

Participant Name: _____

Authorized Representative (if applicable): _____

Purpose: This protocol identifies steps for the DC Department of Health Care Finance (DHCF) to remediate issues of non-compliance with the *Participant/Representative-Employer Agreement*.

Non-compliance with the *Participant/Representative-Employer Agreement* can be flagged by the Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS)-Support Broker entity, the Participant's Support Broker, the Participant's EPD Waiver Care Manager, or DCHF staff.

Participant/Representative-Employers will be allowed three episodes of non-compliance in the first 12-month period of enrollment in the *Services My Way* program (and every 12-month period thereafter). The third episode of non-compliance will necessitate the Participant's termination from the *Services My Way* program and a transition to traditional Personal Care Aide (PCA) services. "Traditional" PCA services refer to those PCA services provided by a Home Health Agency.

1. First Episode of Non-Compliance: When a Participant/Representative-Employer is first found to be out of compliance with the *Participant/Representative-Employer Agreement*, the following steps will occur:
 - A. The *Services My Way* Program Coordinator will issue a notification of non-compliance to the Participant/Representative-Employer (and the assigned Support Broker) regarding the issue of non-compliance, which will:
 - i. Identify the issue of non-compliance and request that the issue be corrected (if possible), and not repeated.
 - ii. Detail requirements of the Participant-directed Corrective Action Plan (PCAP).
 - iii. Offer training and/or technical assistance.
 - iv. Encourage the Participant/Representative-Employer to direct questions to the Support Broker, including the following:
 - a. To request training or technical assistance, as needed.
 - b. To request a copy of the *Participant/Representative-Employer Agreement*.
 - c. To ask questions about the notification of non-compliance.
 - d. To ask questions regarding how to correct the issue of non-compliance.
 - e. To obtain assistance in preparing and submitting the PCAP.



- f. To designate a Representative to perform as the Participant/Representative-Employer (or designate a new Representative)
 - v. Identify consequences of further non-compliance with the *Participant/Representative-Employer Agreement*.
 - vi. Provide details on the Participant's fair hearing and appeal rights regarding termination from the *Services My Way* program, should three episodes of non-compliance occur in the first 12-month period of enrollment in the *Services My Way* program (and every 12-month period thereafter).
- B. The Support Broker will provide copies of the notification to the Participant's EPD Waiver Care Manager, the VF/EA FMS-Support Broker entity and other individuals, as necessary and appropriate.
- C. Within five (5) business days of issuing the notification of non-compliance, the assigned Support Broker will contact the Participant/Representative-Employer regarding the occurrence of non-compliance, and cover the following topics:
- i. Introductions, reason for the call and reference to the notification of non-compliance.
 - ii. Identification and review of the issues of non-compliance and a request to have the Participant/Representative-Employer describe the problem(s) experienced related to the issues of non-compliance.
 - iii. A request that the issue be corrected (if possible) and not repeated.
 - iv. Development of the PCAP.
 - v. Review of the *Participant/Representative-Employer Agreement* to answer questions regarding compliance.
 - vi. Provide an explanation of mandated training and/or technical assistance, may include:
 - a. Training and/or technical assistance conducted by the assigned Support Broker,
 - b. Training and/or technical assistance conducted by the VF/EA FMS Division of the VF/EA FMS-Support Broker entity in collaboration with the assigned Support Broker.
 - vii. Identify the consequences should three episodes of non-compliance occur in the first 12-month period of enrollment in the *Services My Way* program (and every 12-month period thereafter), wherein DHCF may terminate the *Participant/Representative-Employer Agreement* with the Participant,



terminating the Participant from the *Services My Way* program and transition him/her to traditional PCA services.

- D. Within five (5) business days of the above mentioned contact, the assigned Support Broker, with the Participant and his Representative, as applicable, will draft a written PCAP based on the conversation and decisions made regarding mandatory training and/or technical assistance, timelines for completion of mandatory training and/or technical assistance, and consequences of not receiving the mandated training and/or technical assistance. The Participant and his/her Representative, as applicable, must sign the PCAP upon completion. The Support Broker will provide copies of the signed PCAP to the Participant's EPD Waiver Care Manager, VF/EA FMS-Support Broker entity and other individuals, as necessary and appropriate.
- i. The Support Broker will be responsible for monitoring the PCAP. If the Participant or his Representative, as applicable, fails to implement the PCAP as agreed upon, this will be considered an episode of non-compliance which will be reported by the Support Broker to the *Services My Way* Program Coordinator.
2. Second Episode of Non-Compliance: When a Participant/Representative-Employer is found to be out of compliance with the *Participant/Representative-Employer Agreement* for a second time, the following steps will occur:
- A. DHCF will issue a second notification of non-compliance to the Participant/Representative-Employer (and the assigned Support Broker) regarding the second occurrence of non-compliance, which will:
 - i. Identify the issue of non-compliance and request that the issue be corrected (if possible), and not repeated.
 - ii. Detail requirements of the PCAP.
 - iii. Offer training and/or technical assistance.
 - iv. Instruct the Participant/Representative-Employer to direct questions to the assigned Support Broker, including the following:
 - a. To request training or technical assistance, as needed.
 - b. To request a copy of the Participant/Representative-Employer Agreement.
 - c. To ask questions about the notification of non-compliance.
 - d. To ask questions regarding how to correct the issue of non-compliance.
 - e. To designate a Representative to perform as the Participant/Representative-Employer (or designate a new Representative).



