
POLICY TRANSMITTAL NO. 04-49

DATE: AUGUST 17, 2004

OKLAHOMA HEALTH CARE
AUTHORITY

DEPARTMENT OF HUMAN SERVICES
OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 317:40-5-53; 40-7-1 through 40-7-3; 40-7-5; 40-7-8; 40-7-11
through 40-7-13; and 40-7-21.

EXPLANATION: Developmental Disabilities Services, Waiver Vocational Services specific, rules are revised to correspond with other existing rule language, remove redundancies, and clarify ambiguities regarding service expectations. An additional revision will remove an incorrect policy reference.

Original signed on 8-17-04

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WF # 04-U (DT)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

REMOVE

INSERT

317:40-5-53	317:40-5-53, 1 page only, revised 5-27-04
317:40-7-1	317:40-7-1, 1 page only, revised 5-27-04
317:40-7-2	317: 40-7-2, pages 1-3, revised 5-27-04
317: 40-7-3	317: 40-7-3, 1 page only, revised 5-27-04
317:40-7-5	317:40-7-5, 1 page only, revised 5-27-04
317:40-7-8	317:40-7-8, pages 1-2, revised 5-27-04
317:40-7-11	317:40-7-11, 1 page only, revised 5-27-04
317:40-7-12	317: 40-7-12, pages 1-2, revised 5-27-04
317:40-7-13	317: 40-7-13,pages 1-2, revised 5-27-04
317:40-7-21	317: 40-7-21, pages 1-3, revised 5-27-04

317:40-5-53. Management of unacceptable behavior

When a service recipient presents unacceptable behaviors, only non-physical alternative methods are used to correct or reduce the behavior. The provider complies with Individual Planning rules found at OAC 340:100-5-50 through 100-5-58, and the Oklahoma Department of Human Services Child Placing Agency Policy found at OAC 340:110-5-62.

317:40-7-1. Overview of Waiver Employment Services

(a) There may be instances resulting from a variety of factors when service recipients have not achieved the goal of full employment. The provider agency makes available those supports needed for the service recipient to achieve full employment.

(b) In the past, people were usually either fully employed, idle, or involved in nonproductive activities. There are many more options available. The options given in (1) through (4) of this subsection are not a continuum, but are prioritized as most desirable by people with and without disabilities. Provider agencies assess each service recipient in maximizing employment options.

(1) The optimum goal is full-time employment at prevailing wage in business or industry at an occupation of the service recipient's choice with natural supports meeting the service recipient's needs. If prevailing wage is not available, then employment is at minimum wage with or without paid supports.

(2) If a service recipient cannot secure enough work hours through a single job of the service recipient's choice, then two part-time jobs or a job that is not the service recipient's first preference may need to be sought to equal a full time job.

(3) If a fully integrated placement is not currently available, employment of the service recipient's choice in an enclave in a business or industry, with or without paid supports, is an option.

(4) If there are no paid jobs to be found, temporary unpaid training or volunteer service in accordance with Department of Labor regulations, with or without paid supports, may be an option for the purpose of resume building or job exploration, or temporary participation in real work in a center-based setting can be obtained.

(c) Employment services are prescribed in accordance with OAC 340:100-17, Part 1, and OAC 340:100-3-33.1.

317:40-7-2. Definitions

The following words and terms, when used in this Subchapter shall have the following meaning, unless the context clearly indicate otherwise.

"Commensurate Wage" means wages paid to a worker with a disability based on the worker's productivity in proportion to the wages and productivity of workers without a disability performing essentially the same work in the same geographic area. Commensurate wages must be based on the prevailing wage paid to experienced workers without disabilities doing the same job.

"Employment Assessment" means the evaluation that identifies the unique preferences, strengths, and needs of the service recipient in relation to work. The assessment determines work skills and work behaviors, is supplemented by personal interviews and behavioral observations, and incorporates information that addresses the service recipient's desired medical, physical, psychological, social, cultural, and educational outcomes, as well as present and future employment options. The assessment, which is updated annually or more frequently as needed, includes support needs, environmental preferences, and possible accommodations.

"Enhanced Rate" means a differential rate established to provide an incentive to agencies to provide community employment services to service recipients with significant needs.

