

EMPLOYMENT AGREEMENT
Participant/Self-Direction Medicaid Waiver

Please check the appropriate box to indicate the purpose of the submission of this form.

☐ New Employee

☐ Employee Pay (Rate) Change

Effective Date of Rate Change _____

Note: Conduent (formerly Xerox) must receive the Employment Agreement at least 15 days before any rate change. Rate changes will become effective at the beginning of the pay period.

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An employee is hired and supervised directly by the Employer of Record (EOR). The employee must follow the policies stated in this Agreement. The purpose of this Agreement is to establish the responsibilities of each party. The employee is an employee *at will*. The Participant/Self-Direction member served under this Agreement is: (please print)

(MEMBER/PARTICIPANT Name) _____

Parties to Agreement This Employment Agreement is made on

(Date) _____, by and between

(EMPLOYEE Name) _____,

hereinafter called "Employee" and

(EOR Name) _____

hereinafter called "Employer."

EMPLOYEE Address:

Street: _____

City _____ State _____

Phone () _____

Under 8.314.6.7 Mi Via NMAC, 8.314.7 Supports Waiver NMAC, and 8.308.12 Managed Care Program Community Benefit NMAC, a Legally Responsible Individual (LRI) is defined as any person who has a duty under state law to care for another person. This category typically includes: the parent (biological, legal or adoptive) of a minor child; the guardian of a minor child who must provide care to the child; or a spouse. State approval must be obtained in order for an LRI, legal guardian, or relative, to be paid for providing Participant/Self-Direction services.

FOR ALL EMPLOYEES

Is the employee legally responsible for the Participant/Self-Direction member? ____ YES ____ NO

If the employee is legally responsible for the Participant/Self-Direction member, please mark the box that best describes the employee's relationship to the member/participant:

- ☐ Parent (biological, legal or adoptive) of member/participant who is a minor
- ☐ Guardian of member/participant who is a minor
- ☐ Spouse of the member/participant

If the employee is a Legally Responsible Individual (LRI) for the Self-Direction member/participant, State approval to be a paid provider must be submitted with the employment agreement. If the LRI will be a provider for more than one service, State approval must be submitted for each service.

Job Duties

The employer and employee will agree on a specific set of job duties or services to be provided. These duties and services will be developed in compliance with the definitions of Service Standards, and the Centennial Care Managed Care Policy Manual and will be documented on the member/participant's Mi Via Service and Support Plan (SSP) or Supports Waiver Individual Service Plan (ISP), or Self- Directed Community Benefit (SDCB) Care Plan.

Payment

The SSP, ISP, or SDCB Care Plan start date sets the date from which payments may begin. *The rate of payment and hours/units must not exceed funding within the approved budget's line item.* Only the approved rate will be paid. The employee shall be paid for his or her services at the following hourly rates (From the Participant/Self-Direction Budget):

Service Code _____ Rate \$ _____ *Estimated hours/units _____ per week/month (Circle)

Service Code _____ Rate \$ _____ *Estimated hours/units _____ per week/month (Circle)

Service Code _____ Rate \$ _____ *Estimated hours/units _____ per week/month (Circle)

***Please note that hours/units are an estimate and not fixed. Scheduled work time may change according to member/participant's needs.**

Duration of Agreement

This Agreement will become effective when both parties sign it and in accordance with the date of approval of the service by the Third-Party Assessor (TPA) or Managed Care Organization (MCO). However, it is agreed that services will not be provided until all employment related documents (as outlined in the "Employee Packet") have been received by Conduent. Either party may terminate (end) this Agreement and the employment contemplated herein, at any time, and without liability for doing so, by giving the other party *at least 5 (five) working days prior notice except in an emergency situation*. This notice may be given either orally or in writing. It is the responsibility of the EOR and the employee to provide this employment termination information to Conduent by reporting it to the help desk at 1-800-283-4465.

Modification of Agreement

This Agreement may be changed by agreement of both parties. Modification of the Agreement will require that you submit a new Agreement to Conduent and must include prior approval to ensure that the budget can support the proposed changes. *Signed copies of all new agreements must be provided to Conduent before any changes in rates, units, and so on, can be made.* Changes in rates will NOT be done retroactively. Conduent must receive the Employee Agreement at least 15 days before the effective date of any rate change. Rate changes may only occur at the beginning of a pay period. If there is an increase in the rate, the new rate must be approved in the member/participant's budget.