- f. To obtain assistance in preparing and submitting the PCAP.
 - v. Identify consequences of further non-compliance with the Participant/
Representative-Employer Agreement.
 - vi. Provide details on the Participant's fair hearing and appeal rights regarding
termination from the *Services My Way* program, should three episodes of non-
compliance occur in the first 12-month period of enrollment in the *Services
My Way* program (and every 12-month period thereafter).
- B. DHCF will share a copy of the notification of non-compliance with the assigned
Support Broker, who will provide copies of the notification to the Participant's EPD
Waiver Care Manager, VF/EA FMS-Support Broker entity, and other individuals, as
necessary and appropriate.
- C. Within five (5) business days of issuing the notification of non-compliance, the
assigned Support Broker will contact the Participant/Representative-Employer
regarding the occurrence of non-compliance, and cover the following topics:
- i. Introductions, reason for the call and reference to the notification of non-
compliance.
 - ii. Identification and review of the issues of non-compliance and a request to
have the Participant/Representative-Employer describe the problem(s)
experienced related to the issues of non-compliance.
 - iii. A request that the issue be corrected (if possible) and not repeated.
 - iv. Development of the PCAP.
 - v. Review of the Participant/Representative-Employer Agreement to answer
questions regarding compliance.
 - vi. Provide an explanation of mandated training and/or technical assistance, may
include:
 - a. Training and/or technical assistance conducted by the assigned
Support Broker,
 - b. Training and/or technical assistance conducted by the VF/EA FMS
Division of the VF/EA FMS-Support Broker entity in collaboration
with the assigned Support Broker.
 - vii. Identify the consequences should a third episode of non-compliance occur in
the first 12-month period of enrollment in the *Services My Way* program,
wherein DHCF may terminate the *Participant/Representative-Employer
Agreement* with the Participant, terminating the Participant from the *Services
My Way* program and transition to traditional PCA services.



- D. Within five (5) business days of the above mentioned contact, the assigned Support Broker, with the Participant and his Representative, as applicable, will draft a written PCAP based on the conversation and decisions made regarding mandatory training and/or technical assistance, timelines for completion of mandatory training and/or technical assistance, and consequences of not receiving the mandated training and/or technical assistance. The Participant and his/her Representative, as applicable, must sign the PCAP upon completion. The Support Broker will provide copies of the signed PCAP to the Participant's EPD Waiver Care Manager, VF/EA FMS-Support Broker entity, and other individuals, as necessary and appropriate.
- i. The Support Broker will be responsible for monitoring the PCAP. If the Participant or his Representative, as applicable, fails to implement the PCAP as agreed upon, this will be considered an episode of non-compliance which will be reported by the Support Broker to the *Services My Way* Program Coordinator.
3. Third Episode of Non-Compliance: When a Participant/Representative-Employer is found to be out of compliance with the *Participant/Representative-Employer Agreement* for a third time, following the participation and completion of mandatory training and/or technical assistance to remediate the issue via successful implementation of the PCAP, the following steps will occur:
- A. DHCF will issue a notification of non-compliance to the Participant/Representative-Employer (and the assigned Support Broker) regarding the third and final episode of non-compliance, which will note that:
 - i. The Participant/Representative-Employer has had a third episode of non-compliance.
 - ii. DHCF is terminating the *Participant/Representative-Employer Agreement* with the Participant, per earlier notification.
 - iii. The Participant will transition to traditional PCA services.
 - a. The Participant may ask for a fair hearing from the Office of Administrative Hearings or the Office of Health Care Ombudsman. If a request for a fair hearing is filed before termination from the *Services My Way* program (i.e., within thirty (30) days of the date on the notice), the Participant will continue to receive current services while the appeal is pending.
 - B. The Support Broker will provide copies of the notification to the Participant's EPD Waiver Care Manager, the VF/EA FMS-Support Broker entity and other individuals, as necessary and appropriate.



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- C. Within five (5) business days of issuing the notification of non-compliance, the assigned Support Broker will contact the Participant regarding the third and final occurrence of non-compliance, and will cover the following topics:
- i. Introductions, reason for the call and reference to the first, second, and third notifications of non-compliance.
 - ii. Review of consequences of non-compliance (i.e., three episodes in one 12-month period).
 - iii. Process for transitioning the Participant to traditional PCA services with support from the assigned EPD Waiver Care Manager.
 - iv. Details on the Participant's fair hearing and appeal rights regarding termination from the *Services My Way* program.
- D. Within five (5) business days of the above mentioned contact, the Support Broker will initiate completion of the *Participant Termination Notice*, in accordance with the *Participant Termination Notice Instructions*.

Signature of Participant

Date

*Signature of Authorized Representative/Legal Guardian/
Power of Attorney (if applicable)*

Date

