

# Attendant Services Program

# Employer Handbook



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## **Vermont Agency of Human Services**

Department of Disabilities, Aging, and Independent Living

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## CHAPTER I: Introduction/Role

### THE ATTENDANT SERVICES PROGRAM

The Attendant Services Program (ASP) supports independent living for adult Vermonters with disabilities who need physical assistance with daily activities. ASP provides funding and payroll support for participants to employ and direct their own personal care attendants.

The Attendant Services Program includes Medicaid and General Fund Participant Directed Attendant Care (PDAC) and Personal Services. All services are provided in compliance with the service descriptions, limitations and procedures contained in the current ASP Regulations, and applicable state regulations, guidelines and policies.

### EMPLOYER ROLE & RESPONSIBILITIES

The participant or an approved Surrogate (Agent) is the **EMPLOYER**. An individual must be able and willing to direct his/her attendant services to be eligible for Medicaid or General Fund Participant Directed Attendant Care. An individual who is not able to direct their attendant services must be eligible for Personal Services and must have an approved voluntary surrogate perform the tasks required as employer.

By signing the Annual Agreement and Employer Agreement form, the employer agrees to be responsible for the following:

- ◆ Understand and follow program requirements
- ◆ Recruit and select worker(s) at least 18 years of age and older
- ◆ Notify selected worker(s) of their responsibilities
- ◆ Assure that employment forms are completed and submitted to the payroll agent
- ◆ Train worker(s) to perform specific tasks as needed
- ◆ Develop a work schedule based on the approved Service Authorization
- ◆ Arrange for substitute or back-up workers as needed
- ◆ Authorize worker(s) timecards (based on the service authorization and time worked)
- ◆ Maintain copies of all worker(s) time sheets
- ◆ Supervise worker(s) to assure that tasks are performed correctly and completely
- ◆ Evaluate worker(s) performance and provide feedback
- ◆ Terminate worker(s) employment when necessary
- ◆ Notify the payroll agent of any changes
- ◆ Participate in the assessment and reassessment of program eligibility

- ◆ Communicate with the director or assessor as necessary

## CHAPTER II: Employer Eligibility/Certification

All Attendant Services Program (ASP) employers must have the cognitive and communicative abilities to effectively perform the activities required as the EMPLOYER. All employers must be certified as able and willing to direct services.

### 1. Employer cognition and communication abilities

Cognition and communication are defined as follows:

**a. Cognition:** The ability to understand and perform the tasks required to employ a caregiver (including recruitment, hiring, scheduling, training, supervision, and termination). An individual who has cognitive impairments or dementia which prevent understanding and performance of these tasks, is not competent, or has a guardian, is not eligible to manage ASP services.

**b. Communication:** The ability to communicate effectively with the assessors and with the caregiver(s) in performing the tasks required to employ a caregiver. An individual, who cannot communicate effectively, whether through verbal communication or alternate methods, is not eligible to manage ASP services.

### 2. Employer certification approval or denial

ASP may approve or deny an applicant's or participant's ability to direct their own personal care service, or of a surrogate's ability to direct personal care services.

**a. Certification:** During the initial and annual assessment process, the assessor completes an "Employer Certification Form" to document ability of the participant and/or surrogate to direct services.

**b. Non-Certification:** If the ASP assessor and director determine that the participant or surrogate is not able to perform the ongoing tasks required as the employer, the individual shall be notified of the decision in writing. The notice will include appeal rights.

**c.** The ASP director will review employers' ability to manage services through ongoing payroll reviews.

## **CHAPTER III: Employer Considerations**

Note the following important employer considerations:

1. Participant and surrogate employers are not paid by the Attendant Services Program to direct and manage services.
2. A surrogate employer must be available to perform the employer responsibilities and have contact with the participant on a regular, ongoing basis, and at least biweekly.
3. A surrogate employer may not also serve as the participant's employee (attendant).
4. If the participant has a guardian, the guardian must be the surrogate employer or appoint a surrogate employer, subject to ASP approval.
5. A participant in Participant Directed Attendant Care (PDAC) who is no longer able to manage services will be referred to other services and/or reviewed for Personal Services.

## CHAPTER IV: Services /Activities Covered

ASP will provide the employer with a copy of the Service Authorization which lists all tasks and times that the participant has been approved to receive. The employer will use the Service Authorization in planning attendant schedules and approving timecards.

