

**FISCAL YEAR 2013  
Technical Assistance Summary Report  
of the  
On-Site Visit to  
Michigan Rehabilitation Services  
and  
Bureau of Services for Blind People**



**U.S. DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND  
REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION**

**JUNE 24, 2013**

## **I. Introduction**

The Rehabilitation Services Administration (RSA) conducted an on-site technical assistance (TA) visit with the two Vocational Rehabilitation (VR) agencies in Michigan, Michigan Rehabilitation Services (MRS) and the Bureau of Services for Blind Persons (BSBP), from May 7-9, 2013, for the purpose of assessing the implementation of the reorganization of the VR, Supported Employment (SE), and Independent Living (IL) programs.

Specifically, the visit addressed the following areas:

- non-delegable duties of the designated State unit (DSU);
- centralization of functions from the DSU to the designated State agency (DSA);
- impact of the reorganization on VR service delivery;
- status of VR agency resources and potential impact on order of selection (OOS); and
- State Rehabilitation Council (SRC) structure, status and placement of SRC staff, and resource plan; and
- BSBP's advisory commission responsibilities and relationship with the SRC.

In preparation for the on-site visit, RSA conducted telephone discussions with representatives of MRS, BSBP, LARA, the Client Assistance Program, the State Rehabilitation Council, and the BSBP Advisory Commission regarding TA areas to be addressed during the onsite. In addition, RSA reviewed relevant documents, including Michigan executive orders related to the reorganization, organizational charts, SRC budget, SF-425 reports, and VR and IL State Plans.

RSA conducted separate meetings with both DSUs and their respective DSAs, as well as one joint session with both DSUs and DSAs on the SRC, which is common to both DSUs. The summary below, therefore, addresses both DSUs.

RSA participants included Sue Rankin-White, State Monitoring and Program Improvement Division, and Craig McManus, Fiscal Unit.

The TA summary includes relevant background information; a description of the on-site activities; a description of the TA provided; and next steps.

RSA wishes to express appreciation to the representatives of MRS, DHS, BSBP, LARA, the Client Assistance Program, the SRC, and the BSBP Advisory Commission who assisted RSA during the on-site visit.

## **II. Background**

Effective October 1, 2012, MRS was transferred from the Michigan Department of Licensing and Regulatory Affairs (LARA) to the Department of Human Services (DHS) as the new DSA for the general VR program. In addition, the Michigan Commission for the Blind (MCB), the independent commission for individuals who are blind or visually impaired, was abolished, and BSBP was created as a separate DSU for individuals who are blind and visually impaired within

LARA as the DSA. These changes were authorized by Executive Order 2012-10, dated June 27, 2012.

Executive Order No. 2012-10 also included provisions that:

- abolished the SRC for MRS previously created in Executive Order 2007-48;
- created a new Michigan Council for Rehabilitation within DHS as a single SRC serving both MRS and BSBP to perform the mandated SRC duties consistent with federal requirements in Section 105(c) of the Rehabilitation Act of 1973, as amended (Rehabilitation Act) and regulations at 34 CFR 361.17(h) on behalf of both DSUs; and
- created the Commission for Blind Persons within LARA, as an advisory commission to perform specific advisory responsibilities related to blindness issues outlined in section II.F of the executive order.

Finally, Executive Order 2012-15, dated October 16, 2012 and effective on this date, amended Executive Order 2007-49 with respect to the appointment of ex-officio non-voting members and term limits of the Statewide Independent Living Council (SILC). Additionally, this executive order made technical changes consistent with Executive Order 2012-10, namely replacing references to MCB with BSBP.

Beginning in February 2012, RSA conducted regularly scheduled teleconferences with representatives from MRS, MCB, LARA, DHS, MRS' SRC, SILC, and the Attorney General's Office to discuss plans related to the reorganization and provide TA on issues associated with the reorganization, including the submission of VR and IL State Plan revisions related to the organizational changes, conduct of public meetings, and the transfer of grants. In addition, RSA reviewed multiple draft executive orders and made recommendations for revisions with respect to their compliance with federal requirements.

### **III. On-site Activities**

On-site activities included discussions with the leadership and staff of MRS, DHS, BSBP, and LARA to follow-up on the reorganization and to provide TA. In addition to meeting with staff responsible for program management and financial administration, RSA met, via teleconference, with the director of Client Assistance Program, and the chairpersons of the SRC and BSBP's advisory commission to gather information on the implementation of the DSU transfers and their impact on individuals with disabilities served by the VR, SE and IL programs in both the general and blind VR agencies.

### **IV. Summary of Technical Assistance Provided**

The following section of the report describes the areas addressed with MRS and BSBP, including relevant information provided to RSA, and a description of the TA provided.

## **1. Impact of reorganization on VR service delivery**

### **BSBP**

Discussions during the onsite on the impact of the reorganization on VR service delivery within BSBP addressed the following areas: placement of BSBP within LARA and centralization of functions.

Similar to the former VR agency for the blind and visually impaired that was housed within LARA as the fiduciary, BSBP, the newly created DSU for the blind and visually impaired, is housed within LARA as the DSA. Therefore, there was an existing relationship between staff of the VR agency for the blind and LARA staff, which continued after the reorganization and contributed to the smooth transition following the reorganization. As indicated by BSBP, the transition from an independent commission to a DSU within a DSA did not have a significant impact on the delivery of VR services to eligible individuals who are blind or visually impaired. Similarly, BSBP indicated there have been no further efforts to centralize administrative functions at the DSA level. BSBP indicated that it has made internal changes among its staff to redistribute the workload, especially among central office staff. BSBP did not express any concerns related to service delivery as a result of the reorganization.

