

Participant Direction 101:

A Service Option for Enhancing Choice, Control, and Flexibility

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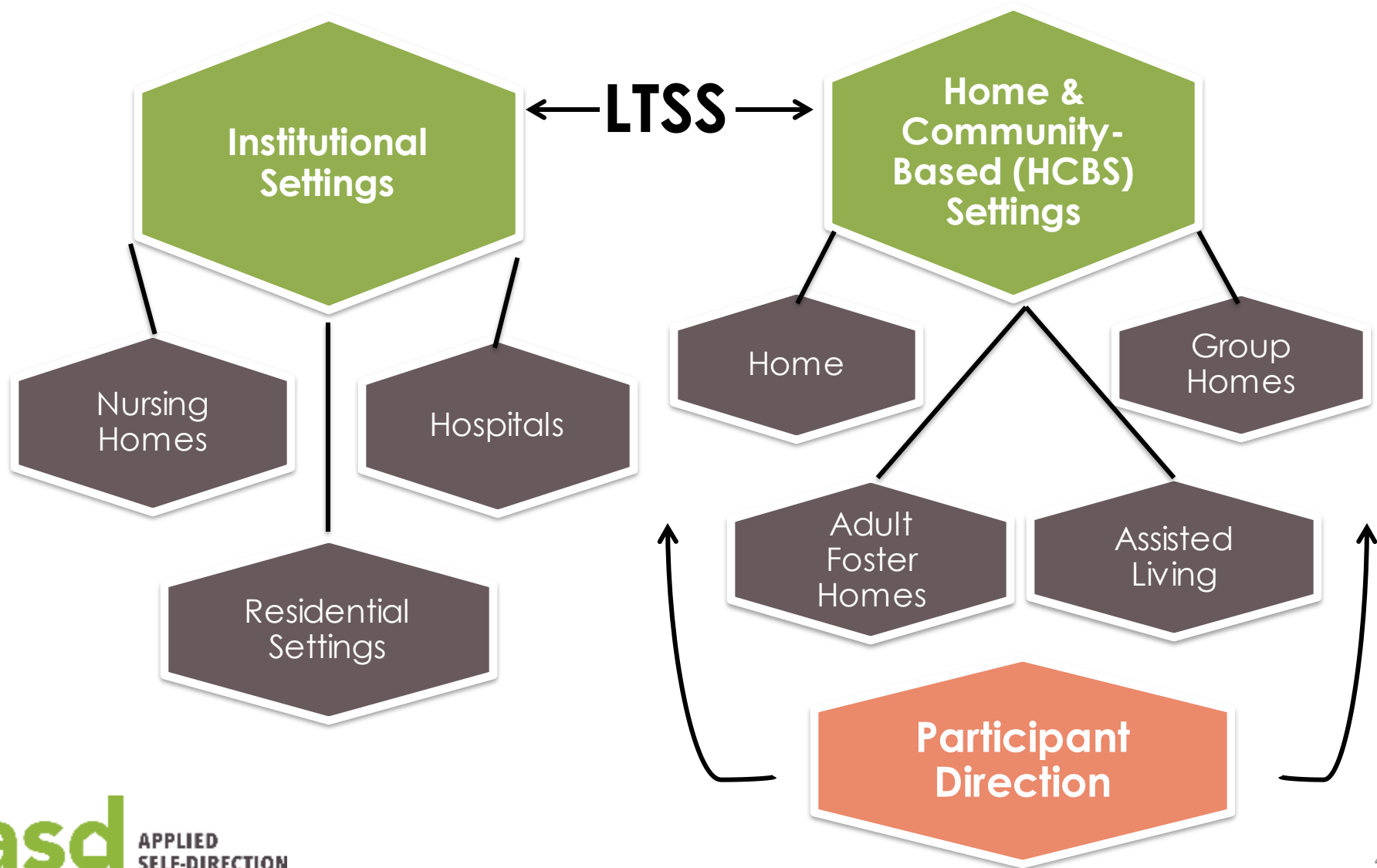
Agenda

