

**Attachment A**  
**Fiscal Intermediary Services**

**Fiscal Intermediary (FI) Services** are provided by an entity contracting with EOHHS to perform employer-required tasks and related administrative tasks including, but not limited to, tasks described in 130 CMR 422.419(B). FI Services must be provided in accordance with the following standards.

**EMPLOYER-REQUIRED TASKS**

**CONSUMER-DELEGATED EMPLOYER OPTION**

The Contractor shall perform the following Employer-Required Tasks:

**A. Employer Requirements**

**1. Compliance with Federal and State Tax Requirements**

The Contractor shall:

- a. Take appropriate action to file for and obtain employer agent status with federal and state tax authorities to act on the Consumer's behalf;
- b. Issue checks for home care workers on a biweekly basis (once every two weeks), paying each home care worker the rate determined by the Executive Office of Elder Affairs; deduct all applicable, legally mandated federal and state taxes and withholdings related to consumer-directed home care services, such as income taxes, Social Security/FICA and Medicare, as well as any optional deductions; and make all mandatory federal and state tax payments;
- c. Charge each ASAP an Employer Expense Component of the home care worker wage as a percentage of the worker wage; and utilize the Employer Expense Component exclusively to pay, on behalf of Consumers as employers, the Consumer's share of all mandatory payments such as FICA, federal and state unemployment taxes, Medicare, and Workers' Compensation premiums;
- d. Make mandatory federal and state tax payments related to ASAP-reimbursed self-directed home care services as may be required by the Internal Revenue Service (IRS) and the Massachusetts Department of Revenue (DOR), on behalf of Consumers, to federal and state entities by the dates required, and, if applicable, pay on behalf of Consumers, from the earnings portion of the Contractor's administrative budget or from other funding sources not connected with this Contract, any tax penalties assessed by such entities caused by the Contractor's, including any subcontractor's, negligence;
- e. Comply, on behalf of Consumers, with the requirements of all applicable and current federal and state legally required tax forms, instructions and notices in accordance with all deadlines, processes, and reporting requirements, including revoking or retiring tax IDs and any applicable forms as appropriate;

- f. Obtain from each Consumer the Social Security number for each of the Consumer's home care workers and resolve any discrepancies with such numbers as may be reported by the Internal Revenue Service or the Massachusetts Department of Revenue (DOR);
- g. Provide each home care worker with a copy of his or her federal and state-reported income as required by law;
- h. Refund FICA payments to home care workers who have not met the IRS earnings threshold in the calendar year and report the amount of such payment to the ASAP by February 1 of each calendar year.
- i. Maintain records for all tax withholdings and payments made on behalf of Consumers and make such documentation available to the ASAP and Consumers upon request;
- j. Notify the State Department of Revenue of any new home care workers hired by the Consumer;
- k. Comply with the Consumer transfer requirements specified in this Attachment; and
- l. Take any other steps necessary to assist Consumers in complying with federal and state tax requirements as they relate to home care workers' Activity-time.

## **2. Unemployment Taxes**

The Contractor shall:

- a. Prepare Federal and State Unemployment Tax filings (FUTA/SUTA), on behalf of Consumers as employers, and make all required deposits of unemployment taxes withheld, including employer share of unemployment taxes, to the appropriate authorities, according to required time frames;
- b. Submit to the ASAP, upon request, documentation for all unemployment taxes withheld and payments made on behalf of Consumers;
- c. Upon receipt of a home care worker unemployment claim notice from the Massachusetts Department of Unemployment Assistance (DUA), complete, at a minimum, the "wage information" on the unemployment claim form in accordance with DUA's instructions and return completed claim forms to DUA and to the Consumer.
- d. Comply with the Consumer transfer requirements specified in this Attachment; and
- e. Take any other steps necessary to assist Consumers in complying with federal and state unemployment tax requirements as they relate to home care workers' Activity-time.

### **3. Workers' Compensation**

The Contractor shall:

- a. Purchase, on behalf of each Consumer and in the Consumer's name, Workers' Compensation insurance for each of the Consumer's home care workers, regardless of the number of hours worked per quarter by each home care worker, and submit documentation thereof to the ASAP upon request;
- b. On at least a monthly basis, notify the workers' compensation agent of any consumers enrolled and disenrolled during the month.
- c. Comply with the Consumer transfer requirements specified in this Attachment; and
- d. Take any other steps necessary to assist Consumers in complying with federal and state Workers' Compensation requirements as they relate to home care workers' Activity-time.