**TA Provided:** While BSBP has not encountered significant changes related to service delivery as a result of the reorganization, it does have new staff in key leadership positions. Therefore, RSA provided resources, including information available on its website (<http://rsa.ed.gov/>), and encouraged BSBP staff to continue to orient itself to federal requirements on RSA reports related to VR service delivery, including the RSA-911 and the RSA-2. At the request of LARA, RSA provided TA on high performing blind agencies. We encouraged BSBP to utilize RSA's website to conduct data analyses, including comparative analyses with other similarly situated VR agencies.

### **MRS**

Discussions during the onsite regarding the impact of the reorganization on VR service delivery within MRS addressed the following areas: placement of MRS within DHS; centralization of MRS functions into DHS; consolidation of field offices; non-delegable duties of the DSU; delineation of duties of the DSU and the DSA, particularly as it relates to the implementation of OOS; integration of TANF recipients who are work ready into the VR program; status of MRS resources to serve all eligible individuals; and the potential expanded utilization of the Michigan Career and Technical Institute (MCTI) to serve non-VR recipients, including adjudicated youth and others.

MRS' transfer to DHS, the new DSA for the VR program, on October 1, 2012, marked its second transfer within two years, moving first from the Michigan Department of Energy, Labor and Economic Growth to LARA in April, 2011, as a result of Executive Order 2011-4, and most recently, from LARA to DHS. Due to recent internal reorganization within DHS, MRS has moved within the internal DHS structure. At the time of the onsite, MRS was located within the Policy and Compliance division but indicated that it was moving to the Field Operations division effective April 29, 2013.

DHS leadership indicated that in previous transfers, MRS had never before been fully integrated into a department that could provide support with administrative functions, such as budgeting, reporting, staff development, etc. in the same way that DHS is prepared to do, as well as support its core mission related to service delivery. DHS indicated its intent to integrate MRS into its structure through the following means as it centralizes administrative functions: collaborate with MRS subject-matter experts for fiscal and data reports for the VR program, including the SF-425 and the RSA-2 reports; coordinate with a program point of contact within MRS on grants management; and create a web portal to share grant award information among MRS and DHS staff.

DHS described its efforts to maximize the utilization of office space between DHS and MRS in the following ways: terminate costly MRS occupancy leases; create better alignment between MRS and DHS service areas, which would involve closing MRS field offices in some geographic areas and co-locating MRS staff within DHS regional offices; and operationalize the concept of the virtual or mobile worker by optimizing the utilization of technology. MRS indicated that these changes have created stress among its field staff with respect to being uprooted from former offices and co-located to DHS offices. In addition, MRS indicated that closing offices in some geographic areas to achieve cost savings created problems with respect to the consumers' ability to access services in their local area. MRS expressed concerns associated with these physical changes regarding the need to provide sufficient space for confidential consumer interviews and calls. With regard to operationalizing the virtual or mobile worker, MRS surfaced other issues, including: where MRS VR counselors would meet with consumers; safety and liability issues related to meeting with consumers in their homes; and security issues related to computer and other equipment to be used by mobile workers.

With respect to the integration of service delivery, DHS and MRS indicated the intent to serve individuals in DHS' TANF program who are work ready in the VR program. At the time of the onsite, the details of how MRS and DHS intend to operationalize this process were still being discussed. MRS expressed multiple concerns about integrating TANF recipients into the VR program, some of which include the impact on current and future agency resources; the obligations MRS staff may have related to TANF reporting requirements; and consumer confidentiality issues related to re-release of information between DHS and MRS. DHS and MRS indicated the intent to conduct a small pilot in Lansing with 13 individuals in the TANF program for the primary purpose of process mapping, to include testing how the referral process would work, the suitability of referral forms, etc. Throughout the discussions on integration of service delivery, MRS reiterated the importance of maintaining the core values of its agency culture, including valuing consumers and employers as partners in the rehabilitation process.

Prior to FY 2013, MRS had not established an OOS. However, MRS established an OOS and described key factors in Attachment 4.11(c)(3) of its FY 2013 VR State Plan that it believed would impact its ability to serve all eligible individuals within the fiscal year, including: a reduction in projected funding for the fiscal year; legislative action requiring increased contributions in employee salaries to support retirement costs; anticipated significant decrease in Title I carry forward funds; decrease in state match from local partners due to their own diminished resources; need to pursue state match through additional interagency cash transfer agreements, third-party cooperative arrangements, other sources; decrease in staff positions; and

projected decrease in case service budget of approximately \$2,500,000, estimating that it would serve between one and two thousand fewer customers than those eligible in FY 2013. Despite these projections, at the time of the onsite, MRS had not closed any priority categories within the order. Regarding the TANF referrals, MRS indicated there may be up to 5,500 new TANF referrals, of which 3,000 would come from Detroit and Wayne County. Of those referred, MRS was unsure of the estimated number that may be eligible for the VR program. However, MRS emphasized the fact that staffing levels are the lowest in 15 years with 26 VR counselor vacancies at the time of the onsite. Therefore, the anticipated increase in the number of referrals together with the number of VR counselor vacancies further compromises MRS' ability to serve all eligible individuals. MRS also discussed the potential expanded utilization of MCTI for non-VR recipients, including adjudicated youth in DHS' foster care program.

Throughout the discussions on the centralization of functions within DHS and the integration of service delivery, MRS requested clarification from RSA regarding the delineation of duties between the DSA and the DSU, specifically as it relates to those non-delegable duties of the DSU.