- When approved, services may include the following:
- Dressing
- Bathing
- Grooming: such as help with brushing teeth and hair
- Bed mobility
- Toilet use
- Personal hygiene and clean up related to incontinence
- Assistance with adaptive devices
- Transferring: help getting from chair to bed
- Mobility: help with walking or using a wheelchair
- Eating

When approved, services may also include the following **for the participant only**:

- Preparing meals
- Heavy housekeeping: for example, mopping floors and taking out garbage
- Light housekeeping: for example, changing the bed, dusting, vacuuming and doing laundry
- Shopping
- Paying bills
- Travel assistance necessary for the person's health and welfare
- Care of adaptive equipment
- Infant and Childcare (Not reimbursable under Medicaid PDAC)
- Care of Support Animals
- Care/Cleaning of Adaptive Equipment
- Mobility Guidance

**Activities not covered by ASP include:**

- Activities not included in the Service Authorization
- Supervision, cueing or protective presence
- Services provided by anyone who is not an enrolled attendant
- Services provided by other programs
- Assistance provided to other household members
- Illegal activities

- Respite services or paid time off for attendants

## CHAPTER V: How to Enroll

### 1. Enrolling Employers

All Attendant Services Program participants must be enrolled as employers in the payroll system as described below:

**Contact Payroll Agent:** Certified employers must contact the following payroll agent to obtain the necessary forms to become enrolled as an employer in the payroll system:

**ARIS Solutions ISO (ARIS)**  
**P.O. Box 4409**  
**White River Junction VT 05001**  
**Toll Free (voice) 1-800-798-1658**

**Employer Forms:** The following forms must be completed by the **EMPLOYER** and returned to the payroll agent in order to enroll in the payroll system:

Form 2678 Employer Appointment of Agent Form (IRS # 2678)

- Participant/Surrogate Directed Employer Agreement Form
- IRS Authorization Form
- Worker's Compensation Authorization Form
- Employee Information Form
- Optional: Application for Employment (contact ARIS for this form – it is not included in enrollment packet)

***Important: Time cards cannot be processed, nor can payments to workers be made, until all of these forms have been received and processed by the payroll agent.***

## 2. Enrolling Employees

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Once the employer has located a suitable personal care attendant (employee), the **EMPLOYEE** must complete and return the following forms to the payroll agent. **This applies to both new employees *and* returning employees:**

- Form W-4 Employee's Withholding Allowance Certificate
- Form I-9 Employment Eligibility Verification Form
- Record Check Release Form Vermont Criminal Information Center
- Consent for Release of Information Adult Protective Services
- Background Check Release Form
- Optional: Form W-5 Earned Income Credit Advance Payment Certificate
- Optional: Form W-4VT
- Optional: Direct Deposit Form
- You may request a variance to the 18 years of age limit on an attendant if no other suitable attendant can be hired. For instance you may reside in a remote location.

***Important: Timecards cannot be processed, nor can payments to workers be made, until all of these forms have been received and processed by the payroll agent.***

***Employers should notify their employees that there may be a delay of several weeks before the first paycheck is issued.***

## 3. How to Find and Keep a Caregiver

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Employers may refer to the “**Help at Home: A Guide to Finding and Keeping Your Caregiver**” (published by HomeShare Vermont, Burlington, VT), for helpful information and tips on hiring, training and keeping caregivers/workers.

Employers may obtain a guide by contacting the Department of Disabilities, Aging, and Independent Living or Home Share Vermont at (802) 863-5625 or <http://www.homesharevermont.org>.

## CHAPTER VI: Employee Eligibility and Restrictions

### 1. Employee Eligibility

The employee/attendant is employed by the participant or by the participant's surrogate. The employer is the participant or surrogate who hires, trains, supervises, and schedules their own attendants. Attendants are not employed by the State of Vermont or by the Attendant Services Program.

Employees must be legally eligible for this employment under state and federal laws. State and federal employment regulations, including age appropriate work, hours, and restrictions, must be followed. Spouses and Civil Union Partners cannot be employed as attendants under Medicaid PDAC.

Employees must have the skills and knowledge to safely provide the necessary care.

### 2. Employee Restrictions

The following restrictions apply to employees under ASP:

- Persons with a substantiated record of abuse, neglect, or exploitation of a child or a vulnerable adult, been excluded from participation in Medicaid or Medicare services, programs, or facilities by the federal Department of Health and Human Services' Office of the Inspector General; and /or, criminal conviction for any offense involving bodily injury, abuse of a vulnerable person, a felony drug offense, or a property/money crime involving violation of a position of trust, including but not limited to: aggravated assault, aggravated stalking, aggravated sexual assault, assault and robbery, manslaughter, assault upon law enforcement, cruelty to children, arson, extortion, abuse, neglect, or exploitation of a vulnerable adult or child, hate motivated crime, kidnapping, lewd and lascivious conduct, simple assault, sexual assault, murder, domestic assault, stalking, embezzlement, recklessly endangering another person while driving, history of certain crimes (included in the Vermont Adult Abuse Registry, or similar registry) may **not** be paid to provide any services under ASP without a variance waiver from the Deputy Commissioner of Aging and Independent living. The payroll agent (ARIS) will check the Adult Abuse Registry in the Department of Disabilities, Aging, and Independent Living for the names of all prospective employees.

