



## **Report to the Legislature**

### **Developmental Disabilities Administration Report on Pre-Vocational Services**

ENGROSSED SUBSTITUTE SENATE BILL 6052  
Chapter 4, Laws of 2015, Section 205  
(Partial veto)  
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Department of Social and Health Services  
Developmental Disabilities Administration  
P.O. Box 45310  
Olympia, Washington 98504-5310  
360/725-3461  
Fax: 360/407-0954

## TABLE OF CONTENTS

	Page
<b>1.0 EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>2.0 BACKGROUND AND CONTEXT.....</b>	<b>1</b>
<b>3.0 POLICY OPTIONS .....</b>	<b>4</b>
<b>4.0 CLIENT TRANSITION UPDATE .....</b>	<b>9</b>

# **Developmental Disabilities Administration's Report on Pre-Vocational Services**

## **1.0 EXECUTIVE SUMMARY**

The Developmental Disabilities Administration was charged by the 2015 Washington State Legislature to develop a report describing options for modifying the current system of Pre-vocational services (PVS) for individuals with developmental disabilities. The Centers for Medicare and Medicaid Services (CMS) rules require the setting in which the service is provided is integrated and supportive of “full access to the greater community”. Washington state’s current service delivery model of PVS is not in compliance with this rule. This report will provide options for a PVS system that is compliant with the CMS rules for consideration by the Legislature.

## **2.0 BACKGROUND AND CONTEXT**

### **Legislative Charge**

As part of the 2015 legislative Session, the Washington State Legislature passed ESSB 6052 requiring the Developmental Disabilities Administration to develop a report describing options for modifying the current system of pre-vocational services for individuals with developmental disabilities. At minimum, the report must describe the following options:

1. Modification of the current system to ensure compliance with rules established by the centers for Medicare and Medicaid Services;
2. Continuation of the current system without federal matching funds; and
3. Transitioning of clients out of congregate settings and into integrated settings.

In addition, if a client transitions out of a PVS setting between July 1, 2015, and December 1, 2016, a report must be provided to the Legislature describing the hours of service, hours worked, hourly wage, monthly earnings, authorized services, and per capita expenditures before and after their transition.

### **Current System and Requirements**

Washington State contracts with the 39 counties per RCW [71A.12.010](#) to provide Employment and Day services to approximately 17,000 individuals with developmental disabilities to thrive in their home community and have a typical day-to-day life.

A key feature of the current system of services available to adults with developmental disabilities is the [DDA Policy 4.11](#), *County Services for Working Age Adults*. The policy was fully implemented in 2006 and states that “all individuals of working age (21-61), regardless of the challenge of their disability, will be afforded an opportunity to pursue competitive employment”. Adults of working age who receive services on the Basic Plus, Core or Community Protection waivers and want to work can receive Supported Employment services.

In March 2012, the Washington State Legislature passed SB 6384 to:

1. Support employment as the first choice for adults of working age;
2. To incorporate the right to transition to a community access program after nine months in an employment service; and
3. To receive only one service option at a time (employment or community access).

As directed by the Legislature, clients on the Basic Plus, Core, and Community Protection waivers must have access to employment services for a minimum of nine months. If services are unsuccessful after the nine month period or clients no longer want to work, clients may choose to utilize Community Access services rather than Employment services.

#### DDA Service Definitions for Employment and Day Services:

**Supported Employment** services are for those interested in integrated gainful employment. Services provide intensive ongoing support if an individual needs individualized assistance to gain and/or maintain employment. Services are tailored to an individual’s needs, interests, abilities, and promote career development. These services are provided in individual (Individual Employment) or group settings (Group Supported Employment) and are available in the Basic Plus, Core and Community Protection waivers.

**Pre-vocational** services typically occur in a specialized or segregated setting and include individualized monthly employment related activities in the community. Prevocational services are designed to prepare those interested in gainful employment in an integrated setting through training and skill development. Prevocational services are available in the Basic Plus, Core and Community Protection waivers.

