

11/4/2022

Dear JCA members:

CSP Family Support (FS) providers are in general agreement with the recommendations passed by GOAC on 10/19/2022. We are providing clarity on our positions below and stress the need for family representation in any solutions developed. Stakeholder input has been suppressed in the changes to this program decreasing effectiveness and sustainability. We look forward to openly discussing solutions, resource requirements, and the outcomes these solutions may produce for all stakeholders. These discussions are vital in balancing expectations, understanding obligations and resources for stakeholders, and optimizing the program with sustainable long-term solutions.

- **Co-employer Relationship and Agency with Choice (AWC) Providers** – The co-employer relationship presents the following challenges:
  - The AWC is the employer of record meaning that we must follow all federal and state employment law (FLSA, overtime, benefits law, retirement plans, work comp etc.). We cap hours at 20 because the administrative fees and billable service coordination units will not cover the costs of managing these benefits.
  - The employees that AWC's technically employ are geographically spread across the state and in other states only adding to the management issues.
  - The system would require significant ongoing funding to cover the costs if hours were to be increased. Even if the funding were appropriated, AWC providers have reported reconsidering doing this at all.
- **Common Law Employer Option** – This option has been written into the FS360 waiver as a solution to some of the above issues, primarily that the person receiving supports is the employer of record. While this puts most of the employer functions on the person receiving supports, there still appears to be significant administrative functions that AWC providers are required to perform (e.g. payroll, taxes, setting the person up with the IRS). Overall, there is not enough known about this option for AWC providers to make an informed decision and require education from the state and likely legal advice. Additionally, we question how realistic this option is for families considering their legal responsibilities (FLSA, OSHA, work comp etc.).
- **Unresolved Issues Concerning FS360** – Approximately three years ago, FS providers submitted an issue brief to DHS regarding several issues with the program. While the issue of low administrative fees was somewhat addressed, it has been reported that the other issues remain unresolved. The issue brief was re-submitted in 2020 for reconsideration. This document is included with this letter.
- **Potential Solutions** – CSP FS providers want this program to work for the people receiving supports and their families. At the same time, it also must work for the CSP FS providers. CSP FS providers stepped up to help these families since the beginning of the program because we recognized the importance of it in serving people in alternative ways. **We highly recommend that the issue brief previously submitted be resurrected, updated, and addressed.** Other solutions include consultation with the Dept. of Labor on how to simplify this to an independent contractor type of arrangement (IRS1099), exploring other possible providers that specialize in co-employment relationships, investing in technology that supports more than one AWC provider assisting a family so that hours caps are not needed, while limiting risk for the AWC provider.

Again, CSP FS providers fully support this program and will partner with families, DHS, the legislature, and other stakeholders to make this program work.

Thank you,



Dan Cross

Executive Director