

FINANCING TRANSITION SERVICES WHEN EVERYONE IS THE “PAYER OF LAST RESORT”

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1. Introduction

Over the past several decades a number of innovative service delivery strategies have developed to increase employment outcomes for youth and adults with disabilities such as supported employment, customized employment, Project Search, and Youth Guideposts for Success. What these and other contemporary best practices have in common is an acknowledged need to coordinate priorities, resources, and services across multiple systems and funding streams.

This need requires agencies to jointly develop employment plans that address each individual’s unique set of barriers to employment, and engage the most appropriate services and supports to address these barriers. This may require the system to draw on agencies and multiple funding streams either sequentially or simultaneously. This process of using multiple funding streams while keeping the source of the funding separate for accounting purposes is known as “braiding” resources.

Despite the critical need to braid resources from multiple agencies to implement best practices in employment policy, this cross-agency collaboration has been notoriously difficult to accomplish. The lack of alignment between the individual systems has been well documented. Each system has its own mission with its own eligibility criteria, reporting requirements, payment arrangements, funding cycles and approaches to evaluating outcomes (Mills et al 2013). State systems struggle to align policy and practices, which undermines the support of integrated work experiences for youth with the most significant disabilities (Advisory Committee, 2015).

While this sounds complicated from a systems perspective, it can create an insurmountable barrier to job seekers. Individuals may start in one system and if they need a service that falls outside the statutory obligations of that system or if they exhaust time-limited funding for a particular service, they are left to search for other alternatives.

This issue is particularly acute for transition-age youth. This is a period when education, employment readiness, and job experience overlap. It is also the period when youth move from education into the adult human service system—a period sometimes referred to as “falling off a cliff.” Good coordination between schools, vocational rehabilitation, and other providers can have significant long-term benefits. For example, work experience in high school yields long-term employment

benefits (Morris and Goodman, 2013). Early career planning can identify gaps in education that can be addressed by the school.

Although many states have started to coordinate more person-centered approaches, some states claim the federal requirement that several of the major employment funding sources be “payer of last resort” make this coordination more difficult. Federal rules from the Rehabilitation Services Administration (RSA), Office of Special Education Programs (OSEP), Centers for Medicare and Medicaid Services (CMS) and the Department of Labor-Employment and Training Administration (DOL-ETA) require that their programs (which are implemented by state and local agencies) pay for services only when other sources of funding are not available.

While these regulations seem to discourage resource braiding by implying one agency cannot pay until other agencies have denied services to the client, in recent years the Office of Management and Budget, the Department of Justice (DOJ) and many federal agencies (include RSA, OSEP, DOL, and CMS) have encouraged cross-agency collaboration in planning and delivering services and sharing costs.

For example, in 2011, the Office of Management and Budget (OMB) issued a memorandum to all heads of executive department, *OMB’s Mandate for Federal Cross-Agency Collaboration & Resource Coordination*, requiring that agencies “establish better processes for cross agency and cross government collaboration and... remove barriers that impede coordinating or blending funding streams from multiple federal programs and agencies as well as from other levels of government or non-governmental sources to achieve better outcomes.” (Lew, 2011)

In April 2014, the U.S. Department of Justice entered into a consent decree with the state of Rhode Island to improve school to work transition planning for all youth with disabilities between the ages of 14 and 21. The consent decree requires interagency agreements or memoranda of understanding between multiple state agencies that will “clarify and streamline interagency procedures and allow for blending and braiding of funding” to improve integrated, competitive employment outcomes. (Consent decree, 2014)

The federal government leaves it up to the state agencies that implement the various programs to interpret the regulations and determine if they have met the payer of last resort requirements. If the federal agency overseeing the program determines that the requirement has not been met, it could theoretically withhold grant funds or reimbursements. In order to avoid this prospect, some states have a very conservative approach—one agency will not provide services until others deny the service and provide a denial letter.

Other states have taken the strategy of compartmentalizing and sequencing the funding. This approach is makes it easier administratively but prevents them from working together collaboratively for the best interest of the client.

The Workforce Innovation and Opportunity Act enacted in 2014 may clarify the

respective role of each agency as it extends the responsibility of Vocational Rehabilitation to provide services to transition age youth. Under the law, VR agencies are required to spend 15% of their funds for transition services, specifically pre-employment transition services as defined within the act.

