

2025 -- H 5228

=====
LC000762
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS – QUALITY SELF-DIRECTED SUPPORTS ACT OF 2025

Introduced By: Representatives Shanley, Edwards, Craven, McNamara, Solomon,
Kazarian, Slater, Diaz, Potter, and Casey

Date Introduced: January 29, 2025

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings.

2 (1) The State of Rhode Island is committed to closing the gap between the demand for
3 personal care services for developmentally disabled adults and the supply of trained workers willing
4 to provide this personal care.

5 (2) The purpose of this chapter is to further the state’s goal of meeting the demand for
6 personal care services by investing in self-directed personal care jobs. By raising wages and
7 benefits for self-directed direct support professionals, the State of Rhode Island will ensure that
8 more developmentally disabled adults can self-direct the care they need and want. In addition, by
9 incorporating collective bargaining rights into the self-directed supports program, this chapter will
10 enhance service access, increase the availability of education and training options, and improve the
11 recruitment and retention of the people selected by participants as direct support professionals.

12 (3) This chapter does not alter or limit the director’s authority to administer the self-
13 directed supports program, enforce existing rules, regulations and procedures or adopt amended
14 rules, regulations and procedures for operating the program, determine a participant’s Medicaid
15 eligibility and appropriateness for self-directed personal care services, or assess the scope, amount
16 and duration of services authorized to meet a participant’s needs, except as specifically set forth in
17 this chapter.

18 (4) This chapter does not alter or limit the rights of participants and their representatives to

1 select, direct, and terminate the services of self-directed direct support professionals or to determine
2 the wages of self-directed direct support professionals within a range set by the director.

3 SECTION 2. Title 40.1 of the General Laws entitled "BEHAVIORAL HEALTHCARE,
4 DEVELOPMENTAL DISABILITIES AND HOSPITALS" is hereby amended by adding thereto
5 the following chapter:

6 CHAPTER 22.2

7 QUALITY SELF-DIRECTED SUPPORTS ACT OF 2025

8 **40.1-22.2-1. Short title.**

9 This chapter shall be known and may be cited as the "Quality Self-Directed Supports Act
10 of 2025".

11 **40.1-22.2-2. Definitions.**

12 For the purposes of this chapter:

13 (1) "Department" means the department of behavioral healthcare, developmental
14 disabilities and hospitals.

15 (2) "Developmental disability organizations" or "DDOs" means an organization licensed
16 by the department to provide services to adults with disabilities.

17 (3) "Director" means the director of the department of behavioral healthcare,
18 developmental disabilities and hospitals or the director's designees.

19 (4) "Fiscal intermediary" means a third-party organization operating in accordance with
20 applicable federal and state requirements under contract with the state that is responsible for
21 performing payroll and other employment-related functions on behalf of a participant as set forth
22 in the implementing regulations for the self-directed supports program.

23 (5) "Participant" means an adult who has a developmental disability as defined by § 40.1-
24 21-4.3(1) and has been determined by the state to be eligible for Medicaid-funded long-term
25 services and supports under the Medicaid state plan and/or the RI section 1115 waiver
26 demonstration and/or Medicaid authorities created in the future.

27 (6) "Participant's representative" means a participant's legal guardian or a person who has
28 been designated by the participant or otherwise has the authority and responsibility to act on behalf
29 of a participant with respect to the provision of self-directed services, including the developmental
30 services subject to this chapter.

31 (7) "Provider representative" means a provider organization that is certified as the
32 exclusive negotiating representative of self-directed direct support professionals as provided in §
33 40.1-22.3-7.

34 (8) "Secretary" means the secretary of the executive office of health and human services

1 (EOHHS).

2 (9) “Self-directed direct support professional” means an individual selected by and working
3 under the direction of a self-directed supports participant or the participant’s duly authorized
4 representative to provide self-directed personal care services to the participant in accordance with
5 a person-centered plan and the implementing regulations promulgated for the program by the
6 director. Self-directed direct support professional does not mean or include an employee of a DDO,
7 subject to the DDO’s direction and control commensurate with DDO employee status.

