



## Employment Supports

# **Employment Supports Professional Interest Section Meeting**

May 9, 2024

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# Today's Agenda

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- VR Proposed State Plan Amendment
- Review of CMS Final Rules
- DESOS Discussion



# VR Proposed State Plan Amendment

- **Service Providers Responsibility**

- Notify the VR program within writing within ten business days of any change in status to the service provider's license, certification, accreditation, or permit
- Notify the VR program in writing withing five business days of receiving a participant's referral, if they decline to provide VR services to a participant
- If a service provider cannot accept new participants due to insufficient staff resources, the service provider must notify the VR program in writing within 2 business days of receiving the participant's referral and once the VR program receives the written notice, the service provider shall not be available to be selected by participants as a service provider, until the service provider notifies the VR program in writing of its ability to accept new participants



# VR Proposed State Plan Amendment

- Transportation
  - Commuting Distance- the distance within fifty (50) miles one-way of an applicant's or a participant's primary place of residence.
    - Currently applies to lodging for participants in assessments, training, or other VR services required at a site not within commuting distance
    - For those attending a postsecondary training institution and not within commuting distance, one round trip each academic term for travel between the participant's place of residence and the postsecondary training institution
  - INARF commented to bring attention to this term "commuting distance" and let VR know it has no basis.



## VR Proposed State Plan Amendment

- Termination of a Service Provider
- Sec. 11 (a) A service provider shall be terminated if they:
  - (1) received notice three (3) times under section 3(b) of this rule of their failure to comply with any provision of this article;
  - (2) are disbarred or suspended from providing services by a state, local, or federal agency; or
  - (3) caused or contributed to the serious endangerment of an individual's health or safety, and their actions were likely to cause death or bodily harm to that individual.
- INARF asked for the State to clearly define what the State considers "likely" cause of death



# VR Proposed State Plan Amendment

- Self-Employment Services for Operating a Small Business (Rule 12)
  - A participant must present their business plan to the small business review committee for review
    - Business plan must contain
      - Start-up costs, sources of funding, evidence of enough resources to leverage start-up capital, ongoing expenses, a marketing plan, financial projections for the first two years.
  - A participant may receive assistance with agreed upon start-up costs identified in their approved business plan
    - A participant is responsible for:
      - 25% of the start-up costs identified if they are seeking less than 10,000
      - 50% of the start-up costs identified if they are seeking more than 10,000
      - 0% if they are eligible for SSI or SSDI



## VR Proposed State Plan Amendment

- Self-Employment Services for Operating a Small Business (Rule 12)
  - An amount not exceeding 30,000 in assistance is available for start-up costs.
  - A participant must provide the VR program with a current profit and loss statement on a monthly basis
  - A start-up period shall not exceed twenty-four months unless an exception is granted
  - Not allowable
    - Engaging in illegal activity, where the sole purpose is to purchase a commodity, good, or real property with the goal of it becoming more valuable at a future date, not expected or anticipated to produce a profit, where the participant does not direct business strategy and day-to-day operations, that are franchised, nonprofit, or not-for profit, already in existence.



## Minimum Staffing Standards for LTC Facilities and Medicaid Institutional Payment Transparency Reporting

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- Final Rule with an effective date of June 21, 2024
- Facilities must provide at a minimum, 2.48 total nurse staffing hours per resident day (HPRD) of nursing care, with .55 RN HPRD and 2.45 NA HPRD
- Facilities are required to have an RN onsite 24 hours a day 7 days a week.
- New reporting requirements for States to report annually by facility on the % of payments for Medicaid-covered services delivered by ICFs that are spent on compensation for direct care workers and support staff.
  - ICFs would need to build, design, and operationalize an internal system for developing that report to the State.





# FTC Non-Compete Rule

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- This final rule allows existing non-competes with senior executives to remain in force.
- Existing non-competes with other workers are not enforceable after the effective date.
- The U.S. Chamber of Commerce stated that they will sue to block this measure.



## CMS Final Rule

- MAC membership minimum requirements include that 25% of MAC members are drawn from the BAC.
- States are now required to establish a Beneficiary Advisory Council (BAC) that includes Medicaid beneficiaries, their families, and/or caregivers within 1 year of effective date of rule
- Public availability of MAC and BAC activities, mandatory public access to at least two MAC Meeting per year with public comments.
- Enhanced oversight: strengthened oversight of person-centered service planning in HCBS services
- Incident Management: States requires to meet incident management system standards for monitoring HCBS



## CMS Final Rule

- Grievance System: Establishment of a grievance system for HCBS delivered through Fee-for-Service
- Data Reporting Obligations:
  - Year 3: States to report readiness for collecting data on Medicaid payments spend on direct care worker compensation
  - Year 4: states to report the percentage of Medicaid payments for certain services spent on direct care work compensation
- Payment Adequacy Provision
  - Year 6: At least 80% of Medicaid payments for specific services must go to direct care worker compensation.
    - Personal care services, home health aide, homemaker



# DOL Overtime Final Rule

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- Standard Salary Level
  - Current Level: \$684 per week (\$35,568 annually)
  - July 1, 2024, Amount: Increases to \$844 per week (\$43,888 annually)
  - January 1, 2025, Amount: Increases to \$1,128 per week (\$58,656 annually)
- An updating mechanism was established to adjust the salary levels starting July 1, 2024. It will then continue with updates every three years, beginning July 1, 2027, to reflect current earnings data.



# Managed Care Final Rule

- Establishes maximum appointment wait time standards
  - 15 business days for routine primary care (adult and pediatric) and obstetric/gynecological services
  - 10 business days for outpatient mental health and substance use disorder services
  - States must establish an appointment wait time for a state-selected service
- Requires states to use an independent entity to conduct annual secret shopper surveys to validate managed care plans compliance with appointment times.



# Managed Care Final Rule

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- Removes regulatory barriers to help states use directed payments to implement value-based purchasing payment arrangements and include non-network providers in state directed payments.
- Requires States to maintain a single web page that is readily identifiable to the public, easy to use, and contains required information for public transparency
- Requires States to submit an annual payment analysis that compares managed care plans' payment rates for certain service as a proportion of Medicare's payment rate.



# DESOS

9. To timely respond to request for data for the Day and Employment Services Outcome System from the Indiana Institute on Disability and Community of Indiana University ("Institute"), by May 31 of each year or as directed by the Institute, as well as all other data collection efforts by the State or its assigned parties.



# Sponsorship Recognition

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## Survey

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Please use the QR code to take our  
brief 3 question survey to let us know  
how we did today!





# Thank you!

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