The paper will be structured as follows: Section 2 discusses the legislative and regulatory language that, on the one hand requires each of the four funding streams (VR, Medicaid, IDEA, and ETA) to be payers of last resort and on the other hand requires them to coordinate services and funding. Section 3 describes Delaware’s successful approach to coordinating services and funding across systems. Section 4 presents recommendations to increase the adoption of successful strategies.

2. Legal and Regulatory requirements

RSA, CMS, OSPE and ETA each have requirements that programs implemented with their funding be payers of last resort. At the same time, each agency requires or encourages cross-agency collaboration at both a systems level and at the level of individual service delivery. States are left to balance these two sets of requirements.

A. Vocational Rehabilitation funded by RSA

RSA provides annual grants to VR agencies designated by each state to serve individuals who have “a physical or mental impairment that constitutes or results in a substantial barrier to employment” and “can benefit from VR services” to achieve an employment outcome. Priority must be given to serving individuals with the most significant disabilities if a state is unable to serve all eligible individuals. Guided by the Rehabilitation Act of 1973 as amended (29 U.S.C. 720-731), VR agencies provide job-related services including job search and placement, vocational guidance and counseling, vocational or other training services, assistive and rehabilitation technology, supported employment, and transportation (GAO, 2012)

i. Payer of last resort

Under the Rehabilitation Act, state VR agencies are required to have a state plan that includes the following assurance:

*Prior to providing any vocational rehabilitation service to an eligible individual...the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title).
[Rehabilitation Act, Section 101(a)(8)(A)(i)]*

The comparable services clause includes important caveats. A person does not have to exhaust similar benefits if “diagnostic services, VR counseling, referral to other services, job placement, or rehabilitation technology are involved VR [29 USC §

721(a)(8)].” This means that for these services, VR can be considered the primary payers. It is important to note that supported employment services provided under the Rehabilitation Act are not excluded from the payer of last resort requirement.

Similar benefits do not need to be exhausted if “consideration of a similar benefit would interrupt or delay progress toward achieving employment outcome, an immediate job placement, or services to an individual at extreme medical risk.” If one of these conditions is met, VR must provide the service and then seek reimbursement from the other agency.

ii. Cross agency collaboration

System level: RSA requires that the VR state plan include an “interagency agreement or other mechanism for interagency coordination” between the state designated VR agency, the state agency administering the state Medicaid program, higher education, and the state workforce investment system. The agreement or mechanism must describe the method for defining the financial responsibility of each public agency for providing specific services to a common customer with a disability. The state plan must also specify procedures for resolving interagency disputes regarding payment of reimbursement for specific services. 29 U.S.C. § 721(a)(8)(B)

Individual level: the Individual Plan for Employment (IPE) must list all services to be provided to meet the employment goal, whether or not they are the responsibility of the VR agency. It must then identify the services the VR agency is responsible for providing, any comparable benefits the individual is responsible for applying for or securing, and the responsibilities of any agencies to provide comparable benefits. 29 USC § 722(b)(3)(E).

B. Medicaid

Medicaid is a means-tested entitlement program generally funding medical services. When it funds employment-related services and supports, it typically does so under the Home and Community-Based Services (HCBS) waivers, administered by the state’s agency for Developmental Disabilities or other human service agency. Eligibility for waivers requires that the applicant meet the financial and non-financial requirements of Medicaid and meet the definition of the group specified by the waiver and a “level of care” requirement. Within some federal constraints, states have flexibility in defining the group covered by each waiver (e.g, Intellectual and developmental disability, traumatic brain injury, physical disability)

Although specific services vary by state and by waiver, waivers generally provide day habilitation, prevocational services, supported employment, career planning, case management, independent living assistance, family training, and environmental modifications and other services as approved.

i. Payer of last resort

Medicaid, primarily a health care insurer, is intended to be the payer of last resort with few exceptions. Under Title XIX of the Social Security Act and Title 42 of the Code of Federal Regulations, State Medicaid agencies must “take all reasonable measures to ascertain the legal liability of third parties to pay for care and services” that would otherwise be paid by Medicaid [42 U.S.C. § 1396a(a)(25)(A)]. When states seek Federal approval to operate HCBS waivers that include employment services, they are required to provide this assurance:

When a state covers prevocational and/or supported employment services in a waiver, the waiver service definition of each service must specifically provide that the services do not include services that are available under the Rehabilitation Act (or, in the case of youth, under the provisions of the IDEA) as well as describe how the state will determine that such services are not available to the participant before authorizing their provision as a waiver service. [CMS, 2008, p. 131-132]

In September 2011, CMS published an informational bulletin to highlight the opportunities available to use waiver supports to increase employment opportunities for integrated employment outcomes through the 1915(c) waiver program (Mann 2011). The bulletin provides clarification to states that Medicaid waiver funds can be used for supported and customized employment, peer support services, and prevocational services. It reminds states that they must maintain “Documentation... that the service is not available under a program funded under section 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. 1401 et seq.).

