

1 **Communication Access for Vocational Rehabilitation Customers**
2 **Discussion Paper**
3

4 **Background**

5 The Texas Workforce Commission (TWC) Vocational Rehabilitation (VR) Division currently pays
6 a no-show and/or cancellation fee when a customer misses an appointment or does not provide
7 sufficient notice for cancellation of a VR-sponsored appointment for which communication access
8 services are necessary. Communication access services include the following:

- 9
- 10 • Communication Access Realtime Translation (CART) captioning
 - 11 • Sign language interpreters who may translate from American Sign Language, Spanish sign
12 language, spoken English, spoken Spanish, minimal gestural language, or a combination
thereof

13 The provision of communication access to VR customers is required under 34 CFR §361.45(c),
14 which states that “the designated state unit must provide all required information in the native
15 language or mode of communication of the individual or the individual’s representative.”

16 The original intent of no-show and cancellation fees was to defray the cost to providers for lost
17 income and to ensure a sufficient provider base. No-show fees have been charged when interpreters
18 are scheduled, but the VR customer fails to attend the appointment. Late cancellation fees are
19 charged when scheduled interpreter services are cancelled less than 48 business hours prior to the
20 scheduled service.

21 Previously, the Rehabilitation Services Administration (RSA) clarified that no-show fees are an
22 “improper payment” per 2 CFR §200.53(b) and not an allowable use of VR funds. An improper
23 payment is “any payment for a good or service not received.” One option suggested to states was to
24 consider an increase in fees to offset the business impact to communication access agencies.

25 As a result, on December 17, 2019 the Commission considered a discussion paper regarding
26 proposed revised rates for interpreting and CART services. The Commission directed staff to notify
27 communication access providers of the proposed rates and any associated procedural guidance, and
28 to review feedback received on the proposed rates and subsequently bring back the feedback
29 received and proposed rates in February 2020 for formal adoption. However, later that same day,
30 after the Commission had approved the discussion paper referenced above, RSA issued guidance
31 indicating that cancellation fee payments could be made under certain circumstances and would
32 allow VR to pay these fees to communication access providers.

33 **Issue**

34 While the Commission approved sharing the proposed rates with communication access providers,
35 given the RSA guidance issued on December 17, 2019, staff did not proceed with sharing the

1 proposed rates as directed. In the interim, VR has continued to operate following the rates that have
2 been in place prior to the Commission action on the proposed rate changes.

3 VR has historically used the definitions, rates, and guidelines under the Texas Health and Human
4 Services (HHS) Communication Services for State Agencies (CSSA). The CSSA guidelines include
5 payment of 100 percent of scheduled services for cancellation of services made within less than 48
6 hours of the scheduled services, including when a customer fails to appear for an appointment
7 without notice, otherwise known as a “no-show.” The CSSA rates have not been updated in several
8 years, however the process for reviewing these rates is underway and might result in changes to the
9 CSSA rates and guidelines.

10 **Decision Points**

11 Staff seeks direction on the following items:

- 12 • Continuation of the VR rates for interpreting and CART services that were in place prior to
13 the December 17, 2019 Commission action on proposed rates, and have been in use since
14 that action;
- 15 • Continuation of the use of the CSSA rates, with the understanding that the CSSA rates might
16 be updated in the future; and

17 **Rehabilitation Council of Texas**

18 The Rehabilitation Council of Texas reviewed the proposed rate revisions and agreed with the
19 proposed changes.