

DEPARTMENT ON DISABILITY SERVICES**NOTICE OF FINAL RULEMAKING**

The Director of the Department on Disability Services (DDS), pursuant to the authority set forth in Section 109 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.09 (2012 Repl. & 2015 Supp.)), and Mayor's Order 2007-68, dated March 20, 2007, hereby gives notice of the adoption of amendments to Sections 119 (Payment for Rehabilitation Services) and 199 (Definitions) of Chapter 1 (Vocational Rehabilitation Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The Vocational Rehabilitation Services Program is administered by DDS's Rehabilitation Services Administration (RSA). This final rulemaking is necessary to: (1) comply with the federal regulations requiring all states and the District of Columbia to have a policy for establishing service rates; (2) revise and standardize vocational rehabilitation service reimbursement rates, allowing RSA to enter into agreements with current and prospective providers; (3) revise reimbursement rates so that subsequent provider agreements accurately reflect fair market rates and demand throughout the region; (4) standardize rates to ensure fair and equitable reimbursement rates for RSA's provider community, as the current process wherein rates are individually set with each provider has resulted in often substantial differences in reimbursement rates for the same units of service provided across the provider community; (5) allow RSA to include outcome payments, which incentivizes positive employment outcomes, including earnings at or above the District of Columbia living wage and long-term competitive employment; and (6) add definitions based on these rules.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 5, 2015, at 62 DCR 008117. DDS received one set of comments from Pendergrast Alston Consulting Services, Inc. ("Pendergrast") concerning the emergency and proposed rules during the thirty (30) day comment period, which expired on July 6, 2015, and received another set of comments from Pendergrast shortly after July 6, 2015. DDS considered all of the public comments it received, but made no changes based on them. The DDS Director adopted these rules as final on July 21, 2015, and they shall become effective upon publication of this notice in the *D.C. Register*.

Sections 119, PAYMENT FOR REHABILITATION SERVICES, and 199, DEFINITIONS, of Chapter 1, VOCATIONAL REHABILITATION SERVICES, of Title 29 DCMR, PUBLIC WELFARE, are amended as follows:

Subsections 119.9 and 119.10 are amended to read as follows:

119.9 Consistent with the scope of appropriate vocational rehabilitation services described in § 113.2 and the definitions set forth in § 199.1, the Rehabilitation Services Administration shall pay for authorized services at a rate not higher than the provider's customary charge for such services.

119.10 The Rehabilitation Services Administration shall pay for all authorized services in accordance with § 119.11 and consistent with the Procurement Practices Reform Act (D.C. Official Code §§ 2-351.01 *et seq.*).

New Subsections 119.11 to 119.13 are added to read as follows:

119.11 For the following vocational rehabilitation services, the Rehabilitation Services Administration shall reimburse the provider for such services and pay incentives based on the following tables of rates.

(a) For Benefits Planning and Job Placement, the Rehabilitation Services Administration shall reimburse the provider as follows:

Benefits Planning	Rate/Unit
Benefits Planning Report	\$1,000/person
Benefit Employment Management Report	\$250/month
Student Earned Income Exclusion request submission and approval	\$250/person
Blind Work Expense request form submission and approval	\$300/month
Impairment-Related Work Expense request form submission and approval	\$300/month
Plan For Achieving Self Support request form submission	\$300/person
Plan For Achieving Self Support request form approval	\$200/person
Expedited Reinstatement request submission	\$300/request
Benefits Summary and Analysis Report for Life Changing Events	\$350/person

Job Placement	Rate/Unit
Intake and Assessment	
Intake and Summary Assessment Report	\$400/report
Person-Centered Employment Plan	\$250/plan
Job Development	
Job Development Progress Report	\$500/monthly
Placement	
Placement Information Report	\$950/report
Job Stabilization Progress Report	\$450/report
Job Stabilization Closure Report	\$450/report

For purposes of payment for the Job Development Progress Report in the table above for Job Placement services, the provider shall be paid five hundred dollars (\$500) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of one thousand five hundred dollars

(\$1,500) for Job Development Progress Reports. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between one thousand five hundred dollars (\$1,500) and the amount the provider has already received for providing these services to the person.

