

Rehabilitation Services Policy Manual

SECTION Applications and Eligibility
PART Order of Selection

SECTION NO. 2-5
PUBLISHED 03/21

2-5 Order of Selection

Synopsis of Federal Regulation

An Order of Selection must be based on a refinement of the three criteria in the definition of individual with a severe disability.

Individual with a severe disability means an individual with a disability:

- Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- Whose vocational rehabilitation (VR) can be expected to require multiple VR services over an extended period of time; and
- Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and VR needs to cause comparable substantial functional limitation.

An Order of Selection may not be based on any other factors, including:

- Any duration of residency requirement, provided the individual is present in the State;
- Type of disability;
- Age, gender, race, color, creed, or national origin;
- Source of referral;
- Type of expected employment outcome;
- The need for specific services or anticipated cost of services required by an individual; or
- The income level of an individual or an individual's family.

Reference: § 361.36

Rehabilitation Services (RS) Policy

If there are insufficient resources to provide VR services to all eligible individuals who apply, RS will assure that those individuals with the most severe disabilities are selected for service before other individuals with disabilities. RS will ensure that its funding arrangements, including grants, contracts, or cooperative agreements, are implemented consistent with the Order of Selection.

Rehabilitation Services Policy Manual

SECTION Applications and Eligibility
PART Order of Selection

SECTION NO. 2-5
PUBLISHED 03/21

RS will periodically determine whether there are sufficient funds to serve all eligible persons who apply. Factors to consider in this determination include:

- Availability of state general funds to match available federal VR funds.
- Application, referral and caseload trends.
- Adequacy of staff coverage.
- Costs of purchased services, such as diagnostics, medical, restoration and training.
- Estimated costs of continuing services under existing Individualized Plans of Employment (IPEs).
- Emphasis on serving persons with severe disabilities.
- Timeliness of determination of eligibility and provision of services.
- Outreach efforts.
- Unserved or underserved groups.

RS will not delay, through waiting lists or other means, determinations of eligibility, the development of IPEs for individuals determined eligible, or the provision of services for eligible individuals for whom IPEs have been developed in order to avoid closing categories of services in Order of Selection.

After eligibility has been determined and before the IPE is written, each client is assigned to a category group. The client will be assigned to the highest priority category for which he or she is qualified and a rationale will be documented in the case file. If the client's circumstances change or new information is acquired, the category designation can be changed to a higher priority category. Category designation changes will not be made if the change would place the individual in a lower priority category. Clients will be notified of the right to appeal their category assignment.

Eligible individuals who cannot be served under the Order of Selection will be advised that their record will be placed on a waiting list. They will be notified should funding become available to provide the services.

If there is a need to close one or more categories for services:

- RS will set aside sufficient funds to purchase services necessary to determine eligibility. Applications for services will be accepted without restriction.
- The closure of one or more categories will not affect individuals who already have signed IPEs. IPE services will continue.
- Eligible individuals, regardless of their Order of Selection category designation, who only require specific services or equipment to maintain employment will not be affected. 34 CFR 361.36.

Rehabilitation Services Policy Manual

SECTION Applications and Eligibility
PART Order of Selection

SECTION NO. 2-5
PUBLISHED 03/21

- Implementation of the closure will be made statewide.
- Except for additional assessment or diagnostic services needed to analyze whether an individual can be moved to a higher category, VR services (purchased or provided by Staff) may not be provided for individuals on the waiting list. Exceptions to this provision are not allowed.

Category 1: Eligible individuals with a most severe physical or mental impairment that seriously limits two or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome, whose VR can be expected to require multiple VR services over an extended period of time. In the event that VR services cannot be provided to all eligible individuals in Category 1, a waiting list based upon the date of application will be activated.

Category 2: Eligible individuals with a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome; whose VR can be expected to require multiple VR services over an extended period of time; and who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined, on the basis of an assessment for determining eligibility and VR needs, to cause comparable substantial functional limitation. In the event that VR services cannot be provided to all eligible individuals in Category 2, a waiting list based upon the date of application will be activated.

Category 3: Eligible individuals with non-severe disabilities. In the event that VR services cannot be provided to all eligible individuals in Category 3, a waiting list based upon the date of application will be activated.

Multiple services means more than one service as listed on the IPE. Support services (maintenance, transportation, and services to family members) may not be counted toward multiple services. Routine counseling and guidance to facilitate participation in the VR process may not be counted toward multiple services. Significant services which are not provided by RS but which are related to the disability and employment outcome, and which are essential to the accomplishment of the IPE may be counted toward multiple services.

Extended period of time means at least four months of services between Status 12 and closure.

Information and Referral

In the event that one or more categories of services are closed through Order of Selection and a waiting list for services is established, RS shall provide information and referral services for those eligible individuals who cannot be served. The information and referral service provided should be

Rehabilitation Services Policy Manual

SECTION Applications and Eligibility
PART Order of Selection

SECTION NO. 2-5
PUBLISHED 03/21

adequate to ensure that the individual with a disability is provided accurate VR information and guidance, using appropriate modes of communication, to assist them in preparing for, securing, retaining or regaining employment.

An appropriate referral shall be to federal, state or other programs, including programs carried out by other components of the statewide workforce investment system, best suited to address the specific employment needs of the individual with a disability. For each referral, the individual shall be given:

- A copy of the notice of referral that RS will send to the other program, including a specific point of contact within the other program.
- Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain or regain employment.

Referrals should be documented in the record of services.