



Transformation Agreement

January 1, 2014

OPWDD's Self Direction Policy

Submission to the Centers for Medicare
and Medicaid Standards

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Policy on Self-Direction

In accordance with the Health System Transformation for Individuals with Developmental Disabilities Agreement as defined in the Standards Terms and Conditions of New York State's Partnership Plan Medicaid Section 1115 Demonstration, this submission to the Centers for Medicare and Medicaid Services (CMS) communicates New York's policies on self-direction for individuals with developmental disabilities, demonstrating its commitment to and implementation of self-direction. This policy document includes three distinct sections as follows:

1. A **Policy Statement** describing New York's commitment to self-direction with supporting appendices,
2. A **demonstration of how New York is meeting transformation goals today** and how the state plans to build upon its current efforts to continue to enhance opportunities for self-direction, and
3. A description of the **reforms the State plans to implement** to meet the transformation commitments and proposed steps for moving these reforms forward.

I. Policy Statement:

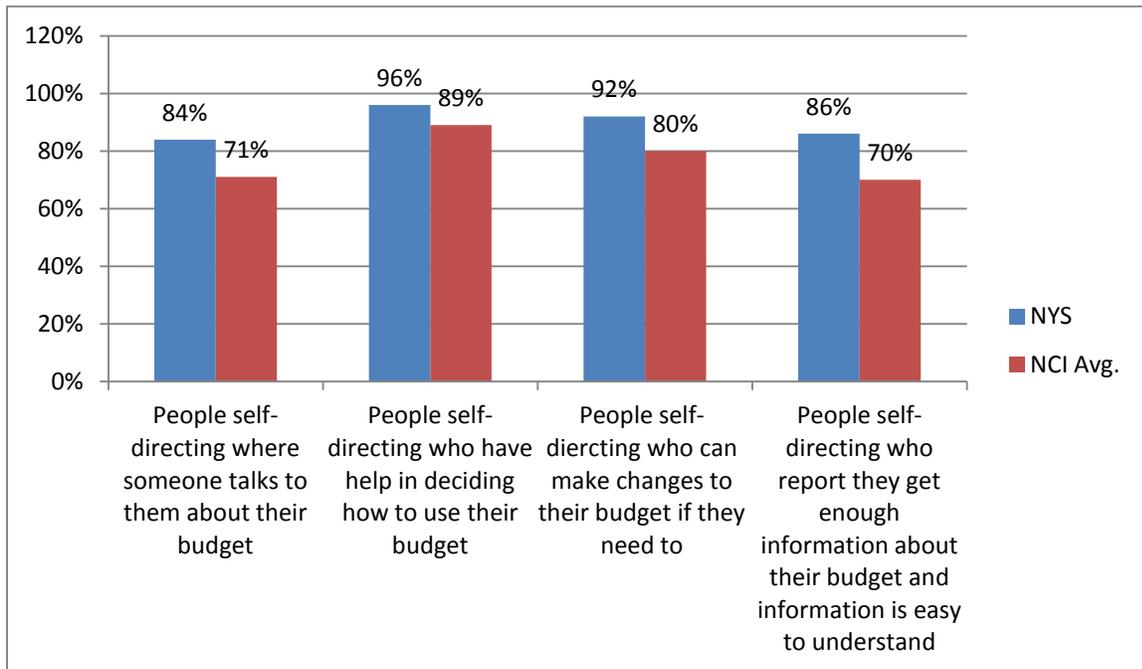
6. Consumer Self-Direction *(from CMS Special Terms and Conditions, Attachment H)*

- f. By January 1, 2014, New York will submit to CMS for approval the state's policies on self-direction that demonstrate its commitment to and implementation of self-direction.

The NYS Office for People with Developmental Disabilities (OPWDD) is committed to provide opportunities for individuals to exercise the maximum amount of control over how they receive supports and services through self-directed support options, promoting personal choice and control over the delivery of waiver and state plan services, including who provides the services and how services are provided. Through employer and/or budget authority and the ability to customize plans of support, people with developmental disabilities can engage as full citizens in communities of their choosing. This means that self-directed Medicaid services participants, or their representatives if applicable, have decision-making authority over certain services and take direct responsibility to manage their services with the assistance of a system of available supports.

Several preliminary studies have noted that self-direction may be a more cost effective option for supporting people to live and be supported in the most integrated setting appropriate to their needs and preferences. While there are still a relatively small number of individuals self-directing their services, there is strong stakeholder support and satisfaction with self-direction options throughout NYS. In addition, the National Core Indicators (NCI) data for 2011-12 indicates that NYS has strong operation of self-directed support options for key NCI indicators as follows:

OPWDD's 2011-12 NCI Survey Results for Self-Direction



OPWDD's mission and values has always embraced self-determination as a core goal and value throughout the OPWDD service system regardless of the type of services the individual receives. OPWDD expects that supports and services provided in any setting are designed to promote and facilitate greater degrees of autonomy, choice and control for all people with Intellectual and developmental disabilities. Through a person-centered planning process, self-direction of services allows participants to have the responsibility for managing all aspects of service delivery. Self direction of services with the exercise of employer authority, budget authority or both is the ultimate control that can be undertaken.

OPWDD offers this **Self-Direction Policy** and will support continued expansion and enhancement of self-directed services and options as the system transitions to a managed care infrastructure.

Self-Determination is the **philosophy** that all individuals have the freedom to develop their own personal life plan.

Self-Direction is the **practice** of empowering individuals with developmental disabilities to choose the mix of supports and services they receive and determine who provides the supports, and how and where they are provided.

II. Demonstrating a Commitment to Self-Direction

Self-Direction is based on the underlying principals of self-determination, and person-centered planning and practices. Operational definitions for concepts related to self-direction in NYS are found in Appendix A. Today, OPWDD offers individuals two options to exercise employer authority. They may choose the self-directed option for the Community Habilitation service (SDCH) or the Consolidated Supports and Services (CSS) model which provides individuals with a formal structured option within an HCBS service system. The CSS model offers the opportunity to exercise both employer and budget authority. For more information, these two options are described in more detail in Appendix B.

6. Consumer Self-Direction (from CMS Special Terms and Conditions, Attachment H)

- b. New York will increase the number of people offered the option to self-direct their services through increased education to all stakeholders in a consistent manner statewide. This education will be provided to at least 1,500 beneficiaries (with designated representatives as needed) per quarter beginning on April 1, 2013. New York will submit a quarterly report of the number of training/education sessions conducted and the number of persons attending the sessions. New York will share training materials and curricula for these sessions with CMS, and make them available statewide by May 1, 2013.
- e. New York will provide a report to CMS no later than July 1, 2013, on the current number of persons with IDD and other disabilities who self-direct their services under this demonstration. New York will enable a total of 1,245 new beneficiaries to self-direct services for the period of July 1, 2013 through March 31, 2014 subject to the following:
 - i. By October 1, 2013, 350 new beneficiaries will self-direct services;
 - ii. By January 1, 2014, 425 new beneficiaries will self-direct services;
 - iii. By April 1, 2014, 470 new beneficiaries will self-direct services.

Education and Marketing

The NYS OPWDD has promoted self-direction for individuals receiving supports through educational efforts by OPWDD staff and stakeholder groups. Educational efforts include community training sessions and new staff practices at the OPWDD “Front Door” which ensure that individuals coming to OPWDD to access services make an informed choice regarding self-directed service options.

Consistent with the transformation goal to expand education about self-direction service options in a consistent manner to all stakeholders statewide, OPWDD has educated more than 1,500 individuals and family members in self-direction educational sessions on a quarterly basis as summarized in the table below. Self-direction education sessions are actively attended by individuals and family members, and more sessions are scheduled for the first quarter of 2014. Specifically, OPWDD will continue to focus education activities on self-direction according to the education goals described in the table below.

Self-Direction Education Totals April 1, 2013 thru December 31, 2013			
Self-direction Education Target	Education Goal	Total Number of Individuals	Total Number of Sessions
New people requesting supports from the OPWDD system and people who are transitioning from the education system into the OPWDD system of supports.	Increase awareness of self-direction options among the people engaging in supports from OPWDD	7,960	180
Individuals who are currently receiving OPWDD supports and services and new individuals who have expressed an interest in self-directing services.	For people who are expressing interest in self-direction, the goal is to ensure understanding of the key concepts of self-directed supports.	1,689	103
Individuals who are actively seeking to self-direct services with budget and employer authority	Detailed understanding of the operational components of self-directed supports; clear understanding of the responsibilities associated with self-direction.	381	167
		10,030	450

Access to Self-Directed Services: Growth and Monitoring

OPWDD has focused considerable efforts on education for individuals receiving support and other stakeholders on the options for self-direction and has realized an increase in the number of people who are self-directing. Specifically, OPWDD has successfully met the goal to increase the number of individuals self-directing by more than 350 individuals between the July and October 2013 reporting period and 654 individuals during the most recent period as outlined below.

Increasing Numbers of Individuals Self Directing	
July 1, 2013 Baseline	1,155
October 1, 2013	394
December 31, 2013	654
Total individuals self-directing to date	2,203

Although significant efforts have been made to provide self-direction training, there is still a need for more education on the topic to ensure that all stakeholders have consistent and accurate information.

Key elements to education and marketing efforts include the benefits of self-direction, how to self-direct, and getting started with self-direction. Appendix G provides detail on the current practices and specific strategies undertaken to educate the stakeholder community and market the option of self-direction. New York continues to provide education on self-direction and expand these opportunities.

OPWDD has initiated a significant system change effort which essentially shifts the access to supports from individual connections with voluntary provider agencies to access through OPWDD's Developmental Disabilities Regional Offices (DDROs). Each DDRO completes consistent activities to ensure education regarding options for supports and services, an assessment of need, and ascertain a better understanding of requested services prior to the authorization of services. These new practices are focused on reinforcing the transformation agenda and consistently applying standards for authorization that relate more directly to an individual's interests and needs. Education related to the options available for self-direction are integral to this service access process within each DDRO.

