

Chapter 1
ELIGIBILITY

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SECTION 1: DEFINITIONS

Clear and convincing evidence is the highest standard used in the civil system of law and is applied individually. The term *clear* means there's no doubt or misunderstanding. For purposes of eligibility for vocational rehabilitation services "clear and convincing evidence" means that DBVI shall have a high degree of certainty before concluding that an individual would not benefit from services in terms of an employment outcome due to the significant nature of the disability(ies). Clear and convincing evidence might include a description of assessments, including situational and supported employment assessments, from service providers who concluded that they would be unable to meet the individual's needs due to the significance of the 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.

Competitive employment means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

Employment outcome means entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Individual with a significant disability means an individual:

1. Who has a severe physical or mental impairment, which 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;
2. Whose vocational rehabilitation can be expected to require multiple services over an extended period of time; and

3. 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, developmental disability, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders, (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal diseases, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs which cause substantial functional limitations.

Integrated setting:

- i. With respect to the provision of services means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;
- ii. With respect to an employment outcome services means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

Legally blind means:

1. Central acuity does not exceed 20/200 in the better eye with corrections; or
2. The field of vision is restricted to 20 degrees or less i.e., there is little peripheral vision.

Visual impairment means the eye condition may not be so severe as to be legally blind, but vision in the better eye with best correction is not better than 20/50; or, the condition is of a progressive nature which, if untreated, can reasonably be expected to lead to blindness.

Substantial impediment to employment means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with his/her abilities and capabilities.

SECTION 2: ELIGIBILITY REQUIREMENTS

A. Timeframe for processing referrals

All new referrals to DBVI will be considered high priorities and new applicants will be contacted as soon as possible. A good faith effort to contact individuals will be made within 5 working days. At time of contact, information on application requirements will be provided, and information will be gathered to establish eligibility. It is understood that incorrect consumer information, difficulty contacting consumer and staffing issues (vacations, leave, illness) may lead to unavoidable delays in the initial contact. Any unusual delay in the initial contact will be documented in the case file.

B. Eligibility criteria

Eligibility for DBVI services shall be based on the following criteria:

1. The individual is blind or has a visual impairment as a primary disability which results in a substantial impediment to employment for him/her;
2. There is a presumption that the individual can benefit from vocational rehabilitation in terms of an employment outcome; and
3. The individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

An assessment for determining eligibility for vocational rehabilitation services must be conducted in the most integrated setting possible and be consistent with the individual's needs and informed choice.

C. Presumption of Benefit

An individual shall be presumed to be able to benefit from services in terms of an employment outcome unless DBVI can demonstrate by clear and convincing evidence that he/she would not be able to benefit due to the severity of the disability(ies).

If there is a question whether the individual will be able to benefit, DBVI shall explore his/her abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences with appropriate supports and training

provided. The exception is that, under limited circumstances, it may be determined that the individual cannot take advantage of such experiences. The trial work experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual would not be able to benefit in terms of an employment outcome due to the severity of the disability(ies).

D. Intent to Achieve an Employment Outcome:

Although not a criterion for eligibility, any eligible individual must intend to achieve an employment outcome that is consistent with his/her unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. DBVI shall inform individuals, during the application process, that in order to receive services under the program they must intend to achieve an employment outcome. Filing a completed application for DBVI services shall represent an individual's intent to achieve an employment outcome; no additional demonstration of intent shall be required.

E. Timeframe for Determining Eligibility:

Eligibility determination must be completed within 60 days of the individual's submission of an application for services unless there are exceptional circumstances, and the individual and DBVI agree to a specific extension of time. The specifics of this extension should be documented in the case notes. It may be necessary to explore the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences with appropriate supports provided through DBVI as described in Part C above.

F. Prohibited Factors

Any individual present in the state may apply for services; there is no residency requirement. No applicant or group of applicants is ineligible on the basis of a particular type of disability, and DBVI does not discriminate on the basis of age, sex, race, color, religious belief, or national origin. In addition, no individual will be found ineligible due to the type of expected employment outcome, the source of referral for rehabilitation services, any particular service needs, the anticipated cost of services, or the income level of the applicant or the applicant's family.

SECTION 3: HOW TO DETERMINE ELIGIBILITY

A. Presumption of Eligibility

If an individual receives Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) due to blindness or a visual impairment, it shall be presumed that he/she meets the eligibility criteria in Section 2 and is an individual with a significant disability:

1. Provided that he/she intends to achieve an employment outcome consistent with his/her unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice; unless
2. DBVI can demonstrate by clear and convincing evidence that the individual would not be able to benefit in terms of an employment outcome due to the severity of the disability(ies) as described in Section 2(C) above.