- What is participant direction?
- Evolution and development of participant direction
- Operationalizing participant direction
 - Participant direction nuts and bolts
 - Program design considerations
 - Roles and responsibilities in participant direction
- Time for Q&A

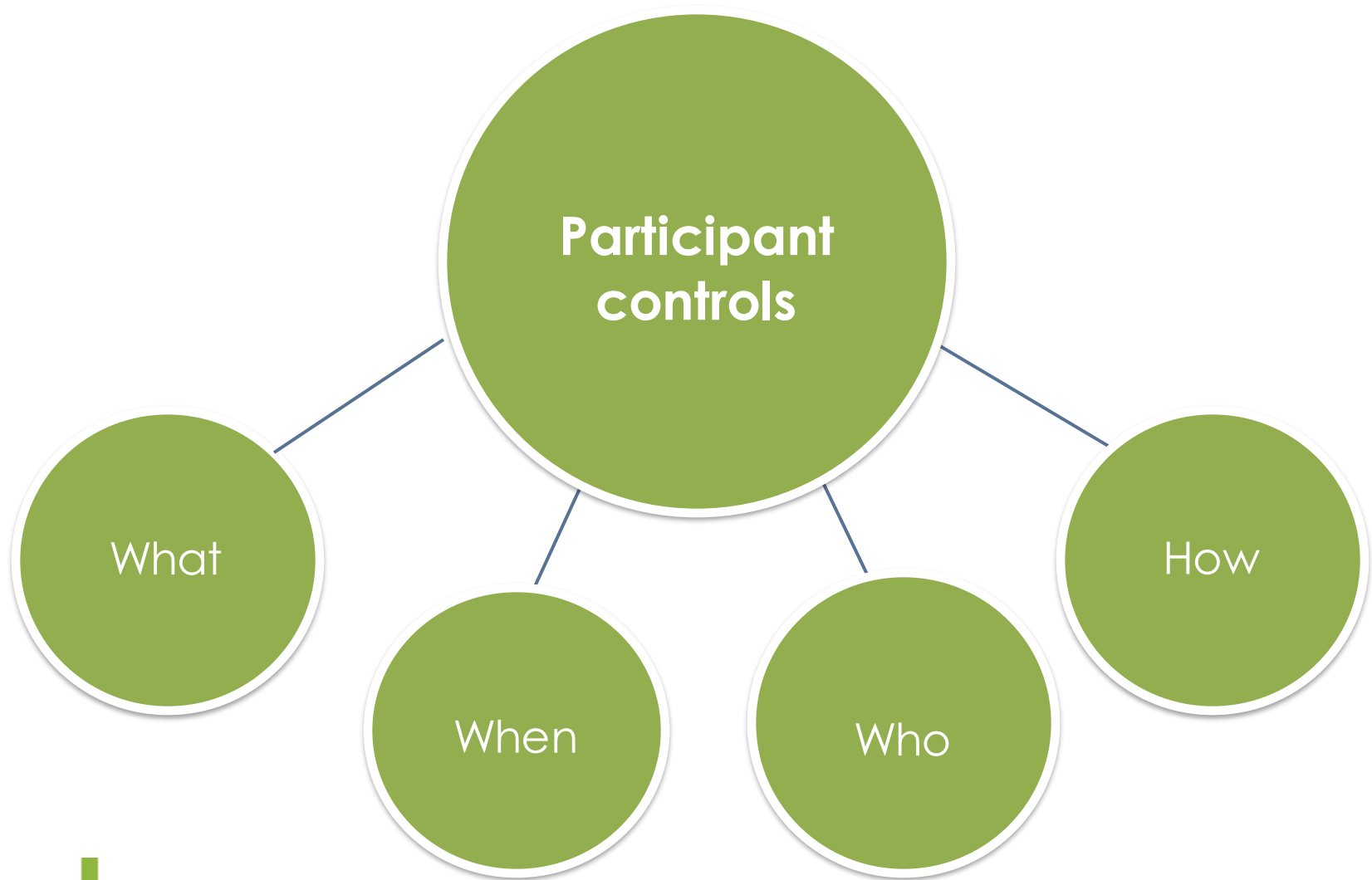
What is Participant Direction?

