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Authorized Signature

Number: APD-PT-15-011
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Topic: Developmental Disabilities

Transmitting (check the box that best applies):

- ☒ New policy
 ☐ Policy change
 ☐ Policy clarification
 ☐ Executive letter
☐ Administrative Rule
☐ Manual update
☐ Other: _____

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 |
| <input type="checkbox"/> Self Sufficiency Programs | Disabilities Services(ODDS) |
| <input checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> ODDS Children's Intensive |
| <input type="checkbox"/> ODDS Children's | In Home Services |
| <input type="checkbox"/> Residential Services | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> Child Welfare Programs | <input checked="" type="checkbox"/> Other (please specify): Brokerages, |
| | Service Coordinators and Personal |
| | Agents, ODDS Provider Organizations |

Policy/rule title:	ODDS Employment Services for Transition Age Individuals and Youth while Special Education and Related Services Remain Available under IDEA.		
Policy/rule number(s):		Release no:	
Effective date:	03/27/2015	Expiration:	
References:			
Web address:			

This policy transmittal is an update and further clarification of previously issued policy statements. This transmittal supersedes policy transmittals APD-PT-13-016 and APD-PT-13-011.

POLICY:

Transition age individuals and youth may access a Medicaid-funded Employment Service, through Oregon's Office of Developmental Disability Services (ODDS), when

the service is not available through the local educational agency, as part of special education and related services available under the Individuals with Disabilities Education Act (IDEA), and when the service is not available through Vocational Rehabilitation.¹ Transition age individuals and youth may therefore access ODDS Employment Services under the circumstances outlined below.

BACKGROUND:

Under Oregon's Employment First policy, it is presumed that, with the right support and job match, each individual who experiences an intellectual or developmental disability can work in an individual integrated job that pays minimum wage or better, but no less than the same wage and level of benefits to people who do not have disabilities. Recognizing the pivotal role employment plays in the lives of individuals who experience an intellectual or developmental disability, employment is the first and priority option for individuals using Medicaid-funded services through Oregon's Office of Developmental Disability Services. Employment in fully integrated settings is the highest priority over unemployment, segregated employment, facility-based employment, or other non-work day services.²

Many aspects of Oregon's Employment First policy focuses on youth, as evidenced through the Executive Order 15-01, and an Oregon Memorandum of Understanding between the Department of Human Services and Oregon Department of Education (hereinafter referred to as the Transition Services MOU). Oregon's Department of Human Services includes both Vocational Rehabilitation and the Office of Developmental Disability Services. Students with intellectual or developmental disabilities who have integrated employment experiences while in school, with compensation at or above minimum wage, have higher rates of maintaining integrated employment as adults. Additionally, students are most successful in obtaining and maintaining integrated employment when their services are coordinated and there is collaborative funding between the Oregon Department of Education (ODE), Vocational Rehabilitation (VR), and the Office of Developmental Disability Services (ODDS).

Individuals may access ODDS and Medicaid-funded employment services, while also eligible for special education and related services under IDEA, in the circumstances outlined below. This policy clarification is to align ODDS employment services with the above stated policies relating to Employment First, as well as federal laws and regulations under which ODDS and Medicaid-funded employment services may not include special education and related services which otherwise are available to the individual through a local educational agency.

¹ Individuals with Disabilities Education Act, 20 U.S.C. §1400 (2004). ODDS Employment Services do not include special education and related services which otherwise are available to the individual through a local educational agency. See 42 U.S.C. 1396n(c)(5)(C)(i); and 42 C.F.R 440.108(c)(3)(i). Additionally, ODDS Employment Services do not include vocational rehabilitation services which are otherwise available to the individual. See 42 U.S.C. 1396n(c)(5)(C)(ii); and 42 C.F.R 440.108(c)(3)(ii).