B. Using Existing Information

To the maximum extent appropriate, current and existing information shall be used to determine eligibility. Existing information may include medical and psychological records, 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 involved with people with disabilities. Decisions regarding whether and how specific data are to be used must be made on a case-by-case basis, and while the accuracy and timeliness of existing data are important factors in determining their usefulness, older data can be used if still pertinent.

To the extent existing information does not describe the current functioning of the individual or is unavailable, insufficient, or inappropriate to make an eligibility determination, whatever examinations, tests, assessments, etc. (including assistive technology devices/services and work site assessments) which are necessary may be procured prior to certifying eligibility.

C. Certification of Eligibility

When eligibility has been determined, the counselor shall complete DBVI's certification form (see sample at the end of this Chapter) to indicate the individual's status as being either eligible or ineligible for services. The form also indicates functional limitations, which may be used in developing the Individualized Plan for

Employment.

SECTION 4: INELIGIBILITY DETERMINATION

If an applicant is found to be ineligible for services or if an individual receiving services under an Individualized Plan for Employment is found to be no longer eligible DBVI must:

1. Make the determination only after providing an opportunity for full consultation with the individual;
2. Inform the individual in writing of the reason(s) for determining ineligibility supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, the requirements under this section, appeal rights and their procedures, Client Assistance Program (CAP) services and how to contact CAP, and
3. Make referral to other training or employment-related programs that are part of the One-Stop service delivery system under the Workforce Investment Act.

Also, any determination of ineligibility based on the finding that the individual would not achieve an employment outcome due to the severe nature of the disability(ies) will be reviewed by a counselor in 12 months (and annually thereafter if requested by the individual). This annual review is not required if the individual refuses it, has left the state, whose whereabouts are unknown, or has a medical condition which is rapidly progressive or terminal.

DBVI may not close an applicant's case without making an eligibility determination unless the individual declines to participate in or is unavailable to complete an assessment, and the counselor has made a reasonable number of attempts (which are made part of the record) to contact him/her to encourage participation.

Division for the Blind and Visually Impaired

Certificate of:

Eligibility _____ Ineligibility _____

Trial Work Experiences _____ Significant Disability _____

Name: _____

Disability: _____

The individual is an SSDI SSI recipient and therefore presumed to be eligible and an individual with a significant disability

The individual has does not have a visual impairment, which constitutes or results in a substantial impediment to employment. Functional Limitations exist in the areas of:

Mobility

- Unable to obtain or retain driver's license due to vision loss
- Unable to travel safely in familiar or unfamiliar environments
- Unable to use public transportation due to secondary disability
- Requires adaptive techniques for safe ambulation: sighted guide, guide dog, cane
- Other: _____

Communication

- Unable to access standard print
- Unable to print or write
- Unable to use braille
- Unable to read, spell or perform calculations beyond 5th grade level
- Unable to recognize faces and interpret common gestures or body language
- Unable to understand normal conversations due to hearing loss or cognitive limitations
- Other: _____

Self-Care

- Difficulty or unable to perform personal hygiene, grooming, dressing, eating
- Difficulty or cannot perform homemaking tasks: cleaning, shopping, cooking, sewing
- Other: _____

Self-Direction

- Easily distracted/short attention span
- Impatient/impulsive – poor task completion
- Difficulty adjusting to new situations
- Unaware of consequences of behavior
- Difficulty working independently
- Difficulty initiating and following through
- Other: _____

Interpersonal Skills

- Social isolation/withdrawal/rejection
- Poor peer relationships/interactions
- Fails to understand obvious social cues
- Frequent inappropriate behavior
- History of antisocial behavior
- Other: _____

Work Tolerance

- Unable to climb 12 steps or walk 100 yards without pausing
- Can't stand or sit for more than 3 hours
- Can't lift more than 20 lbs. repetitively
- Can't carry more than 10 lbs. for prolonged periods
- Other: _____

Work Skills

- Difficulty following written or spoken instructions
- Takes longer to do a job than others
- Can't accept constructive criticism
- Can't keep a schedule, not punctual
- Needs concrete and repeated demonstrations
- Frequent errors
- Difficulty with supervision
- Other: _____

Vocational Rehabilitation will will not benefit the individual in terms of an employment outcome consistent with the unique strengths, resources, priorities,

concerns, abilities, capabilities, interests and informed choice of the individual. This cannot be determined due to the severity of the disability and trial work experiences are necessary.

The individual does does not require vocational rehabilitation services to prepare for, secure, retain or regain employment.

Services include: Training Assistive Technology Physical Restoration
 Job Placement Mental Restoration Counseling & Guidance
 Supported Employment Transportation Other:

The individual meets does not meet the criteria for significant disability. This includes the need for multiple services over an extended period of time (6 months or more).

Signature

Date