TITLE 460 DIVISION OF DISABILITY AND REHABILITATIVE SERVICES

Proposed Rule
LSA Document #14-507

DIGEST

Adds 460 IAC 14 to set forth provisions affecting applicants, eligible individuals, and service providers concerning eligibility and services for the vocational rehabilitation program. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

460 IAC 14

SECTION 1. 460 IAC 14 IS ADDED TO READ AS FOLLOWS:

ARTICLE 14. VOCATIONAL REHABILITATION SERVICES

Rule 1. Purpose

460 IAC 14-1-1 Purpose

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The purpose of this article is to set forth rules for the state-federal vocational rehabilitation program in the state of Indiana, as authorized under the Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.) and implement federal regulations (34 CFR 361, et seq.), as amended.

(Division of Disability and Rehabilitative Services; 460 IAC 14-1-1)

Rule 2. Applicability

460 IAC 14-2-1 Applicability

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. This article applies to the following:
(1) The designated state agency and designated state unit charged with the provision of vocational rehabilitation services in the state of Indiana.
(2) Individuals who are referred and have applied for vocational rehabilitation services.
(3) Individuals who have been determined eligible for vocational rehabilitation services and their family members, advocates, and other representatives.
(4) Vocational rehabilitation services providers.

(Division of Disability and Rehabilitative Services; 460 IAC 14-2-1)

460 IAC 14-2-2 Designated state agency

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. The division of disability and rehabilitative services is the designated state agency.

(Division of Disability and Rehabilitative Services; 460 IAC 14-2-2)

460 IAC 14-2-3 Designated state unit

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. The bureau of rehabilitation services is the designated state unit.

(Division of Disability and Rehabilitative Services; 460 IAC 14-2-3)

460 IAC 14-2-4 Authority for program administration

Authority: IC 12-8-1.5-10; IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3; IC 12-9-6; IC 12-11-6
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. In addition to the responsibilities in 34 CFR 361.13(c), the bureau of rehabilitation services, as the designated state unit, has sole authority for:
(1) state plans for rehabilitation services as required under federal guidelines; and
(2) contracting with other governmental units and public or private entities to provide any of the vocational rehabilitation services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-2-4)

460 IAC 14-2-5 Conflict with federal regulations

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. If any provision of this article is deemed to be in conflict with the Rehabilitation Act or any other federal or state statute or rule specifically applicable to the vocational rehabilitation program, such other statute or rule shall supersede.

(Division of Disability and Rehabilitative Services; 460 IAC 14-2-5)

460 IAC 14-2-6 References to the Code of Federal Regulations

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. Any reference to a provision of the Code of Federal Regulations (CFR) shall mean the July 1, 2014, edition. The provisions are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Family and Social Services Administration, Office of General Counsel, Indiana Government Center South, Room W451, 402 West Washington Street, Indianapolis, Indiana 46204.

(Division of Disability and Rehabilitative Services; 460 IAC 14-2-6)

Rule 3. Definitions

460 IAC 14-3-1 Definitions

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-8-1.5-1; IC 12-9-1-1; IC 12-9-5; IC 12-12-1; IC 12-12-5; IC 12-28-1

Sec. 1. The following definitions in this rule apply throughout this article:
(1) "Acquisition cost" has the meaning set forth in 34 CFR 80.3.
(2) "Act" has the meaning set forth in 34 CFR 361.5(b)(1).
(3) "Administrative review" means the procedure that enables a party who is dissatisfied with the decision of the impartial hearing officer to seek review of the impartial hearing officer's decision after an impartial due process hearing.
(4) "Americans with Disabilities Act" or "ADA" means the Americans with Disabilities Act of 1990