² Oregon's Employment First policy is codified under ORS 427.007(1)(b); see also Oregon Administrative Rule 411-345-0025(2), regulating ODDS and Medicaid-funded employment services, Oregon's Executive Order 15-01 (which replaces and supersedes Oregon's Executive Order 13-04), Oregon's Memorandum of Understanding between the Department of Human Services and Oregon Department of Education (the Transition Services MOU). These presumptions and policies are also based on best practices demonstrated throughout the State of Oregon and other states.

CIRCUMSTANCES IN WHICH ODDS EMPLOYMENT SERVICES ARE AVAILABLE

I. Individual Employment Support – Job Coaching

Job coaching includes support to maintain or advance in individual integrated employment.³ Under the following circumstances, individuals eligible for ODDS-funded employment services may access this service while also eligible for services under IDEA:

- a. The individual has obtained competitive integrated employment, at minimum wage or above, and expects to continue working in competitive integrated employment after completing school.
- b. The competitive integrated employment is not part of a high school transition service or program such as a paid work experience for students, an internship or a similar activity that is generally available to other students, and designed to prepare students for long-term employment.
- c. Job coaching is no longer available through VR.
- d. The individual's ISP (Individual Service Plan) and IEP (Individualized Education Program) must be coordinated and document how the ODDS Job Coaching service complements any services the individual receives through the local education agency. This coordination of individual service plans should also include the IPE (Individual Plan for Employment) completed with VR.
- e. All other requirements for Job Coaching must also be satisfied as outlined under Oregon's Administrative Rules regulating ODDS Employment Services. This includes the requirement that the individual access job coaching through vocational rehabilitation first. This service is available at the ODDS initial job coaching rate for six months less the amount of time job coaching has been used through VR.

II. Discovery

Discovery includes a series of work, volunteer, and other community based

³ See OAR 411-345-0025(9)(a)(A).

⁴ See OAR 411-345-0025(9)(c).

⁵ See OAR 411-345-0025(9)(b).

⁶ See OAR 411-345-0025(9)(d).

⁷ Under the Social Security Act, and associated federal regulations, ODDS and Medicaid-funded employment services may not include special education and related services which otherwise are "available to" the individual through a local educational agency. See 42 U.S.C. 1396n(c)(5)(C)(i); see also 42 C.F.R. 440.108(c)(3)(i).

⁸ See OAR 581-015-2245(3).

experiences, to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions that will contribute to an individual's success in an integrated employment setting in the general workforce.⁴ It is a short service that presumes approximately 40 hours of 1:1 service, but may take up to three months. This service is provided in limited or exceptional circumstances in which there is insufficient information for VR Job Development.

Discovery is most appropriate and effective when an individual is ready to actively pursue an individual integrated job and seek a referral to VR for Job Development, but where, upon review of all employment related information available regarding the individual, it is determined there is insufficient information regarding the conditions in which the individual will be successful in an integrated employment setting in the general workforce.

Under the following circumstances, individuals eligible for ODDS and Medicaid-funded employment services may access Discovery while eligible for services under IDEA:

- a. The individual must express interest in actively pursuing individual integrated employment within the upcoming ISP year.
- b. The Employment Team must make a recommendation that the individual participate in Discovery based on review of all employment documentation available. The Employment Team includes the individual, the case manager, the VR counselor, the school case manager and other Local Education Agency representative, and any other person invited by the individual. The recommendation process must include the following:
 - i. The Employment Team must have an opportunity to review all available information, including, but not limited to:
 1. The individual's Individualized Education Program (IEP).
 2. The Summary of Performance.
 3. Work experience evaluations, vocational assessments, and all available information from VR.
 4. All available relevant information from ODDS records.
 5. All other information regarding the individual's skills, experience, interests, and conditions that will contribute to his or her success in an individual integrated employment setting.
 - ii. After reviewing all available documentation, the Employment Team will make a written recommendation on whether Discovery is the right service that the individual needs, and how available information is not sufficient.

