

Rehabilitation Services Policy Manual

SECTION Closures
PART Individuals Determined to Have Achieved an Employment Outcome

SECTION NO. 5-1
PUBLISHED 03/21

Section 5 Closures

Part 1 Individuals Determined to Have Achieved an Employment Outcome

Synopsis of Federal Regulation

An individual is determined to have achieved an employment outcome only if the following requirements are met:

- The provision of services under the individual's IPE has contributed to the achievement of the employment outcome.
- The employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- The employment outcome is in competitive integrated employment, consistent with the individual's informed choice.
- The individual has maintained the employment outcome for a period of at least 90 days.
- At the end of the appropriate period to achieve stability (at least 90 days), the individual and the rehabilitation counselor considers the employment outcome to be satisfactory and agree that the individual is performing well on the job.

Competitive integrated employment means work that—

- Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that—
 - (A) Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate required under the applicable State or local minimum wage law for the place of employment;
 - (B) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and
 - (C) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and
 - (D) Is eligible for the level of benefits provided to other employees; and
- Is at a location—
 - (A) Typically found in the community; and

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- (B) Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (*e.g.*, customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and
- Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

RS Policy

Some employment outcomes available in the Kansas economy are based on seasonal work or temporary employment.

In some industries, such as construction and oil production, it is typical for the worker to frequently change employers but maintain stability in employment. In such situations, it is not necessary to restart the 90-day employment period. In such situations, determining whether the client has achieved an employment outcome shall be based on client choice, counselor discretion, and consistency of the outcome within the standards of the industry, client satisfaction with the outcome and employment stability measured by whether there is a need for further services.

In other industries:

- If an individual changes employers but remains in the same type of work, it is not necessary to restart the employment period if there is no more than a typical weekend (2-day) break in employment. An example would be changing employers from Wendy's to McDonald's (both fast food) but staying in the same line of work, such as taking orders.
- If an individual changes employers and the type of work, it is necessary to restart the 90-day employment period to assure stability in the new line of work.

Ideally, the job obtained by the person will be in the same field as the vocational objective. However, the job obtained depends on the availability of employment opportunities in the labor market at the time the person is seeking work. The responsibility of RS is to ensure that the job obtained is suitable gainful employment consistent with the client's choice.

RS emphasizes placement on a full-time, or if appropriate, part-time basis. However, in some circumstances, consistent with informed choice of the individual and goals and services on the IPE, a rehabilitation outcome may include homemaker, unpaid family worker, or placement in supported employment but not meeting the criteria of minimum wage or integrated setting.

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Job retention cases: In job retention cases (when clients are employed prior to application), the 90-day period for maintaining employment prior to case closure will begin when the substantial IPE services have been completed.

Record of services - For individuals achieving a competitive integrated employment outcome, the record of services must verify that the individual is compensated at or above minimum wage and that the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by non-disabled individuals. (*Reference §361.47*) In obtaining evidence of wages and benefits, staff will be sensitive to whether the client wishes for the employer to know of his or her relationship with RS.

Supporting documentation requirements

Federal requirements specify specific data to be recorded in the case management system and the types of supporting documentation that must be kept in the case file.

<p>Start Date of Employment in Primary Occupation</p> <p>Employment Status at Closure</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Pay stub identifying the individual's start date. <input type="checkbox"/> Detailed case notes signed by the counselor in the case service record, including the date employment start date verification was received and justification for individual not providing formal documentation. <input type="checkbox"/> Automated database systems indicating the individual's start date. <input type="checkbox"/> Self-employment worksheets 	
<p>Weekly Earnings at Employment</p>	<p>Weekly Earnings at Employment is the amount of money (to the nearest dollar) the individual earned in a typical week after achieving an employment</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Unemployment Insurance (UI) wage match, Federal employment records, or military employment records that verify the hourly wage rate (not aggregated for the quarter).

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	<p>outcome consistent with the employment goal on an individual's IPE at the time the service record was closed and includes all income from wages, salaries, tips, and commissions received as income before payroll deductions of Federal, State, and local income taxes and Social Security payroll tax.</p> <p>Earnings also include profits derived from self-employed individuals. Earnings for salespersons, consultants, self-employed individuals, and other similar occupations are based on the adjusted gross income.</p> <p>The documentation must include the individual's hourly wage rate, or average hourly rate if compensated through commission, along with the minimum wage rate for the location where the individual is employed at (Federal, State, or local, whichever is higher).</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Pay stub identifying the individual's hourly wage rate or annual salary. <input type="checkbox"/> Income earned from commission in sales or other similar positions. <input type="checkbox"/> Detailed case notes signed by the counselor in the case service record, including the date verification was received and justification for individual not providing formal documentation. <input type="checkbox"/> Automated database systems; <input type="checkbox"/> One-stop operating systems' administrative records, such as current records of eligibility for programs with income-based eligibility (e.g., TANF or SNAP). <input type="checkbox"/> Self-employment worksheets; <input type="checkbox"/> Verification received from employer (as appropriate) documented in case service record, including date of verification or copy of email, fax, or letter.
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Contact with client at time of closure

The record of services must also document direct contact between the RS counselor and the client at the time of Status 26 closure. The contact must address whether the client and the counselor consider the employment to be satisfactory and whether they agree that the client is performing well in the employment. Completion of the required Closure Checklist is acceptable to meet this requirement.

