

Mary Lee Fay  
Authorized Signature

**Number:** APD-AR-12-026  
**Issue Date:** 6/26/2012

**Topic:** Developmental Disabilities

**Due Date:**

**Subject:** Clarification on Reporting for HB3618

**Applies to (check all that apply):**

- |  |   |
|--|---|
| <input type="checkbox"/> All DHS employees                     | <input type="checkbox"/> County Mental Health Directors   |
| <input type="checkbox"/> Area Agencies on Aging                | <input type="checkbox"/> Health Services  |
| <input type="checkbox"/> Children, Adults and Families         | <input type="checkbox"/> Seniors and People with Disabilities   |
| <input checked="" type="checkbox"/> County DD Program Managers | <input checked="" type="checkbox"/> Other (please specify): Support Service Brokerage Executive Directors |

**Action Required:** The purpose of this transmittal is to provide further clarification and guidance on the implementation of HB3618 passed in the 2010 special session and as codified in ORS 410.595 to 625. Specifically, this transmittal relates to reporting and other responsibilities of Community Developmental Disability Programs (CDDPs) and Support Service Brokerages in regard to Personal Support Workers.

Personal Support Workers (PSWs) are defined in HB3618 by the functions or types of services they perform on behalf of service recipients. While most Personal Support Workers are employees of the service recipient, others may be classified as Independent Contractors if they meet the various state statutory definitions of an Independent Contractor. This transmittal is to further clarify reporting and other actions required of CDDPs and Brokerages or their designees (i.e. fiscal intermediary agencies) in regard to Independent Contractors that qualify as PSWs under HB3618.

These requirements are:

1. On the monthly report submitted to DHS by CDDPs and Brokerages to the Department on the customers/employers that utilize PSWs, make sure this list includes the names and other information of all service recipients that utilize the services of Independent Contractors that meet the definition of PSW under HB3618.
  - a. For CDDPs and Brokerages that use a 3<sup>rd</sup> party fiscal intermediary to report only on PSWs paid through a payroll system, then a supplement report that contains the added people who use Independent Contractors that are

PSWs will be required.

2. On the quarterly compensation report submitted to DHS by CDDPs and Brokerages, make sure the total reported to the Department includes the amount paid to all Independent Contractors that meet the definition of PSW under HB3618. The amount included for Independent Contractors that meet the definition of a PSW is the payments made to those Independent Contractors based on the invoices submitted.
  - a. The next quarterly compensation report will be due in July. The amounts paid Independent Contractors that are PSWs must be included in that report.
3. Communicate with all Independent Contractors that meet the definition of PSW under HB3618 that they:
  - a. Are considered PSWs and subject to the provisions of HB3618,
  - b. Are represented by SEIU for the purposes of collective bargaining,
  - c. Are covered by workers compensation under a policy with the SAIF Corporation in performing their PSW duties,
  - d. Are responsible to pay into the Workers Benefit Fund as required by the Department of Consumer and Business Services and consistent with the instructions of that Department.
  - e. Will have information about them as service providers reported to various state Departments and Agencies associated with the implementation of HB3618.

We expect that in the next few weeks or months additional clarification or changes in implementing HB3618 will be forthcoming. This information will be communicated via formal transmittals.

**Reason for Action:** See above

**Field/Stakeholder review:**     Yes     No

**If yes, reviewed by:**

*If you have any questions about this action request, contact:*

<b>Contact(s):</b>	Mike Parr Corissa Neufeldt		
<b>Phone:</b>	503-945-6109 503-945-6742	<b>Fax:</b>	
<b>E-mail:</b>	<a href="mailto:Mike.r.parr@state.or.us">Mike.r.parr@state.or.us</a> <a href="mailto:Corissa.neufeldt@state.or.us">Corissa.neufeldt@state.or.us</a>		