

Module 3B: Employer of Record (EOR) Training by Services Facilitators

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Welcome to Part B of Module 3 in the series of four training modules for Services Facilitators in Virginia. Completion of all four Modules and successful completion of the corresponding learning assessments will satisfy DMAS training requirements to provide Consumer-Directed Services Facilitation in Virginia.

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In Module 3, Part B, we will cover Steps 3 through 5 of Employer of Record Training:

- Required Qualifications of Attendants;
- Attendant Responsibilities; and
- Employer Responsibilities.

At the end, we will mention some attributes of the resource, “*Your Guide to Directing Your Own Supports in Virginia.*”

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DMAS requires that all attendants have certain basic qualifications. When training the EOR as an employer, it is very important that he or she understands these qualifications before advertising for, interviewing, and hiring an attendant.

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All attendants must:

Be 18 years of age or older;

Have the skills to perform those services and activities in the service plan for which they are being hired;

Have basic math, reading, and writing skills; and

Have a valid Social Security number and be authorized to work in the United States.

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Every attendant must also:

- Demonstrate the capability to perform health maintenance activities required in the service plan, or be willing to receive training in how to perform them; and
- Submit to a criminal history records check. If the individual participating in CD services is a minor, the attendant must also submit to a check of the Virginia Department of Social Services Child Protective Services Registry.

Let's take a closer look at these records checks.

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As we just mentioned, background checks must be performed for every attendant who is hired or begins work. The fiscal/employer agent (F/EA) provides EORs with forms that must be completed and submitted and is responsible for handling them after they are completed correctly.

One of the forms requests a Criminal History Records Check from the Virginia State Police. This applies to every attendant.

The other form is a VDSS CPS Request for Search of the Central Registry and Release of Information form. This applies only when the individual using CD services is a minor.

The attendant must complete the applicable form or forms and have his or her signature notarized before the forms are sent to the F/EA. Once received, the F/EA will submit the Criminal History Record Name Search Request form to the Virginia State Police and the CPS Registry check form to the Virginia Department of Social Services.

There is no charge to the EOR or the attendant for requesting either of these checks.

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Before submitting the forms for requesting these checks, the EOR should understand the consequences of the results.

After sending all appropriate background check forms to the F/EA, the F/EA will submit the background checks and then notify the EOR if whether or not the attendant can be employed based upon the results. If the attendant has a result of a "fail" from the background checks, then that attendant may NOT be hired. In the event that the attendant's background checks result in a "partial fail," the EOR may still choose to hire the attendant by signing an Acceptance of Responsibility for Employment form. The F/EA includes this form in each employment packet in case it is needed, and the Services Facilitator should assist the EOR in completing the form and submitting it to the F/EA.

No attendant may begin to provide unsupervised direct care to individuals until satisfactory background check results have been obtained for that attendant.

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The EOR Manual lists many responsibilities of an attendant. Services Facilitators need to make sure that the EOR fully understands these required responsibilities.

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The attendant must:

- Agree to annual TB screenings. Documentation of successful completion of TB testing should be submitted to the EOR. The first of these should preferably be obtained prior to employing the attendant;
- Notify the EOR as soon as possible in the event of illness, emergency, or other incident preventing services to be provided. This is important so that assistance can be obtained from someone else according to the emergency back-up plan;
- Participate in training in providing CD services, as required by the EOR or as specified in the CD service plan;
- Maintain confidentiality of all information regarding the individual and respect his or her privacy; and
- Carefully carry out all instructions regarding care.

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An attendant must accept the reimbursement that is made by the F/EA as payment in full for the CD services provided unless the EOR is required to pay the attendant a patient pay amount. If an individual has a patient pay amount, the EOR agrees to sign completed attendant timesheets and to pay the attendant patient pay net wages on a regular and timely basis according to the payroll schedule. The attendant must understand that this amount will not be included in the payment received from the F/EA.

Attendant pay rates are set by the Virginia General Assembly and are not negotiable--the attendant may not be paid by the individual or EOR any extra above this rate.

The attendant must also sign timesheets and is responsible to request reimbursement only for services that were provided within what has been authorized on the individual's CD service plan. The attendant also cannot be paid for:

- Services not performed or time not worked;
- Services when the individual is hospitalized or in a nursing facility or an ICF/IID;
- Incorrectly or incompletely submitted timesheets; and
- Premature timesheets—those sent before the end of the pay period.

