

**MEMORANDUM OF AGREEMENT
BETWEEN
TEXAS DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES
AND
TEXAS DEPARTMENT OF AGING AND DISABILITY SERVICES**

I. PURPOSE OF AGREEMENT

Recognizing the need to coordinate the provision of services to individuals receiving services from the Texas Department of Aging and Disability Services (DADS) who may be eligible for or are receiving Vocational Rehabilitation (VR) or Independent Living (IL) services from the Texas Department of Assistive and Rehabilitative Services (DARS), DARS and DADS enter into this Memorandum of Agreement (MOA) in accordance with the provisions of CFR§361.53(d) and 111.0525(b) of the Texas Human Resources Code.

II. STATEMENTS OF AGREEMENT

Relating to VR services within DARS' Division for Rehabilitation Services (DRS) and Division for Blind Services (DBS) and Employment Assistance (EA) and Supported Employment (SE) within DADS Home and Community Based Services (HCBS) waivers and employment services provided through ICF/IID or DADS state general revenue funding:

- A.** Any DADS consumer interested in obtaining integrated, competitive employment may apply for VR services.
- B.** In accordance with §1915(c)(5)(C), a DADS consumer enrolled in a 1915(c) Medicaid waiver that offers EA is required to make application for VR services before receiving EA through a DADS operated HCBS waiver.
- C.** A DADS consumer enrolled in a program other than a 1915(c) Medicaid waiver that offers EA and who wants assistance finding integrated, competitive employment, is not required to seek VR services, but has the option to apply for such services.

- D.** DADS' providers may provide EA using DADS funds to individuals who have applied for VR services until the VR Individual Plan for Employment (IPE) is signed and dated.
- E.** A DADS consumer who needs assistance maintaining employment should not seek VR services but should receive DADS SE or another DADS-funded service that assists with maintaining employment, or assign their Ticket to Work ticket, administered by the Social Security Administration, to an Employment Network (EN) that agrees to accept the Ticket.
- F.** In accordance with 34 CFR 361.53(B), a DADS consumer determined eligible for VR services must access available DADS funding for services included in the consumer's DADS program in the course of receiving VR services, except for the core VR services listed in (G) below before requesting VR funding for such services.
- G.** In accordance with 34CFR§ 361.53(b) and as appropriate to the vocational rehabilitation needs of each individual and consistent with each individual's informed choice, VR must ensure that the following vocational rehabilitation services are available without a determination of comparable services and benefits (e.g. DADS funding):
 - (1)** Assessment for determining eligibility and vocational rehabilitation needs.
 - (2)** Counseling and guidance, including information and support services to assist an individual in exercising informed choice.
 - (3)** Referral and other services to secure needed services from other agencies, including other components of the statewide workforce investment system, if those services are not available under this part.
 - (4)** Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
 - (5)** Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.
 - (6)** Post-employment services consisting of the services listed under paragraphs (b) (1) through (5) of this section.
- H.** DADS is responsible for the provision of extended services needed to maintain employment. In accordance with 34CFR § 361.5(b) 20 and §363,

extended services means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than DARS after an individual with a most significant disability has made the transition from support provided by DARS.

Relating to IL services within DARS, DADS and DARS agree that:

- A. In accordance with CFR34.365.21 (a) (1)-(4) there is no obligation for funds to be used from the independent living federal grant to purchase services and supports other than the core services. Those core services are: Information and referral; skills training; peer counseling and cross-disability peer counseling; and individual and systems advocacy. Prior to requesting DARS IL funding individuals must access available DADS funding for services included in the individual's DADS program except for the core IL services listed above.

III. GENERAL PROVISIONS

- A. This MOA is effective 09/01/2015 through 08/31/2018.
- B. This MOA includes the following numbered attachments:
 - 1. Attachment 1: Service Definitions
 - 2. Attachment 2: DARS and DADS Service Integration
 - 3. Attachment 3: Data Exchange
- C. As necessary, DARS and DADS agree to amend this MOA to improve its effectiveness
- D. This MOA may be amended or terminated at any time upon 30 days written notice of request for modification/termination and by written mutual consent of both parties.
- E. If any part of this MOA is judicially determined to be void or illegal, all other parts shall remain in force and effect.

IV. SIGNATURES

For the faithful execution of the terms of this agreement, the parties hereto, in their capacities as stated, affix their signatures.

DADS

[signature on file]

Jon Weizenbaum, Commissioner
Texas Department of Aging and Disability
Services

9-2-15

Date

DARS

[signature on file]

Veronda Durden, Commissioner
Texas Department of Assistive and Rehabilitative
Services

9-10-15

Date

ATTACHMENT 1 SERVICE DEFINITIONS

DADS and DARS provide some services that have the same name, but different definitions according to each Department. Therefore, it is important to understand the scope of supports provided under each Department's service definitions.

