# PART C, CHAPTER 5.2.e: EMPLOYMENT SUPPORTS FOR BRAIN INJURY

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| **Policy Number** | **Authority** | **Scope** | **Effective Date** |
| Part C, Chapter 5.2.e | 34 CFR [§361.5(c)(39)](https://www.ecfr.gov/current/title-34/part-361#p-361.5(c)(39)), [§361.48(b)(5)](https://www.ecfr.gov/current/title-34/part-361#p-361.48(b)(5)), and TWC Rule [§856.43](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=20&ch=856&rl=43) | All TWC-VR staff | 9/3/2024 |

## PURPOSE

In accordance with the authority (Federal and State) listed above, this policy is issued by the Texas Workforce Commission Vocational Rehabilitation Division (TWC-VR). Adherence to these rules and regulations issued under the Rehabilitation Act of 1973, as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), supports Texans with disabilities in gaining, maintaining, and advancing in competitive integrated employment (CIE).

Specifically, the purpose of this policy and these procedures is to ensure adherence to the provision of employment supports for customers with brain injuries, to ensure they receive the specialized services required.

## DEFINITIONS

Best Value Purchasing: Purchasing the least expensive services that meet the customer's vocational needs; also known as the acquisition cost. Determining the acquisition cost ensures staff consider all factors that influence the total cost and value to both the customer and TWC-VR.

Informed Choice: The means by which a customer chooses their rehabilitation path, from options based on their needs and circumstances and the TWC-VR rules, as it relates to choosing employment supports.

## POLICY

### General Overview

Employment Supports for Brain Injury (ESBI) services benefit individuals with acquired brain injuries by encouraging the development of community-based Interdisciplinary Teams (IDTs) throughout Texas. The purpose of this program is to enhance employment outcomes for individuals with brain injuries.

ESBI services are provided to integrate the therapy and employment preparation and placement of TWC-VR customers experiencing persistent functional limitations resulting from an acquired brain injury. Services involve the coordination of therapeutic and employment services to assist customers in obtaining and maintaining a CIE outcome.

ESBI services assist customers in gaining functional skills and cognitive abilities in either a nonresidential or residential setting. Customers often progress to outpatient and community services post-ESBI and TWC-VR services to manage disability long-term while engaged in CIE.

A customer needing ESBI services requires an IDT approach to develop a treatment plan and service delivery. The IDT's therapeutic and employment services work together to assist the customer in achieving CIE.

### Standards for Providers (SFP)

The SFP manual focuses on the business practices, processes, and policies that TWC-VR and the contracted provider must follow. This VRSM chapter includes services that are provided by a contractor. For additional information regarding contractor responsibilities, service descriptions and costs, please refer to the SFP Chapter 21: Employment Supports for Brain Injury.

### Additional Policy Considerations

* Comparable Services and Benefits: TWC-VR must not expend funds on ESBI services unless the VR counselor and the customer have made maximum efforts to secure comparable services and benefits from other sources to pay for services.
* Customer Participation in the Cost of Services: A customer's eligibility for TWC-VR services does not depend on the customer's income or liquid assets; however, if the customer's net income or liquid assets exceed the Basic Living Requirements (BLR), the customer must participate in the cost of services unless an exception is granted.
* Recipients of Social Security Disability Benefits: Recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), due to the customer’s disability, are exempt from the requirement to participate in the cost of TWC-VR services regardless of income.
* Exceptions to Policy: When necessary to meet the VR needs of a customer, TWC-VR staff members may request exceptions to policies and procedures through their chain of management up to the Deputy Division Director of Field Services Delivery, or designee. However, exceptions to policies and procedures based on Federal and State laws, statutes, and rules or regulations are not allowable.

## PROCEDURES

### Consultation for ESBI Services

For TWC-VR customers who have a brain injury, the VR Counselor should consult with the State Office Program Specialist for Brain and Spinal Cord Injury and when indicated the Specialized Medical Consultant (State Physical Medicine and Rehabilitation [PM&R] consultant or State Neuropsychological consultant.

### Assessing and Planning for Services

The VR Counselor must collect and review the information from the consultations and medical records and determine if the customer would benefit from ESBI residential, ESBI non-residential, or general TWC-VR services. While completing the independent assessment in collaboration with the customer, the VR Counselor must determine the ESBI provider, establish the Individualized Plan for Employment (IPE), and arrange the initial assessments to determine the scope of ESBI services.

Residential and non-residential ESBI services will only be authorized when medically prescribed.

The customer must have a confirmed and a documented place to live after discharge. Documentation in the case file must confirm that—

* The customer can learn and transfer skills back into a local community employment setting; or
* The IDT has a plan in place for transferring strategies to the customer's local employment environment upon discharge.

