

## **SEMP Redesign Amendments to 14 NYCRR Subparts 635-10, 635-12 & 635-99**

### **Summary of Proposed Regulations**

The proposed amendments make changes to regulations in 14 NYCRR subparts 635-10 and 635-12 concerning supported employment services (SEMP) and liability for services.

The proposed amendments redesign the existing SEMR service delivery model. The amendments limit applicability of existing SEMR regulations to SEMR provided before July 1, 2015, and add new regulations on the delivery and reimbursement of Intensive and Extended SEMR delivered on and after July 1, 2015. The amendments also make changes to requirements on liability of services related to individuals applying for SEMR.

#### Delivery of SEMR:

New requirements for the delivery of SEMR include the following:

- The amendments specify various allowable activities for SEMR that may be provided to and/or on behalf of an individual.
- The amendments identify two phases for the delivery of SEMR: Intensive SEMR and Extended SEMR.
- Intensive SEMR services include job development and/or intensive job coaching and may be provided as:
  - Intensive - 1, which is Intensive SEMR provided to one individual; or
  - Intensive - 2, which is Intensive SEMR provided to a group of 2-8 individuals.
- Extended SEMR services include ongoing job coaching and career development services provided to individuals who may have received up to 365 days of intensive supported employment services and who are currently employed. Extended SEMR may be provided as:
  - Extended - 1, which is Extended SEMR provided to one individual; or

- Extended - 2, which is Extended SEMP provided to a group of 2-8 individuals.
- The amendments also include provisions for SEMP services and supports to assist an individual to achieve self-employment, including home-based self-employment. Wages earned in self-employment may be below the New York State minimum wage.
- Intensive and Extended SEMP may be provided as self-directed services to an individual who hires his or her own SEMP support staff.
- The amendments include qualifications for staff providing SEMP services and a definition of competitive integrated employment to the glossary found in section 635-99.1.

### Reimbursement of SEMP

New provisions for the reimbursement of SEMP include the following:

- Reimbursement is not permitted for delivery of Intensive and Extended SEMP on the same date of service.
- The amendments require OPWDD approval for enrollment into Intensive and Extensive SEMP on and after July 1, 2015 and add eligibility criteria for enrollment into the service. Prior OPWDD approval is not required for individuals who were enrolled in SEMP prior to July 1, 2015 and who remained continuously enrolled on and after July 1, 2015.
- The amendments limit hours of service for Intensive SEMP to no more than 250 hours across 365 days, unless OPWDD authorizes an extension. The amendments limit hours of service for Extended SEMP to no more than 200 hours of service across a 365 day time period, unless OPWDD authorizes an extension. Extensions must have prior authorization from OPWDD. OPWDD's decision will be based on specified criteria.
- An individual may move between individual and group employment as needed in Intensive and Extended SEMP.
- The unit of service for Intensive and Extended SEMP is one hour, which equals 60 minutes, and is reimbursed in 15-minute increments.
- Individuals in the Intensive phase of SEMP are not eligible to receive the Pathway to Employment service.

- The amendments address documentation requirements for development of a service delivery plan, documentation of service delivery and documentation of the service in the individual's ISP. The amendments require providers to identify the unit of service change for SEMP in the ISP within a specified timeframe.
- The amendments require the service provider to maintain documentation that there is no SEMP funding available to the individual from ACCESS-VR (Adult Career and Continuing Education Services-Vocational Rehabilitation).

### Liability for Services

Changes to existing liability for services regulations include the following:

- Existing regulations permit a limited exception to liability for services regulations described in section 635-12.12 for individuals applying for SEMP, who meet specified criteria. The proposed amendments prohibit the limited exception for individuals who enroll in SEMP on and after July 1, 2015.
- The proposed regulations permit the limited exception for individuals who were enrolled in SEMP prior to July 1, 2015, and who were continuously enrolled in SEMP with the same provider on and after July 1, 2015. The regulations also permit the limited exception in other specified circumstances.
- The proposed amendments add new notice requirements concerning the changes in criteria for qualification of the limited exception and situations when individuals enrolled in SEMP prior to July 1, 2015 switch service providers on and after July 1, 2015. Notification must be provided within the specified timeframes.