

**A PROJECT OF THE  
DISABILITIES LAW PROGRAM  
COMMUNITY LEGAL AID SOCIETY, INC.**



**Transition to Adulthood:**  
What you need to know as an individual with a disability.

# Employment & Vocational Rights

for Delaware Transition-Age Youth and their Families



**MADE POSSIBLE WITH SUPPORT  
FROM THE DELAWARE  
DEVELOPMENTAL DISABILITIES  
COUNCIL**



## Introduction

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The transition from childhood to adulthood can be both exciting and challenging. There are many things to keep in mind as you (or your child) approach adulthood. While it is never too late to plan for the future, we recommend that you start thinking about and preparing for the transition to adulthood early in the teenage years.

This guide provides information to assist you in becoming your own advocate. It provides an overview of common employment and vocational issues and questions that you will likely face.

This guide does not cover every topic related to employment that you might encounter, but is here to offer you some insight into some common issues. Each individual's situation is unique and this guide is not intended to constitute legal advice on your specific circumstances.

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## Preparing for a job and employment readiness

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Before you start looking for a job, make sure that you are ready for employment. Start early: there are some things which may take several months or even years to put in place.

- For example, do you have the right skills to find a job that you will enjoy? If not, you may want to find a provider of job skills training, to prepare you for a particular job or trade.
- Will you have a reliable source of transportation so you can get to and from a job? It's good to know what options will be available for your particular situation, so that you can plan early.
- Do you have a criminal record? If so, you may want to apply for a pardon or an expungement.

This section gives a summary of these issues and provides links to more information.

### ***Skills assessment and training***

Before you start looking for a job, become familiar with different services that can help you find the right job for you. For example, the Delaware Division of Vocational Rehabilitation (DVR) provides services to help people with disabilities find a job, such as vocational assessment, employment planning, counseling, and job placement. You can find more information on the Division of Vocational Rehabilitation on its website: <http://dvr.delawareworks.com/publications.php> or by visiting one of its office locations: <http://dvr.delawareworks.com/office-locations.php>.

Your educational provider (school) is also a great source of employment planning services. Many schools have Career Cruising, a school to work transition tool, to provide information on different

types of jobs, the training necessary for such jobs, and how much they pay. Your school may be able to provide links to job shadowing and volunteer opportunities that can help you narrow down your job choices.

You may also consult other public agencies to inquire about their employment training and other job services. Many of these agencies provide supported work environments or transition services. For more information on supported work environments, see the section on "Finding a Job."

- Delaware Division of Developmental Disabilities Services (DDDS) – provides information and services to individuals with developmental disabilities.

DDDS 24-Hour TOLL FREE Contact Number: 1-866-552-5758

Quick Reference Guide for DDDS assistance:  
[http://dhss.delaware.gov/dhss/ddds/go\\_to.html](http://dhss.delaware.gov/dhss/ddds/go_to.html)

- Delaware Division of Substance Abuse and Mental Health (DSAMH) – provides services to assist people in addressing mental health, addiction, and substance abuse challenges.

(302) 255-9399 or see DSAMH website for contact information: <http://dhss.delaware.gov/dhss/dsamh/contact.html>

There also are many private or non-profit organizations that provide different types of employment-related services. Some can be found on the **DeIARF** website, at <http://www.delarf.org/members.html>.

## **Housing and Transportation**

### **Housing**

As you prepare to find a job, you will want to consider your particular living situation. There are several organizations that can help you understand different housing options. Many of these organizations also offer employment services. Here are just a few:

- **The Arc of Delaware** – serves Delawareans with intellectual and developmental disabilities and their families. Arc can help you understand what type of housing is right for your particular situation, such as independent home options, supervised home options, or housing support programs. It also offers other housing help, such as home modifications for assistive technology.

For more information, call (302)736-6140 or visit <http://www.thearcofdelaware.org>. Link to more housing information: <http://www.thearcofdelaware.org/homes/other-housing-help/helpful-housing-links/>

- **National Alliance on Mental Illness "NAMI" Delaware** - serves mental health consumers and their friends/families/professionals to improve the quality of life of individuals with mental illness, including support and advocacy services, as well as housing programs. For more information call 302-427-0787 (Helpline # is 888-427-2643); see <http://www.namidelaware.org/>
- **Delaware Housing Coalition** – call (302) 678-2286 or visit <http://www.housingforall.org/> Housing in a Hurry
- **Delaware State Housing Authority** – For more information on affordable housing, call (302)739-4263 (302-739-7482 TDD) or visit <http://www.destatehousing.com/Home/default.php>

List of emergency shelters and transitional housing in Delaware: <http://www.destatehousing.com/FAQs/EmergencyShelters.pdf>

Overview of housing rental options in Delaware, including contact information for all housing authorities, subsidized housing, tax credit housing and affordable housing in the state, by county: [http://www.destatehousing.com/Renters/rental\\_directory.pdf](http://www.destatehousing.com/Renters/rental_directory.pdf)

- **Sunday Breakfast Mission** – call (877) 306-HOME or visit [www.sundaybreakfastmission.org](http://www.sundaybreakfastmission.org)

If you believe that a housing provider is illegally discriminating against you because you have disabilities, you may be able to file a complaint, by contacting the Delaware Division of Human Relations: <http://statehumanrelations.delaware.gov/index.shtml>.