Pre-vocational services in Washington are intended to be short term and to enable individuals to find typical jobs in the community. Historically, many clients have remained in pre-vocational settings for long periods of time, often for years, and have not transitioned into more integrated or gainful employment. These services are provided to multiple clients in the same environment. Clients have little or no opportunity for interactions with people without disabilities other than those who are providing the service.

**Community Access** services are individualized and provide clients with opportunities to engage in community based activities that support socialization, education, recreation and personal development for the purpose of:

1. Building and strengthening relationships with others in the local community who are not paid to be with the person; and
2. Learning, practicing and applying skills that promote greater independence and inclusion in their community.

In addition to the primary services listed above, DDA provides a secondary service called **Individualized Technical Assistance** for assessment and consultation with the employment provider and/or client to identify and address existing barriers to employment. This is in addition to supports received through Supported Employment services or Pre-vocational services for individuals who have not yet achieved their employment goal.

The desired outcome for all Employment services is paid employment and/or self-employment. The outcome for Community Access service is to learn, practice, and apply life skills that promote greater independence and community inclusion.

### **Center for Medicare and Medicaid Requirements**

In 2014, CMS issued new rules related to the provision of home and community-based services paid for by Medicaid. Among those rules was the requirement that the setting in which the service is provided be “integrated in” and supportive of “full access ... to the greater community”. CMS has issued further guidance clarifying that this requirement applies both to residential and non-residential settings (such as employment related services), and that a crucial factor in deciding whether a setting is integrated is the experience of the individual receiving the service. A setting which has the effect of isolating individuals from others without disabilities (apart from providers) will not meet the requirement of the rules. CMS’ new rules follow actions taken by courts and the Department of Justice to enforce the American’s with Disabilities Act (ADA) in residential and non-residential settings. CMS has given states five (5) years (three (3) years from March 2016) to transition away from services which do not meet the new requirements. (*Department of Health and Human Services, Centers for Medicare and Medicaid Services Fact Sheet: Summary of Key Provisions of the HCBS Setting Final Rule, CMS 2249-F/2296-F, 1/10/14*)

CMS defines the purpose of pre-vocational service as the opportunity to provide learning and work experience, (including volunteer work) where individuals can develop general, non-job-task-specific strengths and skills. Services must occur over a defined period of time and have specific individualized outcomes to be achieved that contribute to employability. CMS clarified that Home and

Community Based Service (HCBS) 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 performing services. (*Mann, Department of Health and Human Services, Centers for Medicare and Medicaid Services Informational Bulletin, 9/16/11.*)

CMS has commented that pre-vocational services in a facility-based setting such as a sheltered workshop are not categorically prohibited under the new rule. However, CMS has cautioned that settings must ... “not be institutional in nature and not have the effect of isolating individuals from the broader community,” and the service must “encourage interaction with the general public”.

### **3.0 POLICY OPTIONS**

**As requested by the Legislature, three options for consideration are described below:**

**Option (1):** *Modify the current system to ensure compliance with rules established by the Centers for Medicare and Medicaid Services.*

To achieve compliance with the CMS rules requiring integrated settings, the Developmental Disabilities Administration must modify the current definition of pre-vocational services to:

1. Assure integrated service settings are inclusive of people with a broad range of capabilities and diversity, similar to the percent found in the general population, a combination of individuals with and without disabilities;
2. Assure individuals in these settings have the opportunity to interface with the public; and
3. Assure the service is time-limited leading to competitive employment in the community.

One way to achieve compliance would be to develop a “Pre-Vocational Discovery” service. This service would include:

1. A person centered employment plan which documents the job seeker’s interests, strengths, environments that would foster success, activities and learning modalities best suited to the job seeker, types and methods of effective supports, assistive technology needs, accessibility needs and the individual’s employment goal; and
2. Time limited skill development in an internship located in the community and/or the integrated business.

