



FMSA Quarterly Webinar – 11/22/24 Questions & Answers

Consumer Directed Services

Q1: Can FMSA approve the forms when an employer, DR, or employee do e-sign or e-signature? If yes, which kind of e-signature is acceptable?

A1: Currently there is nothing within Consumer Directed Services (CDS) rules specifically prohibiting the use of electronic signatures between Financial Management Services Agencies (FMSAs) and CDS employers.

If you contract with a Managed Care organization (MCO), you should seek advisement from the MCO directly about their electronic signature policies.

If you are considering using electronic signatures at your discretion, the following actions are suggested:

- Obtain consent from the CDS employer or LAR to use electronic means for transmittal and signatures, and document details about these communications in the member's record.
- Follow applicable Health Insurance Portability and Accountability Act (HIPAA), state, and federal laws for FMSAs doing business with CDS employers, including obtaining their consent to receive and send forms with signatures electronically. For example, HIPAA business associate agreements (BAAs) with vendors of needed software products may be required. FMSAs are responsible for familiarizing themselves with requirements.
- Document details on how the signature was obtained and what type of electronic signature was used.



- Have a system to ensure the identity of the person who signed such as verification of the contact email used to send the document they electronically signed.

As a reminder, TAC [§264.205](#) requirements include: A designated representative (DR) must not sign or represent himself as the employer. This is very important to keep in mind when considering the potential risks of using electronic signatures. If a DR is involved in the form's transmittal, review or signature process, be sure you have a signed Form 1720 on file indicating the CDS employer or LAR has designated these tasks to the DR.

Q2: MCOs don't reimburse for bonuses and don't have a service code for them. How do we get reimbursed for bonuses on managed care claims?

A2: The bonus payment is included and billed for in the allowable unit rate. FMSAs must bill MCOs at a unit rate that includes any anticipated bonuses, supplies, overtime, and taxes. To calculate, the FMSA should multiply the total amount of authorized hours by the Medicaid reimbursement rate for the service to determine the total amount of authorized funds available for the budget year. Then, deduct the total amount of the anticipated bonus plus the Medicare + Social Security taxes for the year. From that amount, you would divide the total number of authorized unit hours for the budget year to get the employee's gross payment rate which includes their hourly wage plus taxes.

As the FMSA, you are responsible for impounding and managing the funds that accumulate as you bill. The impound balance is the difference between the employee's hourly pay rate and the reimbursement rate. The funds accumulated from the allowable unit rate minus the hourly wage rate are needed to pay for the taxes, employer-related expenses (i.e., supplies), overtime and optional employee benefits (bonuses, vacation, sick leave, etc.) that are budgeted for the plan year.



Q3: How to respond when employer writes “everything” on Form 1720?

A3: The employer may delegate all employer responsibilities as allowable under CDS rules and their program’s rules and policies. In some cases it may be easier to list what the DR is not appointed to do on [Form 1720](#). The employer can specify any responsibilities the DR must not perform, such as sign for the employer or make certain decisions on behalf of the employer, by listing them in the textbox provided on the form. The FMSA should ensure the employer understands that the employer maintains responsibility and accountability for any decisions and actions taken by the DR.

Q4: How can an FMSA ensure continuity of care for the member if a CDS employer is overutilizing and will not change this practice after multiple trainings and notices?

A4: The FMSA should document instances where training was provided, and corrective action plans were issued. If the employer cannot meet their CDS employer responsibilities, the FMSA may recommend a transfer from the CDS option to the Agency Option or Service Responsibility Option (if available for that program) and should follow the process outlined in TAC [§264.407](#) Termination of Participation in the CDS Option which includes:

(f) Before a CDSA [FMSA] recommends involuntary termination of participation in the CDS option to an individual's case manager or service coordinator, the CDSA must:

(1) provide documentation to the individual's case manager or service coordinator of additional and ongoing training and supports provided by the CDSA when an employer or DR demonstrates noncompliance with employer responsibilities;

(2) provide assistance requested by the employer or DR to develop and implement a corrective action plan;



(3) provide documentation of any corrective action plan required of the employer or DR by the CDSA [FMSA] in accordance with §264.221 of this chapter (relating to Corrective Action Plans); and

(4) notify the case manager or service coordinator in writing in accordance with the requirements of the individual's program when recommending termination of an individual's participation in the CDS option.

Q5: There is no place on Form 1730 to document an employee's accrued bonus. Can you please clarify? Will the form be updated for 2025 - there have been no updates to this form since 2013?

A5: HHSC is reviewing the process for budgeting a bonus, including instructions for completing Form 1730, and will provide updates soon.

Electronic Visit Verification

Q1: Are there any new updates on the outstanding Visit Maintenance Unlock Requests (VMURs) from prior to the switchover with HHAeXchange?

A1: HHSC anticipates all testing will be completed for Proprietary System Operators (PSOs) by January 1, 2025. Once the hold is lifted for the VMURs on legacy visits, HHSC will publish a notice.

Q2: Why exactly are the fobs (alternative devices) being phased out?

A2: HHSC is reducing the use of alternative devices to modernize the electronic visit verification (EVV) program, increase program integrity, and reduce state EVV contract costs. This change helps to align Texas with national EVV practices while maintaining limited alternative devices for exceptional circumstances.



Contract Administration & Provider Monitoring

Q1: Presenter stated verbally, but it was not in the slides, that the FMSA is required to pay the hours submitted even if over the weekly limit until all funds have been used for the year. Can you reference where in the program rules this is discussed? I was under the impression that the employer must follow their Habilitation plan. Is there a limit to what can be accepted over the weekly limit? If the FMSA advises the employer that they are using too many hours and the employer continues to do what they want, would we continue to allow them to go over the authorized amount and risk depleting their budget before their plan year ends?

A1: CDS employers are required to follow their HHSC approved CFC/Habilitation Plan through their program rules; however, if a CDS employer utilizes more units per week than authorized, the FMSA must pay and then should contact the CDS employer to discuss the over-utilization of services as well as let the case manager (CM) or service coordinator (SC) know through fax, email or another method that the CDS employer is overutilizing services and may run out before the allotted timeframe of the plan year. If overutilization of services continues, a service planning team (SPT) meeting might be needed to discuss:

- a) possible revisions to the plan of care;
- b) any additional training with the CDS employer that may be needed; or
- c) if the CDS option is the best service delivery option for them.

Please also see the response in Q4 under the CDS section above.



Q2: What is the official timeframe a CDS quarterly report must be sent from the FMSA to the Case Manager and the CDS Client? How many days after the date the final payroll for the end of the quarter is issued must it be sent?

A2: 26 TAC [§264.317](#) does not detail a timeline for submitting quarterly reports to the CM or SC and the CDS employer at the end of the quarter. The only requirement is that all required parties receive a quarterly budget report at least every three months, or more frequently if requested by the CDS employer. HHSC FMSA Monitoring will check that quarterly reports were sent to the required parties at least every quarter, or more if requested, in fee-for-service programs.

Q3: Did you say the FMSA has to pay for attendant work done even after the budget has been completely utilized?

A3: No, the FMSA does not have to pay for service provided after HHSC approved services and funds have been completely utilized for the specific plan year. If a CDS employer continually overutilizes services and has no funds before the end of the plan year, a discussion with the CDS employer is required. An SPT meeting might also be required to discuss other options. The FMSA should report overutilization to CM or SC well before the end of the plan year, and it should also be reflected on the quarterly budget reports sent to the CM or SC and CDS employer before the year's authorized budget ends.