The attendant may not begin to work and be paid for time worked until all proper paperwork has been completed, submitted and processed for service authorizations, employment, and background checks.

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Attendants are permitted to transport individuals in their own or the individual's vehicle, provided that the attendant has a valid driver's license and is currently registered in Virginia and properly insured.

For a vehicle to be properly insured, the insurance must insure the person and the passenger against:

Loss from any liability imposed by law for damages;

Damages for care and loss of services because of bodily injury to, or death of, any person; and

Injury to or destruction of property caused by accident and arising out of the ownership, use, or operation of such motor vehicle or motor vehicles within the Commonwealth of Virginia, any other state in the United States, or Canada.

There are required minimum bodily injury, death, and property destruction limits which are enforced through the Virginia Department of Motor Vehicles. For more detailed information on insurance requirements, visit the Virginia Department of Motor Vehicles Website or click on the link located on the slide.

The Medicaid program does not directly reimburse attendants for any mileage or related transportation expenses; however attendants may be able to deduct the expenses on their income taxes.

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All attendants need to understand certain rules and factors of becoming a CD attendant such as:

- The attendant's agreement to provide services does not guarantee employment or payment of wages for any time period;
- The attendant is employed by the EOR—not by DMAS or the F/EA;
- Attendants cannot begin work until all required paperwork, such as service authorizations and background checks, has been completed;
- The individual's property, including the telephone, is not to be used for the attendant's personal use unless mutually agreed upon by both parties prior to use of the property;
- The attendant must be punctual, neatly dressed, and respectful of all family members; and
- Misrepresentation of time, services, or other information is not permitted and will be prosecuted under applicable federal and State laws.

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Step 5 is really the heart of EOR Training. As many EORs have never served as an employer before, it is critically important that they understand the various responsibilities they will have in this role.

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Unless the EOR has already selected the attendant or has someone in mind, he or she will need to recruit to fill the position. The first step is creating a job description and an application. The job description should be specific and easy to understand. It tells what things the individual needs for the attendant to do or help with; where he or she wants the attendant to work; when the attendant needs to be with the individual; and how the attendant will do the job.

The job description is not meant to replace other training or directions that the EOR gives to the attendant. The EOR should be encouraged to consider whether to require the attendant to have additional qualifications beyond those required by DMAS, or whether the attendant will be required to perform certain specific duties related to the individual's needs.

The Services Facilitator should offer to assist the EOR in developing an appropriate application and job description. Samples are in the DMAS EOR Manual which is included in the Module 3 training materials.

The EOR can also ask friends, family members, and individuals who already have an attendant to suggest someone who may be interested in serving as an attendant.

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In the event no one is available at this point, the EOR should be trained in how to advertise for an attendant. No matter how the EOR advertises, it is important that he or she knows that advertising takes time, and it may be awhile before anyone is employed. Since it can take time to find and hire an attendant, the individual still has the option of using AD services while waiting to find an appropriate CD attendant. Also, the costs of recruiting an attendant are the EOR's own expense. DMAS does not reimburse for advertising expenses.

Many EORs have had success placing an ad on the Internet; placing an ad in the local newspaper; checking with the local Virginia Employment Commission Workforce Center; contacting the local Center for Independent Living or the local Area Agency on Aging; checking with local faith-based organizations; putting a notice up at a local college or university that offers a nursing program, human services related programs (such as Psychology, Social Work, Counseling, Rehabilitation, Gerontology, etc.) or allied health programs (such as Physical Therapy, Occupational Therapy, Speech Pathology); using hospital bulletin boards, where staff may be looking for work between shifts; or putting up a notice at the local Department of Social Services.

As the Services Facilitator, you should help the EOR prepare an appropriate ad that includes all major qualifications, rate of pay and days and times required for work. You can find a sample ad in Your Guide to Directing Your Own Supports in Virginia.

If all attempts to find an attendant are unsuccessful, the Services Facilitator and the EOR may explore the option of hiring a person who lives under the same roof as the individual or a family member. There must be objective written documentation of the efforts to find an attendant and reasons why one could not be found. Family members or persons living under the same roof as the individual using CD services must meet the minimum qualifications of an attendant and must fill out the appropriate paperwork in the Employment Packet, submit it to the F/EA, and receive an attendant ID prior to beginning employment as an attendant.

