**Michigan Bureau of Services for Blind Persons**

**Orientation and Mobility Rate Survey**

**Background:**

In the RSA Monitoring Report, it was stated: ”*Through on-site discussions with BSBP management and a review of the agency’s policies, RSA learned that the agency has established a vendor fee schedule in policy identifying the rates of payment for some of its purchased VR services (BSBP-17).*

Per BSBP 2017 RSA Monitoring Report – *RSA discussed with BSBP* ***the need for policies that govern the rates of payment for all of its purchased VR services, in accordance with 34 C.F.R. § 361.50(c)(1). However, BSBP did not provide supporting documentation in addition to the vendor fee schedule (BSBP-17) to identify the methodology for determining rates of payment for purchased VR services, and ensuring those rates are necessary and reasonable consistent with Uniform Guidance.”***

RSA continues to be focused on rates and rate methodology. In the 2019 RSA MTAG (Monitoring Guide), RSA continues to focus on policies and procedures regarding contracting, including determining the rates of the payment, and contract monitoring; vendor contracts. This would embrace fee for service providers that are contracted through a service authorization versus a formal written contract. RSA states three areas related to vendor contracts will be reviewed:

• Determining rates of payment;

• Supporting documentation for payments; and,

• Contract monitoring.

This review area includes identifying the agency’s internal control processes related to determining rates of payment for services and ensuring that both formal contract payments and contracted services via a service authorization **are reasonable**. [Emphasis added].

Michigan Blind (BSBP) has a fee for service framework for the purchase of services for program participants. For O&M, Michigan Blind contracts via a service authorization with independent contractors to provide for O&M services. Michigan Blind recently began a study of rates for various services.

Rates evolved over a number of past Directors of the program and there was never a documented methodology or an evaluation of reasonableness as to the current rates paid many of the providers. The 2 CFR 200 Uniform Guidance refers to:

* Reasonable
* Allowable
* Allocable
* Necessary

See 2 CFR 200.403

**2 CF 200.404 defines reasonableness as: *A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.***

In determining reasonableness of a given cost, consideration must be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the **proper and efficient performance of the Federal award.**

(b) The restraints or requirements imposed by such factors as: sound business practices; arm’s-length bargaining; Federal, state and other laws and regulations; and terms and conditions of the Federal award.

(c) Market prices for comparable goods or services for the geographic area.

(d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal government.

(e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award’s cost.

Although the definition of ***necessary*** is not defined specifically by the regulations, ***necessary*** would imply, in the case of vocational rehabilitation services,that the counselor exercised professional judgement and the consumer exercised informed choice when selecting a fee for service provider and explored comparable benefits, options and available providers; and, documented the necessity of the cost to achievement of a realistic vocational goal supported by labor market information.

**Section 200.405 Allocable costs**.

(a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective **in accordance with relative benefits received**.

**§200.403   Factors affecting allowability of costs.**

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306(b).

(g) Be adequately documented. See also §§200.300 through 200.309 of this part.

(h) Cost must be incurred during the approved budget period. The Federal awarding agency is authorized, at its discretion, to waive prior written approvals to carry forward unobligated balances to subsequent budget periods pursuant to §200.308(e)(3).

**200.459   Professional service costs.**

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-Federal entity, are allowable, subject to paragraphs (b) and (c) of this section when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. In addition, legal and related services are limited under §200.435.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the non-Federal entity's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to Federal awards.

(4) The impact of Federal awards on the non-Federal entity's business (i.e., what new problems have arisen).

(5) Whether the proportion of Federal work to the non-Federal entity's total business is such as to influence the non-Federal entity in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

BSBP has surveyed the following organizations regarding O&M rates.

