

Developmental Disabilities Services

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Number: APD-IM-16-044

Issue date: 5/13/2016

Topic: Developmental Disabilities

20 Hour Per Week Employment Services Planning Requirements for Vocational Rehabilitation Counselors, Service Coordinators, and Personal

Subject: Agents

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 | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" 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 checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> ODDS Children's Residential Services | <input checked="" type="checkbox"/> Other (<i>please specify</i>): Brokerage Directors; CDDP Service Coordinators; Brokerage Personal Agents |
| <input type="checkbox"/> Child Welfare Programs | |

Message:

Attached are VR and ODDS guidance documents, issued May 6, 2016 and effective June 30, 2016, regarding the 20 hour per week planning standard for employment services. This standard is required by the Lane v. Brown settlement agreement, which states: "DHS will establish and promote a goal that all persons with I/DD who want to work in the community will be afforded an opportunity to pursue competitive employment that allows them to work the maximum number of hours consistent with their abilities and preferences. DHS will issue guidance to VR counselors, ODDS staff, CDDPs, and Brokerages that the recommended standard for planning and implementing Supported Employment Services will be the opportunity to work at least 20 hours per week. This guidance will recognize that based on individual choice, preferences, and circumstances, some people may choose to work at that level while others may not."

The attached documents inform Service Coordinators, Personal Agents and Vocational Rehabilitation Counselors of their obligations under this requirement. Also attached is a Frequently Asked Questions document pertaining to the 20 hour standard.

If you have any questions about this information, contact:

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|--------------------|------------------------------|-------------|--|
| Contact(s): | Allison Enriquez | | |
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**20 Hour Standard:
Policy Changes for June 30, 2016
Office of Developmental Disability Services/Vocational Rehabilitation
Frequently Asked Questions (F.A.Q.)
For Service Coordinators/Personal Agents/VR Counselors**

Introduction: The Lane v. Brown settlement, which was approved by a federal court in December 2015, calls for a number of policy changes. One of those requirements is that the Department of Human Services will issue guidance to Vocational Rehabilitation (VR) counselors, Office of Developmental Disability Services (ODDS) staff, Community Developmental Disability Programs (CDDPs), and brokerages that the recommended standard for planning and implementing supported employment services will be the opportunity to work at least 20 hours per week, recognizing that based on individual choice, preferences and circumstances, some people may choose to work at that level while others may not.

In addition, all individuals with intellectual and developmental disabilities who use supported employment services will have a goal of working the maximum number of hours consistent with their abilities and preferences.

This policy goes into effect on June 30, 2016.

Question #1: When do I have the conversation with my client about how many hours he or she would like to work?

Answer: For SCs/PAs, this should happen when the Career Development Plan (CDP) is completed as part of the annual Individual Support Plan (ISP), or when the individual requests to have a discussion. A discussion must occur regarding the individual's current hours of work, and a goal of working the maximum number of hours consistent with their preferences and circumstances.

Question #2: Who does this standard of 20 hours per week apply to?

Answer: A discussion about working 20 hours per week in an integrated job in the community must take place with individuals using any ODDS employment service, as well as with any person in ODDS services who expresses an interest in employment.

VR counselors discuss the goal of hours worked per week with every VR participant. Federal regulations mandate that participant placement in supported

employment be “for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.” (Workforce Innovation and Opportunity Act, Draft Code of Federal Regulations Section 361.46 (b)(7) 4/16/15)

Question #3: Where do I document my client’s goal for hours worked in an integrated job in the community?

Answer: For those currently using ODDS Supported Employment Services, the individual’s goal for hours worked in an integrated job in the community must be documented in the ISP addendum, under the “How many hours per week does the person want to work?” section, for the desired number of hours per week. The standard for this goal is at least 20 hours a week. This must be consistent with individual choice, preference, and circumstances, meaning some people may choose to work full time, part time, or another individually identified goal that is less than 20 hours.

If the number of hours the individual wants to work is different from their current hours, also indicate the goal in the “Desired Outcome” section of the CDP, along with Key Steps outlining how that desired outcome will be achieved. Please see the policy guidance for additional details regarding these requirements, as well as the requirements for clients who are not in supported employment services.

For VR counselors, the participant’s goal of hours worked should be recorded in the first fillable box of the Individual Plan for Employment (IPE) where counselors are directed to “Discuss transferable skills, individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, informed choice and other factors that were used to determine the employment goal.” If the participant chooses to change their hours worked goal, the VR counselor and participant should agree on a revision to the number of hours. The counselor will inform the PA or SC about revisions to the goal of hours worked. Reaching the hours worked goal in the IPE (or revised IPE) is one of the criteria for job stabilization and transfer to DD services or natural supports. Please see the VR Action Transmittal for more detailed information.

