



LEAD CENTER

POLICY SUMMARY

**VR Policy Framework, as Amended
Regarding Cooperative Agreements Between
Vocational Rehabilitation Agencies and Medicaid,
Mental Health (MH) and Development/Intellectual
Disabilities (DD/ID) Agencies**

October 2016

STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

§361.24. Cooperation and coordination with other entities.

(a) **Interagency cooperation.** The VR agency must describe the designated State agency's cooperation with and use of the services and facilities of Federal, State, and local agencies and programs.

(f) **Cooperative agreements regarding individuals eligible for home and community-based waiver programs.** The State plan must include an assurance that the designated State unit has entered into a **formal** cooperative agreement **with the State agency responsible for administering the State Medicaid plan and the State agency with primary responsibility for providing services and supports for individuals with intellectual disabilities** and individuals with developmental disabilities, with respect to the delivery of VR services, including extended services for individuals with the most significant disabilities who have been **determined eligible for home and community-based services** under a Medicaid waiver, Medicaid State plan amendment, or other authority related to a State Medicaid program.

(g) **Interagency cooperation.** The State Plan must **describe how** the designated State agency will collaborate with the State agency responsible for:

- Administering the State Medicaid plan,
- Providing services for individuals with developmental disabilities, and
- Providing mental health services

to develop opportunities for community-based employment in integrated settings, to the greatest extent practicable.

§361. 27. Shared funding and administration of joint programs.

(a) If the State plan provides for the designated State agency to share funding and administrative responsibility with another agency or local public agency to carry out a joint program to provide services to individuals with disabilities, the State must submit to the Secretary for approval a plan that describes the shared funding and administrative arrangement.

(b) The plan must include: (1) a description of the **nature and scope** of the joint program; (2) the services to be provided under the joint program; (3) the respective roles of each participating agency in the administration and provision of services; and (4) the share of the costs to be assumed by each agency.

(c) The joint program must comply with statewideness requirement or obtain a waiver.

§361.28. Third-party cooperative arrangements involving funds from other public agencies.

The designated State unit may enter into a third-party cooperative arrangement for providing or contracting for the provision of VR services with another State agency or local public agency that is providing part or all of the non-Federal share under specified circumstances.

§361.38. Protection, use, and release of personal information.

(a) **General provisions.** The State agency and the State unit must adopt and implement written policies and procedures to safeguard the confidentiality of all personal information, including photographs and list of names consistent with policies and procedures specified in the rule.

(e) **Release to other programs or authorities.** Upon receiving the informed written consent of the individual or, if appropriate, the individual's representative, the State unit may release personal information to another agency or organization, in accordance with a **written agreement**, for its program purposes only to the extent that the information may be released to the involved individual or the individual's representative and only to the extent that the other agency or organization demonstrates that the information requested is necessary for its program. Medical or psychological information that the State unit determines may be harmful to the individual may be released if the other agency or organization assures the State unit that the information will be used only for the purpose for which it is being provided and will not be further released to the individual.

§361.46. Content of the individualized plan for employment.

(b) **Supported employment requirement.** An IPE for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must:

- 1) specify the supported employment services to be provided by the designated State unit;
- 2) specify the expected extended services needed, which may include natural supports;
- 3) identify the source of extended services or, to the extent that it is not possible to identify the source of extended services at the time the IPE is developed, include a description of the basis for concluding that there is a reasonable expectation that those sources will become available;
- 4) provide for periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the IPE by the time of transition to extended services;
- 5) ***provide for the coordination of services provided under an IPE with services provided under other individualized plans established under other Federal or State programs;***
- 6) to the extent that job skills training is provided, identify that the training will be provided on site; and
- 7) included placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.

§361.48. Scope of VR services for individuals with disabilities.

(b) ***Services for individuals with disabilities who have applied for or determined eligible for VR services.*** As appropriate to the VR needs of each individual and consistent with each individual's IPE, the designated State unit must ensure the following VR services are available to assist the individual with a disability in preparing for, securing, retaining, advancing in or regaining an employment outcome that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including but not limited to:...

(5) ***Physical and mental restoration services, to the extent that financial support is not readily available from a source other than the designated State unit (such as through health insurance or a comparable service or benefit [See §361.53]).***

§361.52. Informed choice.

The State plan must assure that applicants and recipients of services, or as appropriate, their representatives are provided information and support services to assist applicants and recipients of services in exercising informed choice throughout the rehabilitation process, including information and assistance in the selection of VR services and service providers [©].

§361.53. Comparable services and benefits.

(a) ***Determination of availability.*** The State plan must assure that prior to providing an accommodation or auxiliary aid or service or any VR services (except specified services), to an

eligible individual or to members of the individual's family, the State unit must determine whether comparable services and benefits exist under any other program and whether those services and benefits are available to the individual unless specific circumstances exist.

