



**Dept. of Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243**

**Dept. of Intellectual and Developmental Disabilities
Citizen's Plaza- 10th Floor
400 Deaderick Street
Nashville, TN 37243**

IMPORTANT MEMO

Date: June 20, 2016
To: HCBS Waiver Providers
From: TennCare and the Department of Intellectual & Developmental Disabilities
Re: Authorization Changes for Facility Based Day Services **Effective July 1, 2016**

The purpose of this memo is to remind you of the July 1, 2016 implementation of certain changes in the authorization of facility-based day services in the State's Section 1915(c) waivers for individuals who have an intellectual disability. These changes are necessary to ensure compliance with:

- 2011 CMS guidance regarding employment and employment-related (i.e., habilitation or "day") services provided under Section 1915(c) waivers;
- The 2014 CMS Final HCBS Settings Rule; and
- Tennessee's approved Section 1915(c) waiver applications (first posted for public comment on August 4, 2014, and approved by CMS on March 27, 2015).

These changes have been discussed in a number of forums, including "*Changes to the State's HCBS Waivers*" webinars conducted in the spring of 2015, a July 15, 2015 joint memo from TennCare and DIDD, and numerous meetings with providers.

Pursuant to the currently approved waiver service definition in each of the Section 1915(c) waivers:
*"Day Services may be provided in a facility setting **only** [emphasis added] when selected by a person supported who needs time-limited pre-vocational training, when such training is not available on the job site, and to persons who, through their person-centered planning process choose to participate in a facility based program in order to focus on the development of individualized and specific skills that will support them in pursuing and achieving employment and/or community living goals."*

This means that **facility-based day services can be approved *only* for:**

1. A person who needs *time-limited pre-vocational training*, when such training is not available on the job site; or
2. A person who, through their person-centered planning process chooses to participate in a facility based program in order to focus on the development of individualized and specific skills that will support the person in pursuing and achieving employment and/or community living goals.

In the first case, as explained in the July 2015 joint memo:

“The distinction between *vocational* and *pre-vocational* services is that *pre-vocational* services, regardless of setting, are delivered *for the purpose* of furthering habilitation goals such as attendance, task completion, problem solving, interpersonal relations and safety, *as outlined in the individual’s person-centered ISP*. The ISP should clearly identify the person’s *individualized* habilitation goals AND should also clearly identify the intent of developing needed skills to pursue integrated community based employment at or above the minimum wage. Service notes and planning activities should clearly document progress toward achieving those goals and efforts toward transition to more integrated and competitive employment options. A general statement that services are *pre-vocational* in nature will not suffice.”

This means that, for review of all new and continuing ISP requests with an effective date on or after July 1, 2016, pre-vocational training in a facility-based setting may be approved ***only if all*** of the following are met:

- The ISP must clearly identify the person’s intent to pursue integrated community based employment at or above the minimum wage.
- The ISP must clearly identify the person’s *individualized* employment-related habilitation goals.
- The ISP should include a clear plan for HOW AND WHEN the skills the person is learning will help them prepare to move to the next step: individual integrated employment at or above the minimum wage.

If the ISP fails to provide this information, facility-based day services will not be approved for pre-vocational training. Again, a general statement in the ISP that services are pre-vocational in nature will not suffice.

(As a reminder, vocational services in a facility-based—or sheltered employment—setting may *never* be approved as part of the ISP. This is true even if the person is earning a competitive wage. Waiver funding is not available for the provision of *vocational* services delivered in facility based or sheltered work settings, where individuals are supervised for the primary purpose of producing goods or performing services. If services in the facility-based or sheltered work setting are *vocational*, and not *pre-vocational* in nature, waiver services cannot be billed or reimbursed.)

Further, if pre-vocational training is approved in a facility-based setting, service notes and planning activities should clearly document: 1) progress toward achieving individualized habilitation goals; and 2) efforts toward transition to more integrated and competitive employment options. Such documentation may be reviewed as part of DIDD quality assurance surveys or FAR reviews, TennCare utilization review activities, etc. It will also be reviewed as part of any request for continuation of pre-vocational services beyond the first 6-month approval period. Documentation must be submitted along with any such request that will allow plans reviewers to ensure that progress toward individualized employment-related habilitation goals is being made, and to ensure that services are provided in accordance with our approved waiver, the federal HCBS Settings rule and CMS 2011 guidance.

In the second instance identified above (a person who is not receiving pre-vocational services, but chooses to receive facility-based day services in order to develop individualized and specific skills that will support the person in pursuing and achieving employment and/or community living goals), for review of all new and continuing ISP requests with an effective date on or after July 1, 2016, facility-based day services may be approved ***only if all*** of the following are met:

- The ISP must clearly identify the person's employment and/or community living goals.
- The ISP must clearly identify the specific individualized skills that the person will be working on developing during the course of the facility-based day services.
- The ISP should include a clear plan for HOW AND WHEN the skills the person is learning will help them prepare to move to the next step: pursuing and achieving their employment or community living goals.

If the ISP fails to provide this information, facility-based day services will not be approved.

As with pre-vocational training in a facility-based setting, service notes and planning activities should clearly document progress toward developing individualized skills and achieving employment or community living goals. Such documentation may be reviewed as part of DIDD quality assurance surveys or FAR reviews, TennCare utilization review activities, etc. It will also be reviewed as part of any requests for continuation of facility-based day services for the development of specified skills beyond the first 6-month approval period. Documentation must be submitted along with any such request that will allow plans reviewers to ensure that progress toward individualized skill development and employment or community living goals is being made, and to ensure that services are provided in accordance with our approved waiver, the federal HCBS Settings rule and CMS 2011 guidance.

Facility-based day services approved in an ISP with an effective date prior to July 1, 2016 will continue to be provided as approved until the next review period, at which time, all requirements described in this memo shall apply.

Facility based day services in an ISP that has previously been reviewed but with an effective date of service on or after July 1, 2016, may be amended to reflect the 6-month review period described in this memo, and to ensure that all applicable requirements as described in this memo are met.

Please direct questions regarding plans review processes to Sandra Wise at Sandra.Wise@tn.gov and questions regarding the provision of services to Amy Gonzalez at Amy.Gonzalea@tn.gov.



Michele Morse Jernigan
Deputy, TennCare LTSS Quality & Administration



Jordan Allen
Deputy Commissioner, DIDD