8 (10) “Self-directed personal care services” means home and community-based personal
9 care and in-home support services a participant is authorized to self-direct to meet their daily living
10 needs, function adequately at home, safely access the community, or other nonprofessional services
11 under the self-directed supports program or any similar program that may provide similar services
12 in the future under the Medicaid state plan, section 1115 demonstration waiver, or future Medicaid
13 authorities promulgated by the secretary or director.

14 **40.1-22.2-3. Scope of coverage.**

15 Self-directed direct support professionals may provide all self-directed personal care
16 services to the extent the applicable federal and state laws and rules and regulations allow.

17 **40.1-22.2-4. Use of employee workforce.**

18 (a) The state’s ability to afford participants and participants’ representatives who choose
19 not to employ a self-directed direct support professional, or are unable to do so, the option of
20 receiving personal care services through the employees of provider agencies, rather than through a
21 self-directed direct support professional, shall not be restricted.

22 (b) Nothing in this chapter shall restrict the state’s ability to afford self-directed supports
23 participants with the freedom of choice guaranteed under Title XIX of the Social Security Act, 42
24 U.S.C. § 1396 et seq., to enter into service delivery agreements with any authorized Medicaid
25 provider.

26 **40.1-22.2-5. Duties of the department of behavioral healthcare, developmental**
27 **disabilities and hospitals.**

28 (a) Notwithstanding the state’s obligations to meet and negotiate under chapter 7 of title 28
29 (“labor relations act”), nothing in this chapter shall be construed to make self-directed direct support
30 professionals employees of the state for any purpose, including for the purposes of eligibility for
31 the state employee pension program or state employee health benefits.

32 (b) The director has authority over the terms and conditions of self-directed direct support
33 professionals’ employment, including compensation as required under § 40.1-22.2-6, payment,
34 benefit terms, provider qualification standards, other appropriate terms and conditions for the

1 workforce of self-directed direct support professionals without infringing on participants' or
2 participant representatives' rights and responsibilities to hire, direct, supervise, and/or terminate
3 the employment of their self-directed direct support professionals, and orientation, training, and the
4 operation of a registry as required under § 40.1-22.2-7.

5 (c) The director's authority in subsection (b) of this section only applies to self-directed
6 personal care services and is subject to the state's obligation to meet and negotiate with a provider
7 representative pursuant to § 40.1-22.3-3.

8 **40.1-22.2-6. Wage ranges.**

9 (a) The state shall set wage ranges for all self-directed direct support professionals. All
10 self-directed personal care services performed by self-directed direct support professionals shall be
11 compensated at a wage that is within the range set by the director for the services; provided,
12 however, the participant may choose what wage to pay within the applicable range.

13 (b) The wage range shall be the subject of collective bargaining as provided in this chapter.
14 However, such collective bargaining shall be related solely to self-directed personal care services.
15 All other self-directed services available to self-directed supports participants other than personal
16 care and in-home support services are excluded from collective bargaining.

17 (c) The provisions of this section shall take effect upon the certification of a provider
18 representative as provided in § 40.1-22.3-13.

19 **40.1-22.2-7. Other duties of the director of behavioral healthcare, developmental**
20 **disabilities and hospitals.**

21 (a) The director shall determine by rule or regulation that self-directed direct support
22 professionals selected by self-directed supports participants are required to complete an orientation,
23 pursuant to the director's authority under § 40.1-21-12. The director shall determine by rule or
24 regulation the specific types of education, experience, or training that shall be required for a self-
25 directed direct support professional to be included on a registry of persons qualified to be self-
26 directed direct support professionals. The provisions of this section shall be collectively bargained
27 with the provider representative.

28 (1) Representatives of the provider representative shall be permitted to attend and present
29 information about the provider representative at educational and training programs presented by
30 the John E. Fogarty Institute of Rhode Island pursuant to § 40.1-21-6. The John E. Fogarty Institute
31 of Rhode Island shall provide the provider representative with a schedule of educational and
32 training programs at least two (2) weeks in advance. The provider representative shall be authorized
33 to provide self-directed direct support professionals with access to more training or education than
34 is minimally required by the director. Nothing in this chapter prohibits a self-directed supports

1 participant from requiring a self-directed direct support professional to complete more training or
2 education than is minimally required by the director.