(P.L.101-336 and 42 U.S.C. 12101, et seq.), as amended.
(5) "Applicant" has the meaning set forth in 34 CFR 361.5(b)(4).
(6) "Appropriate modes of communication" has the meaning set forth in 34 CFR 361.5(b)(5).
(7) "Approved interpreter" means an interpreter who possesses a valid Indiana interpreter certificate or has the prior approval of the director of deaf and hard of hearing services to interpret to meet a special or emergency need.
(8) "Area supervisor" means an individual employed by BRS who is responsible for the direct supervision of vocational rehabilitation counselors, other staff, and office operations of an area office.
(9) "Assessment for determining eligibility and vocational rehabilitation needs" has the meaning set forth in 34 CFR 361.5(b)(6).
(10) "Assessment of eligibility and priority for services" means the assessment for determining eligibility and vocational rehabilitation needs described in 34 CFR 361.5(b)(6)(i).
(11) "Assessment of vocational rehabilitation needs" means that part of the assessment for determining eligibility and vocational rehabilitation needs described in 34 CFR 361.5(b)(6)(ii).
(12) "Assistive technology device" has the meaning set forth in 34 CFR 361.5(b)(7).
(13) "Assistive technology service" has the meaning set forth in 34 CFR 361.5(b)(8).
(14) "Bureau of rehabilitation services" or "BRS" means the bureau of rehabilitation services created under IC 12-12-1-1.
(15) "Business enterprise program" or "BEP" means the Indiana Randolph-Sheppard Business Enterprise Program authorized by 20 U.S.C. 107 and IC 12-12-5.
(16) "Clear and convincing evidence" has the meaning set forth in 34 CFR 361.42.
(17) "Client assistance program" or "CAP" means the program established by the 1984 amendments to the Rehabilitation Act and is administered by Indiana protection and advocacy services.
(18) "Community rehabilitation program" or "CRP" has the meaning set forth in 34 CFR 361.5(b)(9).
(19) "Comparable services and benefits" has the meaning set forth in 34 CFR 361.5(b)(10).
(20) "Competitive employment" has the meaning set forth in 34 CFR 361.5(b)(11).
(21) "Confidential information" means information, regardless of format or source, that identifies, or can be used to identify, any current or former applicant or eligible individual.
(22) "Contiguous out-of-state areas" means immediately adjacent out-of-state major metropolitan areas, cities, or towns sharing part of their borders with the state of Indiana.
(23) "Deaf and hard of hearing services" means the unit established under IC 12-12-1-2.
(24) "Designated state agency" or "DSA" has the meaning set forth in 34 CFR 361.5(b)(13).
(25) "Designated state unit" or "DSU" has the meaning set forth in 34 CFR 361.5(b)(14).
(26) "Director" means the director of the bureau of rehabilitation services.
(27) "Disclose" or "disclosure" means to permit access to or to release, transfer, or otherwise communicate confidential information concerning any individual or applicant.
(28) "Division" or "DDRS" means the division of disability and rehabilitative services created under IC 12-9-1-1.
(29) "Eligible individual" has the meaning set forth in 34 CFR 361.5(b)(15).
(30) "Employment outcome" has the meaning set forth in 34 CFR 361.5(b)(16).
(31) "Equipment" as used in connection with business equipment, durable medical equipment, occupational equipment, or other items purchased with vocational rehabilitation program funds, means tangible, nonexpendable devices and apparatus, whether movable or fixed, having a useful life of more than one (1) year, inclusive of all component or integral parts and appurtenances, installation, and setup necessary for the performance of the functions for which the equipment is purchased.
(32) "Expected family contribution" has the meaning set forth in 34 CFR 668.2.
(33) "Extended employment" has the meaning set forth in 34 CFR 361.5(b)(19).
(34) "Extended evaluation" means an extension of an assessment of eligibility and priority for services during which services are provided in order to assess whether certain individuals with significant disabilities are able to benefit from vocational rehabilitation services in terms of an employment outcome.
(35) "Extended services" has the meaning set forth in 34 CFR 361.5(b)(20).
(36) "Fair market value" means the amount for which property would sell on the open market if put up for sale in the ordinary course of business.
(37) "Family and social services administration" or "FSSA" means the Indiana family and social services administration created under IC 12-8-1.5-1.
(38) "Family member" means an individual who either:
(A) is a relative or guardian of an applicant or eligible individual;
(B) lives in the same household as an applicant or eligible individual; or
(C) has a substantial interest in the well-being of that individual.
(39) "Fiscal year" has the meaning set forth in 34 CFR 77.1(c).