- (b) For Supported Employment, the Rehabilitation Services Administration shall reimburse the provider as follows:

Supported Employment	Rate/Unit
Intake and Assessment	
Intake and Summary Assessment Report	\$400/report
Person-Centered Employment Plan	\$250/plan
Job Development	
Job Development Progress Report	\$600/report
Job Development Progress Report Using Customized Employment Strategy	\$1,100/report
Placement	
Initial Placement Report	\$1,000/report

- (1) For purposes of payment for the Job Development Progress Report in the table above for Supported Employment Services, the provider shall be paid six hundred dollars (\$600) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of one thousand eight hundred dollars (\$1,800) for Job Development Progress Reports. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between one thousand eight hundred dollars (\$1,800) and the amount the provider has already received for providing these services to the person.
- (2) For purposes of payment for the Job Development Progress Report Using Customized Employment Strategy in the table above for Supported Employment Services, the provider shall be paid one thousand one hundred dollars (\$1,100) per month for three (3) months, unless the person is placed in a job in less than three (3) months. However, the provider shall not receive more than a total of three thousand three hundred dollars (\$3,300) for Job Development Progress Reports Using Customized Employment Strategy. If the person is placed in a job in less than three (3) months, then the provider shall be paid the difference between three thousand three hundred dollars (\$3,300) and the amount the

provider has already received for providing these services to the person.

- (c) For additional vocational rehabilitation services, the Rehabilitation Services Administration shall reimburse the provider and pay incentives as follows:

Additional Vocational Rehabilitation Services	Rate/Unit
Discovery Assessment	
Positive Personal Profile	\$1,000/person
Customized Employment	\$1,500 per verified placement
Job Coaching	\$55/hour
Support Service Provider	\$55/hour
Trial Work	\$55/hour
Job Readiness Training, formerly known as Work Adjustment Training	\$55/day
Job Readiness 1: Soft Skills Training Development	\$55/day
Job Readiness 2: Transitional Work Experience	\$55/hour

Incentives
The Rehabilitation Services Administration shall pay the provider two percent (2%) of the annual salary of the person with a disability who is successfully closed in employment with employer-paid health benefits and whose salary is at or above the District of Columbia Living Wage.
The Rehabilitation Services Administration shall pay the provider two percent (2%) of the annual salary of the person with a disability who is successfully closed in employment and who earns at least fifty-two percent (52%) of the average annual salary in the District of Columbia, as defined by the Bureau of Labor Occupational Employment Statistics, with employer-paid health benefits.
The Rehabilitation Services Administration shall pay the provider up to five thousand dollars (\$5,000) per person for whom the Rehabilitation Services Administration receives Administrative, Counseling and Placement costs reimbursement if: <ol style="list-style-type: none"> (1) the person receives Supplemental Security Income or Social Security Disability Insurance benefits; (2) the person is placed in employment at the Substantial Gainful Activity (“SGA”) earnings level; (3) the provider provides proof of the employment to the Rehabilitation Services Administration; (4) the person remains employed at the SGA earnings level; and (5) the Rehabilitation Services Administration receives reimbursement.

- 119.12 The rates listed in the tables set forth in §§ 119.11(a)-(c) are for those services authorized after June 30, 2015.
- 119.13 Rates for services not listed in the tables set forth above in §§ 119.11(a)-(c) shall be negotiated by the Rehabilitation Services Administration in conjunction with its Office of Contracts and Procurement representative.

Subsection 199.1 is amended by adding the following definitions:

Administrative, Counseling, and Placement costs reimbursement - financial reimbursement that the Social Security Administration pays to the state vocational rehabilitation agency based on cost formulas unique to each state vocational rehabilitation agency and its fiscal year Administrative, Counseling, and Placement costs. Administrative, Counseling, and Placement costs include RSA's administrative and indirect costs while services are being provided, and do not include the cost of purchased services.

Benefit Employment Management Report - a report detailing the desired employment outcome of the person with a disability, the steps needed to achieve that outcome, and the person responsible for the completion of each step. The Benefit Employment Management Report shall also report on the monthly wage of the person with a disability, the monitoring of the person, any communication with the Social Security Administration regarding the person, overpayments, medical reviews, and other details.

Benefits Planning Report - a report signed by the provider discussing in-depth research, analysis, and technical assistance about Social Security Income benefits, Social Security Disability Insurance benefits and other public programs and work incentives, which are in alignment with the unique circumstances and work goals of the person with a disability.

Benefits Summary and Analysis Report for Life Changing Events - a report signed by the Community Work Incentives Coordinator for a person with a disability, which summarizes the current Social Security benefits the person with a disability receives, analyzes how employment may affect the person's benefits, lists issues with benefits unrelated to employment, and lists employment services and supports the person may need. A Life Changing Event shall have a meaning consistent with 20 C.F.R. § 418.1205.

