

# APPENDIX F

## Employer of Record IFDS Agreement

Member name: \_\_\_\_\_

Member's LRP(s) (if applicable): \_\_\_\_\_

Member record number: \_\_\_\_\_

### Purpose

The purpose of this agreement is to define responsibilities of the Employer of Record (Employer) and Representative, if applicable, in the Individual and Family Directed Services (IFDS) Option, Employer of Record model, of the NC Innovations Waiver.

### Parties to the Agreement

- \_\_\_\_\_, the Employer of Record, an individual who participates in the Innovations Waiver and is legally competent, parents of a minor child who participates in the Innovations Waiver, or legal guardian of an individual in the Innovations Waiver (the "EOR")
- \_\_\_\_\_, the Representative, a person who willing accepts responsibility for performing EOR tasks the EOR is unable to perform (the "Representative")
- Vaya Health, \_\_\_\_\_ local management entity/managed care organization and Medicaid Prepaid Inpatient Health Plan responsible for managing the Innovations Waiver pursuant to a contract with the NC Department of Health and Human Services ("Vaya")

Other involved entities, not a party to this agreement:

- Community Navigator agency, a provider under contract with Vaya that assists the EOR, Representative, individual, and/or family in directing services
- Financial Support Services Agency (FSSA), a provider under contract with Vaya to be an agent for, and provide payroll services for, the EOR

### Overview

A person providing services employed by the EOR is considered an employee of that Employer. The EOR is responsible for making sure that employees and payroll taxes are paid. The Employer does this by authorizing the FSSA to pay employees and taxes. The EOR may designate, or may be required to designate, a Representative to assist in performing these duties. Employees are not provided with any liability insurance coverage and are not licensed or bonded by the State of North Carolina or Vaya. The EOR is required by the Innovations Waiver to carry workers' compensation insurance. Premiums are paid

by the FSSA from the Individual and Family Directed Services Budget. In addition, certain other allowable expenditures, including additional employee training, habilitation training supplies, backup staffing, and other Vaya-approved items (T2025-U2) that are directly related to the cost of providing services and not otherwise covered by another service or funding source.

Responsibility of the Employer of Record and/or Representative	Employer of Record	Representative	Both
Complete Individual and Family Directed Services Orientation and initial self-direction training <i>(select both if Representative)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Continue with Community Navigator services until and unless competency in all relevant employer functions is met	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Involve the individual as outlined in the care plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provide services as written in the care plan and defined in the Innovations Waiver <i>(select both if Representative)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ensure the individual's health and safety are not at immediate risk <i>(select both if Representative)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Participate in the development of the care plan and make decisions about the best way to meet the needs of the individual, including the responsible use of the IFDS Budget	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Complete hiring packages for employees, including making sure employees provide the FSSA with a copy of their Social Security card	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Acquire/maintain workers' compensation insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decide special skills and training employees need	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Train, or arrange for training of, employees as required in the Vaya Health IFDS Employer Handbook, the Community Navigator's Employer Handbook, and relevant law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Find and hire people to provide services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Replace (fire) employees when necessary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Request background checks, including providing information to the FSSA needed to perform these checks and payroll functions prior to hiring applicant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Communicate clearly and openly with Vaya staff, including the care manager/care coordinator, FSSA, Community Navigator, employees, the member, and the member's family <i>(select both if Representative)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decide how much to pay the employee, benefits to offer the employee, job duties, and work schedule by using the Budget Calculator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Develop and update the IFDS Budget	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Develop and update the short-range outcomes/provider plan for self-directed services with the member/family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Responsibility of the Employer of Record and/or Representative	Employer of Record	Representative	Both
Send a copy of the completed Budget Calculator to the FSSA and the care manager/care coordinator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Complete an Employee Support Agreement for each person hired and a Financial Support Services Agreement; update agreements as necessary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Give direction and feedback to employees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Complete the Innovations Waiver Provider Self-Review Tool on a quarterly basis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Authorize payment for employees for time worked; send timesheets to the FSSA per the payroll schedule	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Develop reliable back-up plans for coverage when employees are absent and plan for potential emergency situations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ensure the member has a primary crisis response provider, and professionals, if needed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Approve billing of Innovations Waiver services provided by the employee(s) and make sure employees properly document services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retain documentation for 11 years after the last date of service for adults and 12 years after the last date of service for minors after the minor reaches the age of 18 (if EOR leaves the IFDS option, the EOR must return all clinical documentation to Vaya)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Utilize services as written in care plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Review monthly Revenues and Expenditures Reports from the FSSA, keep track of the balance of the Individual and IFDS Budgets, and stay within the budgets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comply with any and all Innovations Waiver, state, and federal requirements, including, but not limited to, hiring and employing workers and observing all tax and employment laws ( <i>select both if Representative</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keep information about the member and employees confidential unless authorized to release ( <i>select both if Representative</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Complete incident reporting as required by the Innovations Waiver, Vaya, and the NC Division of Mental Health, Developmental Disabilities, and Substance Use Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Notify the care manager/care coordinator if the care plan or IFDS Budget needs to be changed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Participate in evaluating the effectiveness of services and inform the care manager/care coordinator of difficulties encountered ( <i>select both if Representative</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Responsibility of the Employer of Record and/or Representative	Employer of Record	Representative	Both
Notify the care manager/care coordinator of admission to a hospital, intermediate care facility (group home or developmental center), or other facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Produce all records for Vaya, state, or federal audits/monitoring, and complete plans of correction resulting from those audits, including bringing records to the designated site when requested ( <i>select both if Representative</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accept the decision of Vaya regarding the need for a Representative and/or Community Navigator services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Check to ensure the member continues to be eligible for the Innovations Waiver	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meet the Member's monthly Medicaid <b>spenddown (deductible)</b> if it determined by the Department of Social Services (DSS) that this is required for Medicaid eligibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Responsibilities of Vaya