### ***Transportation***

It's also important that you have a reliable way to get to and from your job. There are several sources of information to help you understand different transportation options available to you, such as public transportation or paratransit. Some options to consider are:

- **Public transportation**, such as buses or trains. There are two types of public buses available in Delaware through DART:
  1. Fixed route service – regular city buses. For more information, see <http://www.dartfirststate.com/>
  2. Paratransit service – shared-ride public

transportation for individuals with disabilities. For more information, see [http://www.dartfirststate.com/services/para\\_services.shtml](http://www.dartfirststate.com/services/para_services.shtml)

**Travel Training** – If you would like to take public transportation but want to learn more about how to use it, DART also offers travel training. This will teach you everything you need to know about using DART’s public transportation, such as how to read a bus schedule, pay the fare, board a bus using a wheelchair lift, and plan your trip.

To learn more, call DART’s Travel Trainers at 302-760-2858.

If you have a visual impairment, the Delaware Division of the Visually Impaired also offers programs to help you take public transportation. For more information, call the Division at 302-255-9800 (Voice) or 302-255-9854 (TDD), or visit <http://dhss.delaware.gov/dhss/dvi/>.

- **Affordable Taxi Program** – this DART program (called the Senior Citizens Affordable Taxi Program) provides a 50% discount on taxi fares for senior citizens and persons with disabilities. If you have a physical or mental disability that prevents you from driving a car, you may be eligible for this program.

There is an application that you must complete, with assistance from your doctor, in order to qualify for this program. If you are approved, you will receive a special ID card that you can use for this service.

If you have questions, call the DART First State Eligibility Section at 1-800-652-3278, Option 3.



Or, visit the website for more information:  
<http://www.dartfirststate.com/information/programs/scat/>

- **Shared ride services**, such as carpools or vanpools. In Delaware, DART's RideShare Delaware program helps connect people with different shared transportation options. For more information, call 1-888-RIDE-MATCH or see <http://ridesharedelaware.org/about-rideshare-delaware/>.

- **Miscellaneous**

⇒ Some employers may offer transportation to and from your job site. If you are interested, ask your employer about what types of transportation may be available.

⇒ There are several other sources of information and services that may be useful for your particular needs. Here are some examples:

Office of Independent Living, <http://dvr.delawareworks.com/independent-living.php>

Independent Resources, Inc. <http://www.iri-de.org/mainsite.html>

Freedom Center for Independent Living, <http://www.fcilde.org>

### ***Handling criminal background issues***

If you have been arrested for a crime as an adult, but the case was disposed of in your favor, you may be able to get the arrest record expunged. If you have been convicted of a crime as a young adult and have already served time for that crime, you may apply for a pardon and an expungement<sup>1</sup>. For juvenile records, please see the section on juveniles,

<sup>1</sup> See 11 Del. Code 4371 et seq (adults); See 10 Del. C. §1014-1020 (juveniles).

below.

**Adult convictions**

What's the difference between an expungement and a pardon?

An **expungement** allows a person charged with a crime but not convicted to petition to have the arrest removed from the public record. Convictions may only be expunged after a pardon has been granted for that conviction.

A **pardon** completely eliminates all consequences of a conviction. It removes any further punishment. However, a pardon does not remove the record of conviction. It simply adds to the criminal record that a pardon has been granted.

To apply for an expungement:

- First, obtain a certified copy of your criminal history from the State Bureau of Identification. In addition, you must obtain certified court dockets and sentencing orders for all adult dispositions listed as guilty, unknown, unobtainable or transferred on the criminal history. This process will take several weeks.
- For cases that are mandatory expungements (generally lesser crimes) an application is filed with the State Bureau of Investigation. For discretionary expungements, a petition may be filed with Superior Court in the county where the arrest was made.
- For further details on the expungement of arrest records for adults: <http://courts.delaware.gov/help/expungements.stm>

To apply for a pardon:

- First, obtain a certified copy of your criminal history from the State Bureau of Identification.

In addition, you must obtain certified court dockets and sentencing orders for all adult dispositions listed as guilty, unknown, unobtainable or transferred on the criminal history. This process will take several weeks.

- After you have gotten this certified copy, you may apply for pardon from the Board of Pardons.
- After you have been granted a pardon, you may apply for an expungement, to remove the conviction from the state's official arrest and conviction records

Generally, you may apply for a pardon after 3-5 years from the time the last sentence was completed. However, the Board of Pardons may consider applications if there are special circumstances such as needing to get a pardon for employment purposes. If your application for a pardon is denied, you may re-apply, but you must wait a certain period of time before re-applying.

