


STATE OF NEW HAMPSHIRE BDS GENERAL MEMORANDUM (GM)	
DATE:	January 20, 2023
TO:	Area Agency Executive Directors, Developmental Service Providers
FROM:	Sandy Feroz, Bureau Chief
SIGNATURE:	
SUBJECT:	<p>This memo is intended to summarize the Conflict of Interest (COI) Corrective Action Plan (CAP) implementation for the Developmental Service Delivery System effective July 1, 2023.</p> <p>Attachments to this memo will:</p> <ul style="list-style-type: none"> • Outline NH’s COI CAP. • Clarify the Participant Directed and Managed Services (PDMS) Model and how to determine conflict in the model, and • Detail the process for the Only Willing and Qualified Provider (OWQP) process. <p>Attachments Include:</p> <ul style="list-style-type: none"> • NH’s Conflict of Interest Corrective Action Plan • PDMS Guidance • Only Willing and Qualified Provider Policy • OWQP request form • Rural / Non Rural Map
GM NUMBER:	
EFFECTIVE DATE:	January 1, 2023
REGULATORY GUIDANCE:	This memo is a communication tool circulated for informational purposes only. The goal is to provide information and guidance to the individuals to whom it is addressed. The contents of this memo and the information conveyed are subject to change. This communication is not intended to take the place of or alter written law, regulations or rule.

MEMORANDUM SUMMARY

The purpose of this memorandum is to:

- Update agencies on the NH COI CAP.
- Offer guidance on services provided through a participant directed and managed services (PDMS) method of service delivery
- Attach final OWQP policy, rural map and OWQP request form.

This update is relative to the Corrective Action Plan (CAP) that New Hampshire is under, related to the Home and Community Based Services (HCBS) Waivers through the Centers for Medicare and Medicaid (CMS). The three 1915 (c) waivers affected by this CAP are Developmental Services, Acquired Brain Disorder, and Children's In-Home Services.

The compliance issues addressed in the CAP focus on conflict of interest between case management and direct service delivery; and compliance with Medicaid billing rules, which allow providers to bill directly to the State.

The HCBS Waiver is an essential component for the delivery of community-based services to individuals with disabilities and their families. Without it, we would be unable to provide these critical services. Half of the funds provided through the HCBS Waiver are state dollars, with an equal match in federal funds.

Area Agencies have submitted individual plans to comply with the Conflict of Interest Regulation as set forth by CMS for the July 1, 2023 deadline. Federal law states that an agency that provides direct service cannot also provide service coordination to the same individual. There are some exceptions to this, such as self-directed services (see attached guidance).

Further updates, as well as a detailed CAP work plan, can be found on the Department's website.

NH's compliance with CMS on these matters is critical to the State's ability to continue providing programs and services that assist the individuals and families we serve.

BDS staff are available to Area Agencies for technical assistance to discuss Agency plans to be in compliance by 7/1/2023.

CMS representatives will likely be auditing various settings in NH after the 7/1/2023 compliance date to test and ensure compliance with the CAP. Any settings that are in conflict must have an approved "only willing and qualified provider" exemption request on file.

Agencies that are not in compliance with COI requirements by 7/1/23 are at risk of recoupment and possibly losing ongoing funding for any services that are determined to be in conflict.