
CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

PROVIDER REQUIREMENTS

Entities wishing to provide fiscal/employer agent (F/EA) services must abide by and adhere to any federal and state law, Rule, policy, procedure, performance agreement, manual, or memorandum pertaining to the provision of F/EA services. Failure to comply with the requirements of these standards for participation may result in the following actions including, but not limited to:

1. Recoupment of funds;
2. Sanctions for violations/non-performance as outlined in the performance agreement;
3. Citation of deficient practice and plan of correction submission;
4. Removal from the F/EA freedom of choice list; or
5. Decertification as an F/EA agency and termination of the agency's Medicaid provider enrollment.

Upon request by the Louisiana Department of Health (LDH), F/EAs must make available legal ownership documents, required records, and information reasonably related to the assessment of compliance with these requirements for review.

F/EA agencies shall, at a minimum:

1. Demonstrate administrative capacity and the financial resources to provide all core elements of financial management services (FMS) and ensure effective service delivery in accordance with state and federal requirements;
2. Have appropriate agency staff attend trainings, as mandated by LDH;
3. Document and maintain records in accordance with federal and state regulations governing confidentiality and program requirements;
4. Assure that the F/EA will not provide both FMS and support coordination or personal care services in Louisiana; and
5. Establish policies and procedures relative to the reporting of abuse, neglect, exploitation, and extortion of beneficiaries, pursuant to the provisions of R.S.

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws and ensure that staff complies with these regulations.

Systems/Software Requirements

The F/EA must comply with all of LDH's systems/software requirements, including the following:

1. Transmit all non-proprietary data which is relevant for analytical purposes to LDH on a regular schedule in XML format. Final determination of relevant data will be made by LDH based on collaboration between all parties. The schedule for transmission of the data will be established by LDH and dependent on the needs of LDH related to the data being transmitted. XML files for this purpose will be transmitted via Secure File Transfer Protocol (SFTP) to LDH. Any other data or method of transmission used for this purpose must be approved via written agreement by all parties;
2. Procure and maintain hardware and software resources which are sufficient for it to successfully perform the services outlined in Section 3.1 Financial Management Services of this manual chapter;
3. Adhere to state and federal regulations and guidelines as well as industry standards and best practices for systems or functions required to support F/EA requirements;
4. Responsible for all expenses required to obtain access to LDH systems or resources and expenses required for LDH to obtain access to the F/EA's systems or resources, unless explicitly stated to the contrary. Such expenses are inclusive of:
 - a. Hardware;
 - b. Software;
 - c. Network infrastructure; and
 - d. Licensing costs.
5. Encrypt all confidential or protected health information to FIPS 140-2 standards when at rest or in transit;
6. Ensure appropriate protections of shared personally identifiable information ("PII"), in accordance with 45 CFR §155.260;

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

7. Ensure that its system is operated in compliance with the Centers for Medicare and Medicaid Services' (CMS) latest version of the Minimum Acceptable Risk Standards for Exchanges (MARS-E) Document Suite;
8. Provide and enforce multi-factor authentication if the F/EA utilizes a VPN site-to-site tunnel and also has remote users who access CMS data;
9. F/EA owned resources must be compliant with industry standard physical and procedural safeguards (NIST SP 800-114, NIST SP 800-66, NIST 800-53A, ISO 17788, etc.) for confidential information (health information technology for economic and clinical and health (HITECH), health insurance portability and accountability (HIPAA) part 164);
10. Receive written approval from LDH prior to the use of flash drives or external hard drives for storage of LDH data and must adhere to FIPS 140-2 hardware level encryption standards; and
11. All utilized computers and devices must:
 - a. Be protected by industry standard virus protection software that is automatically updated on a regular schedule;
 - b. Have installed all security patches which are relevant to the applicable operating system and any other system software; and
 - c. Have encryption protection enabled at the operating system level.

Certification Requirements

It is unlawful to operate as an F/EA without being certified by the LDH. In order to provide FMS, the F/EA must:

1. Be certified through completion of a readiness review and meet the standards for participation requirements as set forth by LDH;
2. Sign a performance agreement with LDH;

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

3. Enroll as a statewide Medicaid F/EA to provide services for the Office for Citizens with Developmental Disabilities (OCDD) and the Office of Aging and Adult Services (OAAS)-administered home and community-based services; and
4. Comply with all policies and procedures set forth by LDH.

Certification Issuance

A certification issued by LDH shall:

1. Be issued only to the entity named in the certification application;
2. Be valid only for the F/EA to which it is issued after all applicable requirements are met;
3. Enable the F/EA to provide FMS for OCDD and OAAS-administered HCBS waivers statewide; and
4. Be valid indefinitely, unless revoked, suspended, modified or terminated.

Certification Refusal or Revocation and Fair Hearing

A certification may be revoked or refused if applicable certification requirements, as determined by LDH, have not been met. Certification decisions are subject to appeal and fair hearing, in accordance with R.S. 46:107(A) (3).

Certification Review

Compliance with certification requirements is determined by LDH through its F/EA monitoring processes. Monitors must be given access to data upon request by LDH to ensure the F/EA continues to meet certification requirements.

Administration and Organization**Governing Body**

The F/EA shall have an identifiable governing body with responsibility for and authority over the policies and activities of the F/EA.

