Fiscal/Employer Agent Transfers: A Series of Trade-Offs

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Agenda for Today

- Explore selected best practices for participants transferring from one Fiscal/Employer Agent (F/EA) to another, developed by the FMS Membership Transfer Standards Committee
- Review common transfer scenarios that are less than ideal and analyze trade-offs that occur when there is no perfect solution
- Discuss how transfer standards and best practices can inform less-than-perfect real-life transfer situations—and vice versa!
- Today's discussion will be used to inform further transfer standards development

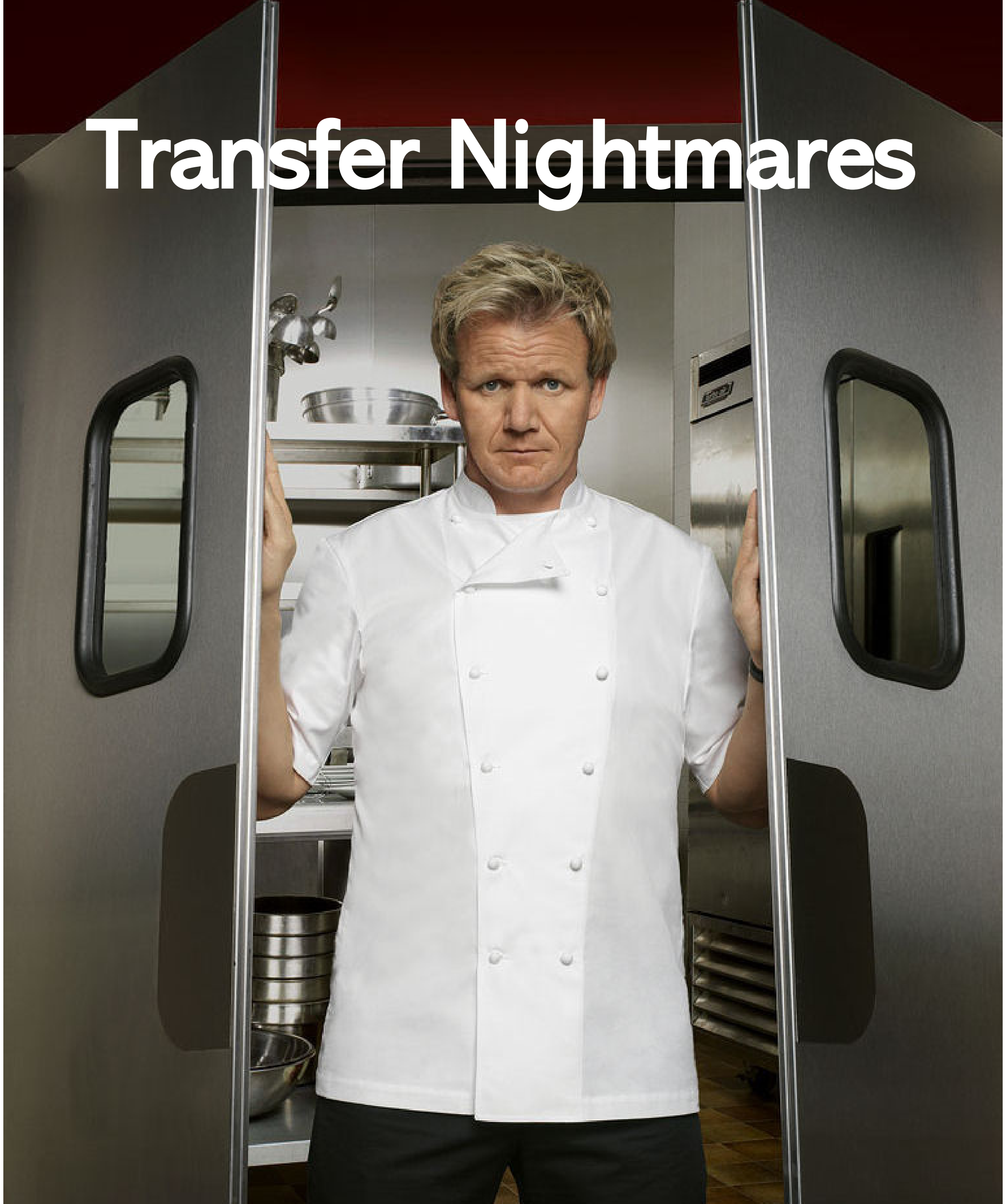
Transfer Standards

- Many thanks to our FMS Membership Transfer Standards Committee for guiding the development of the transfer standards
- The standards were designed with the following goals:
  - To help ensure continuity of service for participants and proper payments for workers
  - To clearly define and assign responsibilities to both outgoing and incoming F/EAs in a way that is fair and places reasonable expectations on both parties
  - To educate states and MCOs on the mechanics of an orderly and well-designed F/EA transition and minimize the need for guesswork

Before We Get Started

- This session focuses on large-scale transfers—for example, when a state selects a new F/EA to replace an incumbent F/EA
- There are serious risks inherent in any large-scale transfer, including:
  - Potential service disruption for participants
  - Workers in the program not being paid timely
  - Added strain on families of participants
  - Negative media coverage regarding self-direction
  - Inordinate workload for F/EA(s)
  - Non-compliance with tax and labor rules
- Some aspects of transfers in the Agency with Choice model of FMS are less complex than those in the F/EA model, so this session will focus on F/EA-specific concerns

Transfer Nightmares



Concern 1: Sharing Information Timely & In Full

Collaboration—Sharing Information Timely and In Full

- ***Best Practice:*** Previous F/EA shares the following critical employer information with incoming F/EA in a timely manner for each participant-employer:
  - CP 575 letter from IRS confirming participant's EIN
  - State Income Tax Employer ID
  - State Unemployment Tax Account Number and rate
  - All applicable YTD wage and tax info (for midyear transfers)
  - Workers' Compensation policy information, as applicable

- ***Reality***: This does not always happen.

