

NOTES FROM TRAINING IN RED

Medical Assistance, SSI & Waivers: Transitioning Youth



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Some information repeated from the previous Medical Assistance training.

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PA Health Law Project



- Free legal advice regarding:
 - Medical Assistance eligibility
 - Services under Medical Assistance & CHIP
 - Physical & Behavior health
 - Appeals
 - Home & Community Based Waivers
 - Consolidated & PFDS ID waiver
 - Adult Waivers
 - Self-directed/family directed services

1-800-274-3258 www.phlp.org

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Key Transition Ages for Medical Assistance(MA) & SSI

- Age 18 - SSI eligibility rules change
- Age 18 - MA eligibility rules change
- Age 21- certain services no longer covered by Medical Assistance

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MA Transitions		
TIMEFRAMES		
Birth up to 18 years	18 to 21 yrs	21 & over
Child Soc Security Disability Standard	Adult Soc Security Disability Standard	
Ph 95 MA or SSI for child	SSI in own name	
"EPSDT" Services (includes nursing & wraparound) birth to 21		Adult MA Services only
PH95 program ends at age 18 but EPSDT remains until 21		

SSI generally
<ul style="list-style-type: none"> • SSI - Social Security program for children & adults with low incomes & assets who meet Social Security disability criteria • Provides monthly cash benefit + full Medical Assistance • Separate MA application not needed • Income & assets of custodial parent counts in determining eligibility of child under age 18

Children on SSI turning 18

- **New** application not needed for 18 year old already on SSI
- **But...** Social Security will review disability based on adult standards so new medical documentation may be requested

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SSA Disability Criteria

Meet Social Security disability criteria

- Birth to 18: Social Security criteria for children- "Listing of Impairments"- focus on development
- Age 18+ -- Social Security criteria for adults – focus is on ability to work
- Criteria at <http://www.ssa.gov/disability/professionals/bluebook/listing-impairments.htm>

*The NEW focus is on ABILITY TO WORK once 18.

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SSA Disability Criteria (cont.)

- More information about Social Security Disability at:
http://www.socialsecurity.gov/disability/disability_starter_kits_adult_eng.htm

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Youths on SSI - working

- For youths under 22 & regularly attending school
- Exclude gross earnings of \$1,790 a **month** or \$7,200 a **year** in 2017 in determining payment amount for SSI
- Regularly attending school: 12 hours a week or 8 hours in college or "less time for reasons...such as illness."

Just because a person is working DOES NOT mean they cannot get SSI if they have a disability.

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Keeping MA after losing SSI

This is a VERY technical rule.

“Disabled adult child” category:

- Age 18 or older +
- Was on SSI +
- Lost SSI because of receipt of Social Security on parent's account:
 - Parent dies, gets SSA disability or retirement
- Can keep MA as long as non-Social Security income is below SSI limits (\$735) & still meets SSA disability criteria

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If a person loses SSI STRICTLY based on parents income records MA SHOULD NOT be revoked. Often people receive a NOTICE OF TERMINATION under these circumstances when they SHOULD NOT.

Social Security child's benefits

- Child under 18 may be receiving Social Security based on Social Security account of parent who is deceased, retired or themselves disabled.
- Income & assets of parent doesn't count in determining eligibility of child
- Child need not have disability
- Provides monthly cash benefit but no automatic Medical Assistance

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Social Security at age 18

- ★ • At age 18, child loses Social Security child's benefits (not SSI) unless:
 - is still a full time student in secondary school
 - Can stay on until graduation or 2 months after reaching 19, whichever comes first
 - Or is found disabled under adult criteria
- ★ • If 18 year old applies to continue Social Security as a disabled adult & is turned down, may not be able to get or keep MA

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Medical Assistance Eligibility: PH95 for children under 18

- PH95- is MA eligibility category for:
 - children & adolescents under 18 who have significant disabilities/medical conditions
- AND
- do not qualify for SSI due to parental income or assets

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Medical Assistance Eligibility: PH95 & 18 year olds

- ★ • Medical Assistance eligibility under PH95 ends at age 18!
- This is because parental income & assets no longer count for SSI once adolescent turns 18- so most youths on PH95 can qualify for SSI when they turn 18
- ★ • To continue to receive MA, 18 year old who had been on PH95 must reapply & qualify under a different adult eligibility category - most commonly SSI

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Medical Assistance Eligibility: 18 & over formerly on PH95