If residential evaluation services are indicated by existing evaluations and assessments, the VR Counselor must coordinate with the designated Medical Services Coordinator (MSC) and a contracted ESBI residential provider of the customer's choice to schedule admission for planning and evaluation. Otherwise, the VR Counselor must work with a contracted ESBI nonresidential provider to refer the customer for the Initial Assessment and Evaluation Plan (IAEP). The IAEP includes a review of existing recent occupational therapy, physical therapy, speech therapy, and/or cognitive evaluations in relation to any existing work experience evaluations, vocational evaluations, and/or environmental work assessments. Necessary assessments are conducted as part of the evaluation plan authorized by the VR Counselor with input from the ESBI IDT. The IDT's IAEP includes short- and long-term goals, treatment recommendations, and an expected time frame for necessary therapeutic services.

To assist the VR Counselor with decisions regarding the customer's progress toward a successful outcome, the evaluations and recommendations of the IDT may be reviewed by the State Office Program Specialist for Brain and Spinal Cord Injury and/or the Specialized Medical Consultant before the Interdisciplinary Program Plan (IPP) and the IPE are completed.

When sending a customer for an IDT IAEP, the VR Counselor must send a courtesy case file to the MSC, along with a completed *Referral for Provider Services (VR5000)*, to coordinate purchasing for the case and include use of any comparable benefits.

The VR Counselor must use best value purchasing and documentation that all comparable benefits were explored before writing the IPE. Coordination with the MSC must include the investigation and application of available benefits for the customer.

Customers who are assessed to have aggressive or dangerous behaviors to themselves or others that cannot be regulated with medication will be considered not ready to benefit from ESBI services until the behavior issues are resolved. The VR counselor will work with the provider to discharge the customer to a safe environment. The IDT must have a plan for a customer's behavioral issues as part of the IPP and consider whether the customer is able to benefit from other services being provided. If the IDT determines the customer is not likely to benefit from other services, the customer is discharged until stabilization is achieved. The physician and the IDT must monitor chemical restraint programs closely for desired responses and adverse consequences.

If services from a residential ESBI provider are required, the VR Counselor can add a maximum of 120 days but only if the documented criteria are met and intermediary goals are set for measurable and observable progress toward the employment goal. The VR Counselor must document, and review progress every 30 days for continued TWC-VR support. Customers who do not demonstrate progress toward intermediary goals may be discharged, and alternative interventions may be considered to meet customer goals. Managerial oversight must not cause breaks in service for customers who demonstrate progress toward goal achievement. The VR Counselor and VR Supervisor, when necessary, must make decisions in a timely fashion in accordance with the IPP.

The VR Counselor must review and amend the IPE when significant changes are identified in the IPP or when additional services are approved.

### Determining the Need for ESBI

The VR Counselor and customer may determine ESBI services are necessary when they—

* Have reviewed the results of the neuropsychological evaluation, including the recommendations that ESBI would be a beneficial service to the customer; and
* Determine that ESBI will assist the customer in understanding their disability and the coping strategies necessary to obtain or maintain substantial employment.

### Coordination of ESBI

When referring a customer to ESBI, the VR Counselor receives unit-purchasing-specialist (UPS) assistance by sending a consultation packet to the MSC. The MSC must coordinate—

* The evaluation of purchasing and billing from the ESBI providers; and
* Contracted ESBI nonresidential services or contracted ESBI residential services.

The MSC must issue all service authorizations (SA) for all contracted ESBI therapeutic residential and nonresidential services, and the UPS must coordinate ESBI-related employment SAs in a residential or nonresidential setting.

Upon receiving a consultation packet and after coordination with the UPS, the MSC must—

* Review referral information and discuss with the VR Counselor any problems encountered, additional medical information needed, or related medical questions;
* Confirm the availability of comparable services and benefits;
* Inform the VR Counselor of the estimated costs for medical services before encumbering funds;
* Discuss with the provider or the provider's staff members the payment allowances for related medical services;
* Coordinate ESBI services;
* Issue ESBI SAs, except for those covered by the employment services contract;
* Communicate with the customer, the VR Counselor, and providers about ongoing services;
* Notify the VR Counselor, service provider, and the customer, if necessary, about the date, time, and location of scheduled services;
* Provide the VR Counselor with documentation of significant events in the medical services process;
* Request approval from the VR Counselor to process claims for payment after deducting other payments;
* Process documents on encumbrances for medical services;
* Maintain effective working relationships with ESBI program staff members and the medical community; and
* Serve as a resource to ESBI program staff members in field offices when coordinating medical services for the customer.

The MSC or the Medical Services Technician (MST) must issue all SAs for contracted ESBI services provided in a residential or nonresidential setting. The UPS or designated staff must coordinate the SAs for all ESBI employment services.