Scheduling

If the employee is not able to work at the scheduled time, the employee shall give at least _____ hours advance notice to the employer so that the employer can find a substitute. (The amount of advance notice should be agreed upon between the employer and employee and noted in the space provided.)

A change in the scheduled work by the employer or employee must be made at least _____ hours in advance. In case of an emergency, the employee will notify the employer or another designated person. This person shall be designated in advance, in writing and be identified to the employee. If an employee is knowingly going to be late, he or she shall notify the employer by telephone. (See note above.)

Employee Qualifications

The employee confirms that he or she meets the minimum qualifications for employment as required by the Self-Direction Program and described in the Participant/Self-Direction Program regulations (8.314.6 Mi Via NMAC, 8.314.7 Supports Waiver NMAC, or 8.308.12 Managed Care Program Community Benefit NMAC), the Participant/Self-Direction Program Service Standards, and Centennial Care Managed Care Policy Manual. Qualifications, duties and policies of the employee include, but are not limited to:

1. The employee is 18 years of age or older.
2. The employee has the required knowledge, skills and ability to perform the services specified (stated) in the member/participant's Mi Via Service and Support Plan (SSP)/budget, Supports Waiver Individual Service Plan (ISP), or SDCB Care Plan.

3. The employee possesses the experience and background required by the Participant/Self-Direction Program for the specific service(s) he or she will provide to the member/participant.
4. The employee has basic math, reading, and writing skills and is able to communicate successfully with the member/participant.
5. An employee who provides transportation for a Participant/Self-Direction member, whether as the primary service or as part of providing a separate service, must meet the qualifications for a transportation provider, in addition to other qualifications for employment.
6. The employee holds a valid social security number and is authorized to work in the United States.
7. The employee is willing to submit to a criminal record check. **Criminal record checks are mandatory.** Employee acknowledges that he/she may not begin work until all materials necessary for a criminal background check have been received by Conduent and the EOR has received notification that the employee has successfully passed the initial Consolidated Online Registry (COR) Background Check. After the COR has been completed and the final criminal background check is in process, the employee is employed on a provisional (temporary) basis until the results of the final criminal background check are received by the EOR.

Administrative Responsibilities

1. The employee agrees that federal income, Medicare, social security and New Mexico State and local taxes (as applicable) shall be withheld from employee wages per Internal Revenue Service (IRS) and New Mexico Department of Taxation and Revenue requirements.
2. The employee acknowledges and understands that funds available for payment are authorized (allowed) by the Participant/Self-Direction New Mexico Self-Directed Medicaid Waiver **in advance** of the work performed. Payment to the employee shall only be made as authorized by the New Mexico Participant/Self-Directed Medicaid Waiver according to the approved member/participant's Mi Via SSP/budget, Supports Waiver ISP, or SDCB Care Plan.
3. The employee shall only perform work within the authorized hourly rate as he or she will not be compensated (paid) by the state of New Mexico for work performed in excess of (more than) the authorized amount in the Mi Via SSP/budget, Supports Waiver ISP, or SDCB Care Plan.
 - a. Effective 9/1/11, any changes to pay for employees must start at the beginning of a pay period. Conduent must receive the Employment Agreement at least 15 days before the effective date of the change. If the employee is going to be given a raise, the new rate must be approved in the member/participant's budget.
4. The employee will not be paid for services that are not performed or time that is not worked.
5. The employee will not be paid for any work performed over the amount authorized and documented in the budget to the employee.
6. Timesheets must be correctly completed and signed *by both* the employer and the employee.
7. Timesheets are due to Conduent by the employer or employee within one calendar day from the end of the pay period in accordance with the payment schedule (a copy is included in your Employee Packet). Timesheets received after the date in the payment schedule are considered late and may NOT be paid until the following scheduled payment issue date. Timesheets submitted for payment that exceed (go beyond) ninety (90) days after the service was provided cannot be processed or paid according to Medicaid timely-filing requirements.