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After placing a job ad, the EOR should be ready to receive responses and/or applications from prospective attendants. The first step in assessing an application is to assure that the minimum qualifications are met. If they are not met, the applicant should NOT be interviewed. Even though the ad should have clearly addressed the pay and hours, it is a good idea for the EOR to contact any qualified applicants to assure that they understand that the rate of pay cannot be changed, and the applicant must be willing to accept it; and the days and times that the applicant will need to work are fixed.

If an applicant wants more pay than what is allowed, or if he or she cannot work the hours needed, the EOR should not offer an interview. If the person's hours, pay, and transportation needs match the individual's needs, the EOR may want to give the applicant a brief description of the job. Then, if the person is interested in the job, the EOR should set up a time to conduct a formal interview. Each applicant should be asked to bring two or three references to the interview. The Services Facilitator should encourage the EOR to interview more than one person if possible.

The purpose of interviewing is to learn as much as possible about the applicants and to give them information about the individual so both parties have enough information to make a good decision. The EOR may want to have someone he or she trusts present, and the Services Facilitator may offer to be present. If the EOR is still not sure if an applicant is able to do the job, a second interview may be conducted.

When scheduling interviews, the EOR should allow enough time between appointments to think about each applicant and write down some notes about the person just interviewed. If several people are interviewed in one day, it can be hard to remember things that were liked or disliked. It may be helpful to list, in order, the things that the EOR felt were important in an attendant.

Interviews can be conducted anywhere the EOR wishes, however DMAS recommends that interviews take place in the individual's home. At that time, the EOR can assess many things about the person without even asking questions.

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Choosing the right attendant is one of the most important decisions the EOR can make. If an applicant seems to be the right fit for the individual, then it is time for the EOR to check work references. The EOR should be encouraged to contact previous employers, explain the job the person is applying for, and ask if the applicant was dependable, honest, and got along well with others. There may be other questions that the EOR wants to ask, such as whether the employer would hire the applicant again.

If the references check out and an offer is extended and accepted, the attendant (and the EOR) must complete and sign all of the relevant forms in the Employment Packet before the attendant can start work or be paid. (The F/EA cannot pay for any services until a completed packet is received for the attendant.) It is the EOR's responsibility to assure the forms are completed correctly, submitted to the F/EA, and that an attendant ID number is issued prior to employment. The Services Facilitator should assist with these tasks.

The Employment Packet includes tax forms, an employment eligibility (I-9 form), and requests for Criminal Records Check and CPS Central Registry Search if applicable. The packet also includes a mandatory written agreement between the EOR and the attendant, which will help both know what is required of the job. The agreement addresses compensation for the attendant, duration of and changes to the agreement, scheduling, attendant qualifications, duties, and policies, the EOR's responsibilities as employer, and mutual responsibilities. The completed and signed forms must be mailed to the F/EA in the stamped, self-addressed envelope provided in the Employment Packet. Completed Employment Packets may not be faxed. There is no charge to the EOR for any of this. If applicable, let the EOR know that attendants must complete a separate Employment Packet for each individual who employs them, even if the individuals live in the same home.

It is also a good idea for EORs to thoroughly review the job description, including the schedule of days and times that the attendant is expected to work and what days the attendant will be off, and have the attendant sign it. The attendant should also be reminded about the payroll dates and that paychecks are issued only based on properly completed timesheets. Lastly, the EOR and the attendant should agree on a start date and decide on a time for training.

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Some attendants may need more training than others. EORs should start by reviewing the CD service plan and job description with the attendant, emphasizing the services the attendant will be providing, how the EOR needs the attendant to help the individual meet each service need, and what services the attendant cannot provide. Generally speaking, attendants should not be asked to complete tasks that are not on the job description. The attendant should know where the CD service plan is located if needed.

A very important part of training is communicating directions and instructions in a way that can be easily understood. When explaining how something needs to be done, especially something that may be new to the attendant, each step should be covered clearly. To make sure the attendant understands, have him or her repeat it back and demonstrate performance of the task. The EOR may re-explain the types of things with which help is needed. A checklist that sets a routine of tasks that must be followed in a certain order may help the attendant remember the tasks to be performed. After reviewing the checklist with the attendant, it should be posted for reference. A sample task checklist is provided in the Module 3 training materials.