Blind Work Expense request form submission and approval - the submission of a Blind Work Expense request form to the Social Security Administration, which is documented in the Benefit Employment Management Report and submitted by a person who receives Supplemental Security Income benefits and who is blind, and approval of

that submission by the Social Security Administration. The request form shall include information about the necessary work expenses of the person, accompanies wage reports to the Social Security Administration, and includes receipts and proof of wages, or self-employment tax returns. Blind Work Expense shall have a meaning consistent with 20 C.F.R. § 418.3325.

Competitive Integrated Employment - a term that shall have a meaning consistent with 29 U.S.C. § 705(5).

Customized Employment - competitive integrated employment for a person with a significant disability. Customized Employment is driven by an absolutely individualized determination of the strengths, needs, and interests of the person, rather than by the labor market, is designed to meet the specific and unique abilities of the person and the unmet business needs of the employer, and is carried out through flexible strategies. It may include a job exploration by the person and working with an employer to facilitate job placement in instances when there are no job positions open. Customized Employment includes tailoring the job for the person prior to the beginning of work, rather than after hire.

Discovery Assessment - an intensive person-centered assessment conducted in a person's natural environment by the person's support team, which discovers the person's interests, talents, skills and knowledge, learning styles, positive personality traits, temperaments in different settings, experiences, support systems, needs and specific challenges, accommodation requirements for different settings and activities, and dislikes, which all serve as a guide for customizing employment. Through a Discovery Assessment, a picture of what activities the person does successfully emerges, and potential vocational themes are uncovered.

Expedited Reinstatement request submission - the submission of a request to the Social Security Administration made by a person with a disability who was receiving Social Security Disability Insurance benefits or Supplemental Security Income benefits, became disqualified for continued benefits because of earnings from work, and then again became unable to work because of the disability. The request may be made through a letter or telephone call to the Social Security Administration to schedule an appointment. A Certified Benefits Specialist employed by the Department on Disability Services, Rehabilitation Services Administration may assist the person in gathering relevant information and making the request. Expedited Reinstatement shall have a meaning consistent with 20 C.F.R. § 404.1592b.

Impairment-Related Work Expense request form submission and approval - the submission of an Impairment-Related Work Expense request form to

the Social Security Administration, which is documented in the Benefit Employment Management Report and submitted by a person with a disability other than blindness if that person also receives Supplemental Security Income benefits, and approval of that submission by the Social Security Administration. The request form shall include information about the necessary work expenses of the person, accompanies wage reports to the Social Security Administration, and includes receipts and proof of wages, or self-employment tax returns. Impairment Related Work Expense shall have a meaning consistent with 20 C.F.R. § 404.1576.

Initial Placement Report - a report equivalent in content to the Placement Information Report except that the Initial Placement Report is only for people receiving Supported Employment services.

Intake and Summary Assessment Report - a report synthesizing the findings of the intake interview and review of assessments, which includes a baseline functional evaluation and forms the basis for developing the Person-Centered Employment Plan.

Job Coaching - on-the-job training of a person with a disability by an approved specialist, who uses structured intervention techniques to help the person learn to perform job tasks to the employer's specifications and to learn the interpersonal skills necessary to be accepted as a worker at the job site and in related community contacts. Job coaching also includes related assessment, job development, counseling, advocacy, travel training and other services needed to maintain the employment for the person.

Job Development - job search activities to support and assist a person with a disability in searching for an appropriate job, which may include helping in resume preparation, identifying appropriate job opportunities, developing interview skills, and making contacts with companies on behalf of the person.

Job Development Progress Report - a monthly report detailing the activities during the job development and/or customized employment job search phase and describing how the participation of the jobseeker and the efforts of the job developer or employment specialist contribute towards the jobseeker's achievement of the employment outcome. The Job Development Progress Report identifies issues and next steps, is submitted along with an attendance sign-in sheet called a Job Search Service Log, and is submitted monthly until the person is placed in a job successfully. A provider shall submit no more than three Job Development Progress Reports.

Job Placement - employment-related services (in a setting outside of supported employment) that are necessary to obtain suitable competitive integrated

employment and that are offered by providers to people with disabilities. Job Placement services include Intake and Assessment, Job Development and Placement services.

Job Readiness Training, formerly known as Work Adjustment Training - training for a person with a disability by a provider in the development of work-related skills. This training includes components that enable the person to successfully develop the capacities for achieving and maintaining employment, such as travel, work behaviors, social skills in the work setting, effective communication, accepting supervision, problem solving, grooming and hygiene, goal setting and work tolerance. Other areas that may also be addressed include work-related daily living skills, disability awareness, work traits, and work ethics.

