

## Important Information for Individuals Dually Enrolled in PPP and DDD

Effective June 1, 2017, the Division of Developmental Disabilities (DDD) is discontinuing the Agency with Choice model of self-direction (where Easter Seals of New Jersey acted as the employer of record for self-directed employees), and shifting to the Fiscal/Employer Agent model of self-direction (where the individual or their representative acts as the employer of record for self-directed employees).

### Benefits of the Fiscal/Employer Agent model:

- Individuals and families have more choice and control over their services and supports.
- Individuals and families have full employer authority over their self-directed employees.
- Individuals/representatives can pay their self-directed employees higher wage rates for DDD services.
- Individuals/representatives and self-directed employees are eligible for important tax benefits, including tax exemptions for employing family members.
- Payments to self-directed employees who serve individuals in the employee's home do not need to be reported as income under the Difficulty of Care income exclusion.

The New Jersey Department of Human Services (NJ DHS) selected PCG Public Partnerships as the new statewide Fiscal Intermediary (FI) for all self-directed programs. Public Partnerships was selected through a competitive bid process based on its qualifications and experience assisting states in administering self-directed programs. Public Partnerships will assist individuals and families with the transition to the Fiscal/Employer Agent model and provide them with user-friendly tools to direct their Personal Preference Program (PPP) and DDD services, including:

- **BetterOnline™**, a web portal that allows service coordinators, individuals and families to view individual budgets, service authorizations, and spending history in real time.
- **Time4Care™**, a mobile application that allows employees to submit timesheets electronically, and allows the employer to approve timesheets prior to payment.

NJ DHS permits individuals to be dually enrolled in PPP (administered by the Division of Disability Services), and either the Supports Program or Community Care Waiver (CCW) Program (administered by DDD). In order to comply with IRS rules and regulations Public Partnerships cannot combine wage and tax reporting for individuals dually enrolled in PPP and the Supports Program or CCW Program.

### Individuals dually enrolled in PPP and DDD must appoint a program representative to register with the IRS as the employer of record for DDD services.

- The program representative may not be a self-directed employee.
- Public Partnerships will assist the program representative to register as an employer with the IRS.
- The IRS will assign the program representative an Employer Identification Number (EIN) that is not the program representative's Social Security number.

- If the individual is not willing or able to appoint a program representative as the employer of record for DDD services, the individual may choose to receive DDD services from a traditional agency provider.

**Program representatives appointed by individuals enrolled in PPP must purchase an additional workers' compensation policy for DDD services provided by self-directed employees.**

- Public Partnerships will assist the program representative in obtaining an additional workers' compensation policy for DDD services.
- The workers' compensation policy premiums and fees will be paid out of the individualized budget as part of the service plan.

**Individuals dually enrolled in PPP and DDD cannot permit self-directed employees to work more than 40 hours per week unless the employee qualifies for the live-in exemption from overtime pay.**

Appointing a program representative for IRS purposes has no bearing on how the U.S. Department of Labor views employment. The Department of Labor views anyone who determines the employee's economic realities as an employer. Under the Fair Labor Standards Act, employers who allow employees to work more than 40 hours per week **across PPP and DDD combined** are responsible for paying overtime rates unless the employee qualifies for the live-in exemption. In other words, 40 hours per week is the maximum a self-directed employee can work unless they qualify for the live-in exemption, regardless of whether those 40 hours are PPP hours, DDD hours, or a combination of PPP/DDD hours.

**Self-directed employees qualify for the live-in exemption if the employee resides on the employer's premises either permanently or for extended periods of time.**

- *"Employer's premises"* means the individual's home, regardless of who owns the home.
- *"Permanently or for extended periods of time"* means the employee lives, works, and sleeps in the individual's home for at least five days (120 hours) per week.

Limiting overtime to self-directed employees who qualify for the live-in exemption ensures that individuals do not spend their available budget before the end of the plan year, and enables DDD to serve more individuals by conserving limited state resources. If the individual/representative is not willing or able to locate additional self-directed employees to work authorized hours over 40 per week, the individual may choose to receive services from traditional provider agencies.

DDD will routinely monitor self-directed employee hours paid by Public Partnerships, including any hours worked across PPP and DDD. If the individual/representative allows self-directed employees to work more than 40 hours per week, the Support Coordinator will counsel the individual/representative to discontinue the practice or consider transferring to agency services. DDD is not responsible for payment of overtime for self-directed employees whose employers violate the restriction on overtime. The individual/representative will be responsible for payment of any overtime.