Informational Memo

Vendor Fiscal/Employer Agent
Support Service Worker Qualifications

ODP Communication Number: Memo 111-12

AUDIENCE: Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS) organization, participants enrolled in or interested in enrolling in the VF/EA model, Common Law Employers (CLE), Support Service Workers (SSWs), Supports Coordinators (SC), Supports Coordination Organizations (SCO) and Administrative Entities (AE).

PURPOSE: To provide information regarding the process for completing provider qualifications for SSWs under the VF/EA participant-directed model in accordance with the Consolidated and Person/Family Directed Support (P/FDS) Waivers and 55 Pa. Code Chapter 51 “Office of Developmental Programs Home and Community-Based Services”.

BACKGROUND: Prior to July 1, 2012, CLEs were responsible, as specified in the signed Common Law Employer/Surrogate Agreement Form, for ensuring that any SSWs hired to provide waiver services were qualified in accordance with the current approved Waivers. The Consolidated and P/FDS Waivers approved prior to July 1, 2012, required that qualifications be completed initially, before providing waiver services, and on an annual basis thereafter.

DISCUSSION: According to the Waivers effective July 1, 2012, all providers, including SSWs providing services through the VF/EA model, are required to meet the qualification standards outlined in Appendix C initially, on a biennial (every 2 years) basis, and more frequently when deemed necessary by ODP, thereafter.
In addition to the Waivers, 55 Pa. Code Chapter 51 was published on June 9, 2012. These regulations contain requirements with which providers participating in the Waivers must comply. For the purposes of these regulations, SSWs are considered providers.

In accordance with 55 Pa. Code § 51.13, all providers have two separate qualification target dates: A due date and an expiration date. The due date, which is at least 61 days prior to the expiration date, signifies when planning activities to transition the participant to other qualified providers may begin. The expiration date is the last date that a SSW is considered qualified to provide Waiver services. SSWs will not receive payment from ODP for services rendered after the expiration date.

**SSW Initial Qualification Process Prior to Rendering a Participant-directed Service**
The CLE is responsible to verify qualifications of SSW candidates prior to the SSW being hired and rendering a Waiver-funded participant-directed service. The CLE and the VF/EA Financial Management Services (FMS) organization validate that the SSW candidate meets qualification criteria. The SSW candidate must provide all required paperwork to be qualified to work as an SSW.

The qualification process includes processing the required Criminal Background Checks, Child Abuse Clearances and Federal Bureau of Investigation (FBI) Clearances. More information on background check requirements can be found in the “Background Check Requirements for SSWs” section at the end of this document. The VF/EA FMS organization is responsible to process and provide the results of the required clearances to the CLE for prospective SSWs and emergency back-up SSWs.

When an SSW candidate is selected for hire, the CLE completes the **SSW or Back-up SSW Qualification Form** with the SSW and submits it to the VF/EA FMS organization. The CLE must obtain and maintain copies of all applicable supporting documentation to show that the SSWs meet the qualification criteria. In addition, the CLE must submit the qualification documentation to the VF/EA FMS organization. The VF/EA FMS organization will then verify that the form is completed accurately and that the documentation received meets the qualification requirements. If the form is not completed properly, the VF/EA will contact the CLE. Copies of the qualification documentation will be maintained in the VF/EA FMS organization’s participant files. Once the process is completed, the VF/EA FMS organization will notify the CLE through an approval letter that the SSW is initially qualified to provide services. A copy of this letter will be provided to the AE.

Please note that if the CLE wants a person identified on the **Qualified Back-up Support Service Worker (SSW) and/or Natural Supports Designation form** to receive payment for services rendered they must complete the **Support Service Worker (SSW) or Back-up SSW Qualification Form** prior to including the person as a Back-up SSW. All SSWs must be qualified before they can be designated as a Back-Up SSW since it is usually unpredictable as to when a Back-up SSW might be called upon to provide services and all SSWs have to be qualified before they can provide services.
Fiscal Year 12-13 SSW Qualification Process for Current SSWs

For Fiscal Year 12-13 (which covers the period July 1, 2012 through June 30, 2013) the qualification due date for SSWs is October 31, 2012, and the qualification expiration date is December 31, 2012. Please note that even though the Waivers require qualifications to be completed biennially, ODP is requiring that all SSWs that are currently hired and providing services, or are expected to provide services within the next two years, be qualified by December 31, 2012, in accordance with 55 Pa. Code § 51.13 (c) (1) due to the transition from Acumen to Public Partnerships, LLC (PPL).

