

Individual Provider Employment Administrator

DSHS Proposed Legislation

Intent of Proposed Legislation

- Preserve and honor the current choice available to people who live in their own homes to self-direct their services and receive personal care through a home care agency and/or by employing an IP.
- Free up case manager's time to do case management activities.
- Prevent the State from being classified as a joint employer of IPs.

Impact of Current System on Case Management

- IP management functions are administratively time consuming and divert vital case management staff time from serving consumers.
- Implementation of new Fair Labor Standards Act rules has increased the complexity of IP management, including the necessity to recruit and enroll additional providers.

What role will the IPEA have?

Administrative employment functions currently conducted by DSHS and AAAs will be provided by the IPEA.

- The consumer and the IPEA are co-employers of the IP
- The IPEA manages the administrative employer functions and is the legal employer

What role will the consumer have?

The consumer will maintain their primary role as a managing employer of the Individual Provider. The consumer will:

- manage the work and schedules of the IP
- select, refer for hire, schedule, supervise and dismiss their IP
- continue to report to their case manager about concerns related to the quality of work or ability to complete tasks assigned in the consumer's plan of care

Current Structure

Consumer	DSHS	Case Manager
<ul style="list-style-type: none"> • Managing employer of the IP- direct control and day to day supervision. • Selects, refers for contracting, supervises, schedules, and dismisses their IP. • Reports concerns to their case manager about the IP's quality of work or ability to complete tasks assigned in the plan of care. • Collects I-9 paperwork 	<ul style="list-style-type: none"> • Third party payer for the purpose of tax reporting and payments on behalf of the consumer • Responsible for all payroll functions, taxes, and provider qualifications • Has administrative responsibility for contract terminations • Manages contract actions for work week limit violations • Collectively bargains with union representing IP workforce 	<ul style="list-style-type: none"> • Manages IP contracting, background checks, payment authorizations, overtime, IP work week limits, training requirements, etc. • Assessment, service planning and service plan monitoring.

Structure with IPEA

Consumer	IPEA	Case Manager
<ul style="list-style-type: none"> ● Managing employer of the IP- direct control and day to day supervision. ● Selects, refers for contracting, supervises, schedules and dismisses their IP. ● Reports concerns to case managers about the IP's quality of work or ability to complete tasks assigned in the plan of care. 	<ul style="list-style-type: none"> ● Has a shared employment responsibility with the consumer. ● Administrative employment functions; <i>background checks, payroll functions, I-9 paperwork, managing work week limits, overtime, IRS paperwork, training requirements, etc.</i> ● Responsible for all billing, payroll, taxes, deductions, etc. ● Collective bargaining. 	<ul style="list-style-type: none"> ● Consumer-centered with an emphasis on assessment, service planning and service plan monitoring, and working with consumers to support activities to maintain their health and wellbeing. ● Focus on consumer health, safety, and avoiding unnecessary utilization of hospital and institutional stays.

Stakeholder Comments

Shared Comments

The name is confusing and doesn't describe the functions or intent

Commenters thought:

- Name made it sound like a home care agency
- Name made it sound like the consumer had lost rights and control

*The proposed legislation now uses the name- **Individual Provider Employment Administrator***

Shared Comments

How many IPEAs should be contracted

Stakeholders had differing opinions on the number of IPEA providers the state should have. Comments ranged from one **only** to at least two. Commenters were concerned that with only one provider there would be no back up option if that provider performed poorly.

The proposed legislation now allows for two providers.

Shared Comments

Enforcement actions pertaining to training requirements for Agency Providers

Commenters proposed adding language to Sec. 7, *Quality Improvement Principles*, that would include enforcement steps for services provided by employees who have not completed training requirements on time.

Language in the proposed legislation has been changed to read *“These rules shall include enforcement steps for non-compliance, consistent with RCW 74.39A.086, including denial of payment to an Individual Provider Employment Administrator or a home care agency for services provided by employees who have not completed the training requirements within the time limit specified by department-rules. “*

Shared Comments

Home Care Agency Parity

Commenters requested further discussion with the department prior to amending this section of the statute but wanted to ensure that Parity remained intact.

The proposed legislation was changed to clarify that parity will continue under a system that uses an IPEA.

Shared Comments

Should the IPEA also be a Home Care Agency?

Commenters had varying opinions and thought:

- All IPs should be employed by a contracted organization that employs Agency Providers
- IPEAs should not be allowed to also have a HCA business
- IPEAs should also be allowed to be HCAs

The proposed legislation now allows for an IPEA to also provide HCA services if it demonstrates that it operates the programs under separate business units and that its business structures, policies and procedures will prevent any conflicts of interest.