8. All required documents listed in the Employee Packet must be completed by the employee and sent to Conduent *before* providing any services.
9. The employee is considered a Medicaid provider and must document services and maintain documentation as set forth in the Self-Direction Program Regulations (8.314.6.12 Mi Via NMAC, 8.314.7 supports Waiver NMAC, or 8.308.12 Managed Care Program Community Benefit NMAC).
10. The employer will **review** or **has reviewed** the Waiver Service Standards or Centennial Care Managed Care Policy with the Employee for those services they are employed to provide.
11. The employer will provide or has provided training to the employee on the reporting requirements set forth in the ABUSE, NEGLECT, EXPLOITATION, AND DEATH REPORTING, TRAINING AND RELATED REQUIREMENTS FOR COMMUNITY PROVIDERS REGULATIONS (7.1.14 NMAC)
12. The employee will complete all required training as outlined in the program standards within the required time periods, and training identified in the Participant's SSP, Supports Waiver ISP, or SDCB Care Plan as an ongoing condition of employment.

Employment Policies

1. Payment for services may be in the form of a check, ComData, or via direct deposit. The employee can change their preference of payment at any time, subject to the processes and timelines outlined in the Direct Deposit Agreement and associated instructions.
2. All paychecks are mailed directly to the employee's address on file with Conduent or are sent by direct deposit.
3. Employee wages are paid from federal and state funds. Any false claims, statements, documents or concealment (hiding) of material facts will be prosecuted under applicable federal and state laws.
4. The employee agrees to assist the employer by providing the services and performing the activities specified in the member/participant's Service and Support Plan (SSP), Supports Waiver ISP, or SDCB Care Plan and as outlined elsewhere in other documents that are related to the employee's scope of work.
5. The employee agrees to provide employee services as specified by the employer on a schedule mutually agreed upon between the employer and the employee. Occasional variations (changes) in the employee tasks and schedule may occur based on the mutual agreement of both parties.
6. In case of illness, emergency, or an incident that prevents the employee from providing scheduled services to the member/participant/employer; the employee agrees to notify the employer as soon as possible, so that the employer can obtain assistance from another party.
7. The employee agrees to complete training to provide employee services, including training to perform any health activities as required by the employer, or required training as specified in the service standards, member/participant's Mi Via SSP, Supports Waiver ISP, or SDCB Care Plan, within the required timeframes.
8. The employee agrees to maintain the confidentiality of all information about the member/participant and to respect the member/participant's privacy.

9. The employee agrees to report suspected incidents of abuse, neglect and/or exploitation to either Adult or Child Protective Services, as applicable, as well as to the Department of Health/Division of Health Improvement, as applicable.
10. The employee understands that this Agreement does not guarantee employment or payment of wages for any time period until all required paperwork is received and logged by Conduent and the EOR has received notification that the employee has successfully passed the Consolidated Online Registry (COR) Background Check. The employee cannot begin work until the EOR receives notification that they have passed the COR. The employee agrees to be employed on an interim (temporary) basis until a final criminal history record check has been completed, for those crimes determined to be disqualifying convictions as stated in NMSA 1978, Section 29-17-3. The employee acknowledges that the employer has discussed this with the employee and reserves the right to dismiss the employee based on the results of the criminal history record check.
11. The employee understands that the employee is employed by the employer and **not** the state of New Mexico or Conduent or its subcontractors.
12. The employee and employer acknowledge that the employer is solely responsible for any issue related to employment, hours, wages and non-payment of wages, including wage claims with the Department of Workforce Solutions.
13. The member/participant/employer's property is not to be used for the employee's personal use, unless mutually agreed upon in writing by both parties prior to the use of the property. All private matters discussed during working times shall be kept confidential.
14. The employee is to be punctual, neatly dressed, and respectful of all family members. The member/participant/employer's telephone may be used only with permission.
15. Misrepresentation (false statement) of time, services, individuals and/or other information is not permitted. If the employer or employee signs a timesheet that is determined to misrepresent information, this may be cause for termination (firing) of the employee, and the member/participant may lose the option of participating in Participant/Self-Direction. Additionally, suspected fraud will be reported to the Medicaid fraud unit.
16. Per Medicaid regulations, the Participant/Self-Direction Program does not allow payroll hours to exceed forty (40) hours per week for any one employee under one employer (EOR).

