

Medicaid	Attendant Care Contract
Non-Public Entity OHCDS	Services to be Subcontracted by
Organized Health Care Delivery System	Services for Independent Living
Home and Community Based Services	
Request for Proposal	

A. Consumer/Employer's Name: _____

B. Attendant/Employee's Name: _____

C. Date of Contract: _____

ATTENDANT CARE CONTRACT

This Attendant Care Contract ("Contract") is made by Services for Independent Living and the Attendant/Employee identified in line B. above who will be employed by the Consumer/Employer identified in line A. above as of the Date of Contract specified in line C. above.

1. Definitions and responsibilities. In order to make this Contract more easily understood, certain terms are defined and various responsibilities are described as follows:

- a.) The term "**Consumer/Employer**" means the individual identified in line A. above who requires attendant care services in his/her home. Hereafter, the Consumer/Employer will be referred to as "**Consumer**". Consumer is the employer of the Attendant/Employee and as such is responsible for directing, managing, scheduling (within the parameters of authorized service hours), and supervising the Attendant/Employee. Consumer is responsible for reviewing all timesheets connected with Attendant/Employee's hours of service for accuracy, and Consumer is responsible for promptly forwarding the same to Services for Independent Living. Consumer, through the fiscal intermediary, will pay the Attendant/Employee for services authorized in consumer's Plan of Care and by this Contract.
- b.) The term "**Attendant/Employee**" means the individual identified in line B. above who, as a party to this contract, agrees to provide attendant care services to Consumer. Hereafter, the Attendant/Employee will be referred to as "**Attendant**". Attendant shall have and maintain the qualifications, credentials, certifications, licenses, and/or training necessary to perform the attendant care services described and authorized in Consumer's Plan of Care before rendering any attendant care services to Consumer. Attendant is not entitled to be paid until and unless he/she has met/maintained all qualifications for rendering attendant care services. Attendant agrees that he/she will accept as payment in full for the services described and authorized in Consumer's Plan of Care the payments he/she receives pursuant to this Contract. He/she will not seek additional or supplemental payments from Consumer or others acting on behalf of Consumer nor will he/she accept additional or supplemental payments from Consumer or others acting on behalf of Consumer.

- c.) The term “**attendant care services**” or “**attendant care**” means those services that Consumer needs to have provided to him/her within his/her home in order to achieve independent living within the community. Attendant care services may include but are not limited to helping Consumer with eating, dressing, meal preparation, toileting, bathing, grooming, transferring, and specific health maintenance tasks, as well as some incidental housekeeping tasks that insure Consumer’s health and safety, like grocery shopping and laundry. The attendant care services that Attendant will perform will be described and authorized in the Consumer’s Plan of Care. A copy of the pertinent parts of the Plan of Care will be provided to Attendant.
- d.) The term “**Services for Independent Living**” means the agency signing this Contract. Hereafter, Services for Independent Living will be referred to as “**SIL**”. It is recognized as a vendor of Consumer Directed Services and enrolled as an Organized Health Care Delivery System with the Department of Health and Senior Services, Division of Senior and Disability Services, SIL is authorized to provide administrative support to Consumer. SIL is authorized to enter into payroll service contracts with payroll service companies to provide fiscal intermediary services as set forth below.
- e.) The term “**fiscal intermediary**” means a payroll service company, under contract with SIL, retained to perform **fiscal intermediary services**—those services that an employer must generally perform in connection with paying his/her employee. These include calculating the amount that an employee is to be paid, writing payroll checks (or making direct deposits), withholding and paying state and federal income taxes to the appropriate authorities, withholding and paying Social Security (FICA) and Medicare payments and/or employer’s portions as is required by law or regulation and paying them to the appropriate authorities, and making unemployment/workers compensation insurance payments, as well as withholding/paying those amounts as may be required by law or regulation from time-to-time. The fiscal intermediary will provide Attendant with a written summary of all deductions and payments made. The fiscal intermediary will prepare and provide Consumer and Attendant with end-of-year tax information and forms within the time prescribed by law, such as W-2’s, so that Consumer and Attendant may comply with all tax filing requirements. The fiscal intermediary will maintain copies of all records required by law or regulation for tax and other purposes, and these shall be the official records documenting the employer/employee (Consumer/Attendant) relationship.

2. Purpose and background information. The purpose of this Contract is to allow consumer to interview, hire, direct, manage, schedule (within the parameters of authorized service hours), supervise, and discharge his/her Attendant. SIL is a vendor of Consumer-Directed Services and as such it is authorized by the Missouri Department of Health and Senior Services to provide administrative support for Consumer-Directed Services. SIL may contract with payroll service companies to act as fiscal intermediary. The fiscal intermediary will act as an agent for and provide payroll services for Consumer, as explained herein.

