

# Action Request Transmittal Vocational Rehabilitation



Howard Fulk, Policy and Training Manager  
**Authorized signature**

**Number:** VR-AR 20-11 revised  
**Issue date:** 12/28/2020

**Topic:** Other

**Due Date:** 12/28/2020

**Subject:** Updated Interim policy on Clients identified with high risk health conditions: Placement and Employment during the COVID-19 Pandemic

**Applies to (check all that apply):**

- |  |  |
|--|--|
| <input type="checkbox"/> All DHS employees                     | <input type="checkbox"/> County Mental Health Directors                        |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <input type="checkbox"/> Health Services                                       |
| <input type="checkbox"/> Aging and People with Disabilities    | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS)  |
| <input type="checkbox"/> Self Sufficiency Programs             | <input type="checkbox"/> ODDS Children's Intensive In Home Services            |
| <input type="checkbox"/> County DD program managers            | <input type="checkbox"/> Stabilization and Crisis Unit (SACU)                  |
| <input type="checkbox"/> Support Service Brokerage Directors   | <input checked="" type="checkbox"/> Other: All Vocational Rehabilitation staff |
| <input type="checkbox"/> ODDS Children's Residential Services  |  |
| <input type="checkbox"/> Child Welfare Programs                |  |

**ACTION REQUIRED:**

This transmittal clarifies and expands upon guidelines previously issued in VR-AR 20-11 to help ensure that Oregon Vocational Rehabilitation (VR) clients, determined to be at a high-risk of COVID-19 susceptibility, participate in community placements and employment using informed choice during the COVID-19 pandemic.

Effective immediately, and continuing until this directive is rescinded, field staff will follow the below guidance throughout the COVID-19 pandemic period.

Other than the specific guidance provided in this Action Request, no other Vocational Rehabilitation procedures have been amended or changed and normal operating procedures should be followed accordingly.

## **BACKGROUND:**

VR's mission is to support all eligible individuals that seek to gain, regain or advance in employment. The Program continues to support all clients to the greatest extent possible while complying with the Oregon Governor's [Executive Order 20-12](#) "Stay Home, Save Lives."

Research shows that some individuals with health conditions may be more susceptible or at a higher-risk of contracting COVID-19. These individuals may also be at increased danger of experiencing serious medical reactions if they contract COVID-19.

Additional supports and the need to develop a COVID-19 Work Plan should be considered, implemented when appropriate, and documented when working with clients who meet the medical requirements to be deemed high-risk.

## **POLICY:**

Vocational Rehabilitation Counselors (VRCs) should provide informed choice counseling to all clients regarding the potential impact of COVID-19 in their workplace or during any community related employment activity and how it may relate to the individual and their disability.

Clients, after having received informed choice counseling, may request that an employment-related risk mitigation strategy be implemented, or may decline the strategy if they so desire.

- It is recommended that clients meeting the Center for Disease Control (CDC) guidelines for "high-risk individuals" be strongly encouraged to implement an employment-related risk mitigation strategy prior to engaging in any community related employment activity.

Employment-related risk mitigation strategies should be developed in coordination with the client's support team, service coordinator or personal agent, provider agency and other individuals as appropriate.

- VRCs may accept and incorporate risk mitigation strategies developed by ODDS, County and Brokerage support agencies, provider agencies and others if suitable for the client and their specific employment environment in a COVID-19 Work Plan.
  - VRCs should verify previously developed employment support plans with the client to ensure that steps outlined in the plan are in alignment with the individual's choices.

## **DEFINITION:**

The Center for Disease Control (CDC) defines a person as medically at “high risk” when an individual has certain underlying or co-morbid medical conditions and any individual aged 65 or older.

- The list of underlying medical conditions used to define an individual at high-risk is updated frequently and should be reviewed regularly.
  - The most up-to-date information may be found at the CDC’s website: [CDC Guidance on High Risk Individuals](#).
  - Additional information can be found here: [CDC Evidence Table](#).

## **PROCEDURES:**

The following requirements must be met.

### **Informed Consent Process:**

New clients participating in VR services in a community setting, during the period covered by the Governor’s [Executive Order 20-12](#), must be provided information regarding the potential impact of COVID-19 on their employment and their health.

This information should include information related to wearing a mask, physical distancing, and any specific known risks to the individual’s health and safety.