"Group Placement" means eight or fewer service recipients situated close together, who are provided on-going, long-term training and support in an integrated job site. Service recipients may be employed by the company or by the provider agency. The terms "work crew" and "enclave" also describe a group placement.

"Integrated Employment Site" means an activity or job that provides regular interaction with people without disabilities, excluding service providers, to the same extent that a worker without disabilities in a comparable position interacts with others.

"Job Coach" means an individual who holds a Department approved job coach certification and provides ongoing support services to

eligible persons in supported employment placements. Services directly support the service recipient's work activity including marketing and job development, job and work site assessment, training and worker assessment, job matching procedures, development of co-worker natural and paid supports, and teaching job skills.

"Job Sampling" means a paid situational assessment whereby a service recipient performs a job at a prospective employer's integrated job site, in order to determine the service recipient's interests and abilities. Situational assessments adhere to the Department of Labor (DOL) regulations regarding wages. The Team determines the appropriate type and number of situational assessments for each service recipient.

"Job Share" means two service recipients in supported employment sharing one job coach and one job.

"On-Site Supports" means a situation in which the job coach is physically at the job site providing job training to a service recipient.

"Situational assessment" means a comprehensive community-based evaluation of the service recipient's functioning in relation to the supported job, including the job site, the community through which the service recipient must travel to and from the job, and the people at the job site such as the job coach, co-workers, and supervisor.

"Sub-Contract With Industry" means the provider agency enters into a sub-contract with an industry or business to pay industry employees to provide supports to service recipients. If the industry agrees, the provider agency may contract with an employee(s) of the industry directly to provide the services. The state continues to pay the provider agency and the agency provides all pertinent information that is required for persons served by the agency. The Team determines what, if any, training is required for the employees of the industry providing services.

"Supported Employment" means competitive work in an integrated work setting with ongoing support services for service recipients for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of disabilities.

"Unpaid Training" means unpaid experience in integrated employment sites in accordance with DOL regulations. Service recipients do a variety of tasks, which do not equal the full job description of a regular worker.

"Volunteer Job" means an unpaid activity in which a service recipient freely participates.

317:40-7-3. Eligibility for Waiver Employment Services

(a) Individuals served through Waiver Employment Services must be:

(1) 16 years of age or older; and

(2) approved for a Home and Community-Based Waiver in accordance with OAC 317:40-1-1.

(b) Services available to the service recipient through the Department of Rehabilitative Services or through the state or local education agency are not funded under Waiver Employment Services. Service recipients may utilize waiver employment services during times when school is not in session, if not participating in an IEP approved program through the school system. Prior to the authorization of Waiver Employment Services, the case manager completes DHS Form DDS-55, Documentation of Application for D.R.S. Supported Employment Services, to be maintained as a permanent entry in the local case record.

317:40-7-5. Community-Based Services

Community-Based Services are provided in sites and at times typically used by others in the community and promote independence, inclusion within the community, and the creation of natural supports. Community-based services must reflect the service recipient's choice and values in situations that are typical for age and culture.

(1) Approved Community-Based Services are individualized supports targeting inclusion into integrated experiences. Community-Based Services are pre-planned, documented activities relating to the service recipient's identified employment outcomes. Approved activities include:

(A) active participation in volunteer activities;

(B) active participation in paid or unpaid work experience sites in community settings;

(C) training through generic entities such as trade schools, Vo Techs, junior colleges, or other community groups;

(D) interviewing for a job;

(E) stamina-enhancing programs supported by an occupational therapist, physical therapist, or physician that occur in integrated settings;

(F) transportation to and from employment or community-based activities; and

(G) meals and breaks which must occur during the conduct of the service recipient's employment activities.

(2) Any other community-based activities must be approved through the exception process described in OAC 317:40-7-21.

(3) Community-Based Services continue if the service recipient has to go to a center-based facility for support such as repositioning or personal care, as long as the service recipient returns immediately to a planned community-based activity. The amount of time for the repositioning and personal care are based upon a health care positioning plan approved by the Team.

(4) Community-Based Services are provided to groups of no more than five people.