### **4. Optional Deductions**

The Contractor shall:

- a. Inform Consumers of their responsibility to notify home care workers of any optional withholdings and home care workers' choice of whether to authorize any such deductions;
- b. Comply with the Consumer transfer requirements specified in this Attachment; and
- c. Take any other steps necessary to assist Consumers in complying with federal and state tax and any applicable optional deduction withholding requirements as they relate to home care workers' Activity-time.

### **5. Consumer Transfers**

The Contractor shall comply with all Consumer Transfer policies as stated in this Attachment. In addition:

- a. Within 10 business days prior to the transfer of a consumer from the Contractor to another Fiscal Intermediary, the Contractor will provide, at minimum, the following information to the new Fiscal Intermediary:
  - 1) A copy of the Consumer's entire permanent file, including any applications to governmental agencies for employer numbers, list of optional deductions, if any, and the signed Consumer Agreement;
  - 2) Information regarding all current and past employees (home care workers) of the Consumer for the calendar year during which the transfer occurs, including, but not limited to, W-4 and I-9 forms, Direct Deposit Applications, and personnel information;
  - 3) Copies of all payroll registers for the calendar year during which the transfer occurs, indicating the quarter-to-date and year-to-date information for each home care worker;

- 4) Copies of all quarterly payroll filings for the calendar year during which the transfer occurs; and
  - 5) Any other relevant information requested by the new Fiscal Intermediary.
- b. Within 10 business days from the date of transfer to the new FI, forward to the new FI a check for the balances due to all tax agencies in accordance with Section F of this Attachment A for the Pay Periods covered by the Contractor, and provide documentation that specifies the balances due for each state or federal entity;
  - c. Comply with all other policies and procedures regarding consumer transfers; and
  - d. In cases where a Consumer transfers from the Contractor to another FI, submit a claim for Administrative Tasks to the ASAP for the number of days during the month that the consumer was enrolled with the Contractor, and had an active authorization.

*In no case* shall both of the FIs who provided services to the Consumer during a given month in which such a transfer takes place submit a claim for Administrative Tasks to the ASAP for the same days of service.

## **6. Other Employer Requirements**

The Contractor shall:

- a. Provide to Consumers for home care workers to complete, and verify completion of, U.S. Department of Homeland Security Form I-9: Employment Eligibility Verification Form or any other forms that may be legally required;
- b. Assist Consumers, as necessary, in obtaining a Federal Employer Identification Number (FEIN);
- c. Notify Consumers of their obligation to inform each of their home care workers of the federal Earned Income Credit (EIC) that the worker may be eligible for, and the process for applying for the EIC;
- d. Notify Consumers of their obligation to inform each of their home care workers at termination of employment of the worker's right to file a claim for Unemployment Compensation and the process for doing so;
- e. Notify Consumers of their personal obligation to pay home care workers in circumstances where the Consumer has exceeded their ASAP authorization;
- f. Provide all Consumers with documentation of payroll and deductions made each Pay Period, and, on a quarterly basis, documentation of tax payments to the IRS, the Massachusetts DOR and other appropriate authorities, as well as of unemployment insurance and Workers' Compensation when each coverage is secured;
- g. Keep abreast of all federal and state laws and regulations, including use of current forms and documents, relevant to the Contractor's fiscal and administrative responsibilities under this Contract by reviewing, on at least a quarterly basis, appropriate websites to note any changes to state and federal laws

or regulations pertinent to domestic employers, and comply with any and all such laws and regulations and changes thereto that are applicable to this Contract, including any applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA); and

- h. Update any Consumer and worker address or telephone number changes prior to mailing out tax information in January of each year.

## **7. Orientation and Employment Packages**

The Contractor shall:

- a. Develop, maintain, and update as necessary a Consumer Orientation package to distribute to new consumers enrolling with the Contractor that includes, but is not limited to:
  - 1) A brief description of FI services and any other information necessary for the consumer to use FI services;
  - 2) All current required employer and employee federal and state tax forms with instructions for their use;
  - 3) All current required employment-related forms, with instructions for their use;
  - 4) A copy of the Contractor's complaint and grievance policy.
- b. Develop and update as necessary an Employer Package and distribute as needed to consumers that includes:
  - 1) All current required employer and employee federal and state tax forms with instructions for their use;
  - 2) All current required employment-related forms, including Employment Eligibility Verification form I-9, with instructions for their use; and
  - 3) Copies of current activity forms, payroll schedules, and instructions for completion.
- c. Develop a process with the ASAP to distribute the orientation package to new consumers that ensures Consumers receive an orientation package within one business day of the ASAP authorization;
- d. Develop a process with the ASAP to distribute the employer package to consumers that ensures Consumers receive an employer package, or any required forms, within one business day of the Consumer or Surrogate's request;
- e. Ensure that all Consumers with an active authorization have the required current documents and forms necessary to hire Home care workers and process payroll; and
- f. Submit to the ASAP, upon request, a copy of the employment package or Consumer orientation package.

