



WA Cares Listening Session: Eligible relative care, part 2

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Agenda

- Housekeeping / Common terms
- A brief refresher
- Options
- Discussion

Housekeeping

- Please use Q&A feature to ask questions during the presentation
- Chat will open for discussion at the end of the presentation
- For webinar recording, please go to: <https://wacaresfund.wa.gov/rulemaking>

Common terms

Department of Social and Health Services	DSHS
Employment Security Department	ESD
Health Care Authority	HCA
Long-term services and supports	LTSS
Revised Code of Washington	RCW
Washington Cares Fund / WA Cares Fund	WCF
Washington Administrative Code	WAC

Terms we will use today

Consumer Directed Employer / also known as Consumer Direct Care Network of WA	CDE / also know as CDWA
Eligible beneficiary	
Eligible relative care	ERC
Long-term care worker	LTCW
Personal care	
Agency with Choice	AwC
Fiscal/Employer Agent	F/EA



A Brief Refresher

(Re)Introduction to eligible relative care

- RCW 50B.04.070(2) states, "Qualified family members may be paid for approved personal care services in the same way as individual providers, through a licensed home care agency, **or through a third option if recommended by the commission and adopted by the department of social and health services.**"
- In July of 2024, the LTSS Commission's Minimum Provider Qualifications Workgroup recommended to the full Commission that the development of the 'third option' be deferred to DSHS rulemaking and the motion was passed.
- Once DSHS had confirmation from the Commission that a third option was to be developed, it was decided to title this new service eligible relative care. Eligible relative care is an approved service listed in the WA Cares statute that had not yet been defined.

Considerations for eligible relative care

- Eligible beneficiaries can pay qualified family members, through a home care agency, CDWA or through eligible relative care.
- Qualified family members will have the same background check and training requirements regardless of which option is chosen, provided legislation is passed to align existing family member training and certification requirements.
- WA Cares will have a self-directed 'Care Agreement' for beneficiaries and their family caregivers
- DSHS will not directly register or contract with eligible relative care caregivers
- WA Cares will not have case managers
- Consistent with LTSS Commission recommendation, WA Cares intends to keep the wage the family caregiver earns through eligible relative care comparable to that of IPs and home care agency caregivers with a wage pass-through requirement

Requirements for eligible relative care

The contracted third-party entity must:

- Ensure all employment taxes are paid appropriately
- Be the liable party for any unpaid taxes
- Ensure compliance with wage and hour laws
- Ensure adherence to statutory training and background check requirements for the caregivers

What we've heard so far

The themes we heard from the first session include:

- Informing the beneficiary and the family caregiver of their options
- Making sure the family caregiver has proper training
- Honoring a beneficiary's autonomy, choice and dignity of risk
- Minimizing external involvement in the beneficiary-caregiver relationship
- Having worker protections in place
- Having the right to unionize
- Maximizing the limited benefit amount
- Protecting beneficiaries from exploitation, fraud and harm



Options

Financial Management Services (FMS)

- An FMS provider acts as a fiscal intermediary for participants in self-directed programs. The basic duties of an FMS are to track and manage the budget, pay care providers, and/or pay for approved services and supports. These services are provided through three models that they offer, Fiscal Agent or Conduit, Fiscal/Employer Agent and Co-employer or Agency with Choice
- Some examples of FMS vendors being used with DSHS now are the New Freedom program where ACES\$ WA acts as a fiscal conduit for that program's participants purchasing goods or services, and CDWA is an Agency with Choice
- The two FMS models we'll focus on for eligible relative care are the Fiscal/Employer Agent and Agency with Choice

The Agency with Choice (AwC) and Fiscal/Employer Agent (F/EA) models

- These two models are offered through Financial Management Services vendors
- Both meet DSHS/WCF requirements in managing the service (e.g., taxes, employment laws, training compliance)
- Both will require enrolling with the FMS which will include paperwork, account set up, getting the family member hired, doing pre-authorizations.
- Both are customizable...
 - For example, help with paperwork, hiring/firing, monitor calls, confirming care agreements

