

# VRS Extended Employment Rule Revision Advisory Committee

## **SESSION NOTES for June 2, 2015**

Convened by Minnesota DEED Vocational Rehabilitation Services

### **Meeting Details**

**Date:** Tuesday, June 2, 2015

**Time:** 10:30 am – 3:00pm

**Location:** ProAct, Eagan, MN 55121

**Chair:** John Sherman, VRS Extended Employment Program Director

**Facilitator:** Holly Johnson, Lanterna Consulting, Inc. contracted through Management Analysis & Development, Minnesota Management and Budget

**Advisory members (or alternates) in attendance:** *Jeff Bangsberg, Laura Bealey (by phone), Tim Dickie, Steve Ditschler, Jeremy Gurney, Nancy Huizenga, Holly Johnson, Karen Johnston, Anita Kavitz, Wendy Keller, Clayton Liend, Rod Pederson, John Sherman, and David Sherwood-Gabrielson* **Unable to attend:** *Tim Hammond, Don Lavin, and Dean Ritzman*  
**Guests:** *VRS Counselors Leann Kleaver and Dan Mills*

### **Key Perspectives for EE Rule Revision Work**

Throughout the process, advisory members are asked to keep a system wide view for the EE Rule Revision topic discussions. The five key perspectives are summarized as:

1. **Advocacy Organizations**
2. **Public Partners**
  - Local level - counties, municipalities, etc. e.g. Ramsey County
  - State level - agencies, etc. e.g. Department of Human Services (DHS), Minnesota Olmstead Plan
  - Federal level
3. **Extended Employment (EE) Providers**
4. **EE Workers**
  - Currently working
  - Eligible but not currently working
5. **VRS - EE Rule 'Owner' and Accountable Agency**
  - VRS EE team: John Sherman, Anita Kavitz and Wendy Keller
  - Other DEED and VRS staff

### **Advisory Session Objectives:**

1. To generate and discuss advisory recommendations for potential strategies to increase employers' hiring of EE workers across the state
2. Gather key stakeholder perspectives and input to assist Minnesota DEED Vocational Rehabilitation Services in the EE Rule Revision process.
3. Continued exploration and discussion related to ADA, Olmstead and the Workforce Innovation and Opportunity Act (WIOA) and their combined implications for Minnesota's Extended Employment Rule revision.

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## **SESSION NOTES for June 2, 2015**

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### **Welcome and Opening Remarks**

The meeting was called to order. The facilitator Holly Johnson provided a brief overview of the meeting objectives and agenda.

### **Follow-up and Updates since the April 21 2015 Meeting**

John Sherman provided a number of updates as follows:

**Item #1: EE Program Staff Addition.** Amanda Jensen-Stahl has accepted an employment offer to work within the VRS EE Program beginning June 17, 2015. Amanda Jensen-Stahl is currently in management at Goodwill Easter Seals Minnesota and serves as a CRP representative on the VRS CRP Advisory Committee.

**Item #2: Legislative Updates.** DEED is one of the agencies currently in limbo awaiting a legislative special session to resolve the Governor's veto of the Jobs Bill. In the meantime, contracts are on hold. Karen Johnston shared that last year, MOHR was able to secure \$500,000 in additional monies for the EE Program however this year despite MOHR's mobilized and coordinated efforts to maintain and increase support the final hours of the regular legislative session deteriorated and support was not included.

As part of the Governor's veto of the Jobs bill, Governor Mark Dayton specifically listed the EE Program as well as IPS Program dollars as examples of unmet needs for people with disabilities. Clayton Liend has spoken with a state legislator who believes the most likely 'best outcome' will be to maintain the current level of funding with an extension of the additional \$500,000 secured last session. NAMI is advocating for increased IPS support to continue and expand the successful projects around the state.

**Item #3: Olmstead Plan update.** David Sherwood-Gabrielson provided an update on the ongoing work with the Minnesota Olmstead Plan. The March 20, 2015 proposed revisions to the plan including over 200 action items were rejected by Judge Donovan Frank. The Subcabinet is currently reframing the next iteration for submittal by July 10, 2015 and has decided to refocus on fewer key items such as an employment goal for adults and one for youth.

Across the plan, DEED, DHS and MDE are appointing sponsors from the Sub-Cabinet to watch over the development of specific plan areas. David said the strategy is to focus on far fewer goals with more measurable outcomes. The Subcabinet is also looking at ways to clarify the accountability for key areas given the immense scope and volume of programs impacted by the Plan. David reiterated earlier information that the Plan requires greater level of participation and coordination among DHS, DEED and MDE.