## **B. Payroll-related Responsibilities**

## 1. Activity Form

The Contractor shall:

- a. Develop an Activity Form and instructions for its use, incorporating at a minimum the components described in **Section E of this Attachment A**, to function as the Consumer's official daily record of each worker's Activity-time;
- b. Furnish each Consumer with an adequate supply of Activity Forms and instructions for obtaining additional forms from the Contractor;
- c. Establish a process for Consumers to mail-in, fax, or drop off their Consumer Activity Forms.
- d. Notify each Consumer in writing of the Contractor's biweekly schedule for receipt of Activity Forms to ensure payment within the time frames mandated by state and/or federal law, including the Consumer's responsibility to submit activity forms in the time frame required by the Contractor;
- e. Ensure all activity forms correctly indicate the date the Contractor receives them from the consumer or surrogate, regardless of method of submission (fax, mail or drop-off);
- f. Review each Activity Form, and approve and process only those forms that are signed by the Consumer or legal guardian (or his or her Surrogate, if appropriate) and worker and that, in the Contractor's determination, contain sufficient information;
- g. Return to each Consumer for completion any Activity Form that contains insufficient information or that is not signed by the Consumer (or his or her Surrogate, if appropriate) and worker;
- h. Review each approved Activity Form to ensure the accuracy of the Consumer's calculations;
- i. Upon determination that a Consumer has submitted an inaccurate or incomplete Activity Form, contact the Consumer within one business day, by telephone or such other manner as may be appropriate, to inform the Consumer of the problem and to determine the most expeditious manner for the Consumer or the Contractor to correct any omissions or inaccuracies;
- j. Refer Consumers who require intensive assistance, or a face-to-face meeting for assistance with the Activity Form, worker utilization, or other CDC management issues, to the applicable ASAP for Functional Skills Training;
- k. Establish a process for Consumers to report hiring of new home care workers and inform Consumers and ASAPs in writing of such process; and
- l. Inform Consumers and ASAPs of any changes to the Contractor's Activity Form, including any changes in instructions for completion of the Activity Form.

## C. Fiscal Responsibilities

## **1. Activity-time and Payment Calculations**

The Contractor shall accurately calculate the Activity-time and the applicable payment for such time for each worker of each Consumer as follows:

- a. *Activity-time*: Calculate the actual time spent by the home care worker to perform ADLs and IADLs.
- b. *Gross Payment*: Calculate each home care worker's gross payment for Activity-time based on the total biweekly Activity-time reported by the Consumer on the Activity Form and the applicable home care worker wage as established by the Executive Office of Elder Affairs.
  - 1) *Payment Calculations*: Payment for Activity-time for the week shall be made based on 15-minute increments in accordance with a) below..
    - a) *Rounding*: Round the home care worker's total Pay Period number of Activity-time minutes during the day/evening hours up to the next 15 minutes.
- c. *Deductions*: Accurately compute and withhold employee share of deductions, where applicable, including:
  - 1) Federal and state taxes, including income taxes, Social Security/FICA, and Medicare;
  - 2) Unemployment taxes;
  - 3) Workers' Compensation premiums;
  - 4) Any optional or voluntary deductions; and
  - 5) Any other mandatory deductions/withholdings.
- d. *Net Payment*: Accurately compute home care worker's net payment based on the gross payment due less any deductions.

