

Comparison of In-Home Service Plan Assistance Types and Roles

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Comparison table

Role / can also be	Authorized representative (AR)	Alternate payee (AP)	Consumer-employer or client representative	Court appointed legal guardian	Medicaid paid provider (HCW or IHCA)	Independent Choices Program (ICP) representative
Authorized representative (AR)	-	Yes (1)	Yes (1)	Yes	Yes	Yes
Alternate payee (AP)	Yes	-	Yes (1)	Yes	Yes (2)	Yes
Consumer-employer or client representative	Yes	Yes	-	Yes (4)	No	Yes
Court appointed guardian	Yes	Yes	Yes	-	No (3)	Yes
Paid provider (HCW or IHCA)	Yes	Yes (2)	No (3)	No (3)	-	No (3)
Independent Choices Program (ICP) representative	Yes	Yes	Yes	Yes	No (3)	-

Table key:

[1] A person in this assistance role may support an individual with eligibility paperwork (AR) or the management of program benefits (AP) IF no actual or perceived conflict of interest exists in their relationship. A person should not be authorized as an individual's AR or AP if it is determined that a potential or real conflict of interest is suspected or verified.

[2] A HCW may be appointed by an in-home individual or their Authorized Representative to act as an individual's Alternate Payee, assuming there are no disqualifying factors present ([OAR 461-165-0035\(6\)](#), [OAR 411-031-0050\(3\)](#)).

[3] A HCW or IHCA caregiver may **not** make service plan and care-related decisions for an in-home individual and may **not** be designated as or act as the individual's consumer-employer representative (CE Rep), client representative or legal guardian ([OAR 411-030-0040\(5\)\(a-d\)](#), [OAR 411-031-0040\(1\)](#)).

[4] A court appointed legal guardian must designate a CE representative to act for (on behalf of) the consumer-employer for service planning purposes. (**Note:** A guardian may designate themselves as the CE representative, [OAR 411-030-0040\(5\)\(c\)](#)). A guardian may be an individual's paid provider but if this is the case, there must be a separate person designated by the guardian to act as the individual's Consumer-Employer Representative for service planning purposes.

Concerns related to individuals providing assistance:

- **"Conflict of interest"** means a situation exists in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity, relationship or role with another

individual. **Note:** It is **always** considered a conflict of interest if a paid provider is making/managing an individual's service plan and/or making care-related decisions on behalf of an individual (meaning the provider is acting as if they are the individual's authorized CE Representative, [OAR 411-031-0020\(21\)](#), [OAR 411-031-0040\(8\)\(b\)\(N\)](#), and [OAR 411-031-0050\(3\)\(p\)](#)).

- **"Exerting undue influence"** means the process by which an individual uses their role, relationship and/or power to exploit the trust, dependency, and fear of another individual, to deceptively gain control over that individual's decision making, finances, home, property, medication, social interaction, or ability to communicate with others. Exertion of undue influence may exist whether a consumer-employer willfully allows another individual to assume decision-making control. When someone is exercising undue influence over an individual or has something to personally gain from their relationship with an individual -- this constitutes a conflict of interest ([OAR 411-031-0020\(28\)](#)).

APD authorized assistance role types

- **Authorized representative (AR) – MSC 0231 form:** A designated person or organization who can complete, sign and submit applications, renews or redeterminations, receive documents and copies of eligibility notices and other communications and act on behalf of the applicant or recipient by reporting information and submitting requests to ODHS/OHA ([OAR 461-115-0090\(1\)\(5\)\(6\)](#)).
- **Alternate payee (AP) – MSC 0231 form:** A designated person or organization authorized by another individual to obtain and use program benefits for and in the best interests of an individual (i.e., SNAP, EBT card) ([OAR 461-165-0035](#)).

- **Consumer-employer (CE rep) or client representative – SDS 0737 form:**
 - CE Rep: Manages an in-home individual's employer duties and service plan responsibilities (i.e., hire, supervise, fire HCWs, etc.). This includes assisting the individual and participating in assessments, risk mitigation activities and in waived case management contacts with the individual's case manager (CM) ([OAR 411-030-0040\(5\)](#), [OAR 411-031-0020](#)).
 - Client rep: Supports an individual to make long-term care decisions on their behalf to keep them safe when they want support or can no longer make decisions for themselves.
- **Court appointed guardian:** Legally responsible for managing all LTSS care and financial decisions (if no court conservator has been appointed).
- **Independent Choices Program (ICP) representative:** Responsible for assisting an ICP participant with financial and service plan decisions.
- **General representative role:** A "representative" in a general sense means a person either appointed by an individual to participate in service planning on the individual's behalf or an individual's natural support with longstanding involvement in assuring the individual's health, safety, and welfare. A representative may not be a paid employee or the in-home care agency ([OAR 411-033-0010\(44\)](#)).

