

202.00 Eligibility for Services Policy

(April 2009)

See corresponding procedure: 202.00 Eligibility Procedure

Table of Contents

- Description
- Assessment for Determining Eligibility
- Employment Factors
- Individuals who are Recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance Benefits (SSDI)
- Criteria for Determining Eligibility
- Timelines of Eligibility Determinations
- Eligibility Outcomes
- Referral from Another Agency
- Reference

Description

A person is eligible for vocational rehabilitation services if the individual:

1. has a physical or mental impairment that is a substantial impediment to employment;
2. can benefit in terms of achieving an employment outcome consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice; and
3. requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

Assisting individuals in securing, retaining, and regaining employment means that ACCES-VR can also assist individuals who are employed and meet the eligibility criteria.

A determination of eligibility is not a guarantee of the provision of specific services or of ACCES-VR's financial support.

Eligibility is determined without regard to age, color, religion, creed, disability, marital status, veteran status, national origin, race, gender, genetic predisposition or carrier status, or sexual orientation, the service needed, cost of the service or the income level of the individual or family. There is no length of residency requirement for anyone present in the State. Persons who are not United States citizens must be able to prove that they are legally allowed to work in the United States as determined by the United States Department of Immigration and Naturalization Services. The individual and/or the individual's designated representative will be involved in and informed about the eligibility determination process and decision.

Assessment for Determining Eligibility

The Assessment begins when an individual with a disability applies for ACCES-VR services with the intent to reach an employment outcome.

Existing information will be reviewed by the ACCES-VR counselor to decide if the information is sufficient to determine eligibility. This includes establishing the disability (ies), identifying the impediment to employment and determining that there is a need for vocational rehabilitation services. Establishing the need for services is a critical decision and the final decision is to be made by the ACCES-VR counselor. **(See Revision to Eligibility Policies and Procedures - August 1, 2002.)**

Counselor observation and information provided by the applicant, family and/or advocate are significant sources of information to assist in determining eligibility.

When possible, individuals should obtain and provide documentation from their treating physician, certified treatment program, a licensed or certified practitioner skilled in the diagnosis and/or treatment of the disability, or other source that verifies the existence and extent of the impairment and the impediments to employment that result from that disability.

With the applicable releases in place, written documentation of the person's disability can be obtained. This documentation may be from treatment facilities, providers, medical and other diagnosticians, educational sources, Federal or State Agencies, therapists, and professionals who evaluate and report on functional limitations but are not diagnosticians. Referrals made by other agencies should include information about the individual's disability, resulting functional limitations, and how it relates to his/her employment needs.

If additional information is needed, the applicant and counselor will decide how best to obtain the information and establish appropriate time frames. If the applicant is unable to provide appropriate evidence, ACCES-VR will obtain the required information as part of the assessment process.

Assessment for determining eligibility is exempt from economic need. Exceptions include those non-assessment services (such as a communication device) that are provided to an individual with a significant disability during either an exploration of the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work or an extended evaluation.

Existing information will be considered adequate if, in the counselor's judgment, it provides sufficient information to document the person's disability (ies) and employment factors, resulting impediments to employment, ability to benefit from services and requirements for services.

If an individual meets ACCES-VR's eligibility criteria, eligibility must not be delayed while waiting for information that is to be used for vocational planning purposes. A determination of eligibility is not a guarantee of the provision of specific services.

Employment Factors

The counselor begins the eligibility process with the presumption that all persons can benefit from vocational rehabilitation services in terms of an employment outcome. Eligibility for services must be determined in relationship to the individual's need for services to achieve an employment outcome consistent with the individual's employment factors of strengths, resources, priorities, concerns, abilities, capabilities, interest and informed choice. These employment factors must be assessed, documented and considered together when determining eligibility and planning services, relying on existing information available from the individual and other sources, as well as situational assessments where appropriate. One employment factor alone does not outweigh the other factors; each factor must be balanced with the other components when assessing eligibility or planning for services. These employment factors are:

Strengths: the individual's positive attributes or inherent expertise related to an employment field such as intellectual aptitude, motivation, talents, work and volunteer experience, work skills, work-related hobbies and transferable life skills.

