

IDVR Counselor Training Series

Determining Eligibility - Part 2

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.

Are VR Services Required?

Step 3: Determine if VR Services Required

The next step in the eligibility process is to determine if the applicant requires VR services. VR services must be required for the applicant to prepare for, secure, retain, advance in, or regain employment consistent with his or her unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Not all participants require the same services. In fact, even individuals with the same disability may not require the same services.

Some of the VR services an individual may require to achieve an employment outcome include:

- vocational counseling, guidance, and referral services,
- physical and mental restoration services,
- vocational and other training, including on-the-job training,
- transportation related to other VR services,
- services for individuals, such as interpreters or reading assistance for individuals who are blind,
- school to work transition services, including Pre- Employment Transition Services (Pre-ETS),
- personal assistance while an individual is receiving VR services,
- rehabilitation technology services and devices,
- occupational licenses, tools, equipment, and initial stocks and supplies,
- services to family members, and

- job placement services.

All of the services above are examples of **core** or **substantial** VR services. The counselor is required to outline which core or substantial services an individual may need to achieve an employment outcome as a requirement of the eligibility determination process. A counselor cannot determine an applicant eligible if no core services are needed for the individual to prepare for, secure, retain, advance in, or regain employment.

May Not Require VR Services

Situations where the counselor determines that an applicant may not require VR services include:

- when the individual is already receiving all needed services for employment and does not require any additional VR services to complete these services,
- when services needed for employment are readily available without VR providing, paying for, arranging, coordinating, or otherwise enhancing the services, and
- when the applicant can obtain or retain employment without VR services.

Ineligibility based on this step is rare.

Conclusion of Step 3

If you determine that the applicant requires VR services, **proceed to Step 4** to determine whether VR services could result in an employment outcome.

If you determine an applicant is **ineligible** for VR services, close the case as described in Module 9.

Ability to Benefit from Employment

Step 4 - Ability to Benefit from Employment

- The fourth step in the eligibility determination process is to confirm whether an applicant can benefit in terms of an employment outcome from the receipt of VR services.
- Based on federal regulations, you must presume an individual can benefit from VR services. If you doubt that the applicant can benefit from VR services due to the severity of the impairment, you may not simply declare the individual ineligible. You must prove it.

- By law, the burden of proof is on the VR counselor to demonstrate, based on **clear and convincing evidence** that the applicant is incapable of benefiting from VR services due to the severity of his or her disability.
- In order to obtain “clear and convincing” evidence, a trial work experience or experiences must be conducted.

Trial Work Experience

Meaningful and Relevant Work Activity

- Trial work experience(s) require the exploration of the individual’s capabilities and capacity to perform in realistic work situations. The term work, as used in trial work experiences, may include any isolated task or sub-task that is included in a specific, detailed job description. Therefore, the term work, as used in trial work experiences, means meaningful and relevant work activity.

Assessment Plan

- When establishing a trial work experience, you and the applicant must develop a written plan to assess the applicant’s work capacity. The assessment must be provided in the most integrated setting possible and must include appropriate supports consistent with the rehabilitation needs of the individual. These supports may include assistive technology, a job coach, or personal assistance, only as necessary to make an eligibility determination.

Determination

- Trial work experiences can include supported employment, on-the-job training, and other experiences using realistic work settings. The experiences must be of sufficient variety and over a sufficient period of time for you to determine that, in terms of an employment outcome.
 - there is evidence that the individual can benefit from VR services, and
 - there is clear and convincing evidence that the applicant is incapable of benefiting from VR services.

In order to make one of the above determinations:

- **Work experience settings** need to be **appropriately** designed to assist the individual to be successful.
- The individual’s **primary employment factors** as well as **interests** need to be taken into consideration.

For example, completion of a work assessment at a community rehabilitation program **thrift store** may not be an **appropriate setting** or provide a **sufficient variety** of potential work tasks **to determine** an individual cannot benefit from services.

An individual with a diagnosis of **anxiety** who has **concerns about handling unwashed secondhand clothing** or an individual with a diagnosis of **autism** who experiences **significant environmental sensitivities** may find the work setting **intolerable**.

Any work setting used for trial work experiences **cannot** be conducted in a work setting that does not meet the federal definition of competitive integrated employment (CIE).

