

## Comparison of In-Home Service Plan Assistance Types/Roles

| Assistance Type/Role                                                                                                                                                                                                                                                                | Can be an Authorized Representative (AR)? | Can be an Alternate Payee (AP)? | Can be a Consumer Employer or Client Representative? | Can be Appointed Legal Guardian? | Can be a Medicaid Paid Provider (HCW)? | Can be an ICP Representative? |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|---------------------------------|------------------------------------------------------|----------------------------------|----------------------------------------|-------------------------------|
| <b>Authorized Representative (AR)</b><br><b>(MSC 0231 Form)</b><br><i>A designated person or organization who can sign/submit applications, renew benefits, get documents, and receive eligibility notices, etc., for the consumer (<a href="#">OAR 461-115-0090(1)(5)(6)</a>).</i> |                                           | * Yes                           | * Yes                                                | Yes                              | Yes                                    | Yes                           |
| <b>Alternate Payee (AP)</b><br><b>(MSC 0231)</b><br><i>An individual or organization permitted to obtain and use program benefits for and in the best interests of the consumer (i.e., SNAP, EBT card, <a href="#">OAR 461-165-0035</a>)</i>                                        | Yes                                       |                                 | * Yes                                                | Yes                              | ♦ Yes                                  | Yes                           |
| <b>Consumer-Employer (CE) or Client Representative (SDS 0737)</b><br><i>CE Rep: Manages in-home consumer-employer responsibilities (hire, supervise, fire, HCWs)</i><br><i>Client Rep: Supports consumer to make long-term care decisions on their behalf.</i>                      | Yes                                       | Yes                             |                                                      | > Yes                            | No                                     | Yes                           |
| <b>Court Appointed Guardian</b><br><i>Legally responsible for managing all LTSS care and financial decisions (If no court Conservator has been appointed)</i>                                                                                                                       | Yes                                       | Yes                             | Yes                                                  |                                  | + No                                   | Yes                           |
| <b>Paid Provider (HCW or IHCA)</b><br><i>Employed to provide Medicaid in-home services by a consumer</i>                                                                                                                                                                            | Yes                                       | ♦ Yes                           | + No                                                 | + No                             |                                        | + No                          |

| ICP Representative                                                                     |     |     |     |     |      |  |
|----------------------------------------------------------------------------------------|-----|-----|-----|-----|------|--|
| Responsible for assisting an ICP participant with financial and service plan decisions | Yes | Yes | Yes | Yes | + No |  |

- \* An individual may provide this type of assistance ***IF*** no actual or perceived undue conflict of interest or undue influence exists. This role should ***not*** be authorized for an individual if it is determined that a potential or real conflict of interest is suspected or verified.
- ♦ A HCW may be appointed by the consumer or their Authorized Representative to act as an individual's Alternate Payee, assuming there are no disqualifying factors ([OAR 461-165-0035\(6\)](#), [OAR 411-031-0050\(3\)](#)).
- + An individual who is a paid provider may ***NOT*** make service plan and care-related decisions and in addition, may ***NOT*** be a consumer's legal guardian, CE Representative or Client Representative ([OAR 411-030-0040\(5\)\(a-d\)](#), [OAR 411-031-0040\(1\)](#)).
- > An individual with a court appointed legal guardian must designate a CE Representative to act for (in the place 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 ***can be*** a paid provider but if this is the case, there ***must*** be a separate person designated to act as the Consumer-Employer Representative or Client Representative for making service planning and LTSS decisions.
- \* **Additional Information:**
  - > "Conflict of Interest" means a situation exists in which a person is in a position to ***derive personal benefit*** from their actions or decisions made in their relationship or role with another individual. Note: It is ***always*** considered a conflict of interest if a paid provider is making/managing service plan/care-related decisions on behalf of a consumer (meaning the provider is acting as the Consumer's authorized CE or Client Representative, [OAR 411-031-0020\(21\)](#), [411-031-0040\(8\)\(b\)\(N\)](#), and [411-031-0050\(3\)\(p\)](#)).
  - > "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 or has something to personally gain from the consumer -- this constitutes a conflict of interest. (Ex. A HCW persuades a consumer with declining cognition whose family members live in another state, to only talk with family when the provider is present (to control information). The HCW also throws away mail from family members. The consumer is gradually persuaded to only listen to, trust and follow guidance from the HCW. Interaction with others, including the CM, is largely restricted.

### Other Supportive Roles:

- Note:** 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 for informational purposes.
- > "Guardianship" means a court has issued an order appointing an individual with the power and duty of managing personal, care, health, comfort, maintenance and fiduciary decisions for (in the place of) a functionally incapacitated or financially incapable person under ORS chapter 125 ([OAR 411-026-0010\(12\)](#)).

