

2012 State Plan Update Attachment 4.2(c) Summary of Input and Recommendations of the State Rehabilitation Council; Response of Designated State Unit; and Explanation of Input or Recommendations

This attachment addresses input and or recommendations provided by the Washington State Rehabilitation Council to the Washington State Division of Vocational Rehabilitation (the Designated State Unit) and to the Department of Social and Health Services (the Designated State Agency) from October 1, 2009 through September 30, 2010.

Recommendations by the Washington State Rehabilitation Council to the Designated State Unit

Recommendations Garnered from Customer Forum Feedback

On April 30, 2010, the Customer Satisfaction & Program Evaluation Committee sent a memo entitled "Follow Up Report on April 15 Customer Forum in SeaTac" to DVR's Senior Leadership Team, Area Managers and Area 1 Supervisors recommending changes to practices. The following excerpted text includes the Committee's recommendations.

"In response to this feedback from the customer forum the WSRC offers the following recommendations to DVR:

- 1. We encourage Supervisors at the local level to place an ongoing emphasis on returning customer phone calls and e-mails by reinforcing the DSHS policy requiring that customer calls be returned within 24 hours (which Andres [Aguirre, the Interim Director of DVR] highlighted twice last quarter).*
- 2. We urge Supervisors to frame timely response to customer calls and e-mails, not as an additional expectation, but as an integral aspect of caseload management. With Counselors in many offices around the state... facing the demands of staffing high caseloads we recognize that prioritizing communication is challenging. At a time when some may feel that they are working at capacity, we recommend drawing positive attention to Counselors who communicate reliably and consistently with those they serve.*
- 3. We continue to recognize that many customers and their families who attend our forums express a significant gap in understanding the VR process and available services. We urge DVR to:*
 - Examine the approaches taken to customer orientation.*
 - Evaluate whether current approaches are effective.*

- *Strengthen orientation practices based on what is learned.*
- *Develop and implement a ‘re-orientation to the VR process’ for customers who either possess disability characteristics which requires that they review information repeatedly before it can be understood or retained or long-term customers who are not making progress in the VR process.”*

DSHS/DVR Response

All of the SRC’s above recommendations were received positively by DSHS/DVR and have been or will be implemented. The division continuously reminds all staff that telephone calls from customers and other individuals must be returned within timeframes set forth by DSHS policy. During the past year, DSHS negotiated with the Washington Federation of State Employees to extend the timeframe for employees to return telephone calls from 24 hours to 48 hours through June 30, 2011.

DSHS/DVR is following up on the SRC’s recommendation that current intake/orientation practices be re-visited to determine if information about available services and the VR process can be provided in a better way and on a recurring basis as individuals progress through the process. One step already implemented is that a videotape explaining the VR program is being played continuously in the reception areas of all DSHS/DVR offices, so that individuals waiting for appointments are reminded of the services provided. This same videotape is posted on the DSHS/DVR webpage for individuals to view at any time. Efforts are also underway to redesign intake/orientation practices to integrate motivational interviewing techniques that elicit more engagement from individuals as they learn about DSHS/DVR services.

Input on the State Plan

On May 3, 2010, the WSRC Planning, Policy, and Advocacy Committee sent a memo entitled “Comment on the State Plan Update from the Washington State Rehabilitation Council” to the staff of DVR responsible for coordinating the submission of the State Plan. The memo provided specific input on attachments:

- 4.11 (c) (1)—Goals and Priorities
- 4.11 (d)—State Strategies and Use of Title 1, Innovation & Expansion Funds and Associated Activities;
- 4.11 (e) (2) Evaluation & Report on progress in achieving goals – Use of Title 1 Innovation & Expansion;
- 4.2 (c) Recommendations from the State Rehabilitation Council;
- 4.8 (b) (1) Co-operation with other Non Workforce Investment Partners; and
- 4.8 (b) (2) Coordination with Education Officials.

