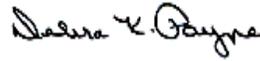


MEMORANDUM

Memo # 210

TO: HCBS Waiver Providers

FROM: Debra K. Payne, DIDD Commissioner



DATE: April 29, 2016

SUBJECT: Approval of Supported Employment Services

This memorandum serves to inform providers of a change in the requirements for approval of Supported Employment services. The Department previously required a denial or closure letter from Vocational Rehabilitation to validate all requests for Employment Services. After discussions with multiple stakeholder groups, the decision has been made that the approval of Supported Employment services can be granted without a closure letter from Vocational Rehabilitation if justified by a request for supports required to keep a person competitively employed. It is important to note that a referral to Vocational Rehabilitation is still required so as to ensure that persons are given proper opportunity for assessment for supports available to them through that program. Additionally, validation of this referral and communication documentation may be requested.

This policy interpretation is predicated on the assumption that submission of a service request for Employment Services indicates a person who is already employed would not be capable of maintaining their current employment were it not for supports offered within the parameters of the current and approved definition for Employment and Day Services as defined within and pertaining to the DIDD administered 1915c HCBS Waiver programs. Additionally, it is understood that no supports provided can be duplicative of those offered by another payer source. Specifically, the waiver language addressing the referenced prohibition reads as follows:

"Day Services shall not replace services available under a program funded by the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act."

It is important to reiterate that while supports potentially leading to employment may be provided and billed under various activities falling within the approved definition of Employment and Day Services, Supported Employment services, as defined within the currently approved HCBS 1915c Waiver programs, constitute supports to persons already employed and are not billable under any other service context. As a point of reference the entire definition is provided for you below.

Title: Employment and Day Services

Service Definition (Scope):

Employment and Day Services shall mean individualized services and supports selected by the person supported, that help the person to seek employment and work in competitive integrated settings and engage in community life, based on his or her individualized needs and preferences and as reflected in the person-centered ISP, and to acquire, retain, or improve skills in the area of self-care, sensory/motor development, socialization, daily living skills, and communication, in order to pursue and achieve his or her personal employment and/or community living goals. All individual employment and day services goals and objectives, along with needed supports shall be established through the person-centered planning process and documented in the person-centered ISP and shall include opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources, as applicable based on the needs and preferences of the individual.

Employment and Day Services shall be provided as specified in the person-centered ISP in order to support the individual's employment and/or community living activities, or the development, retention, and improvement of skills necessary to achieve employment and/or community living goals. Day Services may be provided to persons as a separate service where permitted under service specifications described in this waiver. Supported Employment shall be the preferred option for all persons supported that are not of retirement age, based on each person's needs and preferences, and shall be provided in accordance with the following requirements:

- a.** A job coach employed by the Day Services provider shall be on-site at the work location and shall support the person; or
- b.** The Day Services provider shall oversee the person's supported employment services including on-site supervisors, and shall have a minimum of one contact per week with the person including at least one contact per month at the work site, and shall have a job coach employed by the Day Services provider who is available on-call if needed to go to the work site.

Community-based Day Services shall support each person's full engagement in community life, based on his or her individualized needs and preferences and as reflected in the person-centered ISP, and the acquisition, retention, or improvement of skills in the area of self-care, sensory/motor development, socialization, daily living skills, communication, and social skills in order to pursue and achieve his or her personal employment and/or community living goals. This includes assisting the person to build relationships and natural supports.

Community-based Day Services are designed such that the person spends the majority of his/her time, while participating in this service, actively engaged in activities in the community. Supervision, monitoring, training, education, demonstration, or support is provided to assist with the acquisition of skills in the following areas: leisure activities and community/public events, utilizing community resources (e.g. public transportation), acquiring and maintaining employment, educational activities,

hobbies, unpaid work experiences (e.g. volunteer opportunities), and maintaining contact with family and friends.

Day Services may be provided in a facility setting only 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. Facility-based day services must allow for opportunities for all persons supported to be engaged in the broader community when appropriate and be specified in the person-centered ISP. Opportunities to transition into more integrated settings, including competitive integrated employment, will be evaluated on at least an annual basis. In-home Day Services are provided in the person's residence only if selected by the person supported because there is a health, behavioral, or other medical reason or if the person has chosen retirement or is unable to participate in services outside the home.