Agency with Choice (AwC) and Fiscal/Employer Agent (F/EA) continued

- The day-to-day with both models will look very similar, where the beneficiary is making the supervisory decisions.
- They will both process timesheets and ensure timely payroll for the family caregiver
- They will both ensure family caregivers are adhering to the beneficiary's pre-authorization as it relates to their rate and number of authorized hours

FMS - Agency with Choice (AwC)

- This is a joint, or co-employer model. The AwC is the employer of record for the family caregiver, but the beneficiary manages the caregiver's tasks and schedule
- Family caregivers could unionize due to the agency being the employer of record
- Beneficiary would not need to complete a lot of paperwork, likely just the I-9 and enrollment forms
- On average this model has a higher service fee, or rate, than an F/EA model, as the agency takes on full employer related activities and liabilities

FMS - Fiscal/Employer Agent

- In this model, the beneficiary or their legal representative is the employer of record, and the F/EA holds tax liability
- To become the employer of record, the beneficiary would apply for a Federal Employer Identification Number (FEIN) and complete IRS forms for the F/EA to file
- This model is more hands-off in the employer/employee relationship once the beneficiary is enrolled, and the caregiver is hired
 - For example, a F/EA does not help find/hire caregivers, offer benefits that aren't required by law, nor investigate complaints and discipline caregivers.
- Because the beneficiary is the employer and the F/EA would not provide as many services to the beneficiary or carry as much liability or responsibility to the caregiver, it is less costly than the Agency with Choice model

A side-by-side of AwC and F/EA

	Agency with Choice	Fiscal/Employer Agent	CDWA	Home Care Agencies
Is the beneficiary the legal employer?	No	Yes	No	No
Is this a joint employment model?	Yes	No, only beneficiary	Yes	No, only agency
Do current training requirements apply?	Yes	Yes	Yes	Yes
Do background checks apply?	Yes	Yes	Yes	Yes
Are health benefits required to be offered?	Yes at 50+ FTEs (30+hrs) No if less	No	Yes	Yes
Is there PTO, sick leave?	Yes, what is required by law or program req's	Yes, can be part of the program requirements	Yes, required	Yes, required
L&I taxes withheld? (worker's compensation)	Yes	Optional if only employing one person, or can be part of program requirements	Yes	Yes

A side-by-side of AwC and F/EA

	Agency with Choice	Fiscal/Employer Agent	CDWA	Home Care Agencies
Other required taxes withheld – PFML, WCF, SUTA, FUTA?	Yes	Yes	Yes	Yes
Who is responsible for unpaid taxes?	Agency	FEA	CDWA	HCA
Ability to unionize	Yes	No	Yes	Yes
Does the caregiver qualify for overtime?	Yes	Yes	Yes	Yes
Who resolves concerns with quality of care?	Agency, in coordination with the beneficiary	Beneficiary	CDWA, in coordination with the beneficiary	HCA



Discussion

Discussion

What are the minimal supports needed for the beneficiary?

Discussion

What are the minimal supports needed for the family caregiver?

Discussion

What should be considered for the Agency with Choice model?

Discussion

What should be considered for the Fiscal/Employer Agent model?

Discussion

What should be program requirements with either model?

Discussion

What factors should we be aware of when balancing supports offered through eligible relative care with the cost to the beneficiary?

Resources

- DSHS website: <https://wacaresfund.wa.gov/rulemaking>
- ESD website: <https://esd.wa.gov/newsroom/rulemaking/ltss>
- HCA website: <https://www.hca.wa.gov/about-hca/rulemaking>
- Questions related to the WA Cares program, please email WACares@dshs.wa.gov



Thank you!

We look forward to continuing this discussion in upcoming meetings

Questions about the WA Cares Fund rulemaking process?

Contact Arielle Finney at Arielle.Finney2@dshs.wa.gov

Questions about the WA Cares Fund program?

Contact the WA Cares Fund Customer Care Team at WACares@dshs.wa.gov