

# Delaware Developmental Disabilities Council

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November 21, 2012

Jane Gallivan, Director  
Division of Developmental Disabilities Services  
Woodbrook Professional Center, Building 1056  
1056 South Governor's Avenue, Suite 101  
Dover, DE 19904

RE: Proposed Pre-Vocational Services Definition

Dear Ms. Gallivan,

The Developmental Disabilities Council (DDC) is in receipt of the letter and recommended changes to you from the Disabilities Law Program (DLP) dated November 20, 2012 (attached).

We write this letter in support of the DLP recommended changes to the proposed Pre-Vocational Services definition document that is to be submitted to the Centers for Medicaid and Medicare Services (CMS) as part of the DDDS Home and Community Based Services Waiver.

The DD Council thanks you in advance for your consideration of these recommendations and offers any further assistance in this process.

Sincerely,

Diann Jones  
Chair

Cc: Rita Landgraf, Secretary DHSS  
Ann Woolfolk, Esq., Deputy Attorney General  
Brian Hartman, Esq., Disabilities Law Program  
Daniel G. Atkins, Disabilities Law Program  
Kyle Hodges, State Council for Persons with Disabilities  
Wendy Strauss, Governor's Advisory Council for Exceptional Citizens





## DISABILITIES LAW PROGRAM

COMMUNITY LEGAL AID SOCIETY, INC.

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November 20, 2012

**VIA EMAIL & U.S. MAIL**

Jane Gallivan, Director  
Division of Developmental Disabilities Services  
Woodbrook Professional Center, Building 1056  
1056 South Governor's Avenue, Suite 101  
Dover, DE 19904

**Re: Proposed prevocational services definition**

Dear Jane:

The Disabilities Law Program reviewed the proposed DDDS Prevocational Services Draft Service Program Definition. We have several suggested changes. Most significantly, we recommend that the definition include:

- 1) A timetable for assessment, identification of expected interim milestones, and objective methodology to measure progress;
- 2) For individuals newly receiving prevocational services or enrolled with a new provider, an in-person plan review at least monthly for the first two months, at least quarterly for the next twelve months, and at least annually thereafter; and
- 3) For individuals initially enrolled in prevocational services, after a date specified by the Division, prevocational services should not be authorized for more than five years unless a waiver is issued by the DDDS.

In the attached document, we modified DDDS's draft definition with the above suggested changes, as well as some additional alterations, utilizing track changes for your review. Thank you in advance for your consideration of our comments and recommendations.

Sincerely,

  
Marissa L. Band  
Staff Attorney

Enclosure

Cc: Rita Landgraf, Secretary, DHSS (by email)  
Ann Woolfolk, Esq., Deputy Attorney General (by email)  
Brian J. Hartman, Disabilities Law Program (by email)  
Daniel G. Atkins, Disabilities Law Program (by email)  
Kyle Hodges, State Council for Persons with Disabilities (by email)  
Pat Maichle, Developmental Disabilities Council (by email)  
Wendy Strauss, Governor's Advisory Council for Exceptional Citizens (by email)

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DELAWARE'S PROTECTION AND ADVOCACY SYSTEM FOR PERSONS WITH DISABILITIES

**Prevocational Services:  
Draft Service Definition**  
**Disabilities Law Program Suggested Changes**

Prevocational Services provide learning and work experiences, including volunteer work and/or internships, ~~where the individual can~~ which teach an individual to develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated community settings. Services are expected to occur over a defined period of time and with produce-specific outcomes to be achieved, as determined by the individual and ~~his/her~~ the individual's services and supports planning team through an ongoing person-centered planning process ~~evaluated annually~~. To facilitate assessment of progress towards achievement of such outcomes, the resulting consensus plan will incorporate a timetable for assessment, identification of expected interim milestones, and an objective methodology to measure progress. For individuals initially receiving prevocational services, or enrolled with a new services provider, an in-person review of the plan will occur at least monthly for the first two months, at least quarterly for the next twelve months, and at least annually thereafter. For individuals initially enrolled in prevocational services after X [date], prevocational services will not be authorized for more than five (5) years unless a waiver is issued by the Division of Developmental Disabilities Services. ~~Prevocational services may be furnished in fixed site locations or in community based settings.~~

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. Competitive, integrated employment in the community 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 without disabilities is considered to be the optimal outcome of prevocational services.

Prevocational services should enable each individual to attain the highest level of work in the most integrated setting and with the job matched to the individual's interests, strengths, priorities, abilities, and capabilities, while following applicable federal wage guidelines. Services are intended to develop and teach general skills; Examples include, but are not limited to: ability to communicate effectively with supervisors, co-workers and customers; generally accepted community workplace conduct and dress; ability to follow directions; ability to attend to and complete tasks; workplace problem solving skills and strategies; general workplace and commuting safety and mobility training.

Prevocational services may be furnished in fixed site a variety of locations in the community and are not limited to fixed site or in community based settings. Transportation to and from the service location is a component part of prevocational services and the cost of this transportation is included in the rate paid to providers of prevocational services.

NOTE: DDDS must still amend the definition to address the following CMS guidance: "Specify in the definition how the determination is made that the services to the participant are prevocational rather than vocational in accordance with 42 C.F.R. § 440.180(c)(2)(i)."