(40) "Impartial due process hearing" has the meaning set forth in 34 CFR 361.57(e).
(41) "Impartial hearing officer" or "IHO" has the meaning set forth in 34 CFR 361.5(b)(25).
(42) "Indiana protection and advocacy services" or "IPAS" means the commission established under IC 12-28-1.
(43) "Individual with a disability" has the meaning set forth in 34 CFR 361.5(b)(28).
(44) "Individual with a most significant disability" means an individual with a significant disability as defined in 460 IAC 14-8-1(b).
(45) "Individual with a significant disability" has the meaning set forth in 34 CFR 361.5(b)(31). An individual with a disability is presumed to be an individual with a significant disability if he or she meets the requirements under 34 CFR 361.42(a)(3).
(46) "Individualized plan for employment" or "IPE" means a written plan of services developed and implemented for an eligible individual, which identifies the eligible individual's employment outcome, the anticipated duration of his or her participation in the vocational rehabilitation program, the specific vocational rehabilitation services that will be provided to enable him or her to achieve the outcome, the service providers selected, the criteria that will be used to evaluate his or her progress toward achievement of the employment outcome, and the other terms and conditions of the IPE including the requirements for developing, reviewing, and amending the IPE and its mandatory components described in 34 CFR 361.45 and 34 CFR 361.46.
(47) "Individual's representative" has the meaning set forth in 34 CFR 361.5(b)(32).
(48) "Informed choice" means that an applicant or an eligible individual has full participation in the selection of his or her employment outcomes, the specific vocational rehabilitation services needed to achieve the employment outcome that will be provided, the entities that will provide the services, the settings in which the services will be provided, and the available methods used for procuring the services.
(49) "Informed consent" means a written request signed by the individual or his or her representative allowing the division to obtain confidential information from or disclose confidential information to another party.
(50) "In-state" means within the state of Indiana and contiguous out-of-state areas.
(51) "Integrated setting" has the meaning set forth in 34 CFR 361.5(b)(33).
(52) "Job-related services" means job development, job modification, placement assistance, follow-up, and follow-along services required for an eligible individual to secure, maintain, or retain an employment outcome.
(53) "Maintenance", for purposes of subdivision (75), has the meaning set forth in 34 CFR 361.5(b)(35).
(54) "Mediation" has the meaning set forth in 34 CFR 361.5(b)(43).
(55) "Ongoing support services" has the meaning set forth in 34 CFR 361.5(b)(38) and 34 CFR 363.6(c)(3).
(56) "Order of selection" means the procedure used by the division to determine the order of priority in which eligible individuals will receive services if there are insufficient resources to serve all eligible individuals in the state who apply for services.
(57) "Personal assistance services" has the meaning set forth in 34 CFR 361.5(b)(39).
(58) "Physical and mental restoration services" has the meaning set forth in 34 CFR 361.5(b)(40).
(59) "Physical or mental impairment" has the meaning set forth in 34 CFR 361.5(b)(41).
(60) "Post-employment services" has the meaning set forth in 34 CFR 361.5(b)(42).
(61) "Postsecondary education" has the meaning set forth in 34 CFR 643.7.
(62) "Private" has the meaning set forth in 34 CFR 77.1(c).
(63) "Public" has the meaning set forth in 34 CFR 77.1(c).
(64) "Qualified and impartial mediator" has the meaning set forth in 34 CFR 361.5(b)(43).
(65) "Real property" has the meaning set forth in 34 CFR 74.2.
(66) "Record of services" means the record created and maintained by the bureau for each applicant and eligible individual that contains any and all information concerning an individual's participation in the vocational rehabilitation program.
(67) "Reviewing authority" means the director of the division of disability and rehabilitative services or the director's designee.
(68) "Self-employment" means a competitive employment outcome in which the eligible individual is working for himself or herself independently, rather than as the employee of another individual or entity. The term includes, but is not limited to, a small business operation.
(69) "Service priority category" means one (1) of three (3) categories to which an individual is assigned for order of selection based on the severity of his or her disability and the scope and duration of services needed for the individual to achieve an employment outcome.
(70) "Service provider" means any person, business, organization, or entity that provides vocational rehabilitation services to individuals with disabilities. A family member of an applicant or eligible

individual is prohibited from being a service provider for that applicant or eligible individual.
(71) "Services to family members" means vocational rehabilitation services provided to a family member as defined in 34 CFR 361.5(23) that are necessary to enable an applicant or eligible individual to achieve an employment outcome.
(72) "Substantial impediment to employment" has the meaning set forth in 34 CFR 361.5(b)(52).
(73) "Supported employment" has the meaning set forth in 34 CFR 361.5(b)(53).
(74) "Supported employment services" has the meaning set forth in 34 CFR 361.5(b)(54).
(75) "Supporting services" means maintenance, transportation, services to family members, and personal assistance services. Supporting services are not intended to support the individual, but rather to support the individual's participation in other vocational rehabilitation services.
(76) "Transportation" has the meaning set forth in 34 CFR 361.5(b)(57).
(77) "Trial work experience" or "TWE" means the exploration of an individual's abilities, capabilities, and capacity to perform in realistic work situations in order to determine whether or not there is clear and convincing evidence to support a determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.
(78) "Tuition" means the amount charged for instruction by the institution of higher education in which a student is enrolled.
(79) "Vocational rehabilitation counselor" or "counselor" means an individual employed by BRS to manage an applicant or eligible individual's case and provide vocational rehabilitation services. An area supervisor, region manager, or other appropriate designee may also act as a counselor.
(80) "Vocational rehabilitation program" or "VR program" means the unit within the bureau of rehabilitation services charged with the provision of vocational rehabilitation services.
(81) "Vocational rehabilitation services" has the meaning set forth in 34 CFR 361.5(b)(58).