- Has disability or medical condition that meets or equals Adult SSA disability criteria-
- ★ • adolescent who had met the Social Security child disability criteria at age 17, may not meet adult disability criteria at age 18
- Income & assets in 18 year old's name within SSI limits
- Applies for SSI at Social Security office
- If found eligible, MA will continue + get SSI cash benefit

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Medical Assistance Eligibility: 18 and over formerly on PH95

- If denied SSI because SSA says you don't meet ADULT disability criteria, consider appealing even if you don't need the \$ or else cannot get MA under any other disability- based categories
- ★ If denied SSI based on youth's income or assets, can apply for Medical Assistance under "Healthy Horizons" category (income limit of \$1005 & no asset limits under age 21)

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Medical Assistance Eligibility: 18 and over formerly on PH95

- If over income for Healthy Horizons, may get MA through HCBS waiver or MAWD
- ★ Home & Community Based Service waivers provide full Medical Assistance:
 - income limits of \$2,199
 - asset limit of \$8000
 - additional "level of care" eligibility requirements & may be long waiting lists - See Chapter 2 on waivers

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WORKING
does not
require a
certain
amount of
time per day,
week, month,
or year and
does not have
to be formal or
require getting
a paycheck

Medical Assistance Eligibility: Working- "MAWD"

- If denied SSI because:
 - SSA says you don't meet disability criteria because you are working; OR
 - You are working & your income is above SSI limits
- You may qualify for MA under Medical Assistance for Workers with Disabilities ("MAWD")
- Must pay monthly premium of 5% of countable income

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Medical Assistance Eligibility: Working - "MAWD"

- Must meet all 3 requirements:
 - age 16 or older (16 - 64)
 - Have a disability or medical condition that would meet Social Security disability criteria but for employment
 - Meet the financial eligibility requirements
- financial eligibility
 - Significant income disregards- even people working full time can often qualify
 - Countable assets below \$10,000

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Medical Assistance Eligibility: Working - "MAWD" & waivers

EPSDT

- Will financially qualify for waivers if on MAWD - even if income or assets are above the waiver income/asset limits

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Medical Assistance Services at Age 21

"EPSDT" services end at age 21 including:

- "Shift nursing"- in-home nursing for multi-hour shifts
- In-home nurses aides for multi-hour shifts
- "Wraparound"- TSS, Mobile Therapy & BSC
- "Family based" therapy
- "RTF"- Residential Treatment Facility
- Coverage of other services depends on eligibility category

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BIGGEST take-away, At 18 rules change but there are multiple MA programs available that a person may qualify for and still be covered by MA.

CHAPTER 2

Handout T 2

Waivers for Transitioning Youths with Disabilities



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Why Consider Waivers?

Although reviewed annually, once you're in this program you are in it!

- Coverage of "EPSDT" services ends at 21
 - Shift nursing & nurses aides
 - Wraparound, RTF & some other behavioral supports
- Right to services from school district ends at end of school term in which student turns 21 unless eligible for compensatory education
 - This includes end of "related services" such as therapies &
 - "Transition services" including transportation

Having a Support Coordinator is key in this process.

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Start on this as early as possible. This can be a lengthy process. Waiver Programs are created overtime AND can have limits. There may not be a SLOT available because a particular program may be at capacity.

Waivers are available starting at age 3.

Waivers - overview

- Waivers are special programs that fund home & community based support services for persons with various disabilities to enable them to remain in the community
- Waivers become primary source of support services when youths turn 21 and are no longer eligible for MA EPSDT services or school services
- Different waivers depending on type of disability- Intellectual disability, autism, physical, brain injury
- Ability to get on a Waiver is dependent on sufficient open "slots"- long waiting lists for intellectual disability waivers

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The rules for Waivers are different depending on if it is an Intellectual Disability (ID) Waiver, Autism Wavier, and Physical Disability Waiver.

Intellectual Disability Services

- Documentation of intellectual disability (<70 IQ + significant limits in adaptive functioning) before age 22 required for all ID services.
- Currently, for age 3+ but proposed to drop age down to birth
- ID services not "Entitlements". Long waiting lists. Apply at county Base Service Units
- Proposed to allow children with developmental delay up to age 7 to qualify for ID waivers
- Proposed to allow people with autism and not ID to qualify for ID waivers.