### **TA Provided**

RSA acknowledges the flexibility of the state to centralize common administrative functions within its organizational structure to create efficiencies. The methods described by DHS above by which it intends to centralize functions at the DSA level appear to involve MRS in a meaningful manner in those decisions directly related to the VR program. RSA encourages MRS to identify the points of contact at the DSU level to liaise with DHS in the centralized functions, including budgeting, reporting, staff development, etc. Further, RSA encourages DHS and MRS to develop written guidelines to ensure the appropriate involvement with DHS in these areas.

As MRS staff is co-located within DHS offices, DHS must make arrangements to provide sufficient space for VR counselors to meet privately with VR consumers so as to safeguard the confidentiality of all personal information consistent with state laws and federal regulations (34 CFR 361.38). In addition to in-person meetings with consumers, this would also apply to telephone conversations with consumers during which consumer information is shared. With respect to the mobile VR counselor, it is incumbent on MRS and DHS to develop arrangements within local communities to identify public space suitable for VR counselors to meet privately with consumers to safeguard their confidentiality. For example, if VR counselors meet with consumers at county public libraries, MRS should make arrangements with these entities for its counselors to have access to private space, such as reading rooms, etc. As far as meeting with consumers in their homes, it is our understanding that MRS and DHS will explore the safety and liability issues consistent with state law. In its considerations related to cost savings, DHS should confer closely with MRS to ensure that the VR service needs of individuals in a particular geographic area are not compromised by office closures.

With respect to the integration of TANF recipients into the VR program, RSA encourages DHS and MRS to study various models for integration and consider piloting various models in both rural and urban settings to determine the most effective model. RSA provided resources, including the Twenty-Eighth Institute on Rehabilitation Issues, TANF and Vocational

Rehabilitation: Partnering for Employment Success, issued in May 2003. This resource provides models that have been used in other states for serving TANF recipients in the VR program and can be accessed at the National Clearinghouse of Rehabilitation Training Materials at <https://ncrtm.org>. In addition, RSA indicated that cross-training between MRS and DHS would be beneficial to assist DHS staff in making appropriate referrals to the VR program and to orient MRS staff to the unique characteristics of the TANF population to facilitate service delivery.

As discussed above, MRS indicated that staff vacancies, together with increased referrals from the TANF program, would create stress on MRS' resources such that it may need to close priority categories within its OOS. While all priority categories were open at the time on the onsite, MRS indicated that it is currently in the process of conducting further analyses to determine the status of its capacity to continue to provide the full range of VR services to all eligible individuals, including those work ready TANF recipients referred by DHS. MRS also indicated that it is considering repurposing non-VR counselor positions and using the FTEs and savings as a means of filling some VR counselor vacancies, which will be required to meet the agency's standard under the comprehensive system of personnel development (section 101(a)(7) and 34 CFR 361.18). RSA emphasized the need to project accurately in order to make appropriate decisions about closing priority categories. The OOS justification contained in MRS' Attachment 4.11(c)(3) is based on broad estimates, for example, indicating that it estimates it will serve one to two thousand fewer individuals than those eligible for MRS services.

In addition to the numbers of staff and the anticipated increase in referrals, MRS must also consider the status of its fiscal resources, including its current award balances, the amount of funds relinquished in recent years, and the amount it anticipates relinquishing in the current fiscal year. For example, MRS has relinquished an average of \$8,047,310 in VR funds over the past three years through reallocation (FYs 2012 (\$8,012,765), 2011 (\$9,420,078), and 2010 (\$6,709,087)). Also, based on the G5 grants management system, MRS has a current combined award balance for FY 2012 and FY 2013 of over \$52 million dollars with only four months remaining in the fiscal year. In addition, RSA will make one final FY 2013 award in the fourth quarter, representing the 15 percent held back minus any maintenance of effort penalty, which will increase the total amount of resources available for the remainder of the fiscal year. Additionally, any FY 2013 VR funds fully matched by September 30, 2013 may be carried over into FY 2014 for obligation and expenditure. RSA encourages MRS to take full advantage of the remaining funds for the benefit of serving eligible individuals.

RSA fully recognizes the state's desire to continue to provide the full range of VR services to all eligible individuals who apply for services; nevertheless, circumstances may preclude MRS from being able to continue to do so, such as the inability to fill VR counselor vacancies or transfer VR staff from other positions into counselor positions. RSA emphasized that the Rehabilitation Act's OOS provisions in section 101(a)(5) and the VR regulations at 34 CFR 361.36 are intended as a means of effectively managing agency resources in the event that VR services cannot be provided to all eligible individuals in the state who apply for services. In such instances, the State Plan shows the order to be followed in selecting eligible individuals to be provided VR services, the justification for the OOS, and an assurance that, in accordance with criteria

established by the state for the order, individuals with the most significant disabilities will be selected first for the provision of VR services. Therefore, it is RSA's expectation that MRS, as the DSU for the VR program, would carry out its non-delegable duties with respect to the OOS, and, based on its projections, ensure the provision for the delivery of VR services to eligible individuals consistent with available resources. Similarly, despite expectations stated by DHS that MRS will not close priority categories, RSA maintains that DHS, as the DSA for the VR program, would fulfill its responsibilities related to the OOS consistent with MRS' analyses. It is incumbent on each entity, both the DSU and the DSA, to fulfill its respective duties related to the OOS described in more detail below.