Survey Results of States:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **RATE** | **Travel Allowance** | **Other** |
| **Non-state entity** | **$100 / hr. – Adults****Provides state services at $90-115 / hr.** |  |  |
| **Mid-west** | **$57 / hr.** |  | **Includes costs for the evaluation, including preparation of the written report****There is a facilities based training fee which includes O&M**  |
| **Southeast** | **$75.84 / hr.** |  |  |
| **West** | **Salaried Staff** |  | **No set fee schedule if do not use staff** |
| **Midwest** | **$65 / hr.**  | **Currently no travel reimbursement** | **Discussing adding additional amount for travel** |
| **Midwest** | **$50-70 per hour (varies by service provider)** | **Mileage at state rate – No travel time unless outside their coverage area** | **Billable time can include documentation. IN says there are only a handful of providers.** |
| **East** | **Up to $75 per hour** | **Policy that allows $75/hr. portal to portal except center based****Must be certified.****Must have liability insurance/** | **Revising to differentiate between a COMS NOMS (with/without Bachelor Degree)** |
| **Midwest** | **$12.80 paid in 6 minute increments or $128 / hr.** |  | **O&M Site Development Flat Fee of $175** |
| **West** | **$65/hr.** |  |  |
| **East** | **$100 - $150 / hr.** | **Policy that allows** | **Report writing is built into hourly rate** |
| **Midwest** | **$75 / hr. COMS** | **Travel is reimbursed at IRS standard mileage rate****Must be vetted****Must carry liability insurance and meet other vendor policies** | **Lower rate if not COMS****Report writing included in hrly rate** |
| **Midwest** | **$75 / hr.** | **$25/hr or IRS mileage rate or actual expense (taxi, Uber, bus,etc.)** | **$85 / hr. for vendors that can provide O&M using ASL, Tactile Sign or other language. Initial assessments and report writing included in rate.** |
| **Southeast** | **$65 / hr.**  |  | **$75 is a maximum rate set by Delegated Authority for Client Services** |
| **West** | **Salaried - $18.16 to $30.42 / hr.** | **Normal starting wage is $22-24 hr.** | **Staff retention is an issue** |
| **East** | **No set rate – Going FMV rate based on geographic region** |  | **Negotiates a contract if O&M staff needed to cover vacancies at rehab center** |
| **Midwest** | **No set rate.****Rates vary from $90/hr. to $100/hr.** | **Travel only paid after first 100 miles round trip / Mileage up to 100 miles is in base rate** |  |

**Statistical Results:**

Median Rate = $75.00 / hour

Average Rate = $81.80 / hour

4 States/organizations > average rate

9 States/organizations < average rate

**Conversion of paid staff to independent contract rate:**

Assumptions (General estimates) :

* Health = $15,000/yr. (assumes not under partner health plan which would negate this cost)
* Retirement = $15,000/yr.
* Licensing = $600/yr.
* Liability insurance = $300/yr.
* Only additional tax burden is 7.65% FICA/Medicare that employer pays
* Does not consider the benefit of deductibility of certain independent contractor costs that employees would be unable to deduct.

Assuming the above assumptions, approximate breakeven for employee versus independent contractor is approximately **$46 / hour for paid staff** versus $75 / hour for independent contractor.

**Conclusion:**

The average rate is skewed by some outliers on both high and low end of the rate survey. Accordingly, Michigan chooses to evaluate the median rate of $75.00 per hour for purposes of determining reasonableness.

Affirming the use of a $75.00 per hour O&M rate is the fact that Intermediate School Districts (ISDs) in Michigan pay $75 per hour for COMS contractors.

An O&M rate of $75.00 per hour is neither the highest nor the lowest rate on a regional basis (Region V) but is competitive.

Michigan Civil Service Blind Rehab. Instructor (BRI) hourly rates are below the $46/hr. equivocation to an independent contractor. However, that fact alone cannot justify BSBP hiring COMS to serve its customers. Michigan BRI’s are VRT plus COMS. BSBP BRIs are more versatile than O&M contractors and perform broader services to support ILOB, VR and Pre-ETS caseloads. Due to caseload volumes and services which support ILOB, VR, and Pre-ETS, BSBP BRIs are unable to devote the blocks of time solely to O&M instruction required for customers to attain a significant level of proficiency outside of the home. Additionally, BSBP’s State appropriation, limits the number of FTEs which prevents hiring BRIs to perform solely as COMS. A BSBP employee-only approach to O&M instruction would also limit geographic coverage. Therefore, BSBP concludes that for purposes of 2 CFR 200.459 (b)(6), it is more efficient and economical to provide O&M services through independent contractors (unless the customer is referred to the BSBP Training Center).

For the above reasons, $75 per hour for O&M instruction through an independent contractor shall be the maximum rate for BSBP service authorizations.