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Requires an open SLOT

Waiting List-ID

- Place on waiting list based on "urgency of need for services" as determined by PUNS = Prioritization of Urgency of Needs assessment - 3 categories 1 Planning 2 Critical 3 Emergency
- Only people in "emergency" category have any chance of getting existing general waiver slots
- 4600 people on waiting list in Emergency category
- Waiver slots are distributed by county - County ID agencies ("AEs") determine which of their residents in emergency category get slots

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Proposed Increase in Slots - ID

- Governor proposes 820 new PFDS slots for youth aging out of special ed
- 1000 slots in new waiver- "Community Living"
- 40 Consolidated waiver slots for individuals transitioning out of State Centers
- New Consolidated waiver slots for residents of Hamburg State Center which is closing
- All new slots are dependent on state legislature adding sufficient additional funds to ODP budget to fund these new slots

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ID Waivers

- **P/FDS-** services capped (now \$30,000 a year but increased as rates rise). Proposal to allow \$15,000 for employment services above the cap + supports broker not part of \$30,000 cap. No residential services.
- **Consolidated-** no cost cap. Includes residential- group home or "life sharing".
- **Community Living** new proposed waiver. Capped at \$70,000. Does not include residential

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Services by Relatives

While relatives can be paid to provide waiver services, now limited to 40 hours a week of home & community hab ("in-home & community support") and/or Companion for 1 relative & 60 hours a week total if multiple relatives paid.

→ result of recent policy changes

"Relatives" defined as: a spouse, a parent of an adult, a stepparent of an adult child, grandparent, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, adult child or stepchild of a participant or adult grandchild

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New Services- ID

- Expanded employment services- see handout
- Housing Transition and Tenancy Sustaining Services
- Supported Living (Consolidated only)- supports for individuals living in their own home with on-call availability 24 hours/day
- Music, Art, and Equine Assisted Therapy
- Family/Caregiver Training and Support

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SEE
Handout T3
after page 28

New Services 2- ID

- Communication Specialist
- Consultative Nutritional Services
- Benefits Counseling
- Community Participation- including:
 - Prevocational skill development
 - Building relationships & social networks
 - Participation in community groups & associations
 - Developing hobbies & leisure/cultural interests
 - Participating in faith-based organizations & activities
 - Engaging in activities promoting health & wellness
 - Training for self-determination & self-advocacy
 - Learning to navigate local community

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Sheltered Workshops

FINAL

Expectation for the provider to offer community activity:

- Provider will offer community integration for no less than 25% of program time and up to the amount people choose effective September 2018. This is not a requirement imposed on individuals.
- The person and their team will explore the person's interests/preferences and develop a plan for meaningful community engagement that will support the person's lifelong learning and growth, including the type of community activities and the frequency.
- No requirement for 50% or 75%.

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WAIVER CHANGES

Sheltered Workshops 2

Exceptions to the Standard for Time in the Community:

- Exceptions for medical, behavioral health, or conditions that affect the person's ability to participate or impacts the person's health and safety. The determination will be made by the person's team. There is no additional review.
- When individuals choose not to engage in community activity, we must be sure that they have adequate and relevant information and experience on which to base their choice.

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Sheltered Workshops 3

Calculation of Time in the Community:

- Applies to individuals who are served an average of three or more days a week at the service location.
- Measure by person on a monthly average basis.
- ODP will measure providers during the three-year provider performance review cycle to determine the adequacy of efforts to offer people meaningful and relevant community activities.

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Sheltered Workshops 4

Facility Size Limits:

- Limit size of existing facility to 150 in daily attendance by March 2019.
- Limit size of new facilities to 25 in daily attendance effective upon adoption of the regulations (January 2019).

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FSS/FDSS for ID

- Administered by County MH/MRs- they have discretion in amounts & allowable uses. Not available in all counties
- Provides small amounts of funding (usually \$1000 or less a year) for some supports like respite, camps, special equipment or therapies not covered by MA.

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Autism Waiver NO CAP

- Must have diagnosis of autism spectrum disorder
- Intellectual disability not required
- Age 21 or older **MUST wait until 21st birthday to call**
- Alternative to ID waivers for adults with autism & intellectual disability
- Apply to state (BAS) directly- not county
- 1-866-539-7689 to apply. New applicants go on "interest list". 50 additional slots proposed by Governor

There is also talk of changing the age to 18.

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Autism Waiver- Services

- Day Habilitation
- Residential Habilitation
- Respite
- Supported Employment
- Supports Coordination
- Therapies
- Assistive Technology
- Career Planning
- Community Transition Services
- Family Support
- Home Modifications
- Nutritional Consultation
- Specialized Skill Development
- Temporary Supplemental Services
- Transitional Work Services
- Vehicle Modifications

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Specialized Skill Development

- Behavioral Specialist Services provide specialized interventions that assist a participant to increase adaptive behaviors to replace or modify challenging behaviors of a disruptive or destructive nature that prevent or interfere with a participant's inclusion in home and family life or community life.
- Systematic Skill Building uses evidence-based methods to help the participant acquire skills that promote the participant's independence and integration into the community, which are not behavioral in focus. Possible skills include learning how to cook or use public transportation
- Community Support assists participants in acquiring, retaining, and improving communication, socialization, self-direction, self-help, and other adaptive skills necessary to reside in the community.

