

# Rehabilitation Services Policy Manual

SECTION Applications and Eligibility  
PART Referrals and Applications

SECTION NO. 2-1  
PUBLISHED 03/21

## 2-1 Referrals and Applications

### Synopsis of Federal Regulation

Rehabilitation Services (RS) will assure the prompt and equitable handling of referrals of individuals for vocational rehabilitation (VR) services. RS must make good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

RS must assure that once an individual has submitted an application for VR services, an eligibility determination will be made within 60 days, unless-

- Exceptional and unforeseen circumstances beyond the control of the agency preclude a determination within 60 days and the agency and the individual agree to a specific extension of time; or
- An extended evaluation is necessary.

An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate:

- Has completed and signed an agency application form or has otherwise requested services; and
- Has provided information necessary to initiate an assessment to determine eligibility and priority for services; and
- Is available to complete the assessment process.

RS shall ensure that its application forms are widely available throughout the State.

*Reference: §361.41*

### RS Policy Regarding Referrals

RS will assure the prompt and equitable handling of referrals of individuals for VR services. The maximum time frame for responding to third party referrals by providing information about VR and application procedures will be 30 days.

Referral sources can help make appropriate referrals to VR by considering the following information:

- VR is an employment program, and individuals who participate are expected to become employed as a result of services received through an Individualized Plan for Employment (IPE). Individuals must be available to pursue employment.
- Individuals who have disabilities or health conditions that hinder their employment should be referred for application and assessment to determine eligibility. Such individuals may be unemployed, underemployed or in need of services to maintain employment.

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- To be eligible for VR services, an individual must:
  - Have a physical or mental impairment that results in a substantial impediment to employment;
  - Be able to benefit, in terms of an employment outcome, from VR services; and
  - Require VR services to prepare for, secure, retain or regain employment.
- VR counselors analyze a variety of information to determine eligibility. Such information may include existing medical and school records; work history; determinations made by other organizations that provide services for people with disabilities; Social Security records; information provided by the individual and family; and counselor observations. Counselors may also authorize additional diagnostics or assessment if needed to help determine eligibility. Counselors have 60 days from the time of application to determine eligibility. Referral sources can assist the eligibility process by assisting applicants in providing records, such as those listed above, if that is the applicant's informed choice.
- The VR program serves individuals with all different types of disabling conditions. The primary disabilities of individuals served include, but are not restricted to the following:
  - Mental Illness
  - Orthopedic
  - Mental Retardation
  - Learning Disabilities
  - Blindness or Visual Impairment
  - Deaf or Hard of Hearing
  - Traumatic Brain Injury
  - Cancer/Blood/Allergy Conditions
  - Alcohol/Drug Abuse
  - Amputation
  - Epilepsy
  - Deaf-blindness
- Individuals who have temporary health conditions, such as broken limbs or pregnancy, are not eligible for VR services on the basis of those conditions alone.
- Referrals should be made for individuals rather than entire families. However, it is possible for the VR program to provide individualized services for more than one individual in a family. In addition, RS staff will collaborate with other sections of Kansas Department for Children and Families (DCF) to assure coordinated, integrated services for families.
- The functional limitations an individual experience must be related to the disability in order to be eligible for services. Functional limitations caused by cultural issues, legal issues, lifestyle,

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primary languages other than English, lack of education or poor work history - in the absence of a disability - would not be sufficient to determine eligibility for VR services.

- If the VR program does not have sufficient resources to serve all eligible individuals who apply, an Order of Selection procedure and access list will be implemented which gives priority to serving individuals with the most significant disabilities. In the event of such a situation, counselors analyze the individuals' functional limitations, number of services needed, and length of services needed to assign them to the appropriate priority category level.
- VR is not a source for emergency medical or medical insurance coverage.

Referral sources are encouraged to contact the VR staff in their local communities directly to discuss specific referrals. Three quick questions to consider when discussing referrals are:

- Is the disability a long-term or permanent condition that impacts the person's ability to get or keep a job?
- Is the individual interested in pursuing employment?
- Are the functional limitations an individual experience related to the disability?