Consumer will employ Attendant to work in Consumer's home, at the direction and under the supervision of Consumer, to provide the attendant care services described and authorized in Consumer's Plan of Care. Because of the work arrangement contemplated in this

contract, Attendant is an employee of Consumer for purposes of the federal Fair Labor Standards Act, and not an independent contractor. It is, therefore, necessary that Consumer, through the fiscal intermediary, withhold and pay all income taxes required by law, as well as all other withholdings or payments that employers generally make in connection with employees in order to comply with applicable laws and regulations.

The fiscal intermediary will perform fiscal intermediary services as described above and prepare and write payroll checks to Attendant on behalf of Consumer.

3. **Basis for payment.** Attendant agrees to perform the attendant care services described and authorized in Consumer's Plan of Care at an initial rate equal to \$7.75/hour, which rate may be increased from time-to-time with or without notice to Attendant. Attendant will be paid only for those services described and authorized in Consumer's Plan of Care, and no others. Medicaid will provide funds to the fiscal intermediary to pay Attendant for authorized attendant care services actually performed for Consumer. Attendant is not permitted to off-set excess hours in one month against scheduled hours in another month, even if this is agreeable to Consumer. Attendant understands that he/she is not entitled to nor will he/she receive as part of his/her payment hereunder, or otherwise, any "fringe" benefits, such as health insurance, sick leave, paid personal days, paid vacations, paid holidays, and the like.
4. **Method of payment.** SIL will provide Consumer with documents authorizing payment for the services described and authorized in Consumer's Plan of Care. The documents will set forth the maximum number of hours to be worked during a specific time period; and the applicable time period for performance of the attendant care services. SIL will also provide Consumer with timesheets to record Consumer's name, Attendant's name, dates and times of services delivered, types of activities performed at each visit, Attendant's signature for each visit and Consumer's signature verifying service delivery for each visit.

Payroll will be processed bi-weekly. At the end of each payroll period, Consumer will review and approve the completed timesheet and forward the same to SIL. Timesheets must be received by SIL within three (3) calendar days of the end of a payroll period in order to be included in the next payroll. If SIL does not receive the timesheets within the prescribed time, then payment will not be processed until the next payroll, and Attendant's payment will be delayed.

It is imperative that Consumer and Attendant accurately record and report services and hours. Falsification or misrepresentation on any timesheet constitutes fraud. Payments made on behalf of Consumer as a result of inaccurate timesheets will be recouped from Attendant and/or consumer. Any incidents of apparent fraud may be reported to Medicaid and/or other appropriate authorities.

- 5. Conditions and understandings of Contract.** The quality, appropriateness, and timeliness of the attendant care services rendered and reimbursed through this contract are subject to evaluation, through inspection or other means, by SIL. In addition, for so long as Medicaid funds are used, in whole or in part, to pay Attendant, the Missouri Department of Social Services and the U.S. Department of Health and Human Services, and/or its/their designee(s), have the right to evaluate, through inspection or other means, the attendant care services rendered and reimbursed hereunder.

Attendant understands and agrees that he/she is not an employee of SIL and Attendant will not represent to anyone that he/she is an employee of SIL.

Attendant understands and agrees that he/she is not an employee of the State of Missouri or any department, unit, agency, or subdivision thereof. Attendant will not represent to anyone that he/she is an employee of the State of Missouri or any department, unit, agency, or subdivision thereof.

Attendant understands and agrees that pursuant to this Contract, he/she is employed solely by Consumer.

Attendant understands and agrees that this Contract is non-exclusive. Consumer may enter into one or more other Attendant Care Contracts with other attendants. Consumer may terminate this contract with Attendant and such termination will have no effect on other non-terminated contracts which will remain in full force and effect. Similarly, Attendant may enter into one or more Attendant Care contracts with other consumers. Termination of one or more of such other Attendant Care Contract(s) with other consumer(s) does not automatically terminate this Contract.

Attendant understands and agrees that this Contract does not guarantee him/her any specific number of hours of work or any hours at all.

Attendant understands and agrees that he/she may not act as consumer's personal representative in matters regarding financial, and/or budgetary decision making. Attendant understands and agrees that he/she may not act as consumer's personal representative in matters regarding medical treatment unless and if Attendant is designated as authority in Consumer's Durable Power of Attorney for Healthcare document and is acting within the scope of his/her legal authority.