317:40-7-8. Employment Training Specialist Services

Employment Training Specialist Services may be used to supplement Job Coaching Services.

(1) Employment Training Specialist Services:

(A) must be provided by a certified Job Coach; and

(B) are not available when subcontracting.

(2) Employment Training Specialist Services may be used for:

(A) intensive training of service recipients employed in individual placements or two service recipients on the same job site on new jobs when the service recipient(s) receives at least minimum wage and the employer is not the employment services provider;

(i) Intensive training is used to help a service recipient with a new job. Intensive training is not available if the service recipient held the same job for the same employer in the past.

(ii) Intensive training is available for up to the number of hours the service recipient works per week for six weeks in each Plan of Care year, as long as the job coach provides 100% on-site intervention.

(iii) Intensive training is only accessed while the job coach is providing 100% intervention at the job site. Job Coaching Services are accessed when:

(I) intensive training is no longer necessary;

(II) intensive training units are depleted; or

(III) the intensity or frequency of services lessens.

(iv) If the service recipient does not use all of the intensive training units on the first job placement in the Plan of Care year, the balance of the intensive training units may be used on a subsequent job placement with the current provider, or with a new provider.

(B) assessment and outcome development for service recipients residing in the community who are new to the agency;

(i) The units which may be claimed for initial assessment are limited to a documented maximum of 20 per service recipients. The assessment must be approved in advance by the Team and relate to the service recipient's desired outcomes.

(ii) If a service recipient changes agencies within the Plan of Care year, an additional 20 units may be prescribed.

(iii) A provider cannot claim the same period of time for more than one type of service.

(C) Team meetings, when the case manager has requested participation of direct service employment staff in accordance with OAC 340:100-5-52, up to 20 units per year;

(D) job development for a service recipient on a one-person or two-person job site upon the service recipient's completion of six consecutive months on the job. Up to 40 units may be used during a Plan of Care year after documentation of job development activities has been submitted to the case manager. If the job site involves two service recipients, the job development units are claimed against one service recipient's Plan of Care or shared between the two service recipients' Plans of Care. The job(s) must:

(i) pay at least minimum wage;

(ii) employ each service recipient at least 15 hours per week; and

(iii) be provided by an employer who is not the service recipient's contract provider;

(E) implementation of an approved Plan for Achieving Self-Support (PASS) up to 40 units per Plan of Care year after documentation of PASS development, if not developed by an Oklahoma Benefit Specialist or the Department of Rehabilitation Services, and implementation has been submitted to the case manager; and

(F) implementation of an approved Impairment Related Work Expense (IRWE) up to 20 units per Plan of Care year after documentation of IRWE development and implementation has been submitted to the case manager.

317:40-7-11. Stabilization Services

Stabilization Services are ongoing support services needed to maintain one or two service recipients in an integrated competitive employment site.

(1) Stabilization Services are provided when the job coach intervention time required at the job site is 20% or less of the service recipient's total work hours for 10 consecutive weeks. If, after the service recipient moves to Stabilization, the Team determines that support is needed above 20% for longer than one week, the Team may revise the service recipient's Plan of Care to reflect the need for Job Coaching Services.

(2) Stabilization Services must:

(A) identify the supports needed; and

(B) include at least twice monthly job coach monitoring at the service recipient's work site to assess employment stability.

(3) The requirement for twice monthly on-site monitoring explained in paragraph (2) of this subsection may be waived if off-site monitoring is determined by the Team to be more appropriate. If the Team determines that off-site monitoring is appropriate, the job coach must, at a minimum, provide:

(A) two meetings with the service recipient each month, and

(B) one contact with the employer each month.

(4) Reimbursement for Stabilization Services is based upon the number of hours the service recipient is employed at a rate of minimum wage or above or working to achieve minimum wage.

(5) When job coaching services are funded by the Department of Rehabilitative Services (DRS), Stabilization Services paid through a Home and Community-Based Waiver begin when the service recipient meets criteria set forth in DRS rules, OAC 612:10-7.

317:40-7-12. Enhanced rates

An Enhanced Rate is available for both Community-Based Services and Job Coaching Services.