If the counselor has made multiple attempts (at a variety of times and using a variety of methods) but is unable to reach the client directly, the following procedure should be followed:

1. Send a letter conveying the counselor's attempts to contact the client multiple times, and the intention to close the case in 10 days. See Resources / Part 8 for an example letter. Include the Status 26 Client Report form.
2. After 10 days have passed; send the standard closure (IPE Amendment) letter including appeal rights. (Or, if the client returns the Status 26 Client Report form, proceed appropriately based on the information provided.)

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SECTION Closures
PART Closure Without Eligibility Determination

SECTION NO. 5-2
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Part 2 Closure without Eligibility Determination

Synopsis of Federal Regulation

RS may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete an assessment for determining eligibility and priority for services, and RS has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.

Reference: §361.44

RS Policy

A reasonable number of attempts means three to five attempts. Various methods, such as phone and mail, should be used. Counselors may be flexible in using this guideline based on their knowledge of the circumstances or situation. The Closure Checklist is required.

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SECTION Closures
PART Other Closure Actions

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Part 3 Other Closure Actions

Failure to Cooperate

It is essential for clients to keep scheduled appointments and to make progress, as defined on their IPEs, toward employment. Cases will be closed for failure to cooperate under the following circumstances:

- When a client has missed two scheduled appointments without advance notice for any VR-related purpose, the counselor will send a letter to the client. Scheduled appointments are defined as any meetings with counselors, CDC appointments, supported education meetings, therapy/medical appointments arranged by RS, meetings with job placement staff, or employment interviews. The letter will schedule an appointment for the client to meet with the counselor to discuss case progress. Every effort will be made to schedule these appointments at a time that coordinates with the client's schedule. Clients will be given the opportunity in the letter to contact their counselor in advance to reschedule. However, failure to reschedule or keep the appointment will result in case closure. This letter will also serve as the notice of closure action and include appeal rights.
- When the client has failed to complete IPE goals and responsibilities, and the counselor has made repeated attempts to resolve barriers and encourage participation.

Other Reasons for Closure Actions

The record of services of an applicant or client of VR services may also be closed if he or she:

- Individual is hospitalized/receiving medical treatment that is expected to last longer than 90 days and precludes entry into competitive integrated employment/continued participation in program.
- Death of individual.
- Individual is a member of the national guard/other reserve military unit of the armed forces and is called to active duty for at least 90 days.
- Individual entered a correctional institution or other institution for criminal offenders.
- Individual was found to have no disabling condition, no impediment to employment or didn't need VR services. The client or client's representative will be given the opportunity for full consultation in ineligibility decisions.

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- Individual was determined eligible for VR services however did not seek competitive integrated employment.
- Transferred to another agency.
- Individual received services and was placed in a non-integrated/sheltered setting for public/private nonprofit agency.
- Individual received services, but requires long term extended services, no long-term funding available.
- Unable to locate or contact. Generally, RS should make three to five attempts to locate the individual. Various methods, such as phone and mail, should be used. Counselors may be flexible in using this guideline based on their knowledge of the circumstances or situation.
- No longer interested in receiving services or further services. (includes failure to cooperate) RS has made repeated efforts to encourage participation.
- Individual achieved supported employment in integrated employment but did not earn a competitive wage after exhausting the short-term basis period.
- Individual applied for services pursuant of Section 511 of the Rehabilitation Act and was determined ineligible because he/she did not wish to pursue competitive integrated employment.
- Following Trial work experience the individual determined ineligible because the individual was unable to benefit due to the severity of his/her disability.

Documentation and Correspondence Regarding Case Closures

The counselor shall document the reason for closing the case. The client should be notified in writing of the action taken, reasons for the action taken, appeal rights and Client Assistance Program. This closure letter will serve as the IPE amendment for cases closed after the IPE has been signed. Written notification should be provided in the appropriate mode of communication. The Closure Checklist is required.

Exception to Written Notification Requirements

Written notification is not required when the client has declined services because of an Order of Selection waiting list, cannot be located, has refused services, is no longer present in the state, or has died.