



ADMINISTRATIVE RULES OF MONTANA

37.90.439 HOME AND COMMUNITY-BASED SERVICES FOR ADULTS WITH SEVERE AND DISABLING MENTAL ILLNESS: SELF-DIRECTED SERVICES

- (1) Enrolled members in the waiver program must be offered an opportunity to utilize self-directed services as a co-employer. Once an enrolled member's comprehensive assessment and PCR process have been completed and needed waiver services are identified, the enrolled member may select the specific services they wish to self-direct from the list of services indicated in (10). The enrolled member may also receive some of the services in their PCR through traditional supports and services from a provider agency, as long as no services are duplicated. The entities responsible for supporting self-direction include case managers, the QIO, and the provider agencies.
- (2) Services may be directed by:
 - (a) an enrolled member who has the capacity to self-direct, as determined by the department or the department's designee;
 - (b) a legal representative of the enrolled member, including a parent, spouse, or legal guardian; or
 - (c) a nonlegal representative freely chosen by the enrolled member or the enrolled legal representative.
- (3) The person directing the services must:
 - (a) be 18 years of age or older;
 - (b) successfully complete required training for self-direction; and
 - (c) if acting in the capacity of a representative, demonstrate understanding of the enrolled member's needs and preferences.
- (4) If an enrolled member indicates an interest in the self-directed option, the case management team is responsible for referring the enrolled member to the QIO. The QIO must assign a health care professional to:
 - (a) conduct a capacity interview over the telephone; and
 - (b) certify that the enrolled member, legal representative, or nonlegal personal representative is capable of managing the tasks and understands the risks involved. An approved capacity determination is required to self-direct services.
- (5) The case management teams must:

- (a) assist the enrolled member to develop an emergency backup plan, identifying and mitigating risks or potential risks, and monitor the health and safety of the enrolled member. Agency-based PAS managed by provider agencies under agreement with Medicaid are not available to enrolled members who are participating in the self-directed program. The use of PAS managed by provider agencies is permissible only if the enrolled member's backup plan fails;
 - (b) educate enrolled members regarding self-directed opportunities;
 - (c) meet with enrolled members to detail the self-directed service options during the intake process, annual visit, as well as throughout their service plan year as indicated through assessed need;
 - (d) provide assistance for informed decision-making by enrolled members and their families/representatives about the election of self-direction with information and training on the roles, risks, and responsibilities assumed by those who choose self-direction;
 - (e) inform enrolled members they are able to assist with the development of formal/informal supports, plan development, as well as available resources for self-direction; and
 - (f) oversee the service delivery in the self-direct option.
- (6) The enrolled member, the enrolled member's legal representative, or the nonlegal personal representative must:
- (a) be capable of making choices about activities of daily living, understand the impact of their choices, and assume responsibility for those choices;
 - (b) be capable of managing all tasks related to service delivery including recruiting, hiring, scheduling, training, directing, and dismissal of attendants; and
 - (c) understand the shared responsibility between the enrolled member and the provider agency.
- (7) Enrolled members will be able to choose from several agencies providing personal assistance type services, ensuring members are successful with the self-direction experience. The provider agency must:
- (a) advise, train, and support the enrolled member, as identified in the member's PCRP;
 - (b) assist with recruiting, interviewing, hiring, training, managing, paying, and dismissing workers; and
 - (c) assist with monitoring the health and welfare of the enrolled member.
- (8) Self-directed services can be terminated when:
- (a) the enrolled member chooses not to self-direct; or
 - (b) the case management team or the department identifies an instance where the self-directed option is not in the best interest of the enrolled member, and a corrective action does not improve the situation.
- (9) The enrolled member must be informed in writing of the plan to transfer to an agency-based service delivery.
- (10) The following services may be self-directed as a co-employer:

- (a) personal assistance services;
- (b) behavioral intervention assistance; and
- (c) life coach.

Authorizing statute(s): 53-2-201, 53-6-402, MCA

Implementing statute(s): 53-6-402, MCA

History: NEW, 2020 MAR p. 1173, Eff. 7/1/20; AMD, 2024 MAR p. 2234.