exempt from joint employment status.**
- When providing care coordination, performing any tasks listed in bullets 1-4 could be assessed as moderate or strong indicators of joint employment which will cause your agency to be a joint employer and responsible for overtime pay and other FLSA requirements.**

Joint employment activities

The care advisor should NOT do the following:

- Make a decision on who shall be hired as the personal assistant
- Participate in the recruitment of the personal assistant
- Provide employment forms for the personal assistant
- Receive and make decisions on criminal background check information of the personal assistant
- Provide recommendations on suggested pay rate
- Accept timesheets for the personal assistant
- Resolve issues of late or non-payment for the personal assistant

Evaluating readiness to self-direct



Readiness to self-direct

The self-assessment questionnaire, completed by the beneficiary, is evaluated by the care advisor to determine the beneficiary's ability to consumer-direct and identify training needs.

Once the beneficiary has completed the self-assessment; the care advisor will do a thorough evaluation.

The care advisor will review the self-assessment to ensure:

- All sections of the self-assessment are complete**
- Responses are detailed and specific**
- Areas that lack competency are documented so training can be coordinated**

Readiness to self-direct

Evaluating the Beneficiary's Ability to Consumer-Direct

- The beneficiary may require multiple completions of the self-assessment questionnaire and additional training before their ability to successfully consumer-direct is displayed.
- The care advisor must work with the beneficiary to build competencies in the areas that are lacking.
- The latest copy of the self-assessment should illustrate the beneficiary's willingness and ability to successfully consumer-direct.

Enrollment in consumer-direction



Enrollment Steps

1. Beneficiary notifies care advisor of their interest in consumer-direction.
2. Care advisor schedules orientation session with beneficiary to provide an overview of consumer-direction (discussion and counsel).
3. Care advisor provides the beneficiary with the following information:
 - Consumer-direction technical guide,
 - Self-assessment questionnaire,
 - Resource documents from the Department of Labor regarding domestic workers.
4. Care advisor evaluates the self-assessment to determine beneficiary's ability to consumer-direct.
5. Care advisor completes training with beneficiary. If readiness is validated;
6. The care advisor assists the beneficiary in making a referral to the selected financial management (FM) agency.

Enrollment in consumer-direction

7. The financial manager will provide the care advisor with the completed budget; care advisor will review the budget with the beneficiary.
8. Care advisor and beneficiary will build consumer-direction person-centered plan of care.
9. Care advisor will complete a change of status request in e-CAP.
The following forms shall be uploaded into e-CAP:
 - completed self-assessment questionnaire
 - Updated emergency back up plan
 - Free choice of provider form
 - Rights and responsibilities
 - Risk agreement (if applicable)
10. Plan approval is obtained:
 - CAP evidence code does not change
 - Care advisor shares newly revised plan of care with local DSS
 - Care advisor sends notification to providers informing them of change in CAP services to include FM

Enrollment in consumer-direction

Plan of care development

- The negotiated rate with all applicable taxes as assessed by the FM will be used to develop the consumer-direction plan of care.
- The negotiated rate will be entered in the plan of care to include any overtime and Worker's compensation along with FM services (T2040) and the change of codes from T1016 to T2041 (case management to care advisor).
- The beneficiary must sign the plan of care along with the care advisor.

Enrollment in consumer-direction

Timeframes

- The consumer-direction start date should be coordinated in a manner that allots time for all processes to be completed.
- The consumer-direction start date may occur on any day of the month; ensuring the date selected allows for a smooth transition without a lapse in services.

Notification

- The care advisor shall share the newly revised plan of care with local DSS.
- The care advisor shall notify all providers of change in services.

Care coordination and consumer-direction



Care coordination responsibilities

- Provide consumer-direction orientation and training
- Provide educational materials on consumer-direction
- Make available the self-assessment questionnaire
- Evaluate the self-assessment questionnaire and the beneficiary's ability to consumer-direct
- Assist with referral to the financial manager
- Assist in creating a plan of care and emergency back-up plan
- Provide ongoing support when needed
- Arrange traditional services in the event of an emergency or unplanned occurrence



Care coordination responsibilities

Continuous contact

- monthly (by phone or in person)
- Quarterly multidisciplinary treatment team meetings

To ensure the following:

- provision of consumer-direction services are implemented as planned
- services are being rendered as authorized
- services rendered are within authorized limits
 - expenditure reports from the financial manager and DMA

Ensuring health, safety, and well-being



Health, safety, and well-being management

Tools used to monitor and manage health, safety, and well-being of individuals directing care:

- a. **A completed Competency/Validation of Direct Staff checklist completed by the beneficiary**
 - 1. Identifies if eligibility requirements were met
 - 2. Determines skill level of employee(s)
 - 3. Determines training needs for employee(s)
 - 4. Assist with identifying pay rate
- b. **Person-centered consumer-directed plan of care**
 - 1. Identifies the health care goals
 - 2. Preferences, likes, and dislikes
 - 3. Service hours and rate of pay
 - 4. Tasks to be completed during the hours of care

