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Public Hearing on The Office of Vocational Rehabilitation (OVR), Vocational Rehabilitation Service
Providers, and the Employment First Oversight Commission (EFOC)
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Thank you for the opportunity to speak with you today at the Public Hearing on The Office of Vocational Rehabilitation (OVR), Vocational Rehabilitation Service Providers, and the Employment First Oversight Commission (EFOC). I am Shannon Austin, Executive Director of OVR of the Commonwealth of Pennsylvania's Department of Labor & Industry.

Background

The Pennsylvania Office of Vocational Rehabilitation, or OVR, provides vocational rehabilitation (VR) services to help persons with disabilities prepare for, obtain, and maintain employment and independence. Through its 21 district offices, OVR provides services to eligible individuals with disabilities, both directly and through a network of approved vendors. OVR also works directly with employers to refer qualified talent, support employees, provide disability-related consultation, and create opportunities for job seekers with disabilities.

Several laws and directives dictate how OVR delivers services to its customers. The federal Rehabilitation Act of 1973 extended and revised the authorization of grants to States for VR services with an emphasis on serving those with the most severe disabilities. The Workforce Innovation and Opportunity Act (WIOA) of 2014 reauthorized the Rehabilitation Act, created Pre-Employment Transition Services (Pre-ETS) and added emphasis and requirements to other key VR service delivery areas including: the "dual customer model" of serving both individuals with disabilities and employers/businesses, cross-agency collaboration, assistive technology, and competitive integrated employment (CIE). WIOA also heightened the importance of stability in employment and the provision of extended services for customers receiving supported employment (SE) services and introduced restrictions on the use of subminimum wage (SMW) employment.¹

Governor Wolf issued Executive Order 2016-03 on March 10, 2016 *Establishing 'Employment First' Policy and Increasing Competitive Integrated Employment for Pennsylvanians with a Disability*. On June 19, 2018, Governor Wolf signed a unanimous bi-partisan, bi-cameral bill into law, Act 36, the Employment First Act [PA Law 229]. The purpose of the Employment First Act (Act) is to "ensure that individuals with a disability be given the opportunity to achieve economic independence through jobs that pay competitive wages in community integrated settings." This order establishes policy for

¹ Subminimum wage employment is also referred to as "sheltered workshops" or "sheltered employment."

agencies under the Governor’s jurisdiction, requiring competitive-integrated employment be the first consideration and preferred outcome of all publicly funded education, employment and training, and long-term supports and service programs for working-age Pennsylvanians with a disability. The Act addresses several key principles of Employment First regarding access for all Pennsylvanians with disabilities and insists on policy which states that: competitive-integrated employment is the preferred outcome for all Pennsylvanians with disabilities receiving most forms of publicly-funded services; any state and county agency and entities using public funds (education, training and employment related services, long-term services and supports) is required to make sure that Employment First is effectively implemented; and state and county agencies will work together to ensure that resources are managed and allocated efficiently for the support of employment first.

In line with WIOA, Executive Order 2016-03² and PA Act 36 defines competitive integrated employment as work performed on a full or part-time basis (including self-employment) for which a person is:

1. Compensated at not less than federal minimum wage requirements or State or local minimum wage law (whichever is higher) and not less than the customary rate paid by the employer for the same or similar work performed by people without a disability.
2. At a location where the employee interacts with people without a disability (not including supervisory personnel or people who are providing services to such employee); and
3. Presented, as appropriate, opportunities for similar benefits and advancement like those for other employees without a disability and who have similar positions.