If the operating agency does not maintain acceptable documentation the CMS regional office may recommend that the state may be denied reimbursement for some services.

ii. Cross agency collaboration

System Level: CMS showed its support for cross agency collaboration through its 11-year support of Medicaid Infrastructure Grants (MIG). Authorized under the Ticket to Work and Work Incentives Improvement Act, the MIG program gave states the opportunity to undertake systems-change efforts aimed at increasing employment outcomes of people with disabilities. States were encouraged to use grant funding to “implement Medicaid buy-in programs, increase the availability of statewide personal assistance services, form linkages with other state and local agencies that provide employment related supports, and create a seamless infrastructure that will maximize the employment potential of all people with disabilities. (CMS 2011)

Individual Level: CMS specifies that services for participants in Medicaid HCBS programs must be developed through a person-centered planning process and prescribes the qualities that the planning process and resulting person-centered

plan must have. In addition to requiring that the process “addresses health and long-term services and support needs in a manner that reflects individual preferences and goals,” CMS includes several clauses in regulations that implicitly encourage cross-agency collaboration.

First, the rules require that the person-centered planning process is directed by the individual with long-term support needs, and may include a representative that the individual has freely chosen and others chosen by the individual to contribute to the process” thus indicating that CMS wants other stakeholders (which may include other agencies) involved in the planning process. Second, the person centered plan should “reflect the services and supports (paid and unpaid) that will assist the individual to achieve identified goals, and the providers of those services and supports, including natural supports” indicating that CMS recognizes that the individual may be receiving services from multiple sources.

C. Special education

Any child with a disability who needs special education and related services to receive an appropriate education qualifies for special education services from their local education authority (LEA) funded in part by Special Education Grants from the Department of Education. Schools are required to establish a transition plan for each student and the school generally provides education, instruction on daily living skills, functional vocational evaluations, transportation to school and school-related activities, and physical, occupational, and speech therapy.

i. Payer of last resort

For those children eligible for services under Part B and also eligible for services through a non-educational public agency (e.g., State Medicaid Agency), the local education agency (LEA) or the State Education Agency (SEA) agency responsible for developing the child's IEP is the “payer of last resort.” (34 CFR 300.142)

A subsequent section of the code reiterates this requirement and gives example of services to be provided by other agencies “that are also considered special education or related services including but not limited to, services relating to assistance technology devices, supplementary aids and transition services. If the other public agency fails to pay for the service, the LEA is to provide the service and claim reimbursement from the agency that failed to provide it. 34 CFR § 300.154

ii. Cross agency collaboration

System Level: IDEA requires the state to ensure that an interagency agreement or other mechanism for interagency coordination is in effect between educational and each non-educational public agency that identifies a method for defining the

financial responsibility of each agency and policies to promote timely delivery of service.

Individual Level: IDEA requires that, at age 16 or younger if appropriate, transition services are to begin for students determined eligible for special education. The Individual Education Plan (IEP) must include measurable post-secondary goals related to training, education, and employment and must include “identifying the responsibilities of agencies other than schools to provide the services.” 29 U.S.C. § 721(a)(9)

D. Workforce Development System

i. Payer of last resort

The Workforce Innovation and Opportunity Act (WIOA) includes “payer of last resort language” in relation to Title I, Workforce Development Activities.