Job Stabilization Closure Report - a report regarding a person who receives Job Placement services, which incorporates the elements of the Job Stabilization Progress Report with the addition of closure elements for consideration, such as requested accommodations that were negotiated and established, integration of natural supports, and development of a plan to achieve Competitive Integrated Employment in the event that the job placement yields less than the Washington, D.C. minimum wage.

Job Stabilization Progress Report - a report regarding a person who receives Job Placement services, which documents employment information about the person with a disability, including his or her knowledge and performance of the essential tasks of the job, the person's attendance and punctuality, the person's social adjustment in the workplace, the employer's satisfaction with the person's job performance, and the person's satisfaction with the job and ongoing support services.

Person-Centered Employment Plan - a written program of action developed and reviewed by the Human Care Agreement provider at regular intervals with the participation of the person with a disability. The Person-Centered Employment Plan outlines the person's goals and describes the services that will be provided to accomplish employment goals, which include fading support services for Supported Employment and stabilization services for Job Placement. The Person-Centered Employment Plan is submitted along with the Intake and Summary Assessment Report.

Person with a disability - a term that shall have a meaning equivalent to "individual with a disability," as defined by 29 U.S.C. § 705(20).

Placement Information Report - in a setting outside of supported employment, a report documenting relevant employment information for a person with a disability, including his or her job title, start date, employer name and address, supervisor name and contact information, work hours and salary

rate along with the job description, benefits, anticipated needs, and a guarantee that the job placement is Competitive Integrated Employment. The Placement Information Report is submitted along with an employment verification document within two business days of when job placement information has been obtained and preferably before the job's start date.

Plan for Achieving Self Support request form approval - approval given by the Social Security Administration for a person's Plan for Achieving Self Support request. A Plan for Achieving Self Support shall have a meaning consistent with 20 C.F.R. §§ 416.1180-416.1182.

Plan for Achieving Self Support request form submission - the submission of a Plan to Achieve Self-Support request form, which is made by a person with a disability to the Social Security Administration. The request form shall discuss the work goal of the person with a disability, the person's medical, vocational, or educational background, details about the Plan to Achieve Self Support, the person's expenses, funding for the work goal, information about anyone who helped the person prepare the Plan, and other details. A Plan for Achieving Self Support shall have a meaning consistent with 20 C.F.R. §§ 416.1180-416.1182.

Positive Personal Profile - a record or documentation of a Discovery Assessment identifying a person's interests, talents, skills and knowledge, learning styles, positive personality traits, temperaments in different settings, experiences, support systems, needs and specific challenges, accommodation requirements for different settings and activities, and dislikes, which all serve as a guide for customizing employment.

Student Earned Income Exclusion request submission and approval - the submission of a Student Earned Income Exclusion request to the Social Security Administration made by a person with a disability, and the approval of that submission by the Social Security Administration. The request may be made by noting, in writing, the person's student status when reporting a job and, in facilitating approval from the Social Security Administration, the person may provide proof of student status including but not limited to school grades, school enrollment, and class schedules. Student Earned Income Exclusion shall have a meaning consistent with 20 C.F.R. §§ 416.1870-416.1874.

Substantial Gainful Activity - a level of work activity and earnings that shall have a meaning consistent with 20 C.F.R. §§ 404.1510 and 404.1571-404.1576.

Support Service Provider - a group of specially trained professionals who enable people who have combined vision and hearing losses to access

their environments and make informed decisions, providing them with visual and environmental information, sighted guide services, and communication accessibility.

Trial Work - exploration of different work experiences with necessary and appropriate supports for a person with a disability consistent with informed choice, including supported employment, that will provide a vocational rehabilitation specialist an assessment of a person's strengths, abilities, challenges, and work behavior from a realistic work situation; and to determine the services needed to remove barriers to employment, for example, for the person to acquire occupational skills and develop work attitudes, appropriate work habits, work tolerance, and social and behavior patterns necessary for successful job performance. The trial work period shall also provide sufficient information for the vocational rehabilitation specialist to make a decision about whether an applicant for vocational rehabilitation services can benefit from vocational rehabilitation services to reach an employment outcome. Trial Work shall have a meaning consistent with 34 C.F.R. §§ 361.5(b)(6)(iv), 361.42(e), 361.47(a)(5), and 361.54(b)(1).