WSRC input on these attachments was detailed and lengthy. Most input suggested changes to proposed language; urged greater clarity and specificity; or advocated the

inclusion of quantifiable measures. In two cases the Council had substantive disagreements with DVR's response or framing of issues. The following excerpted text highlights key differences:

“ATTACHMENT 4.2 (c) Recommendations from the State Rehabilitation Council

Response:

We request that DVR strike the sentence that reads: “Once developed and tested, this model [Project HIRE] will be integrated into DVR.” A decision of this kind should not be made until both phase one and phase two of Project HIRE are fully evaluated.

- 1. Within attachment 4.2(c) DVR addresses the WSRC feedback on attachment 4.11(d). We request that DVR revisit its response to this portion of the attachment. Language in this section is titled “Innovation & Expansion” yet DVR’s response is focused on maintaining regular service delivery. DVR may need to clarify for the reader that this is an allowable use of the allocated funds.*
- 2. Input for DVR from Customer Forums – Theme 1: We request that DVR revisit this response because our comments address customer requests for more information upfront and throughout the process about available services, resources, and supports. DVR’s response addresses responsiveness related to reducing caseloads. We do not see the alignment between the concern we addressed and the response DVR provided.”*

And

“ATTACHMENT_4.11 (d) — State Strategies and Use of Title 1, Innovation & Expansion Funds and Associated Activities

Response:

We object to DVR’s presentation of Attachment 4.11(d). There is always room for innovation, even when addressing existing activities. DVR needs to describe its agency innovations.

If DVR’s intent is to highlight the expansion of existing activities rather than innovating, then we encourage you to quantify expansion, or illuminate how the strategies being implemented are being adapted based on lessons learned, data, or progress.

Two resources that may be useful in strengthening the attachment are: requesting technical assistance from RSA, and revisiting the Comprehensive Statewide Needs Assessment DVR completed in 2009. We also suggest revisiting the Comprehensive

Needs Assessment because its purpose is to inform the State Plan. It provides a basis for evaluating strategic innovations.”

DSHS/DVR Response

DSHS/DVR had several constructive discussions with the SRC concerning the above recommendations and incorporated virtually all of the suggestions in to the FFY 2011 State Plan Update.

Recommendations Regarding Expenditure of American Recovery and Reinvestment Act Funds

On August 13, 2010 the WSRC Executive Director submitted a memo to the Interim DVR Director entitled “Input Regarding Expenditure of Remaining ARRA funds” on behalf of the Council. The recommendations:

1. Advise against the implementation of further phases of Project HIRE;
2. Advocate hiring staff temporarily to offset cuts to DVR necessitated by revenue shortfalls;
3. Encourage strategic investment to increase the capacity of CRPs to serve targeted populations; and
4. Urge DVR to buy assistive technology or services to mitigate barriers for Deaf and Hard of Hearing customers.

DSHS/DVR Update

DSHS/DVR considered each of the SRC’s recommendations for the expenditure of remaining ARRA funds and chose to implement the following three:

- Advise against the implementation of further phases of Project HIRE – DSHS/DVR chose to discontinue Project HIRE because it was not achieving its intended outcome to rehabilitate 600 additional customers in mid-to-high paying jobs.
- Encourage strategic investment to increase the capacity of CRPs to serve targeted populations. – DSHS/DVR is targeting funds to increase the capacity of CRPs that serve individuals with mental illness. Attempts also were made to increase the capacity of CRPs in select geographic areas to better serve Hispanic individuals; however, the organizations that were approached decided not to pursue the opportunity.
- Urge DVR to buy assistive technology or services to mitigate barriers for Deaf and Hard of Hearing customers. – DSHS/DVR is in the process of equipping all offices with assistive listening devices and other technologies to accommodate individuals who are Deaf or hard of hearing.

The following recommendation was not implemented:

- Advocate hiring staff temporarily to offset cuts to DVR necessitated by revenue shortfalls. – DSHS/DVR did not implement this recommendation because a general state government hiring freeze was adopted by the Legislature through June 30, 2011. The hiring freeze made it impossible to appoint permanent or temporary positions, except those approved by the Department of Personnel and Governor’s Office of Financial Management as being critical to fill.