Finally, David informed the advisory committee that the Minnesota Disabilities Law Center has filed an Amicus Brief stating their opinion on what needs to be included in the MN Olmstead Plan including how people are counted, services received and

## VRS Extended Employment Rule Revision Advisory Committee **SESSION NOTES for June 2, 2015**

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outcomes generated. The Brief once again highlights the data issues that have been identified as a barrier to the Olmstead Plan implementation for a long time. Articulating a state-level definition of the data problem and developing a system-wide strategic response continues to be a significant challenge for interagency efforts in response to the Court's mandates.

There will be a special meeting of Olmstead policy leaders led by the Interagency Employment Panel in the near future. The focus of the meeting is to bring various policy leaders together to address "the firestorm of myths and misinformation and fear out there" regarding Olmstead. The meeting will be hosted at the Education Center on June 8 and will look at communication challenges related to employment issues and what's happening going forward. Jeff Bangsberg noted that the subject matter is closely related to what the EE Rule Advisory Committee has been talking about. Jeff attended an earlier meeting of this group and will be attending the June 8th.

Steve Ditschler noted that there is a fear held by many of losing current five-day a week work opportunities with replacement options consisting of something with far fewer hours or not at all. Tim Dickie asked if the meeting will be also address implications and connections with the EE Program and WIOA legislation. David shared that meeting leaders understand how the individual pieces all impact providers so the organizers will do their best to integrate the impacts where possible while still centering on their charge of implementing the Minnesota Olmstead Plan.

David shared with the EE Rule Advisory Committee that he has been leveraging the committee's Informed Choice model based on the Department of Justice circular. He noted that his office is also seeing an increase in person-centered services. Steve Ditschler posed the question: where is the confluence between choice and abilities? David responded that they are looking more specifically at person-centered exploration and eligibility to assist in answering that question. Assessment focuses on a combination of what is appropriate for the individual and what is available in the community.

A big question in the new WIOA requirements revolves around the new VR independent evaluation/gatekeeper role and what it will look like and encompass. With all the major changes from both WIOA and the Olmstead Plan, VRS and other accountable entities are experiencing significant system capacity and resource constraints. Clayton said his biggest questions now are mostly around DHS as it relates to waivers. John said that VRS continues to have several open questions with all the changes and that VRS leadership anticipate that WIOA may have even bigger impacts than Olmstead.

There is a VRS team tasked with looking at the draft regulations and providing comments for an organized response during the public comment period which ends June 15. VRS has concerns that with the new regulations, existing resources could be fully consumed just doing assessments and providing informed choice. These

## VRS Extended Employment Rule Revision Advisory Committee **SESSION NOTES for June 2, 2015**

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requirements also represent major drivers that will impact what we do with the EE Rule. VRS is also studying the future of placement services which ultimately gets us to the job question where EE comes into play.

Steve Ditschler asked if any new direction has emerged on what will be done with the approximately 8,800 people currently employed within segregated settings on subminimum wage certificates. Steve expressed concern that services for this group of individuals, combined with the 15% pre-employment transition youth services, has the potential to consume all or most of the current level of VRS funding without considering adults and other services. John shared that the scope of 'review' has not been clearly spelled out at this point and that VRS will be submitting comments on the draft WIOA regulations before the deadline. Final WIOA regulations are scheduled to be promulgated by end of the year.

Discussion are continuing on the topic of "what does integrated employment/settings look like?". Within WIOA there is a proposal that Supported Employment services allow a six month period where individuals can be working in a non-competitive setting with the final goal as employment within an integrated setting. Minnesota has never practiced that approach.

**Item #4: Star Tribune Series on the Olmstead Plan.** John shared with the committee that Star Tribune reporters Chris Serres and Glen Howatt are conducting interviews as input into a series of articles they are planning to write examining the many implications of the Olmstead Plan. They seem to be particularly interested in segregated, non-competitive settings ("sheltered workshops"). The reporters have spent a lot of time with John Sherman and John Fisher, VRS Director of Public Affairs trying to understand where the Extended Employment program fits into the grand scheme of things. The reporters have also been to MRCI in both Fairmont and New Ulm already.

John is hopeful the series will be a fair assessment of the issues and help raise awareness of some of the important issues related to the implementation challenges and resource constraints. He and John Fisher have seen background questions as fair and thoughtful so far. Rod Pederson said he was interviewed by phone. Rod said based on earlier experiences he is always wary that comments will be taken out of context or misquoted. He said the family of one consumer has been interviewed as well. The original lead for the article series is understood to be based upon a 2011 SRC public forum report that one of the reporters read. No timeline for publishing the article series has been given at this point.