## **2. Paycheck Activities**

### **a. Check Generation**

The Contractor shall:

- 1) Ensure that payroll setup for new Consumers is completed in a timely manner such that home care workers are able to be paid the first payroll period of the effective date of the authorization, provided that the Contractor has received all required documentation from the Consumer and/or ASAP;
- 2) Issue a check within two business days of receipt of each home care worker's Activity Form (unless automatic deposit was requested by the Consumer) in the name of each of the Consumer's home care workers for the net payable amount due each home care worker for the Pay Period reported only where the Consumer has been determined eligible for services;
- 3) Be the authorized signatory on behalf of each Consumer on each home care worker check issued;

- 4) Prepare a payroll stub for each home care worker that lists the Activity-time paid in each Pay Period as well as all deductions taken;
- 5) Prepare and distribute a statement to accompany each home care worker's payment that reflects for the period reported and summarizes year-to-date, at least the following:
  - a) the home care worker's gross payment for Activity-time;
  - b) all withholdings and any other deductions;
  - c) net payment; and
- 6) Include the Consumer's name on each of his or her home care workers' checks; and
- 7) Take any other actions necessary to ensure accurate and efficient payment for Activity-time.

**b. Check Distribution**

The Contractor shall:

- 1) Inform the Consumer about automatic payroll deposit and require that the Consumer to inform his or her home care workers about the availability of automatic payroll deposits to a home care worker's bank account;
- 2) Make automatic payroll deposits to a home care worker's bank account, if requested by the Consumer within two business days of receipt of each home care worker's Activity Form;
- 3) Batch all checks or pay stubs and statements for each of the Consumer's home care workers in one envelope addressed to each Consumer; and
- 4) Give Consumers the option of picking up or having the envelope mailed to the Consumer for the Consumer's distribution to his or her home care workers.

**c. Check Adjustments**

The Contractor shall:

- 1) Verify the accuracy of each home care worker's check and adjust each check as necessary for any error;
- 2) Issue, within five business days of notice by the consumer, surrogate or home care worker (if confirmed by consumer), a replacement check for any check reported to the Contractor as lost or stolen, and stop payment on the original check; and
- 3) Maintain documentation of all void and reissued checks, including the date the check was reported lost or stolen and the date a check was reissued, and provide such documentation to the ASAP upon request.



## **B. ADMINISTRATIVE TASKS**

1. Maintain a current list of all Consumers under agreement with the Contractor, including each Consumer's SIMS ID, the start date of the ASAP authorization, and, if applicable, the end date of the authorization.

### **2. Consumer Liaison**

The Contractor shall designate a Consumer Liaison Account Representative (who may be the Contract Manager), who shall:

- a. Act as a liaison between Consumers and the Contractor;
- b. Respond to Consumer inquiries and Complaints;
- c. Resolve time discrepancies in home care worker Activity-time as reported by Consumers on the Contractor's Activity Form.

### **3. Member Services Unit**

The Contractor shall:

- a. Establish a Member Services unit, effective the start date of the Contract, to respond to all ASAP Fiscal Intermediary-related calls, letters, and on-site encounters;
- b. Employ sufficient Member Services staff to assist Consumers, Surrogates, and other interested parties in obtaining services under this Contract and to respond to telephone calls;
- c. Respond knowledgeably to Consumer or Surrogate requests for information/assistance regarding how to appropriately complete any form relevant to this Contract;
- d. Inform Consumers in writing of the Contractor's toll-free Member Services telephone number(s);
- e. Mail forms, instructions, agreements, employment packages, and any other requested information to Consumers within one business day of receipt of the request; and
- f. Inform Consumers in writing of any change in FI policies or procedures that will affect Consumers or home care workers.

### **4. Communication Systems**

The Contractor shall:

- a. Operate a toll-free Member Services telephone line from at least 9:00 a.m. to 5:00 p.m., Eastern Time, Monday through Friday, excluding federal and Massachusetts state holidays;

- b. Arrange for an after-hours answering service or other applicable voice messaging service for Consumers to leave messages regarding requests for employment of new home care workers, questions regarding form completion, or any other messages relevant to this Contract;
- c. Respond to all after-hours messages, as necessary, during the next business day;
- d. Maintain a telephone log of all calls that are not repetitive and routine in nature (such as “*Did you get my timesheets?*” “*Has my check been mailed out yet?*”) including the date, nature, and disposition of the call and date of resolution;
- e. Ensure Consumers and other interested parties have access to a human operator during normal business hours;
- f. Arrange for someone to speak with Consumers in their primary language or through an alternative language device or interpreter; and
- g. Ensure the Member Services toll-free line has TTY transmission and reception capability.

**C. RECONCILIATION FOR EMPLOYER-REQUIRED TASKS**

Perform a reconciliation of the Contractor’s ASAP reimbursement for the Employer Expense Component of the home care worker’s wage for each calendar year of the Contract, or for any such periods designated by the ASAP, in accordance with MassHealth rules.