The activities identified in this plan are monitored closely on a statewide basis. The data that is reported to CMS as part of the transformation agreement is derived from closely monitored, consistently gathered information.

III. Reforms to Support the Further Development of Self-Direction and New Options for Cross-System Services

Consumer Self-Direction

(from CMS Special Terms and Conditions, Attachment H)

6. Consumer Self-Direction

- a. New York will implement a self-directed approach in which demonstration participants and/or their designated representatives will be given the option of self-directing by employer authority and budget authority or, at the preference of the individual, either employer authority or budget authority. Employer authority is present when an individual and/or their designated representative fully controls the recruitment, training, hiring, discharge performance review, performance pay increases, and supervision of individuals who furnish their services. Budget authority is present when an individual has decision-making authority over how funds in their individualized budget for waiver services are spent. As part of the design and implementation of this self-directed approach, New York will include the following components:

CSS is the waiver service option that provides the individual with the opportunity to exercise budget authority. OPWDD is reforming the model of CSS to streamline the planning process, to create a new methodology for establishing a Personal Resource Account (PRA) that better aligns with needs, and to revise the reimbursement methodology for the administrative payments to the Fiscal Management Service (FMS). Fiscal management services are a key feature of self-directed service options. Experts in

self-directed services generally agree that the methodology used in establishing individual budgets must be:¹

- **Accurate** – It must be based on a valid assessment of the individual’s needs and yield an amount sufficient to ensure that the participant’s needs are met.
- **Consistent** – The methodology has to be applied consistently across the entire program, state, and target population.
- **Reliable** – It should produce consistent results over time and with repeated applications.
- **Equitable** – Participants with similar support needs and circumstances should receive comparable budgets that also establish a defensible relationship between the cost of participant-directed services and agency-directed services.
- **Flexible** – Individual budgets should be revised in a timely manner when the participants’ circumstances, needs, and choices change.
- **Transparent** – The budget development process should be open to public scrutiny.

The remainder of this report describes the following OPWDD reform objectives related to self-direction:

1. Revising the Personal Resource Account (PRA) for Consolidated Supports and Services (CSS)
2. Addition of an FEA option for fiscal intermediary role and revised payment structure for Fiscal Management Services for CSS
3. Integrating Cross System Services and the Upcoming Implementation of Community First Choice Option (CFCO) State Plan Options
4. Development of Quality Indicators and Expectations as a Foundational Quality Infrastructure Activity:

Reform Objective: Revising the Personal Resource Account (PRA) for Consolidated Supports and Services (CSS)

The current PRA is based upon the Developmental Disabilities Profile 2 (DDP2) and establishes cost parameters for individualized budgets based on need profiles and comparable costs associated with supporting similarly profiled individuals in other models of support. The DDP2 is not sufficiently comprehensive and sensitive enough to establish a PRA that is consistent with the strengths and needs of participants.

OPWDD’s new Coordinated Assessment System (CAS) is much more comprehensive than the DDP2 tool as a broader range of items will result in a more complete profile of the person’s strengths and needs. The CAS is now in use in a pilot phase to obtain feedback from individuals, families, providers and state assessment staff regarding the business practices of completing the assessment and the face validity of the identified strengths and needs of the person receiving supports. Feedback to date has been very

¹ National Council on Disability. “The Case for Medicaid Self-Direction. A White Paper on Research, Policy, and Practice.” 2013 publications available at: <http://www.ncd.gov/publications/2013/05222013A/05222013ACh4/>

positive, and OPWDD is entering into an agreement with the State University of New York at Albany, School of Social Welfare to complete a formal validation study of the tool. The validation study is in the final phase of development with planned data collection beginning in January, 2014. OPWDD anticipates completion of the study in the summer of 2014. Once the tool is validated, it will be ready for use and will be used to establish acuity measures and ultimately to determine needs-based rates for service provision.

Next Steps: To establish a reformed PRA, OPWDD will:

- Complete actuarial evaluations of service costs and establish PRAs dollar amounts based on data collected;
- Complete a validation study of the CAS;
- Sample CSS participants using the CAS to determine a new PRA structure based on CAS result, exploring relationship of placement on new PRA structure vs. current PRA;
- Implement new PRAs for new participants in CSS service;
- Plan for and move current CSS participants to new assessment tool and new PRA structure.

As discussed previously in this document, there are individuals for whom the PRA is not sufficient, and the State has implemented a review/approval process to accommodate higher levels of funding if needed. It should be noted that these funding levels are most often associated with low-frequency, high-intensity behavioral issues that are not well captured by the current DDP. OPWDD will work with CMS to develop comprehensive language in the HCBS waiver to describe the consistent methodology for addressing these extraordinary PRA requests, or to otherwise identify these cases to CMS in an appendix to the waiver application. The anticipated timeline for the completion of the CAS validity study is summer 2014. The completion date is dependent upon Independent Review Board (IRB) approval and procurement and training of qualified staff for implementation of the validity study. The IRB has designated the CAS validity study as minimal risk to human subjects. As a result, OPWDD must submit required IRB documentation for approval prior to the initiation of the validity study. Submission of documentation for IRB review is anticipated in January 2014. Any requested changes by the IRB required for approval will be made without delay. OPWDD is currently in the process of identifying the qualified staff needed throughout the state to conduct the validity study. Upon completion of the CAS validation study, OPWDD will commence further evaluation of the CAS as it relates to the new PRA structure.

Activity	Estimated Completion Date *
1. Validation of CAS	Summer 2014
2. Collection of CAS information for CSS participants	November 30, 2014
3. Actuary development of PRA	January 31, 2015

**Presumes successful staff hiring training and data collection activities and a finding of instrument validity in the CAS validity study.*

Reform Objective: Addition of an FEA option for fiscal intermediary role and revised payment structure for Fiscal Management Services for CSS

OPWDD is committed to ensuring increased choice in fiscal intermediary services to individuals who choose to self-direct their services using CSS. To this end, OPWDD is developing a continuum of fiscal intermediary services, from the basic common-law employer option through to a broad array of supports from which the self-directing individual can choose the services and supports that he/she needs to be successful as he/she makes informed choices about life and service decisions and exercises budget and employer authority. Payments to the fiscal intermediary will be dependent upon the actual supports selected by and provided to the CSS participant.

Next Steps:

- Establish an FEA workgroup in January 2014 that will conclude its activities no more than six months later. The objectives of the workgroup are to identify the core functions of both an FEA and an FMS style of fiscal intermediary, to determine the best practices for implementing this service and the roles that will be performed by both the individual and the provider agency.
- With these duties and roles clearly defined OPWDD will be able to link the new FEA methodology and the revised FMS methodology with a new set of administrative compensation fees that are not tied to a percentage of the budgeted service cost. Based on the workgroup recommendations, OPWDD will develop a cost-based fee structure for the activities associated with supporting a person who is self-directing under the CSS model to facilitate an individual's choice in fiscal intermediary services included in his/her CSS Plan/Budget. The reimbursement methodology will:
 - Include a basic fee to be paid to the fiscal intermediary for required functions such as payroll and billing.
 - Additionally, other work load elements will be "priced out" separately and distinct fees for each component part of the CSS initiative such as a fee for self-directed staffing, brokerage services and administration that can each be billed and reconciled clearly and distinctly.
 - OPWDD will explore the potential for developing additional administrative fees that an individual could choose to purchase for items above and beyond the minimum requirements and that could be interchangeable among various provider agencies rather than all pieces needing to flow through one provider.
- The services included in the proposed fiscal intermediary continuum are listed in Appendix H. The stakeholder group described above will determine services that are required, and choices regarding how the individual may access the required services.
- In addition to restructuring the payment methodology for FEA/FMS services, OPWDD wants to ensure that all individuals have the choice of a 'pure FMS' option in all areas of the State. We anticipate that the transition to a 'pure FMS' model may be difficult for some agencies that are accustomed to acting in an 'Agency with Choice' capacity, and thus provide a higher level of oversight and services than is consistent with the FMS

design . Following the finalization of the FEA/FMS payment reforms, OPWDD will issue a Request for Application seeking entities interested in providing a ‘pure’ fiscal intermediary service on a state-wide basis, as an alternative to agencies that today act as an ‘agency with choice’ option for individuals. The result is that NYS will ultimately have existing FMS agencies that provide the continuum of financial and administrative support to individuals and families, and a statewide option that provides a solely FEA option.

Reform Objective: State Reporting of Service Categories within CSS (372 and CMS-64) and the Monthly Unit of Services

CSS Plans/Budgets delineate distinct waiver services and require that FMS agencies track expenditures according to approved categories and provide information on Medicaid funds expended according to these distinct categories. These individual budget expenditure categories/lines include:

1. Habilitation support (residential and day)through self-hired staff or from staffing purchased from an agency and paid with Medicaid funds
2. Respite support through self-hired staff or from staffing purchased from an agency and paid with Medicaid funds
3. Employment support through self-hired staff or from staffing purchased from an agency and paid with Medicaid funds
4. Limited clinical support through self-hired staff, including LPN service and RN assistance and/or oversight for med administration; not to duplicate services available through use of the Medicaid State Plan Card - paid with Medicaid funds
5. Goods and services to support independent living and community integration - includes funds to pay for access to generic community activities/services to support the individual's integration into the community and progress toward attaining valued outcomes, and clinical supports purchased from an independent contractor to provide short term consultant services such as a licensed psychologist to train CSS staff and/or natural supports to work with an individual with challenging behaviors, or an adaptive technology expert to assess effective adaptive equipment and teach CSS staff and/or natural supports how to maximize effective use of the equipment or technology; not to duplicate services that can be purchased with the State Plan Medicaid Card - paid with Medicaid funds
6. Ongoing broker supports – paid with Medicaid funds
7. Transportation related to the provision of habilitation and employment support in community settings – paid with Medicaid funds
8. Flexible goods and services (state paid) – paid with 100% New York State funds, includes housing subsidy,
9. FMS fees for required and optional functions – paid with Medicaid funds

Although CSS budgets and planning delineate service categories, the monthly budget amount is billed by the FEA/FMS entity as a single amount. Therefore eMedNY (the MMIS) does not have discrete categories (e.g., CSS funds associated with habilitation, respite, employment, etc.). In

its annual CMS 372 reporting, OPWDD breaks out CSS billing according to discrete waiver service categories based on budgeted costs, but no such delineation is made on the CMS-64 reporting.