- Generally, you must wait 15 months from the date of the decision before you are eligible to reapply, and your petition cannot be heard before 18 months from the decision date.
- If your case is a capital offense, then you must wait 33 months from the date of the decision before you are eligible to reapply, and your petition cannot be heard before 36 months from the decision date.

For more information about the pardon application process, you may contact the Delaware Board of Pardons, at 302-739-4111 or <http://pardons.delaware.gov/>.

- View Frequently Asked Questions: <http://pardons.delaware.gov/faqs.shtml>
- Download the necessary forms to apply for

pardons: <http://pardons.delaware.gov/Bopforms.shtml>

- Delaware Board of Pardons office locations and phone numbers: <http://pardons.delaware.gov/locations.shtml>

### ***Juvenile Delinquency Records***

If you have a juvenile delinquency record, you might be able to apply for an expungement.

Petition for Expungement of Juvenile Record asks the Court to erase a juvenile delinquency record. If the petition is granted, the Court will order the State Bureau of Identification (SBI) to delete all records of the arrest. Once your record has been expunged, you are legally entitled to report that you have never been arrested or convicted for the expunged charge(s).

To qualify for a juvenile expungement, you must not have any pending criminal or delinquency charges in any court. Also, it's important to know that not all delinquency records or charges qualify for an expungement. The law explains specific circumstances and charges that may be expunged.

For more information, follow this link to "A Guide to Expungement of Juvenile Records in the Family Court," which explains the juvenile expungement process: <http://courts.delaware.gov/forms/download.aspx?ID=60948>.

### ***Help for individuals with criminal histories – APEX Program***

The APEX Program in Delaware helps people with criminal histories through the pardons and expungement process. For more information on the APEX program, please contact Program Coordinator, at 302-333-7605 or visit <http://apex.delawareworks.com/about.php>.

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## Finding a job

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You will want to find a job that is a good match with your skills, interests, and capabilities. Remember that employers ultimately decide who to hire. There are several state agencies that offer services to help you through this process.

This section provides an overview of the main state agencies - Delaware Division of Vocational Rehabilitation (DVR), Delaware Division of Developmental Disabilities Services (DDDS), and Delaware Division of Substance Abuse and Mental Health (DSAMH). It also provides links to other organizations that you may contact for more information.

First, consider your abilities and what type of work environment is best suited for you. There are many different types of work environments in which a person with a disability can succeed. This includes various forms of supported employment, subsidized work programs, and competitive work environments.

- ⇒ In a **subsidized work program**, the employer receives public funds that cover some or all of an employee's wages. Subsidized programs may be appropriate for a person with a significant work barrier. The goal of a subsidized work program usually is to help an employee transition into non-subsidized, full-time employment.
  
- ⇒ A **supported work environment** offers on-the-job support services to help persons with significant disabilities maintain employment. These support services may include job assessments and on-the-job coaching, just to name a few.

**Del. Division of Vocational Rehabilitation (DVR)**

DVR assists people with disabilities to prepare for, get, and keep jobs. It offers various services, such as assessment, counseling and guidance, information and referral, physical/mental restoration services, rehabilitation technology, skill training, job placement assistance, interpreter services, and supported employment services. You can be referred to DVR through your school, or you can contact them directly.

If you are eligible, a DVR counselor will work with you to develop an Individualized Plan for Employment. This plan identifies your job or employment goals and explains what DVR services can help you reach those goals.

DVR also offers Transition Services and Supported Employment services. The **DVR Transition Services program** assists students transitioning from high school to adult life.

It is implemented in all 19 public school districts in Delaware. It also is implemented at alternative and private high schools in the state.

The program assists transitioning students by providing links to adult services and employment.

Services include post-secondary education, vocational training, employment, continuing and adult education, adult services, independent living and community participation.

**Supported employment** helps individuals with the most significant disabilities who require ongoing support in the workplace to obtain and maintain employment. An employment specialist or job coach provides individual support to the employee at the job site. In addition, employees receive ongoing

support services to help them stay employed.

DVR offers three supported employment programs:

- ⇒ Supported Employment for Individuals with Cognitive Disabilities
- ⇒ Early Start to Supported Employment (ESSE)
- ⇒ Supported Employment for Individuals with Mental Health Disabilities

If you are ready to job hunt, there are many online services available. A great resource through the state is the Delaware JobLink, <https://joblink.delaware.gov/ada/>. Word of mouth is another great way of getting leads for jobs. Networking is a great way of finding a job.