- Provide/arrange for care management/care coordination
- Provide general initial orientation to the IFDS option to all Employers of Record and Representatives
- Refer Employer and Representatives for initial IFDS orientation
- Assess Employers of Record for participation in the IFDS option, the need for a Representative, and Community Navigator services
- Facilitate the development of a care plan
- Approve medically necessary services based on the care plan and other supporting and/or required documentation submitted to the Vaya Utilization Management Team for consideration and review
- Contract with qualified FSSA and Community Navigator provider
- Ensure care managers/care coordinators have the skills and knowledge to assist Employers of Record and Representatives in directing services
- Provide or make available written materials about the IFDS option through the Community Navigator agencies, including, but not limited to, the Innovations Waiver, NC Medicaid Clinical Coverage Policy 8-P, and the Vaya IFDS Employer Handbook
- Monitor the provision of services the member receives
- Monitor the member's health and safety
- Monitor Employers of Record, Representatives (if there are any), and Community Navigator and FSSA providers

## Consequences For Non-Compliance with Innovations Waiver Policies and Procedures

As Employer of Record, or Representative, I understand the member may be removed from the Individual and Family Directed Services option if I mismanage the member's IFDS Budget or Individual Budget or do not follow applicable federal or state laws, rules, and regulations, or do not submit, complete, or implement plans of corrections. I also understand that, with the exception of funds

remaining in the member’s IFDS Budget rolled over from a prior year, the Individual Budget is the sum total of funds available for the member’s plan year and must be used for authorized services that meet the member’s needs and that comply with the Innovations Waiver and the Vaya IFDS Employer Handbook. No additional funds are available. If an emergency arises, I can request additional funds in accordance with Innovations Waiver guidelines. If I defraud Medicaid, I may be responsible for reimbursing Vaya for unauthorized expenditures. I further understand that Vaya may contact my employees and review my records to discuss and verify provision of services to the individual.

If the member is removed from the IFDS option, I must immediately notify my employees that the FSSA will no longer issue their paychecks and that any further employee/ employer arrangements between the employer/employee are not subject to Innovations Waiver requirements and protections. If involuntarily removed, or if the member voluntarily withdraws, from the Agency with Choice model, I also hereby direct the Agency with Choice to return any unused funds in the IFDS Budget to Vaya.

I agree to uphold all terms of this agreement. I further agree to hold harmless the state of North Carolina and Vaya, and their representatives and employees, from the consequences of my choices as Employer of Record or Representative in the IFDS option. Should I desire to obtain advocacy services, I can contact Vaya’s Member and Recipient Services Department at 1-800-962-9003 to get contact information for such organizations.

_____ Signature of Employer of Record	_____ Date signed
_____ Signature of Representative	_____ Date signed
_____ Signature of Care Manager/Care Coordinator	_____ Date signed

cc: Employer of Record/Representative  
Vaya Health Utilization Management Team  
Member’s AHR