

Consumer-Directed Attendant Support Services and In-Home Support Services Frequently Asked Questions

This document has questions (Q) that come from Health First Colorado members, or their Authorized Representatives, about Consumer-Directed Attendant Support Services (CDASS) and In-Home Support Services (IHSS). The answers (A) are intended to inform and support members as they navigate the CDASS and IHSS programs. **This document does not contain legal or tax advice.**

Key Terms and Definitions:

Attendant - The person paid to provide services for the member.

Authorized Representative (AR) - An individual who manages CDASS and IHSS on the member's behalf if the member cannot or chooses not to. Often, they also are the legal employer in CDASS.

Colorado Department of Healthcare Policy and Financing (HCPF) - The state agency that oversees and operates Health First Colorado (Colorado's Medicaid program), Child Health Plan *Plus* (CHP+), and other public health care programs for Coloradans who qualify.

Consumer Direct for Colorado (CDCO) - Also called Consumer Direct. Colorado's training and support contractor for CDASS and In-Home Support Services (IHSS).

Consumer-Directed Attendant Support Services (CDASS) - Health First Colorado benefit program that lets a member, or their Authorized Representative (AR), direct and manage attendants who provide in-home care.

Financial Management Services (FMS) - A company contracted by the Department of Health Care Policy and Financing to provide fiscal/employer agent services to CDASS members and their attendants. An FMS can operate in a variety of ways. In CDASS, FMS are also Fiscal/Employer Agents or are said to "follow a Fiscal/Employer Agent (F/EA) model."

Fiscal/Employer Agent - An IRS-approved public or private entity that performs necessary employment-related functions as the Medicaid member's agent. It ensures employer-related legal obligations are fulfilled. The member or their Authorized Representative (AR) is the legal Employer of Record for the attendants whom they hire, supervise, and terminate. FMS following an F/EA model and CDASS employers are responsible for different employment-related tasks.

Home and Community Based Services (HCBS) - Services and supports authorized through 1915(c) waivers of the Social Security Act and provided in community settings to a Medicaid Member who requires a level of institutional care that would otherwise be provided in a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities as described at 42 CFR 441.300, et seq.

In-Home Support Services (IHSS) - Health First Colorado benefit program that lets a member, or their Authorized Representative (AR), direct and manage attendants who provide in-home care with the support of an agency that completes the employer responsibilities.

IHSS Agency - A licensed home care business providing attendant services and supports to IHSS members. IHSS agencies are the employer of attendants.

Internal Revenue Service (IRS) - Part of the U.S. Department of the Treasury and is responsible for enforcing and administering federal tax laws, processing tax returns, performing audits, and offering assistance for American taxpayers.

Member - The person who receives services and directs their in-home health care services. They have the freedom and flexibility to decide who, where, and how services are provided.

Questions and Answers for CDASS and IHSS

Q: What is the difference between CDASS and IHSS?

A: CDASS is like In-Home Support Services (IHSS), except it allows a member or their Authorized Representative (AR) to be the legal employer of attendants when directing care. You complete various employer tasks; however, in CDASS, Financial Management Services contractors provide some fiscal services like payroll, running background checks, withholding and paying taxes, and tracking CDASS spending.

Q: What are Information and Assistance (I&A) services?

A: These one-on-one services, offered through Consumer Direct of Colorado, are available to members, and their ARs, participating in CDASS and IHSS. They provide personalized assistance tailored to your needs and preferences, with a schedule set by you. I&A services also support the case manager by allowing them to focus on the tasks only they can complete while Consumer Direct assists with member resource referrals and skill building.

Q: How do my attendants get healthcare benefits?

A: Attendants in CDASS and IHSS are eligible for sick leave and [family and medical leave](#). Access to health insurance is offered by most of IHSS agencies and CDASS employers have some options to support their employees getting access to a health plan. For CDASS, HCPF is not able to provide health insurance to attendants because it nor the FMS are the employer. However, CDASS employers have some options. They can:

1. Build the cost into their employees' hourly wage as long as they remain in budget and continue to get their care needs met.

2. Share information about the [Medicaid buy-in program](#), which is available for working adults with a disability.
3. Look into the [Small Business Health Options Program](#) which allows small businesses with 1-50 employees to access group health insurance plans through the marketplace and potentially earn tax credits.

