

Payment in Adult Day and Employment Services Work Group

Friday November 16, 2018

10:00 a.m. to 3:30 p.m.

WELCOME



Today's agenda

- ▶ **10:00a to 10:05** Welcome
- ▶ **10:05a to 10:35a** Tennessee Presentation
- ▶ **10:35a to 11:20a** Missouri Presentation
- ▶ **11:20a to 12:00p** NASDDS Presentaiton
- ▶ **12:00p to 12:30p** Lunch
- ▶ **12:30p to 1:30p** Impact analysis and data pull
- ▶ **1:30p to 3:00p** 50% Wage Calculation Team
- ▶ **3:00p to 3:20p** Communication Plan Update
- ▶ **3:20p** Wrap Up and Next Steps

General Information

- ▶ Work group materials will become public on the [Employment First Website](#), under Vision and Strategy Tab
 - ▶ General description with work group list
 - ▶ Adult service white paper
 - ▶ DODD guiding principles
 - ▶ Agendas
 - ▶ Meeting minutes
 - ▶ Supporting documentation
- ▶ Information will be posted online within one week of meetings

Tennessee Presentation

- Jeremy Norden-Paul- State Director of Day and Employment Services
- Katie Lee- Director of ECF Choices
- Shannon Nehus- LTSS Program Director IDD & ECF Services at Tennessee Division of TennCare

Missouri Presentation

- ▶ Duane Shumate- Director of Youth Transition/Employment, Missouri Division of Developmental Disabilities

NASDDDS/SELN

- ▶ Rie Kennedy-Lizotte- Director of Employment Policy
- ▶ Iowa, New Jersey, New York, and Wisconsin

Time for lunch



Impact Analysis and Data Pull



50% WAGE CALCULATION TEAM RECOMMENDATIONS

MEMBERS: BOB GASTON, DAVID MCMANUS, JEFF JOHNSON, KATIE BLUMHORST, AND PHIL MILLER

The purpose of the 50% wage calculation team was to develop recommendations on how an agency or provider could calculate the 50% wage requirement in prevocational services (vocational habilitation). It is important to note that these recommendations do not change the current vocational habilitation rule, 5123: 2-9-14. The recommendations are intended to align with current rule language and service requirements. Each recipient of the vocational habilitation service should have expected outcomes of advancement on his/her path to community employment and individual achievement of competitive integrated employment. CMS permits vocational habilitation recipients to be paid this 50% of minimum wage but the primary focus cannot be on producing goods and services. Each participant needs to have outcomes and action steps which align to services and supports identified in the vocational habilitation rule.

****None of the recommendations listed in this presentation have been approved by DODD as an appropriate calculation for the 50% minimum wage requirement. ****

50% WAGE CALCULATION TEAM PURPOSE

- Develop recommendations on how an agency or provider could calculate the 50% wage requirement in prevocational services (vocational habilitation)
- These recommendations do not change the current vocational habilitation rule, 5123: 2-9-14. The recommendations are intended to align with current rule language and service requirements
- Each recipient of the vocational habilitation service should have expected outcomes of advancement on his/her path to community employment and individual achievement of competitive integrated employment.
- CMS permits vocational habilitation recipients to be paid this 50% of minimum wage but the primary focus cannot be on producing goods and services
- Each participant needs to have outcomes and action steps which align to services and supports identified in the vocational habilitation rule

HOW OFTEN DO YOU CALCULATE THE MEDICAID RECIPIENT'S WAGES? (VOCATIONAL HABILITATION ONLY)

Every 6 months- did not discuss details of reporting requirements.

In each scenario, provider of vocational habilitation service would need to report wages to SSA.



Every
6 Months

Every 12
Months

Every 12 Months- this would follow a person's ISP timeframe. Calculation would need to be done at the end of the span year. This could possibly be included in written progress report required for Vocational Habilitation service.

WHAT IS THE WAGE CALCULATION PROVIDERS SHOULD FOLLOW?

State Min. Wage + Bureau of Labor Statics Data	State Min. Wage + 1 FTE	Prevailing Wage + 1 FTE or Prevailing Wage + BLS Data
Annual Cap: \$7,445.10	Annual Cap: \$8, 892	Annual Cap: \$10, 452 (example only)
6 Month Cap: \$3,722.50	6 Month Cap: \$4,446	6 Month Cap: \$5,226.00 (example only)
Any one makes under the cap above, the vocational habilitation can continue.	Any one makes under the cap above, the vocational habilitation can continue.	Any one makes under the cap above, the vocational habilitation can continue.
Any one makes over the cap, the following steps must be taken. <ul style="list-style-type: none"> • Team process/outcomes – group employment • OOD referral/career counseling • Timeframe for transition (1 year) 	Any one makes over the cap, the following steps must be taken. <ul style="list-style-type: none"> • Team process/outcomes – group employment • OOD referral/career counseling • Timeframe for transition (1 year) 	Any one makes over the cap, the following steps must be taken. <ul style="list-style-type: none"> • Team process/outcomes – group employment • OOD referral/career counseling • Timeframe for transition (1 year)

