

## **Eligibility**

### **Chapter 6**

**6.00 Eligible individual means** an applicant for vocational rehabilitation services who meets the eligibility requirements.

**6.01 Basic Eligibility Requirements.** The Division of Vocational Rehabilitation must determine if an individual is eligible for vocational rehabilitation services based only on the following requirements:

1. Counselor determines if an individual has a physical or mental impairment.
2. Counselor determines whether the individual's physical or mental impairment constitutes or results in a substantial impediment to employment.
3. Counselor determines that an individual requires vocational rehabilitation services to prepare for, secure, retain, or advance in, or regain employment consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
4. The individual shall be presumed to have a goal of a competitive integrated employment.

**6.02 Presumption of Benefit.** DVR must presume that an applicant who meets the eligibility requirements in Section 6.01(1) and 6.01(2) can benefit in terms of an employment outcome, unless:

1. Through a trial work experience, DVR determines the individual is unable to benefit due to the severity of the individual's disability or that the individual is ineligible for vocational rehabilitation services, (Reference Chapter 4, Section 4.09). [Reference Chapter 4, Section 4.08]

**6.03 Presumption of Eligibility for Social Security Recipients and Beneficiaries**

1. An individual who has a disability and receives SSI or SSDI for disability or blindness shall be considered to be an individual with a significant disability and presumed to be eligible for services offered by the Division of Vocational Rehabilitation. This is not to be construed to create an entitlement to the Division of Vocational Rehabilitation's services.
2. The State Verification and Exchange System (SVES) record of the individual's disability will serve as evidence of receipt of SSI and SSDI and eligibility. If the SVES record does not provide sufficient information to determine if the individual can be presumed eligible, the counselor shall contact the local SSA Office (by phone or using the standard Verification of Benefits (VOB) form) to obtain the information needed to expedite determination of eligibility of the individual.
3. The submitted application is verification of the individual's intent to work and no tests may be used to assess the intent of the individual to achieve an employment outcome. The DVR counselor or qualified personnel is responsible for informing the individual during the applicant process that individuals who receive services must intend to achieve an employment outcome.

4. The individual receiving SSI or SSDI for his/her disability is presumed to be eligible unless it can be demonstrated by clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from the services offered by the Division of Vocational Rehabilitation due to the severity of the individual's disability.
5. The individual receiving SSI or SSDI for his/her disability is not required to participate in the cost of vocational rehabilitation services.

6.04 **Recency.** When using existing medical, psychiatric, or psychological information, the counselor will determine if it is recent enough to document an impairment. Recency is determined by the current status of the individual's condition compared to available reports.

1. Consultants are available to assist the counselor in making this determination.
2. In instances where DVR is funding treatment, information can be no older than one year.

6.05 **Decision Alternatives.** One of the following decisions must be made by the counselor upon completion of the preliminary assessment:

1. Eligibility cannot be established due to the severity of the impairment and the individual agrees to engage in a trial work experience while in applicant status.
2. . The applicant is eligible for vocational rehabilitation and a certification of eligibility is developed.
3. A physical or mental impairment cannot be documented, the impairment for the individual does not constitute or result in a substantial impediment to employment or the individual does not require DVR's services and a certification of ineligibility is completed.

6.06 **Eligibility or Extension of Eligibility**

1. DVR must make an eligibility decision within 60 days following the submission of a completed application.
2. If DVR cannot make an eligibility determination within 60 days of the application due to exceptional and unforeseen circumstances beyond the control of DVR, the individual, or an authorized representative of the individual, and the counselor must agree to a specific extension of time. An extension must be documented in the case record . The eligibility extension consent must be signed by the individual and kept in the case record. Exceptional and unforeseen circumstances may include:
  - a. a necessary assessment or report could not be secured within 60 days;
  - b. the individual is unavailable to participate in the assessment; or
  - c. Official VR Office Closure.
3. An extension is not required if DVR is exploring an individual's abilities, capabilities and capacity to perform in work situations through trial work. (Reference Chapter 4, Section 4.09)

4. If an eligibility decision cannot be completed during the timeframe identified in the extension, the individual or his/her representative and the counselor must agree to another specific extension of time. The counselor must document the circumstances necessitating the continued extension in the case record.

#### 6.07 **Certification.**

1. The certification of eligibility must:
  - a. document the impairment(s) based to the extent possible on existing data.
  - b. describe how the impairment(s) constitute(s) substantial impediment(s) to employment.
  - c. include a rationale why the individual requires the Division of Vocational Rehabilitation to prepare for, secure, regain or retain employment.
2. If in the counselor's opinion additional diagnostic information is required to determine the need for services, such evaluations can be done after the individual is determined eligible.
3. If additional impairments and/or impediments to employment are revealed from additional diagnostics, these should be reflected in a case entry entitled "Addendum to Certification".

#### 6.08 **Ineligibility Determination.**

1. The ineligibility determination shall be an individualized one, based on the available data, and shall not be based on assumptions about broad categories or disability;
2. The ineligibility determination shall be made only after the counselor provides an opportunity for full consultation with the individual or, as appropriate, the individual's representative;
3. The ineligibility determination must be provided in writing (or by appropriate modes of communication consistent with the informed choice of the individual) including:
  - i. The reasons the individual was determined ineligible, including the clear and convincing evidence that forms the basis for the determination and the effective date of the ineligibility decision.
  - ii. A description of how the individual may express, and seek a remedy for any dissatisfaction with the ineligibility determination (Reference Chapter 3 for all options that are available to the individual).
4. The individual shall be provided with a description of services available from the Disability Rights Florida and how to contact the program. [Reference Chapter 3]
5. Any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed.
  - a. within 12 months; and

- b. thereafter, if the individual or the individual's representative makes a request.
  - c. Exceptions. The review need not be conducted if:
    - i. the individual has refused it;
    - ii. the individual has refused services;
    - iii. the individual is no longer present in the state;
    - iv. the individual's whereabouts are unknown;
    - v. the individual's medical condition is rapidly progressive or terminal;
    - vi. the case is closed as No Impairment or as No Vocational Impediment.
6. If an individual who is determined to have a disability which is too significant to benefit from DVR services is also a youth (age 14 – 24), the individual must be provided services by DVR in a manner that facilitates informed choice and decisions made by the individual, or the individual's representative, as appropriate, before the individual's case record may be closed.
- a. DVR services delivered must only include information on competitive integrated employment. Information must not include options for subminimum wage employment or any employment-related services compensated at a subminimum wage provided by any entity.
  - b. Required DVR services will be offered in the individual's geographic area and will be designed to enable the individual to explore, discover, experience, and attain competitive integrated employment. Services must include:
    - i. career counseling;
    - ii. work readiness training;
    - iii. work experiences;
    - iv. information on Federal, State, and other programs providing employment services; and
    - v. referral to Federal, State, and other programs providing employment services.
  - c. Services must be part of an Individualized Plan for Trial Work (IPTW). (Reference Chapter 4, Section 4.09).
7. The counselor must prepare a **Certification of Ineligibility** for the individual's case record. The certification must be signed and dated by the counselor stating all of the above information has been explained in detail to the ineligible individual.

### Stevens Amendment

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements.

Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.