EXAMPLE 1: Currently Sally (the Common Law Employer) has three qualified SSWs to provide regularly scheduled Home and Community Habilitation. Sally also has identified and hired two back-up SSWs to provide Home and Community Habilitation should one of the three regularly scheduled SSWs be unable to provide services as scheduled (due to illness, weather, etc.). In this example, Sally would need to ensure that the three regularly scheduled SSWs that provide Home and Community Habilitation as well as the two back-up SSWs are qualified by December 31, 2012. Please remember that back-up SSWs need to be qualified prior to CLE rendering services in order to receive payment and the CLE should anticipate that the back-up SSWs will be providing services in the next two years.

Example 2: James (the Common Law Employer) currently has two qualified SSWs that are regularly scheduled to provide Companion. In addition; a different SSW provides respite every few months. In this example both the SSWs that provide Companion and the SSW that provides respite would need to be qualified by December 31, 2012. The reason that the respite SSW would need to be qualified is because he or she is anticipated to provide services within the next two years.

SSWs hired after October 31, 2012, will complete the initial qualification prior to rendering services; however, they will not have to be qualified again in FY 12-13. They will automatically be given the due date and expiration date specified in the next section of this document entitled “SSW Qualification Process After Fiscal Year 12-13”.

In order to qualify SSWs, CLEs and SSWs must complete the SSW or Back-up SSW Qualification Form and submit it to the VF/EA FMS organization. This form and any others referenced in this Informational Memo may be obtained at: http://www.odpconsulting.net/topic-info/participant-directed-services/. CLEs are also required to keep all documentation on file for 5 years that substantiates that each SSW has met the qualification requirements.

CLEs and SSWs received a letter in October, 2012, notifying them of the due date and expiration date along with the consequences of not meeting these two target dates. CLEs will be informed by the VF/EA FMS organization once the SSW or Back-up SSW Qualification Form
is received along with the other transition packet forms via a phone call and receipt of a Welcome packet from the VF/EA FMS organization.

CLEs and SSWs that do not complete and submit the *SSW or Back-up SSW Qualification Form* by the due date will receive a second letter in December, 2012. This letter will inform them of which SSWs have not yet been qualified and remind them of the expiration date and consequences of not completing and submitting the *SSW or Back-up SSW Qualification Form* by December 31, 2012. CLEs and SSWs that do not complete and submit the *SSW or Back-up SSW Qualification Form* by December 31, 2012, will receive a third letter in January, 2013 that will notify them of which SSWs are no longer qualified.

While AEs will receive copies of the letters discussed above, they will also receive reports showing which SSWs have not been qualified as of the date of the report. AEs will then share these letters and reports with SCOs. After receiving these reports, SCs should begin discussing the importance of qualifying SSWs with the participant and CLE.

Beginning December 1, 2012, SCs should begin planning activities to transition the participant to other qualified providers. This may include having discussions with the participant and Individual Support Plan (ISP) Team about the following activities:

- Identifying and hiring other qualified SSWs to provide the services.
- Updating the back-up plan (if the SSW in jeopardy of not being qualified is identified on the current back-up plan, or to ensure that the participant will receive needed services if the SSW becomes not qualified and no other SSWs have been hired to replace them).
- Discussing whether a new CLE should be designated.
- Discussing whether the participant should switch to the Agency with Choice model or traditional provider services.
- Discuss whether a supports broker is needed to assist with employer related functions
- Updating the ISP as needed.

**SSW Qualification Process After FY 12-13**

All SSWs, including new hires and SSWs qualified in FY 12-13, are required to be qualified biennially. The following will be the upcoming SSW qualification due dates and expiration dates:

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<th>Due Date</th>
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Any qualified SSW that is hired after the biennial due date for the current year will be given the next biennial due date and expiration date listed in the table. For example, if a qualified SSW is hired on November 23, 2014, they would be given a qualification due date of
October 31, 2016, and a qualification expiration date of December 31, 2016.

The biennial qualification process will include sending letters to the CLEs and SSWs. The first letter will be sent in October informing them of the impending due date and expiration date. CLEs and SSWs that do not complete and submit the SSW or Back-up SSW Qualification Form by the due date will receive a second letter in November. This letter will inform them of which SSWs have not yet been qualified and remind them of the expiration date and consequences of not completing and submitting the SSW or Back-up SSW Qualification Form by the expiration date. CLEs and SSWs that do not complete and submit the SSW or Back-up SSW Qualification Form by the expiration date will receive a third letter in January that will notify them of which SSWs are no longer qualified.

AEs will receive copies of the letters and will also receive reports showing which SSWs have not been qualified as of the date of the report. AEs will then share these letters and reports with SCOs. After receiving these reports, SCs should begin discussing the importance of qualifying SSWs with the participant and CLE.

