

Policy-related | Fiscal | Performance | Q&A | Other

Number: WIN 0023 Change 1

Date: February 3, 2022

Expiration Date: N/A

TO: Workforce Development System Partners

FROM: Gary Kamimura, Policy Manager

SUBJECT: Management of Medical and Disability Related Information

Purpose:

This information notice outlines the requirements related to the WorkSource system's management of medical records and disability-related information on applicants, registrants, eligible applicants or registrants, participants, and terminees. This includes an outline of permissible uses, filing requirements and confidentiality requirements.

Action Required:

Local Workforce Development Boards (LWDBs) and their contractors, as well as Employment Security Regional Directors, must distribute this guidance broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

Content:

LWDBs must ensure that medical and disability-related information is collected and used by WorkSource partners and staff as outlined by federal law and this information notice. The following instructions serve as guidance for LWDBs to use in order to meet the requirements related to the management of medical and disability-related information:

1. Medical and disability-related documents must be secured and maintained in a unique client file. Medical and disability files should be stored as a medical record, and must be separate from all other confidential information (e.g. court documents).
2. Medical and disability-related information contained in case notes, assessment forms, or other documentation in the Management Information System (MIS) must be secured in the client file. This is accomplished by copying the specific sheet of the case note file, assessment form or language in the MIS that contains medical or disability related information, placing it in the medical and disability file, then redacting the medical and disability-related information in the case notes, assessment form or language in the MIS and inserting 'See confidential file'.
3. When the client exits the program, medical and disability-related information must be

The WorkSource System is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance services for limited English proficient individuals are available free of charge.

placed in a sealed envelope marked ‘Medical and Disability Information’ and then must be secured in the client file.

4. Partner staff co-located at a center should place their medical and disability-related information with that of the center or send it to their main office for similar storing. Please note that medical and disability-related information should not be stored in staff desks.
5. To ensure confidentiality, there should be limited access to the medical and disability file. First aid and safety personnel may be informed in case of an emergency. Also, individuals monitoring for compliance with 29 CFR Part 32 and 38 may have access for monitoring purposes.
6. The information that is of value to staff is most often the limitations caused by a customer’s disability or medical condition and the effect on the client’s ability to advance through the program, as opposed to a disability or medical diagnosis. It is possible to record relevant information without documenting actual medical or disability-related information.

Here are examples of information that is not considered medical or disability-related for the purpose of securing and maintaining:

“The client cannot lift more than 20 pounds”; “cannot sit for more than an hour”; “must take frequent breaks or must take breaks at least every hour”; “must be located in a quiet room with few interruptions”; “cannot drive in mornings until 9 a.m.”; “will be unavailable during the next six weeks”; etc.

Here are examples of information that is considered medical/disability information and must be secured:

“The client has a herniated disk”; “stage 2 abdominal cancer”; “crohn’s disease”; “seasonal affective disorder”; “hypertension”; “diabetes”; “a fractured tibia”; “mild depression”; etc.

7. Medical and disability-related information can be acquired during the delivery of case management services but should then be stored securely. This information should be kept confidential and not be shared with employers or those providing labor exchange and/or job matching services. It may be appropriate to discuss a person’s disability or medical condition in limited circumstances at the customer’s request such as with program supervisors or trainers to explain reasonable accommodations, or with first aid and safety personnel, if the customer asks us to because the condition may require emergency treatment.
8. Medical files, whether they exist in electronic form (including email) or hard copy, must be maintained for a period of not less than three years from the close of the applicable program year.

References:

- The Rehabilitation Act of 1973, as amended, promulgated at 29 CFR Part 32.15(d).
- The Washington State Nondiscrimination Plan Element 5.
- The Americans with Disabilities Act, as amended.
- USDOL CRC MS PowerPoint presentation, Disability-Related Information: Asking, Telling, Using and Storing (2007).
- WOIA Section 188
- 20 CFR 38.41 & 38.43
- 29 CFR 32.15

Website:

<https://wpc.wa.gov/policy>

For Technical Assistance Direct Inquiries To:

*State-Level Equal Opportunity Officer
Employment Security Department
PO Box 9046
Olympia, WA 98507-9046
esdgpeo@esd.wa.gov*

Direct Other Inquiries To:

*Employment System Administration and Policy Unit
Employment System Policy and Integrity Division
Employment Security Department
PO Box 9046
Olympia, WA 98507-9046
SystemPolicy@esd.wa.gov*