Attendants are not covered under Workers' Compensation insurance, and their safety is of primary importance. If the individual has special equipment, the attendant needs to know how to work with it and learn any safety precautions related to its use. An important part of attendant training, therefore, is explaining how to use each piece of equipment before allowing the attendant to use it, and practicing its use with the attendant. The attendant must learn **exactly** what to do in case of an equipment malfunction. The attendant should also learn how to safely handle human body fluids while changing bandages and bathing the individual, how to use and properly dispose of gloves, and how and when to use face masks or goggles. The EOR also needs to make the attendant aware of any dangers in the home that might cause an accident or injury. If the EOR isn't sure how to tell the attendant to do a certain task in the safest way (for example, help the individual transfer from the wheelchair to the toilet), he or she can have someone who has done this task before, and knows the right way to do it, show the best way. The Services Facilitator may also offer to assist the EOR to make a videotape of the transfer techniques to show to new attendants as part of their training.

Planning for emergencies is key, and any potential health or safety emergencies should be discussed. The EOR should write down medical conditions and include anything that the attendant must do in an emergency. This list should be kept near the telephone with the name of the individual's doctor and telephone number, allergies, preferred hospital, and the rescue/fire department telephone number. Go over who to call in case of an emergency and what family members, doctors, or friends to contact. If there is an emergency, make sure the attendant knows to call 9-1-1, but that the attendant may also need to act first before calling 9-1-1.

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It is strongly recommended that all attendants receive a formal performance evaluation from the EOR at least each year. Evaluations provide feedback about how attendants are doing on the job: what they are doing well, and how they can do better. The written job description and the checklist that includes the job duties are helpful in evaluating performance. Using the checklist gives the EOR a chance to solve small problems before they become too big. Checklists can also protect both the EOR and the attendant by providing a written record of the duties of the job. A sample attendant evaluation form is included in *Your Guide to Directing Your Own Supports in Virginia* in the Module 3 training materials.

It is also important to give the attendant feedback on an ongoing basis. EORs should be encouraged to ask attendants from time to time how they feel about their performance, the work, and about the EOR as an employer. It is a good idea to set up a regular time, perhaps each month or even week, to share concerns and ideas about the work.

Effective communication is always important, but it is especially important when giving an attendant feedback. The Services Facilitator should be prepared to give the EOR some tips on how communicating effectively can create and maintain a positive work environment, establish rapport with the attendant, and resolve any conflicts that may arise. For example, when the EOR evaluates the attendant, the EOR should give him or her time to react to the feedback, and really listen to what the attendant says.

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An EOR as an employer of an attendant has many record keeping responsibilities, and should be encouraged to keep all records in a folder or a notebook.

Documents to be kept in a record for the attendant include:

- The individual's CD service plan;
- The attendant's job application, notes taken during the interview, and reference checks;
- A copy of all Employment Packet forms that were completed, signed and submitted to the F/EA, including the signed agreement between the EOR and the attendant;
- Documentation of TB testing. The F/EA retains the results of criminal background checks, including DSS Child Protective Registry results, if applicable; and
- A copy of the attendant's driving record, proof of at least minimum liability insurance and proof the vehicle used for transporting the individual is registered by the Department of Motor Vehicles.

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Additional documents to be in the attendant's employment record

include: A record of training and performance evaluations provided to the attendant;

Copies of attendant time sheets signed by both the EOR and the attendant. These can be either paper or accessible electronically on the F/EA website; and

Any other signed documents.

DMAS strongly encourages EORs to document each attendant's activities on a weekly basis. The DMAS EOR Manual, included with the Module 3 training materials, provides an Attendant Documentation Form that may be used for this purpose. One form can be used for each attendant each week. The EOR should sign and date the form after the week is completed. The attendant also signs and dates the form. By signing, both parties agree that the information is true and accurate. The CD Attendant Documentation Form is not to be sent to the F/EA or to DMAS. The EOR and the Services Facilitator may find it helpful, though, in identifying future training needs, among other things.

Lastly, the EOR should be encouraged to retain copies of any official documents relating to the services being provided.

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One of the most important topics for EORs to understand is how to complete and submit accurate timesheets that allow attendants to be paid on time. Even a seemingly small error can cause a delay in payment to the attendant, so it is important for the Services Facilitator to go into some detail to make sure the EOR recognizes just how important this process is. Every portion of the timesheet should be reviewed with the EOR, and a copy of the instructions should always be available for reference. The major areas to make sure the EOR understands include the following:

Attendant paychecks are issued every two weeks; the EOR must pay careful attention to the payroll schedule.