For more information:

- Delaware Division of Vocational Rehabilitation: <http://dvr.delawareworks.com/related-links.php>
- DVR Transition Services: <http://dvr.delawareworks.com/job-seekers/transition-services.php>
- DVR Supported Employment: <http://dvr.delawareworks.com/job-seekers/supported-employment.php>

### **DVR Rights**

If you apply for DVR services or receive DVR services, you have certain rights under the law. You have the right to:

- Choose your employment goals, services, and service providers;
- Have a representative present any time you meet with DVR staff;
- Challenge a decision affecting your eligibility or services and seek an impartial review;
- Administrative review within 30 days of your

Finding a job cont.

request;

- Mediate your dispute before an impartial mediator;
- Fair Hearing before an impartial hearing officer regarding a decision affecting your eligibility or receipt of services.<sup>2</sup>

If you are dissatisfied with services provided by DVR or wish to challenge a decision, you may file a complaint or request a review of a decision. Complete and submit this form to your DVR counselor: <http://dvr.delawareworks.com/documents/Know%20Your%20Rights.pdf>

The **Client Assistance Program** (CAP) is a disability rights program for individuals with disabilities who are served by DVR and other rehabilitation programs. CAP provides representatives who can act as your advocate. Call 1-800-640-9336 to speak with a CAP representative.

**Delaware Division of Developmental Disabilities Services (DDDS)**

The Delaware Division of Development Disabilities provides information and services to individuals with developmental disabilities and their families. The division is part of the Department of Health and Social Services (DHSS). For more information:

- DDDS home page: <http://dhss.delaware.gov/dhss/ddds/>
- Early Start to Supported Employment program's Parent Handbook, "A Program to Create a Seamless Transition for Students Needing

<sup>2</sup> The requirement that states establish procedures for mediation and fair hearings is found in 29 USC § 722(c)(1). Regulations about impartial hearing rights are at 34 CFR §361.57(b)(3).



Supported Employment Services for Job Success": [http://dhss.delaware.gov/dhss/ddds/files/esse\\_parent\\_handbook\\_6\\_2012.pdf](http://dhss.delaware.gov/dhss/ddds/files/esse_parent_handbook_6_2012.pdf)

- Resources for individuals with Autism and Asperger's: [http://dhss.delaware.gov/dhss/ddds/adt\\_spec\\_op\\_prg.html](http://dhss.delaware.gov/dhss/ddds/adt_spec_op_prg.html)

**Delaware Division of Substance Abuse and Mental Health (DSAMH)**

The Delaware Division of Substance Abuse and Mental Health (DSAMH) provides publicly-funded behavioral health services to adults, aged 18 and older. Its mission is to promote health and recovery by ensuring that Delawareans have access to quality prevention and treatment for mental health, substance use, and gambling conditions.

DSAMH offers some supported employment and rehabilitation services for eligible individuals. For more information:

- DSAMH home page: <http://dhss.delaware.gov/dhss/dsamh/about.html>
- Phone numbers for DSAMH offices can be found at: <http://dhss.delaware.gov/dhss/dsamh/contact.html>

Recently, DSAMH entered into an agreement with the U.S. government to help people stay out of the hospital and institutional settings. This agreement includes programs for individuals who had recent stays at a mental health hospital, who have criminal records, and also includes supported employment and vocational services. You can learn more at <http://www.dhss.delaware.gov/dhss/dsamh> and <http://www.dhss.delaware.gov/dhss/admin/files/settlementagreement.pdf>

Finding a job cont.

## Staying Employed

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Once you have a job, there are some things that you should know, so that you can keep your job and stay employed. This section describes some common situations that many people face in their jobs.

### **Understanding health insurance, sick leave, short- and long-term disability issues**

After you start working, you may find that you need to take time off from work because of your disability or if you become sick. It's important to understand whether you are eligible for different programs that will protect your income during the time that you need to be away from work.

#### **Health insurance**

Health insurance may cover the costs of certain medical expenses, such as routine exams or check-ups. You can remain insured on your parents' private health insurance, if it is available and if it is cost effective for you, up until you are 26. Your employer may also provide health insurance coverage as a benefit of your employment. However, every policy is different and you will have to do a careful review to see which option is the best for you.

Before you face a medical or disability-related issue, make sure to:

- Find out whether you have health insurance through your parent. Don't turn down health insurance from your employer until you know for certain whether you are already covered.
- If you do not have health insurance through your parent (remember, you have the option of

staying on your parent's health insurance until age 26), spouse/partner, or employer, make plans to purchase health insurance, or apply for medical assistance if you think you may qualify. A new federal law, the Affordable Care Act (ACA), requires most people to have health insurance in 2014 or else pay a penalty tax.<sup>3</sup>

If you have health insurance from a job (or a family member's job), you are considered covered and will not have to pay the fee that uninsured people must pay. If you have medical assistance, like Medicaid, you are also considered covered and do not have to pay the penalty. For more information about the ACA and employment based coverage, visit <https://www.healthcare.gov/what-if-i-have-job-based-health-insurance/>.

If you do not have health insurance from your job, you must purchase a policy (unless you qualify for medical assistance like Medicaid, in which case you are considered to have sufficient health insurance). Under the new law, every health insurance plan will cover a core set of benefits called "essential health benefits." Generous subsidies in the form of tax credits are available for many people to offset the costs of premiums and co-insurance. To learn more about buying health insurance under the new law, visit <https://www.healthcare.gov/what-is-the-health-insurance-marketplace/>.

For more information on the Affordable Care Act in general and what it means to you, call 1-800-318-2596 (TTY: 1-855-889-4325) or visit: <http://www.delawareinsurance.gov/health-reform/ACA.shtml> or healthcare.gov.