Section 101(a)(1)(A) of the Rehabilitation Act requires the state to submit a State Plan containing the assurances and content specified in that section to receive funding for the VR program. Section 101(a)(5) of the Rehabilitation Act and 34 CFR 361.36(a)(1), govern the establishment of an OOS and require that the DSU for the VR program either be able to provide the full range of VR services to all eligible individuals or, in the event that it cannot, specify in its State Plan the order that will be followed in the provision of VR services. The State Plan must assure that the order ensures individuals with the most significant disabilities will be selected first for the provision of VR services (section 101(A)(5)(C) of the Rehabilitation Act and 34 CFR 361.36(a)(3)(iv)(A)). MRS' approved FY 2013 State Plan for the VR program satisfies the requirement of Section 101(a)(5) of the Rehabilitation Act and 34 CFR 361.36(a)(1) because it specifies the order that would be followed in the event that MRS, the DSU for the VR program, determines that it can no longer provide the full range of VR services to all eligible individuals.

Prior to each fiscal year, the DSU must determine whether it has the resources to continue providing the full range of VR services to all eligible individuals or whether it must establish and implement an OOS (34 CFR 361.36(c)(1)). In Attachment 4.11(c)(3) of its approved FY 2013 VR State Plan, MRS stated the factors it believed would impact its ability to serve all eligible individuals during this fiscal year.

Even though MRS determined that it did not need to implement an OOS at the beginning of the fiscal year, it must continue to evaluate its ability to provide the full range of VR services to all eligible individuals in accordance with 34 CFR 361.36(a)(2). In the event MRS determines through an analysis of the criteria set forth at 34 CFR 361.36(a)(2) that it can no longer provide the full range of VR services to all eligible individuals, it must implement the order by closing one or more of the established priority categories (34 CFR 361.36(c)(3)). According to the information MRS provided during the onsite, it has 26 VR counselor vacancies and anticipates an increase of up to 5,500 TANF referrals. As a result of these combined factors, MRS anticipates it may need to close priority categories.

Both MRS and DHS must ensure compliance with federal requirements governing the VR program, including those requirements related to the OOS. First, DHS, identified by the governor as the DSA for the VR program, is responsible for administering the VR State Plan and ensuring its compliance with that plan (Section 101(a)(2)(A) of the Rehabilitation Act and 34 CFR 361.13(a)). As stated above, the VR State Plan must assure that all eligible individuals with disabilities are able to receive the full range of VR services or that the state will implement an



order to be followed so that individuals with the most significant disabilities receive services first (Section 101(a)(5) of the Rehabilitation Act and 34 CFR 361.36). The approved MRS FY 2013 State Plan specifies the order that will be followed in the event that MRS determines it cannot provide the full range of services to all eligible individuals. Therefore, as the administrator of the State Plan, DHS must ensure the state complies with this OOS requirement.

Second, because DHS is not primarily concerned with the vocational and other rehabilitation of individuals with disabilities, it was required by section 101(a)(2)(B)(ii) of the Rehabilitation Act and 34 CFR 361.13(b)(1), to designate a DSU that is primarily concerned with VR and other rehabilitation of individuals with disabilities. DHS, in accordance with these requirements, designated MRS as the DSU responsible for administering the VR program. As such, MRS is responsible for the day-to-day operations of the VR program and must perform certain functions that cannot be delegated to another individual or agency, including the DSA. The specification of a DSU's non-delegable responsibilities in 34 CFR 361.13(c) reinforces its responsibility for the implementation of the OOS as set forth in the provisions of 34 CFR 361.36, which make it clear that it is the DSU's responsibility to evaluate and determine when it is necessary to establish and implement the OOS on the basis of available fiscal and personnel resources. Therefore, it is MRS' responsibility to implement the OOS when determined necessary.

Although RSA recognizes that a state has considerable flexibility in the manner by which it administers the VR program, once the state establishes the administrative or organizational structure for the VR program in its State Plan, each component of that administrative structure -- the DSA as the administrator of the State Plan and the DSU as the administrator of the VR program -- must ensure compliance with all federal requirements under the VR program. When reviewing a state's compliance with requirements under the Rehabilitation Act, including those related to the establishment and implementation of an OOS, RSA assesses whether both the DSA and DSU performed their discrete responsibilities, including whether the organizational structure established by the state permits the DSU to administer the VR program in a manner that enables the director of the DSU to perform the non-delegable responsibilities discussed herein. For more guidance on the DSA and DSU relationship, please review RSA-TAC-12-03, "Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program," dated April 16, 2012.

Finally, applying federal requirements governing implementation of an OOS and the organizational relationship between the DSA and the DSU for the VR program to the situation at hand, it is MRS' sole responsibility to determine when it must implement its established OOS, as described in its approved FY 2013 VR State Plan. Such a determination should be made by MRS in its role as the administrator of the VR program and its sole responsibility related to the expenditure of VR funds, implementation of policies, and the provision of VR services. In addition, DHS, as the administrator of the State Plan, must ensure overall compliance with federal requirements governing the plan. Therefore, if MRS determines it is necessary to implement the OOS that is set forth in the approved FY 2013 State Plan, it is DHS' responsibility to ensure compliance is satisfied. (Note: If MRS does not implement its order during FY 2013 but determines it is necessary to implement it in FY 2014, it must conduct public meetings as this action would constitute a substantive change in the administration of the State Plan (section 101(a)(16)(A) of the Rehabilitation Act and 34 CFR 361.10(d)) (further guidance related to

substantive changes can be found in RSA's Technical Assistance Circular 12-02)). DHS leadership indicated it is the governor's goal to continue to provide services to all eligible individuals in the state who apply for services. If state procedures require the governor to review such decisions, then DHS should submit MRS' determination of the necessity to implement the order to the governor for review. It is then incumbent on the state to administer the VR program in a manner consistent with the Rehabilitation Act and its implementing regulations, including those provisions related to an OOS. In this way, Michigan can ensure that MRS is able to provide VR services to all eligible individuals who apply for services or, if sufficient financial and staff resources are not available to do so, individuals with the most significant disabilities are assured of receiving priority in the provision of services delivered by MRS.

