

## Questions from January 19, 2018 Stakeholder Call

Frequently Asked Questions (F.A.Q) regarding employment policy questions for Office of Developmental Disabilities Services (ODDS) and Vocational Rehabilitation (VR) on topics including: 20 Hour Policy, Employment Path Services, Self-Employment and Job Development Training.

These questions are taken from a webinar with the field and stakeholders held on January 18, 2018, as well as other inquiries sent in via email.

**Introduction:** ODDS gave an overview of the recently published [Lane v. Brown data report](#), which shows 1,111 individuals working and a 24 percent increase in people working 20 or more hours per week. ODDS has a new employment rule, [OAR 411-345](#), which clarifies training requirements and required ISP documents. A PowerPoint on the employment rule will be published soon.

There also was an overview of the new EOS website, which includes new features including provider capacity on job development, job coaching and Discovery, as well as languages and specialties.

ODDS and VR reminded everyone that 2018 trainings will include new online job coaching training, regional trainings and the new VR job development training. VR gave an update on its [transmittal](#) and policy on seasonal, temporary and on-call employment.

### **Questions and Answers:**

**Question:** How is 2:1 supervision funded? What if there are no qualified providers to provide the service?

**Answer:** If an individual has needs that justify 2:1 services. an exception request is sent and ODDS may fund a second support person. Sometimes a residential provider or PSW provides additional support when a need is discussed as a team, but this is not required. Employment services from ODDS include ADL/IADL – this is part of the waiver, rate, and rule. For that reason, the only time ODDS will currently fund a second staff is when there is a 2:1 need, not just because someone needs ADL/IADL and job coaching. That should be part of the service. *The biggest recommendation is for local teams to talk and collaborate.*

There is a new meeting with VR and DD leadership and if issues cannot be worked out on the local level, this is the kind of topic that could be triaged if necessary.

The second part of this question is about capacity. This is an issue statewide and ODDS and VR are aware that turnover is an issue. The new [EOS website](#) features may help because it shows real-time capacity for individual providers; might be a good place to see what is available.

**Question:** Please provide an update on the supported microenterprise pilot and address:

- Availability to DD clientele (with or without MH diagnoses)
- Open to those eligible for VR
- Applicability to independent contracting
- Criteria & process

**Answer:** VR is still running this pilot. VR has not completed the final microenterprise documents yet because more extensive work on self-employment is taking place. We are thinking about a model where microenterprise would be in two categories – Supported Microenterprise (when the business owner needs supports to start and maintain their business) and Microenterprise (where the business owner doesn't need ongoing supports to start and maintain their business).

Businesses that require higher costs would be Self-Employment (for those who do not need supports) and Supported Self-Employment for those who do need start-up and ongoing support services.

The microenterprise pilot is available to any disability category. So far six have been completed, one of those was someone with a mental health diagnosis and the rest were I/DD.

If someone is called an independent contractor, and they work for only one employer, who has all the control, then Department of Labor believes this person is an employee of that business. VR considers this to be employment, not self-employment. You can find more information about this on the U.S. Department of Labor (DOL) wage and hour division website:

<https://www.dol.gov/whd/workers/Misclassification/>

The VR process requires the VR Counselor and the individual to work together on the plan, including the type of work, number of hours, and the work environment (that includes whether you work for wages or are self-employed).

**Question:** How can we participate in the self-employment work group?

**Answer:** If you are at a county or brokerage, check in with manager and then send an email to Employment First. Provider organizations generally go through ORA or CPAO, but can also contact us directly if interested.

**Question:** Will the upcoming job developer training replace EOPII?

**Answer:** Yes, VR, with the help of ODDS and IPS mental health, developed a new program that is replacing EOPII as required course. If you took EOPII, you do not have to take this new course.

**Question:** When will the new VR trainings be open?

**Answer:** The first ones are scheduled for the beginning of February 2018 and are open for local registration only. Future trainings will be scheduled soon. Contractors will be contacted. Once dates and times solidified, will be posted on the [Employment First training calendar](#).

**Question:** What is the name of the new VR training?

**Answer:** Job Developer Orientation Training, or JDOT.

**Question:** What are the services provided by the Employment Path Community program?

**Answer:** ODDS is currently working on Employment Path Community guidance. Discussions with regional staff and providers have been taking place. There are some great ideas out there including:

- Community based classes
- Transportation classes (trip training)
- Volunteering
- Work Experience
- Job Shadow
- Informal Interviews (all at community employers)

Employment Path Community is designed to help someone learn more about their interests in employment, and gain work-related skills. The ultimate outcome is competitive integrated employment. The service must be time-limited. Providers

should be asking – what is the service and what is the expected outcome, and have specific action plans to achieve this. It is important to have conversations with person and their team. See OAR 411-345-0025 for details. Additional training, success stories and a PowerPoint will be released on Employment Path Community in the coming months.

