

## **IDVR Counselor Training Series**

### **Determining Disability Priority/Order of Selection**

#### **Welcome**

Welcome to the Idaho Division of Vocational Rehabilitation Counselor Training. This program is provided by the New Hampshire Department of Education, Division of Workforce Innovation, Bureau of Vocational Rehabilitation, and Interwork Institute of San Diego State University. It is part of the Agency's effort to provide readily available training support to vocational rehabilitation counselors. For further information contact: [shannon.wilcox@vr.idaho.gov](mailto:shannon.wilcox@vr.idaho.gov).

#### **Introduction**

In this module, you will learn about how to determine disability priority and the policies and procedures that govern the process.

In the Rehabilitation Act of 1973, the term Order of Selection (OOS) was introduced for the first time. The order of selection provision was established to ensure that if a VR program does not have sufficient funds or personnel to provide the full range of vocational rehabilitation services to all of the individuals that are eligible for the program, there is an order to be followed in selecting eligible individuals to be provided services. This order must ensure that individuals with the most significant disabilities receive services first. This "Order of Selection" necessitated VR programs to prioritize individuals based on the significance or severity of their disability. This categorization is used to determine when, based on level of significance assignment and application date, the individual could receive services under an OOS. IDVR refers to this assessment and process as determining disability priority.

IDVR is not in an OOS or anticipating entering an OOS. However, counselors are required to understand the importance of and assign disability priority categories correctly to all individuals determined eligible for VR services. This will help ensure that in the event IDVR enters an OOS, the Agency is able and ready to serve individuals with most significant disabilities first. Determination of disability priority still must occur at the time of the eligibility determination, even though IDVR is not in a OOS.

#### **Priority Categories**

There are three possible priority categories that an eligible individual can enter once the assessment of the significance of disability is complete. These priority categories are:

- **Priority One:** Most Significant Disability (MSD),

- **Priority Two:** Significant Disability (SD), and
- **Priority Three:** Disability (D).

To determine in which priority category to place an eligible individual, it is necessary to do an assessment of

1. the disability,
2. the areas of functional limitation caused by the disability,
3. the number of required services the person will need, and
4. the anticipated time to complete services.

These areas cannot be assessed without an eligibility determination first.

We will examine each of these areas in detail.

## **Disability**

The assessment for determining disability priority begins with identifying if the individual has one or more physical or mental disabilities that cause substantial functional limitations in one or more functional limitation areas.

## **Functional Limitation Areas**

### **Focus of the Section**

The next step is to assess whether the individual's physical or mental impairment(s) **seriously** impacts one or more of eight functional capacity areas. These functional capacity areas include:

- Mobility,
- Motor skills,
- Communication,
- Self-care,
- Self-direction,
- Interpersonal skills,
- Work tolerance, and
- Work skills.

Next, we will define each functional capacity area and provide guidance for what does and does not constitute a serious impact in each area.

## Mobility

Mobility refers to the ability to move from place to place inside and outside the home. A serious limitation in mobility exists if, due to the disability, the person requires assistance from others to get around in the community; or if the individual requires modifications, adaptive technology, or accommodations (not typically made for other workers) in order to move around the community; or if the person needs specialized training to learn to move around in the community.

The following circumstances do not constitute serious, disability-related limitations in mobility, though they may be considered in rehabilitation planning as related factors:

- Absence of or limitations in public transportation available in a geographic area,
- Loss of driving privileges because of accumulation of points and/or charges such as DUI, or
- Lack of a personal vehicle.

## Motor Skills

Motor skills are the purposeful movement and control of the body and its members to achieve specific results to the degree necessary to get and keep a job. Limitations may have a physical or neuropsychological etiology. A serious limitation in motor skills exists if, due to the disability the person requires assistance from others, personal adaptations, assistive technology and/or accommodations (not typically needed for other workers) to participate in employment in order to complete tasks which require dexterity, eye-hand coordination, speed, strength, and range of motion.

The following circumstances do not constitute serious, disability-related limitations in motor skills, though they may be considered in rehabilitation planning as related factors:

- Slow typing or keyboarding speed due to lack of training or practice,
- If the Individual chooses to perform tasks at a slow rate for reasons other than their disability,
- If the Individual chooses not to exert themselves to perform tasks,
- If the Individual chooses to rely on others to complete tasks, or
- If the Individual chooses to use personal adaptations or assistive technology but does not have a disability reason to do so.

