Improving the Quality of Outcomes for Consumers and Direct Care Workers (DSPs) through the Agency with Choice and the Independent Contractor Model
Meet the Presenters

Wendy Swager, BA; DIP Science – Psychology Honors; CEO, Soreo and Past-President ANCOR

Wendy is the CEO of Soreo’s 3 divisions:
• Soreo In Home Support Services (Medicaid and Private Duty)
• Soreo Pathways (Hospice and Palliative Care)
• Soreo Home Health (Skilled Care through Medicare and Medicaid)

Patrick LaVoie MBA, MIM, CMC, CSCP, PMP, CSSBB, President

As the President of Contractor Management Services (CMS), Patrick oversees all aspects of CMS to ensure production efficiency, cost-effective management of resources and to promote growth as an organization. Additionally, he is responsible for the acquisition and deployment of new technologies to support and grow CMS’ continuing mission to lead the industry with its highly effective ICMpower™ Solutions.
Who or what is soreo?

Why am I here and not at the beach?
Effective 3/1/13
Arizona implemented ‘Agency with Choice’

Effective 1/1/14
uses an Independent Contractor Model in conjunction with ‘Agency with Choice’
Agency with Choice

• Co-employment or Partnership Model
• Section 1915 (k) Community First Choice State Plan Option
• Arizona (withdrew 6/2013), Arkansas, California, Maryland, Minnesota, Montana, New York, Oregon.
• New Hampshire & Connecticut (pre ACA)
• 6% increase in FMAP
Agency with Choice

- Consumer and Agency partner
- Consumer may determine criteria for the following if state minimum is not sufficient:
  - DCW qualifications
  - Duties
  - Schedule
  - Training Requirements
  - Selection and Dismissal of DCW
- Consumer may select an ‘individual representative’
Agency with Choice

• Agency is responsible for the following:
  – Recruitment, screening & contracting or hiring DCWs
  – Contract ‘back-up’ DCW
  – Monitor DCW contract compliance for scope, specifications and matching delivered services to the ‘Authorization’
  – Billing
  – Contract issue resolution
  – Customer satisfaction
Conflict between Agency with Choice and the Employment Model

• Provider has little or no control over the following:
  – Recruitment of the majority of DCWs
  – Selection and dismissal of DCWs
  – Scheduling of the DCW
  – Training of the DCW
  – Scope of work
  – Quality standards

• DCW and consumer can leave the Provider and transfer to another company
Independent Contractors

• Soreo contracts with Direct Care Workers for the provision of the following services:
  – Attendant Care
  – Personal Care
  – Respite
  – Habilitation
  – Housekeeping Services

• The Direct Care Workers are Independent Contractors. They are NOT employees!
“Tell her it’s illegal”
LEGAL OR ILLEGAL?
WHY THE CONFUSION?
MY ADVICE

• Do your own research
• Seek legal advice from competent counsel who specialize in the Independent Contractor Model
Why?
Welcome to Wendy's World
The Tightrope
Concerns, Issues and Risks

- Financial impact of the ACA
- Loss of the Companionship Exemption
- Increase in Minimum Wage
- Managed Care
- Reduction of Rates
- Unfunded Mandates
- Unionization
- Increasing insurance and Worker’s Compensation rates
- Unemployment Claims
I can’t cut anymore!
There Has To Be a Better Way!
Contractor Management Services

Independent Contractor Model
About CMS

Contractor Management Services (CMS) is the nation’s full-service leader in Independent Service Provider Management. For over 14 years, CMS has been providing industry-leading solutions and cutting edge services. ICMpower™ is CMS’ proprietary technology designed to alleviate administrative burdens, create efficiencies within your organization, and proactively address and preempt legal challenges by properly documenting the true contractual relationship between Direct Care Workers (DCW) / Independent Service Providers (ISP) and the Contracting Agency.

Additional Benefits

- Identity Verification
- Background Screening Services
- Interactive Negotiation
- Time Entry and Settlement Authorization Management
- Approved Business Expense Management
- Administration / Settlement Processing
- Document Management and Document Push Solutions
- Tracking and Alerts
- Audit Trail
- Liability and Risk Management
- Match and Request Service

Leading innovator in an established defensible Independent Service Provider Model leveraging technology to mitigate risk and increase efficiency using industry best practices.

Implement Best Practices

- Vendor-to-Vendor Relationship Model
  - Collaborative as opposed to supervisory
  - Encourage registration with the state as a business entity
- Clearly defined B2B contractual relationship
  - Established service start/end dates, signed and dated by both parties
  - Do not ‘evergreen’ contract
  - Explicitly state no authority to supervise, direct or control
    - Not Control….but Compliance
  - Incorporate an arbitration agreement, indemnification and jurisdictional clauses
  - Reference governmental service requirements
  - Confidentiality/Non-disclosure (as applicable)
Best Practices (cont’d)

- Responsibilities of each party
  - ISP responsible for own taxes/insurance/benefits
  - Not entitled to company provided equipment/education/training
    - Do not provide reimbursements
      - Not Payroll, but Settlement
      - Not Training, but Certification
      - Not benefits/deductions, but Approved Business Expenses

- Causes for breach and termination
  - Material and minor
  - Two-way street

- Documented rate negotiation

- Arm’s length relationship
  - Limit direction and control
    - Minimize face-to-face communications
    - Don’t have ISPs provide the same services as employees
    - ISPs should be free to perform services for others
  - Partner with a third-party
Leveraging Technology

- Flexible / Scalable
- Secure
- Compliant
  - SOC1 SSAE 16
  - PCI
  - HIPAA
- Audit Defense
Consumer Benefits

• Opportunity to select and dismiss DCW
• Opportunity to have increased control over quality of care
• Opportunity to specify training requirements
• Reduced risk
  – (Worker’s Comp Claim; unemployment claim, tax or liability issue)
• Back-up services and Provider support
• Increased satisfaction
DCW Benefits

- Negotiate their rate
- Increased income
- Not restricted to 40 hours per week
- Can work for multiple providers
- Health insurance under ACA
- Occupational and Accident insurance
- Can subcontract admin. duties
- Business-related tax deductions
- CMS’ network of Strategic Partners, benefit and discount programs
## Take home and Taxable income matters

<table>
<thead>
<tr>
<th>Example of Take Home Cash – assumes 40 hour week</th>
<th>W2</th>
<th>IC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly take home cash</td>
<td>$ 315.00</td>
<td>$ 390.00</td>
</tr>
<tr>
<td>Increased Weekly take home cash</td>
<td></td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Increased Monthly take home pay</td>
<td></td>
<td>$ 300.00</td>
</tr>
<tr>
<td>Yearly Gross earnings</td>
<td>$ 19,000</td>
<td>$ 21,000</td>
</tr>
<tr>
<td><strong>Less expenses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupational &amp; Accident insurance</td>
<td>$ (750)</td>
<td></td>
</tr>
<tr>
<td>Mileage - 7500 miles @ ~$ .56 per mile</td>
<td>$(4,250)</td>
<td></td>
</tr>
<tr>
<td>Other Business Expenses</td>
<td>$(2,000)</td>
<td></td>
</tr>
<tr>
<td><strong>Taxable Income</strong></td>
<td>$ 19,000</td>
<td>$ 14,000</td>
</tr>
</tbody>
</table>
DCW is a Business Owner

This is a career: NOT a job!