Question #4: What if someone doesn’t want to work 20 hours per week?

Answer: Service coordinators, personal agents and VR counselors must have a conversation with the person about how many hours they would like to work. To

guide the conversation, you must use the standard goal of obtaining work of at least 20 hours per week. There is no requirement that everyone has to work this amount of hours. DHS recognizes that based on individual choice, preferences and circumstances, some people may choose to work more than 20 hours per week, and others may want to work less.

Question #4: What kind of follow-up is needed by SCs/PAs?

Answer: If the individual wishes to increase his or her current hours over time, the service coordinator or personal agent must make sure that provider implementation strategies include steps that support the goal of increasing work hours. The SC/PA must monitor and document progress towards obtaining the stated goal.

Question #5: What is VR's role?

Answer: If the VR participant has an open case with Vocational Rehabilitation, the SC/PA will obtain relevant portions of the IPE from VR before the annual ISP meeting, as well as when the individual transfers to long-term supports from VR services. The goal for hours in the CDP should align with the corresponding goal in the individual's IPE.

VR will invite the referring SC/PC and others chosen by the VR applicant, to the intake meeting (or other pre-plan meeting) when IPE employment goals, including hours worked per week, are discussed. Referral to benefits planning service may be made so the participant can utilize informed choice in making decisions.

The SC/PA is encouraged to attend this meeting, and at a minimum must supply the individual's Career Development Plan to the VR counselor prior to this meeting.

Question #7: What if my client is working less than 20 hours, but indicates they are happy with the amount of hours they are currently working?

Answer: Document that you had a conversation about working 20 hours and then that the client does not wish to work this amount of hours. The conversation should be fully-informed, making sure the client understands that they can use services to work more if they want to, or get an additional job if they choose. Start from a place of assuming that everyone wants to work, and that they may be interested in working more if they understand what that means.

Some people may choose to work more than one job to reach their employment goal. Others may choose to increase their working hours over time. And others may choose to work the same amount of hours they currently are working.

Again, DHS recognizes that this is the individual's choice. The only requirement is that the conversation must happen and be adequately documented; there is no requirement for individuals to work a certain amount of hours.

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| Topic: | How to Plan Supported Employment Services with the Standard of Working at Least 20 Hours a Week |
| Date Issued/Updated: | |

Overview

Description: How Service Coordinators (SC) and Personal Agents (PA) will assist individuals receiving or interested in receiving Supported Employment Services to achieve their goal for number of hours worked per week using the standard of 20 hours per week.

Purpose/Rationale:

All individuals who are receiving an employment service through the Office of Developmental Disabilities Services (ODDS) or who are interested in working in Competitive Integrated Employment should have the opportunity to make an informed decision regarding how many hours they would like to work. An individual's choice should be based on consideration of all available information, meaningful employment opportunities, as well as service and support options which would support them to work full time, part time, or another individually identified goal. In order to ensure that individuals are able to make an informed employment decision, the Service Coordinator (SC) or Personal Agent (PA) must have a discussion and engage in service planning with the individuals they work with regarding the hours they would like to work, using the standard of 20 hours per week described below. For additional information regarding how to have this conversation and engage in employment service planning, please see the Employment Discussion Guide:

<http://www.dhs.state.or.us/spd/tools/dd/cm/Employment%20Discussion%20Guide%20for%20PA%20%20SC.pdf>

Additionally, this policy is designed to ensure compliance with the *Lane v. Brown* settlement agreement which states: "DHS will establish and promote a goal that all persons with I/DD who want to work in the community will be afforded an opportunity to pursue competitive employment that allows them to work the maximum number of hours consistent with their abilities and preferences. DHS will issue guidance to VR counselors, ODDS staff, CDDPs, and brokerages that the recommended standard for planning and implementing Supported Employment Services will be the opportunity to work at least 20 hours per week. This guidance will recognize that based on individual choice, preferences, and circumstances, some people may choose to work at that level while others may not."

Applicability: Service Coordinators and Personal Agents

Procedure(s) that apply:

Individuals currently using ODDS Supported Employment Services:

When the Career Development Plan (CDP) is completed as part of the annual ISP, or upon the individual's request, a discussion must occur regarding the individual's current hours of work, and a goal of working the maximum number of hours consistent with their interests, preferences and circumstances. If the individual wishes to work more than their current hours of work the Service Coordinator (SC) or Personal Agent (PA) must complete the following:

- Document the number of hours the individual wants to work in the ISP addendum, under the "How many hours per week does the person want to work?" section, for the desired number of hours per week. The standard for this goal is at least 20 hours a week. This must be consistent with individual choice, preference, and circumstances, meaning some people may choose to work full time, part time, or another individually identified goal that is less than 20 hours.
- If the number of hours the individual wants to work is different from their current hours, also indicate the goal in the "Desired Outcome" section of the CDP, along with Key Steps outlining how that desired outcome will be achieved.
- Ensure that the provider implementation strategies support the goal of increasing work hours.
- Monitor and document progress towards obtaining the stated goal, and ensure that an individual's choices are based on consideration of all available information and/or meaningful opportunities that offer 20 hours of work per week.