* * *

Input provided by the Washington State Rehabilitation Council to the Designated State Agency

Title 1, Section 105, (c) (3) of the Rehabilitation Act mandates that State Rehabilitation Councils to provide advice to both the Designated State Unit and the Designated State Agency. In addition to the input provided by the Washington State Rehabilitation Council to the Designated State Unit, we provided extensive advice and guidance to the Designated State Agency during the reporting period.

The Implementation of Changes to the Provision of General Assistance Benefits

Until recently, Washington was one of two states that provided a cash benefit to eligible recipients of the General Assistance Program, which was funded solely by general state dollars. Governor Gregoire requested the elimination of that benefit in her proposed budget to the Legislature in January 2010. Rather than accept that request, the Legislature crafted an alternative approach for recipients of General Assistance. They developed a new program called the “*Disability Lifeline*.” The Disability Lifeline provides incentives to become employed. On March 29, 2010, Governor Gregoire signed E2SHB 2782, establishing the Disability Lifeline benefit into law. It was expected to be in effect from January 1, 2011 through June 30, 2013 when it would end.

The new state law made housing vouchers, substance abuse treatment, food subsidies and other essential resources available to eligible Washington State residents for a period not to exceed 24 months in a 60-month period. To receive these essential benefits, recipients must comply with program requirements which include seeking employment. According to the Final Bill Report for E2SHB 2782, “The Economic Services Administration (ESA) must work jointly with the Division of Vocational Rehabilitation (DVR) to develop an assessment tool to determine whether the programs offered by the DVR could assist persons receiving Disability Lifeline benefits in returning to the work force. The assessment tool must be completed no later than December 1, 2010. The ESA must begin using the tool no later than January 1, 2011. By December 10, 2011, the Department must report on the use of the tool and the success of DVR programs in returning persons to the work force.”

After the Governor signed the bill into law the WSRC wanted to assure that the Designated State Agency (DSA), whose staff would be responsible for implementing the

changes, were well-positioned to mitigate potential unintended consequences. On July 21, 2010, the Council Chair sent a memo to the Chief of Staff of the DSA on behalf of the Executive Committee. The memo entitled, "The Division of Vocational Rehabilitation's Participation in the Implementation of E2SHB 2782," requested a meeting with her. The following excerpt highlights the basis of Council concerns:

"The Council supported the legislative intent of increasing participation in the workforce by workers with disabilities. We encouraged DSHS to take a narrow approach to implementing the new state law to assure alignment with the Rehabilitation Act by:

- 1. Maintaining the information of applicants or recipients of vocational rehabilitation services confidentially (34 CFR 361.38 [e]);*
- 2. Preserving DVR's authority to decide how to expend vocational rehabilitation funds (34CFR 361.13 (c) (1) [iv]);*
- 3. Enabling DVR to handle referrals for vocational rehabilitation services promptly (34 CFR 361.41[a]);*
- 4. Receiving applications for vocational rehabilitation services from those utilizing the Disability Lifeline benefit who intend to achieve an employment outcome, and (34 CFR 361.42 (4) [ii]), and;*
- 5. Assuring that those referred by ESA to DVR for services are exercising informed choice when applying for or receiving vocational rehabilitation services (34 CFR 361. 352 [a]).*

The Washington State Rehabilitation Council's advice to DSHS regarding the implementation of E2SHB 2782 emphasized that if the assessment tool developed by ESA and DVR does not yield appropriate referrals, then costs and caseload sizes may exceed the staffing and budgetary resources available to DVR. Should this occur, DVR would be required to re-enter order of selection. Operating under order of selection would limit DVR's ability to achieve the legislative intent of E2SHB 2782.

We also suggested that DSHS may avoid the costs associated with inappropriate referrals by:

- 1. Supporting staff of DVR and ESA to continue meeting regularly following the development of the assessment tool to discuss whether the tool is yielding appropriate referrals, and;*
- 2. Working with DVR to develop measureable indicators to quantify the impact of the use of the assessment tool between the time when the law is implemented and when DSHS reports to the Legislature."*

The Council did not receive a response. On August 27, 2010 the Executive Committee sent a second memo entitled, "Follow up on the Implementation of the Disability Lifeline." We received no response from the DSA.

