

Policy Transmittal

Vocational Rehabilitation



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Authorized signature

Number: VR-PT 21-02 rev. 1
Issue date: 03/30/2021

Topic: add topic

Due Date: 03/30/2021

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other: [add if needed]

Applies to (check all that apply):

- | | |
|---------------------------------------------------------------|--------------------------------------------------------------------------------|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> Support Service Brokerage Directors | <input checked="" type="checkbox"/> Other: All Vocational Rehabilitation staff |
| <input type="checkbox"/> ODDS Children’s Residential Services | |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Eligibility to Work in the United States		
Policy/rule number(s):	VR-PT 21-02	Release number:	Rev. 1
Effective date:	03/30/2021	Expiration date:	NA
References:	34 CFR 361.42		
Web address:			

Applicants for Vocational Rehabilitation services must demonstrate their eligibility to work in the United States prior to the individual entering an Individualized Plan for Employment.

Former VR guidance often referred to “Eligibility to Work“ documents as the individual’s “Authority to Work.” This document uses the newer term, “Eligibility to Work.”

Previous VR instructions requiring an applicant prove their eligibility to work prior to eligibility determination being completed has been rescinded in accordance with changes to the Code of Federal Regulations.

POLICY

A Vocational Rehabilitation (VR) applicant's eligibility to work in the United States must be determined prior to placing the individual into an Individualized Plan for Employment (IPE).

- An individual's eligibility to work in the United States may no longer be considered when determining an applicant's eligibility for VR services.

Federal rule requires that an individual's eligibility for VR Services be based solely upon their disability and need for VR services.

- Recent changes to 34 CFR 361.42(a)(1) amended basic eligibility requirements for Vocational Rehabilitation Services to three criteria:
 - Determination by qualified personnel that an applicant has a physical or mental impairment.
 - Determination by a qualified expert that the applicants physical or mental impairment constitutes or results in a substantial impediment to employment.
 - Determination by a qualified Vocational Rehabilitation Counselor employed by the state unit that the applicant requires vocational rehabilitation services in order to secure, retain, advance in or regain employment.

Federal rule requires that a VR client be able to benefit from an employment outcome.

- 34 CFR 361.42(2) requires that a VR client be able to benefit from an employment outcome in order to receive services from Vocational Rehabilitation.
 - For a client to be able to achieve an employment outcome using VR services, the individual must be eligible to work legally in the United States.
 - Verification of employment status is accomplished by using the eligibility criteria established in the US Citizenship and Immigration Services Form I-9 (Employment Eligibility Verification).
 - A copy of documents used to determine a client's employment eligibility must be included in the client case file record.
 - Clients eligible for VR services that are unable to meet employment eligibility requirements should be closed prior to placing the individual into an Individualized Plan for Employment (IPE).

Notes:

- Expenditures necessary to determine an applicant’s eligibility for VR services may be approved without having a client verify their eligibility to work in the United States status.
- Expenditures for assessments, evaluations or other items used for a client’s plan development may not occur prior to verifying the client’s eligibility to work in the United States.
 - Vocational Rehabilitation is not authorized to pay for services to assist the client in obtaining eligibility to work documentation.

Vocational Rehabilitation counselors should consider closing files rather than requesting a plan development extension unless:

- The client is able to provide supporting documentation showing that they have an authorization to Work in the United States, or,
- The client has applied for and is expecting a resolution to their eligibility status from the United States Citizenship and Immigration Services (USCIS) within the next ninety days.

REFERENCES:

[34 CFR 361.42](#): State Vocational Rehabilitation Services Program- Assessment for determining eligibility and priority for services

[USCIS Form I-9](#): Employment Eligibility Verification

Field/stakeholder review Yes No

If yes, reviewed by: VR Executive Team, Branch Managers, Field Staff, VR-SRC Policy Legislation & Budget Committee

If you have any questions about this action request, contact:

Contact(s): VR Policy Team	
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