## RS Policy Regarding Applications

Requested services means that the basic information required by the federal Rehabilitation Services Administration for data reporting has been obtained. This information includes: name, Social Security number, date of birth, date of application, sex, race, marital status, Hispanic origin, referral source, highest grade completed, type of institution, work status, weekly earnings, hours worked, Social Security Disability Insurance (SSDI) status, primary source of support, medical insurance coverage, insurance available on the job, farmer status, veteran status, migratory worker status, work for profit, and year last employed. The individual's address and phone number should be provided. This information may be provided through a variety of methods, including by phone or mail or in person. One of the easiest ways to assure that all federally required information elements are collected is to complete the RS application form ([Forms Part 3](#)).

What information is needed to initiate an assessment? Medical records or documentation pertinent to the disability or a release of information to obtain disability documentation; work history; educational background; and the applicant's description of the impediment to employment.

How is "available to complete an assessment" defined? The individual can attend planned or scheduled activities required to determine eligibility.

When all three conditions of submitting an application have been met, the 60-day timeframe for determining eligibility begins. To assure that the standard releases on the application form are in effect, a signed application should be included in the service record at the earliest opportunity. However, determination of eligibility may not be delayed pending receipt of a signed application form if the three conditions of application have been met.

Each local office is responsible for developing outreach plans to referral sources, minorities and members of unserved or underserved disability groups in their communities.

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## Documentation (record of service) Requirements for the Application Process

In addition to the Rehabilitation Services application form, the following information, to the extent it will impact the VR process or employment, must be collected as part of the application process and recorded in the record of services.

- Applicant's description of the disability and how it impacts the ability to work and to complete daily activities.
- Employment history, such as work performed at home, and paid work (employers, dates, wages, duties, job title, reason no longer working there). Job duties the applicant can no longer perform. Type of work the applicant wants to do. Accommodations that may be required.
- Residential, domestic, and family information (such as number in family, dependents, typical routines, support available through family, friends and social groups).
- Medical history, such as names of hospitals, doctors, psychologists, social workers.
- Current medications.
- Transportation available? Driver's license? Ability to use public transportation, if available.
- Corrections history, including names of probation or parole officers.
- Does the client have a Ticket-to-Work? Is it available for assignment? Or, if the client has assigned it to another Employment Network (EN), identify the EN.
- Media of choice.
- How can VR help? What is the applicant's reason for applying?

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PART Eligibility

SECTION NO. 2-2  
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## 2-2 Eligibility

### Synopsis of Federal Regulations

To determine whether an individual is eligible for vocational rehabilitation (VR) services and the individual's priority under an Order of Selection for services (if the State is operating under an Order of Selection), Rehabilitation Services (RS) will conduct an assessment for determining eligibility and priority for services. The assessment must be conducted in the most integrated setting possible, consistent with the individual's needs and informed choice, and in accordance with the following provisions:

### Eligibility requirements

Determination of eligibility may be based only on the following requirements:

1. A determination by qualified personnel that the applicant has a physical or mental impairment.
2. A determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant.
3. A determination by a qualified VR counselor employed by RS that the applicant requires VR services to prepare for, secure, retain or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

### Presumption of benefit

RS must presume that an applicant who meets the eligibility requirements in Numbers 1 and 2 above can benefit in terms of an employment outcome unless it demonstrates, based on clear and convincing evidence, that the applicant is incapable of benefiting in terms of an employment outcome from VR services due to the severity of the applicant's disability.

### Presumption of eligibility for Social Security recipients and beneficiaries

Any applicant for VR services who has been determined eligible for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) is presumed eligible for VR services. Such an applicant is also considered to be an individual with a significant disability. If an applicant for VR services asserts that he or she is eligible for SSI or SSDI but is unable to provide appropriate evidence, such as an award letter, RS must verify SSI or SSDI eligibility by contacting the Social Security Administration. This verification must be made within a reasonable period of time that enables RS to determine the applicant's eligibility for VR within 60 days of application.

### Prohibited factors

- No duration of residence requirements as part of determining eligibility for VR services or that exclude from services any individual who is present in the state.