Next Steps:

- As CMS will not accept the continued use of a monthly unit of service for billing CSS services, OPWDD is committed to examining alternatives to the monthly billing unit currently in use in CSS with the goal of FMS agencies billing actual expenditures. Specifically, OPWDD will explore the possibility of pricing out separate and distinct fees for each component part of the CSS initiative such as separate fees for self-directed staffing, broker services and administration so that they can each be billed and tracked clearly and distinctly.
- OPWDD will also explore the potential for developing fees for “off the shelf” services and supports, such as back-up staff, that an individual could choose to purchase above and beyond the minimum fiscal intermediary requirements and that could be interchangeable among various provider agencies rather than all pieces needing to flow through one provider. Depending on the outcome of that exercise, the reconciliation process may become unnecessary.

Reform Objective: Integrating Cross System Services and the Upcoming Implementation of Community First Choice Option (CFCO) State Plan Options

NYS is submitting a State Plan Amendment to CMS to establish State Plan CFCO services. These services will include attendant services and supports to assist individuals in accomplishing Activities of Daily Living (ADLs), Instrumental Activities of Daily Living (IADLs) and health-related tasks through hands-on assistance, supervision or cuing. The proposed SPA would allow services to be provided in the individual’s home by personal care aides, home health aides or personal attendants selected by the individual through a personal network, an advertising/interview process or through a licensed health care services or certified home health agency. Services may also be provided in licensed, certified or endorsed community programs/settings of their choice.

Programs/settings that meet criteria for CFCO will meet the HCBS criteria in 441.530. The service providers will all be existing provider types in New York’s service delivery system. Both CFCO and OPWDD’s Self-Directed Community Habilitation offer employer authority, but not budget authority. OPWDD’s CSS service offers both budget and employer authority, and therefore can be distinguished from CFCO services.

Next Steps: As NYS continues to prepare for the implementation of CFCO, OPWDD will need to analyze the impact of the availability of this service on the current HCBS waiver design and individual service planning. This is an area where technical assistance will be helpful to assist the State in identifying options for integrating CFCO with current waiver operations.

The foundation of the current quality infrastructure, built upon the last 30 years of developmental disability service provision in NYS, is primarily based upon the review of a service system that was developed to support the provision of care in more traditional site-based residential and day service settings. Over time, OPWDD reforms and system transformation will enable the service system to better support individuals in more independent, community-based settings. As a result, the OPWDD quality infrastructure must also evolve to move beyond traditional quality reviews that focus on site-based regulatory and program compliance and process requirements to a system that focuses on the results and impact of the provision of supports and services on the wellbeing and quality of life of each individual.

As outlined in OPWDD's Comprehensive Quality Strategy submitted to CMS in November 2013, and relevant Transformation Progress Reports, OPWDD is working on a variety of quality initiatives that will help position and evolve the quality infrastructure to make this shift. These initiatives will impact future quality reviews for people utilizing services and supports along the continuum of self-direction options outlined in this document.

The following outlines in more detail the major projects and activities that will directly impact the evolution of the quality infrastructure and the review of supports and services for people with developmental disabilities in NYS including self-direction.

Reform Objective: Development of Quality Indicators and Expectations as a Foundational Quality Infrastructure Activity:

As the OPWDD service system transforms, it is important that the quality infrastructure for overseeing the developmental disability service system be designed to determine if the service system is achieving desired outcomes for individuals. This can be accomplished by enhancing the focus of quality oversight to include examining how well providers promote quality outcomes and quality improvement within their operations, and using data related to these measures to affect individual, provider, and system improvements.

In 2011, the People First Waiver Quality Design Team issued recommendations for system wide agency quality ratings and effective quality practices with an eye towards the transition to a managed care infrastructure and an emphasis on the evaluation of quality based on individualized person-centered approaches.

Using the 2011 Quality Design Team recommendations as a starting point, in September 2013, OPWDD established a workgroup comprised of stakeholders who would make recommendations for quality indicators² that will lead to clear system wide expectations for agency quality practices that can be

² An indicator is a quantitative or qualitative measurement, or any other criterion, by which the performance, efficiency, achievement, etc. of a person or organization can be assessed, often by comparison with an agreed upon standard or target (freedictionary.com). Indicators are tied to goals and objectives and serve as yardsticks by which to measure the degree of success in goal achievement.

measured consistently across various domains that are most connected to the quality of life and personal outcomes for people with developmental disabilities. These recommendations will continue to include the HCBS waiver quality assurances, OPWDD regulatory requirements, and emphasize health, safety, rights and protections, but will also ensure that quality improvement and personal outcome approaches are integrated. The following are the domains on which the workgroup is currently focusing with the caveat that the work is evolving as this document is being written. There are sub domains associated with each domain that are not depicted in this info:

1. Person-Centered Planning and Service Delivery: Services and supports are planned and effectively implemented in accordance with each person’s strengths, unique needs, expressed goals and preferences and informed choices concerning his/her life in the community. Planning is collaborative, recurring, and involves an ongoing commitment to the person. People’s individual plans lead to person-centered and person-directed services and supports.
2. Rights and Protections: Individual rights are protected. Individual health and welfare is safeguarded and monitored, taking into account informed and expressed choices. Sites and facilities where individuals are supported are clean, safe, and free from hazards in accordance with all state and federal regulatory requirements (i.e., the organization provides a safe, clean and health environment for all its members –CQL Basic Assurance). The organization, on an ongoing basis, identifies addresses and seeks to prevent the occurrence of abuse, neglect, mistreatment, and exploitation (HCBS sub-assurance).
3. Natural Supports, Community Connections, and Integration: Opportunities for individuals to establish and maintain meaningful relationships, social roles, and community inclusion is facilitated, promoted and supported. The organization defines its community leadership responsibilities.
4. Work Force Training, Qualifications and Competencies: The NYS Core Competencies will bring a level of consistency and quality throughout NYS’ system. Coupled with the NADSP Code of Ethics for Direct Support Professionals (DSPs), each DSP will understand their partnership with individuals who deserve respect, opportunities for self expression and involvement in their communities. The Core Competencies have seven goals, 23 competencies and 60 skills—all of which are measured with performance evaluation tools.
5. Agency Operations, Governance, and Leadership: The organization’s mission, vision, and values promote attainment of personal outcomes (CQL Basic Assurance). The organization implements sound fiscal practices (CQL Basic Assurance). Business, administrative and support functions promote personal outcomes (CQL Basic Assurance).

6. Quality Improvement: The organization supports individuals efficiently and effectively and continuously strives to improve the quality of its supports and services and individual satisfaction and outcomes.

OPWDD will pay attention to the following criteria as work continues with the stakeholder group to develop the actual indicators that will be based upon the above domains (and sub domains not yet listed) and integrate them into our review systems and methodologies: ³

Criteria for Selecting Quality Indicators:

1. Have face validity with those people involved (i.e., individuals and families)
2. Be measurable and psychometrically sound
3. Be conceptually related to the Quality of Life (QOL) model and reflect the range over which the QOL concept extends (and thus defines quality of life)
4. Have potential for improvement that maximizes personal well-being
5. Be easily understood and readily communicated (simplicity)
6. Be those that the provider has some direct or indirect control over
7. Be considered as a template by which organizations, systems, and the state can judge current status and base future efforts.
8. Reflect innovation, robustness, and cost efficiency
9. Be comprehensive
10. Reflect phenomena that are neither too rare nor too common. If too rare, they will not occur frequently enough to identify trends and reasonable benchmarks; if too common, they may not show sufficient change or fluctuation.

Workgroup recommendations for quality indicators are also expected to emphasize practices that promote agency culture and processes that strive for delivery of high quality supports in person-centered ways (see Figure 1 for illustrative purposes only).

Next Steps: Once the workgroup completes its initial recommendations, OPWDD will have the basis for a set of comprehensive quality indicators, expectations and criteria upon which to base the revision of provider oversight protocols to focus not only on important health and safety factors, but on value added quality components that drive systemic and person centered quality improvements.

OPWDD anticipates developing three types of protocols that will integrate all of the quality indicators developed by the stakeholder group and include specific review components from a programmatic perspective including the review of self-directed services:

- Agency Level Review: To look at the agency's overall governance, leadership, management and critical systems such as workforce development and training, incident

³ Quality of Life for People with Intellectual and Other Developmental Disabilities, Applications Across Individuals, Organizations, and Systems: Page 27, Criteria for Selecting Quality Indicators,

management, policies and procedures, monitoring, supporting and promoting individual rights, and other factors that contribute to success in the delivery of high quality supports and services. If the agency provides self-directed supports, there will be a review of those systems.

- Person-Centered Review: For a sample of individuals served by each agency, stratified by living arrangement and other critical factors, this review will look at how services and supports provided across the person's entire service array contribute to the person's progress and achievement of individualized outcomes and quality of life. The sample will also test how the agency implements its systems reviewed in Agency level review. Individuals in the sample who receive self-directed supports will be reviewed.
- Site based Review: Reviews of each program/facility/site will continue to include medication administration, physical plant, health and safety and environmental supports, fire safety, etc.