(Division of Disability and Rehabilitative Services; 460 IAC 14-3-1)

Rule 4. General Provisions

460 IAC 14-4-1 State residency

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program will not impose, as a condition of referral, application, eligibility determination, or the provision of services, any duration of residency requirement that excludes from services any applicant who is present in the state.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-1)

460 IAC 14-4-2 Statewide availability of services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. All vocational rehabilitation services provided in Indiana are available statewide, in all geographical regions and political subdivisions of the state, unless excepted under 34 CFR 361.26.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-2)

460 IAC 14-4-3 Informed choice

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. Each eligible individual has the right to participate fully in his or her own rehabilitation and to make informed choices.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-3)

460 IAC 14-4-4 Involvement of family members and other advocates

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. Each eligible individual has the right to involve family members and other advocates, aides, and representatives in his or her vocational rehabilitation program and to utilize family and community-based supports.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-4)

460 IAC 14-4-5 Integrated setting

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. Vocational rehabilitation services are provided in the most integrated setting possible consistent with each eligible individual's informed choice and the availability of services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-5)

460 IAC 14-4-6 Client assistance program availability

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. Each applicant and eligible individual served by vocational rehabilitation services must be notified regarding CAP availability and how to contact CAP for assistance.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-6)

460 IAC 14-4-7 Appropriate modes of communication

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. The VR program shall make all reasonable efforts to use modes of communication appropriate to each applicant or eligible individual's disability.

(Division of Disability and Rehabilitative Services; 460 IAC 14-4-7)

Rule 5. Collection, Use, and Disclosure of Confidential Information

460 IAC 14-5-1 Collection of confidential information

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program is authorized by the Rehabilitation Act of 1973, as amended, and implemented under 34 CFR 361, et seq., to obtain and use confidential information for program operation and administration.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-1)

460 IAC 14-5-2 Uses of confidential information

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. Confidential information obtained or generated by the VR program will only be used to:

(1) determine whether an applicant is eligible for vocational rehabilitation services;
(2) determine an eligible individual's priority for services if the VR program is operating under an order of selection procedure;
(3) determine the nature and scope of vocational rehabilitation services necessary for the eligible individual to prepare for, enter or reenter, and maintain an employment outcome;
(4) develop, initiate, execute, monitor, assess, and amend an IPE;
(5) provide for the effective, efficient, and accountable administration of the VR program; and
(6) comply with the federal and state reporting requirements.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-2)

460 IAC 14-5-3 Provision of information

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) Each applicant or eligible individual must provide information necessary for the VR program to determine eligibility for vocational rehabilitation services.

(b) An applicant and eligible individual may refuse to provide information to the VR program. If such refusal effectively prevents the VR program from determining eligibility for or providing vocational rehabilitation services, the record of services for the applicant or eligible individual will be closed and all further services terminated.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-3)

460 IAC 14-5-4 Disclosures not requiring informed consent

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. In addition to the permitted disclosures in 34 CFR 361.38, confidential information may be disclosed without the applicant's or eligible individual's informed consent to programs within the division.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-4)

460 IAC 14-5-5 Disclosures requiring informed consent

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. The applicant's or eligible individual's informed consent is required in all cases prior to:
(1) viewing or obtaining copies of records of services by the individual or individual's representative;
(2) provision of copies of any record of services, or the information contained in such records, to any individual, program, or entity other than the division, including, but not limited to, the CAP;
(3) disclosure of any information regarding a diagnosis or the treatment of any individual for:
(A) drug or alcohol abuse;
(B) mental illness; or
(C) HIV, AIDS, or any other infectious disease; or
(4) the disclosure of the individual's full Social Security number to any individual or entity other than an agency of federal, state, or local government.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-5)

460 IAC 14-5-6 Informed consent

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1; IC 16-39; IC 16-41-8-1

Sec. 6. (a) An applicant's or eligible individual's informed consent must identify or describe:
(1) the individual whose information is being requested;
(2) the nature and scope of the information to be disclosed;
(3) the person, agency, or other entity authorized to make the disclosure;
(4) the person, agency, or other entity to which the disclosure is to be made;
(5) if the request is for disclosure of information regarding alcohol or drug abuse diagnosis or treatment, mental illness, HIV, AIDS, or other infectious disease, a description of how the information is to be used; and
(6) if the information to be disclosed is to be mailed, the address to which it is to be sent.
An applicant or eligible individual can use the informed consent form provided by the VR program that complies with this section.