RSA also provided TA regarding concerns expressed by MRS related to TANF-specific reporting requirements, specifically related to the impact of the "90 percent" requirement. RSA explained that at least 90 percent of the DSU staff must be employed full time on VR or VR and other rehabilitation work of individuals with disabilities (101(a)(2)(A) and 34 CFR 361.13(b)(ii)). Although the statute and regulations permit the DSA or the DSU to administer programs other than the VR program that assist with the rehabilitation of individuals with disabilities, the relevant provisions themselves neither define nor describe the term "other rehabilitation." However, the preamble to the 1997 final VR program regulations clarifies that "other rehabilitation" includes, but is not limited to, other programs that provide medical, psychological, educational, or social services to individuals with disabilities (Final Regulations 62 Fed. Reg. 6308, 6316 (February 11, 1997)). Further guidance on "other rehabilitation" is contained in TAC 12-03 referenced above. As discussed above, DHS indicated that reporting would be a centralized function at the DSA level. Therefore, it is RSA's expectation this would include any responsibilities related to TANF reporting.

#### Expanded use of MCTI

Regarding the expanded utilization of MCTI, RSA understands that DHS may be considering serving additional populations referred by DHS through MCTI, including PATH participants, adjudicated youth from its foster care program, individuals aging out of foster care services, and veterans, and that non-VR funds would support training for these individuals. RSA indicated that MRS could serve these individuals at MCTI so long as no VR funds were used, including funds used to support staff salaries. The funds used to support non-VR consumers would not be considered program income based on the definition at 34 CFR 361.63(a) -- income received by the state that is directly generated by an activity supported with VR funds-- and would, therefore, not be reported on any federal reports, including the SF-425. Instead, any funds generated in this manner would be used to further support the private pay part of the program. As such, MRS would be required to allocate all costs to serve the non-VR consumers and VR consumers served at MCTI, based upon the proportion of benefits received and an appropriate allocation methodology. If MRS accepts other individuals into MCTI paid with VR funds, such as individuals referred by BSBP, funds generated in this manner would meet the definition of program income at 34 CFR 361.63(a) and would, therefore, be reported as such on the SF-425 report.

## **2. State Rehabilitation Council -- structure, status and placement of SRC staff, and resource plan—and BSBP’s Advisory Commission**

### **MRS and BSBP**

As part of the state reorganization, the governor created a single SRC within DHS to serve both MRS and BSBP, and an advisory commission within LARA to address the needs of the blind community within the state. During the onsite, RSA met jointly with representatives from MRS, DHS, BSBP, LARA, and the Attorney General’s office to discuss issues related to the creation of a single SRC and a BSBP advisory commission. In addition to the on-site meeting, RSA met, via teleconference, with the chairpersons of the SRC and the advisory commission to solicit their input on these areas. Discussions addressed the following areas: how each agency interacts with the SRC as it performs its mandated functions for both MRS and BSBP; the status and placement of the SRC staff; the contribution of MRS and BSBP to the SRC’s resource plan; and the role of BSBP’s advisory commission and its relationship with the SRC.

### Performance of SRC functions for MRS and BSBP

RSA learned that the SRC holds quarterly one-day meetings to carry out its responsibilities related to both MRS and BSBP. The functions of the Michigan SRC are outlined in section VI of Executive Order 2012-10 and are consistent with the federally mandated functions at 34 CFR 361.17(h): to review, analyze and advise the DSU on its performance in specific areas; develop, agree to, and review the State goals and priorities; advise the DSA and DSU and assist in the preparation of the State Plan and amendments to the plan, applications, reports, needs assessments, and evaluations; conduct a review and analysis of the effectiveness of, and consumer satisfaction with functions performed by the DSA, the VR services provided by State agencies, and the employment outcomes achieved by individuals with disabilities; prepare and submit to the Governor and to the Secretary an annual report; and other functions, determined to be appropriate, that are consistent with the mandated functions. In addition, and consistent with 34 CFR 361.18, 34 CFR 361.29(a)(i), 34 CFR 361.36(f), and 34 CFR 361.57(f)(1)(ii), respectively, the SRC must: review and comment on the development of plans, policies, and procedures related to the comprehensive system of personnel development; jointly with the DSU, conduct the statewide needs assessment; be consulted by the DSU on matters related to the OOS; and, jointly with the DSU, identify the selection of impartial hearing officers, as appropriate.

During the discussion, MRS indicated that the SRC performs additional activities on its behalf, for example, conducting “mystery shopper” consumer satisfaction activities. BSBP indicated that while such activities may be beneficial, they go beyond the scope of duties required to be performed by a SRC, and, therefore, BSBP is not interested in contributing toward the conduct of such extra activities, especially in light of having an advisory commission that performs extra activities outlined in section II.F of the executive order on its behalf and specifically related to its target population of individuals who are blind or visually impaired, including: study and review the needs of the blind community in the state; advise LARA concerning coordination and administration of state programs serving the blind community; recommend changes in state programs, statutes, and policies that affect the blind community to LARA; secure appropriate recognition of the accomplishment and contributions of blind residents in the state; monitor, evaluate, investigate, and advocate programs for the betterment of blind residents of the state;

advise the governor and the director of LARA of the nature, magnitude, and priorities of the challenges of blind persons in the state; and advise the governor and the director of LARA on the state's policies concerning blind individuals.