DADS

Employment Assistance:

A service that assists an individual to obtain competitive, integrated employment.

Supported Employment:

A service that assists an individual to maintain competitive, integrated employment.

Competitive employment:

Employment that pays an individual at or above the greater of:

- the applicable minimum wage; or
- the prevailing wage paid to individuals without disabilities performing the same or similar work.

Integrated employment:

Employment at a work site at which the individual routinely interacts with people without disabilities other than the individual's work site supervisor or service providers.

DARS

Vocational Rehabilitation Services (Pub.L. 93-112, 87 Stat. 355)

Vocational Rehabilitation Services are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

Supported Employment (34_CFR 361.5(b) (53)):

(i) Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with ongoing support services for individuals with the most significant disabilities—

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from the designated State unit and extended services after transition as described in paragraph (b)(20) of this section to perform this work; or

(ii) Transitional employment, as defined in paragraph (b) (54) of this section, for individuals with the most significant disabilities due to mental illness.

Competitive Employment (34 CFR 361.5(b) (11)):

Work —

(i) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(ii) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

Integrated Setting (34 CFR361.5 (b) (33)):

(i) With respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;

(ii) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing

services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

Comparable Services and Benefits (34 CFR 361.5(b) (10)):

(i) Services and benefits that are—

(A) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;

(B) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with §361.53; and

(C) Commensurate to the services that the individual would otherwise receive from the designated State vocational rehabilitation agency.

(ii) For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

Extended Services (34 CFR 361.5(b) (20)):

Ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and 34 CFR part 363 after an individual with a most significant disability has made the transition from support provided by the designated State unit.

ATTACHMENT 2
DARS AND DADS SERVICE INTEGRATION

1. In accordance with 34 CFR §361.42(a)(1):
 - a) Individuals receiving VR services must meet eligibility requirements for VR services:
 - i. A determination by a qualified DARS Vocational Rehabilitation Counselor that the applicant has a physical or mental impairment.
 - ii. A determination by a qualified DARS Vocational Rehabilitation Counselor that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant.
 - iii. A determination by a qualified DARS Vocational Rehabilitation Counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
 - iv. A presumption that the consumer can achieve an employment outcome, unless an extended evaluation demonstrates by clear and convincing evidence that the consumer cannot achieve an employment outcome because of the severity of the consumer's disability
2. DARS Division for Rehabilitation Services (DRS) processes for initial contact, application eligibility and assessing and planning can be found in their entirety in the DRS Rehabilitation Policy manual at the following link:
<http://www.dars.state.tx.us/drs/rpm.pdf>
3. DARS Division for Blind Services' (DBS) processes for intake, eligibility and planning can be found in their entirety in the DBS Vocational Rehabilitation Policy manual at the following link: **<http://www.dars.state.tx.us/dbs/vr.pdf>**
4. DARS will:
 - a) notify an individual in writing:

- i. If he or she is determined to be eligible, ineligible or if VR services are unavailable; and
 - ii. When VR services have been completed.
 - b) In accordance with 34CFR §361.41 (a); (a)1; and (b)(1)(d) VR will:
 - 1) Complete application within 30 days of initial contact. If application cannot be completed within 30 days, case file documentation must reflect a good-faith effort to meet this time standard.
 - 2) Determine eligibility for the VR program by the 60th day after the date that application is signed, unless there is a need to extend the time, or consumer's ability to achieve an employment outcome cannot be determined without an extended evaluation.
 - 3) Complete an Individualized Plan for Employment (IPE) within 90 days after determining eligibility. If the IPE cannot be completed within 90 days, the case file documentation must reflect a good-faith effort to meet this time standard.
 - 4) After IPE is completed, begin coordinating the provision of services as identified on the IPE, which may include VR supported employment services.
 - 5) Upon request and with proper authorization for disclosure, provide copies of any of the individual's records to the DADS representative (e.g. provider, case manager or service coordinator), including the following documents:
 - i. A completed copy of the individual's application statement;
 - ii. An individual's completed IPE;
 - iii. Written documentation specifying an individual's eligibility status; and
 - iv. The notification letter indicating VR services have been completed.
5. Upon request and with proper authorization for disclosure, the DADS representative will provide copies of any of the individual's records to the Vocational Rehabilitation Counselor (VRC), including the following items:
 - a) The individual's most recent person-directed plan; individual plan of care/individual program plan and provider implementation plan;
 - b) Current vocational assessments;
 - c) All other available records pertaining to the individual's disabilities (including but not limited to medical, psychological, and psychiatric reports);