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Participant Direction in Long-Term Services and Supports (LTSS)



What is Participant Direction?



Traditional Services



Participant-Directed Services



Evolution and Development of Participant Direction

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History of Participant Direction

- Independent Living movement

- ❑ *All human life has value*
- ❑ *Every human being should have meaningful options and make choices pertaining to issues that affect their lives*



Development of Participant Direction

1980s

- State Funded Programs
- State Plan Personal Care Options

1990s

- Olmstead v. L.C. decision
- 1115 Medicaid Waiver
- Robert Wood Johnson Foundation initiatives

Development of Participant Direction

2000s

- 1915(c) waiver, 1915(i), (j), (k) State Plan Amendments
- Veteran-Directed HCBS
- Affordable Care Act

2010s

- Fair Labor Standards Act (FLSA) Rules
- Cures Act and Electronic Visit Verification (EVV)

Cash & Counseling Demonstration and Evaluation

- 3-state demonstration



- Offers Medicaid participants with disabilities more choices about how to get help at home
 - Hire friends, family or neighbor
 - Flexible budget
 - Goods and services
- 12-state expansion

Cash & Counseling Demonstration and Evaluation

■ Study Populations

- ❑ Adults with physical disabilities (Ages 18-64)
- ❑ Older adults (Ages 65+)
- ❑ Children with developmental disabilities

■ Evaluation

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Self-directing participants were up to 90% more likely to be very satisfied with how they led their lives.



Participant direction significantly reduced participants' unmet personal care needs.



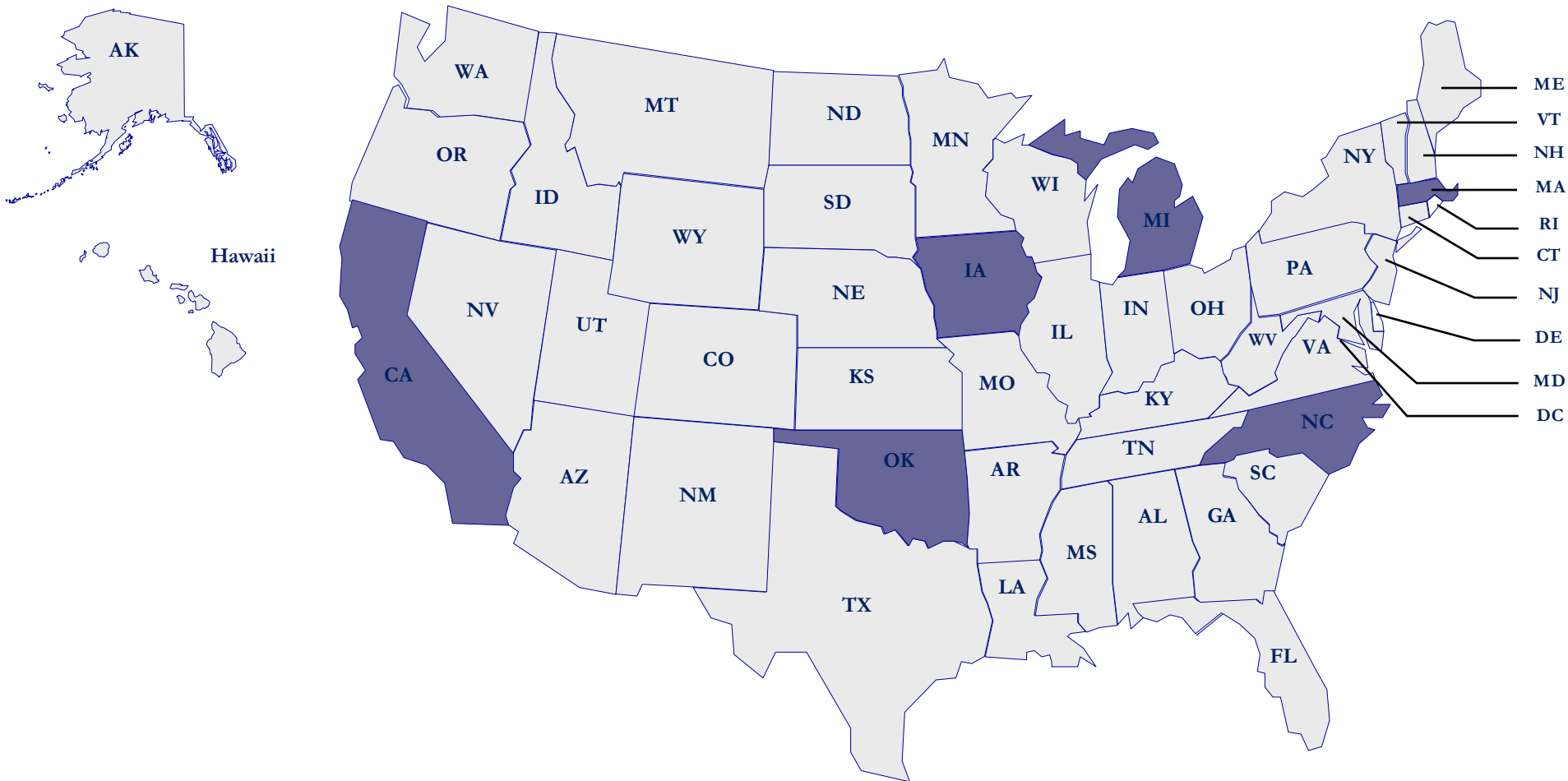
Primary caregivers were significantly more satisfied with their lives in general.



