

Policy Transmittal Developmental Disabilities Services



Lilia Teninty
Authorized signature

Number: APD-PT-18-013
Issue date: 3/23/2018

Topic: Developmental Disabilities

Due date: 3/23/2018

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: {Select type} | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> ODDS Children’s Residential Services | <input checked="" type="checkbox"/> Other (please specify): Brokerages, Employment Service Providers |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Request for Additional Time for Transforming Sheltered Work Settings		
Policy/rule number(s):		Release number:	
Effective date:	03/23/18	Expiration date:	
References:			
Web address:			

Discussion/interpretation:

The worker guide outlines policies, procedures, and a timeline for ODDS employment service providers requesting a rule variance for additional time to transform sheltered work settings and come into compliance with HCBS setting requirements. Related tools include a provider variance request and a spreadsheet for detailing individualized action plans for individuals who may continue to use services within the setting after 09/01/18. See the guidance and tools for additional details. These tools will also be posted to the [ODDS employment policy website](#).

Local/branch action required: See guidance.

Central office action required: See guidance.

Field/stakeholder review: Yes No

If yes, reviewed by: Employment First Policy Stakeholders, ODDS HCBS Stakeholders, Brokerage Association, County Association, Provider Associations

Filing instructions:

If you have any questions about this policy, contact:

Contact(s): Allison Enriquez	
Phone: 503-945-5827	Fax:
Email: allison.enriquez@state.or.us	

HCBS TRANSFORMATION: VARIANCE REQUEST FOR ADDITIONAL TIME TO IMPLEMENT HCBS TRANSFORMATION PLAN

Provider Name:

Provider contact (name, email, phone number):

Date of Request:

Time Period for Variance Request:

Setting assessment #: *See HCBS status report. Note a separate request must be submitted for each setting.*

Address and brief description of the setting:

**To streamline your organization's variance request, ODDS will auto fill information in the "individual variance request" spreadsheet. Therefore, please notify ODDS as soon as your organization determines it will be requesting a variance for additional time (ensure your notification is prior to completing the variance documentation). You can email this notification to: oddsemployment.pathreview@state.or.us.*

REQUEST DETAILS

1. Please summarize any changes or updates to your Transformation Plan:
2. If any ODDS services will be provided at this address, please identify those services:
3. When do you currently plan to end the use of ODDS services in this sheltered work setting?
4. What progress has your agency made towards implementing your Transformation Plan and achieving the goals outlined in the Plan. The following milestones were common amongst many provider transformation plans:
 - a. Are you a VR vendor?
 - b. How many job developers does your organization have?
 - c. How Many Discovery Specialists does your organization have?
 - d. How many placements (in competitive integrated employment) did your organization achieve between 2016 and now? What are your goals from now through 2022?
 - e. How have you communicated changes to individuals and those who support them?

- f. How have you communicated changes to the case management entities?
- g. Has the CDP been updated by the case manager and ISP team to reflect the goals of the person to move out of a sheltered work setting? And/or to obtain competitive integrated employment?
- h. What other progress have you made towards implementing your HCBS transformation plan for this setting?
- i. What other progress has your organization made towards the criteria outlined in the variance worker guide (see section 4):

**If your organization has not implemented milestones listed above, please identify your proposed milestone in the Action Plan below.*

5. In the Action Plan below, please identify any additional steps your organization will need to take to implement your Transformation Plan as well as any barriers and strategies to addressing the barriers:

Milestone	Key Steps to Achieving Milestone	Date by Which Milestone will be Accomplished	Potential Barrier	Strategies to Address Barrier
1.				
2.				
3.				
4.				
5.				
6.				

- 6. What factors contribute to your organization’s ability to successfully implement this plan? (e.g. Leadership and Board in agreement, ways in which leadership is engaged in implementation, training and career paths for employment professionals, support, etc.)
- 7. What barriers has your organization faced that have made it difficult to implement the goals and timelines in your Transformation Plan? What have you tried that did not work? Describe why your efforts this time will not be impeded by these barriers.