If your healthcare insurance is provided by your employer, there are certain protections under

<sup>3</sup> See 124 Stat. 119 - 1025.

another federal law, the Employee Retirement Income Security Act (ERISA).<sup>4</sup> Under this law, health insurance companies are required to give you important information about the plan. They also must have a fair process for handling benefit claims.

For more information on your rights and responsibilities under ERISA, call 1-866-444-EBSA (3272) or visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

The Delaware Insurance Commission is another important source of information about health insurance in Delaware. If you have questions about insurance or complaints about an insurance company or insurance agent, contact the Commissioner's Consumer Services division:

1-800-282-8611 toll-free in Delaware or  
(302) 674-7310

Email: [consumer@state.de.us](mailto:consumer@state.de.us)

Website: [delawareinsurance.gov](http://delawareinsurance.gov)

Or review their "A Guide To Insurance and Health Care Programs For People with Disabilities," <http://delawareinsurance.gov/Guides/DisabilitiesGuide.pdf>.

### **Sick leave**

You may be surprised to learn that in Delaware, employers are not required to provide employees with sick leave, either paid or unpaid.<sup>5</sup> Employers must follow their own policies, so it is always a good idea to get a copy of your employer's leave policy

<sup>4</sup> Pub.L. 93-406, 88 Stat. 829, enacted September 2, 1974, codified in part at 29 U.S.C. ch. 18.

<sup>5</sup> See 19 Del.C. § 1109; Lloyd v. Wilmington Savings Fund Society, 1985 Del. Super. LEXIS 1194 (1985). Source: <http://www.employmentlawhandbook.com/wage-and-hour-laws/state-wage-and-hour-laws/delaware/>

and make sure it is being followed.

You also should know that Social Security does not provide any short-term disability coverage.

There are a few ways that you may either continue to receive your income or your health insurance coverage, even while you are away from work due to illness or as related to your disability:

- If your employer provides short-term disability or temporary disability insurance as a benefit of employment
- If you purchase a short-term disability or temporary disability insurance policy on your own
- If you take leave under the Family and Medical Leave Act (FMLA).

***Short-term or temporary disability insurance***

Your employer may offer this insurance as a benefit for employees. If your employer doesn't offer this insurance, you may wish to purchase a policy on your own.

This type of insurance provides some compensation when an employee needs to take time off work due to injury, illness, or disability.

The terms of the policy will determine what disabilities are covered, how much the employee will receive, and for how long. This means that every employee's situation will be different.

***Taking leave under the Family and Medical Leave Act (FMLA)***<sup>6</sup>

FMLA is a federal law that requires companies to provide employees with up to twelve weeks of

<sup>6</sup> 29 C.F.R. §825.100 et seq.

Staying employed cont.

unpaid leave per year ("year" may not necessarily mean calendar year) to deal with one's own medical issues or to take care of a sick member of one's immediate family.

FMLA applies to only certain companies and only certain employees.<sup>7</sup> If you need to take leave for medical reasons, you should first find out whether FMLA applies to your employer. If it does not apply to your employer, you cannot take leave under FMLA.

FMLA is an important form of job protection for employees with disabilities, because your employer cannot fire you while you are on FMLA leave. However, there are some important things that you should know about taking leave under FMLA:

- Time taken off under FMLA is unpaid leave, but you can keep your health benefits while you are on FMLA leave. This means that you will not receive your wages or salary while you are out on leave, but you will keep your healthcare insurance provided by your employer.
- You may receive short- or long-term disability benefits while on FMLA leave.
- Your employer may require you to use FMLA leave first, while you are out on disability.
- You are limited to 12 weeks of FMLA leave per year. If you go over 12 weeks (even by one day) your employer may legally fire you.

If you believe that your rights under the FMLA have been violated, you may file a complaint with the U.S. Department of Labor's Wage and Hour Division. Here is more information on how to file a FMLA

<sup>7</sup> Companies with 50 or more employees, located within 75 miles of each other. Employees must have worked a) for a total of at least one year (12 mos) for the employer, and b) for at least 1,250 hours in the preceding year.

complaint: <http://www.dol.gov/wecanhelp/howtofilecomplaint.htm>

If you have more questions, call 1-866-487-9243 or visit [www.wagehour.dol.gov](http://www.wagehour.dol.gov). You will be directed to the Wage and Hour Division office that is closest to you.

**Keeping your public benefits while working**

You should find out how working will impact your eligibility for public benefits that you already receive, such as Medicaid or social security benefits. This section gives an overview of resources to contact. You can also contact a Benefits Specialist at the Division of Vocational Rehabilitation (302-761-8275 or <http://dvr.delawareworks.com/benefits-counseling.php>).

**Reporting changes to the Division of Social Services (DSS) and Medicaid**

If you receive public benefits such as Medicaid, SNAP (aka food stamps), cash assistance, or Temporary Assistance for Needy Families, you will need to report changes in your income. For details, check with your Division of Social Services caseworker. We recommend that you report these changes in writing and keep a copy for yourself, such as by faxing your income changes and keeping a copy of your fax confirmation.