Resources: the individual's sources of available support, including financial, social, information, and technological, on which the person can rely to prepare for and meet employment objectives. These resources could be available from the individual, the family, or other community or public sources.

Priorities: consistency with and the relationship to the individual's employment-related preferences, based on informed choice among available options.

Concerns: employment-related issues that need to be considered in vocational planning such as financial, self-sufficiency, medical, residential, transportation and family considerations.

Abilities: the individual's existing physical, mental, or functional capacity to successfully engage in employment through natural aptitude or acquired proficiency.

Capabilities: the potential for an individual to develop the skills necessary for employment through the provision of vocational rehabilitation services.

Interests: occupational areas on which an individual has focused special attention.

Informed Choice: the active involvement of consumers contributing to the success of and satisfaction with their employment outcomes in the selection of long-term

employment outcome, rehabilitation objectives, and vocational rehabilitation services including assessment services and service providers.

While individuals are encouraged and expected to actively participate and make meaningful choices in conjunction with their vocational rehabilitation counselor, consumer choice does not mean they unilaterally can control their programs. While the decision making process is a collaborative one, the final decision must reflect the vocational rehabilitation counselor's application of professional judgement; applicable laws, regulations, and policies; and sound planning considerations of the individual's employment factors.

Individuals who are Recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance Benefits (SSDI)

An individual who has a disability and is receiving SSI or SSDI benefits, as determined by the Social Security Administration, is presumed to be eligible for vocational rehabilitation services. SSI and SSDI recipients will be considered eligible with at least a significant disability unless ACCES-VR can demonstrate by clear and convincing evidence that the person cannot benefit from an employment outcome because of the severity of the individual's disability.

The individual should provide appropriate evidence to verify that the individual is a recipient of SSI or SSDI benefits. If the applicant is unable to provide appropriate evidence to support that they are receiving Social Security benefits, then ACCES-VR must obtain appropriate releases from the individual and verify the applicant's eligibility by contacting the Social Security Administration. This verification must be made within a reasonable period of time so that eligibility for vocational rehabilitation services may be made within 60 days of the application for services. **(See Presumptive Eligibility for Persons Receiving SSI/SSDI - May 28, 2004)**

Criteria for Determining Eligibility

The eligibility determination can only be made by the ACCES-VR counselor, and must be based only on the following criteria:

1. **Physical or Mental Impairment**

A physical or mental impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The impairment must be permanent and/or progressive. Progressive conditions can only be used as a basis for eligibility if there is a strong likelihood, as supported by appropriate documentation, that functional limitations related to employment will exist during the person's vocational rehabilitation program.

Disability information contained in existing reports will be used, if available, and if it

accurately addresses vocational rehabilitation eligibility requirements. Further assessment of and information about functional abilities and limitations may be necessary to determine substantial impediments and requirement of services by the ACCES-VR counselor.

2. The impairment is a substantial impediment to the individual's employment. Substantial impediment to employment means that a physical or mental impairment (considering the individual's medical, psychological, vocational, educational, functional capacities and other related factors) hinders the individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities. The existence and extent of the impairment must be the primary reason that the individual is unable to achieve an employment outcome consistent with his or her strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. A determination that the impairment is a substantial impediment to the individual's employment may be made by a ACCES-VR counselor or a non-ACCES-VR Rehabilitation Counseling Professional who has or is eligible to obtain certification as a Certified Rehabilitation Counselor (CRC).

Persons who are currently employed can be determined eligible for services to advance in employment if their impairment results in a substantial impediment to advancing or retaining employment. Eligibility for vocational rehabilitation services should be considered when, due to the impairment, the individual's current employment is not consistent with the employment factors.

