

# RTAC EXPERT SUMMIT SESSION 5: ON EXTENDED SERVICES

Overview and Considerations  
for VR Agencies

Dan Madrid, Delaware Division for  
the Visually Impaired

Vito DeSantis, ICI

# YOUNG PEOPLE WITH DISABILITIES

“(37) STUDENT WITH A DISABILITY —

“(A) IN GENERAL.—The term ‘student with a disability’ means an individual with a disability who— “(i)(I)(aa) is not younger than the earliest age for the provision of transition services under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)); or “(bb) if the State involved elects to use a lower minimum age for receipt of pre-employment transition services under this Act, is not younger than that minimum age; and “(II)(aa) is not older than 21 years of age; or “(bb) if the State law for the State provides for a higher maximum age for receipt of services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), is not older than that maximum age; and “(ii)(I) is eligible for, and receiving, special education or \*related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or “(II) is an individual with a disability, for purposes of section 504.

“(B) STUDENTS WITH DISABILITIES.—The term ‘students with disabilities’ means more than 1 student with a disability.”

**VS.**

“(42) YOUTH WITH A DISABILITY.— “(A) IN GENERAL.—The term ‘youth with a disability’ means an individual with a disability who— “(i) is not younger than 14 years of age; and “(ii) is not older than 24 years of age.

“(B) YOUTH WITH DISABILITIES.—The term ‘youth with disabilities’ means more than 1 youth with a disability.”

# WIOA PARAMETERS

“(38) SUPPORTED EMPLOYMENT.—The term ‘supported employment’ means competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, for individuals with the most significant disabilities—

“(A)(i) for whom competitive integrated employment has not historically occurred; or

“(ii) for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and “(B) who, because of the nature and severity of their disability, need intensive supported employment services and extended services after the transition described in paragraph (13)(C), in order to perform the work involved.

# WIOA CONT.

“(39) SUPPORTED EMPLOYMENT SERVICES.—...“(A) are provided singularly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive integrated employment; “(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and “(C) are provided by the designated State unit for a period of not more than \*24 months, except that period may be extended, if necessary, in order to achieve the employment outcome identified in the individualized plan for employment.”

# WHAT THE REGS MIGHT SAY . . . .

(20) *Extended services* means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, ~~from funds other than funds received under this part and 34 CFR part 363~~ after an individual with a most significant disability has made the transition from supported **employment** ~~provided by the designated State unit.~~

# WIOA CONT.

SEC 603“(d) SERVICES FOR YOUTH WITH THE MOST SIGNIFICANT DISABILITIES.— A State that receives an allotment under this title shall reserve and expend half of such allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities in order to assist those youth in achieving an employment outcome in supported employment.”

Remember: “(42) YOUTH WITH A DISABILITY.— “(A) IN GENERAL.—The term ‘youth with a disability’ means an individual with a disability who— “(i) is not younger than 14 years of age; and “(ii) is not older than 24 years of age.

SEC 604...” Such extended services shall be available for a period not to exceed 4 years.”

# NEW SHELTERED WORK PROVISIONS

## **(14) Semiannual review of individuals in extended employment or other employment under special certificate provisions of the fair labor standards act of 1938**

The State plan shall provide for--

**(A) a semiannual review and reevaluation of the status of each individual with a disability served under ...any ... employment under section 14(c) of the Fair Labor Standards Act ...for 2 years after the beginning of such employment, and annually thereafter to determine the interests, priorities, and needs of the individual with respect to competitive integrated employment or training for competitive employment;** (B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; (C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist individuals described in subparagraph (A) in attaining competitive integrated employment and an assurance that the State will report the information generated under subparagraphs (A),(B),and (C), for each of the individuals to the Administrator of the Wage and Hour Division of the Department of Labor for each fiscal year, not later than 60 days after the end of the fiscal year.