The only timesheet that can be used is the one that the F/EA includes in the Employment Packet or that is available online on the PPL portal. No other timesheets are permitted.

Timesheets must be signed by both the EOR and the attendant and serve as a certification that the services were actually rendered. The signatures authorize the F/EA to issue a paycheck to the attendant. Under no circumstances are Services Facilitators allowed to sign and authorize attendant timesheets for the EOR.

Timesheets must be complete and accurate in all respects. Payment delays are caused by timesheets that are submitted incomplete or with errors. Services Facilitators should review timesheets with the EOR for any discrepancies prior to the EOR submitting the timesheets to the F/EA.

Timesheets cannot include more hours than have been authorized. Doing so will delay processing.

Timesheets have expiration dates. If an attendant has not provided CD services for 12 months, he or she must re-enroll (that is, complete a new Employee Packet). The EIN can also be retired if not used.

If applicable, the dates that indicate when a patient pay amount is due must be indicated.

The timesheet, instructions and additional information and training related to attendant time sheets can be obtained through the F/EA's website listed in the "Websites Referenced" document in the Module 1 training materials.

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A completed and signed timesheet can be faxed, mailed, or completed on-line.

You can submit timesheets electronically through the F/EA's website, included in the website links document in the Module 1 training materials. The EOR should follow the steps provided in the Timesheet Instructions.

The EOR should realize that when paper time sheets are mailed or faxed, they must be legible. Instructions for mailing and faxing are also available through the F/EA's website, included in the "Websites Referenced" document in the Module 1 training materials.

Remember, payment of attendants for submitted timesheets is contingent upon timely submissions of service authorizations and/or reauthorizations by Services Facilitators.

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The Services Facilitator should also review certain employer responsibilities that are related to when an attendant needs to be dismissed.

Unfortunately, sometimes an attendant may need to be dismissed. Under no circumstances are Services Facilitators to take on dismissing attendants--this is to be done only by the EOR. The EOR may dismiss the attendant immediately if a serious matter such as abuse, neglect or theft has taken place. In this case, the matter needs to be reported to the Services Facilitator and Adult Protective Services or Child Protective Services, as appropriate, immediately. Additionally, the services facilitator may have further obligations to report APS or CPS incidents to a support coordinator, case manager or MCO provider. Therefore, the services facilitator should coordinate with these oversight providers to clearly understand and follow processes and timelines for incident reporting. For matters less serious, the EOR may first give the attendant a warning, a certain amount of time to improve, and some advance notice of dismissal if improvements are not made. But when dismissal is necessary, the EOR should remember to collect keys or other items that belong to the individual; if the attendant knows a PIN number for bank accounts, change the PIN number immediately; and document any events that led to the dismissal. Try to remain as friendly as possible.

The EOR will also need to let the F/EA know of the dismissal by completing, signing, and submitting a Notice of Discontinued Employment, found in the Employment Packet. At dismissal, the EOR should call on the individual's emergency back-up attendant. If hiring or keeping an attendant is difficult for the EOR, the individual's health and safety may be at risk. This may especially be a problem if the back-up support plan cannot meet all of the individual's needs over time. In this case, the Services Facilitator may need to talk with the EOR about obtaining agency-directed services instead.

Finally, just as the individual's privacy must be respected by the attendant, so must the EOR respect the attendant's privacy. All information about the attendant should be confidentially maintained.

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We mentioned earlier that *Your Guide to Directing Your Own Supports in Virginia* is an easy-to-read resource that was written by individuals with disabilities and older adults. In closing, let's take a quick look at how it can be helpful to those who choose CD services.

It is written in what the authors call "easy speak" language that is user-friendly and is divided by topics so that readers can go directly to sections of the Guide that they need.

It contains practical tips, examples and forms. It also includes information on many topics important to individuals who use CD services, including marketing and hiring attendants, teaching or training attendants, supervising attendants, appeal rights, preparing for emergencies, and self-advocacy.

A copy of the Guide is available in the Module 3 training materials or by clicking the link on the slide. Hard copies are also available for Services Facilitators to distribute.

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You have now completed Part B of Module 3 of the four-part online series for meeting the requirements for training as a Services Facilitator.

Please note that all of the web links provided in this module are contained in the accompanying training materials.

Please complete the assessment for Module 3, Part B and print or save your certificate of completion.

Thank you for your participation! You may now proceed to Module 4.