**Medicare for Qualified Disabled and Working Persons**

If you have a disability, are under age 65 and receive Medicare, you can ask about Medicare for Qualified Disabled and Working Persons.

(Call 1-800-MEDICARE to get the phone number for your state Medical Assistance office.) There is also a

Staying employed cont.

program called Medicaid for Workers with Disabilities that provides Medicaid for workers with severe disabilities who meet the medical eligibility criteria for SSDI/SSI with incomes less than 275% of the federal poverty level. There is a sliding scale for premiums. Contact the Delaware Medicaid Program at (302) 255-9500 or 1-800-372-2022.

### **Social Security Programs**

If you receive social security benefits (SSI or SSDI):

- You must tell the Social Security Administration that you have started or stopped working, or that your wages, hours, or job responsibilities have changed.<sup>8</sup>
- If you receive SSI benefits, you must report earnings from your job or other money that you receive.
- The Social Security Administration may review your case periodically, to see if you have medically improved or if there are changes in your work status.

Social Security offers several programs designed to make it easier for you to find a job or return to work. This section has information on some of the main programs. For a list of employment supports, see "Guide to Employment Supports," at <http://www.ssa.gov/redbook/eng/employment-supports-help.htm#a0=2>.

- **Impairment-related Work Expenses (IRWEs)**

IRWEs are out-of-pocket expenses for certain items related to your disability that you need to

<sup>8</sup> You can report changes in your work activity by phone, fax, mail, or in person. We recommend reporting in writing (by fax, mail, or in person) whenever possible; keep a copy for your own records. Call toll-free 1-800-772-1213 between 7 a.m. and 7 p.m., Monday through Friday, or visit your local SSA office. You can find your local office by visiting [www.socialsecurity.gov](http://www.socialsecurity.gov).



purchase in order for you to work.

Some examples of IRWEs are: wheelchairs, specialized work-related equipment, medication, counseling services, car modifications, or attendant care services.

When calculating your SSI monthly payment amount, the Social Security Administration may exclude IRWEs from your earned income. This means that if you have IRWEs, your SSI benefits could be higher.

- **Plan to Achieve Self-Support (PASS)**

A PASS is a plan for individuals on SSI (or who qualify for SSI with the plan) that lets you use your income to reach a work goal. With a PASS, you can set aside money for things that will help you achieve your goal, such as skills or vocational training. The Social Security Administration must approve your PASS.

Money or resources that you set aside under an approved PASS are not counted when the Social Security Administration determines your eligibility for SSI benefits. Having a PASS can help you either qualify for SSI benefits or continue to receive SSI benefits while you are working.

You can get a copy of the PASS application Form SSA-545-BK from your local Social Security office or online at: [www.socialsecurity.gov/online/ssa-545.html](http://www.socialsecurity.gov/online/ssa-545.html).

You can get a PASS Specialist's telephone number by calling toll-free number 1-800-772-1213 between 7 a.m. and 7 p.m. Monday through Friday.

Staying employed cont.

- **Ticket to Work Program**

The Ticket to Work Program is a program for persons with disabilities receiving SSI or SSDI, who want to work and participate in planning their employment. A Ticket increases your available choices when obtaining employment services, vocational rehabilitation services, and other support services you may need to get or keep a job. It is a free and voluntary service.

To search for a program in your area: <http://www.chooseworkttw.net/resource/jsp/searchByState.jsp>

To download program materials:  
<http://www.chooseworkttw.net/document-library/materials-for-beneficiaries/index.html>

- **Student Earned Income Exclusion for SSI recipients**

If you are under age 22 and are regularly attending school, the Social Security Administration does not count up to a certain amount of earned income per month when calculating your SSI payment (with a yearly maximum; these numbers change yearly).

- **Section 301 Continuing Benefits**

If you receive SSI or SSDI, the Social Security Administration may review your case periodically to evaluate whether you continue to meet the disability requirements.

If you are participating in an approved vocational rehabilitation program, or have an I.E.P. at your high school, you may continue to receive benefits, even if the Social Security

Administration finds that you no longer meet the disability requirements. There are certain rules and requirements in order for you to qualify for your benefits to continue.

For more detailed information, visit <http://www.ssa.gov/redbook/eng/ssdi-and-ssi-employments-supports.htm#a0=8> or speak with an expert at SSA's Ticket to Work Help Line at 1-866-968-7842 (V) or 1-866-833-2967 (TTY).

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## Disability-based discrimination at work

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At any stage of the job search process – from interviewing for a job to after you have gotten the job – there are some things that employers cannot do. One of those things is that it is illegal for employers to discriminate against a person because the individual has a disability.