- The spouse or civil union partner of a participant may be paid to provide services as an employee under ASP General Fund programs, but will not be paid under Medicaid PDAC.
- An ASP participant's legal guardian (appointed by a probate court) may not be paid to provide services as an employee under ASP.
- A participant's surrogate/employer may not be paid to provide any services under ASP.

## **CHAPTER VII: Payroll Policies and Procedures**

### **1. Payroll Agent**

Payroll services are provided for the Attendant Services Program through a contracted payroll agent. The payroll agent will process time cards, paychecks, taxes and maintain individual employment tax records for workers and perform related payroll activities, including background checks for substantiated incidents of abuse, neglect, or exploitation of others and for criminal records.

The payroll agent for the Attendant Services Program is:

**ARIS Solutions ISO  
P.O. Box 4409  
White River Junction, VT 05001  
Toll Free (voice) 1-800-798-1658**

The payroll agent will provide employers and employees with:

- all of the necessary employment forms
- time card forms
- pre-stamped addressed envelopes for mailing timecards to the payroll agent
- annual W-2 tax statements to employees
- instructions and technical assistance in completing forms

### **2. Submitting Time Cards**

All employee time cards must be submitted in the following manner:

- The time card must be completed correctly, including the dates and times of service.
- The employer must sign the time card to verify that services were received.

- The time card must be completed correctly, and legibly, including the signatures of both the employee and the employer.
- The time card must be submitted to the payroll agent according to the payroll schedule (See Payroll Schedule in packet).

***Important:*** *Neither the Department of Disabilities, Aging, and Independent Living (DAIL) nor the payroll agent is responsible for delays in payment caused by late submissions, incomplete or illegible forms, or failure to inform the payroll agent of changes in address, etc.*

### **3. Additional Employees or Replacement of Employees**

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All new and returning employees must complete the employment enrollment process prior to receiving any paychecks. There are no exceptions to this policy.

### **4. Termination of Employment**

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The employer is responsible for termination of employment, and for notifying the Attendant Services Program and the payroll agent of all changes in the employment status of employees. The employer must complete an “Employee Action Notice” form and submit to ARIS each time an employee terminates employment.

### **5. Instructions for Completing Time Cards**

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All time cards shall be completed with the following information. **All items must be legible!**

- Complete a separate time card for each employee who works in the time period.
- Print employee name and social security number on the top corner of time card.
- Print the ASP participant’s name under “participant” at the top of the time card.
- Print the surrogate employer’s name, if applicable, under “surrogate” at the top of the time card.
- Print the last day of the pay period under “Pay Period End Date” (refer to payroll schedule if needed).
- Enter the dates worked in the “Date” column.
- Enter the daily work start time in the “In” column and work stop time in the “Out” column. **Note:** If the employee lives with the participant, they may write “Live-in” in place of “in” and “out” times.
- Enter the total hours worked in decimal format (in 0.25 hour units) in the Hours column for each day worked. Examples: One hour: 1.0.
  - Two hours and 15 minutes: 2.25

- Three hours and 30 minutes: 3.5
- Three hours and 45 minutes: 3.75
- Add the total hours worked and write the total in the box next to “Total Hours for this Pay Period”.
- The employee must sign and date at the bottom above “Employee Signature” and “Date”.
- The employer must sign and date the bottom above “Participant/Surrogate Signature” and “Date”.

## 6. Approved Service Authorization

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The total number of hours for ***all employees combined*** must **not** exceed the authorized number of hours as shown on the individual’s approved Service Authorization form.

## 7. Changes in Hours

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The employer should contact the Attendant Services Program director to review the need for changes in approved services. An updated Independent Living Assessment must be completed, approved, and funded by DAIL before any increased service hours will be paid.

## 8. Mailing Time Cards

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Mail the time card to the payroll agent at the address at the bottom of the time card. The time card must be mailed to the payroll agent so that it **reaches the payroll agent’s office by Monday morning** following the end of a pay period.

If more than one employee works for a participant during the same pay period, the employer must **submit all time cards** for this pay period to the payroll agent **at the same time**.

## 9. Time Card Errors

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On occasion it may be necessary for ARIS to return employee time cards to employers. This may result in employee’s paychecks being delayed. ARIS is unable to process *any* time card which does **not** have the original signatures of **both** the employer and the employee.

