

**Preliminary Performance Review Update of the**

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**Ron Yost Personal Assistance  
Services Program**

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**The Ron Yost Personal Assistance Services Program Is  
in Partial Compliance with Increasing Availability  
of the Service as Intended by Law**

**The Agency Has Improved Its Efforts to Assure that  
Recipients Comply with Employment Laws But Agency  
Has Encountered Recipient Resistance**



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John Sylvia  
Director

October 20, 2002

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable Vicki V. Douglas  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Preliminary Performance Review Update of the Ron Yost Personal Assistance Services Program, which will be presented to the Joint Committee on Government Operations on Sunday, October 20, 2002. The issues covered herein are "The Ron Yost Personal Assistance Services Program is in Partial Compliance with Increasing Availability of the Service as Intended by Law;" and "The Agency has Improved its Efforts to Assure that Recipients Comply with Employment Laws but Agency has Encountered Recipient Resistance."

We transmitted a draft copy of the report to the Ron Yost Personal Assistance Services Program on October 1, 2002. We held an Exit Conference with the Program on October 9, 2002. We received the agency response on October 11, 2002.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

JS/wsc

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*Joint Committee on Government and Finance*

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# Contents

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<b>Executive Summary</b> .....	5
<b>Issue 1:</b> The Ron Yost Personal Assistance Services Program is not Designed to Increase Availability of the Service as Intended by Law.....	7
<b>Issue 2:</b> There is no Assurance that Recipients Comply with Employment Laws as Required by Law.....	9
 <b>List of Tables</b>	
<b>Table 1:</b> Levels of Compliance.....	5
 <b>List of Appendices</b>	
<b>Appendix A:</b> Transmittal Letter to Agency.....	11
<b>Appendix B:</b> Agency Response.....	13



# Executive Summary

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This report is an update of the Preliminary Performance Review of the Personal Assistance Services Program, issued in June 2001. The review is conducted in accordance with the West Virginia Sunset Law, West Virginia Code, Chapter 4, Article 10, Section 11a. The purpose of this update is to determine whether or not the agency has complied with recommendations made in the original evaluation.

The June 2001 review identified the following issues:

1. The Personal Assistance Services Program is not designed to increase availability of the service as intended by law.
2. The Personal Assistance Services Program does not ensure that recipients comply with employment laws.

The objective of this update is to examine the status of the Personal Assistance Services Program's efforts toward compliance with recommendations in issues 1 and 2. This update uses the following designations for levels of compliance.

<b>Table 1 Levels of Compliance</b>
<b><u>In Compliance</u></b> - The Program has corrected the problems identified in the 2001 audit report.
<b><u>Partial Compliance</u></b> - The Program has partially corrected the problems identified in the 2001 report.
<b><u>Planned Compliance</u></b> - The Program has not corrected the problem but has provided sufficient documentary evidence to find that the Program will do so in the future.
<b><u>In Dispute</u></b> - The Program does not agree with either the problem identified, or the proposed solution.
<b><u>Non-Compliance</u></b> - The Program has not corrected the problem identified in the 2001 audit report.
<b><u>Requires Legislative Action</u></b> - The recommendation was intended to call the attention of the Legislature to one or more statutory issues.

The Legislative Auditor finds that the Personal Assistance Services Program is in partial compliance with two of the three recommendations made in the 2001 review; the third requires legislative action.





# Issue 1

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## **The Ron Yost Personal Assistance Services Program Is Not Designed to Increase Availability of the Service as Intended by Law.**

### **Recommendation 1**

*Applicants should be required to apply for other programs they may be eligible for and return the eligibility determination to DRS before an application for Ron Yost funding is processed or in order for Ron Yost funding to continue.*

### **Level of Compliance: Partial Compliance**

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*The Agency has increased its efforts to have recipients apply to other programs, but it appears Medicaid is the only program recipients apply for.*

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The Legislative Auditor finds that the Division of Rehabilitation Services (DRS) has informed recipients they must return eligibility determinations for funding to continue but failure to do so has not resulted in termination of services. In reviewing the files, the Legislative Auditor found that 21 or 91% of the recipients have returned denials for eligibility for some type of service from another program. In some cases recipients submitted a denial for a service, but the reason stated for the denial was failure by the individual to provide supporting documentation to that organization. The Legislative Auditor was unable to find any documentation submitted by the recipient in two recipients' files. The Legislative Auditor did find support in these recipients' files that DRS had repeatedly informed the recipient of the need to submit this information.

Recipients agree to obtain services from other programs if deemed eligible. As stated in §198-1-4.5.a.,

*The recipient shall agree to obtain services from other entities if it is later determined he or she is eligible for personal assistance services from other entity, including, but not limited to, the Medicaid Waiver Program.*

A review of the recipients files indicate that recipients appear to be submitting documentation of denial for Medicaid only. Furthermore, it was not clear that recipients were actually applying for personal assistance services through Medicaid. In addition, there is no evidence that recipients applied for other programs.

The Legislative Auditor continues to be concerned that the statutory

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intent to increase the availability is defeated when recipients have not demonstrated they would not be eligible for services through other organizations besides Medicaid.