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- No applicant or group of applicants is excluded or found ineligible solely on the basis of the type of disability.
- The eligibility requirements are applied without regard to the age, gender, race, color, creed, or national origin of the applicant.
- The eligibility requirements are applied without regard to the particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

## Review and assessment of data for eligibility determination

RS shall base its determination of each of the basic eligibility requirements on:

- A review and assessment of existing data, including counselor observations, education records, information provided by the individual or the individual's family, information used by the Social Security Administration, and determinations made by officials of other agencies; and
- To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, an assessment of additional data resulting from the provision of VR services, including assistive technology devices and services and worksite assessments, that are necessary to determine whether an individual is eligible.

## Extended evaluation for individuals with severe disabilities

Prior to any determination that an individual with a severe disability is incapable of benefiting from VR services in terms of an employment outcome because of the severity of that individual's disability, RS shall conduct an extended evaluation to determine whether or not there is clear and convincing evidence to support such a determination.

During the extended evaluation period, which may not exceed 18 months, VR services must be provided in the most integrated setting possible, consistent with the informed choice of the individual.

During the extended evaluation period, RS shall develop a written plan for determining eligibility and for determining the nature and scope of services required to achieve an employment outcome. RS may provide during this period only those services that are necessary to make these two determinations.

RS shall assess the individual's progress as frequently as necessary, but at least once every 90 days, during the extended evaluation period.

RS shall terminate extended evaluation services at any point during the 18-month extended evaluation period if it is determined that:

- There is sufficient evidence to conclude that the individual can benefit from the provision of VR services in terms of an employment outcome; or

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- There is clear and convincing evidence that the individual is incapable of benefiting from VR services in terms of an employment outcome.

*Reference: §361.42*

## Regulatory Guidance

"Clear and convincing evidence" means that RS must have a high degree of certainty before it can conclude that an individual is incapable of benefiting from services in terms of an employment outcome. The "clear and convincing" standard constitutes the highest standard used in the civil system of law and is to be individually applied on a case-by-case basis. The term "clear" means unequivocal. Given these requirements, a review of existing information generally would not provide clear and convincing evidence. For example, the use of an intelligence test result alone would not constitute clear and convincing evidence. Clear and convincing evidence might include a description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's needs due to the severity of the individual's disability. The demonstration of "clear and convincing evidence" must include, if appropriate, a functional assessment of skill development activities, with any necessary supports (including assistive technology), in real life settings.

*Reference: Note following §361.42*

## RS Policy

### Existing records

Because of the time limitation for eligibility determination, the initial contacts with the applicant, significant others and/or referral source are especially important to determine what usable information is readily available and what other diagnostic procedures will need to be started immediately. If appropriate and possible, the applicant should assist in the information gathering process.

### Eligibility certificate

The counselor must complete, sign and date a Certificate of Eligibility which documents that the applicant meets the eligibility criteria. In addition, the KMIS Certificate should be printed and filed in the record of services. The record of service must include information that supports the eligibility decision.

[\(See Section 1 / Part 11, Record of Services.\)](#)

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SECTION  
PART

Applications and Eligibility  
Determination of Impairment for Individuals with Learning  
Disabilities

SECTION NO.  
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## 2-3 Determination of Impairment for Individuals with Learning Disabilities

The first element of establishing eligibility for vocational rehabilitation services is a determination by qualified personnel that the applicant has a physical or mental impairment. (See [Section 2/Part 2](#) for additional information about eligibility determination.)

There are two options for determining that an applicant's impairment is a specific learning disability.

Option 1 - A written statement and explanation/analysis is provided by a licensed psychologist or certified school psychologist verifying that all three of the following criteria are met:

- A full scale IQ, greater than or equal to 75.
- A 22 point or more scaled score difference between IQ and Academic Achievement (i.e., at least a 1 ½ standard deviation difference).
- A statistically significant (.05) difference (usually about 10 scaled score points) between different cognitive abilities (e.g., verbal IQ and performance IQ).