After the bill was signed into law, the revenue forecast continued to decline and the Legislature acted to scale back the Disability Lifeline Benefit.

DSHS/DVR Response

See below.

Input Given by the Washington State Rehabilitation Council to the Designated State Agency on the Implementation of Engrossed Second Substitute House Bill 2921

In March 2010, Engrossed Substitute House Bill 2921 became law. The purpose of the law was to make supplemental operating appropriations to the General State Fund resulting in \$54.8 million in cost savings. The law prohibits out-of-state travel by state employees unless the purpose of the travel meets narrow criteria. It also establishes a hiring freeze for all non-essential positions with the State of Washington. Further, the law prohibits state agencies from establishing new personal services contracts or purchasing equipment which costs five thousand or more.

During the July quarterly meeting of the WSRC we learned that there had been an instance when DSHS requested to review and approve or decline the authorization to purchase equipment for a DVR customer. We were concerned by the decision to apply the new state law to the purchase of equipment for customers.

On August 27, 2010 the Council Chair wrote to DSHS, expressing the Council's concern and highlighting 34 CFR 361.13 which defines the role of DSHS and DVR. We invited DSHS to consider 34 CFR 13 (i) and (v) which provides DVR with the sole authority regarding:

"All decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of these services... [and over] the allocation and expenditure of vocational rehabilitation funds."

We urged DSHS to seek guidance and technical assistance from the Rehabilitation Services Administration if questions remained regarding authorizing purchases of customer equipment.

On September 17, 2010 the WSRC together with the Washington State Client Assistance Program, sent a letter to Carol L. Dobak, Chief of the Vocational Rehabilitation Unit Rehabilitation Services Administration to request technical assistance on the issues we brought forward to the Designated State Agency.

DSHS/DVR Response

Between July and December 2010 the DSHS/DVR Interim Director had a series of discussions with the DSHS Chief of Staff, SRC Chairperson, SRC Executive Director and RSA regarding the SRC's concerns about adverse impacts implementation of the Disability Lifeline Program and state funding restrictions could have on the DSHS/DVR program. These discussions culminated in the following email response from Carol Dobak, RSA, Chief, Vocational Rehabilitation Program Unit, to the SRC:

From: Dobak, Carol [<mailto:Carol.Dobak@ed.gov>]
Sent: Wednesday, December 01, 2010 12:37 PM
To: Brouner, Joelle (DSHS/DVR)
Cc: Olson, Toby; Johnsen, Jerry (CAP); Aguirre, Andres F. (DSHS/DVR); Guerin, Tracy (DSHS); Larson, Jim
Subject: RE: Request for Guidance & Technical Assistance From Washington State CAP and SRC

Joelle:

This is in response to your inquiry regarding the participation of the Washington Division of Vocational Rehabilitation (DVR) in the Disability Lifeline program implemented by the Department of Social and Health Services (DSHS), the designated state agency (DSA). Specifically, you express concerns on behalf of the State Rehabilitation Council (SRC) regarding the impact of referrals from the Disability Lifeline program on DVR's resources. In addition, you ask whether DVR may release personal information pertaining to individuals applying for and receiving vocational rehabilitation (VR) services to the DSA and other component agencies through the Client Registry and whether the DSA may review and approve purchase orders for VR services that exceed \$5,000. Prior to responding, on November 9, 2010, I spoke with Andres Aguirre, Director of DVR, to obtain recent information related to each of these questions.

REFERRALS

RSA acknowledges the concerns expressed by the SRC with respect to the potential impact a large number of referrals from the Disability Lifeline program to DVR may have on the agency's resources, as well as its ability to process referrals in a timely manner in accordance with regulations found at 34 CFR 361.41(a). RSA also recognizes that some referral sources historically yield a lower percentage of successful eligibility determinations, which may adversely impact the agency's ability to manage case flow.