- d) For DRS applicants, items described in the [DARS Guide for Applicants](http://www.dars.state.tx.us/publications/pdf/01856.pdf) (<http://www.dars.state.tx.us/publications/pdf/01856.pdf>); for DBS, call 1-800-628-5115 or use the following link <http://www.dars.state.tx.us/dbs/offices/OfficeLocator.aspx?div=4> to obtain the local office number;
 - e) A copy of the individual's Court Ordered Guardianship documents, if any Court Ordered Guardianship has been appointed; and
 - f) Contact information for the individual's Qualified Developmental Disabilities Professional, Case Manager, Service Coordinator and Provider(s).
6. The DADS representative (e.g. provider, case manager/service coordinator) should maintain communication with the VRC regarding services provided between the VR application and the "Start Date" of VR Services as defined in the VR Individualized Plan for Employment (IPE).
7. If an individual is receiving services from a 1915(c) Medicaid waiver that offers Employment Assistance and the VRC determines that DARS is not the appropriate resource to meet the individual's needs while the individual still requests assistance in locating competitive, integrated employment, the DADS representative should document this in the individual's file and may begin to provide and bill for DADS-funded Employment Assistance.
8. If an individual is receiving services from a 1915(c) Medicaid waiver that offers Employment Assistance, the individual may not receive DADS-funded Employment Assistance if:
- a) the individual refuses to contact and make application with VR,
 - b) the individual is determined eligible for VR services but voluntarily withdraws from VR services
 - c) the individual was determined ineligible for VR services anytime in the past and does not reapply for VR services.
9. With permission of the individual, the DADS' team members of any individual receiving VR services, along with the individual, should:
- a) Attend any VR planning meetings related to the individual's employment,
 - b) Take an active role in providing input to the VR IPE,

- c) Ensure that the individual's DADS service plan is updated as necessary to incorporate the Comparable Benefits and Extended Supports identified in the IPE and needed for the individual's successful job maintenance, and
- d)** Provide or arrange the Comparable Benefits and Extended Supports necessary for successful job retention prior to VR closure of the individual's case.

10. VRCs, with written consent from the consumer, will maintain contact with, and inform DADS provider through contact information listed on application documents of planning meetings related to the individual's employment.

ATTACHMENT 3 DATA EXCHANGE

Exchange of specific data between DARS and DADS can assist in significantly improving employment outcomes for individuals served by both agencies, expedite evaluations of existing systems for the provision of coordinated services, assist in the development of a streamlined and effective system, and facilitate better coordination of services between the two agencies. Individuals served by DADS and DARS should move seamlessly from one funding system to the other without interference in employment or long term services. Sharing data will assist both agencies in identifying weaknesses in this process and correcting barriers to effective service provision.

DADS will use data provided by DARS to:

- a. Establish a baseline number of individuals served by DARS who are also DADS waiver participants in each of the 11 DADS regions.
- b. Compare baseline numbers from DARS with total number served in waivers in each DADS Region.
- c. Identify the ratio of individuals in each DADS region achieving successful closure (i.e. maintaining employment for a specific period of time prior to DARS case closure).
- d. Identify the number of individuals transitioning into DADS waiver Supported Employment from DARS without a break in service.
- e. Identify specific areas of the state where fewer individuals are being referred to DARS by DADS and where the transition from DARS employment services to the waiver service Supported Employment did not occur timely.
- f. Partner with DARS to target community centers, private providers and DARS offices for training on DADS and DARS systems.

DADS will provide DARS with the following information on an annual basis for individuals receiving services from DADS. Data will be provided broken down into the eleven DADS Regions:

- a. First and last name
- b. Date of birth
- c. Social Security Number
- d. Current DADS services

DARS will identify individuals who have received, or applied for DARS services and provide the following aggregate information to DADS, separated into the eleven DADS Regions:

- a. Numbers of 08, 30, 26 or 28 closure
- b. Numbers currently receiving services from DRS and DBS
- c. Whether service received was Independent Living or Vocational Rehabilitation
- d. Numbers receiving DRS or DBS Supported Employment

DADS and DARS agree to comply with the following regulations contained in 34 CFR 361.38(d) pertaining to the mutual exchange of information described above:

- a. (d) Release for audit, evaluation, and research. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research only for purposes directly connected with the administration of the vocational rehabilitation program or for purposes that would significantly improve the quality of life for applicants and eligible individuals and only if the organization, agency, or individual assures that:
 - b. The information will be used only for the purposes for which it is being provided;
 - c. The information will be released only to persons officially connected with the audit, evaluation, or research;
 - d. The information will not be released to the involved individual;
 - e. The information will be managed in a manner to safeguard confidentiality; and
 - f. The final product will not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.