Appendix A - Self Direction Definitions

- a. Broker is a provider of technical support who assists an individual to develop and maintain an approvable Consolidated Services and Support (CSS) Plan/Budget. The broker assists the person to develop and maintain the freely chosen planning team, facilitates initial and ongoing in-depth person-centered planning, and assists person to develop and maintain the CSS service plan and budget based on resources identified for the person based on need.
- b. Budget Authority is authority and responsibility held by the individual to choose the waiver and state paid supports and services that are included in his/her service plan; to make decisions regarding changes in supports and services or service providers if those chosen no longer meet his/her needs (portability of funds); and to manage the dollars included in his/her approved individualized service budget. OPWDD approval of the budget is required. It is important to note that under the self-direction models described here, participants are not directly provided with funds to pay for services. A fiscal agent or co-employment agency is responsible for actually carrying out financial transactions.
- c. Consolidated Supports and Services (CSS) is the NYS HCBS waiver service that provides resources, supports and services to participants in order to improve and maintain opportunities for full membership in the community. In comparison with traditional agency practices, participants choose to exercise employer authority and budget authority to control resources associated with the service. People may have the help of freely chosen planning team comprising both paid and unpaid members, and may include family, friends, clergy, community members, advocates, other self-advocates, a service coordinator, support broker, other direct care staff and/or professional staff. The person may change any aspect of his/her supports to pursue the variety and intensity of supports that the participant desires and needs in order to achieve personal goals and valued outcomes, and to prevent institutionalization. Supports and services must be self-determined, self-directed and/or person-centered.

Supports and services provided through CSS do not duplicate any service outside CSS. The CSS service subcomponents are community habilitation,* supported employment, prevocational, respite and live-in caregiver (*prior to the phase in of community habilitation, habilitation services in CSS were provided through the residential habilitation and day habilitation service categories.) Each CSS Plan/Budget has a budget that clearly delineates the costs that are, or are not, appropriate Medicaid costs and appropriate Medicaid HCBS Waiver costs. The participant may not change the budget without prior approval from the DDSO and the knowledge of his/her planning team (support circle).

Some of the services and supports typically covered in a CSS Plan/Budget include direct assistance with activities of daily living (including hands-on care and cueing); respite care; homemaking and chore services; live-in caregiver; treatment, training and related supports that promote the individual's ability to live and participate in the community including habilitation services and supports, both at home and in the community , supports for employment, extended or specialized therapies or health supports, training and education of caregivers and related transportation; and support for activities that improve the person's capacity to self-direct services, including self-advocacy training, and supports to manage staffing.
- d. Employer Authority is exercise by the individual, not a provider agency, of decision-making authority over workers (staff or organizations) who provide his supports and services. In consolidated supports and Services, the participant is co-employer (managing employer) of the self-hired staff who provide his/her supports, and has authority to conduct the following functions at a minimum:

specify staff qualifications and recruit workers, refer for hire and discharge from providing services (co-employer*), schedule staff and determine staff duties, and supervise staff and evaluate staff performance. The FMS agency is the common law employer of the self-hired staff and performs necessary payroll and human resources functions. In self-directed community habilitation, the individual may recruit workers, refer for hire and discharge from providing services (co-employer*), schedule staff and determine staff duties.

- e. Fiscal Management Services for individuals who are self-directing are currently provided in New York State through the Agency with Choice/Financial Management Services agencies (AWC/FMS) which enable participants to have co-employment authority. The AWC/FMS is a non-profit provider agency authorized by OPWDD to provide HCB waiver services, including the AWC/FMS service. Under this model, the AWC/FMS serves as the employer of record while the person served is the managing employer. Under this AWC/FMS model, the AWC/FMS acts as the employer of record for all employees hired by the participant, while the participant acts as the managing employer. The AWC/FMS may also contract with other waiver providers to supply HCB Services based on the participant's choices as identified in the CSS Plan/Budget. The AWC/FMS agency manages and directs the disbursement of funds in the CSS Plan/Budget; as employer of record on behalf of the CSS participant, facilitates the employment of staff chosen by the participant by verifying broker citizenship status, completing criminal background checks and other employment related processes; processes timesheets and payroll, withholding and paying taxes; maintains a separate account for each participant's participant-directed budget; tracks fiscal accounting and expenditure and reporting for the person, representatives, and state authorities. The AWC/FMS model that New York State has implemented incorporates both a co-employment and an individualized portable budget that is directed by the participant pursuant to an approved plan. In actual practice, the AWC/FMS model represents a continuum of administrative assistance that can be provided to a self-directing CSS participant, which at the extreme end represents either (a) very basic fiscal management services (e.g., screening potential self-hired employees, acting as employer of record, and conducting documentation and accounting functions only), or (b) active co-management of all staff supports, purchases, and documentation required by the participant, including the provision of direct services. Nearly all CSS participants to date have asked for some sharing of administrative support and assistance with plan management from their AWC/FMS. Participants in conjunction with their freely chosen planning team, other natural supports, and support brokers determine the degree of administrative assistance they desire from their AWC/FMS. New York State is committed to expanding the continuum of services offered by the fiscal management providers to range from the most basic payroll and accounting function through a broad spectrum of service choices supporting the individual's right to choose and self-direct his/her supports.
- f. Individual Support Services (ISS - housing subsidy) is the New York State funded housing subsidy for adults living independently in the community.
- g. Informed Choice is a voluntary, well-considered decision that an individual makes on the basis of options, information, and understanding. An informed choice results from the person having accurate, clear, unbiased, and useful information that gives him/her a full understanding of the costs and benefits of all available options before making the choice to accept or reject these options. The person can seek the assistance of counselor(s) or advisor(s) to help him/her in this process.
- h. Person-Centered Planning is a process directed by the person with the assistance of those he/she chooses that helps the person and those around him/her to learn how the person wants to live and describes the supports needed to help the person move towards a life he/she considers meaningful and productive. This planning process empowers the person by identifying his/her skills and abilities, exploring opportunities to use his/her skills and abilities and building on those individual

skills and abilities to develop a quality lifestyle that supports the person to be part of and contribute to his/her community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. The individual who is self-directing works with his freely chosen planning team to define his/her own specific needs, and, with the assistance of the support broker, designs his/her own individualized plan and corresponding budget. For more information on person-centered planning, please see the person-centered planning information on the OPWDD website, found at

http://www.opwdd.ny.gov/opwdd_services_supports/person_centered_planning.

- i. Self-Determination is the belief that all individuals have the right to direct their own lives. It is a **philosophy** that is based on concepts of freedom to develop one's own personal life plan; authority to control a targeted amount of resources; the right to expect to receive the support needed to work toward and attain personal goals; the responsibility to contribute to one's community and to use public dollars wisely; and the responsibility to be a self-advocate by speaking or acting on behalf of oneself or on behalf of issues that affect oneself and/or other people with developmental disabilities.
- j. Self-Direction is the **practice** in which the individual with developmental disabilities is empowered to choose the mix of supports and services that work best for him and best meet his/her needs including the use of natural and generic community supports as well as paid supports; chooses how and when supports and services are provided including the degree to which he/she wants to direct the services; chooses the staff and/or organizations who provide supports and services; may choose to exercise Budget Authority (control and responsibility over her budget); may choose to exercise Employer Authority (hire, schedule and supervise the people who support her and determine the activities that will be supported and the way that support will be provided); and may choose HCBS waiver supports, NYS funded supports, and/or natural and generic community supports.
- k. Self Directed Community Habilitation (SDCH) - HCBS waiver participants who are interested in self-direction but do not choose to assume budget authority may opt to exercise Employer Authority over their Community Habilitation staff by self-directing Community Habilitation. Self-directed Community Habilitation uses a co-management model in which individuals have increased opportunity to choose and manage the staff that supports them. The participant is considered the manager of services and as such enters into a formal agreement with a provider which specifies that the participant and the provider agree to co-manage the services with the provider acting as Employer of Record. The agreement specifies that the participant will work cooperatively with the provider to hire, train, and oversee staff selected by the participant. The participant oversees the staff's schedule and chooses the level and type of support to be provided by the staff in accordance with their ISP and habilitation plans. The participant does not determine the SDCH self-hired staff's salary. The co-management agreement also outlines the responsibilities of the provider as the Employer of Record.
- l. Self Directed Respite – in development
- m. Self-Directed Staff (also called self- hired staff) are staff the self-directing individual exercising employer authority chooses to work with and manage, and who are, therefore, put on the payroll of the fiscal management agency.

Appendix B

Current Self-Direction Model

I. Current Options to Self Direct

Self Directed Community Habilitation (SDCH):

OPWDD offers individuals the option to exercise employer authority by choosing the self-directed option for the Community Habilitation service (SDCH).

SDCH provides employer authority to individuals who are receiving supports through Community Habilitation and choose to self-direct those Community Habilitation services. Self-directed Community Habilitation uses a co-management model in which individuals have increased opportunity to choose and manage the staff that supports them. The participant is considered the manager of services and as such, enters into a formal agreement with a provider which specifies that the participant and the provider agree to co-manage the services with the provider acting as Employer of Record. The agreement specifies that the participant will work cooperatively with the provider to hire, train, and oversee staff selected by the participant. The participant oversees the staff's schedule and chooses the level and type of support to be provided by the staff in accordance with their ISP and habilitation plans. The participant does not determine the SDCH self-hired staff's salary and does not have responsibility for managing an individualized budget. The co-management agreement also outlines the responsibilities of the provider as the Employer of Record.

- DDROs retain a memorandum of understanding (MOU) between each individual or the person who helps them and the provider agency for the Community Habilitation service defining the employer authority in place.
- OPWDD reports the number of new MOUs in place each quarter as part of the self directed growth for OPWDD.

Consolidated Supports and Services (CSS):

Consolidated Supports and Services (CSS) provides individuals with a formal structured option to actualize and achieve self-determination to the greatest extent possible in an HCBS service system by offering them the opportunity to exercise both employer and budget authority.