People with disabilities are protected by several federal and state laws. These laws prohibit employers from discriminating against individuals with disabilities in many parts of employment:

- Delaware Discrimination in Employment Act<sup>9</sup>
- Title I of the Persons with Disabilities Employment Protection Act (PWDEPA)<sup>10</sup>
- Delaware Equal Accommodations Law<sup>11</sup>
- Title 1 of the Americans with Disabilities Act of 1990<sup>12</sup>

<sup>9</sup> 19 *Del. C.* §710 et seq.

<sup>10</sup> 19 *Del. C.* §720 et seq. PWDEPA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations.

<sup>11</sup> 6 *Del. C.* §4500 et seq.

<sup>12</sup> 42 U.S.C. §§ 12111-12117. Title I of the ADA only applies to employers with 15 or more employees.

Staying employed cont.

Disability-based discrimination at work

For general information, we suggest you read "The ADA: Your Employment Rights as an Individual with a Disability," at <http://www.eeoc.gov/facts/ada18.html>

**Interviewing or applying for a job**

There are some things that employers cannot ask you, either on the job application or during the interview.

For example:

- They cannot ask you if you have a disability.
  
- They also cannot ask you about the nature or severity of your disability.
  
- However, they can ask you:
  - ⇒ If you can perform the job duties, with or without reasonable accommodation.
  
  - ⇒ To describe or demonstrate how you would perform the job duties, with or without reasonable accommodation.

**Medical testing before or after offer**

Employers cannot require you to take a medical examination before they offer you a job. After you receive a job offer, the employer may require you to pass a medical examination.

However, the employer must require all entering employees for that job category to take the exam, not just you. For example, some jobs require medical clearance due to the nature of the work. If the medical exam reveals information about your

disability, the employer cannot reject you for the job on that basis, as long as you can perform the essential job functions with accommodation. The employer's reason for rejection must be job-related and necessary for the conduct of the business.

After you have been hired and started work, your employer cannot require that you take a medical examination or ask questions about your disability unless they are related to your job and necessary for the conduct of your employer's business.

Your employer may conduct voluntary medical examinations that are part of an employee health program, and may provide medical information required by State workers' compensation laws to the agencies that administer such laws.

The results of all medical examinations must be kept confidential, and maintained in separate medical files.

The employer may require you to pay for the cost of the medical examination or the cost of providing records that the employer requests, as a condition of employment. Delaware does not have any laws prohibiting the employer from asking you to pay for these costs.

**Reasonable accommodations**

In order to get or keep a job, you must be qualified for the job. This means that you must have the right experience, education, and/or skills to perform the duties of the job. However, employers are required by law to make adjustments or modifications to accommodate a qualified applicant or employee's disability if it would not impose significant difficulty or expense to the employer. These adjustments are known as "reasonable accommodations."

Examples of reasonable accommodations are:

- A deaf applicant may need a sign language interpreter during the job interview.
- An employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood sugar and insulin levels.
- A blind employee may need someone to read information posted on a bulletin board.
- An employee with cancer may need leave to have radiation or chemotherapy treatments.

In most cases, it is the individual employee or applicant's responsibility to request a reasonable accommodation. Your family member may request reasonable accommodation on your behalf. Your employer may request documentation of your disability. This may occur especially when the disability is not obvious, such as a learning disability. The employer is not entitled to have more information than is necessary to assess your need for an accommodation.

**For an example of a Request for Reasonable Accommodation, see "Sample: Request for Reasonable Accommodation Letter," at the end of this guide!**

If your employer denies your request for reasonable accommodation, you may file a complaint for discrimination. See the section, below, on "Filing a Complaint."

***Filing a complaint.***

If you think that you have been discriminated against because of your disability or for any other illegal reason, you may file a complaint. There are short time limits as to when you must file your complaint. It's best to file your complaint as soon as possible if you suspect discrimination.

Any individual who believes that his or her employment rights have been violated under the Delaware Discrimination in Employment Act or the Persons with Disabilities Employment Protraction Act may file a charge of discrimination with the Delaware Department of Labor (DDOL).

- A charge must be filed with DDOL within 120 days from the date of the alleged violation, in order to protect the charging party's rights to file an action in state court.
- The filing deadline is up to 300 days under federal law. A charge filed between 121 and 300 days will be forwarded to the Equal Employment Opportunity Commission for processing.
- To protect legal rights it is always best to contact DDOL as soon as possible when discrimination is suspected.
- A charge may be filed in person at the DDOL office in Milford or Wilmington.
- The Discrimination Intake Form can be downloaded from: <http://dia.delawareworks.com/discrimination/documents/Discrimination%20Intake%20Packet.pdf>

- For more information, see <http://dia.delawareworks.com/discrimination/file-a-charge.php>

Complaints about discrimination in public accommodations under the Delaware Equal Accommodations Law, that are not related to employment, are handled by the Division of Human Relations. You may call them at (302) 577-5050 or visit their website at <http://statehumanrelations.delaware.gov/services/discrimination.shtml>.