The Workforce Innovation and Technical Assistance Center (WINTAC)³ explains that “Section 511 of the Rehabilitation Act places limitations on the payment of subminimum wages by entities holding special wage certificates under Section 14(c) of the Fair Labor Standards Act. The purpose of Section 511 is to ensure that individuals with disabilities have access to information and services that will enable them to choose whether they want to achieve competitive integrated employment. Section 511 includes requirements for State VR agencies, subminimum wage employers and local and/or State educational agencies, including specific requirements for youth prior to their participation in subminimum wage employment”.⁴ Section 511 also requires that OVR and State and local education agencies make efforts to ensure that individuals with disabilities, especially youth with disabilities, have a meaningful opportunity to prepare for, obtain, maintain, advance in, or regain competitive integrated employment, including supported or customized employment. It promotes CIE as a “first choice” for all individuals with disabilities and especially youth who might otherwise move directly from secondary education to sheltered settings. OVR provides Career Information Sessions at least once per year to all persons in PA employed below minimum wage to promote CIE and inform them about available services.

Barriers to the Provision of VR Services in Pennsylvania

Prior to the COVID-19 pandemic, OVR faced financial challenges that lead to the temporary “closure” of OVR’s Order of Selection (OOS) on July 1, 2019. For many years, OVR has operated under an Order of Selection used to determine each customer’s level of disability to prioritize services for the most

² <https://www.governor.pa.gov/newsroom/executive-order-2016-03-establishing-employment-first-policy-increasing-competitive-integrated-employment-pennsylvanians-disability/>

³ WINTAC is a national center funded by a cooperative agreement from the U.S. Department of Education’s Rehabilitation Services Administration (RSA) to provide technical assistance to state VR agencies. RSA is the federal oversight agency for the Rehabilitation Act.

⁴ www.wintac.org/topic-areas/implementation-of-requirements

significantly disabled. The closed order resulted in all customers, regardless of the severity of their disability, going on a waiting list once determined eligible for services, and being served only when funds became available. During this time, an amendment to a joint bulletin between OVR and DHS's Office of Developmental Programs (ODP) allowed those with IDD and Autism who were receiving Medicaid waiver funding to go directly to ODP's employment services without first requiring a referral to OVR. While this measure allowed customers with intellectual or developmental disabilities (IDD) and autism to access available funds to avoid gaps in their employment services, it reduced referrals of individuals with developmental disabilities to OVR.

Also prior to the pandemic OVR participated in monitoring and technical assistance with its Federal parent, the Rehabilitation Services Administration (RSA) which led to findings and a resulting Corrective Action Plan (CAP). The findings outlined some of the underlying issues facing OVR including eligibility determination timeliness, challenges with the OVR application, internal controls and reporting, Pre-ETS policies, and financial processes. As a result, OVR has been actively working through these action items to address the findings while at the same time addressing the recommendations of the Employment First Oversight Commission (EFOC).

In addition, a new set of barriers face OVR as result of the COVID-19 pandemic. Mitigation efforts and fear of COVID-19 exposure has affected virtually every program area within OVR (e.g., Supported Employment, Pre-ETS, Section 511, and employment outcomes in general). The pandemic dissuaded existing customers from pursuing employment and potential customers from applying for services. Many OVR customers have underlying conditions that increase the risks involved with contracting COVID-19. Even as restrictions eased, many chose not to return to work sites or resume job search activities due to the continued threat of exposure. For example, since the start of the pandemic an estimated 1,600 individuals covered under Section 511 have either not returned to or have been discharged from a 14c facility without being in CIE. This is likely due to many provider organizations being closed from March 2020 through Spring of 2021, restrictions in community living arrangements or their families' concerns for their health/safety, and facilities being short-staffed.

Additional pandemic-related barriers to employment outcomes and service delivery include employment site restrictions, labor shortages, and provider challenges. In efforts to reduce risk of exposure within their worksites, many employers who were allowed to operate restricted all but essential employees from being onsite. This impacted SE services requiring the physical presence of a job coach and SE services that are exploratory/evaluative in nature, such as Community Based Work Assessments (CBWA). Significant nationwide labor shortages have had a mixed impact on OVR. According to October's National Trends in Disability Employment (nTIDE) report, people with disabilities are being offered opportunities for work at unprecedented levels. The downside is that the shortage of staff has impacted service providers, limiting the ability to meet service demand in a timely manner. The reduction in OVR referrals to provider agencies because of the pandemic also impacted the ability of providers to retain staff and deliver services. Results from a recent survey completed by the Statewide Provider Partnership (SPP) representing SE and Pre-ETS providers showed significant to moderate reductions in referrals from OVR resulting in a reduction in their workforce.