CSS provides resources, supports and services to participants in order to improve and maintain opportunities for full membership in the community. In comparison with traditional agency practices, participants choose to exercise employer authority and budget authority to control resources associated with the service. Employer authority is defined in Appendix A. Budget authority includes the establishment of an individual budget based on needs which is used to purchase services consistent with HCBS waiver services, in addition, CSS offers the authority to determine self-directed staff salary within parameters set by New York State . The CSS Plan/Budget also typically includes state paid supports. The established budget is managed by the individual in a formal relationship with a fiscal intermediary who draws down funding, is accountable to ensure supports are provided consistent with waiver

standards, and who pays the bills based on the approved CSS Plan/Budget and regularly reports the budget status to the individual and OPWDD.

CSS participants may have help in planning and administering their services and budget from a freely chosen planning team comprising both paid and unpaid members (may include family, friends, clergy, community members, advocates, other self-advocates, a service coordinator, support broker, other direct care staff and/or professional staff.) The participant may change any aspect of his/her supports to pursue the variety and intensity of supports that the participant desires and needs in order to achieve personal goals and valued outcomes, and to prevent institutionalization. Supports and services provided through CSS do not duplicate any service outside CSS. The CSS service subcomponents are residential habilitation, day habilitation, supported employment, prevocational, respite and live-in caregiver.

Each CSS Plan/Budget has a budget that clearly delineates the costs that are, or are not, appropriate Medicaid costs and HCBS Waiver costs. The participant may not change the budget without prior approval from the DDSO and the knowledge of his/her planning team.

Some of the services and supports typically covered in a CSS Plan/Budget include direct assistance with activities of daily living (including hands-on care and cueing); respite care; homemaking and chore services; live-in caregiver; treatment, training and related supports that promote the individual's ability to live and participate in the community including habilitation services and supports, both at home and in the community , supports for employment, extended or specialized therapies or health supports, training and education of caregivers and related transportation; and support for activities that improve the person's capacity to self-direct services, including self-advocacy training, and supports to manage staffing.

II. The Choice to Self Direct

While OPWDD is committed to ensuring access to the self directed support options available, it is critical that there is a clearly defined process for both determining if self direction is an appropriate option based on decision making capacity and involved advocates or family who can act on the person's behalf. Additionally, a plan of support must take into consideration the strengths and needs of the participant in a comprehensive manner.

OPWDD has engaged a stakeholder group focused on planning approaches and outcome monitoring for people who are supported in settings that are not certified. Some of the initial recommendations that have been made and related guidance has been incorporated into the OPWDD Person Centered Planning Web Page and the Person Centered Planning Curriculum. It is through open communication and discussion around defined areas that research has shown are the critical areas for consideration in plan development, that the most appropriate person centered plans are developed thus leading to desired outcomes for those being supported.

This section focuses on the criteria for participation in self directed supports, establishing appropriate safeguards within plan of support, and defining the roles and responsibilities associated with self direction. The content in these sections is newly developed and will be implemented over time upon agreement from CMS of the approach and the related guidance tools.

Criteria for participation in self directed supports

All individuals have the right to choose self-directed options. To safely self-direct, an individual or a representative who is available and willing to make informed choices and co-manage services on behalf of the individual must have decisional capacities in four areas. These capacities must be considered when determining whether an individual can successfully engage in self direction. **(see Appendix C.)**

- i. Communicate choice: The individual receiving services or a representative who is available and willing to make informed choices and co-manage services on his/her behalf must be able to indicate preferred options.
- ii. Understand relevant information: The individual receiving services or a representative who is available and willing to make informed choices and co-manage services on his/her behalf must understand the fundamental meaning of information that is communicated. They need to have an ability to understand basic information presented to them through at least one modality (e.g. written, oral, sign language, communication board or related technology, pictures).
- iii. Appreciate consequences for decisions: Choosing self-direction permits individuals receiving services to take typical risks as any member of the general public would on a day to day basis. To self direct an individual or a representative who is available and willing to make informed choices and co-manage services on his/her behalf must understand potential consequences of their actions.
- iv. Compare options: Individuals or a representative who is available and willing to make informed choices and co-manage services on his/her behalf must understand both pros and cons for basic decisions and have the ability to use this information when making decisions.

If an individual or a representative who is available and willing to make informed choices and co-manage services on his/her behalf expresses an interest in self-directing, the MSC, individual, and his/her freely chosen planning team comprising both paid and unpaid members should consider the four decisional capacity factors defined above.

The tools and processes defined below are newly developed and will be phased in through education with current CSS participants, new CSS participant, Medicaid Service Coordinators and other appropriate stakeholders.

- i. If the individual can independently exercise the four capacities, the individual, broker, and the freely chosen planning team (that includes the MSC) complete the *CSS Plan/Budget Safeguards* **(see Appendix D.)**. The MSC completes the *Safeguard Assessment and Identification Tool* **(see Appendix F.)** which is used to support exploration of safeguards with the individual, the freely chosen planning team, and the broker.
- ii. If the individual cannot independently exercise the four capacities then he/she, the freely chosen planning team and MSC discuss and identify someone to represent, support, or advocate for the individual in assuming, or assisting with, decision making. If the freely chosen planning team provides capacity for decision making as defined by the four factors above then the *CSS Plan/Budget Safeguards* is completed by the individual, broker, and the freely chosen planning team (that includes the MSC). The MSC completes the *Safeguard Assessment and Identification Tool* which is used to support exploration of safeguards with the individual, the planning team, and the broker.

- iii. If the individual does not have decisional capacity as defined by the four factors above and does not have a support circle or anyone who can represent them, such as a guardian or advocate, or who can assume or assist with decisional capacity, then the MSC requests the MSC supervisor to review the individual and his/her situation. The MSC supervisor assists in determining if a support circle can be established. If the MSC supervisor can identify a support circle that supports decisional capacity then the individual and members of the support circle (freely chosen planning team that includes the MSC) complete the *CSS Plan/Budget Safeguards* and the MSC completes the *Safeguard Assessment and Identification Tool*. In the event that there is no available support circle that supports decisional capacity, the regional office is notified that the MSC does not support the choice of self-directed services. (See Appendix E.)

Safeguards in the Consolidated Supports and Services Plan/Budget

- a. Establishing appropriate safeguards within the CSS Plan/Budget involves strong person centered planning processes.
 - i. The individual and his/her planning team, with the support of the broker and the MSC, identify outcomes the individual desires and activities that support the achievement of the desired outcomes. As identified in prior quarterly reports OPWDD has identified the 21 Council on Quality and Leadership Personal Outcome Measures as the areas that should be considered when developing a plan of support. Once outcomes are identified, potential risks related to achieving those outcomes are identified and discussed. Safeguarding is used to reduce risks through implementing supports that reduce and/or manage the risks. Identification of a particular risk should not change the desired outcomes. Identification of an associated risk only means that a safeguard or support should be identified to safely manage the risk; therefore the presence of a risk should not alter an outcome, unless of course the outcome would result in imminent danger to the individual or others.
 - ii. Areas that should be discussed where safeguards or supports might be needed include self advocacy, daily functioning, health and wellness, mental health, behavior, personal safety, environment, and competitive employment. The plan developed specifically addresses the need for a contingency plan if self hired staff are not available. Clear planning and the identification of an alternate responsible part is defined within each plan in relationship to potential back up staffing needs.
 - iii. Risks must be recognized, negotiated, managed through safeguarding, and permitted and supported as long as the risk does not pose an imminent threat to the individual or others. This means that the individual and the planning team are aware that there are risks associated with the steps necessary to achieving a goal. These risks are negotiated, meaning that the individual and/or the planning team identify risks they are willing to take and risks which they cannot accept. Risks that impose an imminent threat to the safety of oneself or others cannot be supported. When risks are or potentially could become present, safeguarding is used to identify supports that can be put in place to manage the risk. Individuals are supported in their decision to achieve an outcome and are permitted to take some risk using safeguards, which are supports, resources, or environmental adaptations that can reduce risk.

- iv. If an individual or member(s) of the planning team can assume decisional capacity the individual, broker, and planning team meet to discuss and complete the *CSS Plan/Budget Safeguards* and to develop a plan. The individual, broker, and planning team use this assessment to guide discussion with the MSC regarding the use of safeguards. The MSC uses the *Safeguard Assessment and Identification Tool* to explore safeguards that can be implemented to support successful self-direction and to safely manage risk.
- v. Completion of the *CSS Plan/Budget Safeguards* and the *Safeguard Assessment and Identification Tool* should ensure the following:
 - 1. In areas where the person needs some or extensive support, services and supports that are used as safeguards should be clearly identified.
 - 2. Safeguards and supports needed to reduce risk should be identified and discussed with the individual and the planning team.
 - 3. The individual and/or members of the planning team should be able to identify the “expected result” from using the safeguard.
 - 4. The person responsible for ensuring implementation of the safeguard must be defined, including identifying the person responsible for training staff.
- vi. The completed *Safeguard Assessment and Identification Tool* should clearly identify all areas where the person needs some or extensive support, the supports or services needed, and identification of who will support implementation of the safeguard.
 - 1. If safeguards can be implemented to meet the individual’s needs then self directed service options are discussed. If the individual and/or their support circle choose self-directed services then the regional office is notified.
 - 2. If safeguards are not identified or if a person cannot be identified to be responsible for the safeguard then the individual, broker, planning team, and MSC should continue to discuss safeguarding, the purpose of safeguarding, and supports which can be used to manage risk. If this discussion involves adding or modifying supports to meet the individuals’ needs then the individual should decide if they want to choose self-directed options. If the individual and/or their support circle choose self-directed options the regional office is notified.
 - 3. If safeguards are not identified or if a person cannot be identified to be responsible for the safeguard then the individual, broker, freely chosen planning team, and MSC should continue to discuss safeguarding. If there continues to be no identifiable supports and services that can be used as safeguards or if there is no responsible party for ensuring the safeguard, the assessment is forwarded to and reviewed by the MSC supervisor, the individual, and the planning team. If, through this discussion, it is determined that safeguards could be adequate then the individual, broker, planning team, and MSC revisit the *Safeguard Assessment and Identification Tool*. If safeguards or supports are not adequate then self-directed service options are not supported and the regional office is notified.

