



State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER FORTY-THREE

- WHEREAS,** the State of Iowa's Medicaid Home and Community Based Waiver programs provide assistive services to Iowa residents who would not otherwise be able to remain in their homes as a result of a disability caused by an accident, prolonged illness, or advanced age; and
- WHEREAS,** the State of Iowa's Medicaid Home and Community Based Waiver programs allow individual consumers to choose consumer-directed attendant care (CDAC), and this option lets an individual consumer obtain the personal assistance services that he or she needs either through an agency or directly from an individual provider; and
- WHEREAS,** CDAC enables the elderly and the disabled to have a voice over the services they receive, and thus is key to independent living; and
- WHEREAS,** the Iowa Department of Human Services is establishing a new program, to be called Developing Choices – Empowering Iowans, that will enable more people with disabilities and seniors who receive Medicaid services at home to select their own caregivers and remain independent as long as possible; and
- WHEREAS,** an individual provider in the CDAC program is in a special employment arrangement. The consumer selects, directs, and may terminate the individual provider. The State of Iowa approves the hire of, determines the method and level of reimbursement, and may terminate the contract of the individual provider; and
- WHEREAS,** an individual provider in the Developing Choices – Empowering Iowans program will also be in a special employment relationship in which the consumer will recruit and select their support service worker(s), as well as provide training and direction on a day-to-day basis, and will be able to dismiss their worker(s), while a fiscal management service selected by the Iowa Department of Human Services will receive public funds on behalf of the consumer and will perform the payroll function for the consumer as an employer agent responsible for withholding, filing and paying of federal and state employment taxes and income taxes; and
- WHEREAS,** it is essential to maintain consumer control over the selection, direction of service activities, and termination of individual providers and, simultaneously, to preserve the State's ability to ensure efficient and effective delivery of personal assistance services, to terminate providers and to control the economic terms of the individual providers' employment under the Waiver programs; and

WHEREAS, individual CDAC consumers do not control the economic terms of individual providers' employment under the Waiver programs, and individuals in the Developing Choices – Empowering Iowans program will only have flexibility within the approved amounts of their highly personalized individual budgets, and therefore cannot effectively address concerns common to all individual providers, nor can they individually address issues related to workforce retention; and

WHEREAS, Iowa has the nation's third highest percentage of residents aged 65 and over, the second highest percentage of those over 75, and the highest percentage of people over 85 years of age, and thus faces an increased demand for attendant care services; and

WHEREAS, the Iowa Olmstead Action Plan notes an inadequate supply of personal assistance services for the elderly and disabled, and notes that rates for caregivers are inadequate to attract and maintain quality staff and caregivers, and that the state intends to remedy these deficiencies; and

WHEREAS, the State has a responsibility to ensure that a stable workforce exists to serve the elderly and people with disabilities who have a right to remain in the community; and

WHEREAS, individual providers work in the homes of consumers throughout Iowa and therefore cannot effectively voice their concerns about the organization of the Waiver program, their role in the program, or the terms and conditions of their employment without representation; and

WHEREAS, it is important for the individual providers to be able to provide feedback so that the Waiver programs can be managed, and personal assistance services can be provided, as effectively and efficiently as possible, while reducing turnover among qualified providers.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct as follows:

1. The Director of Iowa Department of Human Services, or his or her designee, in order to promote recruitment and retention among providers and to establish a more effective and efficient homecare delivery system, shall meet and confer with the authorized representative of the individual providers, as designated by the majority of the individual providers. The verification of majority status shall be based on signed authorization cards, and shall be conducted by a mutually agreed upon, neutral party. In meeting and conferring with the authorized representative, the Department of Human Services shall discuss the organization of the Waiver program, including standards of care, the role of the individual providers and the training required, the terms and conditions of their employment, the desirability of establishing a registry of individual providers, and any other issues related to the effective provision of high quality personal assistance services under the program. In addition, the Department of Human Services shall provide for dues check off for those individual providers who choose to pay their membership dues to the recognized majority representative.

2. The provisions of this Order are not intended to alter or infringe upon the special employment arrangement of the providers and consumers as established by the Department of Human Services.

Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 4th day of July, in the year of our Lord two thousand five.

Thomas J. Vilsack

THOMAS J. VILSACK
GOVERNOR

ATTEST:

Chester J. Culver

CHESTER J. CULVER
SECRETARY OF STATE