Addressing Barriers and EFOC Recommendations

Re-Opening of OVR's Order of Selection

In response to the improvement of OVR's financial situation over the past two years, OVR has been periodically moving thousands of customers off the waiting list and into services. Ultimately, OVR was

able to re-open the Order of Selection on July 1, 2021. With this action, OVR and ODP have returned to the original joint bulletin for customers with Medicaid waiver funding, which establishes a procedure for referring customers to OVR for employment services prior to receiving ODP employment supports, because Medicaid rules require that ODP waivers be the payer of last resort.

Implementing the Corrective Action Plan (CAP) and Furthering EFOC Recommendations

OVR's processes and timeliness have been noted by the EFOC and mentioned in RSA monitoring findings. As a result, OVR has implemented its Corrective Action Plan (CAP) with many steps outlined to improve service delivery for OVR customers and adhere to RSA regulations.

In accordance with the CAP report, OVR has begun to review and act on improving its internal systems and processes.

1. OVR is in the process of revising policies such as the Financial Needs Test (FNT) policy and the Supported Employment policy.
 - a. The Financial Needs Test (FNT) policy revision is being addressed by a statewide workgroup to improve clarity, reduce barriers to customer services, and streamline service delivery.
 - b. The Supported Employment (SE) policy revision continues to move forward in collaboration with OVR's internal SE workgroup. The tentative implementation date is October 2022. Feedback continues to be solicited from internal and external stakeholders as OVR aims to simplify and streamline service delivery. Some of the proposed areas targeted for improvement in the policy revision include:
 - i. Simplifying service choices while making them more flexible to meet the situational needs of our customers
 - ii. Reducing system and procedural complexities
 - iii. Minimizing service delays while accounting for proper use of Period of Performance (POP) guidelines
 - iv. Redefining "job stability"
 - v. Increasing the collaboration between OVR, Community Rehabilitation Providers, and employer partners.
2. OVR has entered into cooperative agreements with multiple national technical assistance centers (TACs) to review current/past policies and processes, OVR's case management system (CWDS), financial processes, and more to improve standard operating procedures, proper data element capture, and data integrity.
3. OVR is working to streamline its application process to improve accessibility and timeliness for customers seeking services from OVR.

The EFOC made specific recommendations to increase Section 511 CIE outcomes. As stated above, OVR is required by federal law to provide counseling and information and referral to individuals working for subminimum wages. Persistent barriers to those individuals in deciding to pursue CIE include lack of family engagement, concerns regarding loss of benefits such as housing or transportation, fear of potential abuse in inclusive environments and worries of losing social contacts and relationships developed in the sheltered setting. Additionally, during the pandemic, concerns over exposure to COVID-19 were particularly high for this population who often have underlying conditions that increase their risk of having an unfavorable outcome if they contract COVID-19. For those in subminimum wage employment who decide to pursue CIE, OVR's ability to meet support needs for these individuals, who often have complex barriers and needs, has been reduced due to provider capacity in the

Discovery/Customized Employment (D/CE) space. Since fall of 2019, OVR has experienced a 36% reduction in the number of vendors available to provide these services, from 42 to 27. Job coaches individually certified to render D/CE working for these approved vendors dropped from a high of 116 to 67, a 42% decrease. Frequently cited reasons vendors gave for deciding to stop providing D/CE were the expense of certifying staff and the rate and structure of payments for service which they said did not cover costs. Of note is that OVR, in collaboration with ODP, was at one time helping to fund D/CE training for certification. Regarding concerns around loss of benefits, OVR has established a provider agreement for benefits counseling vendors, and it is a service that customers can access through their Individualized Plan for Employment (IPE).