(1) Eligibility for an enhanced rate is determined by Team assessment as detailed in OAC 340:100-5-56, OAC 340:100-5-57, and subsection (d) of OAC 340:100-5-26 of the service recipient's needs.

(2) To be eligible for the enhanced rate, the service recipient must have:

(A) a protective intervention plan that:

(i) contains a restrictive or intrusive procedure as defined in OAC 340:100-1-2 implemented in the employment setting;

(ii) has been approved by the State Behavior Review Committee (SBRC) in accordance with OAC 340:100-3-14 or by the Developmental Disabilities Services Division (DDSD) staff in accordance with subsection (d) of OAC 340:100-5-57; and

(iii) has been reviewed by the Human Rights Committee (HRC) in accordance with OAC 340:100-3-6;

(B) procedures included in the Individual Plan which address dangerous behavior that places the service recipient or others at risk of serious physical harm but are neither restrictive or intrusive procedures as defined in OAC 340:100-1-2. The Team submits documentation of this risk and the procedures to the positive support field specialist to assure that positive approaches are being used to manage dangerous behavior;

(C) a visual impairment that requires assistance for mobility or safety; or

(D) two or more of the circumstances given in this subparagraph.

(i) The service recipient has medical support needs which are rated at Level 4, Level 5, or Level 6 on the Physical Status Review (PSR), explained in OAC 340:100-5-26.

(ii) The service recipient has nutritional needs supported by the PSR requiring tube feeding or other dependency for food intake which must occur in the employment setting.

(iii) The service recipient has mobility needs, supported by the PSR, such that he or she requires two or more people for lifts, transfers, and personal care. Use of a mechanical lift or other assistive technology has been evaluated for the current employment program and determined not feasible by the DDS division director or designee.

(3) The enhanced rate can be claimed only if the person providing services fulfills all applicable training criteria specified in OAC 340:100-3-38.

(4) There are no exceptions for the enhanced rate other than as allowed in this Section.

317:40-7-13. Supplemental Supports for Center-Based Services

(a) In those instances when a service recipient receiving Center-Based Services needs additional supports, the provider is encouraged to assign staff in patterns that most effectively meet the needs of each service recipient.

(b) If re-arranging staff patterns is not sufficient to meet the service recipient's needs, the provider may file a request and plan for Supplemental Supports utilizing Vocational Habilitation Training Specialist Services. Supplemental Supports can be claimed only if provided by a staff member who has completed all specialized training and individual-specific training prescribed by the Team in accordance with OAC 340:100-3-38 or through the Physical Status Review (PSR) as described in OAC 340:100-5-26.

(c) Supplemental Supports for Center-Based Services include two types of services, behavioral continuous support, and personal care intermittent support.

(1) Continuous Supplemental Supports. Continuous Supplemental Supports cannot exceed 15 hours per week unless specifically approved through the exception process described in OAC 317:40-7-21.

(A) To be eligible for continuous supplemental supports, the service recipient must have:

(i) a protective intervention plan that:

(I) contains a restrictive or intrusive procedure as defined in OAC 340:100-1-2 implemented in the employment setting;

(II) has been submitted to the Human Rights Committee (HRC) in accordance with OAC 340:100-3-6; and

(III) has been approved by the State Behavior Review Committee (SBRC) in accordance with OAC 340:100-3-14 or by the Developmental Disabilities Services Division (DDSD) staff in accordance with subsection (d) of OAC 340:100-5-57; or

(ii) procedures included in the protective intervention plan which address dangerous behavior that places the service recipient or others at risk of serious physical harm. The Team submits documentation of this risk and the procedures to the DDSD positive support field specialist

to assure that positive approaches are being used to manage dangerous behavior.

(B) The Team documents discussion of the need for continuous Supplemental Supports.

(2) **Intermittent Supplemental Supports.** To receive personal care intermittent support, a service recipient must have a personal care need which requires staffing of at least one-to-one during that time frame when the support is needed.

(A) If a service recipient needs intermittent personal care support during Center-Based Services, the Team documents discussion of:

(i) the specific support need(s) of the service recipient, such as staff-assisted repositioning, lifting, transferring, individualized bathroom assistance, or nutritional support;

(ii) the number of staff necessary to provide the support; and

(iii) the calculations which combine the time increments of support to determine the total number of units needed on the Plan of Care.