BSBP indicated that its advisory commission intends to conduct a consumer satisfaction survey and to share the results of the survey with the SRC in fulfillment of the SRC's responsibility under 34 CFR 361.17(h)(4) to conduct an analysis of consumer satisfaction, to which the SRC is agreeable. BSBP indicated that its use of the advisory commission was intended as a means of avoiding duplication with other councils within the state in accordance with 34 CFR 361.17(h)(6).

#### Status and Placement of SRC staff

Currently the SRC has its own staff which is not part of state government but rather is considered to be employees of record of a statewide trade association, the Michigan Association of Rehabilitation Organizations (MARO). SRC staff includes an executive director, assistant director, program manager, and operations assistant, with the program manager position currently not filled. The SRC assumes the responsibility for hiring, supervising, evaluating, and terminating the executive director, who in turn is responsible for hiring and managing the other paid staff.

The current staffing arrangement with MARO was in place prior to the reorganization when MRS had its own SRC and continued after the reorganization when the single SRC was created for both DSUs. However, at the present time, MRS and BSBP indicated that the Attorney General's office is researching whether the SRC staff should be civil service employees. When RSA inquired about the circumstances that brought the issue up for consideration, MRS responded that it had previously used a state exemption waiving the SRC staff from civil service requirements. However, recently the Attorney General's office began a review of the state's process, looking at options, indicating that it is possible the application of the waiver was not applicable to the SRC staff. To satisfy the provisions for the waiver, the state must justify that the work performed by SRC staff could not be performed by civil service staff and that salaries and benefits for staff would be more cost effective with the private employer than civil service employment.

#### Contribution of MRS and BSBP to the SRC Resource Plan

Based on the SRC budget for FY 2013, submitted to RSA prior to the onsite, the total budget amount is \$387,641 and covers salaries and benefits for three staff, the executive director, assistant director, and operations assistant; and operational expenses, including liability insurance, conference fees and training, audit/financial review, meetings, IT support, miscellaneous, postage, equipment rental, office rent and operations, telecommunications, utilities, travel, public education, one-time expenses (purchase of Braille machine), and an administrative fee to MARO as the fiduciary for the SRC.

Initially, MRS, BSBP, and SRC/MARO intended to have a single contract to which MRS and BSBP would both contribute. However, MRS and BSBP could not agree to the terms of the contract, specifically that each would contribute equally to the total; thus, MRS established its

own contract in the amount of \$245,516 to be paid from Title I VR funds under the Innovation and Establishment (I&E) authority in Section 101(a)(18)(A)(ii)(I) of the Rehabilitation Act.

BSBP questioned certain aspects of the SRC budget, specifically the need to have four staff and private office space when public office space was readily available, staff travel expenses, and funding for other activities beyond the scope of required functions. BSBP expressed concerns that it had met only once with the SRC and that it felt it had not fully benefited from the SRC. BSBP indicated that it had worked more closely with its advisory commission. At the time of the onsite, BSBP had not contributed any funds toward the SRC's resource plan. However, BSBP indicated that it had recently negotiated the amount of \$125,000 with MARO as its contribution for FY 2013 and anticipated signing a contract with MARO soon after the onsite. As far as negotiating its contribution for FY 2014, BSBP indicated the ruling from the Attorney General on the status and placement of SRC staff would be factored into its contribution.

#### BSBP's Advisory Commission

Executive Order 2012-10 created a seven-member advisory commission within LARA appointed by the governor to perform specific activities as described above on behalf of the blind community in the state. BSBP indicated that it works closely with the advisory commission on matters related to its target population and that all members are blind. The advisory commission is divided into three subcommittees focused on specific areas related to the agency, including the Business Enterprise Program, the training center, and consumer services. One of BSBP's administrative assistants serves as the staff liaison to the advisory commission and is responsible for coordinating its meetings. BSBP indicated that it does not have a budget for the advisory commission but rather it has operated to date at very little cost to the agency, primarily including costs associated with travel reimbursements. BSBP indicated that the advisory commission is not represented in a voting capacity on the SRC and while the SRC has attended advisory commission meetings, advisory commission members have not attended SRC meetings. BSBP, as stated above, views its use of the advisory commission as a means of avoiding duplication of other councils in the state consistent with 34 CFR 361.17(h)(6). However, BSBP clarified that there was no intent on its part that the advisory commission replace the SRC or usurp the duties of the SRC or that the SRC would delegate its duties to the advisory commission.

#### TA Provided

Section 101(a)(18)(A)(ii)(I) of the Rehabilitation Act requires that the State Plan assure that the DSU will reserve funds to support the SRC consistent with the plan prepared under section 105(d)(1), which states that the SRC and the DSU must prepare a plan for the provision of resources, including staff, to carry out the SRC functions. RSA indicated that it has not conducted an analysis of resource plans nationally to determine the amounts used by those VR agencies with a SRC and further clarified that federal requirements do not prescribe the amount of funds to be used to support the resource plan, nor has RSA issued guidance specific to this issue. RSA is aware that the amount of funds used for resource plans varies widely across VR agencies, based on the availability of resources in existence during the period of implementation of the plan.

Regarding the status and placement of SRC staff, the SRC must, consistent with State law, supervise and evaluate staff and personnel that are necessary to carry out its functions (34 CFR

361.17(i)(4)). Those staff and personnel that are assisting the SRC in carrying out its functions may not be assigned duties by the DSUs or any other agency or office of the State that would create a conflict of interest (34 CFR 361.17(i)(5)). RSA clarified that the federal requirements provide flexibility for SRC staff consistent with State law so long as the SRC's responsibilities related to its staff are not compromised. Therefore, if the state's Attorney General rules that SRC staff must be civil service instead of private employees, RSA expects that the state will appropriately make this transition in such a way that SRC members are involved in the process, including involvement in key decisions such as the location of the SRC staff within state government, and that the work of the SRC is not disrupted during the process. Furthermore, if SRC staff becomes civil service employees, the SRC, to the extent possible within state law, will supervise and evaluate its staff, and its staff will not be assigned other duties that would create a conflict of interest.

