



COMMONWEALTH OF VIRGINIA  
*Virginia Board for People with Disabilities*

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*Executive Director*

*Washington Building, Capitol Square  
1100 Bank Street, 7th Floor  
Richmond, Virginia 23219*

804-786-0016 (TTY/Voice)  
1-800-846-4464 (TTY/ Voice)  
804-786-1118 (Fax)  
info@vbpd.virginia.gov  
www.vaboard.org

September 21, 2015

Ms. Terry A. Smith  
Director, Division of Long Term Care  
Department of Medical Assistance Services  
600 East Broad Street  
Richmond, VA 23219

Dear Terry:

Thank you for the opportunity to review the draft SPECIAL Medicaid Memo regarding Consumer Directed Waiver Services-Employer of Record Changes.

The Board is aware of the complexities of implementing the new Department of Labor rule regarding over-time pay for direct support professionals working more than 40 hours a week. We look forward to working with DMAS and other stakeholders to ensure that implementation of the Rule does not negatively affect individuals with disabilities and their families.

With respect to the Medicaid Memo, The Board is concerned about the key provision that limits EORs to representing only one individual receiving consumer directed (CD) services. While there is an important exception for EORs serving multiple individuals residing at the same physical address, this exception does not go far enough.

We urge DMAS to modify the memo so that one EOR can serve multiple family members receiving CD services at different physical locations. There are likely to be a number of instances in which a parent or guardian serves as an EOR for more than one family member. It could be adult siblings who live in their own separate abodes. It could be a parent receiving CD services under the EDCD waiver and a child receiving CD services in another location (either the parent's home or their own abode).

Limiting EORs to individuals residing in the same household could have a very negative impact on the ability of individuals with disabilities to have and manage CD services. It would create an additional, unnecessary burden on the individuals and their caregivers.

Thank you for considering this recommendation. Please feel free to contact me at 804-786-9369 or [Heidi.Lawyer@vbpd.virginia.gov](mailto:Heidi.Lawyer@vbpd.virginia.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Heidi Lawyer", with a stylized flourish at the end.

Heidi L. Lawyer