## Communication

Communication is the ability to effectively exchange information through words or concepts (writing, speaking, listening, sign language, or other adaptive methods). A serious limitation in communication exists if the disability results in severely impaired

expressive or receptive communication, either oral or written, and to be able to communicate effectively, the individual requires modifications, adaptive technology, or accommodations not typically made for other workers. Upon first contact, the individual may not be readily understood by others or may not understand others.

Communication problems stemming from a language or cultural difference would not constitute serious disability related limitations in communication, though they would need to be considered in rehabilitation planning.

## **Self-Care**

Self-care is the ability to manage oneself or one's living environment (including but not limited to eating, toileting, grooming, dressing, money management, and medication compliance) as they affect the individual's ability to participate in services or work-related activities. Limitations may occur because of physical, cognitive, or emotional impairments and could impact all tasks or only specific tasks.

A serious limitation in self-care exists if the disability results in the individual being dependent upon other individuals, services, or devices to manage themselves or their living environment.

Lack of or limited financial resources affecting self-care would not constitute serious limitations in self-care because it is not disability-related. However, such factors would need to be considered in rehabilitation planning.

## **Self-Direction**

Self-direction refers to the ability to plan, initiate, problem solve, organize, and independently carry out goal-directed activities related to self-care, socialization, recreation, and work.

A serious limitation in self-direction exists if, due to the disability, the individual is confused or disoriented, requires assistance or intervention on an ongoing basis, or during periods of exacerbation of symptoms in order to perform tasks, monitor own behavior, and make decisions.

General impulsivity and lack of focus due to age and maturation would not in and of themselves constitute a serious limitation in self-direction for transitioning students but would need to be considered in rehabilitation planning.

## **Interpersonal Skills**

Interpersonal skills refers to the ability to establish and maintain personal, family, community and work relationships. A serious limitation in interpersonal skills means that due to the disability the individual has no or limited ability to interact with others in a socially acceptable manner or is unable to relate to peers or co-workers without exhibiting inappropriate behaviors. Difficulty with interpersonal skills due age and maturation, personality conflicts, or differences in socio-economic, cultural, religious, or political, or ethnic/racial differences may not constitute a serious limitation in interpersonal skills due to a disability but may need to be considered in rehabilitation planning.

## **Work Tolerance**

Work tolerance refers to the capacity to perform effectively and efficiently in jobs that require various levels of physical and/or psychological demand, for at least a partial workday. A serious limitation in work tolerance exists when the individual will require modification, adaptive technology, or accommodations (not typically made for other workers) in terms of capacity or endurance. For example, the individual may not be able to sustain an 8-hour workday, meet production standards, or perform at a consistent pace without frequent rest breaks.

Individuals who could work full-time but choose to work less than full time in order to retain benefits or for other reasons are not considered to have a serious limitation in work tolerance.

## **Work Skills**

Work skills refers to the ability to perform specific tasks required to carry out job functions, the capacity to benefit from training in the necessary skills, and the capacity to practice the work habits needed to stay employed. A serious limitation in work skills exists when the disability results in an inability to obtain or maintain employment normally available to persons of equivalent age, education, training, or experience. In order to acquire work skills, the person requires modifications, adaptive technology or accommodations not typically made for other workers.

Lack of work skills because of age or experience does not in and of itself constitute a serious limitation in work skills but may be considered as a related factor in rehabilitation planning. Anticipated difficulty in achieving work skills, and requirements for assistive technology and other modifications, aside from absence of work experience, may be considered in determining limitations related to work skills.

In determining whether there are serious limitations in work skills, consider the impact of the disability on specific employment goals rather than on the universe of jobs. For example, a math impairment may have a significant impact on an individual's ability to be an engineer, but little impact on many other careers.

**Remember:** The disability priority process occurs **after** an individual is determined eligible. They are related, but separate assessments a counselor is required to complete as part of the VR process.

