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GAVIN NEWSOM
GOVERNOR

April 25, 2024

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: SELF-DETERMINATION PROGRAM: EMPLOYER BURDEN AND
OTHER EMPLOYMENT-RELATED COSTS

This guidance includes information for Self-Determination Program (SDP) participants, regional centers and SDP Financial Management Services (FMS) providers regarding employer burden costs and other employment-related costs. This guidance is issued pursuant to Welfare and Institutions (W&I) Code section 4685.8(p)(2) which authorizes the Department of Developmental Services (Department) to issue program directives or similar instructions until regulations are adopted.

Employer burden and other employment-related costs are applicable to employing an SDP participant's staff under the co-employer or the sole employer models. Employer burden costs are required to be incorporated in the SDP participant's spending plan. Other employment-related costs may be required by law or company policy or they may be optional costs agreed to by the SDP participant and their employee. The SDP participant's spending plan shall only cover the costs of the services and supports listed in their spending plan, including the employer burden and employment-related costs identified in this directive. No other costs shall be included in an SDP participant's spending plan.

Employer Burden

Employer burden costs shall be identified in and paid from the SDP participant's spending plan and are limited to:

- Federal Insurance Contributions Act (FICA Taxes)
- Federal Unemployment Tax Act (FUTA Taxes)
- State Unemployment Tax Act (SUTA Taxes)
- Employment Training Tax (ETT)
- Worker's compensation insurance
- Paid sick leave

Some employer burden costs will be the same for all FMS providers, such as taxes, while others may differ between FMS providers, such as workers' compensation insurance.

Differences between the co-employer and the sole employer models are described in the [FMS Models Comparison Chart](#) posted on the Department's website.

Other Employment-Related Costs

A participant's FMS may be required to offer certain optional benefits such as Affordable Care Act health insurance or the CalSavers Retirement Savings Program to an SDP participant's employees. An FMS may also have benefits that they offer to all of their employees, including those supporting SDP participants, such as dental and vision care. The FMS shall discuss these benefits and the impact of the associated costs on the spending plan during initial service planning and at the time of any changes.

Although not required, a participant and their staff may agree to include other costs related to employing staff such as:

- Health insurance
- Retirement benefits
- Overtime incurred while working with the SDP participant

Standardized Process for Notification of Employer Burden and Employment-Related Costs

To achieve a standardized process for the FMS' submission of their SDP employer burden, other employment-related costs, and subsequent notifications, the Department is requiring:

- A. By May 31, 2024, FMS providers shall notify their vendoring regional center of their employer burden costs using the enclosed "Employer Burden and Employment-Related Costs Template Form" (Form), and, at the request of the vendoring regional center, provide supporting documentation for variable costs included in the Form. The vendoring regional center will review the Form and submit a copy of each Form to the Department by June 30, 2024, via SDP@dds.ca.gov for approval. The Department will approve and provide the vendoring regional center a copy of the approved Form and post it to the Department's website no later than July 31, 2024. Following the Department's approval, the regional center shall send a copy of the approved Form to the FMS within 10 days of receipt.

The FMS will provide SDP participants with a copy of the approved Form. The FMS will also detail any other employment benefits the SDP participant and their staff elect. All required and elected staff employment costs must be included in the participant's spending plan.

Participants, with support from their FMS and regional center, shall update their spending plans with any adjustments to their FMS' employer burden based on the approved Form when one of the below occurs, whichever happens first:

- At the start of a new individual budget year; or
- At the participant's request; or
- By October 31, 2024.

B. After October 31, 2024, any changes to the approved FMS' employer burden costs and notifications of such shall be processed as:

- FMS providers shall submit a new Form, along with any requested supporting documentation, to their vendoring regional center for review in advance of the proposed implementation.
- Following review and within 15 days of receipt, the vendoring regional center shall provide a copy of the Form to the Department via SDP@dds.ca.gov for approval.
- The Department shall review and approve the new Form within 15 days of receipt and provide a copy of the approved Form to the vendoring regional center and post it to the Department's website.
- The regional center shall provide the Department-approved Form to the FMS within 10 days of receipt.
- SDP Participants shall receive a copy of the approved Form from their vendored FMS in advance of the proposed implementation date. The participant, with support from their FMS and regional center, shall make necessary changes in their spending plan.

FMS providers shall update their employer burden no more than one time per year, unless as a result of a significant change in policy or law and with approval from the Department.

Other Information Regarding Employer Burden Implementation

The effective date of the updated employer burden is the date that the updated spending plan is authorized to begin.

A change in employer burden cost shall not constitute an adjustment to a participant's individual budget unless the circumstances for an adjustment to the individual budget as described in W&I Code section 4685.8(m)(1)(A)(i)(I) are determined to be appropriate by the participant's Individual Program Plan team.

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If participants and/or their families have questions regarding this guidance, they should contact their regional center. Questions from regional centers should be directed to sdp@dds.ca.gov.

Sincerely,

Original Signed by:

BRIAN WINFIELD
Chief Deputy Director

Enclosure

cc: Regional Center Administrators
Regional Center Directors of Consumer Services
Regional Center Community Services Directors
Association of Regional Center Agencies
State Council on Developmental Disabilities
Nancy Bargmann, Department of Developmental Services
Carla Castañeda, Department of Developmental Services
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