**D. CONTINUED OBLIGATIONS OF THE PARTIES**

In the event that this Contract is terminated, expires, or is not renewed for any reason, the Contractor shall be responsible for:

- 1. Issuing to home care workers and reporting to the federal Internal Revenue Service (IRS) and the state Department of Revenue (DOR) all legally required tax documents regarding payments, such as IRS Form W-2, for the time period in which such Contract was in effect.
- 2. Meeting with the ASAP at the ASAP’s request, to resolve all program transition issues including but not limited to the status of all program activities such as payment for Workers’ Compensation and federal and state taxes.
- 3. The transition of Consumers to another Fiscal Intermediary contractor of the ASAP’s, including notifying all Consumers under agreement with the Contractor of the date of termination and the process by which those Consumers may continue to receive services, and compliance with the requirements for Consumer transfers.
- 4. Resolving all outstanding Employer-Required Tasks, including working with the state and federal tax authorities to resolve any tax notices issued to Consumers.

In addition, the ASAP reserves the right to require the Contractor to continue providing services pursuant to the Contract, including, but not limited to, performance of Employer-Required Tasks and Administrative Tasks, through the end of the last day in the tax quarter in which such termination is to occur, or such other period designated by the ASAP.

## **E. ACTIVITY FORM**

1. The Contractor shall develop, print, and distribute an Activity Form for daily reporting of all Activity-time. The Activity Form may be used for single or multiple days and must include at least the elements described herein.
  - a. Consumer's name
  - b. Worker's Name and Social Security number or other means to identify the worker, such as an employee number.
  - c. The start and end dates for the biweekly period reported.
  - d. Actual Activity-time, specifying the amount of hours and minutes, and the weekly total for Activity-time.
  - e. Place for Consumer and worker signature certifying that all information reported is true and accurate to the best of his or her knowledge.
  - f. Instructions for completing the Activity Form.

## **F. POLICIES FOR CONSUMER TRANSFERS BETWEEN FISCAL INTERMEDIARIES**

Consumer transfers between Fiscal Intermediaries that occur so that the transferring FI issues payroll checks in one calendar year and the receiving FI issues checks in the next calendar year require no special handling. In these cases, each FI would be responsible for all federal and state tax liability deposits and filings for their respective calendar year.

Consumer transfers between Fiscal Intermediaries that occur so that the transferring FI and the receiving FI both issue payroll checks in the same calendar year require special handling. Federal Income Tax (FIT) Withholding and Employer and Employee Social Security and Medicare Taxes require different procedures than State Income Tax (SIT) Withholdings, FUTA, SUI and Massachusetts State Health Insurance. Workers Compensation Insurance should be handled separately from all others. The transferring FI must send year-to-date and quarter-to-date information for all Home care workers to the receiving FI.

### **1. FIT, Social Security & Medicare Taxes**

Since the total of all consumer wage data must tie to the aggregate filings under the FI's EIN number, it is necessary to transfer all of the year-to-date information from one FI to another regardless of when the transfer happens during the calendar year.

The transferring FI will back out all of the year-to-date information in their current quarter Form 941 thereby reducing their tax liabilities in the current quarter. This process will allow reimbursement to the transferring FI for all FIT, Social Security and Medicare taxes deposited for the consumer in the calendar year. A check for that reimbursement amount must be sent to the receiving FI.

The receiving FI must then add that same year-to-date information into their current quarter Form 941 and deposit the transferred funds with the IRS. This procedure transfers the year-to-date information from the transferring FI to the receiving FI and ensures that the aggregate filings balance to the Forms W-2 issued at the end of the calendar year. It also ensures that the year-to-date gross payroll per worker is maintained at only the receiving FI so that the process of determining any refund of Social Security and Medicare taxes based on that year's threshold can be accomplished efficiently and in a timely manner.

## **2. SIT, FUTA, SUI and Mass Health Insurance**

These consumer filings are performed under the consumer's Employer Identification Number (EIN) and therefore require different procedures. Any monthly or quarterly filings or tax liability payments performed by the transferring FI will remain intact. The transferring FI will send a check to the receiving FI for any tax liabilities due for the current quarter-to-date that have not been deposited with the appropriate governmental agency. Any monthly or quarterly reports filed with governmental agencies must be sent to the receiving FI.

## **3. Workers Compensation Insurance**

The transferring FI should retain all gross payroll processed at their agency for purposes of Workers Compensation Insurance. The amounts used to determine audit adjustments should include all gross payroll processed by the FI.