(b) If informed consent is being given for confidential information that includes a diagnosis or record of treatment involving any of the following, the informed consent must also comply with:
(1) IC 16-39-2, IC 16-39-3, and IC 16-39-4 for mental illness.
(2) IC 16-41-8-1 for HIV, AIDS, or other infectious disease.
(3) 42 CFR, Part 2 for alcohol or drug abuse.

(c) Informed consent remains valid until the date, event, or condition specified for its expiration unless otherwise revoked by the applicant or eligible individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-6)

460 IAC 14-5-7 Copying fees

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 5-14-3-8; IC 12-9-5; IC 12-12-1

Sec. 7. The VR program may charge for copies under IC 5-14-3-8(c). All applicable copying fees must be paid in advance, except that no copying fees will be charged for copies for purposes of:
(1) mediation, informal due process hearing, or administrative review;
(2) assistance provided by the CAP; and
(3) seeking or obtaining comparable services or benefits from another agency or program.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-7)

460 IAC 14-5-8 Family member's access to confidential information regarding vocational rehabilitation services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. (a) A parent or a legal guardian of an applicant or an eligible individual is permitted to be involved in the individual's vocational rehabilitation services and to have access to this information on the same basis as the individual himself or herself.

(b) If an individual is an adult or emancipated minor, all VR program determinations, actions, and information are confidential. Information concerning the individual can be disclosed to family members of the individual only if the individual provides informed consent.

(Division of Disability and Rehabilitative Services; 460 IAC 14-5-8)

Rule 6. Application for Vocational Rehabilitation Services

460 IAC 14-6-1 Referrals

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) Referrals of individuals for vocational rehabilitation services can be made by contacting a local office of the VR program in person, in writing, or by telephone. Individuals may be self-referred for vocational rehabilitation services.

(b) The referral information provided to the VR program must include, at a minimum:
(1) the individual's name;
(2) the individual's contact information, including current primary mailing address, e-mail address, and telephone number;
(3) the individual's disability, if known;
(4) the individual's type of vocational rehabilitation need, if known; and
(5) the individual's representative if under eighteen (18) years of age.

(c) The referral date recorded for the individual referred will be the earliest date on which the local vocational rehabilitation office received the information described in subsection (b).

(d) The VR program will respond to the referred individual within five (5) business days.

(e) A referred individual will be scheduled for an individual interview or orientation meeting that should take place within thirty (30) days of the date of referral, unless the individual requests otherwise.

(Division of Disability and Rehabilitative Services; 460 IAC 14-6-1)

460 IAC 14-6-2 Applications

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) An applicant submits a valid application to the VR program when the applicant or the applicant's representative:
(1) completes and signs a VR program application for vocational rehabilitation services;
(2) provides the information necessary to initiate an assessment to determine eligibility and priority for services; and
(3) is available to complete the assessment process.

(b) The application date recorded for the applicant will be the earliest date on which the application requirements described in subsection (a) have been met.

(Division of Disability and Rehabilitative Services; 460 IAC 14-6-2)

Rule 7. Assessment and Eligibility Determination

460 IAC 14-7-1 Eligibility criteria

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program's determination of an applicant's eligibility for vocational rehabilitation services must be based on the requirements in 34 CFR 361.42(a).

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-1)

460 IAC 14-7-2 Time limit for determining eligibility

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) An eligibility determination must be made within sixty (60) calendar days from the date of

application and within ten (10) business days of receiving the information required to make the determination.

(b) If there are exceptional and unforeseen circumstances beyond the control of the VR program that make an extension necessary, the applicant and the VR program must agree to extend the deadline and include a specific time frame for making the eligibility determination.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-2)

460 IAC 14-7-3 Information used to determine eligibility

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) Except as provided under trial work experiences for individuals with significant disabilities, the VR program must complete a review and assessment of data for determining eligibility in accordance with 34 CFR 361.42(d).

(b) In addition to the data used in subsection (a), the individual or the individual's representative or family, or both, may also provide any relevant information.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-3)

460 IAC 14-7-4 Prohibited factors

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. In making a determination of eligibility under this rule, the VR program shall not consider those factors prohibited in 34 CFR 361.42(c).

