

Re: Executive Order 13777, "Enforcing the Regulatory Reform Agenda"

The Association for Vision Rehabilitation and Employment, Inc. (AVRE) is a private non-profit organization headquartered in Binghamton, NY. AVRE provides vision rehabilitation services to people who are blind or visually impaired in nine New York counties. AVRE also operates a business division and employs, in total, 75 people across four locations, 45 of whom are blind or visually impaired.

As AVRE's Chief Operating Officer, I am presenting our organization's concerns about the 2016 amendments to the Workforce Innovation Opportunity Act (WIOA, 2014) and the resulting negative impact on agencies like ours. We have two concerns. First, the addition, definition, and implementation of the term "competitive integrated employment." Second, eliminating reimbursement for vocational rehab (VR) service provision for homemakers or unpaid family workers.

In the 2014 version, "gainful employment" was an acceptable, reimbursable outcome for VR Service programs. The 2016 amendment replaced this term with "competitive integrated employment" which encompasses "economic self-sufficiency" as an additional outcome. Employment with AVRE easily met the "gainful employment" outcome. Meeting the requirements for "competitive integrated employment" is more difficult. One of the criteria states that the disabled employee's interaction with non-disabled co-workers must be to the same extent that employees without disabilities in similar positions interact with these same persons. Why, then, aren't other federal work programs required to place people in work settings that are mandated to include people who are blind or otherwise disabled? Also, being classified as "non-integrated" should not preclude a position from being competitive.

AVRE is affiliated with National Industries for the Blind (NIB) and its business division functions under the AbilityOne Program (Javits, Wagner, O'Day Act ((JWOD)), 1938). The 1938 JWOD legislation was passed to give blind industries preference in the federal procurement market. A requirement for this preferred status mandates that 75% of the direct labor force must be legally blind. The imposed definition of the "competitive integrated employment" outcome is in direct conflict with the JWOD legislation.

Even if a person who is blind chooses to work at an AbilityOne agency, the agency will not be reimbursed for a successful employment outcome. In fact, if the consumer chooses to work for AVRE, the state oversight agency can refuse to reimburse for any vision rehabilitation services, including independent living skills and safe travel training. In other words, you can take a part-time minimum wage job at McDonald's and we will teach you how to get there safely. If you take a full-time job with benefits at AVRE, we won't.

There are two possible resolutions to the conflict. Either the 75% ratio needs to be modified by Congress or jobs with AbilityOne agencies must be eligible to be considered "competitive integrated employment." AVRE employs people who are blind or visually impaired at all levels of the organization. AVRE's President/CEO, Ken Fernald, is blind. His tenure with the agency began in the manufacturing division over 25 years ago. Direct labor employees are frequently promoted into non-direct labor positions, including production management, accounting, and sales. Every employee makes above New York State's minimum wage (which is higher than the federal minimum wage) and is eligible for the same benefits package as the CEO. NIB offers ongoing opportunities for professional development across all aspects of the business.

The reality is that people who are blind or have other significant disabilities face challenges in the job market – 70% of working age adults in this population are not working. The AbilityOne Program provides opportunities for good paying jobs with upward mobility, as well as providing the federal customer with quality products and services at competitive prices. The AbilityOne Program helps people who are blind become tax-paying citizens who are more engaged in their communities. The interpretation of "competitive integrated employment" must be modified or thousands of AbilityOne jobs are at risk.

Furthermore, the amended definition of "competitive integrated employment" eliminates all uncompensated outcomes from services considered reimbursable by the state oversight agency. Traditionally, the "homemaker or unpaid family worker" outcome was used to help transition working age adults to a level of independence that was conducive to entering the job market. Often times, these individuals lost their vision as adults and were suddenly forced to deal with the physical and emotional challenges inherent to vision loss. For many, the last thing on their mind was whether or not they will work again. Most were just concerned with how they're going to live day to day. The "homemaker" outcome allows VR professional staff to provide the daily living and travel skills necessary to maintain independence and the confidence to contemplate returning to the workforce.

One particular AVRE employee took advantage of the "homemaker" outcome and admits she would not have returned to work without it. The mother of three lost her vision in her thirties. Her youngest child has special needs of his own. Her primary fear was that she would not be able to care for her family. She was not thinking about work outside of the home. With time, and training, she learned the skills she needed to travel safely in her community and maintain her household. These skills built her confidence level to a point where she was excited about looking for a job and returning to work. She was referred to AVRE by the NYS Commission for the Blind – the same agency that referred her to AVRE for vision rehab services. She has been a valued asset to AVRE ever since.

Without the “homemaker and unpaid family worker” outcome, working age adults who become blind will not have the opportunity to receive vision rehab services until they are ready to return to work. Until they learn, as someone who is blind, how to live independently, how will they know if they’re ready to return to work?

The amended recommendations suggest that people who choose the “homemaker or unpaid family worker” outcome should be referred to independent living centers or to “public and private agencies better suited to meet their needs.” Independent living centers try to cater to a wide variety of disabilities and their services are much needed. However, what agency is better suited to meet the needs of people who are blind or visually impaired than an agency that employs professional staff with advanced, specialized degrees in vision rehabilitation?

AVRE recommends that the “homemaker and unpaid family worker” outcomes be reinstated as reimbursable outcomes.

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