# VRS Extended Employment Rule Revision Advisory Committee

## **SESSION NOTES for June 2, 2015**

Convened by Minnesota DEED Vocational Rehabilitation Services

### **Increasing Employers' Hiring of EE workers Across the State**

To begin the session John Sherman and Wendy Keller provided a brief overview of current employers connected with the EE Program. Wendy distributed a copy of the "EE Basic ONET Drilldown Report for SY2015". The report includes the ONET categories, number of workers, pay hours, total wages and per hour wage for 2,340 individuals in SFY2015 for individuals receiving Supported Employment that have been reported in the PRS tracking system to date. This report does *not* include information on center based or enclaves.

Wendy Keller stated that the report provides a snapshot of the types of jobs people are doing and associated wage levels. The report is available to all individual providers through the PRS system, and selection options are fiscal year and subprogram(s). The report also includes drop-down details for individual workers included in each category.

Advisory questions focused around the lack of reporting on benefits. The wages figure does not include any health benefits. It does however include paid vacation/sick time for the roughly 6% of the providers who reported the paid time. Both Clayton and Rod noted that their clients place a high value on benefits and that several individuals they serve do not want to risk losing benefits.

There was also quite a bit of discussion on insurance. Jeff Bangsberg asked the EE provider representatives on the advisory committee if the EE workers they provide services for use MAEPD - Medical Assistance for Employed Persons with Disabilities (Medicaid). Jeff said the insurance provides good coverage for an affordable premium. EE provider members said yes, they see a high number of individuals using this insurance. It is often better insurance at a much better rate than what employers are able to offer for employees with significant disabilities.

After review of the ONET SFY 2015 report, the advisory committee moved to a facilitated discussion of the four-part focus question sent to the committee prior to the meeting included as 'Session Prep' on the agenda. The four part focus question and a summary of advisory responses in provided in the next section.

# VRS Extended Employment Rule Revision Advisory Committee

## **SESSION NOTES for June 2, 2015**

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### **Increasing Employers' Hiring of EE Workers in Minnesota**

*Recognizing the vital importance of more jobs, better jobs for people with disabilities as core to the mission of what Vocational Rehabilitation programs are created to do; AND thinking about the EE Rule Revision and writing a Rule to anticipate and serve the needs of EE workers and employers for the next decade or more:*

*a. What types of EE Program incentives could we consider to increase employer hiring of EE workers throughout the state including metro, in greater Minnesota population centers and in more rural settings?*

- **Transportation Incentives Pool** - Some EE providers are providing transportation but there is no funding to support that service. Related insurances can also be a barrier. The advisory discussed several ideas for using an incentive pool to help address transportation related issues including:
  - Potential incentives to help offset rural transportation expenses as well as for some of the metro outskirts like Lakeville and Hastings that are beyond metro public transportation.
  - Connected assistance for helping people find housing close to employment options and public bus/transit options.
  - Funding to support co-worker transportation for EE workers to and from job site.
  - The Olmstead Implementation Office is exploring ways to increase local transportation options. Kristie M. Billiar MnDOT ADA Policy Program Manager Operations Division is providing leadership in this area as part of MnDOT's Olmstead response and as part of the agency's ongoing statewide/regional planning.
- **Work Opportunity Tax Credit** – not widely used but can be an incentive for some. Amount of benefit can be offset by employer's insurance risks.
- **Partially Paid Internships/ Wage Subsidy** - subsidize employers initial investment for new hire to help overcome real/perceived hiring barriers and increase hiring of persons with disabilities.
  - Promotes greater employer exposure to EE workers while reducing the employers' level of risk. Addresses the barriers like payroll, insurance, etc.
  - Idea: 50% employer investment for up to 90 days new hire work.
- **Skilled Training Options** - partnering with educational institutions for OJT industry specific employers.

# VRS Extended Employment Rule Revision Advisory Committee

## **SESSION NOTES for June 2, 2015**

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- **Natural Support Training** - EE provider helps train employer staff to assist/mentor EE worker in the work setting. Question raised regarding whether or not DTH is currently providing this type of training support.
- **268B – Innovation and Expansion Dollars** - to help with transformational work of assisting individuals moving from noncompetitive work towards competitive employment and/or stepping from CBE to CE reinforcing progressive employment development. This is a zero sum game so these dollars would impact other services. Use of RFPs to address underserved/unserved needs.

