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**Authorized Signature**

**Number: APD-PT-15-006**

**Issue date: 2/25/2015**

**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 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 ( <i>please specify</i> ): Employment and day service providers |
| <input type="checkbox"/> Child Welfare Programs                |   |

Policy/rule title:	No new services in Sheltered Workshop settings (Provider)		
Policy/rule number(s):		Release no:	
Effective date:	2/25/2015	Expiration:	
References:			
Web address:			

**Discussion/interpretation:**

**POLICY:**

Oregon formally adopted its “Employment First” policy in 2008, and was one of the first states in the country to do so. Under its Employment First policy, Oregon presumes that, with the right training and support, each individual who experiences an intellectual or developmental disability (I/DD) can succeed in an individual integrated job that pays competitive wages and benefits. Recognizing the pivotal role integrated employment plays in the lives of individuals who experience intellectual or developmental

disabilities, employment in fully integrated settings is the highest priority over unemployment, segregated employment, facility-based employment, or day habilitation.<sup>1</sup> As outlined below, the Employment First policy is being implemented through a number of ongoing initiatives.

In order to further Oregon's Employment First policy, effective July 1, 2015, ODDS will no longer fund services in Sheltered Workshop settings for individuals who are newly eligible for services, or individuals already using services but not in a Sheltered Workshop setting. Only individuals already using services in Sheltered Workshop settings as of June 30, 2015 may continue to do so after July 1, 2015.

## **BACKGROUND:**

Oregon's Office of Developmental Disability Services (ODDS) and Oregon's Department of Human Services (DHS) have implemented changes to employment and other non-residential day services to implement Oregon's Employment First policy, to highlight opportunities available to use Medicaid-funded services administered through ODDS, and to increase integrated employment opportunities for individuals with disabilities. These measures include but are not limited to:

- Previously bundled, ODDS Employment Services now include an array of discrete stand-alone community-based employment services. Services can be combined in order to meet the needs of the individual using the services. Additionally, Employment Services are now paid based on an hourly rate instead of on a daily rate. These modifications increase flexibility to meet individualized needs, and better support goals related to achieving community employment in the most integrated setting.
- Community-based employment services funded through ODDS include<sup>2</sup>:
  - Individual Employment Support – Job Coaching
  - Discovery
  - Individual Employment Support – Job Development
  - Small Group Employment Support
  - Employment Path Community

Other day services are also available under Oregon's Community First Choice K Plan. Services include group based support to meet ADL/IADL needs, including but not limited to, socialization and community inclusion.

- Career Development Planning is required for all individuals using ODDS services, at minimum, as part of the annual person-centered planning process, or more frequently as necessary or as requested. As part of Career Development

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<sup>1</sup> See Oregon's Employment First policy codified under Oregon Revised Statutes 427.007(1)(b); see also Oregon Administrative Rule 411-345-0025(2) regulating ODDS and Medicaid-funded employment services.

<sup>2</sup> See Oregon Administrative Rule 411-345, and policy transmittal APD-PT-14-023.

Planning, individuals will have an opportunity to discuss all Employment Service options. Individualized approaches may be needed to ensure the person has an opportunity to make a truly informed choice about pursuing employment.

- Oregon Administrative Rules governing ODDS employment services, and all related guidance, explicitly requires that the optimal and expected outcome of all ODDS and Medicaid-funded employment services is individual integrated employment that pays minimum wage or better, but no less than the same wage and level of benefits paid to individuals who do not have disabilities.<sup>3</sup> An individual who uses ODDS employment services must have an employment goal in his or her Career Development Plan (CDP).<sup>4</sup> This employment goal must support progress towards the optimal and expected outcome of employment services, which is individual integrated employment that pays competitive wages and benefits, as well as work experience leading to further career development.<sup>5</sup>
- DHS has awarded contracts to Living Opportunities and Washington Initiative for Supported Employment (WISE), two organizations that will provide training and technical assistance to other provider organizations in order to increase capacity for more community-based employment supports.
- DHS will also be issuing a number of grants to fund new organizations that provide individual integrated employment services, or fund existing provider organizations that will expand to provide individual integrated employment services in Oregon.
- New federal regulations regarding Medicaid Home and Community Based Services (all ODDS-funded employment and day services) require that every setting in which services are provided meet the new setting requirements. As outlined under Oregon's HCBS Transition Plan to come into compliance, each setting will be assessed to measure compliance. Assessment for compliance with the new federal regulations will occur initially and on an ongoing basis.