To assist the move to the new model, DDA would work with counties, individuals, and their providers to:

1. Develop agency transformation plans through identified subject matter experts who have demonstrated the ability to transition **organizations** from a segregated setting to an integrated one. The process includes the consultant interviewing all relevant people; understanding key areas including the history of the organization and its evolution; understanding the services provided including the atmosphere; culture and competency, consumer satisfaction; the management and leadership, initiative, strategic planning, and implementation. The consultant then identifies organizational information on the following topics:
  - Challenges
  - Resources
  - Mission, Values and Vision
  - Partnerships and collaboration
  - Technical assistance and staff deployment, retraining/training (learn, unlearn, and relearn)
  - Marketing and media
  - Data, reporting and fiscal models

The consultant provides a written plan to the agency with explicit details and timelines to complete the transformation (a sample plan is available upon request) and the consultant will continue to check in with the agency on its progress.

Additionally, Counties will monitor the progress of each agency's plan at a minimum of once a year.

2. Assure each person has a **solid individualized employment plan**. Counties will review all client plans by June 30, 2016. Plans must address how the client will pursue and maintain a community job, increase wages, and increase work hours towards a living wage.
3. Utilize **Individualized Technical Assistance (ITA)** as necessary; which provides third party consultation with the employment provider and/or client to identify and address existing barriers to employment.

**Possible issues:**

- The potential costs involved in transitioning to this form of pre-vocational services may exceed the resources an agency has available. One agency who has gone through this process estimated a cost of \$380,000 over a three year period of time.

- The sustainability of the new service would be questionable as it would require new clients on a continuous basis as the service would be time-limited.
- If the individual chooses this option, there is a possibility of reduction in the current service hours as an individual transitions from PVS to an internship.

**Benefit:**

- This would allow clients who wish to continue with their current agency in a “pre-vocational” service the opportunity to do so in a modified environment for a short period of time while they find permanent employment opportunities or choose to move to Community Access.

**Option (2):** *Continue the current system without federal matching funds.*

The second option is continuing the current system of Pre-vocational services for individuals with developmental disabilities in a segregated environment.

**Possible issue:**

- This option would place the Developmental Disabilities Administration’s Pre-vocational services model out of compliance with the Centers for Medicare and Medicaid Services rule as well as without the support of federal funds. This would also place the burden of financial support for this service solely on the state and require additional funds from the Legislature. (FY15 PVS expenditures: \$2,848,000 which represents 50 percent state and 50 percent federal match).

**Benefit:**

- The clients presently utilizing pre-vocational services would be able to maintain their current setting and not have to transition to a new setting by 2019.

**Option (3):** *Transition clients out of congregate settings and into integrated settings. Under this the option the report must describe an anticipated phase-out schedule and Medicaid waiver services that could be authorized to mitigate the impact on transitioning clients.*

The third option is to transition clients out of the segregated congregate settings and into integrated settings. Developmental Disabilities Administration has developed a plan that will transition clients to other services that are in compliance with the Centers for Medicare and Medicaid Services rule by 2019.

The Developmental Disabilities Administration has identified subject matter experts who have demonstrated the ability to transition **individuals and organizations** from a segregated setting to an integrated one. The Developmental Disabilities Administration, through the contracts with 39 Washington State Counties, has created a fund for assistance with this transition. This technical assistance is provided in a manner that is respectful of all participants with multiple services available to make the transition a smooth one.

To provide assistance to be successful with transitioning to the new model, DDA will work with Counties, individuals, and their providers to:

1. Develop agency transformation plans as described in Option 1.
2. Assure each person in PVS has a **solid individualized employment plan**. Counties will review all client plans by June 30, 2016. Plans must address how the client will pursue and maintain a community job, increased wages, and increased work hours towards a living wage.
3. Utilize **Individualized Technical Assistance (ITA)** as necessary; which provides third party consultation with the employment provider and/or client to identify and address existing barriers to employment.
4. Identify **shared technical assistance** and or training needs;
5. Assure accurate **outcome data**, on the individualized support provided to people to help them move towards their employment goal, is documented and provided; and
6. Distribute **outcome reports** on a regular basis at minimum one every two month.