- 6. Liability for work related injury/illness.** Attendant understands and agrees that Attendant and/or consumer is/are solely responsible for any injuries or illness Attendant sustains while providing attendant care services and/or acting within the scope of his/her employment, and that neither SIL nor the State of Missouri has any liability for such injuries or illness.
- 7. Mandated Reporter.** Attendant agrees and understands that he/she is required by law to report suspected abuse, neglect, or exploitation as determined under Sections 660.00, 565.188, 208.912, 208.915 and 198.070 RSMo to **MISSOURI RESPONSE SYSTEM, 1-800-392-0210.**
- 8. Direction and supervision of consumer.** Attendant understands and agrees that he/she will perform the attendant care services specified in Consumer's Plan of Care in Consumer's under the direction and supervision of Consumer, in a manner reasonably satisfactory to Consumer, on such dates and at such times as agreed upon by Attendant and Consumer; however, the service time shall not exceed the number of hours authorized for service.

- 9. Termination for cause.** Attendant understands and agrees that consumer may establish reasonable standards for employment and performance and may discharge Attendant for violation for the same. Attendant understands that Consumer may discharge Attendant for cause with or without prior notice to Attendant. Consumer's discharge of Attendant for cause is a termination of the Contract for cause.
- 10. Termination by Attendant.** Attendant may terminate this Contract, with or without cause, upon seven (7) days written notice to Consumer and SIL of his/her intention to terminate.
- 11. Contract term.** If this contract has not been previously terminated, it shall terminate one year from the Date of Contract specified in line C. above, or it shall be renewed as set forth herein. On or before the end of the Contract term, SIL will review this Attendant Care Contract. If SIL determines that Attendant is employed by Consumer at the end of the Contract term and the terms of this contract are met, then this Contract shall automatically renew for a consecutive one-year term unless Consumer has informed SIL that he/she no longer wishes to employ Attendant or Attendant has informed SIL that he/she no longer wishes to work for consumer. This contract may be renewed for successive consecutive one-year terms if the terms of this Contract are met, Attendant continues to be employed by Consumer, and neither consumer nor Attendant have told SIL that he/she wishes to discontinue the employment relationship. If, at the time of review, SIL determines that Attendant is not presently working for Consumer but is likely to be re-employed in the immediate future, then SIL, in its sole discretion, may renew this Contract for a one-year term commencing with the date of re-employment. It may be renewed again for successive consecutive one-year terms upon the conditions set forth in this paragraph and in this Contract.
- 12. Confidentiality.** Attendant understands that consumer is entitled to have his/her personal and health care information treated with confidentiality. Attendant agrees to protect and maintain Consumer's confidentiality. Under no circumstances will Attendant discuss or disclose Consumer's personal or health care information without legal authorization to do so. Consumer's right to confidential treatment of personal and health care information survives the termination of this Contract.
- 13. Non-discrimination.** The parties to this Contract agree that they and each of them will refrain from discrimination on the basis of race, religion, nationality, sex, age, familial status, color, disability, or any other basis not permitted by law.
- 14. Miscellaneous provisions.** This Contract shall be interpreted in accordance with and governed by the laws of the State of Missouri. The place of contract is the county where SIL has its principal offices.

The invalidity or unenforceability of any portion or provision of this Contract shall not effect, impair, or render unenforceable any other portion or provision. It is intended that each provision herein that is invalid or unenforceable as written be valid and enforceable to the fullest extent possible.

Under no circumstances may Attendant assign his/her obligations, duties, or rights pursuant to or connected with this Contract to any other person or entity.

All understandings, agreements, offers, representations, and/or writings made by the parties to this Contract prior to the Date of Contract specified in line C. above are hereby merged in this contract and are of no force and effect unless specifically set forth in this contract.

The captions in this Contract are for convenience only and are not to be construed as substantive parts of this contract.

This contract may not be modified except by a writing signed and dated by both parties except 1) the Contract may be renewed pursuant to paragraph 10 above without an additional writing and 2) Attendant's compensations for services may be increased from time-to-time as authorized by law or regulation without notice or a writing signed by both parties.

At the time of termination of this contract, whether for cause, end of term, or otherwise, Attendant agrees to promptly deliver to SIL, any and all records, materials, directives, memos, or other documents that pertain to this Contract, Consumer, or SIL, including but not limited to all originals and/or copies of Consumer's Plan of Care (in whole or in part), confidential Consumer information, medical care directions and/or physician/medical care instructions, completed or incomplete timesheets, and the like, except that Attendant may retain Attendant's payroll records and tax information.

At the time of termination of this contract, whether for cause, end of term, or otherwise, Attendant agrees to promptly provide Consumer with current timesheet information so that the last payroll for Attendant may be completed.

15. Signatures. BY SIGNING BELOW YOU ACKNOWLEDGE YOU HAVE READ THIS CONTRACT, YOU ACCEPT IT, AND AGREE TO ITS TERMS.

Services for Independent Living:

BY: _____ (sign)

(Print name and title)

Attendant: _____ (sign)

(Print name)

END OF DOCUMENT