## **SHELTERED WORKSHOP SETTINGS:**

Effective July 1, 2015, ODDS will no longer fund services used in Sheltered Workshop settings for individuals who are newly eligible for services, or individuals already utilizing services who are not already working in Sheltered Workshop settings.<sup>6</sup>

To operationalize this, Oregon service coordinators and personal agents will no longer authorize ODDS and Medicaid-funded Employment Services in Sheltered Workshop

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<sup>3</sup> OAR 411-345-0025(4); see also sub-regulatory guidance from the Center for Medicare and Medicaid Services (CMS) (September 16, 2011) found here: <http://downloads.cms.gov/cmsgov/archived-downloads/CMCSBulletins/downloads/CIB-9-16-11.pdf>.

<sup>4</sup> OAR 411-345-0160(2).

<sup>5</sup> OAR 411-345-0025(4).

<sup>6</sup> See Oregon's Executive Order 15-01 (which replaces and supersedes Oregon's earlier Executive Order 13-04).

settings for individuals not already using services within Sheltered Workshop settings. Only individuals who use Employment Path Facility services for support in a Sheltered Workshop setting as of June 30, 2015, can receive authorization to continue using Employment Path services in the Sheltered Workshop setting after July 1, 2015. If, after July 1, 2015, an individual discontinues using services in a Sheltered Workshop setting for one month or more, he or she will not be able to resume using ODDS services in a Sheltered Workshop setting. Individuals may temporarily suspend services for more than 30 calendar days if the suspension is due to a change in eligibility for Medicaid Home and Community Based Services that may occur, for example, due to hospitalization.

Sheltered Workshops are facilities in which individuals who experience intellectual or developmental disabilities are congregated for the purpose of using ODDS employment services and performing work tasks for pay at the facility. A Sheltered Workshop primarily employs individuals with I/DD and other disabilities, with the exception of service support staff. A Sheltered Workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with people who do not have disabilities, not including paid support staff.<sup>7</sup>

### **BACKGROUND FOR THIS NEW POLICY:**

- As outlined under sub-regulatory federal guidance regarding ODDS employment services, “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 services.”<sup>8</sup>
- ODDS services must be provided in the most integrated setting possible.
- Under new federal regulations, ODDS and Medicaid-funded Home and Community Based Services must be provided in settings that meet new requirements. Settings that isolate individuals with disabilities, and provide minimal interaction with the broader community, must make adaptations to come into compliance under Oregon’s Transition Plan.<sup>9</sup> These settings must encourage interaction with the general public, facilitate access to the greater community, and provide opportunities to seek competitive integrated employment.<sup>10</sup>

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<sup>7</sup> See Oregon Administrative Rule 407-025 and Oregon’s Executive Order 15-01.

<sup>8</sup> OAR 411-345-0025(4); see also sub-regulatory guidance from the Center for Medicare and Medicaid Services (CMS) (September 16, 2011) found here: <http://downloads.cms.gov/cmsgov/archived-downloads/CMCSBulletins/downloads/CIB-9-16-11.pdf>.

<sup>9</sup> Additional information regarding Oregon’s Transition Plan can be found here: <http://www.oregon.gov/dhs/dhsnews/Pages/hcbs-transitionplan.aspx>

<sup>10</sup> 42 CFR §441.301(c)(4)-(5).