Additional Requirements

Transportation of the person to and from the person's place of residence to the location where Day Services will be provided shall be the responsibility of the Employment or Day Services provider. With the exception of transportation to and from medical services covered through the Medicaid State Plan/TennCare Program and in accordance with TennCare protocol, transportation that is needed during the time that the person is receiving Day Services shall be the responsibility of the Day Services provider, and the cost of such transportation shall be considered to be included within the Day Services reimbursement rate.

Day Services shall not be provided in inpatient hospitals, nursing facilities, and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID).

Day Services are not intended to replace services available through the Medicaid State Plan/TennCare program.

Services provided by natural supports are not reimbursable and are excluded from reimbursement as part of this service.

Day Services shall not replace services available under a program funded by the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

Day Services shall not be provided during the same time period that the person is receiving Personal Assistance Services, Respite Services, or services under a 504 Plan or Individual Education Program (IEP), is being homeschooled, or any combination thereof, or as a substitute for education services which are available pursuant to the Individual with Disabilities Education Act (IDEA), but which the person or his/her legal representative has elected to forego. Except for students who have

graduated prior to May of 2014, Day Services for school aged persons (i.e., under the age of 22) are limited to regular school break periods.

The reimbursement for Supported Employment Day Services shall include incentive payments for vocational related specified, measurable outcomes such as:

- a.** A one-time payment that is made to an Employment provider when an individual obtains employment as a result of that provider's direct involvement in the job placement.
- b.** Stipends paid to employers that are passed through to individuals on the work site who, in addition to their regular job duties, function as a work place support for individuals served in the waiver.
- c.** A one-time payment that is made to an Employment provider when an individual has been employed consecutively for one year.

The reimbursement for Supported Employment Day Services shall not include incentive payments, subsidies, or unrelated vocational training expenses: such as,

- a.** Incentive payments that would duplicate or replace milestone payments made by Vocational Rehabilitation.
- b.** Incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program.
- c.** Payments that are passed through to users of supported employment programs.
- d.** Payments for vocational training that is not directly related to a person's supported employment program.

Day Services shall be limited to a maximum of 5 days per week up to a maximum of 243 days per person per calendar year. Family members who provide Day Services are required to implement services as specified in the Individual Support Plan (ISP). Reimbursement to family members shall be limited to forty (40) hours per week per family member for self-directed services as well as those delivered by contracted provider agencies. The person's Circle of Support is responsible for determining if the use of family members to deliver paid care is the best choice for the person supported and shall ensure that paid services do not supplant natural supports that would otherwise be provided at no cost to the Medicaid program.

Day Services shall be reimbursed in accordance with the requirements set forth herein. The provider may receive the per diem reimbursement for Day Services if:

- a.** The person receives 6 hours of direct services, which may include, in accordance with requirements specified herein, combinations of Supported Employment, Community-based, Facility-based, and In-home Day Services.
- b.** The person receives at least 2 hours of Day Services and there is documentation that the person was unable to complete the full 6 hours of Day Services for reasons beyond the provider's control (e.g., sickness of the person).

Reimbursement for a combination of different Day Services (e.g., supported employment, community-based, and/or facility-based; or community-based and/or facility-based in conjunction with in-home) provided on the same day shall be made in accordance with the following:

- a.** If the person receives up to or in excess of 6 hours of a combination of Community-based and Facility-based Day Services, the reimbursement shall be the per diem reimbursement rate for the type of service provided for the greatest amount of time that day.
- b.** If the person receives up to or in excess of 6 hours of a combination of Day services that includes Supported Employment, the reimbursement shall be the per diem reimbursement rate for Supported Employment Day Services.
- c.** Only in the case of a person who has chosen retirement and to encourage the person's continued participation in community life, if the person receives at least 2 hours of Community-Based Day Services in order to participate in integrated community activities of his/her choosing, and chooses to receive some or all of the remainder of the 6 hours receiving In-home Day Services, the reimbursement shall be the per diem reimbursement rate for Community-Based Day Services.

Applicable limits, if any, on the amount, frequency, or duration of this service:

Day Services shall be limited to a maximum 5 days per week up to a maximum of 243 days per person per calendar year.

If you have any questions, please contact Barbara DeBerry at Barbara DeBerry at Barbara.DeBerry@tn.gov or Amy Gonzalez at Amy.Gonzalez@tn.gov.