The MSC must coordinate contracted nonresidential or residential ESBI services for eligible VR customers. The MSC or MST must contact the ESBI provider to—

* Verify receipt of required physician orders for nonresidential or residential services and verify the provider has completed an assessment confirming the customer is appropriate for provider services;
* Verify comparable benefits, if applicable, with the ESBI provider representative to include the specific benefit coverage for ESBI services and the expected customer portion of the cost, and document the information and its source in a case note;
* Verify ESBI services were approved;
* Place documentation of approval in the case file if the comparable benefit requires preauthorization for ESBI services; and
* Review TWC-VR payment policies and limitations and determine whether the customer's medical records must be faxed or mailed to the provider, and if prescriptions must be updated.

The MSC Creates Service Records: Residential ESBI services are paid using a daily contract rate. Nonresidential ESBI services are paid using an hourly rate. The MSC must refer to the tiered contract rate for the payment rate and create service records for all anticipated services, including the following:

* ESBI facility base services (per standards);
* Physician consultations (using MAPS) (routine medical management is included in the daily contract rate);
* Medications (at cost if purchased from an outside pharmacy; prescription is required);
* Individual therapies at an ESBI facility based on the tiered rates; and
* Neuropsychological evaluation (using MAPS).

If the facility is also a hospital and has a pharmacy, medications should be purchased through the hospital contract rate.

When the Customer Has Verified Comparable Benefits: When the customer has comparable benefits that have been verified, the MSC must create service records using the customer portion not covered by the comparable benefit as the cost for the service. The customer's portion must not exceed the ESBI standards rate or the MAPS rate for the ancillary service, whichever is applicable.

If the customer's comparable benefits have not been verified, the MSC must create service records as if the customer does not have any comparable benefits by following the steps below.

1. The MSC must document the estimated cost in ReHabWorks (RHW) and contact the VR Counselor to—
   * Provide an estimate of the total cost for requested service(s) and anticipated ancillary services; and
   * Notify the VR Counselor to request the availability of funds from the caseload budget.
2. The MSC must contact an ESBI facility representative to—
   * Obtain the admission or start date and advise the ESBI facility representative the SA will be sent (services cannot begin until the provider receives the SA); and
   * Obtain preadmission instructions for the customer.
3. The MSC must then document the contact in a case note.
4. The MSC must issue SAs and sends a copy to the ESBI facility and ancillary medical service providers. The MSC and UPS must continue to collaborate on other ancillary service requests. The UPS must coordinate any nonmedical purchases necessary for the employment goals of the customer. The MSC must—
   * Review the service records to confirm the information is correct and ensure accurate SAs will be generated;
   * Issue SAs for planned service and all anticipated ancillary services. If comparable benefits are verified, the MSC must note the specific comparable benefit in the Payment or Special Instructions section of the SA and request a copy of the Explanation of Benefits (EOB) with the invoice for payment. If comparable benefit coverage cannot be established before issuing the SA, the MSC must note the reported comparable benefit in the Payment or Special Instructions section of the SA and alert the provider of possible benefit coverage;
   * Ensure the required approvals are documented in RHW before issuing an SA;
   * Issue an SA for an initial period of 120 days and extend ESBI services in 30-day increments (or shorter increments if fewer than 30 days are needed to complete the program) when VR Manager approval is documented and an updated IPP is received; and
   * Fax, e-mail, or mail the SAs to the ESBI facility and ancillary service providers, as applicable.

Given the length of the program, SAs have multiple line items corresponding to a facility's billing cycle and interim invoice.

1. The VR Counselor or Rehabilitation Assistant must contact the customer to coordinate the admission or start date of ESBI services by—
   * Requesting the customer and/or family schedule the admission or start date and notify the MSC;
   * Verifying whether the customer has received special instructions from the ESBI facility;
   * Notifying the VR Counselor of the customer's ESBI admission or start date and of any special instructions from the ESBI provider;
   * Sending a letter to the customer and/or family (if needed) with the facility admission or start date and including any additional instructions; and
   * Documenting the information in a case note.
2. The MSC must contact the ESBI provider facility representative—
   * Within two days after the scheduled admission or start date to confirm the customer started services;
   * To ensure the ESBI provider representative knows to contact the MSC and the VR Counselor if the customer misses more than one day of ESBI services;
   * To follow up with the ESBI provider to ensure the treatment plan and monthly staffing progress reports are delivered simultaneously to the VR Counselor and the MSC; and
   * Before the date of expected discharge, to identify medical needs for the customer, including supplies, durable medical equipment, and medication for the first two weeks if the customer is in a residential ESBI setting.
3. The MSC must contact the VR Counselor to—
   * Notify them when the customer is discharged and of any medical needs the MSC will coordinate (the MSC obtains approval for encumbrances and documents the approval in a case note);
   * Forward any medical records received;
   * Notify, if applicable, when the case will be returned to the home MSC; and
   * Discuss any additional case coordination needs.