Shared Comments

Consumers and workers will need education on using an IPEA

Commenters thought:

- Consumers should receive information about liabilities and risks
- AN outreach and training plan is needed for consumers and home care workers regarding the authority of the consumer and the role of the IPEA

DSHS agrees that training is needed for consumers, workers and case management staff. Training and communication plans will be included in the implementation work plan and timeline

Consumer and Advocate Comments

Language and Terminology

Commenters had thoughtful suggestions on:

- People first language
- Cautioning against language that suggests a power imbalance between the consumer and the IPEA
- Clear language on the roles of DSHS, Consumers and IPEA

The proposed legislation now has addressed each of these areas by removing outdated terminology and replacing it with 'people first' language, emphasizing the administrative role of the IPEA and the managing role of the consumer.

Consumer and Advocate Comments

Consumer involvement in selection and evaluation of IPEA

Commenters want to see:

- A process for selecting the IPEA that includes significant consumer involvement
- Consumer participation in evaluating IPEA effectiveness and removing deficient IPEAs
- Experienced and involved consumers included in ongoing discussions of this legislation.

DSHS agrees that consumer involvement is critical to the success of this effort and will include consumer input in these areas. In addition, IPEA requirements now include: *Commitment to engage and work closely with consumers in design, implementation, and on-going operations through an advisory board, focus group, or other methods as approved by the department.*

Consumer and Advocate Comments

Consumers need a way to challenge actions taken by the IPEA

Commenters are concerned that health and safety concerns on the part of the DSHS or AAA case manager may prevent a consumer from utilizing the IP of the consumer's choice.

The proposed legislation now requires the IPEA to have a dispute resolution process that can be used when the consumer's choice of provider is denied for concerns about the consumer's health, safety, well-being or the ability of the provider to meet the consumer's care needs.

Consumer and Advocate Comments

Consumer privacy and confidentiality

Commenters were concerned about providing copies of the care plan to the IPEA or directly to the IP if the IP is contracted with the Department

The proposed legislation now states the plan of care will be distributed – AS AUTHORIZED BY THE CONSUMER.

Consumer and Advocate Comments

Oppose eliminating the current IP management model

Commenters felt that consumers should be able to opt out of the IPEA model and that consumers should still be able to manage their own providers including hiring and firing their own workers.

Under the IPEA model, consumers have the same authority as under the current model. Consumers under both models select and dismiss their IPs. Under the current model when a consumer selects or dismisses an IP, the department enters into a contract or terminates a contract. In the new model the IPEA, will hire, fire or un-assign an IP based on the consumer's direction.

Home Care Agency Comments

Definition of Individual Provider too broad

Commenters thought that the changes made to the definition of Individual Provider were too broad and would categorize all Long Term Care Workers as Individual Providers.

The language in the proposed legislation has been corrected.

Union Comments

Rate Setting Panel

The initial draft of the proposed legislation did not yet include a process for selection of the 5th member of the rate setting panel. Commenters suggested a process to be used to select the fifth member of the panel.

The rate setting panel section has been modified to include the selection process for the fifth member.

Union Comments

Prevent any loss of jobs and/or work

A commenter supported the approach to hiring IPs but has concerns about members and/or bargaining unit work being displaced.

Further discussions will be held to discuss and identify potential ways to work through these issues.

Union Comments

Mandatory Reporting

Commenters wanted to make sure that the IPEA will be a mandatory reporter.

Language was added to the proposed legislation to clarify that :
The individual provider employment administrator is a social service agency subject to RCW 74.34.

W4A Comments

Consumer health and safety or well being

Commenters felt the IPEA should discontinue the assignment of an IP to a consumer if the case manager has reason to believe the consumer's health and safety or well being are in imminent jeopardy.

The proposed legislation includes now reads: *“Discontinue the individual provider’s assignment to a consumer when it has reason to believe, or the department or area agency on aging has reported, that the health, safety, or well-being of a consumer is in imminent jeopardy”*.

In addition, the department has added a dispute resolution process requirement for the IPEA when consumers wish to dispute a decision made under this section.

W4A Comments

Funding Reductions

Commenters felt the statute should specify funding reductions that would be taken to implement the IPEA and had suggestions about where in the statute this language should be included.

This information is now included in Section 3 of the proposed legislation to cover the ensuing biennium.

Timeline