Time cards will be returned to the employer when the following information is missing or incorrect:

1. Absence of employee name
2. Absence of participant name
3. Absence of employee signature
4. Absence of employer signature
5. Signature of anyone other than the employer of record on the employer signature line.
6. Absence of dates of service.
7. Two participants listed for services on one time card. Employees must fill out one time sheet per pay period for each participant they provide care for.

Should a time card be returned to the employer for one of the above reasons, the employer must complete or correct the identified error, and re-submit the time card to ARIS. The time card will be processed and paid in the next pay period following receipt in the ARIS Office.

## **10. Other Reasons an Employee may not get paid**

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Other reasons an employee may not get paid:

1. Late time sheets. Time cards must be received in the ARIS office **no later than Monday** of each pay week, according to the Payroll Schedule.
2. Lack of or incomplete Employer enrollment forms.
3. Lack of or incomplete Employee enrollment forms.
4. Lack of a Department of Disabilities, Aging, and Independent Living (DAIL) approved Service Authorization Form.

## **11. Pay Schedule**

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Workers' paychecks will be generated by the payroll agent every two (2) weeks, according to the payroll schedule.

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## 12. Pay Rate

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Employees under the Attendant Services Program will be paid:

- \$9.00/hour for the first six months of employment.
- \$9.50/hour after six months of employment with the same participant.

**Note:** Workers are **not** paid sick time or vacation leave, overtime wages or benefits.

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## 13. Unemployment Benefits

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Every employee is eligible for unemployment benefits if work hours become unavailable or decrease. If you have questions about unemployment compensation coverage, or about submitting a claim, contact the payroll agent.

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## 14. Workers' Compensation

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Every employee is covered by workers' compensation insurance. If you have questions about workers' compensation coverage, or about submitting a claim, contact the payroll agent. Effective December 2002, employers must enroll for Worker's Compensation **directly** with the designated Worker's Compensation insurance company. ARIS will forward the initial enrollment information to the insurance company who will then contact the employer directly for further documentation. It is extremely important that the employer complete and return the worker's compensation forms that are mailed directly from the insurance company in order for caregivers to be paid by ARIS.

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## 15. Taxes

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Payments made to every employee are treated as earned income and are taxed as earned income. The payroll agent processes payroll taxes, withholds taxes from wages and prepares annual W-2 tax withholding statements.

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## 16. Problems with the Payroll Agent

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Employers and employees should first attempt to resolve payroll problems by directly contacting the payroll agent. If problems persist, the employer may contact the Attendant Services Program director at (802) 241-2431.

## **17. Special Circumstances, Hospitalizations, Absences**

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An employee (attendant) may be paid for up to 30 days during a participant's hospitalization upon the ASP director's approval.

An employee (attendant) may not be paid during a participant's stay in a nursing home or other institution.

Participants may remain eligible for continued ASP funding up to **six (6) weeks** while absent from the state of Vermont upon the ASP director's approval.

## **18. Medicaid Fraud**

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Medicaid fraud is committed when an employer or employee is untruthful regarding services rendered to Medicaid Participant Directed Attendant Care Program recipients in order to obtain improper payment. The Medicaid Fraud and Residential Abuse Unit of the Vermont Attorney General's Office investigates and prosecutes people who commit fraud against the Medicaid program. Medicaid fraud is a felony and conviction can lead to substantial penalties (including but not limited to, imprisonment up to ten years, or a fine up to \$1,000 or an amount equal to twice the amount of the assistance or benefits wrongfully obtained, or both).

Additionally, individuals convicted of Medicaid fraud will be excluded for a minimum of five years from any employment with a program or facility receiving Medicaid funding.

Examples of Medicaid fraud include:

- Billing for services not actually provided (e.g. signing or submitting a time card for services which were not actually provided)
- Billing for services provided by a different person (e.g. signing or submitting a time card for services provided by a different person)
- Billing twice for the same service (e.g. signing or submitting a time card for services which were reimbursed by another source, or signing or submitting a duplicate time card for reimbursement from the same source)

**Suspected cases of fraud will be referred to local police authorities and the Attorney General's Medicaid Fraud Control Unit for further investigation and possible prosecution.**

## **19. Abuse, Neglect and Exploitation**

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The State of Vermont requires, by law, that all health professionals report cases of suspected adult abuse, neglect, and exploitation. Those who are mandated to report such cases include, but are not limited to:

Area Agency on Aging case managers, Home Health Agency staff, Adult Day Center employees, hospital employees, social workers, nurses, physicians, **Attendant Services Program staff, and the Payroll Agent (ARIS).**

Other concerned individuals may also report suspected adult abuse, neglect, or exploitation. In most cases, the identity of the individual making the report shall remain confidential.

**Reports are made by contacting the Vermont Department of Disabilities, Aging and Independent Living, Division of Licensing and Protection, Adult Protective Services (APS) at 1-800-564-1612.**