Topic:	HCBS Compliance for ODDS Employment and Day Services – Request for Additional Time for Transforming Sheltered Work Settings Variance Process & Timeline
Date Issued/Updated:	03/16/18

Overview

Sections included:

- I. Purpose/Why Action Required
- II. Procedures
 - a. Timeline for Submitting a Variance Request for Additional Time
 - b. Process for requesting a Variance
 - c. Criteria for granting a Variance
 - d. FAQs

I. Purpose / Why Action Required

This action is required to ensure Oregon and its providers of Home and Community Based Services (HCBS) have sufficient time to effectively support people to transition to integrated community settings in a manner that is collaborative, transparent, and timely.

Oregon sheltered work settings must transform to be in compliance with new setting requirements for Office of Developmental Disabilities Services (ODDS) and Medicaid funded Home and Community Based Services. Federal and State regulations have required that settings be in full compliance by September 1, 2018. Under new guidance, states and providers making substantial progress towards full compliance may request additional time.¹ Full compliance is required across all of Oregon's HCBS settings by July 1, 2021.

As a result, ODDS employment service providers making substantial progress towards full compliance may apply for a variance to the portion of the Oregon Administrative Rules (OARs) requiring full compliance by September 1, 2018. ODDS's approval of the variance request would effectively grant the provider additional time to come into full compliance. This transmittal outlines the procedures and timeframes for submitting a request for additional time in the form of a variance.

¹ See [CMCS informational bulletin issued May 9, 2017](#).

II. Procedures

a. Timeline for Submitting a Variance:

<u>INITIAL VARIANCE PERIOD (September 1, 2018 - March 15, 2020)</u>	
Submission dates for initial 2018 variance:	
March 16, 2018	A request for a variance may be submitted
June 1, 2018	Deadline for submitting a 2018 variance request
ODDS Review/Approval of initial 2018 variance:	
August 1, 2018	ODDS review and approval of variance requests
September 1, 2018	OARs require full compliance of employment/day service settings
Non-Compliant Settings without a 2018 Variance	
September – December 2018	ODDS employment specialists will visit previously-identified sheltered work settings that have not submitted a variance.
January 15, 2019	If a variance has not been granted and a setting is not in full compliance, then ODDS will issue 60 days written notice regarding termination of service setting for the individuals who use services within the non-compliant setting. Termination of services will be effective March 15, 2019.
<u>SECOND VARIANCE PERIOD (September 1, 2019 – March 15, 2021)</u> (Note also timeline for issuing notice)	
Submission dates for 2019 variance:	
March 1, 2019	A request for a second variance may be submitted
June 1, 2019	Deadline for submitting a 2019 variance request
ODDS Review/Approval of 2019 variance	
August 1, 2019	ODDS review and approval of 2019 variance requests
Non-Compliant Settings without a 2019 Variance	
September – December 2019	ODDS employment specialists will visit previously-identified sheltered work settings that have not submitted a variance.
January 15, 2020	If a variance has not been granted and a setting is not in full compliance, then ODDS will issue 60 days written notice regarding termination of service setting for the individuals who use services within the non-compliant setting. Termination of services will be effective March 15, 2020.
Notice regarding termination of service setting	
On or before July 1, 2020	ODDS employment specialists will visit remaining sheltered work settings.
July 1, 2020	ODDS will issue 60 day advance written notice regarding termination of service setting for anyone using services in a non-

	compliant sheltered work setting. The termination of services will be effective September 1, 2020.
September 1, 2020	Plan of Care authorizations for support in sheltered work settings will end.
On or before July 1, 2021	Full Compliance verified for all Settings
Ongoing Compliance Monitoring	
See state transition plan for additional details (through standard licensing and QA monitoring)	

b. Process for Requesting a Variance:

Submit the following materials to oddsemployment.pathreview@state.or.us (using the timelines outlined above):

- Complete the enclosed provider variance request form identifying how the required criteria have been met, and information regarding the progress made towards compliance; and
- Complete the provided spreadsheet detailing individualized action plans for the individuals you are requesting a variance for (including a confirmation that the person’s case manager and ISP team have been notified regarding the request for additional time).