Regarding the contribution amount of each agency to the resource plan when there is a single SRC for both agencies (34 CFR 361.16(b)), again, federal requirements do not prescribe the split, nor has RSA issued guidance in this area. RSA indicated that one other state with a single SRC for both agencies splits its contribution between the two agencies proportional to the split of the VR grant funds in the state. This is an example of one way the contribution may be determined. RSA encourages MRS, BSBP and the SRC to determine the most equitable contribution of each agency based on available resources and the scope of activities performed by the SRC on behalf of each agency.

RSA indicated that there is flexibility with regard to how the SRC fulfills its mandated duties on behalf of each agency, especially as it relates to performing "other comparable functions" (34 CFR 361.17(h)(8)). Due to its longstanding experience of operating with a SRC prior to the reorganization, MRS and its SRC identified other duties that the SRC performed on its behalf and now continues to perform subsequent to the reorganization, e.g., the "mystery shopper" consumer satisfaction survey. BSBP, on the other hand, does not have previous experience working with a SRC and has the expectation that the SRC would perform only the required duties augmented by other duties performed by its advisory commission. Therefore, to the extent the activities that MRS and BSBP might engage in with the SRC may differ, these factors should be taken into account as each agency, together with the SRC, determines the amount of funding it will use to support the SRC's resource plan.

RSA explained that while the advisory commission has a defined role with BSBP with respect to the responsibilities outlined in the executive order, there is no federal requirement for an advisory commission of this nature. Furthermore, the responsibilities of the advisory commission as outlined in the executive order are distinct and separate from those federally mandated duties of the SRC at 34 CFR 361.17(h). While the responsibilities of the advisory commission are targeted to addressing specific issues of the blind community within the state, there is no reference to coordination of its activities with the SRC, nor any duplication of duties. Rather, each entity has defined roles and responsibilities and, therefore, it is the expectation that each entity will perform its respective duties consistent with applicable federal or state requirements. In that regard, BSBP's advisory commission cannot replace the SRC nor can the SRC delegate its duties to the advisory commission. To the extent possible, the advisory commission and the SRC should coordinate activities to avoid unnecessary duplication.

RSA acknowledges the meaningful relationship BSBP has established with its advisory commission and the work in which the advisory commission is engaged. RSA encourages BSBP to develop a similar meaningful relationship with its SRC, suggesting that it would be beneficial to develop more formal communication strategies between the advisory commission and the SRC to better harness the input of the advisory commission while ensuring the SRC performs its mandated functions. One such strategy would be to nominate one of the advisory commission members for appointment by the governor to the SRC. Another strategy would be for advisory commission members to serve as ad hoc members of SRC subcommittees, specifically a subcommittee that addresses issues related to blindness and visual impairment. Such strategies could be formalized within the respective by-laws of the SRC and the advisory commission. In addition, it may be helpful for BSBP to provide a comprehensive overview of its agency and operations to better orient the SRC to the agency's policies and procedures related to its target population. Similarly, BSBP and its advisory commission can avail themselves to the SRC online training series at eRehab (<http://www.erehab.org/SRC/index.php>) to better orient themselves to the responsibilities of the SRC and how it can carry out these responsibilities. Finally, it may be beneficial for the SRC and the BSBP advisory commission to orient each other to their respective responsibilities. Finally, BSBP should strive to achieve the appropriate balance of utilizing both its advisory commission and its SRC.

### **3. Grant reorganization issues**

#### **MCB Reorganization**

The executive order authorizing the state reorganization abolished MCB as an independent commission and created BSBP as a DSU in its place. However, the impact of the reorganization on the agency's federal grant awards was minimal. Since MCB had previously been placed under LARA within Michigan state government, BSBP's new status as a DSU under LARA as the DSA has not impacted its P/R grant award numbers, Grantee or Payee DUNS numbers, drawdown process, or manner in which programmatic or financial reporting is conducted. Additionally, the state appropriation used as match for the VR and IL programs has not been transferred or modified substantively, and BSBP's VR program continues to be fully matched. In the past, MCB has not relinquished or requested additional VR funding through the reallocation process. However, discussions with BSBP management indicated consideration for pursuing additional VR funding through the FY 2013 reallocation process. As a result of the US Department of Education's guidance, grant award notifications (GAN) for the VR, SE, State Independent Living Services (SILS), and IL Services for Older Individuals who are Blind awards will be transmitted electronically from the G5 grants management system to the individual identified in Box 3 of the GAN as the State Director. LARA's Chief Deputy Director, as the individual identified in Box 3 of BSBP's VR and SE awards, currently receives the electronic notification; however, he expressed interest in having the BSBP director receive the GAN electronically, as well as prepare and submit the VR State Plan.

**TA Provided:** Despite having sufficient reallocation funds in the recent past to fulfill all VR agency requests for additional funds, RSA indicated to Michigan that there is no guarantee sufficient funds will be available for any given fiscal year. However, if the Michigan VR agencies choose to transfer any unmatched federal VR funds from one VR agency to the other

VR agency, which can match the federal funds, this will ensure the federal VR funds allotted to Michigan are available to the receiving agency.

Regarding the VR State Plan, the VR regulations state that the DSA is the entity responsible for submitting the plan (34 CFR 361.10). Additionally, 34 CFR 361.13 states that the “State plan must designate a State agency as the sole State agency to administer the State plan...”

