

**Decision Points for Employer Of Record Waiver Service  
Stakeholder Input/ Questions- Discussion / Decision  
Date: April 13, 2023**

Recommendation / Question	Stakeholder	Decision
1. Can an unpaid EOR also be Guardian?	Mi Via Advisory Committee	<b>Yes</b>
2. While it says the FMA will answer inquiries, solve related problems, etc. Please spell out the procedure according to FMA contract specifics?	Mi Via Advisory Committee	<p><b>The role of the Fiscal Management Agency will not change. The FMA is statutory (NMAC 8.314.10C) required to perform the following functions including resolve related problems:</b></p> <ul style="list-style-type: none"> <li>▪ <b>verify that all required employee and vendor documentation and qualifications are in compliance with 8.314.6 NMAC and mi via service standards.</b></li> <li>▪ <b>establish an accounting for each eligible recipient’s AAB.</b></li> <li>▪ <b>process and pay invoices for goods, services, and supports approved in the SSP and the AAB and supported by required documentation.</b></li> <li>▪ <b>process all payroll functions on behalf of the eligible recipient and EORs including:</b> <ul style="list-style-type: none"> <li>○ <b>collect and process timesheets of employees.</b></li> <li>○ <b>process payroll, withholding, filing, and payment of applicable federal, state, and local employment-related taxes and insurance; and</b></li> <li>○ <b>track and report disbursements and balances of the eligible recipient’s AAB and provide a monthly report of expenditures and budget status to the eligible recipient and his or her consultant, and quarterly and annual documentation of expenditures to MAD.</b></li> </ul> </li> <li>▪ <b>receive and verify employee and vendor agreements, including collecting required</b></li> </ul>

		<p><b>provider qualifications.</b></p> <ul style="list-style-type: none"> <li>▪ <b>monitor hours billed for services provided by the LRI and the total amounts billed for all goods and services during the month.</b></li> <li>▪ <b>answer inquiries from the eligible recipient and solve problems related to the FMA’s responsibilities; and</b></li> <li>▪ <b>report to the consultant provider, MAD and DOH any concerns related to the health and safety of an eligible recipient or if the eligible recipient is not following the approved SSP and AAB.</b></li> </ul>
<p>3. What are EOR’s liabilities? Are EOR’s assets at risk?</p>	<p>Mi Via Advisory Committee</p>	<p><b>HSD: EOR are liable for:</b></p> <ol style="list-style-type: none"> <li><b>1. Payment of services rendered that are not approved on a participant’s budget.</b></li> </ol> <p><b>If the participant accesses services above the <u>approved budget</u> amounts – the vendor can bill the participant/EOR given that all three criteria in 8.302.1.16 NMAC have been met. Medicaid only pays for authorized visits – so if services are not authorized, it is the responsibility of the participant/member.</b></p> <p><b>VENDOR AGREEMENT (signed by participant/EOR with vendor):</b></p> <p>Funds to pay for services provided by the employee are from public sources, and financial accountability and liability applies to the use of the funds. Both the employer and employee have individual and joint responsibilities to be accountable for the funds spent through the program and understand that submitting false or fraudulent timesheets or submitting</p>

		<p>requests for payment of goods or services provided, other than those approved on the authorized service budget, will be reported to the appropriate authorities for investigation and possible prosecution as fraud. In the case of insufficient funds to cover program expenses, as the employer, you are responsible for payment to the employee or service provider under state and federal laws. The employer must maintain accurate records and provide such records to authorized parties as requested, as well as adhere to all program rules and regulations, including Palco's Privacy Policies.</p> <p><b>2. Funds used inappropriately to purchase non-covered goods and services as outlined in NMAC 8.314.6.16, including non-sanctioned actions/goods under Money Network Card policies.</b></p>
4. Are agencies that provide paid EOR services allowed to provide other paid services to Mi Via Participants?	Mi Via Advisory Committee	<b>The state would not support allowing a EOR AGENCIES to provide other paid services to Mi Participants. The EOR is the individual responsible for directing the work of mi via employees, including recruiting, hiring, managing and terminating all employees. The EOR tracks expenditures for employee payroll, goods, and services. EORs authorize the payment of timesheets. These responsibilities including the decision making capacity to choose providers and determine rates poses potential for conflict of interest.</b>
5. If an EOR incurs cost, is it billable	Mi Via Advisory Committee	<b>There would be no incurred cost. The service is a waiver service.</b>

