

3304-2-54

Eligibility for services, assessment, and trial work experiences.

(A) "Eligibility for services" means that ~~a person~~ an individual: (1) has a physical, cognitive or mental impairment which constitutes or results in a substantial impediment to employment; (2) can benefit from VR services in terms of an employment outcome; and (3) requires VR services to prepare for, secure, retain, or regain employment. Only ~~an RSC counselor (or supervisor acting as a counselor)~~ OOD may determine eligibility.

(1) ~~A person~~ An individual who is receiving or who has been determined eligible for social security disability insurance (SSDI) benefits or supplemental security income (SSI) shall be considered to be an individual with a significant disability, and presumed eligible provided the ~~person~~ individual intends to achieve an employment outcome. The employment outcome shall be consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the ~~person~~ individual. The ~~person~~ individual is presumed eligible for vocational rehabilitation services unless RSCOOD can demonstrate by clear and convincing evidence that the ~~person~~ individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

(2) RSCOOD shall use another agency's eligibility criteria to establish that a physical, cognitive or mental impairment exists if RSCOOD determines that the agency's criteria are appropriate, available, and consistent with RSC'sOOD's eligibility requirements.

(3) Every ~~person~~ individual who meets the criterion in paragraph (A)(1) of this rule shall be presumed to meet the criterion of paragraph (A)(2) of this rule, unless RSCOOD demonstrates, based on clear and convincing evidence that the ~~person~~ individual is incapable of benefiting from vocational rehabilitation services due to the severity of the ~~person's~~ individual's disability.

(a) Prior to such a determination RSCOOD must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations through the use of trial work experiences, with supports, provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

(b) Under limited circumstances if ~~a person~~ an individual cannot participate in trial work experiences RSCOOD shall conduct an extended evaluation, providing only those services necessary to make an appropriate determination of the ~~person's~~ individual's ability to benefit from vocational rehabilitation services.

- (4) "Employment outcome" means entering or retaining full-time or, if appropriate, part-time competitive employment (including supported employment) in the integrated labor market. An employment outcome must be consistent with a ~~consumer's~~ an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Volunteer work shall not be considered employment.
- (a) "Competitive employment" means full-time or part-time work in the competitive labor market in an integrated setting; and for which earnings are at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by ~~persons without disabilities~~ individuals who are not disabled.
- (b) "Integrated setting," with respect to an employment outcome, means a setting typically found in the community in which ~~consumers~~ applicants or eligible individuals interact with ~~persons~~ individuals who do not have a disability, other than service providers, to the same extent that non-disabled ~~persons~~ individual in comparable positions interact with other persons.
- (c) "Extended employment" means work in a non-integrated or sheltered setting for a public or private non-profit agency or organization that provides compensation in accordance with the Fair Labor Standards Act of 1938 (29 U.S.C., Sections 201-219).
- (5) Eligibility shall be determined no later than sixty days after a ~~person~~ an applicant has submitted an application unless (a) exceptional and unforeseen circumstances beyond the control of ~~RSCOOD~~ preclude ~~RSCOOD~~ from determining eligibility within sixty days and the ~~person~~ applicant agrees that a specific extension of time is warranted; or (b) trial work experiences or an extended evaluation are provided. The ~~consumer~~ applicant shall receive a copy of a written extension of time.
- (6) The ~~certificate~~ notice of eligibility shall be ~~signed and dated by the counselor~~ and shall indicate that the ~~consumer~~ individual meets the eligibility criteria. The ~~consumer~~ eligible individual shall receive a copy.
- (7) A determination of eligibility must not be based on: the particular service needs or the anticipated cost of services required by an applicant, or the income level of the applicant or the applicant's family, the type of expected employment outcome, or source of referral for vocational rehabilitation

services.

- (B) RSCOOD shall ~~provide an assessment to a person who has applied for services~~ assess an applicant (unless ineligibility is determined before completion or the case is closed for some other reason), to determine whether the ~~person~~ applicant meets the eligibility criteria for services, or whether trial work experiences or extended evaluation are needed to make the determination.
- (C) After eligibility is determined, RSCOOD shall determine the ~~person's~~ eligible individual's priority group for purposes of order of selection, consistent with rule 3304-2-65 of the Administrative Code.
- (D) A review of existing information shall be used for the determinations listed in paragraphs (B) and (C) of this rule, unless such information is insufficient to make the determinations. Then, additional assessment may be obtained and may include the provision of goods and services. Such additional assessment shall be carried out in the most integrated setting consistent with the informed choice of the ~~consumer~~ eligible individual.
- (E) To the extent additional information is necessary, a comprehensive assessment is provided for ~~persons who are eligible~~ individuals.
- (F) Comprehensive assessment shall be:
- (1) Limited to information necessary to determine the eligible individual's current general health status ~~of the person, to identify the VR needs, of the person and to develop and determine the employment outcome, and nature and scope of VR services to be included in the IPE;~~
 - (2) Provided to identify the ~~person's~~ eligible individual unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and needs, including the need for supported employment; and
 - (3) Obtained from existing information, including information provided by the ~~person's~~ eligible individual's family, to the maximum extent possible and appropriate. Any additional assessment shall be carried out in the most integrated setting consistent with the informed choice of the ~~consumer~~ eligible individual.
- (G) Comprehensive assessment may include assessment of the following factors to the degree needed to make the determinations indicated in paragraphs (F) to (F)(3) of this rule:

- (1) Pertinent medical, psychiatric, psychological, neuropsychological, and other pertinent vocational, educational, cultural, social, recreational and environmental factors that affect the employment and rehabilitation needs of the personeligible individual; and
 - (2) The person'seligible individual's personality, career interests, interpersonal skills, intelligence, and related functional capacities, educational achievements, and personal and social adjustment, employment opportunities, and other pertinent data; and
 - (3) The person'seligible individual's work experience, vocational aptitudes, patterns of work behavior, and the services needed for the personeligible individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance including the use of work in real job situations to assess and develop the person's capacities to perform adequately in a work environment; and
 - (4) The potential to benefit from rehabilitation technology services to assess and develop the capacities of the person to perform in a work environment.
- (H) Diagnostic services for supported employment may be provided only after an assessment for VR is provided and only after eligibility has been determined. Diagnostic services for supported employment may be provided in circumstances such as the following:
- (1) Additional information is needed to determine the most suitable supported employment outcome or what on-going support services are needed.
 - (2) A reassessment of the suitability of the employment outcome is needed.
 - (3) There is a change in the consumer'seligible individual's physical or mental condition.
- (I) This rule is designed to implement "Title IV of the Workforce Investment Act," which contains the 1998 amendments to "The Rehabilitation Act of 1973," and resulting regulations.

Effective:

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Certification

Date

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