3 (b) The director shall maintain, either directly or through a contracted vendor, a registry
4 for self-directed direct support professionals pursuant to the authority provided under § 40.1-21-12
5 and shall collaborate with the provider representative to maintain this registry. This registry shall
6 be consolidated with the registry established for the personal choice program pursuant to § 40-8.15-
7 15.

8 (c) The provisions of this section shall take effect upon the certification of a provider
9 representative as provided in § 40.1-22.3-13.

10 **40.1-22.2-8. Authority of the department of administration.**

11 In accordance with chapter 22.3 of this title, the director of the department of
12 administration shall have the authority to:

13 (1) In coordination with the director, meet and negotiate with any provider representative
14 chosen pursuant to § 40.1-22.3-2(a);

15 (2) In coordination with the director, negotiate over any of the topics in § 40.1-22.3-2(a)
16 and any other appropriate matters governing the workforce of self-directed direct support
17 professionals without infringing on participants' or their responsible parties' rights and
18 responsibilities to hire, direct, supervise, or terminate the employment of their self-directed direct
19 support professionals; and

20 (3) In coordination with the director, execute a collective bargaining agreement, subject to
21 any approval required under § 40.1-22.3-5.

22 **40.1-22.2-9. Severability.**

23 Should any part of this chapter be declared invalid or unenforceable, or the enforcement or
24 compliance with it is suspended, restrained, or barred, either by the state or by the final judgment
25 of a court of competent jurisdiction, the remainder of this chapter shall remain in full force and
26 effect.

27 SECTION 3. Title 40.1 of the General Laws entitled "BEHAVIORAL HEALTHCARE,
28 DEVELOPMENTAL DISABILITIES AND HOSPITALS" is hereby amended by adding thereto
29 the following chapter:

30 CHAPTER 22.3

31 SELF-DIRECTED DIRECT SUPPORT PROFESSIONALS

32 **40.1-22.3-1. Definitions.**

33 For the purposes of this chapter:

34 (1) "Department" means the department of behavioral healthcare, developmental

1 disabilities and hospitals.

2 (2) “Developmental disability organizations” or “DDOs” means an organization licensed
3 by the department to provide services to adults with disabilities.

4 (3) “Director” means the director of the department of behavioral healthcare,
5 developmental disabilities and hospitals or the director’s designees.

6 (4) “Fiscal intermediary” means a third-party organization operating in accordance with
7 applicable federal and state requirements under contract with the state that is responsible for
8 performing payroll and other employment-related functions on behalf of a participant as set forth
9 in the implementing regulations for the self-directed supports program.

10 (5) “Participant” means an adult who has a developmental disability as defined by § 40.1-
11 21-4.3(1) and has been determined by the state to be eligible for Medicaid-funded long-term
12 services and supports under the Medicaid state plan and/or the RI section 1115 waiver
13 demonstration and/or Medicaid authorities created in the future.

14 (6) “Participant’s representative” means a participant’s legal guardian or a person who has
15 been designated by the participant or otherwise has the authority and responsibility to act on behalf
16 of a participant with respect to the provision of self-directed services, including the developmental
17 services subject to this chapter.

18 (7) “Provider representative” means a provider organization that is certified as the
19 exclusive negotiating representative of self-directed direct support professionals as provided in §
20 40.1-22.3-7.

21 (8) “Secretary” means the secretary of the executive office of health and human services
22 (EOHHS).

23 (9) “Self-directed direct support professional” means an individual selected by and working
24 under the direction of a self-directed supports participant or the participant’s duly authorized
25 representative to provide self-directed personal care services to the participant in accordance with
26 a person-centered plan and the implementing regulations promulgated for the program by the
27 director of behavioral healthcare, developmental disabilities and hospitals. Self-directed direct
28 support professional does not mean or include an employee of a DDO, subject to the DDO’s
29 direction and control commensurate with DDO employee status.

30 (10) “Self-directed personal care services” means home and community-based personal
31 care and in-home support services a participant is authorized to self-direct to meet their daily living
32 needs, function adequately at home, safely access the community, or other nonprofessional services
33 under the self-directed supports program or any similar program that may provide similar services
34 in the future under the Medicaid state plan, section 1115 demonstration waiver, or future Medicaid

1 authorities promulgated by the secretary or director.