## Anticipated Number of Required Services

Once you have determined whether the individual's physical or mental impairment(s) seriously impacts one or more of the eight functional capacity areas, the next part of determining disability priority must be completed. The determination of disability priority requires the counselor to identify the anticipated number of primary services the individual will need in order to achieve their employment goal. The primary service categories include the following:

- Vocational Counseling and guidance
- Assistive Technology
- Job search and job-related services
- Physical and/or mental restoration services
- Training (vocational, college, on-the-job, etc.)

These core or substantial services are identified as part of the eligibility determination process and are identified when the counselor determines they are appropriate and reasonably expected to be of direct benefit to the individual in terms of an employment outcome.

## Anticipated Length of Services

The next step in determining disability priority is to identify the anticipated length of time that the individual will need to achieve their employment goal and complete their Individualized Plan for Employment (IPE). The anticipated length of services or time includes the 90-day minimum period after the employment stabilization before the case can be successfully closed.

Once you know how the individual's physical or mental impairment(s) seriously impacts one or more of the eight functional capacity areas, have identified the anticipated number of primary services the individual will need to achieve their employment goal, and how long you anticipate the plan to take to be completed, you have the information you need to determine disability priority.

Next, we will examine the criteria for each of the three priority categories.

## Significance of Disability

### Individual with a Significant Disability

For an individual to be certified as having a significant disability, the individual must meet all the following criteria:

1. The individual has a physical or mental impairment which seriously limits **one or more of the eight functional capacity areas** in terms of an employment outcome,
2. The individual's vocational rehabilitation can be expected to require **more than one vocational rehabilitation service**,
3. The individual's vocational rehabilitation is expected to require an extended period to complete, which means **six months or longer, and**
4. The individual has one or more physical or mental disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

### Individual with a Most Significant Disability

For an individual to be certified as having a most significant disability, the individual must meet all the following criteria:

1. The individual meets the definition of an individual with a significant disability,
2. The individual has a severe mental or physical impairment that seriously limits **3 or more functional capacity areas**,
3. The individual's vocational rehabilitation can be expected to require **3 or more vocational rehabilitation services, and**
4. The individual's vocational rehabilitation is expected to require **six months or longer** to complete.

### Individual with Disability

For an individual to be certified as having disability, the individual would have to be determined to **not** meet the definition of an individual with a significant or most significant disability. Individuals categorized as category three ("disability") may or may not have substantial limitations across any functional categories. That does **not** mean that they are not eligible for VR services. It means they have a lower severity of disability than individuals determined significantly or most significantly disabled.

## New Section: Case Study: John

### Overview

John applied to Vocational Rehabilitation. The Agency received documentation of a cognitive disability from a psychological evaluation completed at Northeast Evaluation Specialists. Additional records from his mental health provider reveal additional disabilities of depression and anxiety. These barriers affect aspects of daily living, memory, learning, problem solving, and decision making. John often relies on his support system for making major life decisions, problem-solving and pursuing goals. His ability to care for himself including maintaining benefits, time management, and keeping appointments are impacted. He receives services from the Area Agency to assist with activities of daily living.

### Serious Functional Limitation

John's serious functional limitations for Disability Priority include:

1. **Serious Self-Care Limitations:** John requires routine and daily assistance with one or more independent living activities that relate to employment (e.g., handling money, hygiene, shopping, feeding, dressing, representative payee); and Constant problems with managing time (e.g., making/keeping appointments).
2. **Serious Self-Direction / Awareness Limitations:** Any interruption or change in duties causes disruption in workflow; John Needs support with initiation and follow through; Requires frequent or ongoing support to maintain focus on task(s); and routinely needs assistance to identify work tasks, sequencing or completing task (e.g., Community Service Provider involvement, constant one-to-one supervision).
3. **Serious Work Skills Limitations:** Memory or concentration deficits cause occasional but notable difficulty in performing job tasks and remembering job instructions, John Needs concrete and repeated demonstration, frequent or routine individualized accommodations in performing the job (e.g., job coach, work adjustment, visual aids, adaptive aids); and takes longer to do a job.

### Review of Information for Disability Priority

#### Disabilities

- Cognitive Impairments: Intellectual Disability (formerly MR): borderline intellectual functioning Primary
- Psychosocial Impairments: Anxiety disorder Secondary
- Psychosocial Impairments: Depressive mood disorders



**Serious Functional Limitation**

- John has three functional limitations which rise to the level of serious: Self-care; Self-direction and Work.