# SHELTERED WORK PROVISIONS (JULY, 2016)

## SEC. 511. LIMITATIONS ON USE OF SUBMINIMUM WAGE

(a) IN GENERAL. No entity, including a contractor or subcontractor of the entity, which holds a special wage certificate as described in section 14 (c) of the Fair Labor Standards Act of 1938 (29 USC 214(c)) may compensate an individual with a disability who is age 24 or younger at a wage (referred to in this section as a subminimum wage) that is less than the Federal minimum wage unless 1 of the following conditions is met.

(1) The individual is currently employed, as of the effective date of this section, by an entity that holds a valid certificate pursuant to section 14 (c) of the Fair Labor Standards Act of 1938.

(2) The individual, before beginning work that is compensated at a subminimum wage, has completed, and produces documentation indicating completion of, each of the following actions:

(A) The individual has received pre-employment transition services that are available to the individual under section 113, or transition services under the Individual With Disabilities Education Act (20 USC 1400 et seq,) such as transition services available to the individual under section 614 (d) of that Act (20 USC 1414 (d)).

(B) The individual has applied for vocational rehabilitation services under Title I, with the result that-

(i)(I) the individual has been found ineligible for such services pursuant to that title and has documentation consistent with section 102 (a)(5)(C) regarding the determination of ineligibility; or

(ii)(aa) the individual has been determined to be eligible for vocational rehabilitation services;

(bb) the individual has an individualized plan for employment under section 102;

(cc) the individual has been working toward an employment outcome specified in such individualized plan for employment, with appropriate supports and services, including supported employment services, for a reasonable period of time without success; and

(dd) the individual's vocational rehabilitation case is closed; and

(ii)(I) the individual has been provided career counseling, and information and referrals to Federal and State programs and other resources in the individual's geographic area that offer employment-related services and supports designed to enable the individual to explore discover, experience, and attain competitive integrated employment; and (II) such counseling and information and referrals are not for employment compensated at a subminimum wage provided by an entity described in the subsection, and such employment-related services are not compensated at a subminimum wage and do not directly result in employment compensated at a subminimum wage provided by an entity described in this subsection.



# TARGET POPULATIONS\*\*\*\*\* (\*\*\*\*\*VERY IMPORTANT SLIDE)

A. 1/2 of our supported employment funds dedicated to 14-24 year olds with MOST significant disabilities. Supported employment funding may not exceed 24 months (previously 18). Extended services for this population shall be available for a period not to exceed 4 years.

B. Beginning in July, 2016 those individuals with disabilities historically tracked toward sheltered work opportunities whether beginning at age 14 or those currently within sheltered work settings who may be assessed and choose to move toward competitive, integrated employment potentially through supported employment with extended service supports up to 6 years.

C. Individuals with intellectual disabilities and individuals with developmental disabilities determined HCBS eligible under Medicaid. (Covered next in our talk...)

# REQUIRED MOUS

1. MOU with State Agency responsible for administering the State Medicaid Plan under Title XIX of the Social Security Act. AND
2. MOU with the State agency with primary responsibility for providing services for individuals with intellectual and developmental disabilities who have been determined to be eligible for HCBS services.

- Must include information on the delivery of VR and extended services.

\*The State plan shall describe how the designated State agency or agencies will collaborate with the State agency responsible for administering the State Medicaid plan under title XIX of the Social Security Act, the State agency responsible for providing services for individuals with developmental disabilities, **and the State agency responsible for providing mental health services**, to develop opportunities for community-based employment in integrated settings, to the greatest extent practicable.”

# IN AN IDEAL WORLD

- MOU between Workforce, Ticket to Work Programs, Vocational Rehabilitation, Education, Local Education Agencies, Mental Health, Developmental Disabilities, AT, and Medicaid with:
1. Clearly defined roles/responsibilities.
  2. Funding organized to maximize overall resources (sharing of state dollars to maximize federal match).
  3. An array of well articulated professional development tools and technical assistance materials for practitioners at the ground level.