Defining the roles and responsibilities associated with self direction

- i. Individual: The individual is responsible for guiding the self-direction process and is responsible for identifying and partnering with the freely chosen planning team comprising both paid and unpaid members (circle of support), broker, and MSC. The individual identifies goals and desired outcomes as well as openly discusses areas where support is needed and risks. The individual is also responsible for

using safeguards and supports to manage risks. The individual is also responsible for attending meetings to review the safeguard assessment and plans and to communicate significant changes in their life to the MSC. They are also expected to communicate with their MSC if they feel they cannot maintain safety of themselves or others so that support can be offered to ensure safety.

- ii. Freely chosen planning team comprising both paid and unpaid members (circle of support) and including the MSC: The freely chosen planning team comprising both paid and unpaid members is responsible for empowering, supporting, and advocating for the individual. Their responsibility is to support the individual in achieving a desired outcome(s) based on the individuals' needs and desires. Members of the planning team should offer supports if the individual cannot maintain safety of themselves or others so that safety can be maintained. This could include contacting the MSC.
- iii. Medicaid Service Coordinator (MSC): The MSC is responsible for offering support to the individual based on the individual's desires and need. The role and degree of involvement from the MSC will depend on the individual, the individual's needs, strengths, and their desired outcomes. The MSC is also responsible for monitoring the individual's plan and use of supports and services to support the individual's safety and success in achieving desired outcomes. The MSC is a required member of the planning team.
- iv. Broker: The broker also provides support as delineated in the broker agreement to the individual based on the individual's desires and need; the broker is responsible for assisting the individual to develop and maintain the freely chosen planning team comprising both paid and unpaid members, facilitating in-depth and ongoing person centered planning with the individual and the freely chosen planning team, and working with the individual and the freely chosen planning team to develop and maintain the CSS Plan/Budget. The broker is also responsible to communicate items of concern to OPWDD Regional Office staff, the FMS and/or the MSC.

Defining services and supports with regard to safeguards and risk

- i. Employer Authority Only: Service choices providing employer authority currently include self directed community habilitation, and may soon include self directed respite. This authority is considered low risk. After safeguards and the plan are in place, the individual is expected to follow up with the MSC at the twice annual ISP review or before the review if there is a change in natural supports, health or medical needs, employment or living situation, or other life area that impacts the individual. The MSC routinely monitors through ongoing contact and semiannual plan reviews the adequacy of the supports in place for the individual. If concerns emerge or the person undergoes a change in status the MSC will plan accordingly with the individual and others who are involved in the person's life to make changes to the plan of support. Any change should result in the individual, their natural supports, and MSC reevaluating safeguards and, if necessary, modifying current safeguards or implementing additional safeguards to manage new risks.
- ii. Budget and Employer Authority: The service option is Consolidated Supports and Services. This is a higher risk option as the plans' complexity and resource monitoring typically exceeds the expectations in traditional service types. Given the higher risk, the regional office carefully reviews the *CSS Plan/Budget Safeguards* and plans to use the safeguards. If safeguards and supports are identified, the individual, planning team, broker, and the MSC discuss expectations regarding follow up. At minimum, the individual and the MSC must at least twice annually review the service plan and budget, including in the review the individual, MSC, and FMS agency; the broker, and the planning team may also be invited to participate. The individual and MSC must meet before the twice annual review if there is a change in

natural supports, health or medical needs, employment or living situation, or other life area that impacts the individual. If there is a change, the individual, planning team, and MSC should complete the *CSS Plan/Budget Safeguards* and modify or implement safeguards to manage risks.

III. Quality Oversight

The Division of Quality Improvement (DQI) is the administrative entity within OPWDD responsible for monitoring regulatory compliance and certifying all community programs including both state-operated programs and not-for-profit community residential, day, clinic and free-standing respite programs, and the review of Home and Community Based Services (HCBS) Waiver and Medicaid Service Coordination (MSC) services. DQI is comprised of three major Bureaus: Program Certification, Incident Management and Continuous Quality Improvement.

The Bureau of Program Certification (BPC) is responsible for the review and certification of programs and services serving people with developmental disabilities in New York State. DQI certifies over 7,000 programs operated by over 600 agencies. Certified programs include residences (i.e., Individualized Residential Alternatives (IRA), supportive and supervised community residences, intermediate care facilities (ICF) and Private Schools); day programs (i.e., day treatment, day habilitation, day training); Article 16 clinics and one specialty hospital. In addition, DQI reviews the provision of services for agencies which provide Home and Community Based Waiver (HCBS) services and Medicaid Service Coordination (MSC).

In accordance with OPWDD's currently approved waiver agreement, OPWDD conducts HCBS Waiver Reviews annually at every provider agency that delivers HCBS waiver services. These reviews include observation of program implementation, interviews, documentation reviews, outcomes of service delivery, and a review of individual health and safety. DQI also conducts unannounced visits at least annually to all certified sites where HCBS services are provided. These unannounced visits focus on physical plant safety and the safety of individuals served including a review of the environmental/physical plan; medication administration; infection control; personal allowance; rights; informed consent; incident reporting; and individualized planning.

More detailed information on OPWDD's survey processes and protocols can be found in the 1915 C Waiver Application and on OPWDD's website at:

http://www.opwdd.ny.gov/opwdd_services_supports/service_providers/division_of_quality_improvement_protocols

In addition, Provider Performance Transparency Reports are published on OPWDD's website at:

http://www.opwdd.ny.gov/opwdd_services_supports/service_providers/provider_performance/reports/listing

Remediation:

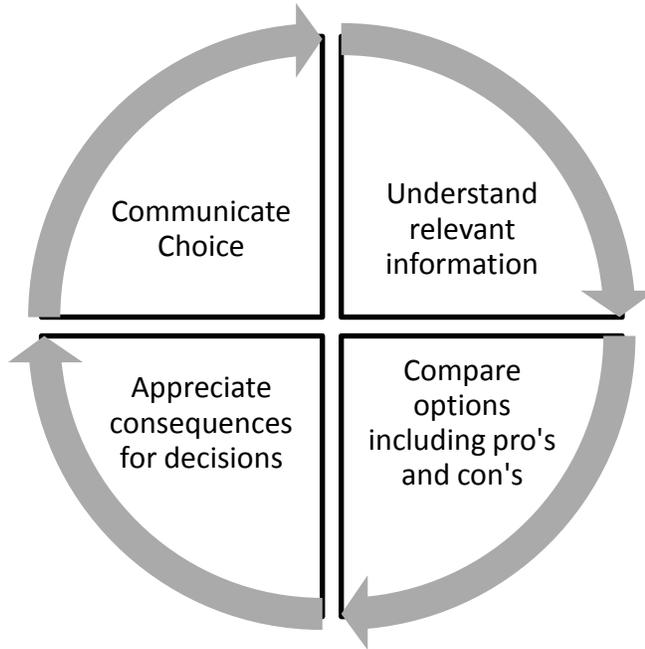
The methods used by DQI to remediate individual problems as they are discovered through the survey process include the following:

- Through annual and recertification survey visits/activities, notification is provided to all providers of regulatory deficiencies.
- When warranted, generation of Statements of Deficiency (SODs) which require a Plan of Corrective Action (POCA)
- Review and analysis by DQI of all POCAs submitted by providers. If a POCA is deemed unacceptable by DQI, the provider is required to amend and submit an updated/acceptable POCA. DQI conducts follow up visits when warranted to ensure that corrective actions have been implemented by provider agencies. Corrective actions are also reviewed by DQI upon recertification of operating certificates and during HCBS reviews.
- When significant issues are found in provider agency operations, providers are referred for mandatory board training conducted by OPWDD or an approved trainer/training entity.
- DQI conducts statewide provider training to update the provider community on changes in policy, clarify expectations, and to share best practices and remediation strategies.
- Providers that experience systemic programmatic and fiscal issues are referred to the Early Alert Committee for concentrated remediation efforts and more intense monitoring and follow up. OPWDD's Early Alert Committee: is an inter-agency discovery process utilized to proactively identify providers that may show signs of decreased quality enabling OPWDD to take timely and definitive action.⁴

⁴ See OPWDD's 1915 C Waiver, Appendix C Quality Improvement processes and/or the Early Alert initiative on OPWDD's website at: http://www.opwdd.ny.gov/opwdd_services_supports/service_providers/early_alert

Appendix C - Factors for determining Decisional Capacity for Self-Determination

Factors for determining Decisional Capacity for Self-Determination



Communicate Choice: Can the Individual or member(s) of their support circle indicate preferred options?

Understand Relevant Information: Can the Individual or member(s) of their support circle grasp the fundamental meaning of what is communicated?

Appreciate Consequences for Decisions: Can the Individual or member(s) of their support circle understand consequences for their actions?

Compare options: Can the Individual or member(s) of their support circle understand pro's and con's for each decision when making the choice?