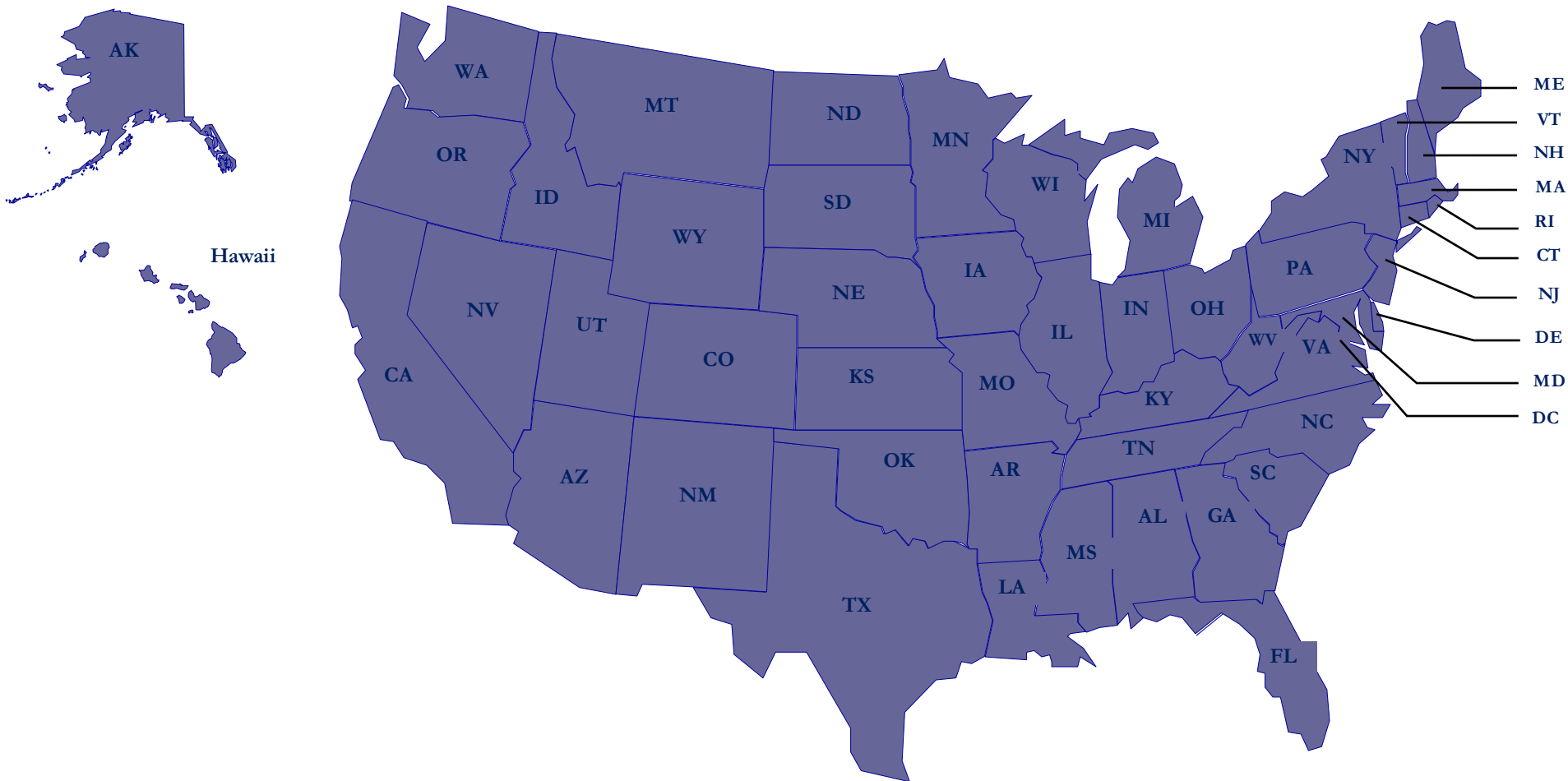
Participant direction did not result in the increased misuse of Medicaid funds or abuse of participants.