**Required Services**

- Three were identified: Guidance and Counseling; CRP services and Supported Employment

**Time**

- It is anticipated that it will take John 12 months to find suitable employment, learn the job tasks; transfer to long term supports and 90 day follow up to assure long term supports are in place and job is maintained.
- John has a disability that is identified as severe; 3 identified functional limitations; and 3 identified required services. It has been determined that the anticipated time for services will exceed 6 months.

**Disability Priority Assignment**

- Most Significantly Disabled - MSD

**New Section: Case Study: Susan****Overview**

Susan applied to IDVR. An audiogram and summary were obtained as part of the eligibility determination. The assessment documented a mild sensorineural hearing loss in her right ear and a mild to moderate sensorineural hearing loss in her left ear. The report further notes that she can discriminate words and voices at loud conversational levels in quiet environments. Other information obtained from the participant notes that she is having difficulty at work understanding information and directions provided by co-workers and supervisors. In team meetings she has difficulty following the flow of the conversation. Her job includes talking with the public on the phone and she struggles to hear the callers. She finds herself having to ask others to repeat themselves frequently. She needs hearing aids to assist her in doing her job effectively.

**Review of Information for Disability Priority****Disability**

- Hearing Loss

**Serious Functional Limitation**

- Susan has one functional limitation that rises to the level of serious: Communication. Rationale: Unable to hear and comprehend spoken conversation or job instructions.

**Required Services**

- Two were identified:
  1. Agency provided services - guidance and counseling, service coordination and job placement which includes follow up services
  2. Assistive Technology / Rehabilitation Technology (hearing aids)

**Time**

- It is anticipated that it will take Susan 9 months to obtain the hearing aids, participate in any refits and acclimate to their use in her work life.
- While she does have one or more functional limitations, requires more than one VR service and VR services are anticipated to be needed longer than 6 months, her disability is not one of those identified as severe and her hearing loss does not cause a comparable substantial limitation.

**Disability Priority Assignment**

- Disabled -D

**Notifying the Individual of their Priority Status**

**Because IDVR is not in an OOS, the following is for informational purposes only:**

When a stat VR agency is in an OOS, the counselor must provide written notification to the eligible individual at the time of eligibility determination of the following:

1. The priority categories in order of selection,
2. The individual's assignment to a category, and,
3. If applicable, placement on a statewide wait list.

Any eligible individual not being served due to Order of Selection will be placed on a waiting list. A Statewide list will be maintained for each of the significance of disability categories. The order in which an individual is placed on the waiting list is based on the date of application.. As resources become available, individuals on the waiting list will be notified when services can be provided.

## Service Provision to Participants on a Waiting List

While an individual is on a waiting list, no vocational rehabilitation services will be provided except as indicated below. Provision of these services while a participant is on the waiting list shall be documented in case notes.

- **Information and Referral** should be provided to individuals being placed on the waiting list. Consideration should be given for referral to a community college, especially if the individual can access a tuition waiver, to Centers for Independent Living, and to NH Works offices as well as other local resources, as appropriate.
- **Participants may be referred for Job Placement** - Counselors should refer participants on the waiting list to no-cost (comparable benefit) providers (e.g., the IDOL office) for Job Placement.
- **Students may be referred for Pre-employment Transition Services** - Can be provided to students with disabilities who were receiving such services prior to being determined eligible for vocational rehabilitation services.

## Exemption for individuals who are in immediate danger of job loss

- Job retention is a priority of WIOA. If IDVR enters an Order of Selection, an exception to Priority Groups will be established for eligible individuals who are currently working, at immediate risk of losing their employment, and is in the need of specific services or equipment that would enable them to maintain that employment.
- The counselor will determine eligibility and assign a priority group based on the individual's functional capacities. No matter what priority group the participant is assigned to, or if the priority group is open or closed, this participant **may receive** specific services or equipment to maintain employment.
- Documentation of immediate risk to job is required prior to providing services, such as a letter from the employer, or a copy of a letter of warning.
- Services are limited to specific services or equipment necessary to maintain employment. If further services are identified, or if an array of services are needed for the individual, the individual will return to the wait list.

## Lesson Completed

You have completed the lesson for this module. Use this [link](#) to access the end of module quiz. You must achieve an 80% to move to the next module.