Q: What happens to my services while I am in the hospital?

A: Members may not receive CDASS or IHSS while in the hospital. IHSS agencies may not bill for services and a CDASS member must not allow their attendants to work and submit timesheets if they are in the hospital. If this occurs, the CDASS member or IHSS agency may receive a fraud claim with the State. Members, or their ARs, must be sure to let their case manager and IHSS agency or FMS contractor know if they are hospitalized. Your Case Manager will work with you to determine your status on the program and the requirements for keeping services available while you're cared for by the hospital. CDASS members want to schedule attendants to work while they are in the hospital, they will have to pay these hours out of pocket.

Q: Who do I contact if my needs change, or if I feel my current needs are not being met?

A: The case manager's role is to assess your eligibility for CDASS or IHSS, evaluate your current health care needs, and determine the appropriate services with your collaboration. If you have a need that is not addressed or if you have had a change in your medical condition, ask them to reassess your needs and adjust your services.

Q: What do I do if my attendant told me they did not get paid correctly?

A: If you are a CDASS employer, your selected FMS contractor will assist with payroll issues or questions and help to train you on the timesheet system, so you are confident in reviewing and approving timesheets. In IHSS, remember that the agency is the attendant's employer. You should encourage them to contact the agency's payroll manager or human resources to address their concerns.

Q: Who will help me find back-up or replacement attendants if mine quit or do not show up?

A: In IHSS, the agency is required to provide back-up or new attendants if yours do not show up or quit. Members/Authorized Representatives in CDASS are responsible for managing and directing care, including creating back-up plans and having back-up attendants so they are prepared for these situations. As the legal employer, they are responsible for the quality of care and hiring, firing, and training attendants. There are several resources available to members and Authorized Representatives to find attendants. Consumer Direct of Colorado can also provide personalized one-on-one assistance through their Information and Assistance service.

Q: What do I do if I feel like I need more information about how my program works and what my responsibilities are?

A: Consumer Direct of Colorado is the training and support contractor for IHSS and CDASS. Its purpose is to assist you with whatever support you need. If you have any questions, concerns, or would like extra resources and coaching, contact them at 1-844-381-4433 or InfoCDCO@ConsumerDirectCare.com.

Q: What do I do if I need a new Authorized Representative?

A: For CDASS, all new members, or their Authorized Representatives (AR), must complete orientation with CDCO. Contact your case manager if you would like to change your AR. Once you have submitted the AR forms to your case manager, they will make a referral to CDCO, and it will contact the new AR to schedule and complete orientation. It is important to know that the entire process can take 45-60 days. During this transition period, the current AR is responsible to maintain the duties until the new AR is fully trained. If you are designating an AR who is already an AR for someone else or has already completed CDASS training, they may be exempt from completing orientation.

If you are on the IHSS program you will need to notify your IHSS agency and case manager. The new AR will need to complete paperwork and training through the agency.

Q: What should I do if I need to fire or reprimand one of my attendants?

A: You should document any concerns you have with your attendants and keep records of all conversations and interactions. The more detailed the information the better. Remember, as the legal Employer of Record in CDASS you are responsible for all aspects of managing your attendants including termination. In IHSS, since the agency is the legal employer you will need to discuss your concerns with your agency so they can address corrective action.

Q: What is Community First Choice (CFC)? How will it affect me?

A: Community First Choice, also called CFC, is an optional Medicaid program that allows states to provide select Home and Community-Based Services (HCBS) to eligible members on the State Plan. In Colorado CFC begins July 1, 2025. It expands long-term care services to more members because CDASS and IHSS will now be offered under CFC instead of a waiver. Starting July 1, 2025, Homemaker, Personal Care, and Health Maintenance Activities that have been accessed through traditional agency-based care settings, CDASS, and IHSS will be moved from HCBS waivers and will be available under Medicaid State Plan through CFC.