(d) **Interagency coordination.** (1) The State plan must assure that the Governor, in consultation with the entity responsible for the VR program and other appropriate agencies, will **ensure that an interagency agreement or other mechanism for interagency coordination take effect between the designated State VR unit and any appropriate public entity, including the State entity responsible for administering the State Medicaid program**, to ensure the provision of VR services, including the provision of VR services during the pendency of any interagency dispute.

(2) The Governor may meet the requirement through a State statute or regulation; a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity for the provision of the services or another appropriate mechanism as determined by the designated State VR unit.

(3) **The interagency agreement or other mechanism** for interagency coordination must include the following:

- **Agency financial responsibility;**
- **Conditions, terms, and procedures of reimbursement;**
- **Procedures for resolving interagency disputes, including procedures to secure reimbursement; and**
- **Procedures for coordination of services**, including policies and procedures for public entities to determine and identify interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of VR services.

(e) **Responsibilities under other law.** (1) If a public entity (other than the designated State unit) is obligated under Federal law or State law or assigned responsibility under State policy or an **interagency agreement** established under this section to provide or pay for any VR service, the public entity must fulfill that obligation or responsibility through the terms of the **interagency agreement** or other requirements; providing or paying for the service directly or by contract or other arrangement.

(2) If a public entity other than the designated State unit fails to provide or pay for VR services, the designated State unit must provide or pay for those services to the individual and may claim reimbursement for the services from the public entity that failed to provide or pay for those services. The public entity must reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism.

STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM

§363.4. What are the authorized activities under the State Supported Employment Services program?

(d) A State must **coordinate** with the following entities [e.g., other public agencies, private nonprofit organizations, and other available funding sources, including employers] regarding the services provided to individuals with the most significant disabilities, including youth with the most significant disabilities under part 363 [State Supported Employment Services program] and part 361 [State Vocational Rehabilitation Services Program] to ensure that the services are complementary and not duplicative.

§363.11. What are the vocational rehabilitation services portion of the Unified or Combined State plan supplement requirements?

(e) Demonstrate evidence of the designated State unit's efforts to identify and make arrangements, including **entering into cooperative agreements**, with other State agencies and other appropriate entities to assist in the provision of supported employment services and other public or non-profit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services.

§363.50. What collaborative agreements must the State develop?

(a) A designated State unit **must enter into one or more written collaborative agreements, memoranda of understanding, or other appropriate mechanisms** with other public agencies, private nonprofit organizations, and other available funding sources, including employers and other natural supports, as appropriate, to assist with the provision of supported employment services and extended services to individuals with the most significant disabilities in the State, including youth with the most significant disabilities, to enable them to achieve an employment outcome of supported employment in competitive integrated employment.

(b) These arrangements provide the **mechanism for collaboration** at the State level that is necessary to ensure smooth transition from supported employment services to extended services, the transition which is inherent to the definition of supported employment. The agreement **may** contain information regarding:

- (1) Supported employment services to be provided, for a period not to exceed 24 months, by the designated State unit with VR funds;
- (2) Extended services to be provided to youth with the most significant disabilities, for a period not to exceed four years by the designated State unit with funds reserved for youth [see §361.22];
- (3) Extended services to be provided by other public agencies, private nonprofit

organizations, or other sources, including employers and other natural supports, following the provision of authorized supported employment services, or extended services as appropriate for youth with the most significant disabilities; and

(4) Collaborative efforts that will be undertaken by all relevant entities to increase opportunities for competitive integrated employment in the State for individuals with the most significant disabilities, especially youth with the most significant disabilities.

§363.53 What requirements must a designated State unit meet for the transition of an individual to extended services?

(a) A designated State unit must provide for the transition of an individual with a most significant disability, including a youth with a most significant disability, to extended services, not later than 24 months after the individual enters supported employment, unless a longer period is established in the IPE.

(b) Prior to assisting the individual in transitioning from supported employment services to extended services, the designated State unit must ensure:

(1) The counselor and the individual have considered extending the provision of supported employment services beyond 24 months, as appropriate, and have determined that no further supported employment services are necessary to support and maintain the individual in supported employment before the individual transitions to extended services;

(2) The sources of extended services for the individual has been identified in order to ensure there will be no interruption of services. The providers of extended services may include:

- A State agency, a private nonprofit organization, employer, or another appropriate resource, after an individual has made the transition from support from the designated State unit; or,
- The designated State unit, in the case of a youth with a most significant disability for a period not to exceed four years, or at such time that a youth reaches the age of 25 and no longer meets the definition of a youth with a disability, whichever occurs first. For youth who still require extended services after they can no longer receive them from the designated State unit, the designated State unit must identify another source of extended services for those youth in order to ensure there will be no interruption of services. The designated State unit may not provide extended services to individuals with the most significant disabilities who are not youth with the most significant disabilities.