Employer (EOR) Responsibilities

1. The employer will verify and attest that the employee meets the minimum qualifications for employment as required by the Participant/Self-Direction Program and described in the Participant/Self-Direction Program regulations (8.314.6 Mi Via NMAC, 8.314.7 Supports Waiver NMAC, or 8.308.12 Managed Care Program community Benefit NMAC) and the Self-Direction Program Service Standards and Centennial Care Managed Care Policy Manual.
2. The employer agrees to orient, train, and direct the employee in providing the employee services that are described and authorized (allowed) by the member/participant's service plan, service standards, and that are requested by the employer.
3. The employer agrees to establish a mutually agreeable schedule for the employee's services, either orally or in writing.
4. The employer agrees to provide fair notice of changes in the employee's work schedule in the event of unforeseen circumstances or emergencies, but such notice cannot be guaranteed.
5. The employer understands that at any time, the employee can change their preference of

- payment from check to direct deposit, subject to the processes and timelines outlined in the Direct Deposit Agreement and associated instructions.
6. In consideration of the employee's best efforts to perform his/her job satisfactorily, the employer agrees to authorize completed employee timesheets and to pay the employee according to the predetermined payroll schedule. Net wages will include gross earnings calculated according to the employee's pay rate, minus payroll deductions for the employee's share of applicable state, federal, and local payroll withholdings.
 7. The employer agrees that the employee may not begin work until all materials necessary for a criminal background check have been received by Conduent and the employee has successfully passed the Consolidated Online Registry (COR) Background Check. Once the necessary materials have been received by Conduent and the employee has successfully passed the COR Background Check, the employer agrees to select or employ the employee **on an interim (temporary) basis until a final criminal history record check has been completed, for those crimes determined to be disqualifying convictions as stated in NMSA 1978, Section 29-17-3.** The employer has discussed this with the employee and reserves the right to dismiss the employee based on the results of the criminal history record check.

The process for enrolling an employee is as follows:

- a. Pre-hire packet must be properly filled out and sent to Conduent (formerly Xerox). This packet consists of: the Department of Health/Division of Health Improvement DOH/DHI Authorization form; copy of a photo ID; 3 fingerprint cards.
 - b. The COR is completed by Conduent.
 - c. If the proposed employee passes the COR, he or she may begin work on a provisional basis until the full criminal background check is completed.
 - d. The Employee Enrollment Packet needs to be completed within 3 days of when the employee begins to work. This packet consists of: the Employee Information Form; the Employment Agreement; the Participant/Self-Directed Provider Attestation Form, the Declaration of Relationship form; the Federal W-4 Tax Withholding form; the New Mexico State Withholding form; the I-9 form; and the Direct Deposit Authorization form. All documents with the exception of the I-9 form must be sent to Conduent. The I-9 form must be completed and retained (kept) by the EOR.
8. Misrepresentation (false statement) of time, services, individual and/or other information is forbidden. If the employer or employee signs a timesheet that is determined to misrepresent information, this may be cause for termination (firing) of the employee, and the member/participant may lose the option of participating in Participant/Self-Direction. Additionally, suspected fraud will be reported to the Medicaid fraud unit.

Minimum Wage

This Employment Agreement cannot show a rate that is less than the state minimum wage.

MEMBER/PARTICIPANT NAME: _____

EMPLOYEE NAME: _____

Mutual Responsibilities

The parties agree to follow the policies and procedures of the Participant/Self-Direction, New Mexico Self- Directed Medicaid Waiver to include the regulations (8.314.6 Mi Via NMAC, 8.314.7 Supports Waiver NMAC, or 8.308.12 Managed Care Program Community Benefit NMAC), the Service Standards, and Centennial Care Managed Care Policy Manual. The employee and Employer agree to hold harmless, release, and forever discharge the state of New Mexico and Conduent and its subcontractors from any claims and/or damages that might arise out of any action or omissions by the employee, employer, member/participant, or consumer.

The Employer and employee must sign below to begin an employment relationship through the Participant/Self-Direction program. By signing, the employee and the employer listed hereby agree to all qualifications, duties, responsibilities and policies as outlined in this Employment Agreement.

EMPLOYMENT AGREEMENT

Please complete and sign in ink.

Employer (EOR) signature: _____

Date: _____

Employee signature: _____

Date: _____

Employee telephone number: (____)_____

Alternate employee telephone number: (____)_____