As part of this transition, the service requirements for CDASS and IHSS service delivery options will be aligned. One example of this is regarding caregiver limits. Currently, members who utilize IHSS may only reimburse family members up to 40 hours/week, while

members who utilize CDASS must limit family member reimbursement to 40 hours/week per family member. In CFC, there will no longer be a 40 hour/week family caregiver limit at all. There will be a limit to homemaker care (tasks like sweeping, mopping, and laundry) provided by a Legally Responsible Person of the member. Any Legally Responsible Person providing homemaker services for a CDASS or IHSS member will be limited to 520 hours/year.

For more information about the upcoming changes, please review the materials available on the Community First Choice [webpage](#). These changes occurring with CFC should make self-directed services more accessible for more people with minimal changes to caregiving. Because of CFC, you should experience more flexibility in how your caregivers provide care.

Q: What is the Fair Labor Standards Act (FLSA)?

A: FLSA is the federal law that requires employers to pay employees minimum wage and overtime. This includes domestic services employees. “Domestic Service Employment” means services of a household nature performed by an employee in or about a private home.

Q: Does everyone have to be paid overtime and what happens if an Attendant works more than 40 hours for more than one member?

A: If an attendant works more than 40 hours in a work week or more than 12 hours in a single shift for the same employer, they are most likely required to receive overtime compensation as indicated by the Fair Labor Standards Act (FLSA). There are some instances where an individual may be exempt from overtime such as family members working as attendants. For more information, please visit <https://www.dol.gov/whd/homecare/>

Q: My current Attendants work more than 40 hours each week, I’m concerned how I will afford overtime with my current allocation. What options are available to me?

A: Paying overtime is a federal requirement and cannot be waived. However, there are options available to Members in this situation:

- Consider the option of hiring additional attendants to reduce the hours worked by the attendants currently working more than 40 hours per week. Consumer Direct can assist you with resources for finding additional attendants.
- Evaluate the wages you’re paying for your services to determine if a lower hourly wage is appropriate to account for the overtime payment.
- Contact your Case Manager to explore other service delivery options that may better fit your needs.

Q: Are there any exemptions from the Fair Labor Standards Act (FLSA) Overtime requirements?

A: There are two exemptions under FLSA an employer may claim should all of the criteria be met. These are known as “**Live-in Domestic Service Employee Exemptions**” and “**Companionship Services Exemption**.” CDASS is a task-based service. This means that the Companionship Exemption does not apply due to the definition established by Department of Labor.

Live-in Domestic Service Employee Exemptions

To be a live-in domestic service worker, a worker must reside on the employer's premises either "permanently" or for "extended periods of time."

- A worker resides on the employer's premises permanently when he or she lives, works, and sleeps on the employer's premises seven days per week and therefore has no home of his or her own other than the one provided by the employer under the employment agreement.

A worker resides on the employer's premises for an extended period of time when he or she lives, works and sleeps on the employer's premises for five days a week (120 hours or more). If a domestic worker spends less than 120 hours per week working and sleeping on the employer's premises but spends five consecutive days or nights residing on the premises, this also constitutes an extended period of time.

- Employees who do not meet this definition are not considered live-in domestic service workers and must be paid at least the federal minimum wage for all hours worked and overtime pay at one and a half times the regular rate of pay for all hours worked over 40 in a workweek.
- Workers who work temporarily for the household for only a short period of time, such as two weeks, are not considered live-in domestic service workers, because residing on the premises of the household implies more than temporary activity. The employer, in this case, cannot claim the overtime pay exemption and must pay overtime at one and a half times the regular rate of pay for all hours worked over 40 in the workweek.
- Workers who work 24-hour shifts but are not residing on the employer's premises “permanently” or for “extended periods of time” are not considered live-in domestic service workers and, thus, the workers must be paid overtime at one and a half times the regular rate of pay for all hours worked over 40 in the workweek.

See [Wage and Hour Division Fact Sheet 79B, Live-in Domestic Service Workers Under the FLSA](#), for more information about live-in home care workers and how they must be paid.

Q: What is my requirement for Overtime Pay under the Fair Labor Standards Act (FLSA) regarding Sleep Time for my attendants?

A: In some circumstances, an employer may exclude up to eight hours an employee spends sleeping at the worksite from the time for which an employee must be paid. The requirements for excluding sleep time vary depending on whether an employee is a “live-in” employee, is working a shift of 24 hours or more, or is working a shift of less than 24 hours. For all employees whose sleep time can usually be excluded, any interruptions to sleep time by a call to duty must be paid, and if the employee is interrupted such that he or she cannot get reasonable periods of sleep totaling at least five hours, the entire night must be paid. Additional information about these requirements is available at [Department of Labor - Sleep FAQs](#).

