

ELIGIBILITY, INELIGIBILITY, TRIAL WORK PERIODS AND EXTENDED EVALUATION

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 (PL 93-112), as amended through P.L. 105-220, the Workforce Investment Act of 1998; Sect. 102, 34CFR 361.41, 361.42, 361.43.

II. POLICY STATEMENT AND PURPOSE:

Qualified Vocational Rehabilitation Counselors at the Office of Rehabilitation Services will:

- A. Determine eligibility of applicants within sixty (60) days of a signed application unless extenuating circumstances apply;
- B. Utilize existing information to determine eligibility, including *counselor observation*, education records, third-party records, information provided by the individual or the individuals' family, Social Security Administration, and officials of other agencies;
- C. Presume individuals with a disability as identified in Individualized Plan for Employment (IPE) can benefit from vocational rehabilitation services in terms of an employment outcome unless *clear and convincing* evidence demonstrates otherwise;
- D. Conduct a trial work period and extended evaluation when information and observations are unable to determine if individual will benefit from vocational rehabilitation services; and
- E. Advise individual, individual's parent, guardian, or representative of his/her rights related to review of determination by Agency personnel as stated in Section 115.12, APPEALS/IMPARTIAL DUE PROCESS (HEARING AND MEDIATION)

An individual who has a disability pursuant to Title II (SSDI) or Title XVI (SSI) of the Social Security Act shall be considered to be an individual with a significant disability and presumed to be eligible for vocational rehabilitation services, providing that the individual intends to achieve an employment outcome, and can benefit from vocational rehabilitation services in terms of an employment outcome, i.e., becoming employed or retaining or regaining employment.

III. DEFINITIONS

- A. Individual with a Disability: The term "individual with a disability" means any individual who has a physical or mental impairment that results in a substantial impediment to

employment and who can benefit, in terms of an employment outcome, in an integrated, competitive setting, from vocational rehabilitation services. It will be presumed that the individual can benefit in terms of an employment outcome from VR Services unless clear and convincing evidence demonstrates otherwise.

- B. Substantial Impediment to Employment: The term "substantial impediment to employment" means that the physical or mental impairment which is supported by attending medical, psychological, educational reports, or other related factors, hinders the individual from preparing for, entering, engaging in, or retaining gainful integrated, competitive employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.
- C. Trial Work Experience: The term "trial work experience" refers to a process that the designated state unit (VR) must conduct to determine if an individual with a disability is unable to benefit from vocational rehabilitation services in terms of an employment outcome because of the severity of the individual's disability. The "trial work experience" is a process that includes an exploration of the individual's abilities, capabilities, and capacity to perform in a realistic, integrated, competitive work environment. Trial work experience may include supported employment, on-the-job training, and other experiences that occur in realistic work settings and must be of sufficient variety over a sufficient amount of time with sufficient amount of time to determine capacity to work. VR must provide adequate supports including assistive technology and personal assistance services to accommodate the rehabilitation needs of the individual during the trial work experience.
- D. Extended Evaluation: The term "extended evaluation" means *under limited circumstances* an individual cannot take advantage of trial work experiences or if options have been exhausted before the state is able to make a determination of eligibility or ineligibility, VR must conduct an extended evaluation to make the appropriate determination. During this period, VR services must be provided in the most integrated setting possible; must be consistent with informed choice; and must be based on a written plan for providing the services necessary to make the determination of eligibility/ineligibility. VR is obligated to provide only those services that are necessary to make the eligibility determination and terminates extended evaluation services once the VR unit is able to make a determination of eligibility.

IV. ELIGIBILITY

- A. An individual is eligible for vocational rehabilitation services if all of the following apply:
 - 1. The individual has a physical or mental impairment that constitutes or results in a substantial impediment to employment;
 - 2. The individual has functional limitations that are a barrier to competitive, integrated employment, and/or the individual is on SSI and/or SSDI (verified by counselor) and is presumed to be eligible for VR services as long as the individual intends to achieve an employment outcome;
 - 3. The individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment;
 - 4. The individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and
 - 5. The individual is presumed to be able to benefit in terms of an employment outcome in an integrated, competitive setting, from VR services.

- B. Services/Steps:
 - 1. Review existing data, including VR Counselor's observations, assessments, information provided by the individual or the individual's family, third party records, and other pertinent information;
 - 2. Obtain additional data, if warranted, including assessments such as: vocational evaluations, clinical evaluations, psychological assessments, assistive technology assessments, and any other services that are necessary to determine the eligibility of the individual.

V. TRIAL WORK/EXTENDED EVALUATION (STATUS 06)

- A. Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability, ORS must conduct an exploration of the individuals' abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination.

B. Services/Steps:

1. Meet with customer, and as appropriate significant others, to discuss the need for a trial work experience and/or extended evaluation in order to develop with customer an Individualized Plan for Employment (IPE) that defines the services involved in Trial Work Period or Extended Evaluation.
2. Meet with customer on an on-going basis to monitor identified services referenced in IPE and assess the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences/extended evaluations in the most integrated, competitive setting possible, consistent with the informed choice, functional abilities, and rehabilitation needs of the individual.
3. Provide trial work experiences/extended evaluation of sufficient variety and over a significant period of time for the VR agency to determine eligibility or ineligibility that can include supported employment, on-the-job- training, and other experiences using realistic work settings.
4. Review of file for services, customer activities, and progress of IPE services must occur every ninety (90) days.

VI. INELIGIBILITY

A. An individual is ineligible for services if any of the following is applicable:

1. The individual does not have an impairment which constitutes a substantial impediment to employment, or
2. The individual is on SSI and/or SSDI but does not intend to achieve an employment outcome, or
3. The individual does not need VR services to become employed, or
4. The individual is incapable of benefiting from VR services in terms of an employment outcome due to severity of the individual's functional limitations based on clear and convincing evidence.

B. Services/Steps:

1. Ineligibility determination is made only after consultation with supervisor, and
 2. Prior to a determination that an individual is ineligible, the individual (or his/her parent, legal guardian, or other representative, as appropriate) will be included in the decision-making process.
- C. If an individual is found to be ineligible, the individual will receive notification in writing or by other mode of communication in accordance with the individual's informed choice, of the reason, due process rights, and the availability of services provided by the Client Assistance Program.
- D. Refer individual to other Agency or other disability services or training related program, as appropriate to address needs.
- E. If ineligibility is based on finding of Trial Work Periods/Extended Evaluation, additional steps need to be addressed including:
1. Review within 12 months and annually thereafter if requested by the individual, or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome.
 2. This review need not be conducted in situations in which the individual has refused it, is no longer present in the state, whereabouts are unknown, or individual's medical condition is rapidly progressive or terminal.