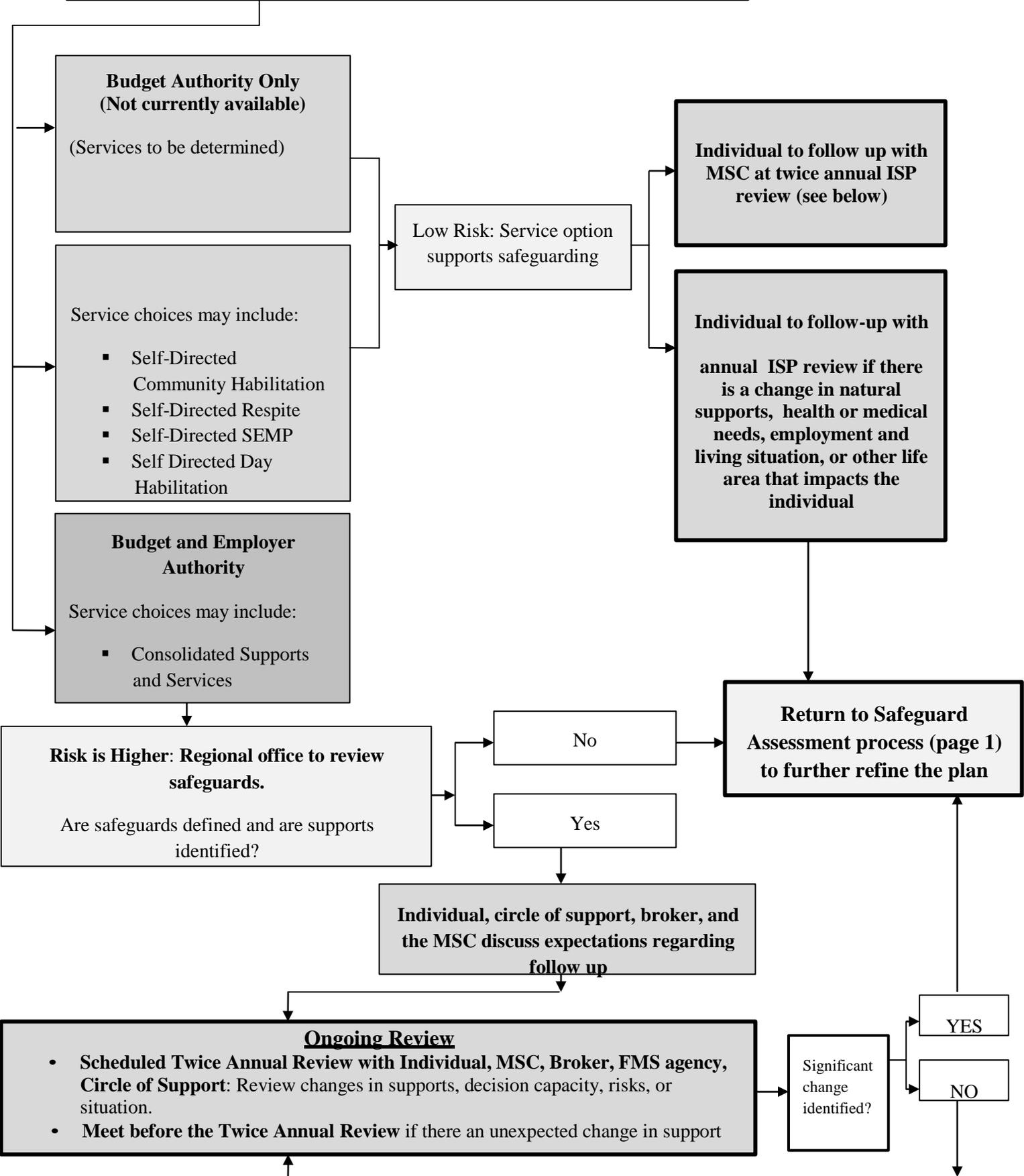
(adapted from Appelbaum, 2007)

Appendix D - CSS Plan/Budget Safeguards

8. Safeguards	Does Not Apply	I do not need support in this area	I need support in this area	Supports and services needed to address this Safeguard	Who is responsible for training staff on this Safeguard?
Guardianship – I know who my legal guardian is and how to contact him/her.					
Informed Consent for General Non-Emergency Medical Procedures – I give consent for general non-emergency medical procedures.					
Informed Consent for Psychotropic Medication – I give consent for psychotropic medication.					
Reporting Incidents – I know how to correctly identify an incident and report the incident to my FMS agency and/or MSC.					
Budgeting – I manage my money and my budget.					
Transportation – I travel independently within my community.					
Transportation – I travel independently outside my community.					
Back-up Plan for Daily Needs - I have and can use a backup plan when my regular schedule changes, e.g., staff cancellation, staff is tardy, or staff leaves employment unexpectedly.					
Medication Administration – I am able to correctly self-administer medications.					
Medical/Health Concerns/Reactions – I am aware of my medical/ health issues and needs and manage them by making and keeping appointments as needed, communicating concerns and symptoms, and being mindful of potential risks. Potential health problems could include asthma, allergies, risk of aspiration, ingestion or swallowing difficulties, potential sensitivity to medication, dairy, peanuts, etc.					
Nutrition – I maintain an adequate diet that meets my nutritional needs, e.g., preventing choking, avoiding food allergies.					

Protective Oversight/Level of Supervision – I maintain my personal safety and am free from self-injury; I do not threaten the safety or property of others.					
Fire Safety - I respond safely in a fire including evacuating promptly and calling for help once out of the building.					
Personal Safety – 1. I respond appropriately in emergencies including following direction from law enforcement or community supports (EMS, fire departments, etc.)					
Personal Safety – 2. I am aware of my surroundings and do not put myself in situations where I do not know where I am or how to return to my home.					
Emergency Preparedness – I have and can carry out emergency plans for sheltering in place and for identifying a plan and location if I need to relocate. I also know situations, such as severe weather, when I need to evacuate.					
Communication Connections – I can communicate with others, such as make phone calls to advocates, contact members of my circle of support, or file complaints/grievances. I can also call others to set up appointments if needed, such as a doctor’s appointment. (Need for a cell phone or land line telephone is referenced here.)					
Other					
Other					

Appendix E
Self-Directed Services
What is the Individual or their Designee's Choice?



Appendix F Using Safeguards with Individuals who choose Self Direction

Does the person have decisional capacity for self determination?
(See Decisional Capacity Guide)

YES

NO

Does the individual have someone to represent them such as a guardian or advocate who can assume or assist with decisional capacity?

YES

NO

Completion of the Safeguard Assessment Individual, Broker, Circle of Support, completes Safeguard assessment and development in CSS Plan. MSC completes Safeguard Assessment and Identification Tool.

MSC Supervisor review to determine if a circle of support can be established
Can circle of support be identified?

*Are supports and services used as safeguards clearly identified?

*Have each of the safeguards needed to reduce risk been identified and discussed with the individual/designee?

*Has the individual/designee identified an "expected result" from the safeguard?

*Is there a defined party (e.g. individual, family member, member of circle of support) responsible for ensuring the safeguard is in place and is the party responsible for training staff related to the safeguard defined?

1 or more "NO" responses to the four questions*

All responses "YES" to the four questions*

Individual, Broker, Circle of Support, MSC Participate in further discussion regarding safeguards
(Include Regional Office Staff)
Can supports be added/modified to meet the individual's need(s)?

YES

NO

Discuss service options with Individual/Designee
Is the decision clearly the choice of the Individual or person(s) acting on behalf of the Individual?

Assessment Reviewed by MSC Supervisor, the individual, and support circle

Agreed safeguards could be adequate.

Agreed safeguards are not adequate.

YES

NO

YES

NO

Support the choice of Self-Directed Services
Notify Regional Office

Do not support the choice of Self-Directed Services
Notify Regional Office

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Appendix G – Education to Support Self Direction

Educational strategies will be divided into three tiers:

- A. Tier One: Designed to provide broad and basic education that helps define what self direction is and the fundamental elements of self directed services:
 - a. Target Population:
 - i. New people requesting supports from the OPWDD system and people who are transitioning from the education system into the OPWDD system of supports,
 - ii. Individuals seeking/receiving supports:
 - (a) Living in institutional settings,
 - (b) Living with family,
 - (c) Living in traditional supports (i.e. IRAs), and
 - (d) Living independently
 - iii. Family members/Advocates
 - iv. Service Coordinators
 - v. Provider Agency representatives; including Direct Support Professionals
 - vi. OPWDD State Operations and Regional Office staff
 - vii. Sister agency staff (e.g. Mental Health and State Education)
 - viii. General community organizations/citizenry
 - b. Education Goal:
 - i. To increase awareness of self-direction options among all the people engaging in supports from OPWDD, sister agencies, and the community at large.
 - c. Strategies:
 - i. DDRO staff present at least monthly face-to-face *Access to Services* information session in all regions of the state, designed specifically for individuals and families, which contains a separate component focused solely on introducing the basic principles of self direction and the fundamental elements of self directed services. Times and days will vary to maximize participation.
 - ii. Parent Network groups present information to families and individuals on self direction using established content provided by OPWDD.
 - iii. Alternative personal contact for individuals and families whose circumstances make it impossible to attend the information session.
 - iv. Statewide video-conferences for individuals and families to understand the basics of self direction.
 - v. Statewide vide-conferences for providers to understand the concepts of self direction; coupled with real life stories from individuals and families who self direct.
 - d) Products:
 - i. OPWDD companion Resource Guide to the *Accessing OPWDD Services* curriculum.
 - ii. General *Understanding Self Direction* curriculum for individuals and families and for provider agencies.
 - iii. Brochures
 - (a) Introduction to Self Determination

