

REPORT TO THE LEGISLATURE

**Establishing a Licensure or Certification Category
For the Consumer Directed Employer**

Chapter 74.39A RCW

October 1, 2018

Aging and Long-Term Support Administration

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Background

The Washington State Legislature passed ESSB 6199 in the 2018 legislative session. This bill directs the Department of Social and Health Services (DSHS) to contract with a private entity, known as a Consumer Directed Employer (CDE), to operate as the legal employer for individual providers (IP) of in-home personal care. Currently the administrative functions of managing the IP workforce are carried out by DSHS and Area Agency on Aging case management staff and the consumer manages the day-to-day work of the IP.

Over the last several years, managing the administrative functions of the IP workforce has become increasingly complex and time consuming. This complexity has diverted time away from client assessment, service planning and service plan monitoring. As a result of this legislation, the CDE will now assume all administrative functions of IP management including; hiring, terminating, background checks, payroll functions, I-9 paperwork, managing work week limits and overtime utilization, IRS paperwork, training requirements, payroll, tax reporting, Electronic Visit Verification, and payroll deductions. The consumer will continue to select, schedule, manage, and dismiss the IP.

When the CDE is operational in July of 2020, case managers will have more time to do case management activities, clients will receive more time from their case managers to assist them in meeting their long-term care needs, and individual providers will have a single entity to contact about payroll, taxes, overtime guidance and credentialing.

Strategic Development Group

In April of 2018, the Department convened the Strategic Development Group (SDG). The SDG is charged with: (1) serving as an advisory body and sounding board for DSHS on CDE planning issues, (2) assisting DSHS in strengthening communication with constituent groups on CDE issues of concern, (3) providing essential and relevant feedback on CDE implementation plans and activities, and (4) assisting in identifying strategies and actions for addressing constituent concerns.

The SDG meets monthly and is comprised of 24 members representing a cross section of constituents. In addition to the 24 group members, the SDG is supported by DSHS subject matter experts who are available to answer questions and conduct needed research. The group is comprised of the following members:

Area Agencies on Aging Case Management	Washington Federation of State Employees
American Association of Retired Persons	Home and Community Services Division Director
ARC of WA	Home and Community Services Division Contract Specialists

Aging and Long-Term Support Administration Assistant Secretary	Parent Providers Developmental Disabilities Administration
Developmental Disabilities Administration Assistant Secretary	PASPort for Change
Developmental Disabilities Administration Case Management	Self Advocates in Leadership
Developmental Disabilities Council	State Council on Aging
Disability Rights Washington	Service Employees International Union 775 and Benefits Group
Family Caregivers HCS	Tribal Government
Home Care Coalition	Washington Association of Area Agencies on Aging
Individual Providers (2 positions)	Parent Providers Developmental Disabilities

ESSB 6199 directs the Department to convene a stakeholder group to make recommendations to the legislature on the establishment of a separate licensure or certification category for the Consumer Directed Employer. The stakeholder group recommendations are to be made no later than October 1, 2018.

The SDG was charged with developing this recommendation and began this work at the May 2018 meeting. The recommendation was then finalized at the June 2018 meeting.

Recommendations

The Strategic Development Group recommends that the CDE not be licensed or certified. The group reached this recommendation with full consensus. The recommendation is based on several factors, including that licensure or certification would result in:

- Interference with the fundamental and primary objective of retaining the consumers' ability to self-direct their care.
- An unnecessary layer of complexity that would lead to a delay in access to services and slow the implementation.
- Decreased flexibility and added complexity to the program.

Further, the SDG members stressed the recommendation does not negate the need for transparency and accountability in the operations of the CDE. Transparency and accountability will be achieved through the more appropriate mechanisms of:

- Adherence with current statutory requirements and consideration of new WAC guidelines; and

- CDE contractual requirements and contract oversight.

Conclusion

When drafting the Request for Proposal document and the vendor contract, the Department will ensure that clear and comprehensive requirements are included in both documents. Specific service level agreements have been included in the vendor contract and each has associated liquidated damages that can be assigned if the contractual performance expectation is not met.

Additionally the contract requires complaint and dispute resolution processes that can be initiated by consumers who object to a decision or level of service provided by the CDE. The Service Level Agreements and all other contractual requirements will be monitored by staff dedicated to this task when the CDE is operational.