

Regarding the Notice of Intent to amend prevocational services, ABI Waiver II

From: Karen Sargent, M.Ed., Certified Rehabilitation Counselor

I am submitting the following comments and request they be included for consideration in opposition to the proposed changes to the definition and time limits imposed on prevocational services per the amendment proposed for Waiver's I and II. The definition and proposed changes for pre-vocational services in both Waiver I and Waiver II are in direct conflict with the definition of pre-vocational services found in CFR 42 - 440.180, current as of July, 2015.

### **Prevocational Service**

I ask that the following definitions of Pre Vocational Services include the term "Habilitative" as written below, from the Code of Federal Regulations, and that the following service definition replace the current one proposed for Waiver II by CMS:

"Prevocational services, which means services that prepare an individual for paid or unpaid employment and that are not job-task oriented but are, instead, aimed at a generalized result. These services may include, for example, teaching an individual such concepts as compliance, attendance, task completion, problem solving and safety. Prevocational services are distinguishable from non-covered vocational services by the following criteria:

- If the beneficiaries are compensated, they are compensated at less than 50 percent of the minimum wage;
- The services are provided to persons who are not expected to be able to join the general work force or participate in a transitional sheltered workshop within one year (excluding supported employment programs).
- The services include activities which are not primarily directed at teaching specific job skills but at underlying habilitative goals (for example, attention span, motor skills); and
- **The services are reflected in a plan of care directed to habilitative rather than explicit employment objectives. "**

The changes proposed for Waivers I and II alters the federal code definition of what prevocational services are and how the services are to be delivered. In doing so CMS has identified a target population to receive these services while at the same time, eliminating the population for whom prevocational services were originally intended for under the Code of Federal Regulations.

The Waiver II amendment states:

"Individuals receiving prevocational services must have employment-related goals in their person-centered services and supports plan; the general habilitation activities must be designed to support such employment goals." This is in direct conflict with CFR 42-440.180 and its description of habilitation activities in relation to pre-vocational services, noted above.

In my research, other state's prevocational services are in alignment with Federal Code 42-440.180, such as in the state of Illinois. Prevocational Services are defined in the Illinois ABI waiver as: "Services provided that prepare an individual for paid or unpaid employment by teaching concepts such as compliance, attendance, task completion, problem solving and safety. Activities in this service are not primarily directed at teaching specific job skills, but at underlying habilitation goals, such as span and motor skills. All prevocational services will be reflected in the individual's plan of care as directed to habilitation, rather than explicit employment objectives."

(<http://www2.illinois.gov/hfs/MedicalPrograms/HCBS/Pages/bi.aspx>)

I also ask that the follow statement be removed from the proposed CMS core definition for Waiver II: "Individuals receiving prevocational services must have employment-related goals in their person-centered services and supports plan; the general habilitation activities must be designed to support such employment goals." And be replaced with the service definition noted above.

### **Time Limits for Prevocational Services**

The Waiver II proposed amendment defines the amount, frequency or duration of this service as "40 hours per week. This service will be limited to two years. A maximum allowable time exceeding two years would not be considered appropriate without strong justification."

Two years of prevocational services is not a sufficient timeframe and eliminates significantly a consumer's ability, choice and participation in prevocational activities. Clearly, federal code identifies prevocational services as appropriate for those consumers who would be highly challenged in a competitive employment setting and likely never attain integrated employment. These services were meant to be habilitative to allow for those consumers to develop, improve and maintain their cognitive, interpersonal and motor skills and are to be provided as part of a consumer's ongoing plan of care, **NOT** as part of a consumer's employment plan.

CFR 441.310 Limits on Federal financial participation (FFP) makes no statement of time limits for the funding of prevocational services. The code simply states that the terms "prevocational, educational, and supported employment services" must include a "definition of habilitative services" to be eligible for FFP. It does not describe this service as time limited from an FFP perspective. In fact, CFR 441.310 (4b) states:

"FFP is available for expenditures for expanded habilitation services, as described in § 440.180 of this chapter, if the services are included under a waiver or waiver amendment approved by CMS."

Additionally, there is no time limit cited at all in Federal Code 42 - 440.180, specifically because the nature of the service is habilitative and associated with the goals of a care

plan. This means that services are meant to be ongoing and flexible as the survivor's goals change over the course of time, which for a new survivor of brain injury can easily extend beyond a 2 year time period.

It would appear that CMS and/or the State of Connecticut is re-defining this service which will make this service time limited and far more restricted for consumer's who need to utilize this service as part of their long term recovery, especially younger survivors.

I ask that the two year time limit for prevocational services be removed from the definition.

I believe I have provided compelling evidence for the basis of my requests.

Thank you.

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