Prevalence of Participant Direction: 1970s-80s



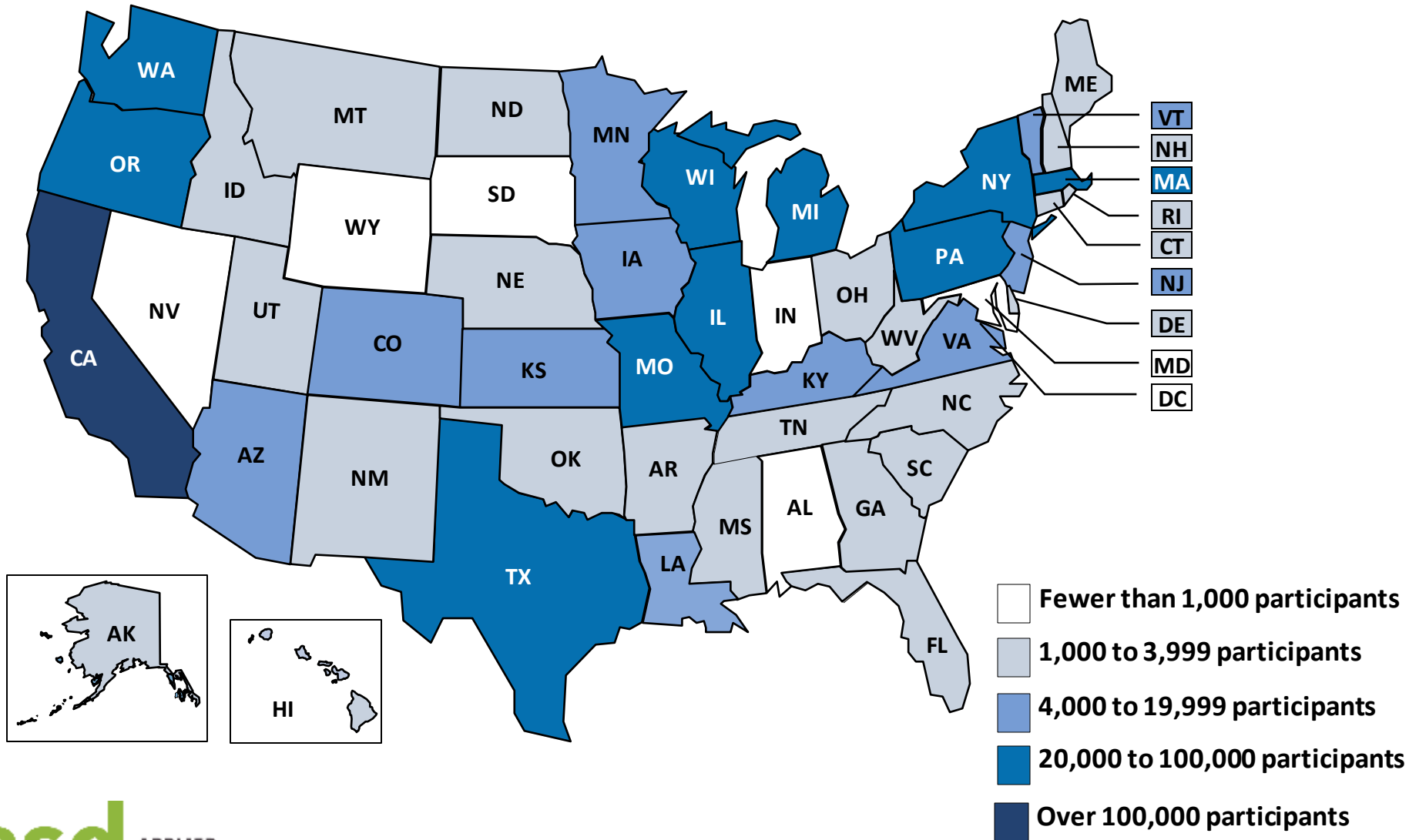
Prevalence of Participant Direction: 2000s