# MANAGEMENT FRAMEWORK

- Services & Processes:
  - A. Review customized employment practices, contracts, and philosophy. (Are you currently paying for discovery?)
  - B. Processes and services for working with youth and students with disabilities.
  - C. Processes and services for initial sheltered work evaluations, re-evaluations and support of students with most significant disabilities.
- Communication:
  - A. Strengthen established work groups or form new work groups.
  - B. Peer to peer exchanges between practitioners at common levels.
  - C. Joint training opportunities/learning collaboratives.
  - D. Do you have the engagement support of your customers, stakeholders, and SRC?

# MANAGEMENT FRAMEWORK CONT.

- Partnerships:
  - A. Business partnership opportunities may arise from engagement in sheltered work evaluations.
  - B. Other business opportunities to fund transformation.
  - C. Federal partnerships and relationships with local entities will need to strengthen (CMS, DOL, DOE, ACL, etc.).
  - D. Community rehabilitation programs as allies.

# STRATEGIC PLANNING BEGINS WITH?

A. Do you know the average, median, minimum and maximum length of time your customers currently spend in supported employment?

B. What are the rate differentials between the VR agencies, and extended service provider network(s) currently?

C. What are the credentialing requirements across short term (VR) and long term systems (often Medicaid waiver) systems of care?

D. What are the estimates coming out of Department of Education, SEAs, and LEAs on students typically geared toward day habilitation, or prevocational services (sheltered workshops)?

E. How many individuals with disabilities are currently working in sheltered workshops? Is there already a system in place evaluating their potential for competitive, integrated work?

# TIME = \$

Those youth with most significant disabilities that may require the additional 30 months (48 months – 18 months) of extended/supported employment services based on the IPE.

+ Include an additional percentage (\$) for youth who would have historically not been referred to VR for consideration for competitive, integrated employment.

+ Those adults with significant disabilities who may be re-evaluated by VR to exit sheltered work settings and pursue competitive, integrated employment.

= Repurposed \$\$\$ and services

# OPTIONS FOR MOU WITH STATE MEDICAID AGENCY

- A. MOU with State Medicaid Agency could specify a review of the Medicaid State plan against the VR state plan on an annual basis to establish funding priorities for both systems.
- B. Short term (VR) vs. long term (Medicaid) systems may incentivize or disincentivize provider rates as the providers shifts from VR to Medicaid funding and vice versa.
- C. MOU with State Medicaid Agency could distinguish VR eligibility criteria from Medicaid eligibility criteria in such a way that resources be better braided and blended.



# OPTIONS FOR VR PROGRAM STRUCTURING

A. VR service structure for extended services could include an assessment that initially limits the extended services for a period of less than four years on the IPE, but leaves the structure open for periodic reassessments that would allow up to four years of funding.

B. VR extended services rates could be tiered and modeled in unique ways based on the significance of the needs of the individual, length of time required, and needs of the business among other factors.

# OPTIONS FOR MOU WITH EDUCATION/LEAS

A. Grounded in IDEA requirements - According to IDEA Section 300.29—

(a) Transition services means a coordinated set of activities for a student with a disability that-

(1) Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (2) Is based on the individual student's needs, taking into account the student's preferences and interests; and (3) Includes- (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If appropriate, acquisition of daily living skills and functional vocational evaluation.

(b) Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

# OPTIONS FOR MOU WITH ID/ DD AGENCY AND MH AGENCY

- A. Examine the funding structures between systems in supported employment and extended services. Provider incentives may be aligned with keeping customers in supported employment for the maximum amount of time or the minimal amount of time before engaging in extended services.
- B. VR may want to consider unique structures and rates for the extended services provided by the agency within the four year window permitted.
- C. Re-examine existing service models, rates, and credentials for providers with DD/MH.