2 **40.1-22.3-2. Right of self-directed support professionals to choose provider**
3 **representative -- Subject of negotiation.**

4 (a) Self-directed direct support professionals may, in accordance with the procedures set
5 forth in § 40.1-22.3-7, choose a provider organization to be their provider representative and to
6 negotiate with the state, over the terms and conditions of self-directed direct support professionals'
7 participation in providing direct-support services including, but not limited to:

8 (1) Training and professional development opportunities;

9 (2) Improving the recruitment and retention of qualified self-directed direct support
10 professionals;

11 (3) Reimbursement rates, wages, and other economic matters;

12 (4) Benefits;

13 (5) Payment procedures;

14 (6) Provider qualification standards; and

15 (7) A grievance resolution process.

16 (b) Nothing in this chapter or in chapter 22.2 of this title shall interfere with the regulatory
17 authority of the department of health (DOH) over self-directed direct support professionals
18 licensing. Self-directed direct support professional licensing shall be excluded from and not subject
19 to the negotiation process recognized and described in this section.

20 (c) Notwithstanding the provisions of this section, self-directed direct support professionals
21 shall operate in conformance with the relevant sections of the general laws applicable thereto and
22 regulations promulgated by the state.

23 **40.1-22.3-3. Good faith negotiations.**

24 It shall be the obligation of the director of the department of administration, or designee,
25 to meet and negotiate in good faith with the provider representative within thirty (30) days after
26 receipt of written notice from the provider representative of the request for a meeting for bargaining
27 purposes. This obligation shall include the duty to cause any agreement resulting from the
28 negotiations to be reduced to a written contract.

29 **40.1-22.3-4. Unresolved issues - Impasses procedures.**

30 In the event that the provider representative and the director, or designee, are unable to
31 reach an agreement on a contract, or reach an impasse in negotiations, the procedures of §§ 36-11-
32 7.1 through 36-11-11 shall be followed.

33 **40.1-22.3-5. Economic aspects of contract subject to legislative appropriation.**

34 Any aspects of a contract requiring appropriation by the federal government, the general

1 assembly, or revisions to statutes and regulations shall be subject to passage of those appropriations
2 and any necessary statutory and regulatory revisions.

3 **40.1-22.3-6. Duty to represent all self-directed direct support professionals fairly –**

4 **Deduction of membership dues and other voluntary deductions.**

5 (a) A provider organization certified as the provider representative shall represent all self-
6 directed direct support professionals in the state fairly and without discrimination, without regard
7 to whether or not the self-directed direct support professional is a member of the provider
8 organization.

9 (b) Each self-directed direct support professional may choose whether to be a member of
10 the provider organization. The state, or its designee, shall deduct from payments to self-directed
11 direct support professionals membership dues for self-directed direct support professionals who
12 elect to become members and authorize the deduction of membership dues, and any other voluntary
13 deductions authorized by self-directed direct support professionals.

14 **40.1-22.3-7. Certification and decertification of provider organization.**

15 (a) Petitions to certify a provider organization to serve as the provider representative of
16 self-directed direct support professionals; petitions to intervene in such an election; and any other
17 petitions for investigation of controversies as to representation may be filed with and acted upon
18 by the labor relations board in accordance with the provisions of chapter 7 of title 28 (“labor
19 relations act”) and the board’s rules and regulations; provided that, any valid petition as to whether
20 self-directed direct support professionals wish to certify or decertify a provider representative shall
21 be resolved by a secret ballot election among self-directed direct support professionals.

22 (b) The only appropriate unit shall consist of all self-directed direct support professionals
23 in the state.

24 (c) For purposes of this section, no self-directed direct support professional shall be deemed
25 excluded from the bargaining unit under § 28–7–3(3)(ii) because they provide care to a family
26 member or because they are in domestic service in a person’s home.

27 (d) The cost of any certification election held under this section shall be split equally among
28 all the provider organizations that appear on the ballot.