Other supportive roles

- **Guardianship:** a court has issued an order appointing an individual with the power and duty of managing personal, care, health, comfort, maintenance and fiduciary (financial) decisions for (in the

place of) a functionally incapacitated or financially incapable person under ORS chapter 125 ([OAR 411-026-0010\(12\)](#)).

- **Conservatorship:** a court has issued an order appointing and authorizing an individual with the power and duty of managing the resources and property of another individual. This role supersedes any financial Power of Attorney (POA) unless revoked by the courts ([ORS 127.005\(5\)](#)).
- **Money management:** a program, agency, representative payee company/agency, or individual (a friend or relative) paid or unpaid, who is contracted or designated to provide money management services, which can include bill paying or accounting help as a formal Rep Payee or otherwise, for an individual ([Oregon Money Management program](#)).
- **Power of attorney:** a person appointed through a legal document to manage an individual's financial or business affairs when the individual is unable to do so ([OAR 459-050-0310](#)). Most POAs grant another person the authority to manage an individual's financial matters and do not include the authority or right to make healthcare or APD service plan-related decisions (unless the POA is also designated in an APD Assistance Role as described above)

Notes:

- Legal guardian, conservator, & POA roles are not designated by the department related to Medicaid LTSS. These roles are assigned by other entities (i.e., a court, will or trust, etc.), and should be documented in Oregon ACCESS (OA) for informational purposes.
- A POA, legal guardianship, conservatorship or money manager designation does **not** replace or suffice for the authorized representative or alternate payee roles recorded on a 231 form. The MSC 0231 form

must be completed by the individual or their authorized representative. A legal guardian or person with a POA may appoint themselves or another individual as an authorized representative ([OAR 461-115-0090\(7\)\(c\)](#)) or an alternate payee ([OAR 461-165-0035\(3\)\(b\)](#)), using a MSC 0231 form. If this is the case, the guardian or POA should complete and sign **both** sections of the 231 (AR & AP). The only reference to a POA in Oregon Administrative Rule is [OAR 461-165-0035\(3\)\(b\)](#) (a POA may appoint an Alternate Payee). A consumer may also designate a POA as their authorized representative (231 form) to handle Medicaid financial eligibility matters.

Additional information on representative roles for in-home individuals

- **A single authorized representative** is named for all financial programs and benefits an individual receives on a single case in the ONE System (ODHS and OHA programs). This designation does **not** apply to the capturing of multiple representative types associated with APD service recipients that are documented in the CA/PS tool and the contacts tab in OA.
- **Who can act as a "representative" for a direct contact?** A person either appointed by an individual to participate in service planning on the individual's behalf (i.e., CE rep), or a person with longstanding involvement in assuring the individual's health, safety, and welfare (unless that person is a paid provider, even if the provider is a family member, [OAR 411-028-0000\(13\)](#)).
- **Consumer-employer program:** "representative" means a consumer-employer representative who must be able to fulfill all consumer-employer responsibilities ([OAR 411-030-0040\(4\)\(5\)](#)) when the individual needs assistance or is unable to do so.

- **Spousal Pay Program (SP):** The Spousal Pay Program is under the CEP rules related to representatives [\(OAR 411-030-0040\(4\)\(5\)\)](#). A CE representative should be appointed if the individual lacks capacity to manage their employer duties and service plan. The spouse/HCW cannot be designated or act as a CE representative [\(OAR 411-030-0080\(2\)\(h\)\)](#).
- **Independent Choices Program (ICP representative):** An ICP representative may not be a paid employee-provider regardless of relationship to an ICP participant. An ICP representative **must** complete and pass a criminal background check before they may begin their ICP representative duties.
- **In-Home Care Agencies (IHCA):**
 - The term "individual's representative" refers to a person appointed to participate in service planning on the individual's behalf or to a natural support with longstanding involvement in assuring the individual's health, safety, and welfare. A representative may not be a paid IHCA employee [\(OAR 411-033-0010\(44\)\)](#). An "individual representative" may fulfill many of the same responsibilities as a CE Representative in the CEP Program [\(OAR 411-030-0040\(5\)\)](#), but the individual representative is not appointed using a 737 form.
 - The reference to a "legal representative" [\(OAR 411-033-0010\(46\)\)](#) refers to an individual who has legal authority to participate in the creation of their service plan, such as a legal guardian).
- **State Plan Personal Care (SPPC):**
 - "Representative" refers to a person appointed by the individual to participate in service planning and provide the employer responsibilities on the individual's behalf [\(OAR 411-034-0040\)](#). This representative may be either the individual's legal guardian or a natural support with longstanding

