



Department of  
Developmental Disabilities

**Division of Medicaid Development & Administration**

John R. Kasich, Governor  
John L. Martin, Director

**To:** Agency Providers, County Board Superintendents, SSA Directors, Business Managers and Council of Government Directors, OACB, OPRA, ARC, APSI, Faith and Values Association, Ohio Waiver Network

**From:** Angel Morgan

**Date:** April 4, 2014

**Subject:** Agencies with no Employees

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Ohio Administrative Code 5123:2-2-01 defines an agency as an entity, including a county board of developmental disabilities that employs persons for the purpose of providing services for which the entity must be certified. To employ means to provide with a job that pays wages or a salary. The employment of staff must be someone who provides direct care services and must be in addition to the CEO of the agency to meet the requirements of the rule.

Every agency provider who submits an application for initial and renewal certification via the Provider Certification Wizard will be asked to report the number of staff employed. If the agency reports no direct care employees other than the CEO, the Department will give the agency a period of 6 months to come into compliance with the requirement. The agency will be required to submit federal form 941, Employer's Quarterly Federal Tax Return, showing that the agency has withheld income taxes, Social Security tax, or Medicare tax from the employee's paycheck.

If it is not your intention to employ staff, you are only eligible to be certified as an independent provider. If you are already certified as an agency but have not/do not employ direct care staff other than the agency CEO, you should relinquish agency certification and obtain your independent certification. Please note there are services that require agency certification that you will be unable to provide as an independent provider.

The Department and County Boards of DD will also be reviewing the number of direct care staff an agency employs at the time of compliance reviews. If the agency has no direct care employees other than the CEO, the agency will be given a period of 6 months to come into compliance. Please note non-compliance may result in denial or revocation of certification.

If you have additional questions, please contact the DODD Support Center at 1-800-617-6733, option 3.

Thank you.

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