Participant Direction Enrollment and Program Size

- Total enrollment is over 1,000,000
- Number of programs is approximately 250
- Average program size is about 4,000 participants
 - Range is from 2 to 500,000

Majority of States have 1,000 – 20,000 Participants



The Nuts and Bolts of Participant Direction

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Commonly Used Terms

- ***Participant direction, consumer direction, self-direction***
 - ❑ Authentic choice and control
- ***Representative***
 - ❑ Unpaid person appointed by the participant to assist in directing services. Also known as surrogate or designee.
- ***Financial Management Services (FMS)***
 - ❑ Entity appointed to assist an individual to manage fiscal employment and/or budget responsibilities.
- ***Worker***
 - ❑ Someone chosen by the individual to provide direct personal assistance. May include friends and family.

Commonly Used Terms

■ *Individual budget*

- ❑ An allocated amount of funds that a participant can use to hire workers and/or purchase other goods and services to meet their support needs. Budgets are most often allocated in dollars, though units are sometimes used.

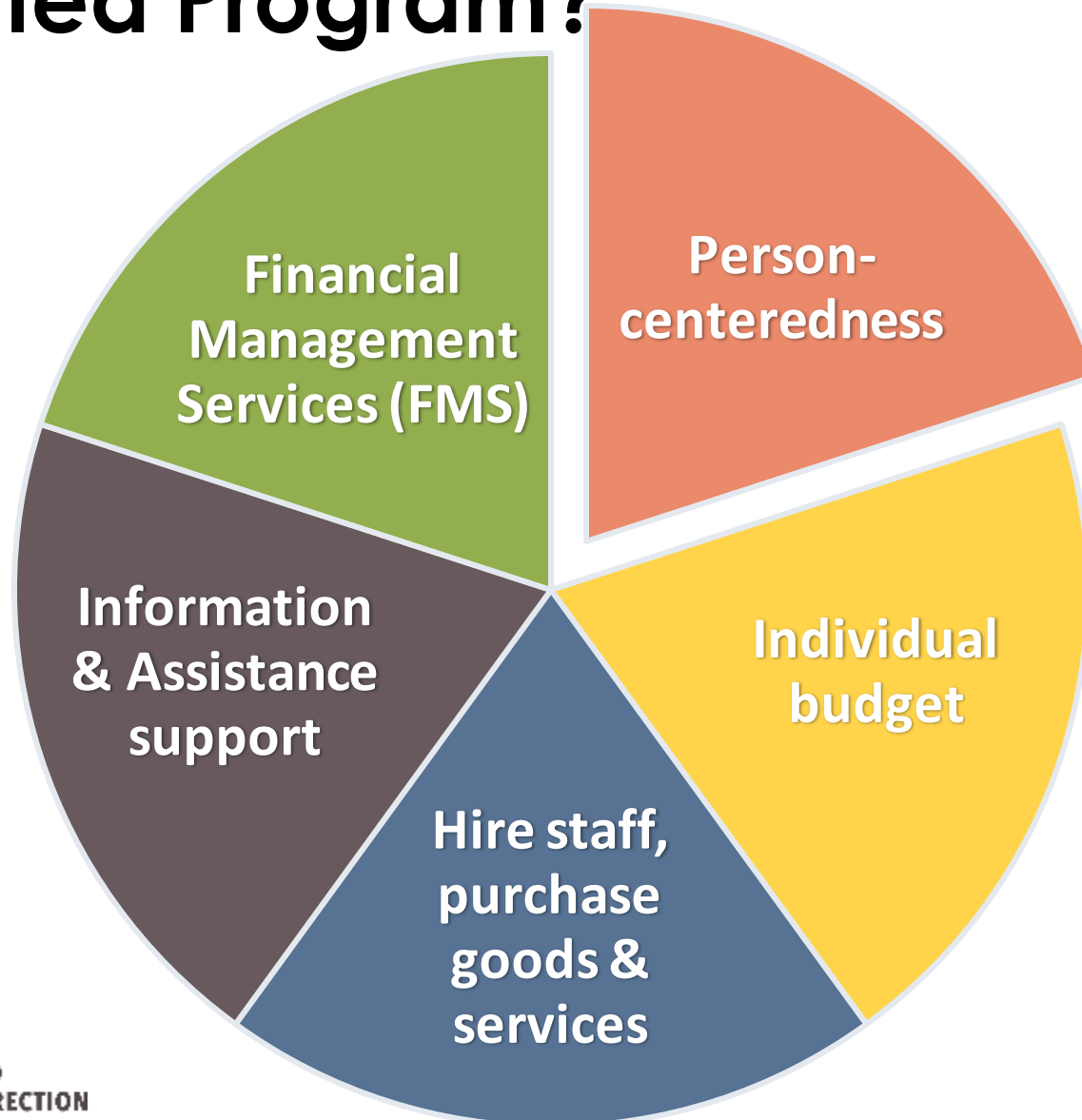
■ *Spending plan*

- ❑ The spending plan specifies how the allocated amount or individual budget will be used. Will staff be hired? Will goods and services be purchased?

■ *Counselor/support broker*

- ❑ The person who assists the participant in developing and carrying out his/her plan.

What Makes Up a Participant-Directed Program?



Determining the Amount of the Budget

- Individual functional assessment
 - ❑ Medical, social, and behavioral needs are identified using a standardized assessment instrument
 - ❑ Assessed needs may be expressed dollars or units
- Historical costs
 - ❑ Retrieve & analyze for a previous time period
- Combination of individual assessment and historical costs
- Prospective method
 - ❑ A specific budget amount uniquely assigned to each individual representing the amount of services that may be authorized

Essential Roles in Participant Direction

Support Broker or Counselor

- Embraces paradigm shift
- Explains the program
- Completes enrollment
- Collaborates with participant to complete the assessment, service plan, spending plan, and reassessments
- Offers skills training
- Partners with participant

FMS

- Assures that spending plan is followed
- Pays timesheets and invoices
- Figures tax liability and pays taxes
- Maintains savings
- Provides accounting reports
- Assist participant with hiring staff