### **Other Legal Rights and Protections**

You may face other questions in your job that are not related to discrimination. There are many rights and protections of interest. For example, employees have a right to inspect their personnel file upon request. The employee can take notes of what is in the file. An employee can ask for a correction, but if the employer and employee cannot agree, then the employee has the right to submit a statement to be placed in the personnel file.<sup>13</sup>

Other areas of employment:

- Wages, Minimum Wage, hours, overtime<sup>14</sup>
- Workplace safety and health<sup>15</sup>
- Workers' Compensation
- Unemployment Compensation

If you have questions on these topics, or are not sure which organization can answer your questions, a good place to start will be the U.S. Department of Labor and the Delaware Department of Labor. The

<sup>13</sup> 19 Del. C. §730 et seq.

<sup>14</sup> Fair Labor Standards Act, 29 U.S. Code Chapter 8

<sup>15</sup> Occupational Health and Safety Act, 29 U.S.C. § 651 et seq.



U.S. Department of Labor has many helpful fact sheets on its website ([www.dol.gov](http://www.dol.gov)). For guidance on how to address your specific situation, the Delaware Department of Labor may point you toward the right agency or resources. Call (302) 761-8085, or visit [www.delawareworks.com](http://www.delawareworks.com).

### **Employers Who Must Try to Hire Individuals With Disabilities**

Some employers, including federal agencies and companies with federal contracts over a certain amount, must try to hire people with disabilities. Therefore, it might benefit you to consider employment with such an employer.

### **Selective Service**

You should know that if you are male, you must register for the Selective Service System within 30 days of your 18th birthday, even if you have a disability. Registration is required to apply for federal employment, some job training programs, and federal student loans.

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### SAMPLE: reasonable accommodation letter

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Notes to letter writer:

1. Employees should send this letter to the right person, such as an immediate supervisor or ADA coordinator.
2. Employees are not required by law to make a reasonable accommodations request in writing. Requests can be made orally.
3. When an employee requests a reasonable accommodation in writing, the employee should keep a copy.

**SAMPLE: Reasonable Accommodation Letter**

Employer's Address

Date of Letter

Dear \_\_\_\_\_:

I work (or: I am applying) as a \_\_\_\_\_ (fill in job) for \_\_\_\_\_ (fill in company or department). I am writing to formally request a reasonable accommodation for my disability under \_\_\_\_\_ (choose one or both: "federal" and/or "state") laws governing reasonable accommodations for persons with disabilities. Although I am otherwise qualified for my position, I am limited in my ability to \_\_\_\_\_ (state type of task affected by disability, for example, "lift heavy objects"; "take the regularly scheduled bus"; "use an auditory telephone"; "type quickly"). Therefore, I will need accommodations in order to \_\_\_\_\_ (state job task for which you need accommodation, for example "move the encyclopedias"; "arrive at work by 8am"; "answer telephone calls"; "type memos").

From my experience, I know that \_\_\_\_\_ (state possible solution, for example, "obtaining a dolly"; "telecommuting from home"; "obtaining a TTY machine"; "being allotted more time for typed projects") would be a sufficient accommodation. However, I am open to other solutions that you may suggest. I also would be willing to meet with you to discuss other options.

(Omit the following paragraph if the request you make costs nothing.) As you probably know, you may be eligible for tax deductions or tax credits for expenses incurred in providing reasonable accommodations to persons with disabilities. For more information about your eligibility for tax credits, you can contact the Mid-Atlantic ADA Center at 800-949-4232 or the Equal Employment Opportunity Commission at 800-669-4000.

If you would like medical verification of my disability, I can provide you with the appropriate documents upon your request. (Alternatively, "I have attached medical documentation verifying my disability.")

Thank you for your attention to this matter. I would appreciate a response to this letter within one week so that I can be as efficient in my job as possible. I look forward to cooperating with you to find an effective and economical solution.

Thank you,

Employee's Signed and Printed Name  
Employee's Mailing Address and Phone Number

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NOTES

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*This guide has provided general information to help you through finding a job and staying employed, and is not intended to be legal advice. Remember that every person's situation will be different. For questions on your specific situation, you may apply for free legal assistance from Community Legal Aid Society, Inc. (CLASI).*

**You can learn more about transition, or provide us feedback, at [transition.declasi.org](http://transition.declasi.org)**

Visit us on the web at [www.declasi.org](http://www.declasi.org) or contact us at one of our three office locations:

**CLASI Offices**

**New Castle County**

100 West 10th Street, Suite 801  
Wilmington, DE 19801  
302-575-0660  
302-575-0696 (TTY/TDD also)  
302-575-0666 - Elder Law Program  
302-575-0690 - Disabilities Program  
FAX: 302-575-0840

**Kent County**

840 Walker Road  
Dover, DE 19904  
302-674-8500 (TTY/TDD also)  
302-674-3684 - Elder Law Program  
302-674-8503 - Disabilities Program  
FAX: 302-674-8145

**Sussex County**

20151 Office Circle  
Georgetown, DE  
302-856-0038 (TTY/TDD also)  
302-856-4112 - Elder Law Program  
302-856-3742 - Disabilities Program  
FAX: 302-856-6133

This guide is current as of January 2014