When using Option 1, the following requirements must be met:

- The statement from the psychologist must include an explanation and analysis, rather than merely asserting that the individual has a learning disability.
- This statement and analysis should be based on a review of existing records to the greatest extent possible. However, if existing records are not sufficient for this analysis, RS may purchase the psychological evaluations necessary to verify these three criteria.
- If such a statement and analysis cannot be obtained from the licensed psychologist or certified school psychologist, but raw assessment/testing scores are available, such evidence should be sent to the regional or state psychological consultant for analysis. RS counselors will not interpret testing or assessment scores to verify that these criteria are met.

Option 2 - Option 2 is available only when all three criteria in Option 1 are not specifically met. In such cases, certification from a licensed psychologist, certified school psychologist, or an RS psychological consultant may be used in lieu of Option 1 if a reasonable rationale is provided. This rationale must include a description and analysis of the individual's characteristics which are related to the presence of a learning disability.

Consideration must be given to the following additional factors when assessing presence of a specific learning disability:

- Use of determinations made by schools  
Because of the variance in practices among diverse school districts, Rehabilitation Services will not presume the presence of a learning disability based only on the local education authority's identification of learning disability for special education purposes.



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- **Preferred assessment methods**  
When purchasing a learning disability assessment, the preferred measure of intellectual functioning is the Wechsler Adult Intelligence Scale-III (WAIS-III). The Woodcock-Johnson psycho-educational battery (WJ-R) is the preferred measure of academic achievement. It is considered best practice for RS staff to request that the school provide updated academic achievement test results. Other standardized IQ and achievement tests are acceptable provided that they are well standardized and widely used. State or local psychological consultants may assist counselors in determining whether such other tests are acceptable. The Adult Learning Disabilities Screening Instrument may be used only to determine if additional diagnostic or assessment services are needed. This screening tool may not be used to establish a diagnosis.
- **Qualified personnel**  
For VR purposes, only licensed psychologists or certified school psychologists are qualified to diagnose a specific learning disability.

## Determining eligibility for VR services

The presence of a specific learning disability alone does not establish VR eligibility. VR eligibility for a specific learning disability is established in the same manner that VR eligibility is determined for any other disability. ([See Section 2/Part 2](#)) There must be clear evidence that a learning disability interferes with the client's ability to achieve or maintain employment that is commensurate with their abilities. Specific learning disabilities often impose impairments in addition to academic delays. These deficits often can be more impairing and more difficult to accommodate than academic delays.

Deficits in the following areas may be the result of a learning disability and cause significant functional limitations: visual perception, attention, memory, motor skills, information processing, verbal expression, spatial orientation and social skills.

## Recent testing

The testing should be recent enough to describe current functioning. As a general rule, academic achievement scores should be done within the past two years. IQ testing should be done within two years of VR eligibility determination or after the age of 16. With reasonable explanation, counselors may make exceptions to this guideline. For example, it may be appropriate to waive the above requirements for current testing, if the learning disability is extremely pronounced and/or if there is other current evidence of functional limitations (e.g., teacher report, job placement, or Individualized Education Plan) that are very descriptive.

## Consultation

Counselors who have questions regarding determination of impairment for individuals with learning disabilities, the need for current testing, or related issues may contact the State or Regional psychological consultant for technical assistance.

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PART Procedures for Ineligibility Determination

SECTION NO. 2-4  
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## 2-4 Procedures for Ineligibility Determination

### Synopsis of Federal Regulation

If Rehabilitation Services (RS) determines that an applicant is ineligible for vocational rehabilitation (VR) services or determines that an individual receiving services under an Individualized Plan for Employment (IPE) is no longer eligible for services, RS shall:

- Make the determination only after providing an opportunity for full consultation with the individual or, as appropriate, with the individual's representative;
- Inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including the reasons for that determination, and the means by which the individual may express and seek remedy for any dissatisfaction, including the standard appeal procedures;
- Provide the individual with a description of services available from the Client Assistance Program (CAP) and information on how to contact the program; and
- Review within 12 months and annually thereafter if requested by the individual or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome. This review need not be conducted in situations in which the individual has refused it, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal.

*Reference: §361.43*

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SECTION Applications and Eligibility  
PART Order of Selection

SECTION NO. 2-5  
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## 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.

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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.

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- 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

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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.