As of October 2015, there are approximately 300 individuals in pre-vocational services. Data shows there is an attrition rate in pre-vocational services of 100 individuals per year (*DSHS, DDA, CARE*). Data also shows that it takes on average sixteen months for an individual with high acuity to obtain a community job. Assuming there was no attrition an average of 100 individuals would need to transition each year to reach 100 percent successful transition by 2019. This can primarily be accomplished with assuring solid individualized plans are in place, having third party consultants available, and with the additional client support hours for job development while a client is in PVS.

In addition, DDA could offer State Supplemental Payment (SSP) to those clients who are eligible and were in pre-vocational services as of September 1, 2015, subject to approval. SSP is a state-paid cash assistance program for certain clients of the Developmental Disabilities Administration. There are no restrictions on how an individual uses DDA/SSP money, but examples of things individuals can buy include community engagement services, recreational programs, YMCA membership, respite, etc.

**Possible issues:**

- The possible costs involved in transitioning to option (3) may exceed the resources an agency has available. See Option 1 for detailed issue information.
- If the individual chooses employment, there is a possibility of reduction in the current service outcome as clients presently in Pre-vocational services transition to another employment service until the outcome of paid employment is achieved.
- If the person chooses community access, there is a possibility that they will not qualify for the same amount of hours as they are getting in pre-vocational services, unless the receipt of SSP is added into the benefit package.

**Benefits:**

- This option complies with the CMS requirement that individuals in Pre-vocational services transition to an integrated setting by 2019. The requirement emphasizes that this be done in a thoughtful and meaningful manner that does not unnecessarily create hardship for the individuals.
- Clients will have the opportunity to choose employment or community access to meet their needs and may have SSP funding as an additional resource.
- Clients will have the opportunity to earn a competitive wage with this option in employment.

During the individualized planning process, a bundle of services and supports can be identified to assist the participant to be integrated into their community. These individualized supports may include some combination of DDA waiver services listed in the following chart:

	DDA 1915c Waivers					1915k State Plan Option
	BASIC PLUS	CORE	CP	CIIBS	IFS	CFC (DDA & HCS)
Adult Day Care						
Adult Day Health						
Adult Family Home Specialized Behavior						
Support Service						
Assistive Technology				X	X	X
Behavior Support and Consultation	X	X	X	X	X	
Behavioral Health Crisis Diversion Bed Services	X	X	X	X	X	
Behavioral Health Stabilization Services	X	X	X	X	X	
Caregiver Management Training						X
Client Support Training						
Community Access	X	X				

Community Engagement					X	
Community Guide	X	X				
Community Transition			X			X
Home Health Aide Service						
Individual Technical Assistance	X	X	X			
Nurse Delegation	X	X	X	X	X	X
Facilities						X
Personal Emergency Response System						X
Specialized Nutrition and Clothing				X	X	
Specialized Psychiatric Services	X	X	X	X	X	
Speech, Hearing and Language Services	X	X	X	X	X	
Staff/Family Consultation and Training	X	X	X	X	X	
Supported Employment	X	X	X			
Supportive Parenting Services					X	
Therapeutic Equipment and Supplies				X	X	
Transportation (non- Medicaid Broker)	X	X	X	X	X	
Vehicle Modifications				X	X	
Wellness Education	X	X				

#### 4.0 CLIENT TRANSITION UPDATE

If a client transitions out of a PVS setting between July 1, 2015, and December 1, 2016, a report must be provided to the Legislature describing the hours of service, hours worked, hourly wage, monthly earnings, authorized services, and per capita expenditures before and after their transition.

Since July 1, 2015, 11 clients have left pre-vocational services. Following is a table of outcomes for each client before and after transitioning out of PVS. Additionally, DDA is collecting the stories of clients transitioning out of PVS. The following are a few examples of successful transition stories:

Client 7 is age 68 and had been going to the workshop an average of six hours/month. Client 7 decided to retire and have a party which was a very successful party and enjoyed by all who attended. Now, she is in Community Access spending all her time volunteering in the community and loving it.