Funds provided under this title shall only be used for activities that are in addition to activities that would otherwise be available in the local area in the absence of such funds. Pub. L. 113-128, §194(1)

ii. Cross agency collaboration

System Level: The Statutory Authority of the Workforce Development System and the system’s network of American Job Centers (previously called One-Stops) mandates coordination with specified partners and encourages collaboration with others. Under WIOA, each state must every submit a “single, unified strategic plan for preparing an educated and skilled workforce.” Pub. L. 113-128, §102(b)(1). Key partners include the VR agency and can include Temporary Assistance for Needy Families (TANF) and the Carl Perkins career and technical education programs. VR and the Workforce Development system must also describe their approach to coordination with the Social Security Ticket to Work program and a state’s Mental Health and Intellectual and Developmental Disability service delivery systems. (Pub. L. 113-128, §134(a)(3)(A)(viii)(II)(cc))

Individual Level: Job seekers may eligible for individual training accounts to purchase training services from a list of providers. WIOA specifies that “Each local board may, through American Job Centers, coordinate funding for individual training accounts with funding from other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services” (Pub. L. 113-128, §134(b)(3)(F)(iv))

3. Transition Services in the Workforce Innovation and Opportunity Act

WIOA includes three provisions that affect States' approaches to coordinating funding for transition services.

VR funding for transition services: First, WIOA requires that the State VR agency spend 15% of its funds on transition services. These services include job exploration counseling, work-based learning experiences, counseling on post-secondary opportunities, workplace readiness training, and training on self-advocacy. Other services are also allowed if funds are available. It is important to note that this requirement must be implemented without additional funds so VR agencies will need to reallocate funds from other services.

Cooperative Agreements between VR and other agencies: Second, WIOA requires that the state VR agencies have cooperative agreements between with the state agency responsible for administering the state Medicaid plan, and with state IDD agencies, with respect to the delivery of VR services, including extended services. This means that VR must have in place agreements with those agencies responsible for long-term supports for people with disabilities, impacting in particular individuals with IDD, those with significant mental health issues, and those with other issues requiring long-term care funded by Medicaid. (Hoff 2015)

Extended services for supported employment: WIOA defines supported employment to mean “competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, for individuals with the most significant disabilities.” The law specifies that supported employment services can be provided by the VR agency for up to 24 months and may be extended as necessary. (PL 113-128 §404(39)).

4. Delaware's Successful Collaboration Strategy

A. Pathways to Employment

In 2014, Delaware established “Pathways to Employment” administered by the Department of Health and Human Services using Medicaid 1915(i) authority to provide individually tailored employment services to eligible transition age youth with disabilities who want to work in a competitive work environment. The state maintains a robust [Pathways to Employment Website](#).

The program contracts with community providers to offer on-the-job supports, transportation, personal care, orientation and mobility training, assistive

technology, and other services to help individuals attain and maintain employment based on their specific needs.

Although the program was still in the early phase of implementation at the writing of this paper, it has the potential to bring additional resources to transition services. And demonstrate an approach to interagency braided funding that meets the statutory requirements of RSA, OSPEP, DOL-ETA, and Medicaid.

Purpose: The Pathways to Employment program is designed to expand the availability of early work experience and other evidence-based employment transition services. The program does the following:

- Serves low income individuals, across disabilities who desire to work in a competitive work environment;
- Provides individually tailored services for individuals with visual impairments, physical disabilities, intellectual disabilities (including brain injury) and autism spectrum disorder to help them obtain or sustain competitive employment;
- Offers an array of services that will support individuals to explore and plan career paths and build career readiness. Pathways will include important services, such as on-the-job supports, transportation, personal care, orientation and mobility training, assistive technology, and other services to help individuals maintain employment based on their specific needs;

Services: The [1915\(j\) State Plan Amendment](#) clearly defines each service

- Employment Navigator
- Financial Coaching Plus
- Benefits Counseling
- Non-Medical Transportation
- Orientation, Mobility, and Assistive Technology
- Career Exploration and Assessment
- Small Group Supported Employment
- Individual Supported Employment
- Personal Care (including option for self-direction)

Services can be delivered either through a community service provider or through a self directed option.

Eligibility: In order to participate in the Pathways to Employment program an individual must:

- Want to work
- Be aged 14 to 25
- Be enrolled in Medicaid and meet related financial eligibility criteria

- Be in one of the targeted disability groups (persons with intellectual disabilities; autism spectrum disorders; visual impairments; or physical disabilities)
- Meet certain disability-specific functional criteria

The program is estimated to serve 430 people per year once it is fully functional in 2016 including Individuals who are Visually Impaired, Individuals with Physical Disabilities, and Individuals with Intellectual Disabilities, Autism Spectrum Disorders or Asperger's Syndrome

