

3300.2005 DEFINITIONS.

Subpart 1. **Scope.** When used in parts 3300.2005 to 3300.2055, the terms defined in this part have the meanings given them.

Subp. 2. **Accreditation.** "Accreditation" means accreditation by The Rehabilitation Accreditation Commission ... CARF (CARF).

Subp. 3. **Advocacy organization.** "Advocacy organization" means a public or private nonprofit organization that has a mission statement defining its advocacy for persons with disabilities and does not receive funding for direct employment services to clients.

Subp. 4. **Annual survey.** "Annual survey" means the yearly survey of department staff, extended employment program providers, consumer and advocacy organizations, organizations representing cultural and racial minorities, and county social service agencies to determine the need for center-based employment, community employment, and supported employment.

Subp. 5. **Appropriate modes of communication.** "Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open- and closed-captioned videos, specialized telecommunications services and audio recordings, Braille and large-print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

Subp. 6. **Center-based employment.** "Center-based employment" means employment which provides paid work on the premises of an extended employment provider and training services or other services necessary for employment on or off the premises of an extended employment provider to persons who, because of the nature and severity of their disabilities, need intensive ongoing employment support services funded by the state unit in order to work.

Subp. 6a. **Center-based fund.** "Center-based fund" means the extended employment program fund which pays for the center-based employment subprogram.

Subp. 7. **Certification.** "Certification" means the process used by the department to ensure that extended employment program providers meet the minimum state standards in part 3300.2010.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Employment and Economic Development.

Subp. 9. **Competitive employment.** "Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and 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.

Subp. 10. **Community employment.** "Community employment" is paid work in the community requiring intensive ongoing employment support services that does not meet the definition of supported employment only because the worker is paid less than minimum wage or the employment does not meet the criteria of an integrated setting, or the worker is compensated at or above the minimum wage but below the customary wage paid by the employer for the same or similar work performed by individuals without a disability.

Subp. 10a. **Community support fund.** "Community support fund" means the extended employment program fund which pays for the community employment subprogram and supported employment subprogram.

Subp. 11. **Consumer Price Index or CPI.** "Consumer Price Index" or "CPI" means the index of prices of goods and services from the United States Department of Commerce published on a monthly basis and available from the Minnesota Department of Employment and Economic Development.

Subp. 12. **Day training and habilitation program or DTH.** "Day training and habilitation program" or "DTH" means a program of services as defined in Minnesota Statutes, section 252.41, subdivision 3.

Subp. 13. **Department.** "Department" means the Minnesota Department of Employment and Economic Development.

Subp. 14. **Expanded program.** "Expanded program" means an expansion of an existing provider's capacity to provide community employment or supported employment to persons with mental illness, traumatic brain injury, or the most severe disabilities, to persons from racial or ethnic minorities, to other unserved or underserved populations, and to persons living in geographic regions of Minnesota unserved or underserved by the extended employment program.

Subp. 15. **Extended employment program or program.** "Extended employment program" or "program" means an employment program which provides the ongoing employment support services necessary to maintain and advance the employment of individuals with severe disabilities by providing work in center-based employment, community employment, or supported employment subprograms. Work in extended employment should encompass the broad range of employment choices available to all individuals and promote an individual's self-sufficiency and financial independence.

Subp. 16. **Extended employment provider or provider.** "Extended employment provider" or "provider" means a rehabilitation facility as defined in subpart 34 and certified by the commissioner under part 3300.2010 to provide center-based, community, or supported employment.

Subp. 17. **Extended employment support plan.** "Extended employment support plan" means the individual service plan developed with the provider, by the worker, based on informed choice, with assistance from the worker's interdisciplinary team if desired by the worker.

Subp. 18. **Extended employment worker or worker.** "Extended employment worker" or "worker" means an individual with a most severe disability as defined in subpart 22 that results in serious limitations in three or more functional areas as defined in subpart 20 that affect employment, who requires and receives ongoing employment support services as defined in subpart 31 over an extended period of time to maintain and advance in employment, and who is reported to the department by the provider during the contract period. Reference to extended employment worker always includes the worker's legal representative.