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-4)

460 IAC 14-7-5 Trial work experiences for individuals with significant disabilities

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. The VR program must follow the requirements in 34 CFR 361.42(e) prior to making any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-5)

460 IAC 14-7-6 Extended evaluation for certain individuals with significant disabilities

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. The VR program must follow the requirements in 34 CFR 361.42(f) if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted in section 5 of this rule.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-6)

460 IAC 14-7-7 Ineligibility determination

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. If the VR program determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an IPE is no longer eligible for services, the VR program must follow the requirements in 34 CFR 361.43 to make an ineligibility determination.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-7)

460 IAC 14-7-8 Closure without eligibility determination

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. The VR program may not close an applicant's record of services without following the requirements set forth in 34 CFR 361.44.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-8)

460 IAC 14-7-9 Incarcerated and released correctional system inmates

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 9. (a) An applicant who is an incarcerated or a released correctional system inmate is eligible for vocational rehabilitation services if:
(1) the applicant meets the eligibility requirements of this rule;
(2) the applicant is present in Indiana; and
(3) the length and terms of the applicant's incarceration, parole, or probation permit the applicant to:
(A) participate meaningfully in the assessment process for determining eligibility and priority for services;
(B) complete a program of vocational rehabilitation services; and
(C) achieve an employment outcome upon completion of vocational rehabilitation services.

(b) If the individual is currently incarcerated, vocational rehabilitation services must be coordinated with the medical, vocational training, and other services provided by the Indiana department of correction. If the individual has been released, coordination of services must occur with his or her parole officer or other applicable officials.

(Division of Disability and Rehabilitative Services; 460 IAC 14-7-9)

Rule 8. Severity Determination

460 IAC 14-8-1 Levels of severity

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) An individual is an individual with a significant disability if an individual:
(1) meets the requirements set forth in 34 CFR 361.5(b)(31); or
(2) has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act according to 34 CFR 361.42(a)(3).

(b) An individual is an individual with a most significant disability if an individual with a disability, as described in subsection (a), meets the following additional requirements:
(1) Has a severe physical or mental impairment that seriously limits three (3) or more functional capacities in terms of an employment outcome.
(2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.
(3) Has one (1) or more physical or mental disabilities to cause comparable substantial functional

limitation.

(Division of Disability and Rehabilitative Services; 460 IAC 14-8-1)

460 IAC 14-8-2 Functional capacity

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. An individual is an individual with a most significant disability if an individual has a severe physical or mental impairment that seriously limits any three (3) or more of the following functional capacities in terms of an employment outcome:
(1) Mobility.
(2) Communication.
(3) Self-care.
(4) Self-direction.
(5) Interpersonal skills.
(6) Work tolerance.
(7) Work skills.

(Division of Disability and Rehabilitative Services; 460 IAC 14-8-2)

460 IAC 14-8-3 Multiple vocational rehabilitation services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. In order to determine the severity of an individual's disability, the VR program must determine that the individual requires the provision of services from any two (2) or more of the following service categories:
(1) Assessment for determining vocational rehabilitation needs in accordance with 34 CFR 361.45.
(2) Vocational rehabilitation counseling and guidance in accordance with 34 CFR 361.52.
(3) Physical and mental restoration services, to the extent that financial support is not readily available from a source other than the VR program, in accordance with the definition in 34 CFR 361.5(b)(40).
(4) Vocational and other training services.
(5) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
(6) Supported employment services in accordance with the definition of that term in 34 CFR 361.5(b)(54).
(7) Rehabilitation technology including vehicle modification, telecommunications, sensory, and other technological aids and devices, in accordance with the definition of that term in 34 CFR 361.5(b)(45).
(8) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.
(9) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-8-3)

460 IAC 14-8-4 Record of services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. For every individual for whom a severity determination has been made, the individual's record of services must include the following:
(1) The level of severity of the individual's disability.
(2) All information obtained or generated for the purpose of determining the level of severity.

(Division of Disability and Rehabilitative Services; 460 IAC 14-8-4)

Rule 9. Order of Selection

460 IAC 14-9-1 Order of selection

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. If the VR program determines prior to the fiscal year that the available fiscal or staff resources will be insufficient to serve all existing eligible individuals and applicants who apply for vocational rehabilitation services, the VR program must implement an order of selection.

(Division of Disability and Rehabilitative Services; 460 IAC 14-9-1)

460 IAC 14-9-2 Director's responsibilities

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. The director has sole authority to determine:
(1) to initiate, continue, or terminate an order of selection;
(2) the service priority categories;
(3) those service priority categories that will receive services; and
(4) the deferred services waiting list for those individuals not receiving services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-9-2)

460 IAC 14-9-3 Service priority categories

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) Under order of selection, the VR program will provide vocational rehabilitation services in the following order:
(1) First priority to individuals with most significant disabilities.
(2) Second priority to individuals with significant disabilities.
(3) Third priority to all other eligible individuals.