Another recommendation by the EFOC relates to effective cross agency collaboration and coordination. OVR is working with ODP to revise the "joint bulletin," Bulletin 00-19-01 OVR Referrals for ODP Employment Related Services, to improve the continuity of services for mutual customers including a smoother referral process, timely transition from OVR to ODP employment services, etc., along with collaborative funding and development of initiatives to assist the transformation of 14c providers to become supported employment providers. OVR is also collaborating with the Office of Long-Term Living (OLTL) to streamline service delivery in accordance with OVR and ODP's referral process to reduce confusion and to improve consistency for customers. Additionally, OVR has worked with the Bureau of Special Education (BSE) over the last two years to develop and implement an MOU that will ensure that there is a plan of action for coordination and collaboration between OVR and BSE to support the transition of students with disabilities from high school to adult life. This MOU is a plan to coordinate Pre-ETS and Transition Services for students with disabilities, regardless of the severity of the disability, including those individuals with complex, medical, and behavioral support needs. This MOU allows OVR and BSE to clearly specify the plans, policies, and procedures for coordinating services to facilitate the transition of students. Highlights of accomplishments resulting from the MOU include:

- marketing materials for services (youth/families and professionals)
- defining BSE and OVR roles and responsibilities
- IEP meeting invitations issued to OVR staff
- establishing a process for coordination between OVR and the LEA
- developing a Glossary of Terms and Common Language among government agencies
- WIOA/IDEA/ESSA crosswalk & considerations
- relaunching Experience the Employment Connection (EEC), a partnership between OVR, ODP and BSE
- a State Plan for the Statewide Leadership Team on Transition (multi-partner, including OLTL, ODP, OMSAHS, etc.)
- development of an Interagency Plan document for local resource coordination
- development of a new collaborative website
- A statewide cross-training plan
- increased communication with local Transition Coordination Councils (TCCs)

OVR's Response to COVID-19 Barriers

In addition to the items previously noted, OVR has implemented several measures in response to the barriers presented by COVID-19.

Supported Employment (SE) – OVR currently has 156 approved SE providers across the state. Among that number are 10 providers that were approved for SE services within the last year and half. SE services include Community Based Work Assessment, Job Mentoring, Job Retention, intensive job coaching provided under OVR’s Performance Based SE, and extended services. Of the SE providers, 27 provide Discovery and customized employment services to customers with complex needs. An email list of SE provider contacts is used for regular updates on training opportunities and any changes in CWDS and other procedures. In partnership with DHS, low-cost training options were made available to SE providers so that their staff could meet new credential requirements when they took effect in 2019. Monthly technical assistance webinars have been conducted for our SE providers since the current SE policy was rolled out in July 2018. An extensive SE Refresher training was provided in fall 2019 and two webinars related to interim COVID guidance were held in 2020. Meetings with the Statewide Provider Partnership were held in January 2020 and virtually in June 2021. OVR Central Office staff routinely attend Pennsylvania Advocacy and Resources for Autism and Intellectual Disability (PAR) meetings to facilitate updates and seek feedback to improve service delivery for customers. We are currently collaborating with ODP to look for ways to increase service provider options across the state. For example, encouraging 14c employers to become OVR SE vendors may help increase service options statewide.

In response to the pandemic, OVR implemented the following to assist providers and to improve service to customers:

1. Specific COVID-19 mitigation guidance was issued that allowed many SE services to be delivered virtually. Also, OVR permitted the use of Job Mentoring services for customers whose employment was on hold due to the pandemic.
2. In response to provider concerns identified both before and during the pandemic, OVR increased SE rates in February 2021. The original regional rates for the provision of SE services that ranged from \$39.00 to \$57.00 per hour were increased to a statewide rate of \$63 per hour. Customized employment rates were increased to \$70.00 per hour. This change boosted the rates for all SE providers.