Subp. 19. **Fundamental personnel benefits.** "Fundamental personnel benefits" means personnel benefits provided by an extended employment provider to workers in center-based employment and to workers in supported employment and community employment when the provider is the payroll agent. Fundamental personnel benefits include vacation, sick leave, holidays, and other mandated state and federal benefits. Specific benefit requirements are identified in part 3300.2015, subpart 4.

Subp. 20. **Functional area.** "Functional area" means communication, interpersonal skills, mobility, self-care, self-direction, work skills, or work tolerance. For the purposes of parts 3300.2005 to 3300.2055:

A. "Communication" means the ability to effectively give and receive information through spoken words or concepts, such as writing, speaking, and listening, or other means of communicating such as sign language, mime, gesture, or other adaptive methods.

B. "Interpersonal skills" means the ability to establish and maintain personal, family, and community relationships as it affects, or is likely to affect, job performance and security.

C. "Mobility" means the physical and psychological ability to move about from place to place inside and outside the home, including travel to and from usual destinations in the community for activities of daily living, training, or work.

D. "Self-care" means the skills needed to manage self or living environment, such as eating, toileting, grooming, dressing, money management, and management of special health or safety needs, including medication management, as they affect an individual's ability to participate in training or work-related activities.

E. "Self-direction" means the ability to plan, initiate, organize, or carry out goal-directed activities or solve problems related to self-care, socialization, recreation, and working independently.

F. "Work skills" means:

- (1) the ability to do specific tasks required to carry out job functions; and
- (2) the capacity to benefit from training in how to perform tasks required to carry out job functions.

G. "Work tolerance" means the capacity to effectively and efficiently perform jobs requiring various levels of physical demands, psychological demands, or both.

Subp. 21. **Grievance.** "Grievance" means a claim or complaint brought to an extended employment provider by a worker in the extended employment program or a representative of the worker involving dissatisfaction with the worker's extended employment program over an issue in which the extended employment program provider has control. A worker who uses the grievance procedure does not give up the right to use a worker appeal as defined in subpart 38.

Subp. 22. **Individual with a most severe disability.** "Individual with a most severe disability" means an individual:

A. who has a severe physical or mental impairment that results in serious limitations to employment in three or more functional areas;

B. whose employment can be expected to require ongoing employment support services over an extended period of time; and

C. who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, developmental disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders including stroke and epilepsy, paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, and end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable serious functional limitation.

Subp. 23. **Informed choice.** "Informed choice" means a voluntary decision made by a prospective or current worker or that person's legal representative, after becoming familiar with worker rights and with alternative service options, and having been provided sufficient relevant written and verbal information at an appropriate comprehension level and in a manner consistent with the appropriate mode of communication and primary language used by the prospective or current worker or that person's legal representative.

Subp. 24. **Informed consent.** "Informed consent" means the written agreement with the worker's extended employment support plan, or an agreement as documented in the worker's case file, by a legally competent worker or a worker's legal representative who is making decisions voluntarily and without coercion, and has knowledge to make informed choices.

Subp. 25. **Integrated setting.** "Integrated setting," with respect to an employment outcome, means a setting typically found in the community in which an individual with the most severe disabilities interacts with nondisabled individuals, other than nondisabled individuals who are providing services to that individual, to the same extent that nondisabled individuals in comparable positions interact with other persons.

Subp. 26. **Interdisciplinary team.** "Interdisciplinary team" means the worker, the worker's legal representative, service professionals, and other individuals chosen by the worker or the worker's legal representative to develop, implement, and assess the worker's extended employment support plan.

Subp. 27. **Legal representative.** "Legal representative" means an individual who is legally authorized to make informed choices on a worker's behalf. A legal representative may be one of the following individuals: the parent of a minor who has not been emancipated; a court-appointed guardian or conservator of a worker who is 18 years of age or older, in areas where legally authorized to make decisions; a guardian ad litem or special guardian or conservator, in areas where legally authorized to make decisions; legal counsel if so specified by the worker; or other legally authorized individual.