- iii. The Service Coordinator or Personal Agent will authorize the Discovery service based on the individual's request and the recommendation from Employment Team. The individual's Career Development Plan must document why the available information is insufficient, and why Discovery is the right service that is needed.
- c. If the individual has more than two years remaining before exit from school services, it is presumed that job exploration or any other discovery-like activities, including a consolidation of information regarding an individual's work-related strengths and skills, is available and supported through the local education agency.
- d. The individual's ISP (Individual Service Plan) and IEP (Individualized Education Program) must be coordinated and document how the ODDS Discovery service complements any services the individual receives through the local education agency. This coordination of individual service plans should also include the IPE (Individual Plan for Employment) completed with VR.
- e. The employment team should also ensure that referrals have been made to both VR and DD services to ensure a seamless transition from ODDS to VR services.

III. Small Group Employment Support

This service includes support and training provided in regular business, industry, and community settings for groups of two to eight individuals with disabilities. This service is provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces.⁵ The optimal and expected outcome of this service is individual integrated employment.

Under the following circumstances, individuals eligible for ODDS-funded employment services may access ODDS Small Group Employment Support while also eligible for services available under IDEA:

- a. The individual intends to continue pursuing competitive integrated employment and has active steps in his or her IEP, ISP, and CDP towards obtaining competitive integrated employment.
- b. After exiting school, the individual intends to continue working in a small group supported employment setting, and moving towards competitive integrated employment.

- c. The job must pay minimum wage or better as outlined under OAR 411-345.
- d. The individual's ISP (Individual Service Plan) and IEP (Individualized Education Program) must be coordinated and document how the ODDS Small Group Supported Employment service complements any services the individual receives through the local education agency. This coordination of individual service plans should also include the IPE (Individual Plan for Employment) completed with VR.
- e. All other requirements for the Small Group Employment Support service must also be satisfied as outlined under Oregon's Administrative Rules regulating ODDS Employment Services.

IV. Employment Path Services

ODDS Employment Path services includes support to develop general skills that can be transferred to individual integrated employment.⁶ The nature of this service, including support in a volunteer work experience, is available through the local education agency. ODDS therefore does not provide this service to student and transition-aged individuals by ODDS.⁷

If an individual is using ODDS employment path services, while eligible for services under IDEA, then the service may be funded for 90 days following the date of this transmittal. After 90 days, it is expected that the service would be funded through the school or local education agency.

Additionally, to clarify already stated policy, schools and local education agencies are not permitted to use state public funds to contract with or fund vocational assessments or placements in Sheltered Workshop settings.⁸

STUDENTS WHO CHOOSE NOT TO USE SERVICES AVAILABLE UNDER IDEA

As outlined above, federal laws and regulations require that ODDS and Medicaid-funded Employment Services only be used when services are not "available" through the school. Therefore, this policy applies the same to all individuals eligible for services under IDEA, regardless of whether an individual chooses to use the services available under IDEA.

Although students who earn an extended diploma or a modified diploma possess a diploma, students eligible for special education and related services may continue to use services available under IDEA until the age of 21 (or until a regular high school diploma is attained). Therefore, this transmittal applies to the following students:

1. Students who are currently enrolled in school,
2. Students who have earned an (Oregon) Extended Diploma,
3. Students who have earned an (Oregon) Modified Diploma, and

4. Students who have not attained a diploma, but are under age 21 and not attending school.

If an individual graduates with an Oregon regular high school diploma, he or she no longer has services available through the local educational agency. Individuals who graduate with a regular diploma may therefore access all ODDS employment services if otherwise eligible.

INDIVIDUALS UNDER THE AGE OF 18

Individuals under the age of 18 may use ODDS Employment Services under certain circumstances that align with this policy. ODDS approval is required before any individual under the age of 18 can access these Employment Services.

Field/stakeholder review: ☒ Yes ☐ No

If yes, reviewed by: CDDPs, Brokerages, Provider Organizations, DHS Employment First, Oregon's Statewide Employment First Policy Stakeholders, Vocational Rehabilitation, Oregon Department of Education, and Oregon Council on Developmental Disabilities.

Filing instructions:

If you have any questions about this policy, contact:

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