- All Employment Path services, including those used for support in Sheltered Workshop settings, are time limited and expected to occur over a defined period of time, with specific outcomes to be achieved.<sup>11</sup>

## **Implementation/transition instructions:**

### **Required Provider Assessment**

All providers of ODDS non-residential services, including all employment and group based day services, must complete an initial provider assessment on or before April 24, 2015. Information gathered through this assessment will be used to verify accuracy of ODDS employment and day service billings and delivery and to assure future compliance with state and federal regulations for ODDS and Medicaid-funded Home and Community Based Services (HCBS). Information from the assessment will complement any assessments completed as part of the HCBS Transition Plan.<sup>12</sup>

Future assessments must be completed, at minimum, when completing or renewing a provider enrollment agreement, or upon request from ODDS, the CDDP, or brokerage, when questions arise regarding the service.

### **Instructions Regarding the Assessment**

- A link to the initial assessment will be emailed to every provider of ODDS employment and other non-residential day services.
- Providers who have not received a link to the provider assessment tool, on or before February 27, 2015, must notify ODDS immediately.
- Providers will have until April 24, 2015, in order to complete the initial assessment.
- Each service setting must be assessed, regardless of the number of individuals served within that setting. If multiple settings within one address or location would assess differently (i.e. trigger a different response to the assessment), then it is a separate setting and a separate assessment must be completed.
- ODDS will review each assessment for accuracy. Until ODDS reviews and issues a formal letter indicating the assessment is accurate, complete, and no additional information is needed, the result of the assessment is subject to change.
- ODDS reserves the right to request additional information or evidence to support a response in the assessment.

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<sup>11</sup> See OAR 411-345-0025(9)(d)(B); see also CMS sub-regulatory guidance (September 16, 2011) referenced above.

<sup>12</sup> The purpose of Oregon's Transition Plan is to bring settings in which ODDS and Medicaid-funded HCBS are provided into compliance with new federal regulations. Additional information regarding Oregon's Transition Plan can be found here: <http://www.oregon.gov/dhs/dhsnews/Pages/hcbs-transitionplan.aspx>.

- Some questions in the assessment identify elements that indicate greater likelihood of a particular service or setting but are not necessarily conclusive or required. Recoupment for inaccurate billing will be handled on a case by case basis.
- Providers that do not complete accurate and timely assessments may not be able to bill during the biennium. This will be reviewed on a case by case basis.

### **What if there is a disagreement?**

- ODDS will request that the provider submit additional information and evidence if there appears to be a discrepancy between the service authorized, the service billed, and the service provided.
- ODDS may ask the CDDP or Brokerage to provide additional information.
- If a provider disagrees with the review and determination made by ODDS, the provider will have 30 days to submit additional information.

### **Where do I submit documentation?**

- All assessments will be sent to ODDS electronically upon completion.
- Additional supporting evidence can be emailed to: [allison.enriquez@state.or.us](mailto:allison.enriquez@state.or.us).

### **When do I need to complete an assessment?**

- An initial assessment must be completed on or before April 24, 2015.
- When completing the provider enrollment agreement.
- When there are questions regarding the accuracy of service delivery and billing.
- At minimum, on a biannual basis.

### **Where can I get more information?**

- ODDS will provide technical assistance.
- As outlined above, providers will be sent an email with a web link to the assessment tool.
- Providers can find the dates and times for technical assistance calls by going to the web link to the assessment tool. As outlined above, this web link will be emailed to employment and day service providers on or before February 27, 2015. If a provider of employment or day services does not receive an email with the link by February 27, the organization must notify ODDS immediately.

**Training/communication plan:** Outlined above.

**Local/branch action required:** Outlined above.

**Central office action required:** Outlined above.

**Field/stakeholder review:**  Yes  No

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

**Filing instructions:**

*If you have any questions about this policy, contact:*

<b>Contact(s):</b>	Allison Enriquez		
<b>Phone:</b>	503-569-1710	<b>Fax:</b>	
<b>Email:</b>	allison.enriquez@state.or.us		