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Limits on day services

- Total combined hours for Specialized Skill Development/Community Support, Day Habilitation, Supported Employment and Transitional Work Services are limited to 50 hours in a calendar week. Exceptions to this limit may be considered based upon a needs assessment and require prior authorization by the Bureau of Autism Services

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Therapies

- Speech/language therapy provided by a licensed speech therapist or certified audiologist upon examination and recommendation by a certified or certification-eligible audiologist or a licensed speech therapist.
- Counseling provided by a licensed psychologist, licensed psychiatrist, licensed social worker, licensed professional counselor, or licensed marriage and family therapist.

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Office of Long Term Living

Physical disability waivers

The Waivers start at age 18 and have NO WAITING LIST

- **Independence** - Age 18+ w/ physical limitations that meet nursing home level of care. Includes vent dependent persons. Can't have ID as "primary diagnosis". No wait list.
- **Attendant care** - Age 18+ w/ physical limitations that meet nursing home level of care but services limited to attendant care (for assistance with activities of daily living). Must be "mentally alert". No waiting list.

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Independence and Attendant Care will be changed to a NEW program called Community Health Choices beginning in January 2018. CHC will roll out over the state in regional batches. See slide 46 for more information.

Physical disability waivers

- Youth age 18+ who have significant physical disabilities and for whom ID is not their primary diagnosis may qualify for one of PA's physical disability waivers
- Youth age 18+ with developmental disabilities (including autism) - other than ID- may qualify for the **OBRA waiver**
- Currently no waiting list for these waivers!
- Apply by calling 1-877-550-4227 (the Independent Enrollment Broker- Maximus)

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*The state is currently rebidding, so this may not be Maximus at the end of the year (2017).

Physical disability waivers

- Requires physician certification & functional eligibility determination by AAA nurses
- No county involvement
- Administered by State Office of Long Term Living
- Mostly different providers than those who serve the ID & autism waivers
- More limited residential options

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Community Health Choices

- Starting January 2018, adults 21+ in the physical disability waivers who live in the following counties will be enrolled in a new program called Community Health Choices:
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties.
- Southeast PA goes in July 2018 and the rest of the state in January 2019

Four choices:
UPMC
AmeriHealth
Cinta (?)
and one other

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Community Health Choices 2

- Community Health Choices is a new managed care program under which participants' medical needs and waiver services are assessed and authorized by a managed care organization (3 have been selected by the state)
- The MCO is responsible for service coordination
- Services must be obtained from a provider having a contract with the managed care organization in which the participant is enrolled

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Community Health Choices 3

- For more info, go to:
- <http://www.dhs.pa.gov/citizens/communityhealthchoices/index.htm>

REMEMBER: any denial, APPEAL quickly and maintain service through the appeal process.

NOTE: There could be some confusion for professionals at first since there will be the NEW Community Health Choices AND changes to a pre-existing program called Health Choice.

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Appeals

- Can appeal denial, termination or reduction of Medical Assistance services
- Can appeal denial, termination, reduction of waiver services- once you have a slot
- Appeal within 10 days from termination or reduction of current services continues those services pending appeal outcome.
- Can file for grievance and/or fair hearing
- Call PHLP 1-800-274-3258 for advice.

You have 15 days to APPEAL a denial of eligibility.

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CHAPTER 3

Health Care Reform- PA Act 4 & Federal Affordable Care Act



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Staying on parent's insurance - PA law

- PA Act 4 of 2009 applies to **group health insurance** policies that are **issued in PA & not "self insured"**
- Policy must allow adult children of covered parent to be kept on parent's plan until age 30 if adult child:
 - Is unmarried
 - Has no dependents
 - Is a PA resident or enrolled full time in an institution of higher education; and
 - Has no other health insurance (including MA)
- Insurance company will charge an additional premium for the adult child's coverage

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Staying on parent's insurance- Federal law

- Young adult can stay on parent's plan or policy until age 26 if it covers dependents
 - Exception: if plan or policy was in effect on March 23, 2010, & young adult works & could get insurance through their employer
- Young adult need not be living with parent or be claimed as a dependent on tax return
- Applies to health insurance plans & policies that include option for dependent coverage.
- Also applies to "self insured" plans
- Doesn't matter in which state policy was issued

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Effect of Medicaid Per-Capita Cap

- House American Healthcare Act would make several major changes to federal funding for Medical Assistance - which is used to fund waivers
- The proposed change that would have the greatest potential impact on waivers is the per-capita cap on federal Medicaid funding
- According to the Congressional Budget Office, implementation of this cap would cost the states \$880 Billion between 2017 and 2028 in lost federal Medicaid revenues.