Duration of Employment Supports for Brain Injury Services: ESBI services are not limited by time elapsed since the traumatic brain injury was acquired.

Purchasing Employment Supports for Brain Injury Services: Residential ESBI services may be provided for 120 days. Nonresidential services are provided in an outpatient setting with total therapeutic hours not to exceed 20 hours per week over a 12-week period unless approved by the VR Counselor specifically on the IPE and IPP. If additional services are needed, the VR Counselor must amend the IPE.

### Referral and Service Provision

When the VR Counselor and customer agree to the receipt of ESBI services, it must be included in the IPE.

The VR Counselor must—

* Obtain prescriptions for recommended ESBI services;
* Complete the *VR5000;*
* Provide documentation (only when relevant), such as case notes; psychological, vocational, or medical evaluations case notes, vocational testing, housing, and/or employment data collected by TWC-VR that prepares the provider to more effectively work with the customer;
* Determine whether residential or non-residential will be provided;
* Include in the IPE for both residential and non-residential the following IAEPs:
  + Facilitation;
  + Coordination of Initial Evaluation and Associated Report;
  + Coordination of Initial IPP and Associated Reports
  + Coordination of Monthly IPP Reviews and Associated Reports;
  + Coordination of Discharge Summary and Associated Reports;
  + The evaluation services identified in the IEAP;
  + The therapeutic services in the IAP, including premiums;
  + Prescribed goods and services such as DME and assistive technology
  + The employment services provider for attendance to all IAEP and IPP meetings;
* Attend all IAEP, IPP, and IDT meetings;
* Document the following in ReHabWorks (RHW):
  + Progress toward rehabilitation goals;
  + Progress toward employment goals; and
  + Any VR Counselor–approved modifications to the IPP; and
* Obtain a copy of the monthly IDT meeting report and file it in the customer's case file;
* Collect all required prescriptions for therapeutic services;
* Monitor the customer’s progress;
* Provide any needed instruction or intervention necessary to foster the customer's success;
* Review and approve required documentation completed by the contractor, ensuring that all outcomes required for payment are achieved and that the staff qualifications were held by the individual providing the service to the customer; and
* Ensure that the invoice is paid.

The contractor must—

* Document accurate and descriptive content associated with the therapeutic staff or employment service providers’ evaluation, assessment or on service delivery documents including—
  + A copy of the customer's weekly activity schedule;
  + A weekly time log recording all billable time for evaluations completed by the licensed and/or certified professional;
  + All evaluations and assessments identified in the IAEP and service authorizations
  + Attendance and status of any employment services provided, as identified in the IAEP and submit invoice for attendance;
  + The updated IAEP summary, which records the results of completed assessments and evaluations and must include—
    - The assessments, evaluation, and therapy results, which must contain—
      * The customer's abilities, deficits, and potential to obtain and maintain CIE;
      * The customer's potential to secure, retain, and advance in employment;
      * The customer's employment goal(s), transferable skills, and employment barriers;
      * Recommendations for the licensed and/or certified professional therapy service and/or employment services to be provided; and
      * The customer's measurable goals.
    - Assessments, evaluations, and therapy services, which are paid based on—
      * The approved time listed in the IAEP;
      * The time recorded on the customer's weekly time log; and
      * The time recorded on the assessment and/or evaluation reports and therapy reports.

### Customer’s Satisfaction

The customer's satisfaction and service delivery are verified by the VR Counselor or by a TWC-VR staff member’s contact with the customer, documented in a case note.

### ESBI Payment

Payment for ESBI services is made to the contractor when the VR Counselor approves a complete, accurate, signed, and dated—

* For Evaluations and every 30-day reporting period—
  + IAEP;
  + IPP;
  + Progress Reports;
  + Weekly Activity Schedules;
  + Weekly Time Log; and
  + The invoice.

The time used to attend the IPP meeting and update the IPP is not billable.

## APPROVALS & CONSULTATIONS

TWC-VR staff must follow the following approvals and consultations:

*Approvals*

* *VR Manager approval is required when residential ESBI services exceed 120 days and is limited to 30-day increments, based on progress toward IPP and IPE goals.*
* *VR Supervisor approval is required when nonresidential ESBI services exceed 12 weeks and is limited to 30-day increments.*

*Consultations*

* *MSC consultation is required to arrange services in a hospital, ambulatory surgical center, brain injury facility, or medical school.*

## REVIEW

The Policy Planning and Statewide Initiatives Team, or designee, is responsible for reviewing this policy and these procedures and will update the Document History log if necessary.

| Date | Type | Change Description |
| --- | --- | --- |
| 9/3/2024 | New | VRSM Policy and Procedure Rewrite |