Client 9 is age 47 and had been going to the workshop for 17 years an average of 10 hours/month. In the workshop he did simple assembly and packaging. The client made the choice to move to Individual Employment where he is volunteering repackaging food, while job developmental takes place. He does not mind that he does not have a job yet, but is inquisitive and engaged in the process.

Client 10 is age 64 and had been going to the workshop an average of 22 hours/month until September when she refused to go to work at the workshop. A

meeting to discuss next steps was scheduled at the workshop; the meeting was moved to the client's house as she refused to go back to the workshop. At the meeting the client made it clear that she did not want to work, but would like to go to the Senior Center as one of her Community Access goals.

		BEFORE						AFTER					
Client	Date of Birth	Employment Service in June 2015	Avg Site Hours per Month	Avg Hours of Paid Work per Month	Avg Monthly Earnings	Total Employment or Day Service Expenditures	Additional Authorized Services	Current employment or day service and start date	Authorized Hours of Service per Month	Avg Hours of Paid Work per Month	Avg Monthly Earnings	Total Employment or Day Service Expenditures	Additional Authorized Service
Client 1	11/7/1950	Pre-vocational services	28	2.75	\$10.74	\$300.00	1. SOLA 2. Nurse Delegation	Community Access 10/1/2015	15	N/A – Client moved to retirement program		Data not available yet	1. SOLA 2. Nurse Delegation
Client 2	4/14/1948	Pre-vocational services	25	0	\$0	\$962.50	1. Group Home	Community Access 8/1/2015	20	N/A – Client moved to retirement program		\$457.50	1. Group Home
Client 3	4/21/1957	Pre-vocational services	10	0	\$0	\$450.00	1. Supported Living 2. Nurse Delegation	Community Access 8/1/2015	15	N/A – Client moved to retirement program		\$450.00	1. Supported Living 2. Nurse Delegation
Client 4	1/31/1967	Pre-vocational services	47	63	\$355.13	\$324.72	1. PC Milleage 2. Respite 3. CFC	Individual Employment 6/8/2015	12	37.50	\$355.13	\$468.75	1. PC Milleage 2. Respite 3. CFC
Client 5	8/10/1963	Pre-vocational services	63	44	\$213.63	\$585.00	1. Supported Living	Group Supported Employment 8/17/2015	9	44	\$213.63	\$585.00	1. Supported Living
Client 6	3/4/1993	Pre-vocational services	2	0	\$0	\$150.00	1. Personal Care 2. Respite Care	None	N/A - Client moved out of State in June.				
Client 7	9/2/1947	Pre-vocational services	6	5.50	\$3.44	\$605.00	1. Group Home 2. Nurse Delegation	Community Access 8/1/2015	18	N/A – Client moved to retirement program		\$180.00	1. Group Home 2. Nurse Delegation
Client 8	10/29/1964	Pre-vocational services	127	122	\$114.65	\$660.00	1. Group Home	None	N/A – Client passed away 7/24/2015				
Client 9	10/18/1968	Pre-vocational services	10	2.25	\$1.44	\$247.50	1. Supported Living	Individual Employment 9/1/2015	12	No data available yet			1. Supported Living
Client 10	6/21/1951	Pre-vocational services	22	22	\$33.00	\$962	1. Supported Living 2. Nurse Delegation	Individual Employment 9/1/2015	20	No data available yet			1. Supported Living 2. Nurse Delegation

		BEFORE						AFTER						
Client	Date of Birth	Employment Service in June 2015	Avg Site Hours per Month	Avg Hours of Paid Work per Month	Avg Monthly Earnings	Total Employment or Day Service Expenditures	Additional Authorized Services	Current employment or day service and start date	Authorized Hours of Service per Month	Avg Hours of Paid Work per Month	Avg Monthly Earnings	Total Employment or Day Service Expenditures	Additional Authorized Service	
Client 11	12/21/1952	Pre-vocational services	No data available				1. Group Home 2. Nurse Delegation 3. Behavioral Health	None	N/A – Client moved to a Skilled Nursing Facility on 6/23/2015					