Health, safety, and well-being management

- c. **Criminal background and registry check**
 - 1. Convictions listed within the life ban
 - 2. Convictions over 10 years
 - 3. Not on registry
- d. **Validation by the beneficiary and the financial manager ensuring all eligibility requirements were met by employee(s) prior to hire.**
 - 1. Is over 18 years old
 - 2. Is not the legal guardian, POA (DPOA, GPOA, LPOA, MPOA) or representative
 - 3. Is a U.S. citizen or legal alien authorized to work in the U.S.
 - 4. Has passed all background checks
 - 5. Specific training needs have been identified

Health, safety, and well-being management

- e. **Grievances and critical incident reports**
 - 1. Investigate all concerns and provide a response for action or management of concerns
 - 2. Review and report critical incidents within 72 hours of receipt or occurrence for follow-up; root cause and action
- f. **Individual risks agreements**
 - 1. Identification of risks and strategies to manage risks
 - 2. Action plan to identify ongoing suitability to direct care
- g. **Mandatory reporting requirements of ANE and waste, fraud, and abuse of public funds**
 - 1. Protecting against abuse, neglect, and exploitation; reporting incidents to the DSS APS or CPS
 - 2. Protecting against fraud, waste, and abuse; reporting incidents to Program Integrity
- h. **MDTs**
 - 1. Regular contact with beneficiary and other professional disciplines to ensure care needs are met

Lifetime ban restrictions

The following convictions restrict an individual from employment as a personal assistant:

- **Felonies related to manufacture, distribution, prescription, or dispensing of a controlled substance**
- **Felony or misdemeanor health care fraud**
- **More than one felony conviction**
- **Felony for abuse, neglect, assault, battery, criminal sexual conduct (1st, 2nd or 3rd degree), fraud or theft against a minor or vulnerable adult**
- **Felony or misdemeanor patient abuse**
- **Felony or misdemeanor involving cruelty or torture**
- **Misdemeanor for abuse, neglect, or exploitation of a minor or disabled adult**
- **Substantiated allegation of abuse, neglect, or exploitation listed with the N.C. Health Care Registry**
- **Any substantiated allegation listed with the NC Health Care Registry that would prohibit an individual from working in the health care field in the state of NC**

Waste, fraud, and abuse

Waste, fraud, and abuse of Medicaid funds in the consumer-direction program include the following examples:

- Billing for services not rendered**
- Knowingly approving incorrect timesheets**
- Providing medically unnecessary services**
- Allowing unauthorized individuals to provide services**

Waste, fraud, and abuse contacts information

Provider Cases

- **Medicaid fraud, waste, and program abuse tip-line at 1-877-DMA-TIP1 (1-877-362-8471)**
- **Health Care Financing Administration Office of Inspector General's Fraud Line at 1-800-HHS-TIPS**
- **State Auditor's Waste Line: 1-800-730-TIPS**

Recipient Cases

Contact the Division of Medical Assistance by calling the DHHS Customer Service Center at 1-800-662-7030

Medicaid fraud, waste, and program abuse tip-line at 1-877-DMA-TIP1 (1-877-362-8471)

Glossary of terms

- **Individual risk agreement (IRA)**
 - An IRA should be completed if there are concerns that an action taken by the beneficiary may pose a risk to their health, safety, or well-being
- **Mandatory reporting**
 - Any incidents of abuse, neglect, or exploitation should be reported to the local Department of Social Services CPS or APS
- **Critical incident reporting**
 - A critical incident is any one of the following and must reported within 72 hours of the incident:
 - Hospitalizations
 - Emergency room visits
 - Falls
 - Accidents requiring care beyond first aid
 - Abuse
 - Neglect
 - Exploitation

Glossary of terms

- **Program Integrity** is the detecting and preventing of fraud, waste, and program abuse. Program Integrity ensures that Medicaid dollars are paid appropriately by implementing recoveries, pursuing recoupments, and identifying avenues for cost avoidance.

Support and Assistance

- CAP Policy Consultant- Racine Monroe-919-855-4388
- DMA Nurse consultants
- e-CAP Telephone Assistance- (888) 705-0970
- e-CAP Assistance on-line- e-CAP portal
- DMA office – 919-855-4340

Financial Management Agencies

GT Independence

1-877-659-4500

<https://www.gtindependence.com/>

Outreach Health

(888) 703-1316

<http://www.outreachhealth.com/>

Rayni Enterprise

704-492-1631

raynimarketing@gmail.com

**(Rayni Enterprises is limited to the following counties:
Mecklenburg, Gaston, Catawba, Iredell, Cleveland)**

Questions?