Therefore, unless the DSA has officially delegated responsibility for submitting and signing the State Plan to the DSU, the DSA will be the Recipient Name listed under Box 3 of the GAN. RSA provided BSBP staff with the guidance necessary for the LARA Chief Deputy Director to delegate the VR State Plan responsibilities to the DSU director, after which the DSU director will be authorized to access the electronic GAN for the VR and SE programs.

### **MRS Reorganization**

The reorganization impacted MRS primarily through a transfer of funds from LARA, as the transferring DSA, to DHS, as the receiving DSA, and also required the establishment of new federal P/R award numbers with DHS DUNS numbers. At the time of the transfer, the FY 2012 MRS VR award under LARA (H126A120030) had a balance of funds that was matched and available for carryover into FY 2013; however, LARA was at that time unable to obligate VR funds since it was no longer the DSA for MRS. While LARA fulfilled MRS’ VR obligations made prior to the reorganization’s effective date of October 1, 2012, RSA established a new FY 2012 MRS VR award number under DHS (H126A120090), and subsequently transferred \$26,028,302.10 for MRS to obligate and expend as FY 2012 carryover funds. As a result of the FY 2012 transfer, both LARA and DHS were responsible for fiscal reporting of transferred VR funds on two separate SF-425 reports, one for LARA and one for DHS. This required coordination between the two DSAs to ensure that non-federal and federal funds were not duplicated or omitted on the two SF-425 reports. MRS’ FY 2013 VR funds are solely the responsibility of MRS under DHS for award number H126A130090.

The transfer to DHS required the establishment of DHS DUNS numbers for the MRS VR, SE, and SILS awards, as well as the State Grant for Assistive Technology (SGAT) award administered through RSA’s Training and Special Projects Division. DHS staff indicated during the onsite that staff was unable to draw from the SGAT award. Subsequent follow-up indicated that while the Grantee DUNS had been corrected in the G5 grants management system, the Payee DUNS had not been changed from LARA to DHS. RSA informed DHS staff that this function is handled directly through G5 staff and after the onsite DHS and G5 staff were able to correct the Payee DUNS number to successfully draw federal funds from the SGAT award.

### **MRS Match**

MRS has historically received approximately half of the non-federal share required to match its VR award through state appropriation. As a result of the FY 2009 monitoring report that identified concerns with MRS’ non-federal share, agency staff members are cautious when considering the use of non-federal funds other than the state appropriation, such as those acquired under third-party cooperative arrangements and inter-agency transfers of funds. While it has acquired additional non-federal share through these avenues, as identified in the VR Service Delivery section above, MRS was forced to relinquish VR funds through reallocation in FYs 2012 (\$8,012,765), 2011 (\$9,420,078), and 2010 (\$6,709,087).



Leading up to the on-site visit, MRS shared with RSA a proposal for an inter-agency transfer of funds in which non-federal state funds, provided from the Michigan Department of Corrections to a local workforce investment board (LWIB) to assist prisoners exiting the prison system to gain employment, would then be transferred to MRS. In turn, MRS would use these matching funds to access federal VR funding to provide VR services to the exiting prisoners through MRS VR counselors. MRS expressed concerns that the LWIB may not meet the requirements of a state or local public entity due to Michigan regulations, and would therefore not be eligible to participate in an inter-agency transfer of funds. Further concerns were that a Goodwill community rehabilitation program (CRP) that holds a contract with the LWIB to provide services as part of the Michigan Prisoner Re-entry program may receive a portion of VR funds from the inter-agency transfer, and MRS was further concerned that this was a reversion to donor conflict under 34 CFR 361.60(b)(3)(iii).

**TA Provided:** RSA discussed this issue in detail with MRS and concluded that due to the workforce investment act legislation the LWIB would be considered part of local government, and could therefore be considered a public entity. Additionally, the Goodwill agreement with the LWIB would not prohibit VR from using the CRP to provide services under the inter-agency transfer of funds. In fact, the Goodwill is not providing any of the non-federal funds under the transfer, and the LWIB as the transferring entity is a public entity, not a private entity, so 34 CFR 361.60(b)(3)(iii) is not applicable.

## **V. Next Steps**

### **MRS**

Since many of the areas discussed with MRS during the onsite were still in the formative stages, including: the centralization of functions within the DSA; the integration of eligible TANF recipients into the VR program; the analysis of resources and capacity related to implementing the OOS; and changes in the status and placement of SRC staff, RSA invites ongoing dialogue with MRS as formal processes are developed to implement changes associated with these areas.

In addition, MRS identified TA needs associated with implementing the changes identified within this report. MRS requests further TA with respect to:

1. making accurate assessments and projections to determine the need, or lack thereof, for implementing OOS for services and/or the imposition of a waiting list for services;
2. ensuring there is no conflict of interest in non-SRC duties assigned to civil service staff serving the SRC, in the event that SRC staff become civil service staff; and
3. identifying and resolving issues which may arise in relation to the “90 percent requirement” (34 CFR 361.13(b)(ii)).

RSA will work with MRS and the Region V Technical Assistance and Continuing Education center to address the TA needs identified.

**BSBP**

Due to the changes in key leadership positions within BSBP and the changes in its organizational structure from an independent commission to a DSU within a DSA, RSA encourages staff to take full advantage of resources provided on RSA's website at <http://rsa.ed.gov/> and to have continued dialogue with RSA, as needed.

In addition, BSBP did not identify any immediate TA needs associated with implementing the changes identified within this report; however, BSBP indicated that as needed, TA needs will be identified as the year progresses and new agency staff become acclimated to their positions. RSA will work with BSBP and the Region V Technical Assistance and Continuing Education center to address any future TA needs identified.