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

The F/EA shall have documents identifying all members of the governing body, their addresses, their terms of membership, and officers of the governing body.

The governing body of the F/EA shall:

1. Ensure continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
2. Ensure the F/EA is adequately funded and fiscally sound;
3. Review and approve the F/EAs annual budget; and
4. Designate a person to act as administrator and delegate sufficient authority to this person to manage the F/EA.

The F/EA shall maintain an administrative file that includes:

1. Documents identifying the governing body;
2. List of members and officers of the governing body, along with their addresses and terms of membership;
3. Minutes of formal meetings and by-laws of the governing body, if applicable;
4. Documentation of the agency's authority to operate under state law;
5. Organizational chart of the agency which clearly delineates the line of authority;
6. All leases, contracts and purchases-of-service agreements to which the agency is a party;
7. Insurance policies;
8. Annual budgets and, if performed, audit reports;
9. Agency's policies and procedures; and
10. Documentation of any corrective action taken as a result of external or internal reviews.

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

Business Location and Operations

The F/EA shall have a business location which shall not be in an occupied personal residence. The business location must:

1. Maintain staff to perform administrative functions;
2. Maintain direct service worker/employee personnel records; and
3. Maintain beneficiary service records.

The business location must have the below:

1. Published nationwide toll-free telephone number which is available during business hours and capable of receiving messages 24 hours a day, 7 days a week, including holidays;
2. Published business telephone number answered by staff during the posted business hours;
3. Business fax number that is operational 24 hours a day, 7 days a week, including holidays;
4. Internet access;
5. Designated e-mail mailboxes to receive inquiries from Medicaid beneficiaries and LDH; and
6. Business hours of operation of 8:00 AM to 5:00 PM CST, Monday-Friday excluding official state holidays; and
7. Area to keep records and other confidential information secure and protected from unauthorized access.

Financial Management

The F/EA must:

1. Establish a system of financial management and staffing to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles;

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

2. Not permit public funds to be paid or committed to be paid, to any person who is a member of the governing board or administrative personnel who may have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the agency. The F/EA shall have a written disclosure of any financial transaction with the agency in which a member of the governing board, administrative personnel, or their immediate family is involved; and
3. Have and maintain documented evidence of an available line of credit of at least one million dollars (\$1,000,000) or a cash reserve sufficient to cover the cost of two payroll cycles.

Policy and Procedures

The F/EA shall have written policies and procedures approved by the owner or governing body which must be implemented and followed that address at a minimum the following:

1. Confidentiality and confidentiality agreements;
2. Security of files;
3. Publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;
4. Personnel;
5. Grievance procedures;
6. Emergency preparedness;
7. Procedures for reporting suspected abuse, neglect, exploitation, and extortion;
8. Procedures for reporting suspected fraud;
9. Documentation; and
10. Enrollment/disenrollment procedures.

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

Organizational Communication

The F/EA must:

1. Establish procedures to assure adequate communication among staff to provide continuity of services to the beneficiary and to facilitate feedback from staff, beneficiaries, families, and when appropriate, the community;
2. Have brochures and make them available to LDH or its designee. The brochures must include the following information:
 - a. Toll-free number and email address to direct customer service questions or to receive assistance;
 - b. Information on how to make a complaint if they are dissatisfied with F/EA services; and
3. Description of the F/EA, services provided, current mailing and physical addresses, website information, and the F/EA's toll-free number.

Fiscal Employer Agent Requirements

The F/EA must comply with requirements for FMS in self-direction, including but not limited to:

1. Verifying qualifications of employers and support workers;
2. Processing payroll including applying applicable withholds and filing/paying all required state and federal income taxes;
3. Disbursing payment to direct support workers;
4. Setting up accounting records to track expenses;
5. Setting up procedures for processing payroll and non-labor items;
6. Maintaining all records related to the direct support worker's payroll, taxes and benefits;

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

7. Producing and sending required reports to LDH;
8. Providing support to self-direction employers;
9. Billing the LDH fiscal intermediary for Medicaid service claims and making refunds to LDH as appropriate;
10. Resolving all billing discrepancies timely;
11. Utilizing an LDH approved payroll calendar that addresses tax obligations; and
12. Utilizing a system capable of capturing, recording, and tracking service, payroll, and tax information.

Beneficiary/Employer Rights

Each F/EA's written policies and procedures, at a minimum, shall ensure the beneficiary/employer's right to:

1. Confidentiality;
2. Privacy;
3. Impartial access to F/EA services regardless of race, religion, sex, ethnicity, or disability;
4. Access to the interpretive services, translated material and similar accommodations as appropriate;
5. Access to their records upon the beneficiary's written consent for release of information;
6. Explanation of the nature of services to be received;
7. File a complaint or grievance without retribution, retaliation or discharge;
8. Access to information related to tracking their budget and service balance; and
9. Discontinue services with their F/EA provider and choose another provider.

CHAPTER 3: FISCAL/EMPLOYER AGENT

SECTION 3.4: PROVIDER REQUIREMENTS**PAGE(S) 10**

Grievances

The F/EA shall establish and follow a written grievance procedure to be used to process complaints by employers, their family member(s), or a legal representative that is designed to allow employers to make complaints without fear of retaliation. The written grievance procedure shall be provided to the employer.