Pre-Employment Transition Services (Pre-ETS) - OVR currently has 133 Pre-ETS providers across the state. Providers deliver group and individual Pre-ETS that fall under five (5) required categories: job exploration counseling, work-based learning, counseling on opportunities for enrollment in comprehensive transition or post-secondary education programs, workplace readiness training, and instruction in self-advocacy. An email list of Pre-ETS providers is used to communicate updates and trainings. This email list was used to communicate training announcements and invites regarding the recent changes made to the Pre-ETS system in CWDS. Several Pre-ETS Enhancement emails were sent to providers detailing updates to the screens and functions, FAQs, training materials, and video walkthroughs. Additionally, a Pulse Check survey was made available to providers to share feedback on the new Pre-ETS enhancements. In response to the pandemic OVR implemented the following to assist Pre-ETS providers and to improve service to customers.

1. Similar to SE, COVID-19 mitigation guidance was issued for Pre-ETS that allowed many services to be delivered virtually.
2. In February of 2021, in response to the ongoing pandemic, OVR increased Pre-ETS rates to provide additional support to providers as listed below.
 - a. Group Travel Training increased from \$30 to \$33/hour per student
 - b. Group Shadowing increased from \$30 to \$33/hour per student
 - c. Community Work Instruction increased from \$30 to \$33/hour per student
 - d. Job Shadowing increased from \$45 to \$50/hour
 - e. Paid Work Experience Development increased from \$45 to \$50/hour

- f. Paid Work Experience Learning increased from \$45 to \$50/hour
3. In April of 2021, three new Pre-ETS provider agreements were introduced to increase services to students over the summer: the MY Work Initiative, Summer Post-Secondary Experience, and Professional Connections Experience. Additionally, a new provider rendered Pre-ETS service, the Virtual Informational Interview, was created.

Conclusion

The Commonwealth of Pennsylvania's economic future depends upon the development of a strong, skilled workforce able to compete in today's global economy. Analyzing current labor market information and understanding the obstacles confronting the workforce are essential steps the state must utilize to inform and develop policies, strategies, and goals to remain economically competitive. Employment First Oversight Commission has played an intricate part in making recommendations to the state so that PA WIOA Combined State Plan includes elements to increase competitive integrate employment opportunities for all Pennsylvanians.

The Combined State Plan includes a strategic planning elements section that analyzes the State's current economic environment and identifies the State's overall vision for its workforce development system. PA OVR is actively working with several state agencies in a leadership role to bring workforce innovation and employment opportunities for individuals with disabilities within the Commonwealth of PA. PA OVR is in the process of amending the 2 Year Modification of the VR Services Portion of the Combined State Plan. There are additions to the 2-year modification to the VR Services Portion of the State Plan that includes new cooperative agreements with other Commonwealth agencies as well as other projects OVR has planned to do within the next two years. More details about upcoming changes to OVR's service provision are outlined in the WIOA combined plan that will be out for public comment soon. In order to be transparent and fulfill federal regulation, OVR will hold an additional 30-day public comment period during the planned public comment for the Combined State Plan scheduled for mid-December 2021 to mid-January 2022. In addition, OVR will schedule and hold an additional public comment virtual meeting during this same time frame.

In conclusion, OVR has shown resilience and dedication in finding solutions to the barriers faced in rendering quality, timely employment services to individuals with disabilities. OVR looks forward to implementing simplified, streamlined processes for taking applications for services, determining eligibility and financial need, and delivering all services, especially SE, Pre-ETS and 511 counseling. We also consider our providers vital partners in serving our customers and remain open to their input. OVR has a long history of collaboration, and this collaboration has only gotten stronger because of Act 36 and the Governor's Cabinet for People with Disabilities. We are excited about upcoming innovative initiatives and how we can impact the lives of individuals with disabilities.