Questions and Answers for CDASS

Q: What is CDASS?

A: Consumer-Directed Attendant Support Services, CDASS for short, is an option for some Health First Colorado members who want the freedom and power to make decisions about their care. It is often called a self-directed service delivery option. In CDASS, members receive services in the categories of homemaking, personal care, and/or health maintenance (skilled care). The member, or their Authorized Representative, is the legal employer of attendants. They get to select, train, and terminate attendants, set wages, approve time sheets, and more.

Q: Who are the key players involved in CDASS?

A: There are six key players involved in CDASS:

1. Member and Authorized Representative (if they have one),
2. Attendant
3. Case manager
4. Consumer Direct for Colorado
5. Financial Management Services contractor (FMS)
6. Department of Health Care Policy & Financing (HCPF)

Q: What are the steps to enroll in CDASS?

A: There are eight steps for a Health First Colorado member to enroll in CDASS:

1. Enroll in an eligible waiver or Community First Choice
2. Meet with your case manager
3. Attend CDASS orientation

4. Complete your Attendant Support Management Plan
5. Case manager approves ASMP and CDCO sends a referral to your selected FMS
6. Complete paperwork to enroll with your FMS
7. FMS receives member's Prior Authorization Request
8. Services begin

Q: How do I keep track of the amount of CDASS funds I have spent each month?

A: Your FMS is responsible for issuing you a Monthly Member Expenditure Statement every month that shows what you have spent and will assist you with staying on track with your monthly budget. You also have access to an online portal through your FMS. You will need to work with your FMS to understand these tools and for questions on your expenditures.

Q: Can I save some of my CDASS monthly allocation to spend later in the year when my needs are higher?

A: It depends. If you anticipate a temporary increase in your needs that will require you to spend more than your monthly budget, you can save up a reserve of CDASS funds. However, if your needs increase permanently, you need to adjust your approved CDASS allocation by working with your case manager.

Q: If I decide to save up a reserve of funds, how do I use it?

A: Best practice is to always let your case manager know when you plan on saving up a reserve of funds. When the time comes for your anticipated increase in care needs, you will schedule your attendants for the extra hours you need them. As long as you plan to spend under 30% of your monthly budget, you should experience no issues. Any shifts that cause you to overspend your budget by 130% or more will be denied and you will be responsible for paying for those extra shifts out of pocket.

Q: What if I spend over 100% of my monthly budget and I did not save up any reserves?

A: CDASS allows "overspending" the member's monthly CDASS budget as long as it's between 100% and 109.99% of the total. Spending between 110% and 129.99% is not allowed and when it occurs, a CDASS employer may be issued an CDASS Overspending Episode by the case manager. **An episode will not be issued only if one of the following three things occurs:**

1. The member had reserve funds
2. The increase in spending was planned and documented in the Attendant Support management plan or,
3. The member/AR notified the case manager

Each month that an employer overspends the monthly budget and is issued an episode, specific action must be taken. Each CDASS Overspending Episode's required action steps are:

1st episode: Discuss the overspending with your case manager.

2nd episode: The member or their AR (CDASS employer) must complete required overspending coaching. Set a reduced budget.

3rd episode: The member must get an AR or get a new AR. Set a new reduced budget.

4th episode: The member's new AR must complete required overspending coaching. Set a new reduced budget.

5th episode: The member is permanently terminated from CDASS. Must work with the case manager to find a new service delivery option.

Q: Do I or my attendants get any tax discounts by working with an FMS?

A: CDASS employers and their attendants may qualify for some tax exemptions or exclusions depending on the employer-employee relationship. These are dictated by the federal government and not each FMS; however, your FMS or Consumer Direct can help you identify if you or your attendant qualify for any. The FMS will work with you to ensure that the correct taxes are withheld from you and your attendants.

The following chart outlines the current exemptions available for **CDASS employers**.