*b. How could we provide incentives for employers to help mitigate perceived and/or real barriers to hiring people with disabilities such as accommodations, varying productivity levels, legal issues (liability, workers comp, unemployment, etc.) and stigma?*

- These are real concerns for many employers that may not be openly discussed; perceived as 'safer' to keep operating 'as is' rather than taking the risk.
- Helping employers with **pre-employment screenings and testing** e.g., True Value Hardware approached MRCI and said they would like to hire persons with disabilities however they must be able to pass the test given to prospective new hires. MRCI developed program to help individuals prepare for pre-employment screenings and testing such as coping with test anxiety and basic math skills.
- Build upon past success with employers who are open to more specialized, specific skills. Job carving can be one way to match employees to employers needs however some committee members also noted that they are seeing fewer employers who are willing and/or able to hire more narrowly defined jobs.

*c. What are the characteristics of employers who might be more likely to hire people with disabilities and what might we do to increase hiring of EE workers at those employers?*

- **Champion Concept** – identify, nurture and recognize corporate leaders who actively promote and practice hiring of people with disabilities e.g., Walgreens as national example.
- **Small to Mid-Size Companies** - may have fewer HR administrative hoops and layers to the hiring manager.
- **Employers with High Turnover and Repetitive Jobs/Work** may benefit from EE workers who value task repetition, structure and stable/predictable work

*d. How can we leverage employers who are successfully hiring and retaining persons with disabilities to help us connect more employers with the benefits of hiring EE workers throughout Minnesota?*

- **Examples of KwikTrip and Casey's General Stores** – working with rural locations and moving throughout the Midwest e.g., VR placement coordinator connections.

# VRS Extended Employment Rule Revision Advisory Committee

## **SESSION NOTES for June 2, 2015**

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### **Recap**

The committee continued the work involved with addressing the wide spectrum of individuals who are eligible for EE Program services. The committee, along with the fuller employment services system, is struggling with how to simultaneously continue to serve individuals who are currently in Center Based Employment (CBE) while balancing informed choice and the national movement toward integrated employment and setting. In addition, the EE Program will continue to help individuals receiving Community Employment and Supported Employment program services.

The advisory is supportive of the guiding philosophy and direction of ADA, WIOA and Olmstead. As it relates to the EE Rule revision, the advisory committee is recommending an intentional and gradual reduction in non-competitive program with an increased emphasis on assisting individuals in retaining competitive employment. The committee is concerned that the legislation as it stands today does not provide sufficient resources in the EE Program to support people transitioning from Center Based Employment in segregated settings toward competitive jobs in integrated settings per the Department of Justice definitions and requirements. EE Program data and EE Rulemaking Advisory Committee experience show that the need for this movement shift is greatest in outstate Minnesota.

The advisory devoted a good portion of the working session to discussion around the critical role that employers play in achieving the vision of ADA and WIOA. Employers are the ones who do the hiring and retain and develop EE workers. And while the Extended Employment Program is not a placement program nor is it a transportation program, the advisory committee believes that any major barrier to employment must be considered as part of the system transformation. The advisory committee also discussed other ideas for potential employer incentives more closely aligned with the EE Program such as partially paid internships/wage subsidies, skilled training options, natural supports training, and pre-employment screenings and testing preparation services.

John voiced how valuable it is for VRS as writing of EE Rule commences to have continued access to an advisory like this group. Recognizing the time already given to the effort, John asked members about their willingness for continued advisory services. While we are technically still in the 'informal' process; the rule revision process formally begins with writing. Once the first draft goes out it becomes a formal, legal process. The group unanimously agreed to continue providing input and advice for the EE Rule revision process. John thanked them for their commitment and service.

# VRS Extended Employment Rule Revision Advisory Committee

## **SESSION NOTES for June 2, 2015**

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### **Next Steps:**

1. There will be no meeting of the EE Rulemaking Advisory Committee in July.
2. John Sherman and the EE Program staff will continue to provide updates via email. We will wait until we have enough information and material to schedule the next meeting. In the meantime, VRS EE Program staff will begin writing the rule based on the input received to date.
3. Agenda item #3 '*Will the Changes We've Developed Make a Substantive Difference for EE Workers?*' was deferred again due to limited advocate member voices in attendance.
4. The advisory will continue proactive sharing and cascading of the work of the VRS EE Rule Revision Advisory Committee with other EE system members notably the membership of Minnesota Organization for Habilitation and Rehabilitation (MOHR) for the benefit of input and support for the revision.

### **Meeting Adjourned**

The meeting was adjourned at 3:00pm.

*\* End of document*