(B) The case manager sends the documentation to the case management supervisor for approval.

(C) The case management supervisor signs and forwards a copy of the approval, denial, or recommended modifications to the case manager within two working days of receipt.

(D) A service recipient may receive Center-Based Services and Intermittent Supplemental Supports at the same time.

(d) Supplemental Support for Center-Based Services described in this Section cannot be accessed in Community-Based Services.

(e) Approved hours for supplemental support or enhanced rates remain in effect throughout the Plan of Care year, even if the service recipient's support needs appear to decrease.

(f) Sufficient staff must be available in the center-based facility to provide the supplemental support in order for a provider to claim the units.

317:40-7-21. Exception process for Waiver Employment Services

(a) All exceptions to the rules in this Subchapter are:

- (1) approved in accordance with this Section prior to service implementation;
- (2) based on the needs of the service recipient;
- (3) identified in the Individual Plan (IP) process explained in OAC 340:100-5-50 through 100-5-58; and
- (4) documented by the case manager after Team approval.

(b) Within 10 working days of the annual IP or the interim meeting, the case manager sends requests for exceptions dealing with individual needs listed in this subsection to the area employment services staff, who reviews the request to ensure that all criteria listed have been met. If criteria are not met, the employment services staff returns the exception request to the case management supervisor for further documentation. If all criteria are met, the employment services staff returns the request to the case management supervisor to resume the approval process and input of units on the Plan of Care.

(1) If the exception involves the requirement found in subsection (a) of OAC 317:40-7-15 of a minimum of 30 hours per week of employment services, the case manager sends documentation of the Team's:

(A) discussion of the specific situation(s) that require an exception;

(B) discussion of other possibilities to avoid an exception, and the reasons that those possibilities do not adequately meet the service recipient's needs;

(C) plan with specific steps and target dates to address the situation throughout the Plan of Care year so the exception may not be required or lessened at the end of the Plan of Care year; and

(D) specific residential schedule to provide integrated activities outside the home while the plan to increase to 30 hours is being implemented.

(2) A request for an exception to the maximum limit of 15 hours per week for center-based services or continuous supplemental

support as described in OAC 317:40-7-6 and 317:40-7-13 includes documentation of the Team's:

(A) discussion of the specific situation(s) that require an exception;

(B) discussion of other possibilities to avoid an exception and the reasons that those possibilities do not adequately meet the service recipient's needs; and

(C) decision(s) which include specific steps and target dates to address the situation throughout the Plan of Care year so the exception may not be required or may be lessened at the end of the Plan of Care year.

(3) Exceptions are not given to the rules regarding enhanced rates given in OAC 317:40-7-12.

(4) A request for an alternative(s) to the required community-based activities as defined in OAC 317:40-7-5 requires documentation of the Team's:

(A) discussion of the specific situation(s) that require an exception;

(B) discussion of other possibilities to avoid an exception and the reasons that those possibilities do not adequately meet the service recipient's needs;

(C) specific steps and target dates to address the situation throughout the Plan of Care year so the exception may not be required or may be lessened at the end of the Plan of Care year.

(c) The exception requests listed in this subsection are documented by the case manager after Team consensus and submitted directly to the DDS area manager within 10 working days after the annual IP or interim Team meeting. The case manager retains a copy in the case manager's record. The area manager approves or denies the request based on the thoroughness of the Team's discussion of possible alternatives and the reasons for rejection of the other possible alternatives.

(1) State dollar reimbursement for absences of a person receiving services through the Community Waiver in excess of 150 units is approved for medical reasons only. The request includes:

(A) the Team's discussion of the specific situation(s) that require an exception;

(B) the specific medical issues necessitating the exception request; and

(C) a projection of the number of units needed to complete the State fiscal year.

(2) A request for any other exception to the rules in this Subchapter that are not specifically listed in this subsection require documentation of the Team's discussion of:

(A) the specific situation(s) that require an exception; and

(B) other possibilities to avoid an exception specifying the reasons that those possibilities do not adequately meet the service recipient's needs.