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PROVIDER BULLETIN

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All DD Home and Community-Based Waivers: Employment Services

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- **Clarification when waiver funded employment services can be authorized without Vocational Rehabilitation referral.**

The Division of Developmental Disabilities is providing clarification on when Career Planning, Prevocational, Job Development and Supported Employment services (i.e. employment services) can be authorized for those receiving supports through the Partnership for Hope, Community Support and Comprehensive waivers. This bulletin serves to clarify the service description and requirements for employment services and utilization of comparable services through Vocational Rehabilitation (VR).

42 CFR 441.310(a)(3) establishes the following limits on the use of Medicaid monies:

Prevocational and supported employment services may be furnished as expanded habilitation services. However, such services may only be furnished to a waiver participant to the extent that they are not: "Otherwise available to the beneficiary under either special education and related services as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16) and (17)) or vocational rehabilitation services funded under section 110 of the Rehabilitation Act of 1973."

When a state covers prevocational and/or supported employment services in a waiver, the waiver service definition of each service must specifically provide that the services do not include services that are available under the Rehabilitation Act (or, in the case of youth, under the provisions of the IDEA) as well as describe how the state will determine that such services are not available to the participant before authorizing their provision as a waiver service.

Partnership for Hope, Community Support and Comprehensive waiver definitions indicate: [Services] furnished under the waiver may not include services available under a program funded under section 110 of the Rehabilitation Act of 1973 and its amendments or section 602(16) and (17) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(16 and 17)). Therefore, the case record for any individual receiving this service must document the individual is not eligible for, unable to access, exhausted services or otherwise inapplicable for the aforementioned programs as outlined in an interagency memorandum of understanding between Vocational Rehabilitation and the Division of Developmental Disabilities.

Therefore, VR must be accessed when **all** of the following conditions are present in client documentation and aligned with individualized assessed need:

1. An individual is in need of support or services *applicable and available* thru VR;
2. The individual is *potentially* eligible for the necessary vocational rehabilitation services;
3. The individual has not previously accessed VR services (i.e. not previously determined ineligible and/or had a case closed unsuccessfully by vocational rehabilitation);
4. The individual has not exhausted (or will be exhausting) services which would otherwise be available (i.e. exceeding threshold of support as defined by VR); and
5. The individual is an applicable referral to vocational rehabilitation, per VR eligibility criteria, as having been identified as meeting all of the following VR eligibility criteria:
 - a. An individual with a physical or mental impairment, as determined by qualified personnel licensed or certified in accordance with state law or regulation,
 - b. Presence of functional limitations which constitutes or results in a substantial impediment to employment, and
 - c. *Currently requires* vocational rehabilitation services to prepare for, secure, retain or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Waiver employment services can be authorized in the following circumstances without a referral to VR:

1. Instances when an individual is in need of expanded habilitative services not available through VR.
 - Supported Employment Group
 - Prevocational Services (individual or group setting)
2. Instances when it is *currently* unknown if an individual is able to prepare, secure, retain or regain competitive employment **and** still exploring if competitive integrated employment is aligned with abilities and capabilities.
 - Career Planning
 - Prevocational Services

3. Individuals who have been previously determined ineligible for VR services or closed unsuccessfully from VR as “disability too severe”.
4. Individuals who previously accessed VR and services were discontinued as VR established thresholds of support and/or outcomes were accomplished. (As services have been exhausted, appropriate documentation from VR would be required.)
5. Individuals who in the delivery of waiver funded preparatory, planning and habilitative employment services become employed.

The purposeful braiding of supports and services with VR to enhance the employment outcomes of individuals with developmental disabilities is allowable under Code of Federal Regulations (CFR) for 1915(c) HCBS waivers as long as documentation supports that it is neither duplicative nor supplanting. Therefore, individuals can receive concurrent services from VR and 1915(c) funded services as long as documentation reflects VR supports and services are not otherwise available and/or exhausted.