29 **40.1-22.3-8. Unfair practices.**

30 It shall be unlawful for the state to perform any of the acts made unlawful under § 28–7–
31 13. It shall be unlawful for the provider representative to perform any of the acts made unlawful
32 under § 28–7–13.1. Any alleged violation of this provision may be filed with the labor relations
33 board as an unfair labor practice and considered and ruled upon in accordance with chapter 7 of
34 title 28 (“labor relations act”) and the board's rules and regulations.

1 **40.1-22.3-9. Right of families to select, direct and terminate self-directed direct**
2 **support professionals.**

3 Nothing in this chapter shall be construed to alter the rights of families to select, direct, and
4 terminate the services of self-directed direct support professionals.

5 **40.1-22.3-10. Strikes not authorized.**

6 Self-directed direct support professionals shall not engage in any strike or other collective
7 cessation of the delivery of direct-support services.

8 **40.1-22.3-11. State action exemption.**

9 The state action exemption to the application of state and federal antitrust laws is applicable
10 to the activities of self-directed direct support professionals and their provider representative
11 authorized under this chapter.

12 **40.1-22.3-12. Implementation.**

13 (a) Within ninety (90) days of the effective date of this chapter, any provider organization
14 that has previously been certified to serve as the provider representative of individual providers
15 pursuant to § 40-8.15-7 shall be furnished by the director with contact information for every person
16 providing self-directed personal care services under the self-directed supports program. The
17 director shall provide any such provider organization with updated contact information every sixty
18 (60) days thereafter.

19 (b) The labor relations board shall hold an election to determine whether a provider
20 organization shall be certified as the provider representative for the bargaining unit of self-directed
21 direct support professionals upon a ten percent (10%) showing of interest. All persons who are
22 providing self-directed services under the self-directed supports program shall be considered part
23 of the bargaining unit for purposes of the showing of interest and shall be eligible to vote in the
24 certification election. If a majority of those casting ballots vote to be represented by that provider
25 organization, then the provider organization shall be certified as the provider representative to
26 negotiate with the state over the terms and conditions of self-directed direct support professionals'
27 participation in providing self-directed personal care services for all self-directed direct support
28 professionals in the state. The provisions of this chapter shall otherwise apply.

29 (c) Nothing in this chapter shall be construed to alter or limit the rights of participants and
30 their representative to select, direct, and terminate the services of self-directed direct support
31 professionals or to determine self-directed direct support professionals' wages within a range set
32 by the director, or to alter or limit the director's authority to administer the self-directed supports
33 program including to adopt rules and regulations and operate the program, to determine participant
34 budgets, to determine eligibility, or to authorize services, except as specifically set forth in this

1 chapter.

2 (d) No provision of any agreement or award resulting from collective bargaining and
3 negotiations under this chapter shall provide for a reduction in Medicaid federal financial
4 participation under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., nor shall any
5 provision of any agreement or award provide for a reduction in the self-directed personal care
6 services for eligible self-directed supports participants. Any provision in any agreement or award
7 that would require an additional appropriation in order to maintain the levels of services provided
8 by existing appropriations shall be subject to the annual budget process.

9 **40.1-22.3-13. Severability.**

10 Should any part of this chapter be declared invalid or unenforceable, or the enforcement or
11 compliance with it is suspended, restrained, or barred, either by the state or by the final judgment
12 of a court of competent jurisdiction, the remainder of this chapter shall remain in full force and
13 effect.

14 SECTION 4. This act shall take effect upon passage.

=====
LC000762
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS – QUALITY SELF-DIRECTED SUPPORTS ACT OF 2025

1 This act would ensure that more developmentally disabled adults can self-direct the care
2 they need and want, by incorporating collective bargaining rights into the self-directed supports
3 program to enhance service access, increase the availability of education and training options and
4 improve the recruitment and retention of the individuals selected by participants as direct support
5 professionals. This act does not alter or limit the authority of the director of behavioral healthcare,
6 developmental disabilities and hospitals to administrator the self-directed supports program,
7 enforce existing rules, regulations and procedures, or adopt amended rules, regulations and
8 procedures for operating the program. This act further does not alter or limit the rights of
9 participants and their representatives to select, direct and terminate the services of self-directed
10 direct support professionals or to determine the wages of self-directed direct support professionals
11 within the range set by the director.

12 This act would take effect upon passage.

=====
LC000762
=====