OTHER WAGE CALCULATION OPTIONS

- Productivity Calculation
- Calculation of total pay over vocational habilitation service hours
- The above are options but are not preferred

50% OF STATE MINIMUM WAGE + BUREAU OF LABOR STATICS DATA (ANNUAL CALCULATION)

- The Bureau of Labor Statistics tracks how many hours per week the average American works and releases that information as part of the monthly Employment Situation Summary. According to the most recent data (**July 2018**), Americans worked an average of **34.5** hours per week.
- The median salary for an average worker in the United States in the **fourth quarter of 2017** was **\$44,564.00**.
- If the average Ohio worker was paid the Ohio minimum wage (\$8.30) and worked the average number of hours of a US worker (34.5 hours per week) his/her annual pay would be \$14,890.20. If this same worker was limited to **50% of state minimum wage (\$4.15/hr.) his/her annual income would be \$7,445.10/year.**
- **According to DOL**, in states where the state minimum wage law differs from the federal minimum wage law, the question is raised as to which law an employer must apply to its employees. The answer is that an **employer must apply the minimum wage law that results in its employees being paid the highest wage rate.**
- **The annual cap rate would need to be updated every year. This would need to be done by January 1 of every year.**
- This could cover all payment types discussed in September 2017 that are not Medicaid violations (gifts/incentives, conditional pay, guaranteed pay).

STATE MINIMUM WAGE + 1 FTE (ANNUAL CALCULATION)

- Baseline would be State of Ohio minimum wage
- The baseline annual hours should be based on 1 full-time equivalent of 2080 hours per year.
- Sample calculations:
 - **Ohio minimum wage 2019: \$8.55 x 2080 hours = \$17,784.** The baseline would be **50% of \$17,784 or \$8,892** (Threshold)
- DODD will need to calculate updated annual cap when State of Ohio minimum wage changes
- This could cover all payment types discussed in September 2017 that are not Medicaid violations (gifts/incentives, conditional pay, guaranteed pay).

PREVAILING WAGE + 1 FTE

- Baseline would be Prevailing Wage
- The baseline annual hours should be based on 1 full-time equivalent of 2080 hours per year.
- Sample calculations:
 - **Prevailing wage (Weaver production worker)**
 - **$\$10.05 \times 2080 = \$20,904$** baseline would be **50% of \$20,904 or \$10,452**
- This would only apply to 14c certificate holder and would not apply to other payment methods
- The calculation would need to be done per agency, utilizing the agencies DOL 14C prevailing wage survey rate used to pay workers receiving voc/hab services.
- In this scenario if the organization does not have a 14C certificate then they would utilize the Ohio Minimum Wage method for the baseline calculation

HOW TO LOCATE ANNUAL WAGE EARNINGS?

- The most recently issued W-2 or 1099 earnings report prior to the individual's annual meeting will be used for the vocational habilitation calculation
- **Wage look back is based on wages generated while engaged in vocational habilitation services**
- This eliminates an hourly wage calculation that allows for many variables that would complicate the calculation.

REQUESTS FOR EXEMPTIONS TO 50% WAGE CALCULATION REQUIREMENT

- Identify an age where someone enrolled in vocational habilitation is exempt from the wage restriction
 - Include a year of entry date as well
 - We need to recognize and value the legacy individuals served in our sheltered workshops. We need to recognize that some entered prior to Medicaid paying for the vocational habilitation service and it was their job at that time
- Risk assessment indicates levels of supervision would not permit the individual to work in group or individual community employment due to risk to self and/or community
- Pre-vocational assessment reflects significant deficits in the areas of health, safety and physical stamina (pre-vocational assessment has not been identified)

REQUESTS FOR EXEMPTIONS TO 50% WAGE CALCULATION REQUIREMENT

- When an attempt with community/competitive employment has been unsuccessful and specific prevocational areas to work-on have been identified and will be addressed in service plan (hygiene, tardiness, consistency, anger-management, general soft-skills). Voc hab should be available. Person would need to cooperate with their plan, to ensure vocational habilitation is available
- Referral to OOD has been completed and individual either was not made eligible for OOD services or was closed unsuccessful
- If an individual has been referred to OOD and is actively engaged in pursuing community employment, they may continue in voc hab services while their OOD referral progresses toward acquiring a job

Updates- Communication Plan



Next Steps

- ▶ 50% Wage Calculation Team Discussion
- ▶ **Next Meeting- December 13 10:00a to 2:30p.
Meeting will be at the Delaware County Board
of DD**