(b) Order of selection does not affect an eligible individual who has begun to receive services under an approved IPE prior to implementation date of the order of selection or those who are in need of post-employment services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-9-3)

460 IAC 14-9-4 Deferred services waiting list

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) The VR program will maintain a deferred services waiting list for eligible individuals assigned to a service priority category not currently receiving vocational rehabilitation services. Individuals will be placed on the deferred services waiting list by service priority category and, within each service priority category, in chronological order by date of application.

(b) The deferred services waiting list will consist of a single, statewide list.

(c) Each eligible individual placed on the deferred services waiting list will remain on the list until such time as:
(1) vocational rehabilitation services become available to the eligible individual's service priority

category;
(2) the VR program suspends or terminates the order of selection and opens all service priority categories;
(3) the VR program reassigns the eligible individual to a service priority category receiving vocational rehabilitation services based on a reassessment of the eligible individual's disability;
(4) the eligible individual asks to be removed from the deferred services waiting list; or
(5) the counselor demonstrates that the eligible individual is no longer eligible for vocational rehabilitation services.

(d) If the director determines that there are sufficient resources to serve some, but not all, of the eligible individuals assigned to a service priority category, the VR program will provide vocational rehabilitation services to as many eligible individuals in that service priority category as possible based on each eligible individual's date of application.

(e) An eligible individual on the deferred services waiting list for a service priority category will be given priority over a new applicant for that same service priority category.

(Division of Disability and Rehabilitative Services; 460 IAC 14-9-4)

Rule 10. Case Closure

460 IAC 14-10-1 Case closure determinations

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program has sole authority to close cases and cannot delegate this authority to any other agency or individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-10-1)

460 IAC 14-10-2 Case closure for individuals who have achieved an employment outcome

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. The record of services for an eligible individual who has achieved an employment outcome can be closed pursuant to the requirements set forth in 34 CFR 361.56. For purposes of this section, the eligible individual's employment outcome must consist of competitive employment in an integrated work setting for which the eligible individual receives compensation and benefits equal to others comparably employed.

(Division of Disability and Rehabilitative Services; 460 IAC 14-10-2)

460 IAC 14-10-3 Case closure for other reasons

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. The record of services for any applicant or eligible individual can be closed at any time for reasons other than ineligibility or achieving an employment outcome including, but not limited to, a determination that:
(1) the individual is deceased;
(2) the individual is unavailable to participate in or complete an assessment of eligibility and priority for services;
(3) the individual is no longer present in the state;
(4) the individual cannot be located to begin, continue, or complete vocational rehabilitation services;
(5) the individual has declined services;
(6) the individual has been institutionalized and will be unavailable to participate in vocational

rehabilitation services for a lengthy or indefinite period of time;
(7) the individual has been transferred to another agency or program for services that are more appropriate for the individual and the necessary referral has been made and transfer process completed;
(8) transportation required to accept or maintain employment is not feasible or available;
(9) the individual is only capable of sheltered work, or has made an informed choice to pursue sheltered services, and the required referral to a sheltered services provider has been made;
(10) the individual has failed to cooperate by actions or inactions that make it impossible to begin, continue, or complete vocational rehabilitation services; or
(11) the individual has failed to achieve the employment outcome described in his or her IPE, and a determination is made that further services are not likely to result in achievement of the employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-10-3)

Rule 11. Selection of Vocational Rehabilitation Services and Service Providers

460 IAC 14-11-1 Preferences for vocational rehabilitation services and service providers

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. If in-state, local vocational rehabilitation services are available that meet the eligible individual's vocational rehabilitation needs, but the eligible individual chooses an out-of-state or nonlocal vocational rehabilitation service or service provider, the VR program will not be responsible for any additional costs that exceed the cost of the comparable in-state, local alternative.

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-1)

460 IAC 14-11-2 Provision of services, goods, and service providers at the lowest cost

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) The provision of vocational rehabilitation services must adhere to the following requirements:
(1) Vocational rehabilitation services must be procured only from a qualified service provider.
(2) If more than one (1) qualified service provider can meet the vocational rehabilitation needs of an eligible individual, the maximum cost that the VR program will pay for or reimburse is that of the lowest cost provider.
(3) The VR program will not pay any qualified service provider or reimburse the eligible individual for any goods or services obtained without prior approval.
(4) Goods costing more than six hundred dollars ($600) can be purchased only after price quotes have been obtained.
(5) The VR program will not pay for or reimburse an eligible individual for goods or services obtained at greater cost if comparable services and benefits are available at no cost or reduced cost from other sources.

(b) If the eligible individual chooses a more costly alternative service, good, or service provider, he or she is responsible for the difference in cost.