- "Conservatorship" means 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 POA unless revoked by the courts (ORS 127.005(5)).
- "Money Management" means 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 a consumer.
- "Power of Attorney" means an individual appointed to manage another person's financial or business affairs when that person is unable to do so.

Note: A Power of Attorney (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 231 must be completed by the consumer or their Authorized Representative. A legal guardian or person with a POA can designate themselves on the 231, in which case they 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 Consumers:**

- 1) A single Authorized Representative is named for all financial programs and benefits an individual receives on a single case in the ONE System (DHS 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 Oregon ACCESS.
  - 2) Who can act as a "Representative" for a Direct Contact? A person either appointed by an individual to participate in service planning on the consumer's behalf (i.e., CE Rep), or a person with longstanding involvement in assuring the consumer's health, safety, and welfare (unless they are 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 consumer is unable to do so.
  - **Spousal Pay Program** (SPH): The Spousal Pay Program is under the CEP rules related to representatives ([OAR 411-030-0040\(4\)\(5\)](#)). 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 consumer's behalf or of a natural support with longstanding involvement in assuring the consumer's health, safety, and welfare. A representative may not be a paid in-home care agency employee (OAR 411-033-0010(43)). An "Individual Representative" may serve with the same responsibilities but is not designated as a CE Representative in the CEP Program (OAR 411-030-0040(5)) and is not recorded on a 737 form or in Oregon ACCESS. (Note: The reference to a "legal representative" ([OAR 411-033-0010\(45\)](#)) is not a different representative type but is meant to describe an appointed Individual's Representative's responsibilities related to the consumer's service plan).
  - **State Plan Personal Care:** 1) "Representative" refers to a person appointed by the consumer to participate in service planning and provide the employer responsibilities on the consumer'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\(3\)\(a\)\(D\)](#)). 2) 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. Note: 1) A 737 form is not used to designate SPPC representatives. 2) A paid provider may not be an individual's representative or legal representative ([OAR 411-034-0050\(1\)\(c\)](#)).

### Tips for Helping Consumers Understand/Fill-Out the 231 & 737 Forms

| Form       | Suggestions to Provide Clarity for Consumers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>231</b> | <p>The 231 states, "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." This statement by itself could make some consumers think that an Authorized Representative fulfills all possible APD representative roles – including service planning (if the consumer does not read what follows, ". . . except . . . in some cases long-term care services").</p> <p>Suggestion:</p> <ol style="list-style-type: none"> <li>1) Explain the purpose and limitations of the Authorized Representative or Alternate Payee's role.</li> <li>2) 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.</li> </ol> |
| <b>737</b> | <p>After explaining a Consumer-Employer Representative's role and responsibility in assisting the consumer as described on the 737 form, verbally (or with a note on the form if mailed), you may clarify this role by stating something like, "Your chosen Consumer-Employer (or Client) Representative cannot also be your paid caregiver (Homecare Worker)."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| FORMS                                               | RULES                         |                                                                                                                      | TRANSMITTALS                                                                                                                                                                                       | RESOURCES                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">MSC0231</a><br><a href="#">SDS 0737</a> | 231 Form (AR / AP)            | <a href="#">OAR 461-115-0090 (ARs)</a><br><a href="#">OAR 461-165-0035 (APs)</a>                                     | <a href="#">APD-PT-16-020</a><br><a href="#">APD-PT-19-009</a><br><a href="#">APD-AR-19-026</a><br><a href="#">APD-IM-19-055</a><br><a href="#">APD-IM-19-083</a><br><a href="#">APD-PT-20-072</a> | <ul style="list-style-type: none"> <li>• <a href="#">Financial Eligibility FAQ (Authorized Reps.)</a></li> <li>• <a href="#">Oregon Programs Eligibility Notebook</a></li> <li>• <a href="#">Guardianships and Conservatorships (OAR 411-026)</a></li> <li>• <a href="#">Oregon Public Guardian &amp; Conservator Program (OPG)</a>, <a href="mailto:info@opg.state.or.us">info@opg.state.or.us</a>.</li> </ul> |
|                                                     | 0737 Form CE Rep & Client Rep | <a href="#">OAR 411-030-0040(4)(5)</a><br><a href="#">OAR 411-034-0040</a><br><a href="#">OAR 411-035-0085(3)(4)</a> |                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <a href="#">ICP Rep. Agreement</a>                  | ICP page                      | <a href="#">OAR 411-030-0100(3),(6)</a>                                                                              |                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• ICP Provider and ICP Representative Background Check Application</li> </ul>                                                                                                                                                                                                                                                                                            |