- (b) Pathway to Self Directed Services
 - (c) The Seven Steps to Consolidated Supports and Services (CSS)
 - (d) Circles of Support
 - iv. Flyer: *Information for People receiving and Seeking Supports from OPWDD* which focuses solely on self directed support options
 - v. Access to Individual Stories:
 - (a) *Making it Happen*
 - (b) OPWDD's website
 - e) Outcomes
 - i. Standardized and consistent statewide information on Self Direction shared with all targeted groups
 - ii. Clearer understanding of the elements which comprise true self direction.
 - iii. Increased interest by individuals and families in self direction as a service option
 - iv. Increased provider interest and support for self direction
- B. Tier Two: More advanced education which will provide specific information related to self direction support options offered through OPWDD:
 - a. Target Population:
 - i. Individuals who are currently receiving OPWDD supports and services
 - ii. New individuals who have expressed an interest in self-directing services.
 - b. Education Goal:
 - i. To ensure and promote understanding of the key concepts of self-directed supports
 - c. Strategies:
 - i. DDROs present information that is more in-depth about the types of services that can be self-directed and the responsibilities and support offered within each service.
 - ii. Central Office, in partnership with the Self Advocacy Association of NYS, conduct statewide outreach forums and workshops to individuals served in certified residential settings and certified day habilitation settings.
 - iii. Central Office and Regional Office conduct quarterly statewide video-conferences and/or on self directed service options offered by OPWDD. These sessions include:
 - a. *Understanding Self Direction*
 - b. *Self Directed Community Habilitation*
 - c. *An Introduction to OPWDD's Front Door*
 - iv. Central Office and DDRO staff will partner to present presentations on self directed supports at conferences sponsored by various stakeholders.
 - v. DDRO staff will promote self direction at community functions.
 - vi. Individual stories are shared by individuals and families who self direct through Consolidated Supports and Services and Self Directed Community Habilitation.
 - vii. DDROs meet at least quarterly with Executive Directors from Voluntary agencies to promote self direction and discuss strategies for implementation.
 - d) Products:

- ii. Curriculums and PowerPoint presentations developed
- iii. Handouts:
 - a. Introduction to Self Determination brochure
 - b. Pathway to Self Directed Services brochure
 - c. Seven Steps to Consolidated Supports and Services (CSS)
 - d. Informational Flyer which focuses solely on self directed support options, and participant roles and responsibilities
- iv. Individual stories shared by individuals and families who self direct through Consolidated Supports and Services and Self Directed Community Habilitation will be shared on OPWDD's website.

e) Outcomes

- i. Standardized and consistent statewide details on self direction.
- ii. More in-depth knowledge of the authorities and personal responsibilities of self direction.
- iii. Greater promotion of self direction via employer authority by provider agencies.
- iv. Better understanding and support for people who self direct in their communities of choice.

c. Tier Three: Designed to provide detailed information on the roles and responsibilities identified with implementing a self directed service plan and/or budget:

a. Target Population:

- i. Individuals who are actively seeking to self-direct services with budget and employer authority.

b. Education Goal:

- i. Detailed understanding of the operational components of self-directed supports; clear understanding of the responsibilities associated with self direction.

c. Strategies:

- i. OPWDD staff provide training to individuals and families on successfully managing a self-directed service
- ii. OPWDD staff provide training to providers on elements of financial management and brokerage services
- iii. Parent Network groups will assist families and individuals in understanding and facilitating the transition to self-directed services.
- iv. Self Advocates and families who are successfully self directing OPWDD supports share their experiences with individuals and families who want to self direct and agencies who will support them.
- v. Central Office and DDRO staff will meet directly with individuals and families, singularly or in groups to run practicums that will assist in the development of self directed service plans and budgets.

Products:

- i. Partnership with the University Centers of Excellence for Developmental Disabilities (UCEDD) to establish curriculums that assist families and individuals in managing a self-directed service.

- ii. Many of the stories shared by individuals and families will be video-taped and added to training curriculum or made available on OPWDD's website.
- iii. As needed, guidance memorandum will be developed to clarify policies and practices related to self directed service implementation.

e) Outcomes

- i. Self directed service options will be available and supported in all areas of the state.
- ii. Individuals and families will have the skills and knowledge needed to successfully self direct their supports and services.
- iii. Increased partnership with the provider networks in promoting self determination as an option
- iv. Increased control of supports and services for individuals and families.

For more information on education and marketing activity timelines, see the attached spreadsheet.

Appendix H: FEA – FMS Continuum Design and Decision Matrix

Financial Management Service (FMS) Core Tasks and Functions				
<p>The Financial Management Service (FMS) agency provides a variety of services that support the individual whose services are funded through an individualized budget. The FMS agency is the employer of record for self-hired staff and is the provider of record to the individual who hires and manages his/her staff and/or supports. Authorized services funded through the FMS payment on the Consolidated Supports and Services (CSS) price sheet are listed below. Authorized services in categories 1-4 apply to all individuals whose services and supports are funded through an individualized budget; authorized services in category 5 apply only to individuals who are self-directing staff.</p>				
A. General Tasks & Functions		CSS Participant:		
		Must Access from FMS	May Self-Direct or Access from Other Entity or FMS	May Opt Out Of
1. Billing and payment of approved goods and services on behalf of participants				
	a) Receive, verify and process requests for payment for all goods and services shown in the approved budget (including Mileage Reimbursement Form, Monthly Summary Note, Invoice/Service Record for Contracted/Vendor Services)	TBD	TBD	TBD
	b) Promptly notify participant or designee of any requests for payment for services that have not been identified in the participant's approved service plan and budget	TBD	TBD	TBD
	c) Confirm credentialing of contractors/vendors	TBD	TBD	TBD
	d) Adhere to monthly billing rules/billing standards for services as defined by NYS OPWDD	TBD	TBD	TBD
	e) Submit timely billing (hourly & monthly), as appropriate, to Medicaid (eMedNY) and/or	TBD	TBD	TBD
2. Fiscal accounting and reporting				TBD
	a) Establish and maintain a separate account for each participant	TBD	TBD	TBD
	b) Track disbursements and balances of participant funds	TBD	TBD	TBD
	c) Send monthly expenditure and balance reports to the participant and DDSO promptly	TBD	TBD	TBD
	d) Report inconsistencies in approved service plan and budget to state authorities	TBD	TBD	TBD
3. Ensure Medicaid and corporate compliance				
	a) Review all service documentation that supports billing to eMedNY and OPWDD for accuracy, completeness, and compliance with applicable requirements, including ensuring that the habilitation plan is reviewed at least once every six months, and whenever there is a significant change in the service. One of the two reviews each year occurs at the annual Individualized Service Plan (ISP) review.	TBD	TBD	TBD

	b) Maintain current copies of the ISP and self-directed service plans and budgets, and hold for a period of 6 years from the date the care, services or supplies were furnished or billed, whichever is later	TBD	TBD	TBD
	c) Maintain all components of the individual service record and documents supporting billing for a period of 6 years from the date the care, services or supplies were furnished or billed, whichever is later	TBD	TBD	TBD
	d) Provide expenditure reports and service documentation to state authorities as requested	TBD	TBD	TBD
	e) Participate in quality and fiscal compliance audits	TBD	TBD	TBD
	4. General administrative supports, including but not limited to:			
	a) Conduct necessary meetings once plan/budget is approved, e.g., launch meeting and required annual and semi-annual CSS Plan reviews	TBD	TBD	TBD
	b) Participate in annual and/or semi-annual ISP meetings to discuss issues related to self-directed staffing and/or supports and budget expenditures as needed or as requested	TBD	TBD	TBD
	c) Participate in freely chosen planning team/Support circle meetings as a budget resource as needed or as requested	TBD	TBD	TBD
	d) Assist individual with budget management	TBD	TBD	TBD
	e) Incident Management - reporting/investigating as required	TBD	TBD	TBD
	f) Ensure that the DDP-2 is updated as needed, at least every two (2) years	TBD	TBD	TBD
	g) Conduct Medicaid fraud investigations as necessary	TBD	TBD	TBD
	h) Maintain communication with OPWDD regarding participant and services	TBD	TBD	TBD
	i) Travel time when necessary to address above listed responsibilities	TBD	TBD	TBD
	j) Other expenses associated with agency administrative overhead	TBD	TBD	TBD
	5. Self-Hired Staff-Related Tasks & Functions			
	a) Provide training to the individual on his/her employer responsibilities by:	TBD	TBD	TBD
	1) Providing participant with orientation and support in areas of staff hiring (including	TBD	TBD	TBD
	2) Reviewing Department of Labor information and agency employment policies with	TBD	TBD	TBD
	3) Addressing relevant co-management practices which relate to agency vs. participant	TBD	TBD	TBD
	4) Discussing use of overtime with participant, i.e., budget consequences & other implications	TBD	TBD	TBD
	5) Discussing with participant effect of	TBD	TBD	TBD

	hospitalization on Medicaid funding & individual budget			
	6) Teaching participant importance of proper documentation of staff work hours, expenditures, and provision of services & how to review Employee Time Sheet/Daily Service Record, Mileage Reimbursement Form, Monthly Summary Note, Invoice/Service Record for Contracted/Vendor Services and any other claims for payment to ensure that documentation is complete and accurate	TBD	TBD	TBD
	b) Help individual manage staff by:			
	1) Providing and supporting hiring and discharge practices for self-directed staff	TBD	TBD	TBD
	2) Verifying staff citizenship status	TBD	TBD	TBD
	3) Completing required background checks: CBC, DMV, Central Registry, etc.	TBD	TBD	TBD
	4) Providing enrollment/employment package for all new self-directed staff that includes one copy of all necessary forms	TBD	TBD	TBD
	5) Providing all OPWDD approved basic agency mandatory trainings for all self-directed staff (i.e., incident reporting)	TBD	TBD	TBD
	6) Providing other trainings for self-directed staff as agreed upon with individual	TBD	TBD	TBD
	7) Scheduling back up staffing, if agreed upon with individual	TBD	TBD	TBD
	8) Maintaining staff background records	TBD	TBD	TBD
	c) Complete payroll functions, including:			
	1) Collecting, verifying and processing time sheets/service records (Employee Time Sheet/Daily Service Record, Invoice/Service Record for Contracted/Vendor Services)	TBD	TBD	TBD
	2) Processing payroll; withholdings; federal, state, and local taxes; making tax payments to appropriate tax authorities (such as FICA, Workers Comp, unemployment, etc.)	TBD	TBD	TBD
	3) Identifying and managing individual staff benefit and fringe packages as defined in the participant's approved service plan	TBD	TBD	TBD
	4) Ensuring timely staff payments	TBD	TBD	TBD
	5) Managing staff accruals	TBD	TBD	TBD