Benefits Planning: Benefits Planning is important for any individual whose income may affect his or her Social Security benefits. If an individual chooses a goal that will increase their work hours, and the individual and/or their employment team is concerned with how this will affect their benefits, the SC/ PA will refer the individual to a benefits planner.

Individuals that do not wish to increase their work hours: If the individual does not wish to increase their current work hours or hours goal, despite discussing the advantages of increasing their work hours and being offered employment services that would assist with that goal, documentation of the discussion must be in the Person Centered Information. A decision to work less than 20 hours per week must be based on the individual's choice, preference and circumstances.

Vocational Rehabilitation Services: If the individual has an open case with Vocational Rehabilitation, the SC/ PA will obtain the Individual Plan for Employment (IPE) from VR before the annual ISP, as well as when the individual transfers to long-term supports from VR services. The goal for hours in the CDP should align with the corresponding goal in the individual's IPE. If they do not, the SC/ PA will have a conversation with the individual and their employment team, including the VRC if applicable, to determine which goal is currently accurate. Despite being stable in their current job, the individual may be interested in increasing their hours over time. If so, the CDP goals should reflect this. The goal in the CDP should reflect the most current immediate and long term goals of the individual.

Communication with the VRC for an individual who has been referred to VR is crucial. VR shall invite

the individual's PA/SC to a pre-plan/ intake meeting, where the goal for hours worked is discussed. The PA/ SC is encouraged to attend this meeting, and at a minimum must supply the individual's CDP and any other relevant employment documents to the VRC prior to this meeting.

Individuals not currently using ODDS Supported Employment Services:

Individuals not using Supported Employment Services includes anyone in other Employment Services, such as Employment Path. Because individuals using any Employment Service must be interested in pursuing Competitive Integrated Employment, the conversation at the annual ISP must include a discussion of the number of hours the person would like to work at a competitive integrated job.

Individuals not using Supported Employment Services also includes individuals not utilizing any waiver funded Employment Services. If an individual not utilizing waiver funded Employment Services asks about or expresses an interest in pursuing Competitive Integrated Employment, the conversation at the annual ISP must include the number of hours the individual would like to work.

The standard for both discussions is at least 20 hours a week, and any Desired Outcome written for hours worked must be consistent with individual choice, preference, and circumstances. Some people may be interested in working full time, part time, or another individually identified goal that is less than 20 hours.

Documentation of the discussion must occur in the Person Centered Information.

Form(s) that apply:

The Individual Support Plan (ISP) and all related documents. The ISP is available at <http://oregonisp.org/forms/>.

Definition(s):

"Career Development Plan":

(a) Means the part of an ISP that identifies:

- (A) The employment goals and objectives for an individual;
- (B) The services and supports needed to achieve those goals;
- (C) The people, agencies, and providers assigned to assist the individual to attain those goals;
- (D) The obstacles to the individual working in an individualized job in a competitive integrated employment setting; and
- (E) The services and supports necessary to overcome those obstacles.

(b) A Career Development Plan is based on person-centered planning principles.

"Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

- (i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed

by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or
(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

"Employment Service" means a home and community-based service that supports the primary objective of exploring, obtaining, maintaining, or advancing in an individual job in a competitive integrated employment setting in the general workforce.

(a) Employment services under these rules include:

(A) Supported Employment.

(i) Individual Employment Support.

(I) Job Coaching.

(II) Job Development.

(ii) Small Group Employment Support.

(B) Discovery; and

(C) Employment Path Services.

(b) Employment services do not include vocational assessments in sheltered workshop settings or facility-based settings. Employment services do not include new participants in sheltered workshop settings.

"Employment Path Services" means services to provide learning and work experiences, including volunteer opportunities, for an individual to develop general, non-job-task-specific, strengths and skills that contribute to employability in an individual job in a competitive integrated employment setting in the general workforce.

"Supported Employment" is any one of the following services:

(a) Individual Employment Support.

(b) Job Coaching.

(c) Job Development.

(d) Small Group Employment Support.

Reference(s):

Oregon Administrative Rules Chapter 411, Division 345, "Employment Services for Individuals with Intellectual or Developmental Disabilities".

Oregon Administrative Rules Chapter 407, Division 25, "Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities".

Current Administrative rules can be accessed on the Oregon Secretary of State website at http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx.

Settlement Agreement in Lane et al. v. Brown et al., United States District Court Case No. 3:12-cv-00138-ST, available on the www.iworkwesucceed.org website under 'Latest News'.