3. The individual can benefit from services in terms of an employment outcome. The counselor begins the eligibility process with the presumption that all persons can benefit from vocational rehabilitation services in terms of an employment outcome consistent with their employment factors. An employment outcome means entering or retaining full time or if appropriate, part-time employment in the integrated labor market; supported employment; or other employment that is consistent with an individual's strengths, resources, priorities, concerns, abilities and capabilities, interests and informed choice. Other employment outcomes may include self-employment/business ownership, unpaid family worker or homemaking. The type of employment may also involve telecommuting.]

Trial Work Experience/ Extended Evaluation - Before a person can be determined unable to benefit because of the severity of the individual's disability, the ACCES-VR counselor must explore the individual's abilities, capabilities, and capacity to perform in work situations through a trial work experience. This exploration will help assure that individuals with most significant disabilities have the opportunity to benefit from real work experiences as part of the eligibility determination process.

The trial work experience must include: a variety of experiences over a sufficient period of time with on-the-job supports and/or training except when it is not appropriate for an individual to participate in such experience. When a person cannot participate in a trial work experience, an extended evaluation must be provided. During extended evaluation, there must be periodic assessments of the individual's progress at least every 90 days during the extended evaluation. The trial work experience or extended evaluation will demonstrate that the individual can benefit from services or that there is clear and convincing evidence that the

applicant cannot benefit from vocational rehabilitation services in terms of an employment outcome.

ACCES-VR staff must have a high degree of certainty before concluding that a person is incapable of benefiting from vocational rehabilitation services. There must be clear and convincing evidence that no employment outcome is possible considering information from the trial work experience or extended evaluation. This is a legal standard and there needs to be more than one opinion considered and utilized as evidence.

A written plan for the trial work experience or extended evaluation must be outlined in the record of services that describes the services necessary to determine eligibility. Only services to determine eligibility or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting from an employment outcome because of the severity of the disability can be provided during a trial work experience or extended evaluation. The written plan must include the expected duration of services, identification of the service provider, and how the experience will contribute to the determination of individual's eligibility. All services will be provided under the same parameters as when the services are provided under an Individualized Plan for Employment (IPE) with the goal of employment.

4. Requirement of vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the individual's employment factors.

A person requires services when the individual, because of the substantial impediment to employment caused by their disability, cannot achieve an employment outcome consistent with an individual's employment factors without receiving vocational rehabilitation services. The services provided must be essential and necessary to overcome the barriers to employment which are the direct result of the person's disability.

Persons who are currently employed can be determined eligible for services if they meet the basic eligibility criteria.

The counselor should consider the individual's circumstances when determining if the consumer requires ACCES-VR services to reach an employment outcome.

Consideration should be given to factors such as:

- A. The individual has transferable skills, which is consistent with the individual's employment factors. The individual's disability prevents him or her from using those transferable skills to prepare for, secure, retain or regain employment.
- B. The individual cannot access services that will allow him or her to achieve an employment goal without vocational rehabilitation services.
- C. The individual lost a job because of his or her disability and this prevents him or her from finding other employment.
- D. The individual needs to pursue another job or career because the current position is contraindicated to the disability.

Timeliness of Eligibility Determinations

Eligibility will be determined as soon as there is sufficient information to decide that the person meets or does not meet the requirements for eligibility. A determination of eligibility must be made within 60 calendar days after the individual has applied for

services, unless there are exceptional circumstances or a trial work experience or extended evaluation is necessary.

When eligibility cannot be determined within 60 days for exceptional and unforeseen circumstances beyond ACCES-VR's control, ACCES-VR staff must reach an agreement with the applicant to extend the 60-day time limit. The applicant will be informed of:

1. The reasons for the delay and the steps necessary to reach an eligibility determination; and
2. When it is expected that eligibility will be determined.