Administrative structure: The Pathways operates as a fee-for-service program administered by Delaware Health and Social Services (DHSS), and the Division of Medicaid and Medical Assistance (DMMA). Three operating divisions within DHSS are jointly responsible for administering the program: Division of Developmental Disabilities Services (DDDS), Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) and the Division for the Visually Impaired (DVI). The state established a Pathways Steering Committee to provide ongoing oversight for the program, including measuring the efficacy of the system and ensuring ongoing quality improvement)

Funding: Section 6086 of the Deficit Reduction Act of 2007 (DRA), established section 1915(i) of the Social Security Act adding an optional State Plan benefit that contains many of the features of a Home and Community Based Services (HCBS) waiver. Like an HCBS waiver, states can target services to persons based on age, diagnosis, and condition. States can also apply functional criteria such as limitations caused by disability. States can provide community based services that would not otherwise be covered under the State Plan to allow persons to live independently in the community. Two notable differences from HCBS waivers are that a 1915(i) State Plan Amendment (SPA) does not require individuals to meet an institutional level of care in order to qualify for HCBS and states cannot limit participation in the program once an individual meets established eligibility criteria. (Delaware Pathways Provider manual)

Referral sources: Individual may be referred to the program from schools, VR or other agency. An individual may self-refer by contacting the State's Aging and Disability Resource Center (ADRC). The ADRC performs a preliminary screen and refers the applicant to the appropriate Pathways operational division for a full eligibility evaluation.

Case Management: Employment navigators play a critical role in the Pathways process. They assess eligibility, develop employments plans, facilitate access and referral to needed services, and monitor the employment plan. The navigators are state employees located within the three disability agencies operating divisions and funded by the waiver. The navigators are well positioned to provide conflict-free case management because they are not employed by VR, the schools, or a

community service provider and thus have no incentive to direct the individual to any particular set of services.

Provider Certification and Payment: Per the Pathways Memorandum of Understanding (MOU) between DDDS, DSAAPD and DMMA, DMMA has delegated the functions of developing provider standards to the Pathways Steering Committee. Certifying that providers meet those standards across the Pathways participating divisions has been delegated to the Pathways Provider Certification Committee (PPCC), which will contain members from DDDS, DSAAPD and DVI. (Provider Policy Manual). All Pathways providers must also be eligible to provide services for VR clients.

Providers are paid on a fee for service basis generally by 15 minute increments. The [fee schedule](#) is posted on the [State's Pathways information for service providers](#).

Providers must honor consumer choice. Providers must agree to provide service to any waiver member who chooses them, unless they are at capacity or if the provider cannot or can no longer safely support a Pathways member. If the consumer expresses a desire to change providers, the provider will continue to provide services to the consumer and will assist with transition until the consumer has transitioned to the new service or service provider. (Provider Manual)

Services for people with mental health disabilities: While the Pathways program used Medicaid 1915(i) to provide employment services for on individuals with physical, vision or developmental disabilities, the State used the Medicaid 1115 Demonstration Waiver authority to establish a program for individuals with Mental Health that includes employment supports. It is open to people of all ages rather than being limited to transition age and young adults. Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE) is designed to support Assertive Community Treatment (ACT). It offers employment services along with clinical service, psychological, nursing, and personal care services. Like the Pathways program, PROMISE coordinates with DVR to provide initial employment services while PROMISE provides ongoing supports.

B. Attributes that Facilitated Collaboration

i. Leadership

In 2012, under the leadership of Governor Jack Markell, Delaware took three actions that showed the state's high-level commitment to increasing employment among people with disabilities.

- As Chair of the National Governor's Association in 2012-2013, Delaware Governor Jack Markell focused his "Chair's Initiative" on increasing employment opportunities for individuals with significant disabilities. Under his leadership NGA developed "A Better Bottom Line: Employing People with Disabilities."

- The State legislature passed “Employment First Legislation” that requires state agencies that provide services to persons with disabilities to consider, as their first option, employment in an integrated setting for persons with disabilities.
- The state legislature established a “Transition Task Force for Emerging Adults with Disabilities and Special Health Care Needs” with work groups on employment, education, transportation, and health services.

“A Better Bottom Line” has served as a blueprint for Delaware’s disability employment initiatives. The report identifies five key areas in which states should take action to increase employment including:

- Make disability employment part of the state workforce development strategy.
- Support businesses in their efforts to employ people with disabilities
- Increase the number of people with disabilities working in state government.
- Prepare youth with disabilities for careers that use their full potential, providing employers with a pipeline of skilled workers.
- Make the best use of limited resources to advance employment opportunities for people with disabilities.