**To streamline your organization’s variance request, ODDS will auto fill information in the "individual variance request" spreadsheet. Therefore, please notify ODDS as soon as your organization determines it will be requesting a variance for additional time (ensure your notification is prior to completing the variance documentation). You can email this notification to: oddsemployment.pathreview@state.or.us.*

- Any available CDP, IPE (VR), and provider action plans must also be submitted.

Note, an approved variance will become part of the provider transformation plan.

Criteria for granting a Variance:

The documents outlined under section 2 above and other available information (e.g. provider HCBS transformation plan) will be reviewed to determine whether the following criteria have been met and whether a Sheltered Workshop will be granted additional time:

Required:

- ODDS-approved HCBS transformation plan;
- Evidence of substantial progress towards implementing the plan;
- Individualized requests for additional time explaining, for each person using services in the sheltered work setting, how continuing to use services within the setting will best support the person to achieve his or her goals and result in the best outcome

for that person including goals related to obtaining competitive integrated employment;

- Individualized implementation strategies and action plans that show how those using services in the setting are going to use it to obtain Competitive Integrated Employment (CIE);
- Alignment among employment planning documents (CDP, IPE (VR), etc).
- The provider is making substantial progress towards the goals identified, including target numbers and mile stones for reducing the number of people in sheltered work settings;
- The Board in agreement with the provider's plan;
- A date is identified for closure, winding down contracts, or winding down services in sheltered work settings;
- The provider is effectively communicating with individuals using services, families, and ISP teams that services in the setting are time limited;
- The provider has a plan and timeframe for issuing notice, if applicable;
- The provider has a plan for communicating changes with individuals and families.
- Plan for working with ISP teams to support individuals to obtain or advance in CIE; and identify all service options; and
- If provider intends to maintain a business and support people in the setting through HCBS employment path services, then the provider has a plan to ensure the workforce is integrated, services are time limited, and support individuals to explore and work towards competitive integrated employment.
- Any other information that is relevant for determining whether a provider is making substantial progress towards implementation of an HCBS transformation plan.

Preferred:

- Target numbers for placement in competitive integrated employment (CIE) and correlating milestones between 2016 and 2022. Making placements in CIE. Making progress towards meeting identified goals although may not always meet goals identified exactly.
- VR Vendor
- Discovery provider

FAQs

What are the notice requirements relating to the closure of sheltered workshops?

- If an employment service provider makes a decision to reduce or terminate services, then a person has notice and hearing rights as outlined under OAR 411-345. A provider must provide the person with 30 days advance written notice using [notice form 0719](#). If a provider makes a decision to reduce or terminate services for more than 10 individuals within a 30 day calendar period, then provider must provide the person with 60 days advance written notice. The provider must also notify the Department (ODDS), and the person's case manager.
- After September 1, 2018, the State will no longer fund services in sheltered work settings, unless the provider has received a variance for additional time. If individuals continue to use services in sheltered work settings without a variance beyond September 1, 2018, the State will be issuing a **Notice of Planned Action (form SDS 0947)** as outlined under OAR 411-318-0020. For additional information and a more detailed timeline, see the above section II.a. regarding "Timeline for Submitting a Variance."

Please note that some people have voluntarily chosen alternative services before a provider closure, or before state required closure. Advance notice is not required if a person has voluntarily chosen alternative services. However, an ISP meeting must be held in order to discuss a planful transition for the individual.

Contact(s):

Name: Allison Enriquez; **Phone:** (503)945-5827; **Email:** (allison.enriquez@dhsosha.state.or.us)