

Consumer Directed Services (CDS)
Employee Qualification Requirements

The **employer** in the CDS option is either:

- the individual receiving services; or
- the individual's **legally authorized representative** (LAR).

The employer may appoint a **designated representative** (DR) to assist or to perform employer responsibilities on behalf of the employer.

The employer is responsible for recruiting, hiring and supervising the service providers delivering program services through the CDS option.

Service providers include employees, contractors and vendors. Each service provider must meet the eligibility requirements of the individual's program for each service the provider will deliver.

While the employer has the option of who to use as service providers, there are some persons who do not qualify to be a service provider in the individual's program. Each program has specific requirements that an applicant must meet and maintain to be a service provider. It is the employer's responsibility to assure that each applicant meets and maintains the qualification requirements. The **Consumer Directed Services Agency** (CDSA) will verify each applicant's eligibility before being hired or retained by the employer.

In each program, a service provider must:

- be 18 years old or older;
- have no criminal convictions listed by state law that prohibits employment in a health care setting;
- have no conviction of Medicaid fraud or abuse;
- meet and maintain provider qualifications as required by the program and/or by state or federal law;
- be able and willing to meet the needs of the individual receiving services and, with training, be able to follow direction from the employer and the designated representative; and
- have a valid Social Security number, regardless of residence, and provide appropriate documentation required for completion of Form I-9 for citizenship and immigrant status as required by the federal government.

Additionally, a service provider must meet the program requirements of the individual's program for employer-employee relationships. Under these provisions, the employee must not be:

- the spouse of the individual receiving services, except in the Client Managed Personal Attendant Services (CMPAS) program.
- the individual's legally authorized representative, which would include a parent, guardian, managing conservator or stepparent of a minor-age individual or the guardian of an individual of any age.
- the legally authorized representative's spouse, the designated representative or the designated representative's spouse.
- any caregiver not eligible for hire under the Community Care for Aged and Disabled (CCAD) unmet need policy.
- a person who lives with the individual, related or not, in the Home and Community-based Services (HCS) (Supported Home Living and Respite) and Texas Home Living (TxHmL) (Community Support and Respite) programs.
- a Texas Department of Family and Protective Services' foster parent in the HCS and TxHmL programs.
- a person who is related to the individual within the fourth degree of consanguinity or within the second degree of affinity in the TxHmL program (Behavioral Support and Adaptive Aids).

Refer to the attached list for definitions regarding relationships.

Employer and Employee Relationship Determination

Definitions:

1. The **individual** is the *individual receiving services* who is either:
 - a **minor**, a person who is under age 18 (17 and younger); or
 - an **adult** who is a person age 18 or older.
2. An **employer** is defined as:
 - an individual who is an **adult** with no legally appointed guardian.
 - a parent or guardian of an individual who is a **minor**. A natural parent, legal/adopted parent, stepparent and/or a court-appointed guardian is the **legally authorized representative** (LAR) of the individual
 - a foster parent who must also have written authorization from the Department of Family and Protective Services (DFPS) to be the employer.
 - the legally appointed guardian of an individual of any age is the **legally authorized representative** (LAR) for the individual.
3. A **designated representative (DR)** is:
 - a willing adult the employer chooses to act as the primary contact and decision-maker for the employer through the CDS option, however the employer still retains responsibility for CDS requirements; or
 - a person with a **power of attorney** (POA), referred to as an attorney in fact or agent, if the POA document addresses any of the employer responsibilities required in CDS or the handling of financial affairs on behalf of the individual.
4. A **spouse** is a person married to another person. The term married is applied to marriage “with formalities” and to “marriage without formalities” (common law) as defined in Texas Family Code, Title 1, Chapter 2, Subchapter E, Marriage without Formalities, located at the following website:
<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm>.
5. An **employee** is a person age 18 years or older who meets eligibility requirements of the individual’s program, is not prohibited by relationship from being an employee and is employed by the employer.

The employee cannot be the:

- employer;
- individual’s spouse or the employer’s spouse, except in Client Managed Personal Attendant Services (CMPAS);
- designated representative or the designated representative’s spouse;
- the individual’s parent, or legally authorized representative, if the individual is under age 18;
- the primary caregiver in the Primary Home Care Program (includes Community Attendant Services and Family Care);
- a person who lives with the individual, related or not, in the HCS (Supported Home Living and Respite) and TxHmL (Community Support and Respite) programs;
- a Texas Department of Family and Protective Services’ foster parent in the HCS and TxHmL programs; or
- a person who is related to the individual within the fourth degree of consanguinity or within the second degree of affinity in the TxHmL program (Behavioral Support and Adaptive Aids).

Signature – Individual/LAR

Date

Relationship of LAR to the Individual Receiving Services

Signature – Case Manager/Service Coordinator

Date