

# REHABILITATION DIVISION: BVR / BSBVI

## Participant Services Policy Manual

### Section 8, Title: Eligibility Determination for VR

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#### A. Timeline

Counselors must conduct an assessment of eligibility and make an eligibility determination within a reasonable period of time, not to exceed 60 days after the individual has submitted an application except if eligibility is extended or if participating in a trial work experience.

#### B. Assessment of Eligibility and Eligibility Requirements

1. The assessment of eligibility must be conducted in the most integrated setting possible consistent with the participant's needs and informed choice. To the extent possible, existing information should be used to determine eligibility, however, if available data is insufficient to make an eligibility determination, an assessment of additional data may be obtained as described in [34 CFR 361.42 Assessment for determining eligibility and priority for services](#).
2. Pursuant to federal rules, laws and regulations, an applicant is eligible for services if it is determined that:
  - a) The applicant has a physical or mental impairment (disability);
  - b) The physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant;
  - c) The applicant requires VR services to prepare for, secure, retain, advance in, or regain employment consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice;
  - d) The applicant can benefit from VR services in terms of an employment outcome. This requirement is presumed. Prior to a determination that an individual is unable to benefit or is ineligible due to the severity of the disability, trial work experiences, with appropriate supports, must be provided.;
  - e) The applicant has legal status to work in the United States; and
  - f) The applicant must intend to achieve a competitive integrated employment outcome consistent with their unique strengths, resources, priorities,

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concerns, abilities, capabilities, interest and informed choice. An individual who submits an application shall be presumed to have a goal of an employment outcome unless they indicate otherwise. \* This is not to be construed as creating an entitlement to any VR services.

Eligibility requirements are applied without respect for the applicant's particular employment needs or anticipated service costs. The applicant's income is also not a factor in determining eligibility; however, may be a factor in determining financial participation.

An individual cannot be determined eligible only to correct an acute condition in the absence of a need for other substantial rehabilitation services.

Rehabilitation Act as Amended indicates an individual currently engaging in illegal drug use is not considered an individual with a disability, the Act also indicates an individual currently using illegal drugs shall not be excluded if otherwise entitled to services [see: [The Rehabilitation Act as Amended - Section 7 \(20\)\(C\)](#) ].

#### **C. Presumptive Eligibility**

A presumptive eligibility determination must be made whenever possible. Applicants who receive Social Security benefits under Title II or Title XVI of the Social Security Act are presumed eligible for vocational rehabilitation services. Verification of Social Security benefits must be obtained in a timely manner.

Participants will be required to submit proof of Social Security benefits due to disability upon request to VR to determine presumptive eligibility for VR services.

- Examples of acceptable Social Security documentation for verification of benefits due to a disability include:
  - Current Social Security award letter
  - Benefit Query (BPQY)
    - Unacceptable documents include an annual cost of living adjustment or COLA letter and/or Social Security 1099 forms.

#### **D. Eligibility Extension**

If exceptional and unforeseen circumstances beyond the control of the agency preclude the counselor from making an eligibility determination within 60 days, an eligibility extension may be completed if the counselor and applicant agree to a specific extension of time. Eligibility extensions must be time limited, agreed upon and signed by the counselor and applicant utilizing agency developed forms. See federal regulations at [34 CFR 361.41 \(b\) \(1\) \(i\) Processing referrals and applications- Exceptional and](#)

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[unforeseen circumstances beyond the control of the DSU preclude making eligibility determinations.](#)

**E. Trial Work Experiences**

Prior to determining an applicant with a significant disability is incapable of benefiting from VR services, in terms of an employment outcome due to the severity of the applicant's disability, the counselor must conduct an exploration of the applicant's abilities, capabilities and capacity to perform in realistic work situations. This is done by completing a written Trial Work Experience plan.

Trial work experience plans must be time limited, agreed upon and signed by the counselor and the applicant utilizing agency developed forms. Trial Work Experience plans must include real work experiences where appropriate supports such as assistive technology devices and services, personal assistance services, job coaching or other supports needed to accommodate the employments needs of the individual will be provided.

An eligibility determination will be made once sufficient evidence is obtained to determine whether or not the participant can benefit in terms of an employment outcome based on the severity of their disability.

To the extent possible, trial work experiences must be provided in competitive integrated work settings consistent with the informed choice and rehabilitation needs of the individual.

Individuals who were previously determined eligible for services must have also been provided an evaluation of their capacity to perform in realistic work settings (trial work experiences) prior to a determination that they are no longer eligible due to the severity of the disability.

**F. Ineligibility Determinations**

Ineligibility may be determined if an individual does not meet eligibility requirements. This determination can only be made after an appropriate assessment of eligibility has been carried out, including a review of existing data.

The requirements for ineligibility determinations are found in [34 CFR 361.43 Procedures for ineligibility determination.](#)

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An ineligibility determination will be made for youth seeking a certificate to enter subminimum wage employment with an entity holding a special wage certificate under Section 14(c) of the Fair Labor Standards Act of 1938.