In speaking with Mr. Aguirre, he assured me that he shares these concerns. To address them, DVR has worked closely with DSHS to ensure that the Assessment Tool contains questions that will better enable its users to make

appropriate referrals for VR services. Routine monitoring of the RSA-113 Quarterly Caseload Reports will assist DVR to track the movement of individuals through the VR process, and will indicate when there are spikes in referrals that lead to individuals exiting the VR program in application status. Based on this data and other information, DVR can determine if it is necessary to provide further training to its referral sources and to revise the referral guide, in the event that the agency experiences significant increases in referrals that are determined ineligible.

CONFIDENTIALITY

Under the VR regulations, both DSHS and DVR, as the DSA and designated state unit (DSU), respectively, for the VR program, must adopt and implement written policies and procedures to safeguard the confidentiality of all personal information regarding VR consumers (34 CFR 361.38(a)(1)). Both agencies have access to certain personal information about VR consumers, and must only use the information in their possession for purposes directly related to the administration of the VR program (34 CFR 361.38(b)). Thus, DVR or DSHS may release information to other agencies, including those housed within DSHS, if needed, only if it is for its own VR program use. For example, DVR could release personal information about a consumer to another agency if DVR were referring that individual to that agency for the provision of VR services. Similarly, DSHS could release personal information about a consumer to the State's auditor, if needed, for the conduct of an audit of the VR program.

The exception to this requirement is if an affected individual consents in writing to the release of that personal information. In that case, DVR may release personal records about that VR consumer to another state agency, including an agency housed within the DSHS, for use by that agency if the agency demonstrates that the information is necessary for the conduct of the agency's programs (34 CFR 361.38(e)(1)). The policies governing the use by DVR of personal information must include information on those situations when the DSU would or would not require the informed written consent of the individual (34 CFR 361.38(a)(1)(iii)(D)). Please note that Washington's own privacy laws and regulations may impose stricter requirements than imposed by the VR regulations with regard to the policies and procedures that DSHS and DVR must establish in accordance with the regulations found at (34 CFR 361.38(a)(1)(v)).

The sharing of VR client information with the DSA without the written consent of the individual clients in accordance with DSHS's administrative policy 5.01, as described in the memorandum of February 27, 2004, appears to violate the requirements of 34 CFR 361.38, as the policy is a blanket requirement that DVR share "confidential" personal information with the entire DSA for the purpose of maximizing efficiencies across the DSA, and is not explicitly concerned with the implementation of the VR program. Nonetheless, Mr. Aguirre informed me during our conversation that DVR does not submit personal information regarding

individuals applying for and receiving services from DVR to the DSHS Client Registry without their written consent. He assured me that otherwise any such personal information can be used by DSHS only for the purpose of data verification and in connection with authorized audits of the VR program.

AUTHORIZATION OF SERVICES IN EXCESS OF \$5,000

The allocation and expenditure of vocational rehabilitation funds is a non-delegable function of the DSU in accordance with the regulations found at 34 CFR 361.13(c)(IV) and 361.13(c)(2). In the case of Washington, DVR is the DSU, and as such must retain control over its ability to authorize and expend funds for the purposes of assisting individuals to achieve an employment outcome under an individualized plan for employment (IPE) as described in the Rehabilitation Act of 1973, as amended. Again, Mr. Aguirre informed me that based on these regulatory provisions DVR sought and was granted an exemption from the DSHS requirement that it approve purchases of equipment in the amount of \$5,000.00 or more.

If you need further clarification, please do not hesitate to contact me.

Sincerely,

Carol Dobak
Chief, Vocational Rehabilitation Program Unit Rehabilitation Services
Administration
(202) 245-7325

Since Ms. Dobak provided the above response to the SRC, the DSHS/DVR program has not experienced any adverse impacts from implementation of the DSHS Disability Lifeline Program nor have there been any problems exchanging confidential information between DVR and DSHS or authorizing client equipment purchases over \$5,000.00.

This concludes the summary of input and recommendations of the State Rehabilitation Council.