Subp. 28. **Natural supports.** "Natural supports" means ongoing employment support services provided under an extended employment support plan by individuals who are agents of the worker's employer. Community employment or supported employment using a natural supports approach is the process of a provider helping an employer to expand its capacity for training, supervising, and supporting one or more workers with the most severe disabilities. This definition involves the direct hire of a worker in an individual job, the location of which is not isolated by disability.

Subp. 29. **New program.** "New program" means an extended employment provider funded by the department under part 3300.2030 that meets the certification requirements in part 3300.2010 and that was not funded in the previous state fiscal year.

Subp. 30. **Nonexempt.** "Nonexempt" means subject to the provisions of the Fair Labor Standards Act as set forth in United States Code, title 29, as amended.

Subp. 31. **Ongoing employment support services.** "Ongoing employment support services" means any of the following services identified in the worker's extended

employment support plan as related to a worker's limitations in functional areas as defined in subpart 20 and that are necessary to maintain or advance the worker's employment:

- A. facilitation of natural supports at the work site;
- B. rehabilitation technology, job redesign, or environmental adaptations;
- C. disability awareness training for the worker, or the worker's employer, supervisor, or coworkers, and other services to increase the worker's inclusion at the worksite;
- D. job skill training at the work site;
- E. regular observation or supervision of the worker;
- F. behavior management;
- G. coordination of support services;
- H. job-related safety training;
- I. job-related self-advocacy skills training to advance employment;
- J. training in independent living skills, such as: money management, grooming and personal care, social skills, orientation and mobility, and using public transportation or drivers' training;
- K. communication skills training such as sign language training, Braille, speech reading, and the use of communication devices or other adaptive methods for the worker, or the worker's employer, supervisor, or coworkers;
- L. follow-up services such as regular contact with the worker's employer, supervisor, or coworkers; the worker's parents, family members, advocates, or legal representatives of the worker; and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;
- M. training in job seeking skills;
- N. career planning, job development, or job placement to advance in employment;
- O. transitional employment services; and
- P. any other service that is similar to the services in items A to O, that is identified in the worker's extended employment support plan, and that is needed to maintain or advance the employment of a worker in the extended employment program.

Subp. 32. **Paid work.** "Paid work" means employment of the person served that results in the production of products or provision of services.

Subp. 32a. **Primary language.** "Primary language," with reference to an individual with limited English proficiency, means the language normally used by that individual.

Subp. 33. **Qualified health care professional.** "Qualified health care professional" means a professional holding licensure to diagnose one or more of the disabilities identified in subpart 22.

Subp. 34. **Rehabilitation facility or facility.** "Rehabilitation facility" or "facility" means an entity as defined in Minnesota Statutes, section 268A.01, subdivision 6, including an entity that meets the definition of community rehabilitation program under the federal Rehabilitation Act, but that has not been certified under part 3300.2010 as an extended employment provider.

Subp. 35. **Supported employment.** "Supported employment" means competitive employment in an integrated setting with ongoing support services for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and who, because of the nature and severity of their disabilities, need intensive ongoing employment support services from the designated state unit and extended services after transition in order to perform this work; or transitional employment for individuals with the most severe disabilities due to mental illness.

Subp. 36. **Transitional employment.** "Transitional employment" means a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

Subp. 37. **Work hours.** "Work hours" means the hours for which a worker performs paid work, including hours of paid holidays, paid sick, paid vacation, and other paid leaves. A work hour is the basic funding unit for allocating extended employment program funds.

Subp. 38. **Worker appeal.** "Worker appeal" means an independent due process procedure available to a current or prospective worker or a worker's legal representative through federal or state statutes, case law, or rules.

Statutory Authority: *MS s 268.021; 268.0122; 268A.03; 268A.15*

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