SCs should begin transition planning activities with the participant and ISP team if the SSW or Back-up SSW Qualification Form is not received by the due date of 10/31. This may include having discussions about the following activities:

- Identifying and hiring other qualified SSWs to provide the services.
- Updating the back-up plan (if the SSW in jeopardy of not being qualified is identified on the current back-up plan, or to ensure that the participant will receive needed services if the SSW becomes not qualified and no other SSWs have been hired to replace them).
- Discussing if a new CLE should be designated.
- Discussing if the participant should switch to the Agency with Choice model or traditional provider services.
- Discuss if a supports broker is needed to assist with employer related functions
- Updating the ISP as needed.

The participant may not, however, be involuntarily terminated from the VF/EA model or forced to choose a new SSW if the SSW or Back-up SSW Qualification Form is not received by the due date. This is due to the fact that the SSW is still considered qualified until the expiration date. The SC should stress the importance of participants’ and CLE’s planning and being prepared for the possibility of the SSW being no longer qualified. If the participant refuses to cooperate with transition planning activities, the SC should document their attempts and the refusal in the service notes. The SC should remind the participant and CLE that their failure to comply with the requirements means that their SSWs will no longer be paid through the VF/EA organization if they are not qualified.

It is important to note that in addition to completing the SSW or Back-up SSW Qualification Form, CLEs will also be required to submit documentation that shows that the SSW meets the qualification requirements to the VF/EA FMS organization beginning in FY 14-15 (this
documentation was not required to be submitted to the VF/EA FMS organization for SSWs that were currently hired in FY 12-13). The VF/EA FMS organization will verify that the form is completed accurately and that the documentation received meets the qualification requirements. If the form is not completed properly, the VF/EA will contact the CLE. The VF/EA FMS organization will maintain copies of the qualification documentation in the participants’ file. Please refer to the qualification chart included on the **SSW or Back-up SSW Qualification Form** for guidance when obtaining qualification documentation. Completing the qualification process for each SSW is essential because the VF/EA FMS organization can only provide payment from Waiver funds for authorized services that have been delivered by qualified SSWs. Therefore, if the qualification documentation is not received by the expiration date the SSW will not be qualified to provide the service. **The CLE will be responsible to pay the SSW that is not qualified for any services rendered after the expiration date.**

Although the CLE and the VF/EA FMS organization are responsible to obtain and maintain qualification documentation, the SSW is responsible to notify the CLE if there are changes. The CLE and SSW will then need to complete a **Qualified Support Service Worker (SSW) Information Change/Termination Form**. In addition, if the SSW wants to be qualified to provide additional services, a new **SSW or Back-up SSW Qualification Form** needs to be completed by the CLE and SSW for the new service to be provided. Verification of the qualification criteria must be obtained and submitted to the VF/EA FMS organization.

If the CLE has questions or needs assistance related to the qualification process, the AE is available to share information and answer questions. In addition, a supports broker is able to provide the necessary support with employer-related functions, including completing the qualification process. If a participant doesn’t have a supports broker, the participant should contact their supports coordinator to determine if this is a needed service.

**Appeal Rights for SSWs**
When an SSW is considered not qualified and is therefore unable to receive waiver payments for services rendered, the SSW has appeal rights under 55 Pa. Code Chapter 41 (Medical Assistance Provider Appeal Procedures). These rights will be provided in the third letter sent to SSWs in January. Participants, however, are not afforded appeal rights for this action under 55 Pa. Code Chapter 275 (Appeal and Fair Hearing and Administrative Disqualification Hearings). This is due to the fact that participants have the right to choose willing and qualified providers to render waiver services. They do not have the right to choose providers that are not qualified to render waiver services.

**Background Check Requirements for SSWs**
According to Bulletin #3490-08-03 entitled, “Implementation of Act 179 of 2006 and Act 73 of 2007, Amending the Child Protective Services Law”, any SSWs hired after June 30, 2008, who work with participants under the age of 18 must have background checks from the FBI, Pennsylvania State Police and the Act 33/Child Abuse Clearance. SSWs hired prior to July 1, 2008 are not required to obtain FBI background checks as a condition of continued employment and are “grandfathered”. Employees may transfer to another service within the
same organization without having to obtain an FBI background check as a condition of transferring. Please note that these requirements pertain to all SSWs who work with participants under the age of 18.

In accordance with 55 Pa. Code § 51.20 all SSWs must obtain a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police Central Repository does not contain information relating to that person if the SSW has been a resident of this Commonwealth for at least 2 years. If the SSW has been a resident of this Commonwealth for less than 2 years or is currently a resident of another state, a report of Federal criminal history record information must be obtained under the FBI.

Questions about the SSW qualification process may be direct to the AE FMS Lead.