If the determination will be delayed beyond the projected date, staff will work with the applicant to resolve any impediments. A new projected date for eligibility determination will be based on the anticipated time frame to collect the necessary information. If an agreement cannot be achieved, the eligibility decision will be made as quickly as possible, and the individual will be fully informed of his or her right to an administrative review, mediation and impartial hearing and assistance from the Client Assistance Program.

Eligibility Outcomes

1. ACCES-VR will make one of the following decisions about eligibility:
 - A. Eligible - sufficient information and documentation exists to determine eligibility. The applicant is informed that he/she is eligible for services and planning for services continues.
 - B. Trial Work Experience or Extended Evaluation - eligibility cannot be determined because of the severity of the person's disability. A written plan is developed for the services to be provided during a trial work experience or extended evaluation to determine if the individual can benefit from ACCES-VR services.
 - C. Ineligible - information and documentation shows that the applicant:
 - i. does not have a disability; or
 - ii. does not have a substantial impediment to employment; or
 - iii. unable to benefit - The applicant is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of the disability, justified by clear and convincing evidence demonstrated by a trial work experience or extended evaluation;
 - iv. does not require services.
2. ACCES-VR must take the following actions concerning an ineligibility decision:
 - A. The ineligibility determination must be made only after providing an opportunity for full consultation (e.g. telephone call, written communication, meeting) with the individual, or as appropriate, with the individual's representative; and
 - B. The applicant must be informed in writing or by appropriate modes of communication regarding the:
 - i. determination of eligibility and the reasons for it;
 - ii. individual's right to request a review of the determination and the steps of the administrative review, mediation and impartial hearing process;

- iii. availability of assistance through the Client Assistance Program (CAP);
and
 - iv. availability of assistance to refer to other training or employment related programs through the local Workforce Investment Board partnership.
- C. If the individual cannot benefit from services, the ACCES-VR ineligibility certification and record of services must contain clear and convincing evidence to support the determination. The applicant should be given information about Independent Living Centers or other appropriate services and an explanation of how to reapply for ACCES-VR services should circumstances change.
- D. There are closures that occur for other intervening reasons. An example is: If an applicant for ACCES-VR services states (or their family or representative states) that their only goal of choice is non-integrated employment, ACCES-VR cannot serve that individual. ACCES-VR counselors will assist the individual in making an informed choice, and it is the counselor's responsibility to assure that the applicant understands the integrated options available. If the result of his/her informed choice is, for whatever reason, non-integrated employment, the counselor must inform the applicant that ACCES-VR services are not available toward that goal and invite the applicant to return if and when that goal changes to some form of integrated employment. The counselor should then refer him/her to the local extended employment provider. The provider will continue to work with the appropriate agency to provide the requested services.

Referral from Another Agency

When the counselor is aware that the individual has been referred by another agency, the counselor should, with appropriate confidentiality releases, also inform the referral agency about the eligibility. Applicants and referral sources should be advised that a determination of eligibility is not a guarantee of specific services or of ACCES-VR sponsorship in particular programs, as these decisions can only be made in conjunction with the development of the IPE.

Reference:

Rehabilitation Act:

- Section 7; Section 101; Section 102

Federal Regulations:

- Sections §361.5(b)(25), (36), (44); Sections §361.42; §361.43; §361.44

Policy:

- 102.00 Confidentiality
- 200.00 Referral and Applying for Services
- 204.00 Assessment
- 205.00 Significance of Disability
- 206.00 Individualized Plan for Employment
- 435.00 Post-Employment Services

- 1125.00 Consumer Participation in the Cost of Services
- 1370.00 Rehabilitation Technology

Related Memos:

- 08/01/2002 - Revision to Eligibility Policies and Procedures
- 05/28/04 – Memo on Presumptive Eligibility for Persons Receiving SSI/SSDI
- 01/30/09 - Memo on Clarification on the Definition of an Application and When an Individual is Placed in Status 02 and Revised Eligibility Policy 202.00