## **Recommendation 2**

*The Legislature may wish to consider amending the statute and legislative rules which prohibit an individual from receiving Ron Yost services if he/she is a recipient of another service to allow the Ron Yost Program to supplement another program when that program provides an inadequate amount of service.*

### **Level of Compliance: Requires Legislative Action**

This recommendation was directed to the Legislature. However, the Division of Rehabilitation Services indicated to the Legislative Auditor that the Division and the consumer board that directs the program will be meeting with legislative counsel in November 2002 to discuss options for amending statute and rules.

### **There Is No Assurance that Recipients Comply with Employment Laws as Required by Law.**

#### **Recommendation 3**

*The Division of Rehabilitation Services should require recipients provide documentation that shows compliance with applicable employment laws.*

#### **Level of Compliance: Partial Compliance**

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*The Agency has established procedures that would ensure recipients are in compliance with employment laws. The question is what to do when recipients resist Agency procedure.*

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The Legislative Auditor finds that DRS made an attempt to implement this recommendation; however, it has encountered resistance from recipients. In a letter to the Legislative Auditor, the DRS indicated that in November 2001 recipients were informed in writing about the obligation to comply with state and federal employment and tax laws. Recipients were sent a technical assistance guide to provide assistance on how to meet employer responsibilities, and recipients were sent a verification form. The verification form was to be sent back to DRS with the recipient's signature acknowledging his or her awareness of the responsibilities that the person was to comply with as an employer.

According to a letter from the Division,

*...Of the 23 current RYPAS recipients, 65% returned the verification forms. However, compliance with submission of copies of quarterly federal and state employment documents has been minimal. Several recipients indicated that they would not submit copies, per directives of accountants or other tax professionals...*

Based on the above statement, the Legislative Auditor finds that DRS cannot provide assurance that applicable state and federal employment laws are met. This is due in large part to resistance from recipients. The Legislative Auditor is not aware of any tax laws that would prevent recipients from providing the required tax information to the DRS. A review of the files shows that only three recipients submitted tax information. **It is possible that the remaining recipients did not submit copies of tax information to DRS because they are not in compliance with employment laws.** The law is clear that the DRS

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must assure that recipients are complying with employment and tax laws. Therefore, the DRS should consider informing recipients of the discontinuation of services if tax data are not provided.

# Appendix A: Transmittal Letter to Agency

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John Sylvia  
Director

October 1, 2002

Janice A. Holland, Director  
Division of Rehabilitation Services  
P.O. Box 50890  
Charleston, WV 25305

Dear Director Holland:

This is to transmit a draft copy of the Preliminary Performance Update of the Personal Assistance Services Program. This report is scheduled to be presented at the Sunday, October 20 2002 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

If you wish to schedule an exit conference to discuss any concerns you may have with the report please notify us to schedule a time. In addition, we need your written response to this report by noon on October 9, 2002 in order for it to be included in the final report.

We request that your personnel treat the draft report as confidential and request that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

\_\_\_\_\_ *Joint Committee on Government and Finance* \_\_\_\_\_



# Appendix B: Agency Response

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## **Division of Rehabilitation Services Response to PERD Recommendations for The Ron Yost Personal Assistance Services Program**

### **Response to Recommendation 1:**

DRS and the Ron Yost Personal Assistance Board have included the following provision in the Administrative Policy governing the RYPAS program and will closely work with applicants and recipients for compliance:

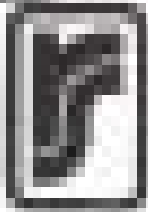
**Section 4205.6 Third Party Resources.** "The applicant must provide verification of application for services from agencies and programs that offer personal assistance services, such as Medicaid Waiver, etc., as well as the subsequent decision. This documentation must be made available to the RYPAS Board prior to review for RYPAS eligibility."

### **Response to Recommendation 3:**

DRS does provide each RYPAS recipient with technical assistance on their responsibilities and requirements as employers. Recipients are informed of their requirement to submit copies of quarterly state and federal employment documents and are informed that failure to submit these required forms may result in termination of RYPAS services as indicated in the attached letter. Some recipients have not complied with the submission of the required forms.

DRS and the RYPAS Board feel that discussion with legislative leaders is necessary to gain legislative intent regarding this issue before terminating a recipient's personal care services.

**R E C E I V E D**  
OCT 11 2002  
PERFORMANCE EVALUATION AND  
RESEARCH DIVISION



**DEPARTMENT OF REHABILITATION SERVICES**  
**SYSTEMS OF REHABILITATION SERVICES**  
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October 1, 2002

**Systems of Rehabilitation Services**

The Department of Rehabilitation Services is pleased to announce the opening of the following positions. The Department is currently seeking qualified candidates for the following positions. The Department is currently seeking qualified candidates for the following positions. The Department is currently seeking qualified candidates for the following positions.

The Department is currently seeking qualified candidates for the following positions. The Department is currently seeking qualified candidates for the following positions. The Department is currently seeking qualified candidates for the following positions.

**Department of Rehabilitation Services**  
**1000 ...**  
**...**

The Department is currently seeking qualified candidates for the following positions. The Department is currently seeking qualified candidates for the following positions.

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