separately from their EOR Services?		
6. Are EOR's expected to have 6 years' experience in Social Service?	Mi Via Advisory Committee	<b>No, they would not be required to have 6 years' experience in Social Service.</b>
7. Is there an option to pay for EOR services outside the budget?	Mi Via Advisory Committee	<b>Yes</b>
8. Can an individual EOR also be a DSP for another service or waiver?	Mi Via Advisory Committee	<b><u>INDIVIDUAL</u> EOR can be a DSP for another waiver or service for a <u>DIFFERENT</u> participant. An EOR cannot provide services to the participant that they are an EOR for because they cannot negotiate their own rate and sign their own timesheets or VPR forms; doing so creates a conflict of interest.</b>
9. What would be the required EOR documentation to bill for standard Medicaid billing?	DOH / DDS	<b>In order to bill for standard Medicaid billing (EOR agency billing for services), billing will be submitted via electronic claim through the Medicaid portal or through mailed HICF1500 paper claims. To support their billing, EOR agencies, should be able to provide the provide monthly documentation for billing purposes. Examples below:</b> <ul style="list-style-type: none"> <li>• <b>Copy of completed and signed Vendor Payment request forms (if using vendors)</b></li> <li>• <b>Copy of Employee timesheets that have been submitted or approved</b></li> <li>• <b>Copy of employee daily progress notes</b></li> <li>• <b>Copy of signed monthly spending report review with Mi Via participant</b></li> <li>• <b>Send in signed monthly visit form</b></li> </ul>

10. Will the EOR waiver service be paid outside the Individual budget allotment?	Mi Via Advisory Committee / DDSD	<b>Yes</b>
11. Could a MV participant also be paid as their own EOR?	DDSD / Mi Via Advisory Committee	<b>No</b>
12. Who would handle and distribute checks to employees?	Mi Via Advisory Committee	<b>The EOR is expected to oversee this process. For employees/vendors who choose payment through direct deposit or Money Network Card, the EOR is expected to ensure timely submission of paperwork, with correct information, to Conduit for direct deposit.</b>
13. Can an EOR be selected to just do certain roles of the EOR?	Mi Via Advisory Committee	<b>Duties that EOR provide:</b> <ul style="list-style-type: none"> <li>• <b>Finding Qualified Employees</b></li> <li>• <b>Finding Qualified Vendors</b></li> <li>• <b>Hiring Employees</b></li> <li>• <b>Setting Employee Pay Rates</b></li> <li>• <b>Setting Work Schedules</b></li> <li>• <b>Approving Employee Timesheets and Vendor Payments</b></li> </ul>
14. Will an EOR be expected to work as a direct care staff, with staffing shortage?	Mi Via Advisory Committee	<b>No</b>
15. Will there be “tiers” of pay dependent on the involvement level	Mi Via Advisory Committee	<b>No</b>

requested by the Participant.		
16. If a non- agency EOR needs clarification / support for any issues what are their options?	Mi Via Advisory Committee	<ul style="list-style-type: none"> <li>• <b>Mi Via Waiver Services Standards</b></li> <li>• <b>Consultant</b></li> <li>• <b>Developmental Disability Supports Division -Mi Via Unit</b></li> <li>• <b>Human Services Department</b></li> <li>• <b>Fiscal Management Agency-</b></li> </ul>
17. If an EOR makes a recommendation that a participant chooses not to implement, who is held responsible if there are negative repercussions?	Mi Via Advisory Committee	<b>Developmental Disability Supports Division- Mi Via Unit is available to provide Technical Assistance if needed.</b>
18. Can an EOR restrict a Participant from requesting anything in their plan?	Mi Via Advisory Committee	<b>No – the EOR has no budget authority.</b>
19. I am having issues hiring employees. As an EOR I know I cannot be the only one having hiring issues and a lack of resources.	Stakeholder / EOR	<b>Acknowledged</b>
20. In the SW region we have a staffing shortage. Can someone provide	Family Member / Guardian	<b>No, The Mi Via Standards requires that you have a high school diploma and or GED.</b>

services without a HS diploma?		
21. What is the training requirement for Volunteer EOR's if allowed?	DDSD Training Unit	<p><b>Developmental Disability Supports Division trainings are required for paid and non-paid EOR's. See Appendix G in Mi Via Waiver service standards.</b></p> <p><b>Link provided below to appendix G</b></p> <p><a href="https://www.nmhealth.org/publication/view/policy/3387/">https://www.nmhealth.org/publication/view/policy/3387/</a></p>