Frequently Asked Questions:

See "20 hour standard: Policy Changes for June 30, 2016 Office of Developmental Disability Services/Vocational Rehabilitation Frequently Asked Questions (F.A.Q.) For Service Coordinators/Personal Agents/VR Counselors", released with this guidance and available online at <http://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/Publications.aspx>.

Contact(s):

Name: Allison Enriquez; **Phone:** 503-945-5827; **Email:** allison.enriquez@state.or.us

Vocational Rehabilitation

Action Request Transmittal

Authorized signature: Pete Karpa,
Deputy Director

Topic: Supported Employment

Number: VR-AR-16-02

Issue: date: 5/13/16

Due Date: 6/30/16

Subject: Maximizing client goal of hours worked and recognizing the recommended standard of 20 hours a week

Applies to (check all that apply):

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Vocational Rehabilitation – All Staff |
| <input type="checkbox"/> | Vocational Rehabilitation – Executive Team |
| <input type="checkbox"/> | Vocational Rehabilitation - Administration |
| <input type="checkbox"/> | Vocational Rehabilitation – Branch Managers |
| <input checked="" type="checkbox"/> | Other ODDS Employment Unit Staff, for dissemination |

Rationale

Nationally, the Rehabilitation Act of 1973 as amended by the Workforce Innovations and Opportunity Act (2014), seeks to empower individuals with disabilities to maximize employment and economic self-sufficiency.

Oregon’s goal is that all persons with I/DD who want to work in the community will be afforded an opportunity to pursue competitive employment that allows them to work the maximum number of hours consistent with their abilities and preferences. The recommended standard for planning and implementing Supported Employment Services is the opportunity to work at least 20 hours per week. Based on individual choice, preferences, and circumstances, some

people may choose to work at that level while others may not. (Lane v. Brown, US District Court Case No: 3:12-cv-0038-ST: Settlement VII(1)(a)).

Reason for Action

VR follows federal and state mandates to maximize opportunity for all participants with disabilities including I/DD to pursue competitive integrated employment at the hours they choose to work.

Action Required

VR should invite referring staff and others chosen by the participant, to the Intake meeting (or other pre-plan meeting) when the participant's IPE employment goals, including hours worked per week, are discussed.

Benefits planning information that alleviates fear of working because of loss of benefits is needed by participants who are just beginning to seek employment so they can utilize informed choice in making decisions. The participant and their VR counselor will decide if they need to be referred for benefits planning at this time. If they are already working and want to increase their hours or if they are on the point of starting a job, then full benefits planning services is best practice and a referral should be made. Referral to and receipt of benefits planning services should be documented in case notes.

A goal of hours worked should be recorded in the first fillable box of the IPE that directs staff to, "Discuss transferable skills, individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, informed choice and other factors that were used to determine the employment goal."

When the participant chooses to change their goal of hours worked, the VR counselor and participant should agree on a plan revision to the lower or higher number of hours and inform the PA or SC. Some participants choose to

change this goal during job development; others choose to take a job with higher or lower hours than the original IPE goal. Reaching the hours worked goal in the IPE (or revised IPE) is one of the criteria for job stabilization that must be reached before transfer to DD services or natural support.

Some participants choose to increase their working hours over time, after they are employed and their VR case file is closed; with potential assistance from their long-term job coach. In that case, their IPE goal of hours worked may be lower than their long term goal and should be thought of as a final goal for the VR plan but an interim goal for the participant. The IPE goal and long range plans should be documented in case notes. Pertinent sections of the IPE should be provided to the PA or SC to inform the long-term job coach about the participant's long term plans.

Participants, who want to increase their hours after starting a part time job, may choose to develop a plan to find additional employment to supplement the original job. A participant may choose to seek supplemental employment before the VR case file is closed to meet their IPE goal. Other participants choose to seek supplemental employment after their VR file is closed, either on their own or through the use of other workforce programs.

Training requirement

Branch Managers review this transmittal at an all-staff meeting, keep a record of the meeting notes and forward a copy of the notes to the contact person listed below.

Policy and Resources

- Workforce Incentive and Opportunities Act (WIOA), 2014
- Lane v. Brown, US District Court Case No: 3:12-cv-0038-ST: Settlement
- Oregon Policy: 3.14 Supported Employment Policy
- VR-IM-15-01 Job Stabilization

Acronyms

- I/DD is Intellectual and/or Developmental Disability
- IPE is a VR Participant's Individualized Plan for Employment
- PA is a Personal Agent
- SC is a Services Coordinator
- VR is Vocational Rehabilitation

If you have any questions about this information, contact:

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|--------------------|--|-------------|--------------|
| Contact(s): | Ann Balzell | | |
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