involvement in ensuring the individual's health, safety and welfare ([OAR 411-034-0040](#); [OAR 411-034-0010\(40\)](#); [OAR 411-034-0070\(3\)\(a\)\(D\)](#)). A 737 form is used to designate SPPC representatives. A paid provider may **not** be an individual's representative or legal representative ([OAR 411-034-0050\(1\)\(c\)](#)).

- A “legal representative” ([OAR 411-034-0010\(27\)](#)) refers to a family member who has legal guardianship over another adult and is authorized by the courts to make decisions about services for that individual.

Tips for helping individuals understand and fill out the 231 and 737 forms

0231 Authorized Representative and Alternate Payee form:

- The 231 states on page 1, “An authorized representative may do things such as the following for the client(s): Sign and submit applications and renewals, report changes, and receive copies of notices and other communication. An authorized representative acts on behalf of the client(s) for the ODHS and OHA programs they apply for or receive (except the Temporary Assistance for Domestic Violence Survivors program **and in some cases long-term care services**).” The reference to “long-term care services” indicates that an authorized representative (AR) is **not** authorized to be an individual's representative related to the management of their long-term services and supports (i.e. APD In-Home Services). An AR designated for one program is the AR for all programs and benefits with the same head of household, primary person or primary contact **except** in the long-term care service provider for the individual designating the AR.

- Suggestion:
 - Explain the purpose and scope of the authorized representative or alternate payee's role.
 - Consider adding a note to the 231 that states something like: "This person may assist you with your SNAP and medical benefits only," to clarify the authorized representative or alternate payee's role.

737 Representative Choice form:

- CE Rep: For APD in-home individuals with declining cognitive ability who are in the consumer-employer program, after explaining a CE representative's role to assist an individual to manage their employer duties, offer to help them to choose a CE Rep and sign the 737 form. It is important for an individual to understand that their chosen CE Rep cannot be their HCW.
- Client rep: During annual assessments and when appropriate, work to help individuals understand the need to designate a client representative to assist them with long-term care decisions when they are no longer able to make decisions for themselves. Encourage individuals to choose a client representative based on the priority order list (page three) and to identify up to three people who can make long-term care decisions for them if they are not able to do so (page four).

Resources

MSC 231 and SDS 737 forms, rules, transmittals and resources

- **Forms:**

- [MSC 0231](#)
- [SDS 0737](#)

- **Rules:**

- 231 Form (AR/AP)
 - [OAR 461-115-0090 \(ARs; General\)\)](#)
 - [OAR 410-200-0111 \(ARs\)](#)
 - [OAR 414-175-0006 \(ARs\)](#)
 - [OAR 461-165-0035 \(APs\)](#)
- 0737 Form CE Rep and Client Rep
 - [OAR 411-030-0040\(4\)\(5\)](#)
 - [OAR 411-034-0040](#)
 - [OAR 411-035-0085\(3\)\(4\)](#)

- **Transmittals:**

- [APD-PT-16-020](#)
- [APD-PT-19-009](#)
- [APD-AR-19-026](#)
- [APD-IM-19-055](#)
- [APD-IM-19-083](#)
- [APD-PT-20-072](#)

- **Resources:**

- [Oregon Programs Eligibility Notebook](#)
- [Guardianships and Conservatorships OAR 411-026](#)
- [Guardianship, Conservatorship and Other Options](#)

ICP representative agreement links, rules and resources

- **Rules:**

- ICP Page ([OAR 411-030-0100\(3\),\(6\)](#))

- **Forms:**

- [ICP Rep. Agreement](#)

- **Resources**

- [ICP Provider and ICP Representative Background Check Application](#)

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Medicaid Services and Supports

500 Summer St. NE, E-10

Salem, OR 97301-1076

503-945-5600

odhs.info@odhs.oregon.gov

www.oregon.gov/odhs