- These discussions must include any program participants that enroll with Oregon Vocational Rehabilitation any time after March 1, 2020 and as covered by the Governor’s [Executive Order 20-12](#), unless that period is extended or terminated by the Director of Vocational Rehabilitation.
- For existing clients, an informed choice counseling session covering the above information should be provided during a regularly scheduled check in with the client at the first reasonably convenient opportunity.
  - The discussion must be documented in the client’s case file notes.
  - This requirement remains in effect until the conclusion of the Governor’s [Executive Order 20-12](#), unless that period is extended or terminated by the Director of Vocational Rehabilitation.

Due to the importance of this discussion, VRCs should strive to involve the client’s support team members to the greatest extent possible to develop a COVID-19 Work Plan. However, the client’s choice should take precedence.

A COVID-19 Work Plan **must include, at a minimum:**

- Strategies that reflect the specific employment setting the client will participate.
- Strategies specific to the client and their individual disability and needs.

- Strategies to ensure the proper wear and use of Personal Protection Equipment (PPE) and to ensure physical distancing in the workplace as required by the Governor’s Executive Orders at the time of the service.
- Strategies to address any potential transportation challenges during the pandemic period.
- Strategies to address employers who fail to meet safety measures required by the current Governor’s policies on phased reopening.
- Other strategies as appropriate to the situation.

**The informed choice counseling process should ensure that:**

- Vocational rehabilitation services for the client are consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities and interests, so that the individual may prepare for and engage in competitive integrated employment and achieve economic self-sufficiency (per [34 CFR §361.1](#)).
  - If the client wishes to assume certain health risks related to COVID in order to attain self-sufficiency, this is their choice.
  - The individual is ultimately the person in charge of the process and decides what is best for them.
- Counselors should use appropriate modes of communication or specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. ([34 CFR §361.5 \(c\)\(4\)](#))
  - Appropriate modes of communication mean specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated.
  - Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed-captioned videos, specialized telecommunications services and audio recordings, materials in Braille and large print, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language.

**For clients dually enrolled with the Office of Developmental Disability Services (ODDS)**

Consult ODDS specific instructions for employment: [ODDS- COVID-19-Information](#)

**Consideration of Oregon OSHA Employer Requirements:**

VR may only support clients seeking employment with employers that follow state reopening phase guidelines and meet all physical distancing and/or other stipulated requirements in effect at the time.

- See [COVID-19 and Oregon OSHA](#). Content on the page changes rapidly. Please check back often for updates.

- It is recommended that clients who need Job Development or Job Coaching supports receive these services via video conference or other distance enhanced methods to the greatest extent possible.
- Individuals requiring a Trial Work Evaluation or Community Based Work Assessment as part of their VR services must comply with program requirements prior to beginning the evaluation or assessment.

**Note:** Denial of program services (e.g., failing to recommend, delaying or denying services from taking place) based on health risks associated with an individual's disability is discriminatory. For example:

- It would be discriminatory under Title I of the ADA for an employer to deny an individual a job or rescind a job offer due to potential risks of exposure to COVID.
- Denying a desired employment outcome or employment-related service due to COVID-related health risks may constitute discrimination under Title II of the ADA.

## **Example: A COVID-19 Work Plan**

The COVID-19 Work Plan should be specific to the participant and their employment. Information to address employment- related risk mitigation may include:

1. **Employer:** Where is the client working?
2. **Job title:** What is the job title?
3. **Job description:** Provide the job description or duties expected to be performed.
4. **List risks to be mitigated:** Describe the risks to the VR client working in the community job during COVID.
5. **Mitigation strategies plan:** List the strategy or strategies to address the risks as provided above in #4.
  - The client, and as appropriate with the consent of the client--parents, guardians, representatives, and support team members--should be involved in the development of the risk mitigation strategy.
  - Not all strategies will be VR's responsibility. It is important to have the strategy assigned to the most appropriate member of the team to address the issue.
  - The strategy should be stated in a way that can be determined whether it is achieved or not. It should be specific, measurable, achievable, reasonable and have a time for it to be performed (every day, at this time, etc.). The severity of the risk (high, medium, low) could be noted as well.
  - The team should have agreements about who to report issues with implementing or supporting the plan. The participant is encouraged to report issues in a timely manner to the VRC, if any issues arise.
  - The team (whoever the members are) should be asked about their participation in the plan. Any member(s) who refuses to participate in, or objects to, the plan's implementation, monitoring and evaluation should be documented in the service record.
  - Set a schedule for monitoring and evaluating the success of the list of risks and associated strategies. Assure that there is agreement among the team members. (Refer to #7 Monitoring and evaluating below.) Be sure to share this information with the participant, the team and document in ORCA.
6. **Barriers:** list any barriers to the implementation of the risk mitigation strategies.
7. **Monitor and evaluate compliance with the plan:** To assure the participant's safety and better opportunities for successful employment, the employment-related risk mitigation strategies plan should be periodically evaluated.