# INTERESTING TIDBITS

SEC 191

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—

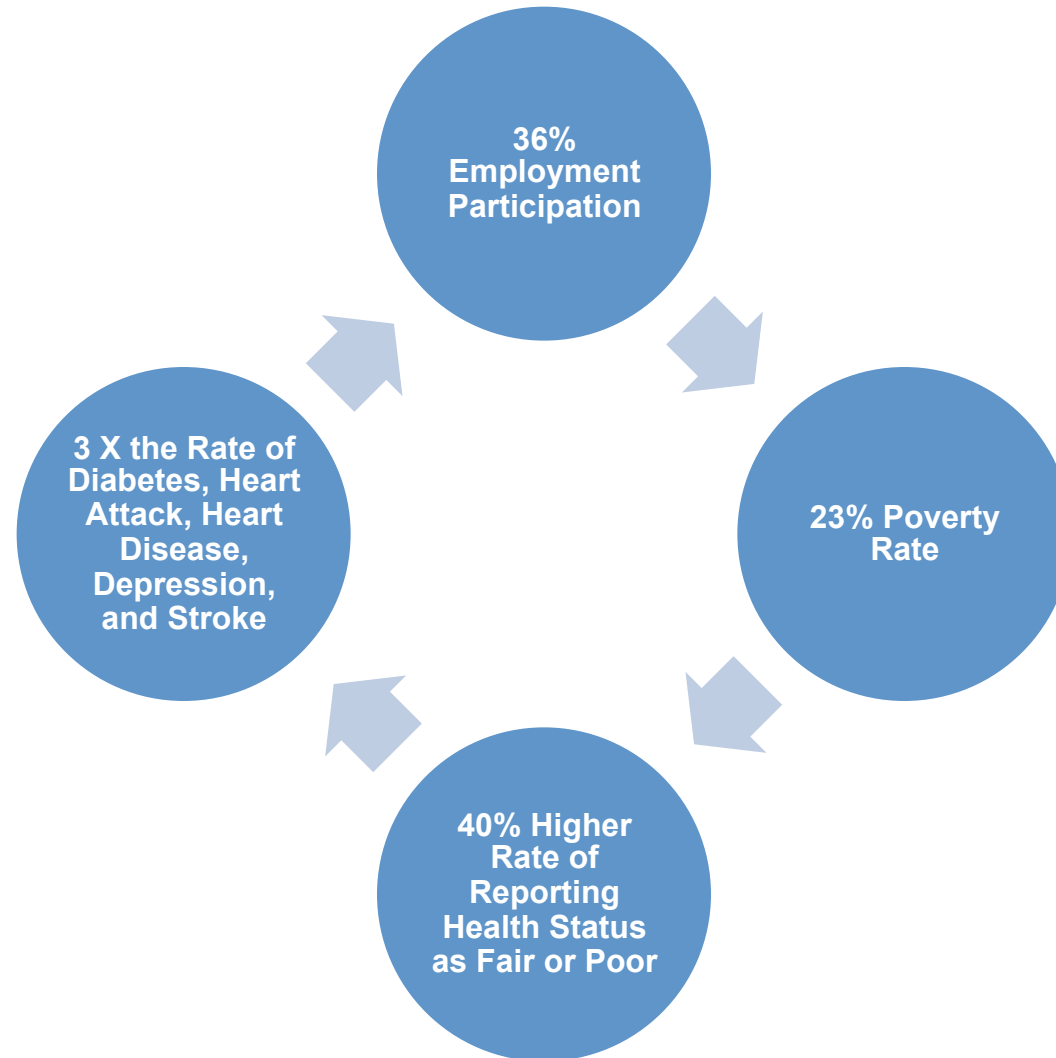
In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

# INTERESTING TIDBITS

“(6) describe the activities to be conducted pursuant to section 603(d) for youth with the most significant disabilities, including—

“(A) the provision of extended services for a period not to exceed 4 years; and “(B) how the State will use the funds reserved in section 603(d) to leverage other public and private funds to increase resources for extended services and expand supported employment opportunities for youth with the most significant disabilities.

# THE MISSION



# QUERIES, ASSERTIONS, SOLICITATIONS, AND DEMANDS

Daniel M. Madrid

State Employee at Large

302-256-7707

[Daniel.madrid@state.de.us](mailto:Daniel.madrid@state.de.us)