Delaware has taken action in each of these five areas. Although all require some level of cross agency collaboration, this report focuses on State’s strategy to provide transition services and to use Medicaid funding under a 1915(i) waiver to increase the financial resources available to provide employment supports to people with disabilities.

The report highlighted the value of early transition planning, incorporating career readiness into the school curriculum, and facilitating job exploration and work experience for students. Rita Landgraf, Secretary of Delaware Department of Health and Human Services (DHHS) recognized the vital role of cross agency collaboration in providing these services. At the time the VR agency began working with students during their senior year of high school. Guided by “A Better Bottom Line,” the state made providing early support a strategic priority.

Secretary Landgraf brought together VR, ED, and the disability departments in her agency (Services for people with Developmental Disabilities, Physical Disabilities, and Visual Impairments) to develop a Medicaid 1915(i) waiver that would allow the state to supplement existing resources with Medicaid funds and expand student access to community service providers at a critical time in the student’s preparation for work and give LEA the ability to leverage the expertise of the providers.

Medicaid served as a natural additional source of funding for two reasons. First, school systems receive Medicaid reimbursement for medical and behavioral health services, certain transportation, and physical, occupational, and speech therapy services for eligible students so schools are accustomed to interacting the Medicaid system. Second, CMS has encouraged states to include employment-related services in HCBS waivers for adults with intellectual, developmental and other disabilities.

ii. Long history of cross-agency collaboration and a commitment to employment outcomes

Over the past 10 years, DVR, DDDS, and the Department of Education (DOE) have developed a close working relationship to develop and administer several programs that require cross agency collaboration including the following:

Early Start to Supported Employment (ESSE): In 2005, Delaware started a pilot program “Early Start to Supportive Employment” to provide a more seamless transition from school to work for students with intellectual and development disabilities who would benefit from supported employment services. Serving students in their last two years of school “Early Start to Supported Employment” is a collaborative program sponsored by the Delaware Division of Vocational Rehabilitation, the Delaware Division of Developmental Disabilities Services, the Delaware Department of Education and Local School Districts.

As shown in Table 1, the school, DVR, and DDDS are all involved in the planning process at the beginning of the process. As a result, services are coordinated while funds are used sequentially. DVR provides the initial funding for a contracted provider while the school focuses on addressing any education deficits identified during the intake or assessment process. DDDS provides long-term supports. All service providers involved in the program must be authorized providers in both systems so the transfer of financial responsibility from DVR to DDDS is invisible to the individual.

Table 1: Early Start to Supported Employment: General Timeline for Services

Players	Service	Time
Local school program with student, family, DVR, DDDS and others as needed	Transition meeting, application, enrollment, and intake	Fall/Winter year before exit
Student and family	Family orientation, provider fair, student and family choose a provider.	Spring/Summer exit year
DVR/Provider	Supported Employment Assessment	Fall/ exit year
Provider (funded by DVR)	Student has variety of vocational experiences	Fall/ exit year
Provider (funded by DVR)	Job development for the student	Winter/ exit year

Provider (funded by DVR)	Student place in long-term employment	Anytime during exit year
Provider (funded by DVR)	Services are provided for student to be successful	30 days after placement
Provider (funded by DVR)	3-month period to ensure that placement is stable.	30 days after retention
Funding transfers to DDDS	Successful employment brings closure of the student’s case with DVR and ongoing supports are in place through DDDS.	90-days after stabilization

Source: Delaware Early Start to Supported Employment: Parent Handbook

Project Search: Division of Vocational Rehabilitation, Community of Integrated Services, the Department of Education and Autism Delaware are collaborating to provide Project Search, a program that provides youth with significant disabilities on-site work experience combined with training in employability and independent living skills,

Employment boot camp: DDDS, DVR, and DOE combined their resources to fund a three-day employment boot camp for educators, paraprofessionals, agency folks, service providers and parents

iii. Clearly defined roles for each agency

Leaders at DOE, DDVR, DVI, and DDDS make a very clear distinction about the respective roles of their agencies for all collaborative programs. If a service is primarily educational, DOE takes responsibility. Schools may provide some job sampling and observation but it is VRs responsibility to do customized, formal assessments and job development. The LEA uses results of the VR assessment to identify educational gaps that can be filled through classroom instruction. Prior to the 1915(i) waiver, Medicaid provides health and therapeutic services as well as long-term employment supports when VR services are expended but had no additional role.