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CONCERN: People who qualify now may not in the future, especially PH95 & MAWD

For more information

- PA Health Law Project
1-800-274-3258
www.phlp.org
- PEAL Center
www.pealcenter.org
Info@pealcenter.org
<https://www.facebook.com/pealcenter/>
866-950-1040 (Statewide Toll Free)
412-281-4404 (Pittsburgh)
215-567-6143 (Philadelphia)
- Dept. of Health's Transition Health Care Checklist
www.health.state.pa.us/transitionchecklist

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Consolidated and P/FDS Waiver Renewal – List of Services

Services in the Current Waivers that Will Remain in Renewals	Services in the Current Waivers Where the Service Name Will Change in Renewals	New Services in the Renewals	Services in Current Waivers that will not be Available in the Renewals.
Education Support Services	Proposed – Community Participation Support	Housing Transition and Tenancy Sustaining Services	Behavior Therapy in the Therapy Services definition
Homemaker/Chore	Currently – Licensed Day Habilitation and Prevocational Services Proposed: In-Home and Community Supports	Music Therapy, Art Therapy, and Equine Assisted Therapy	
Residential Habilitation (Consolidated Waiver Only)	Currently: Home and Community Habilitation	Supported Living (Consolidated Waiver Only)	
-Child Residential Services	Proposed – Life Sharing (Consolidated Waiver Only)	Family/Caregiver Training and Support	
-Community Residential Rehabilitation	Currently – Residential Habilitation	Communication Specialist Services	
-Unlicensed Residential Habilitation		Consultative Nutritional Services	
Respite	Proposed: Shift Nursing	Benefits Counseling	
Supported Employment	Currently: Nursing	Advanced Supported Employment	
Supports Coordination		Participant-Directed Goods and Services (P/FDS Waiver Only)	
Specialized Supplies			
Therapy Services			
Supports Broker			
Assistive Technology			
Behavioral Support			
Companion			
Home Accessibility Adaptations			
Transitional Work Services			
Transportation			
Vehicle Accessibility Adaptations			

Employment Services in January 5, 2017 ID Waivers

Handout T 3

- Supported Employment services include activities such as training and additional supports including worksite orientation, job aide development, coordination of accommodations and ensuring assistive technology that may be needed by the person to obtain and sustain competitive integrated employment is utilized as specified in the plan. Supported Employment consists of three components: career assessment, job finding or development, and job coaching and support.
- Advanced Supported Employment services include discovery, job development, systematic instruction to learn the key tasks and responsibilities of the position and intensive job coaching and supports that lead to job stabilization and retention.
- Community Participation Support provides opportunities and support for community inclusion and building interest in and developing skills and potential for competitive integrated employment. Services should result in active, valued participation in a broad range of integrated activities that build on the person's interests, preferences, gifts, and strengths while reflecting his or her desired outcomes related to employment, community involvement and membership. Community Participation Support can be used to help people learn job skills through volunteering in the community. This service can also be used to "wrap-around" other services and supports like employment so that a person has needed support during the day.
- Benefits Counseling services are designed to inform, and answer questions from, a person about competitive integrated employment and how and whether it will result in increased economic self-sufficiency and/or net financial benefit through the use of various work incentives.
- Transitional Work services consist of supporting people in transitioning to competitive integrated employment. Work that people perform during the provision of Transitional Work services must be paid at least minimum wage and the compensation must be similar to compensation earned by workers without disabilities performing the same work. Transitional Work service options include mobile work force, work station in industry, affirmative industry, and enclave.
- Education Support covers tuition for adult education classes offered by colleges, community colleges, technical schools or universities. Education Support also covers on campus peer support to assist the person to learn roles and tasks that are related to the campus environment.
- In-Home and Community support can be used to help people learn job skills through volunteering and can be used to provide on campus peer support when it is not offered by the postsecondary education institution.
- Companion services may be used to support the person's personal care needs while working in a job that meets the definition of competitive integrated employment.
- Behavioral Support services may also be used to help a person implement activities and strategies to assist him or her in their job as well as educate the person and his or her employer regarding the underlying causes/functions of behavior and modeling and/or coaching of supporters to carry out interventions.