Social Security Recipients

Now that we have gone through the steps of the eligibility process, let's look at some special considerations for applicants who are receiving social security benefits when they apply for VR services.

Any applicant who is eligible for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), based on their disability, under Title II or XVI of the Social Security Act is presumed eligible for VR services and is considered an individual with a significant disability.

Social Security Title II and Title XVI recipients and beneficiaries are presumed eligible; however, this is not the same as automatically eligible. You must still determine whether the applicant can benefit from VR services in terms of an employment outcome, and the applicant must still intend to achieve an appropriate employment outcome.

IDVR has an agreement with the Social Security Administration that allows the Agency to check if all IDVR applicants are receiving SSI or SSDI benefits once the IDVR application process is complete. Although helpful, applicants are not required to provide proof of benefits when they apply for services.

The counselor should also attempt to get medical information from the applicant's medical providers to get the most recent diagnostic medical information.

Establishing Eligibility

Now let's look at how you actually establish eligibility.

When you have determined that the applicant has a disability that demonstrates a substantial impediment to employment, and the applicant can benefit from and requires VR services, you have established eligibility for services.

Some things to remember that will help you make timely determinations:

- Eligibility decisions must be made in a timely manner. Evidence shows that applicants who are determined eligible quickly achieve successful employment outcomes at a higher rate than those who are found eligible at or near the 60-day requirement.
- You may not need to get all possible medical information before making a decision.
- Use existing information to make your determination whenever possible. This speeds up the process and is less expensive than sending the applicant to specialty exams.
- Don't forget to consult the applicant during the process. Most of the time, the applicant is the best source of information, making the process much easier and smoother.

Activities to Establish Eligibility

When establishing eligibility, you must complete the following activities:

- Ensure correct documentation to support each reported disability is in the case record.
- Accurately complete all required elements of an eligibility determination following IDVR procedures.
- Be aware that including unreported or unsubstantiated information could potentially result in ethical concerns. Include only objective information in your eligibility determination.
- Ensure you monitor eligibility due dates for all applicants. Consult with your supervisor as soon as you have concerns that an eligibility may not be completed within the 60-day timeframe.
- Determine disability priority **after** determining the individual is eligible for services (Module 5).
- After the eligibility is dated, create the eligibility letter in the case management system and send it out to the participant. Contact the participant to schedule an appointment to plan next steps.

Ineligibility Determinations

Determining Ineligibility

Ineligibility determinations are made if an applicant does not have a physical or mental impairment which constitutes or results in a substantial impediment to employment or does not require VR services to prepare for, enter, engage in, or retain employment.

Notifications and Referrals

Notification Requirements

A counselor can also make an ineligibility determination if clear and convincing evidence, as documented through trial work experience(s) demonstrates the individual is incapable of achieving an employment outcome due to the severity of their disability.

- You must provide the applicant, or as appropriate, the applicant's representative, an opportunity for full consultation before making an ineligibility determination. The applicant must also be informed in writing, supplemented as necessary with other forms of communication, of the determination including the reasons for the determination.
- You must also inform the applicant of the means by which he or she may dispute the decision made regarding their ineligibility for VR services. You must provide him or her with a description of services available from the Client Assistance Program (CAP) and information on how to contact that program.

When appropriate for the individual's situation, you must also refer the applicant to either of the following:

1. Other programs that are part of the American Job Center service delivery system that can address the individual's training or employment needs, or
2. To Federal, State, or local programs or service providers, including, as appropriate, independent living programs and extended employment providers if the ineligibility determination is based on the finding that the individual is incapable of benefitting from an employment outcome due to the severity of the disability.

Annual Review

- If the ineligibility determination is based on evidence that the individual is incapable of achieving an employment outcome, you must review the determination within 12 months (and annually thereafter if requested by the individual).
- This review need not be conducted if the individual declines the review.
- Documentation of compliance of review requirements in the individual's case record is required.

Conclusion

- Determining eligibility of an individual for VR services entails specific steps. In this module you have examined the process of eligibility in detail. You have also

learned the importance of documenting your decisions and what to do if you believe someone is not eligible for services.

- Once you have found a person eligible for services, you will move on to the next step in the process - assessment for determination of vocational rehabilitation needs.

Lesson Completed

You have completed the lesson for this module. Click this [link](#) to take the end of module quiz. You must successfully complete the quiz with a score of 80% or higher to move to the next module.