**Question:** Can ODDS Employment Path or Discovery services be used for support to participate in an unpaid internship or community work experience at a for-profit organization?

**Answer:**

Guidance related to this has been developed by Department of Labor, and BOLI (federal and state labor agencies), as well as the State Employment Leadership Network (SELN). See the links below.

- Chapter 64 of the DOL’s field handler guide:  
[https://www.dol.gov/whd/FOH/FOH\\_Ch64.pdf](https://www.dol.gov/whd/FOH/FOH_Ch64.pdf)
- Criteria referenced on the BOLI website:  
[http://www.oregon.gov/boli/ta/Pages/t\\_faq\\_interns.aspx](http://www.oregon.gov/boli/ta/Pages/t_faq_interns.aspx)
- The State Employment Leadership Network (SELN) has developed guidance on this:  
[http://static.smallworldlabs.com/umass/content/seln/SELN\\_unpaidwork\\_2017.pdf](http://static.smallworldlabs.com/umass/content/seln/SELN_unpaidwork_2017.pdf)

Using general community businesses for work experience, exploration, assessment, or training is considered best practice in the field of disability employment, rather than using simulated work environments (such as facility-based services and sheltered workshops). Under the guidance reference above, individuals with disabilities can spend a limited number of hours engaged in unpaid work experiences at a business for job exploration, assessment, and training. However, the requirements outlined in the guidance must be met.

Business and rehabilitation organizations may, at any time, consider participants to be employees and pay individuals the full minimum wage. Please note that this information does not substitute for legal advice from an attorney.

**Question:**

What about worker's compensation coverage for participation in unpaid work experience at a general community business?

**Answer:**

Many worker's compensation insurance policies only provide coverage for employees, and often exclude unpaid interns or volunteers. Workers compensation coverage is available through ODDS for individuals using employment path or discovery services to participate in community work experiences. See the worker's guide for more information: <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/Documents/Worker%20Guide%20-%20Worker%E2%80%99s%20Compensation%20Insurance%20Coverage.pdf>

**Question:** Are Employment Path hours separate from DSA hours? Can someone bill 25 hours for DSA and 25 for Employment Path?

**Answer:** For anyone receiving *only* job coaching service they may have up to 40 hours per week of job coaching service. For anyone receiving multiple employment services, the maximum time allowed for a combination of services vary. For someone enrolled in a 24 Hour or Foster Care residential service, a combination of employment and DSA services cannot exceed 25 hours per week. For someone enrolled in In-Home or Supported Living residential service, they may have up to 25 hours of employment service and their DSA (or non-work day service) are based on their Functional Needs Assessment hours. Please see the [Expenditure Guidelines](#) for additional details.

**Question:** What does ODDS consider stabilization – our agency has a different opinion on stabilization compared to VR?

**Answer:** Stabilization is defined from WIOA and VR regulations. For a long time, it was 90 days from VR to DD. Now stabilization is about the person – where that person is in their plan, do they like their job and are working the hours they want? Is the person and their team happy with the job situation? Is the person and the employer feeling the situation is successful?

Stabilization is based on the Individual Plan for Employment (IPE) which is developed by the VR counselor and individual. For that reason, the VR counselor and the person will determine if the person is stable. The goal is for that transfer to be as smooth as possible but there can be bumps. While the whole employment team should work together, it is ultimately a VR counselor who takes the lead on

this and it is based on the plan. What VR is ultimately measured on is how are people doing over the long term in their job, so that stabilization is very important.

If there are issues with the provider or SC/PA and VR counselor disagreeing, email us or reach out regional employment specialist. We can staff specific issues. The [Worker Guide on stabilization](#) is also helpful.

**Question:** Do agencies get paid based upon hours they actually provide job coaching or how many hours the client is on the job?

**Answer:** This depends on if it is VR or ODDS. VR has a contract and this is based on direct contact time. ODDS' current rate model is that job coaching is paid based on the hours the person works. However, depending on whether it is initial, ongoing or maintenance, there are different requirements for direct (face-to-face) contact. For instance, initial has a direct contact time requirement of four contacts. Previously stakeholder calls on [October 6, 2016](#) and [December 12, 2016](#) answer questions concerning job coaching rates more in-depth. Additional details can be found in the Expenditure Guidelines

(<http://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/policy.aspx>), and Job Coaching Requirements Worker Guide (<https://www.dhs.state.or.us/spd/tools/dd/cm/Job%20Coaching%20Requirements.pdf>).