Attendant Relationship to the CDASS Employer (FEIN Holder)	Social Security and Medicare Tax (FICA)	Federal Unemployment Tax (FUTA)	State Unemployment Tax (SUTA)
Spouse employed by Spouse	Exempt	Exempt	Exempt
Child employed by Parent (child under the age 21)	Exempt	Exempt	Exempt
Parent employed by Adult Child (adoptive parent or stepparent)	Exempt	Exempt	Not Exempt
Minor students employed (full-time students under age 18)	Exempt	Not Exempt	Not Exempt

An attendant who lives with the member that they provide services to may apply for the Difficulty of Care Exclusion. Difficulty of Care excludes the attendant **from federal income tax and state income tax when certain steps are taken**. Attendants must identify during their enrollment with the FMS whether they qualify for the exclusion.

Important for CDASS employers and attendants to understand about Difficulty of Care is that income taxes **are not** the same as employment taxes. If an Attendant is excluded from paying income taxes, that does not mean that are automatically exempt from paying various employment taxes. Payments to attendants who receive the Difficulty of Care exclusion are still responsible for paying FICA, FUTA, and SUTA unless the attendant is already employment tax exempt due to a qualifying familial relationship to the CDASS employer. Additionally, payments to attendants who receive the Difficulty of Care exclusion means an attendant will be reported as having **zero earnings** for the calendar year and the FMS will not issue them a W-2, unless they receive paid sick leave payments.

Sick leave payments are considered wages and subject to state [and federal?] income tax. The Difficulty of Care exemption becomes active from the day it is processed by the FMS. If the attendant earned income before filling out the FMS's Difficulty of Care form, those wages will be reported on their W-2. For more information about Difficulty of Care, CDASS employers and their attendants should speak with a tax advisor and visit the IRS website at <https://www.irs.gov/individuals/certain-medicaid-waiver-payments-may-be-excludable-from-income>.

According to the IRS, CDASS employers and attendants cannot opt out of these exemptions. It is true that the attendant would not be earning social security credits and since the employer is exempt from paying into FUTA and SUTA, the attendant could not collect unemployment. The attendant should check with the FMS provider regarding their process for identifying family relationships. It is important to note that attendants should seek advice from a tax professional if they have questions.

Questions and Answers for IHSS

Q: What is IHSS?

A: In-Home Support Services, IHSS for short, is an option for some Health First Colorado members who want the freedom and power to make decisions about their care, with the added support of an agency. It is often called a self-directed service delivery option. In IHSS, members receive services in the categories of homemaking, personal care, and/or health maintenance (skilled care). The IHSS agency is the legal employer of attendants. They are responsible for training, approving timesheets, providing backup care, and more.

Q: Who are the key players involved in IHSS?

A: There are six key players involved in CDASS:

1. Member and Authorized Representative (if they have one)
2. Attendant
3. Case manager
4. Consumer Direct for Colorado
5. IHSS agency
6. Department of Health Care Policy & Financing (HCPF)

Q: What are the steps to enroll in IHSS?

A: There are eight steps for a Health First Colorado member to enroll in CDASS:

1. Enroll in an eligible waiver or Community First Choice
2. Meet with your case manager
3. Begin completing your IHSS Care Plan and obtain your Physician Attestation form
4. Pick an IHSS agency
5. Enroll with your selected IHSS agency
6. Case manager approves the Care Plan and completes the Prior Authorization Request
7. IHSS agency begins member orientation and attendant staffing
8. Services begin

Q: How do I pick an IHSS agency?

A: You will pick an IHSS agency after you meet with your case manager and complete your initial needs assessment. The most up to date list can be found on the Colorado Department of Health Care Policy and Financing website: [IHSS Provider List](#). You can search by county and research which agency would work best for you. You can switch agencies at any time and would need to start by talking to your case manager.

Q: In IHSS, who is responsible for overseeing family members providing care?

A: In IHSS, the member/Authorized Representative (AR) directs their care; however, the IHSS agency is required to manage all attendants. This includes administering skills validation for all attendants, including family members. If the IHSS agency cannot verify and validate the family member's skills and ensure that services can be completed safely, they may choose not to hire the individual or recommend the member/AR discuss alternative service options. Ultimately, the IHSS agency is responsible for ensuring that services are delivered appropriately, safely, and in accordance with program regulations.