## **DISCUSSION / INTERPRETATION:**

### **Question 1: Who makes the decision on whether an individual is high risk?**

**Answer:** It is the intent that the person, their family, guardians and support team will reach a decision as to whether the individual is “high risk” or not.

The role of VR is to:

- Provide informed choice counseling about employment given Covid-19,
- Document the decision-making process, and,
- Provide information related to the issue as appropriate and to the best of their ability.

The VRC should discuss the possible implications or consequences of not following recommended practices during the pandemic for individuals who expresses an opinion that is contrary to best practices for safe behavior. Document the discussion in the case notes.

Designating that a person is “high-risk” in context of this transmittal is not a clinical diagnosis. It is meant to identify individuals that may meet the CDC definition of persons who may be at greater risk of COVID-19 related health complications.

Any program participant, regardless of meeting the criteria for high-risk or not, may request COVID-19 Work Plan if they so choose.

The individual is ultimately the person in charge of the process and deciding what is best for them.

### **Question 2: Does this guidance advise people not to work in the current environment?**

**Answer:** This is not the intent of the message. Information is provided herein to assist counselors in guiding important conversations around employment throughout the current pandemic period.

VRCs should approach these conversations with several goals. Underpinning each goal is the safety of the individual.

- To supply information that helps clients and their teams to understand the risks involved in the employment chosen,
- Help clients gain employment in the jobs that best meet their personal needs and objectives.

**Question 3: When should the service record (file) for a client who is high risk be closed? Should the file remain open without progress toward an employment goal?**

**Answer:** This is a question that must be individually considered, based upon the needs and desires of each client. Currently VR recommends that counselors leave the service record open, even if the client is not actively seeking employment due specifically to COVID related reasons.

At any time, the individual wants to pursue or engage in employment, the individual and their team would engage in the informed choice process outlined in this transmittal.

**Question 4: Should VR attempt to change the client's opinion of wanting to work based given the potential risk?**

**Answer:** VR's intent is to assist and support the client to engage in work in the safest manner possible by providing accurate, up-to-date information. VR does not intend to change a person's opinion of employment. If the client wants to work, they be provided the opportunity to do so in the safest environment possible with the best information VR can provide.

Ultimately, the decision is up to the person. VR's intention is to find the best ways possible to support them.

**Question 5: Should the individual's doctor make the decision of whether they are high risk?**

**Answer:** The client may always consult with a medical professional at any time about their individual medical concerns surrounding employment and considerations due to COVID.



**OTHER RESOURCES:**

[34 CFR §361.52](#) Informed choice.

[34 CFR §361.5 \(c\)\(4\) Applicable definitions](#). *Appropriate modes of communication*

[COVID-19 and Job Applicants and Employees with Disabilities: Emerging Practices to Employ and Protect Workers](#).

Governor’s [Executive Order 20-12](#) “Stay Home, Save Lives”

[Coronavirus Disease 2019 \(COVID-19\). Older Adults](#)

[Coronavirus Disease 2019 \(COVID-19\). People with Certain Medical Conditions](#)

[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws \(updated 9/8/2020\)](#)

[Oregon Health Authority | COVID-19 Updates](#)

[Bureau of Oregon Labor and Industries \(BOLI\) on COVID-19](#)

[Oregon State Requirements for COVID-19 Response](#)

[Oregon OSHA COVID-19 Requirements](#)

[ODDS COVID-19 Information](#)

[Scenarios and reporting requirements for Oregon Developmental Disabilities Services \(ODDS\) Agency Providers, Personal Support Workers, Case Management Entities and individuals related to COVID-19](#)

**Field/stakeholder review**     Yes     No

**If yes, reviewed by:**    VR Executive Team, Branch Managers, Field Staff, VR-SRC Policy Legislation & Budget Committee

*If you have any questions about this action request, contact:*

Contact(s): <a href="#">VR Policy Team</a>	
Phone:	Fax:
Email: <a href="mailto:VR.Policy@dhsosha.state.or.us">VR.Policy@dhsosha.state.or.us</a>	