Participant

- Makes decision based on individual budget
- Hires, manages, and dismisses workers
- Sets tasks
- Trains (or arranges for training) of workers
- Evaluates worker performance
- Determines goods and services to be purchased

Two Components of Participant Direction

■ Employer Authority

- ❑ Participant recruits, hires, supervises, and manages worker
- ❑ Participant must fulfill employer/payroll related tasks
- ❑ Participant or FMS may serve as the common law employer

■ Budget Authority

- ❑ Participant manages a participant-directed budget
- ❑ Free to make various decisions about purchasing other goods and services
- ❑ Participant can select wage rates for their staff (within state's minimum and maximum rates)

Continuum of Participant Direction



Participant-Directed Goods and Services

- “Goods and services” refers to physical objects or non-employee services that would lessen the individual’s reliance on Medicaid services and/or promote safety at home or community inclusion
 - ❑ Examples include assistive technology, home or vehicle modifications, gym membership, snow removal, transportation
- Goods and services can be structured two different ways:
 - ❑ A menu-style approach where participant can select from a list of approved goods and services
 - ❑ A flexible approach where any good or service that meets the participant’s needs is authorized
 - States are allowed to implement a “not allowed” list
- Only programs with budget authority may offer PDGS

A Quick Note on Participant-Directed Goods and Services

- Cannot spend 1915(c) waiver dollars on recreation, general home or vehicle maintenance or repair, room and board, everyday groceries, or any service that is covered by the Medicaid state plan until that service has been used up
 - Therapeutic recreation is allowed, as is assistance to participate in recreational activities
- Cannot purchase PDGS unless the individual does not have the funds to do so and the good or service is not covered by another funding source
- Cannot give cash directly to participants or parents in 1915(c) waivers

Roles and Responsibilities in Participant Direction

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Participant's Role: Choice and Control Over Services and Supports



- Understand, respect, and accept core responsibilities and authority
- Fully participate
 - Be honest, practical, and reasonable
- Openly communicate
- Accept and follow program limitations
- Ask for assistance when needed
- Follow plan
 - Report what is working and what is not

Counselor's Role: Information and Assistance

- Often referred to as a participant-directed case manager, support coordinator, support broker, or options counselor
- Works with participant to create a plan to self-direct
- Provides guidance with recruiting, hiring and managing staff and supports participants and representatives with employer responsibilities

FMS Role: Supporting the Participant's Financial Duties

- Workers hired under participant direction meet domestic employee classification
 - ❑ Independent Contractor status rarely applies, according to Dept. of Labor and Internal Revenue Service
 - ❑ Common Law Employer must be designated
 - ❑ Payroll taxes and insurance must be paid
- Make financial transactions on behalf of participant
- Manage regulatory responsibilities

FMS Role: Supporting the Participant's Financial Duties (continued)

- Ensure expenditures meet program rules
- Generate regular reports
- Two models of FMS approved by CMS:
 - ❑ Fiscal/Employer Agent (*participant as common law employer*)
 - ❑ Agency with Choice (*participant and FMS as co-employers*)

Fiscal/Employer Agent FMS

- Participant or representative is “common law employer” and is the **sole employer** for tax, labor, employment purposes
- Participant or representative hires own workers
- Allows for maximum participant control
- May allow for slightly higher wage rates
 - ❑ Some workers may qualify for certain tax exemptions
 - ❑ Offering health insurance not required
- F/EA handles payroll, taxes, reporting, and other program responsibilities
- The majority of self-directed programs use Fiscal/Employer Agent FMS

Agency with Choice FMS

- FMS and participant/representative serve as co-employers
 - ❑ Responsibilities are shared between participant and FMS
 - ❑ FMS is common law employer
- Trade-offs
 - ❑ FMS can assist more with certain employer responsibilities—for example, disciplining a provider whose work is unsatisfactory
 - ❑ Responsibilities must be carefully divided to ensure authentic participant choice and control
- Often slightly lower wage rates than Fiscal/Employer Agent FMS but more benefits, like health insurance
- This model is less common in programs that have budget authority



Thank You!

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