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Collaboration—Sharing Information Timely and In Full

- When sharing information, it may become apparent that the outgoing F/EA may not have been in full compliance with applicable rules
- For example:
  - Improper classification of workers as independent contractors when they are clearly employees
  - Individual 941 filing on behalf of participant-employers, instead of aggregate 941 filing with Schedule R in compliance with Rev. Proc. 2013-39
  - Individual state income and unemployment tax account numbers not obtained for participants
  - Lack of FICA refunding for household employees
- Additional resources may be needed for the incoming F/EA to fix the identified issues and inform affected participants/workers

Example: What Happens When Information Is Lost Along the Way?

- In a midyear transfer (October 1), the outgoing F/EA failed to provide YTD wage and tax info for participants' workers to the incoming F/EA and was unresponsive to requests.
- On paper, the incoming F/EA appeared to have many workers eligible for a FICA refund, because the F/EA had only been representing their employers for a single quarter and the prior quarters' wage and tax info was missing.
- However, it was likely that many of those workers had been providing services to participants prior to October 1.
- There are good reasons why the agent should FICA refund, and there are also good reasons why the agent should *not* FICA refund.

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To FICA Refund Or Not To FICA Refund?

- FICA refunding is the most conservative approach based on the information the F/EA has.
- Workers' wages that were FICA taxable in reality may have their taxes refunded.

- Not FICA refunding means that most workers and employers will likely end up paying the correct amount of FICA taxes.
- However, some workers who truly were owed a refund will not be refunded.
- Issuing Forms W-2 with amounts less than the FICA threshold may require paper filing of affected Forms W-2.

Concern 2: Transfer Timing and Timelines

Transfer Timing and Timelines

- ***Best Practice:*** For large-scale transfers, it is strongly suggested to time the transfer so that it occurs on January 1 of a calendar year
  - This method reduces transfer complexity around tax filings
  - Careful planning around the final pay period of the outgoing F/EA and first pay period of the new F/EA is required

- ***Reality***: January 1 transfers are not always feasible given the timing of state procurements. Moreover, states often expect transfers of even >10,000 participants to be completed within 90 days.

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Transfer Timing and Timelines

- Will the incoming F/EA make face-to-face visits to complete participant enrollment paperwork, or will this be done remotely with paperwork sent in the mail?

Face-to-Face Visits	Mailing Paperwork
Minimizes chances of errors and omissions on paperwork slowing down enrollments	Can slow down enrollment times because the paperwork often must be sent back and forth
More cost for the F/EA	Less cost for the F/EA
Visits are extremely time-consuming for F/EA staff	Time-consuming for F/EA staff to quality check and re-send back to participant for corrections

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Concern 3: State/MCO Involvement

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- ***Best Practice:*** The state or managed care organization implements contractual requirements around participant transfers to ensure that transfers are orderly and have reasonable requirements for both the outgoing and incoming F/EA.

- ***Reality***: This is rare. Instead, one of two things often happens:
  - **Payers underestimate the complexity of the transfer process.** "It's just paperwork, the F/EAs can handle it and we don't need to get involved."
  - **Payers recognize the complexity of the transfer process** and do not feel sufficiently familiar with the mechanics of the F/EA model to get involved.

Making the Best of Less Than Perfect

- Will the payer consider establishing a temporary workgroup to manage the transition and facilitate collaboration between the outgoing and incoming F/EAs?
- Will the payer consider hosting a large-scale event or events for participants, families, representatives, workers, and both F/EAs to provide information and respond to questions?
- Will the payer consider adding resources, such as a website with information about the transfer or a centralized email address that participants and workers can contact with questions, to help alleviate customer service burdens on the F/EAs?

Concern 4: Balancing Operational Complexity with Participant Choice & Control

Balancing Operational Complexity with Participant Choice & Control

- ***Ideal:*** Participants should feel satisfied with the quality of service they receive from their F/EA.

- ***Reality:*** In programs in which participants can select from multiple F/EAs, participants sometimes find that another F/EA operating in their program may better serve their needs. In some cases, the participant may want to change F/EAs immediately.

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Balancing Operational Complexity with Participant Choice & Control

- The participant should be informed that switching F/EAs is not an instantaneous process and that there is significant work for both F/EAs as well as the participant involved in the transfer
- Some programs have rules around when transfers are permitted; others do not
- Mid-quarter transfers have additional tax complexity and require additional coordination around filing
- Mid-quarter transfers can work *if* the F/EAs are confident that the transfer is achievable and are willing to coordinate fully
  - The risks are nonetheless greater
  - Avoid for larger-scale transfers

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Thank You!

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