Memoranda of between DVI, DMMS, DSAAPD, DDDS, and DHHS further identify the respective roles of each agency in the administration of the programs including which agency is responsible for oversight and monitoring, day-to-day operations, maintenance of the website, screening, intake, plan development, facilitating individual’s choice of provider, recruiting providers, setting rates and other functions.

iv. Government Organizational Structure

The size and structure of the state government facilitates a high level of coordination. Delaware has a population of less one million people. It has only three counties and the social services are not county driven so the state does not

need to develop policy that accounts for a wide range of different provider systems. The state has only 16 LEAs so leadership from one person at the state level can influence all LEAs. The Department of Health and Human Services houses agencies serving all disabilities (mental health, I/DD, physical disabilities, vision) as well as the Medicaid agency. VR and the Workforce Development System are in the State’s Department of Labor.

v. Provider Alignment

The relationship between VR and Pathways is predicated on an alignment between providers in the two programs. All Pathways providers must also be VR providers. This allows program participants to move seamlessly between VR-funded and Pathways-funded services. However, because most of the significant overlap in covered services between the two services, most users use the different components of the system sequentially rather than concurrently.

A. Role of Payer of Last Resort

The State Plan Amendment Preprint requires the State to assure “non-duplication” of services. Specifically, it requires: “State plan HCBS will not be provided to an individual at the same time as another service that is the same in nature and scope regardless of source, including federal, State, Local, and private entities. For habilitation services, the State includes within the record of each individual an explanation that these services do not include special education and related services defined in the Individuals with Disabilities Improvement Act of 2004 that otherwise are available to the individual through a local education agency, or vocational rehabilitation services that otherwise are available to the individual through a program funding under §110 of the Rehabilitation Act of 1973 ([DE SPA #14-002](#)).

As shown in Table 2, many of the services available under the Pathways Waiver are also provided by LEAs or VR. Because of the payer of last resort regulations, Medicaid cannot pay for these services if they are available elsewhere.

Table 2: Other Providers of Services Provided by Pathways

Pathways to Employment Services	Possible Payers
Case management	ED, VR and Medicaid all have case management-type services. The Employment Navigator is responsible for case management for Pathways
Individual supported employment	VR, Medicaid
Group supported employment	Medicaid
Financial coaching	Medicaid
Benefits counseling	VR, Medicaid

Non medical transportation	Medicaid
Assistive technology	ED (If the school buys the AT it is the property of the school and the youth cannot carry it with them upon exit) VR will pay for AT if it is directly related to work. If VR denies the AT, it becomes the Medicaid's responsibility.
Career exploration and assessment	ED, VR, WIOA, Medicaid
Personal Care	Medicaid

Because not all services provided under the waiver are available elsewhere, individuals can theoretically receive differentiated services through different funders at the same time. However, because Medicaid cannot pay for services that are available from other sources, to date, the relationship between ED, VR and Pathways is sequential rather than concurrent. In practice, Pathways is important for long-term supports and in cases where VR has a waitlist.

5. Recommendations

Given the ambiguity in the guidance from the ED, RSA, CMS, and DOL, states continue to struggle with merging funds from multiple agencies to provide effective employment services to people with disabilities. In order to address this confusion federal agencies should address barriers to braiding funding at the system and individual level using the following approaches:

System Level

- The DOL and RSA should require that states include, as part of their Unified or Coordinated State Plan under the WIOA, to identify their approach to braiding resources and resolve the questions of payer of last resort.
- DOL, RSA, ED, and CMS should require performance reporting at a systems level on documented successes with braided funding to advance economic self-sufficiency for individuals with disabilities.

Individual Level

- Each agency that develops a plan for employment (IEP transition plan under ED, the Individual Plan for Employment under RSA, the Person-Centered Plan under Medicaid, and the Individual Employment Plan under WIOA) should require a discussion of how funds from multiple agencies will be used to implement the plan.

- Federal agencies should protect states from financial audit and states to waive payer of last resort requirements across funding streams (Medicaid, ED, VR, Workforce development) if at an individual level the objective and outcome to be achieved is a competitive integrated employment outcome with a career pathway.

6. References

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