



Lori A. Weaver  
Commissioner

Melissa A. Hardy  
Director

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
***DIVISION OF LONG TERM SUPPORTS AND SERVICES***

105 PLEASANT STREET, CONCORD, NH 03301  
603-271-5034 1-800-852-3345 Ext. 5034  
Fax: 603-271-5166 TDD Access: 1-800-735-2964  
[www.dhhs.nh.gov](http://www.dhhs.nh.gov)

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**Only Willing and Qualified Provider**

It is the policy of the New Hampshire Department of Health and Human Services, Bureau of Developmental Services (BDS) that services shall be conflict free, in accordance with 42 CFR 431.301 (c) (1) (vi) and He-M 517.03 (b) and 524.03(d) whereby services shall be denied through the Home and Community Based Services (HCBS) waivers if the provision of services and case management are offered by the same agency. Failure to comply with this federal requirement will result in the loss of federal financial participation.

BDS recognizes that there are instances in which, to ensure quality and access to services, an individual may receive case management and direct service from the same organization. Per the regulation, “providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan, except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area also provides HCBS.”

New Hampshire has outlined criteria for consideration as an “Only Willing and Qualified Provider” (OWQP) due to the lack of another qualified case management agency.

In order to request to be an OWQP for this reason, the agency must demonstrate that there is not another qualified provider willing to provide case management services. If an agency discovers that it meets the criteria to be an OWQP, it must submit a waiver request and any relevant documentation to BDS in accordance with the following process.

**Process**

Requests shall be sent to BDS using the attached request form.

1. The individual/guardian shall be in agreement that the same organization will provide both case management and direct service.
  - The agency shall have documentation that choice was explored and it was verified that the agency is the only willing and qualified provider, if applicable, including

documentation that the provider selection process was implemented. This will be documented in the Individual Service Agreement (ISA).

- The agency shall have documentation that resolution of barriers to separation of case management and direct service were attempted and that there is a firewall policy in place.
- The agency shall develop a plan to develop and/or recruit independent providers.

2. The agency shall ensure that there is a separation of functions within the organization as follows:

- Administrative separation between those doing assessments, service planning, and those delivering direct services. Please provide at a minimum:
  - Organizational Chart for these functions.
- Case Management and Direct Services are located in different departments within the organization, are in different physical locations within the organization, and report to different (and equal) organizational leadership. Please provide, at a minimum:
  - Organizational Chart, with names, for Case Management and Direct Services, including the Executive Leadership structure as it relates to these functions; and
  - Office plan, indicating where the functions named above are located within the organization.
- The Direct Services department shall not develop or have any influence on developing the client's service agreement within the Case Management Department as demonstrated by including the following, as a minimum:
  - Agency policies that outline:
    - a. Provider Selection Process, demonstrating how the agency makes information available regarding all qualified providers;
    - b. Choice in service delivery options;
    - c. Cultural Competency; and
    - d. Dispute Resolution Process.
  - Documentation of:
    - a. Case Management Orientation and Training that outlines, at a minimum: The Case Manager's role as a neutral facilitator of the team process, how to offer choice, how to continually assess and offer choice, and how to assist individuals, families, and guardians in the choice process;
    - b. Agency plans to increase provider capacity in the region to meet its responsibility to maintain a comprehensive service delivery system.
    - c. How the agency ensures all consumers, their families, and guardians have accurate and accessible information on qualified providers (website, provider directory, brochures, etc.); and
    - d. How the agency monitors that choice is given to consumers,

families and guardians.

For organizations requesting to be an OWQP, the above documentation shall be provided once, with the first request and annually thereafter during the Governance Audit.

Subsequent requests shall not require the above documentation be attached, as long as the agency certifies there have not been any changes.

Approvals will not exceed one year. If a request receives approval, it will be subject to ongoing monitoring by BDS to ensure that all firewalls remain in place and any conflict is mitigated. Annually, BDS will review and analyze the number of conflicted situations regionally and statewide.