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-2)

460 IAC 14-11-3 Prohibited services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. The VR program will not pay for or reimburse any eligible individual for:

(1) the acquisition or construction of real property, including, but not limited to:
(A) the purchase or construction of land or land improvements;
(B) the construction of any building or other permanent structure; or
(C) immovable equipment or machinery;
(2) any residential property or home ownership costs not directly addressing the individual's disability;
(3) any motor vehicle requiring titling;
(4) firearms or ammunition;
(5) life, medical, dental, or vision insurance;
(6) ongoing health maintenance or medical treatments of accidental injuries, acute illnesses, or emergency care;
(7) legal representation;
(8) general and preventive maintenance and repair of existing medical or assistive technology devices and equipment;
(9) duplicate tools, equipment, or supplies, including medical equipment and assistive technology devices, solely for backup or contingency purposes; and
(10) the cost of goods or services available from comparable services and benefits providers for which the individual qualifies.

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-3)

460 IAC 14-11-4 Conflicts of interest

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) The same service provider is not permitted to prescribe or recommend and sell goods or services to the same eligible individual if the service provider would benefit financially from the sale of the goods and services prescribed or recommended, except when:
(1) it is a routine and professionally acceptable practice;
(2) the prescribing provider and the vending provider operate under the same entity, but neither benefits directly from the activities of the other;
(3) the prescriber is the sole source vendor for the goods or services, nothing comparable is available from other sources, and the sole source nature of the purchase is documented in the eligible individual's record of services; or
(4) the counselor has determined that goods or services are required on an emergency basis and can be provided most efficiently by a single source.

(b) Family members of an eligible individual cannot be service providers for the eligible individual, unless the service provider:
(1) is a licensed or certified provider for the applicable service;
(2) is not prohibited by any ethical or professional standards to provide the applicable service; and
(3) is the lowest cost provider for that service.

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-4)

460 IAC 14-11-5 Assistive technology services and devices evaluators

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. To provide an evaluation of assistive technology needs, the evaluator must:
(1) be an occupational therapist or a rehabilitation engineer; and
(2) have no vested interest in the services or devices recommended by the completed evaluation report.

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-5)

460 IAC 14-11-6 Personal assistance services providers

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. Family members of individuals will not be paid for providing personal assistance services, except under section 4(b) of this rule.

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-6)

460 IAC 14-11-7 Job-related services providers

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. Providers of job-related services must meet the requirements in IC 12-12-1-4.1(b).

(Division of Disability and Rehabilitative Services; 460 IAC 14-11-7)

Rule 12. Employment Outcome

460 IAC 14-12-1 Employment outcome

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) Each eligible individual's IPE must include an employment outcome consistent with his or her vocational strengths, resources, priorities, concerns, abilities, capabilities, and career interests.

(b) Extended employment is not an allowable employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-12-1)

460 IAC 14-12-2 Individualized plan for employment

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. The VR program shall develop an IPE for an eligible individual based on the requirements in 34 CFR 361.45.

(Division of Disability and Rehabilitative Services; 460 IAC 14-12-2)

460 IAC 14-12-3 Time limit for developing an IPE

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. The VR program shall develop an IPE within ninety (90) days of the date on the eligible individual's application for vocational rehabilitation services, unless an extension of time is granted.

(Division of Disability and Rehabilitative Services; 460 IAC 14-12-3)

Rule 13. Small Business Operation Employment Outcome

460 IAC 14-13-1 Definitions

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The following definitions apply throughout this rule:
(1) "Initial start-up costs" means those costs that are necessary to establish a business, initiate its business operations, and sustain such operations throughout a start-up period until the business is stable and self-supporting.
(2) "Ongoing operating costs" means the costs of continuing business operations after termination of the start-up period.
(3) "Small business operation" means an employment outcome consisting of the practice of a profession, trade, craft, or other skill performed in a business setting:
(A) that:
(i) is an independently owned and operated business;
(ii) is the eligible individual's primary employment and primary source of earned income;
(iii) markets its products or services to customers; and
(iv) is determined to have a reasonable potential for becoming a successful self-sustaining business;
(B) in which the individual is:
(i) a full or part owner of the business; and
(ii) directly engaged in and responsible for the ongoing management or management and daily operation of the business.
(4) "Start-up period" means the period of time required to establish the business and fund business operations from the date on which actual business operations begin until the earliest of the ending date specified by the individualized plan for employment or the date on which the revenues generated by the business equal or exceed the ongoing operating costs of the business for the third consecutive month; however, in no case shall the start-up period exceed twenty-four (24) calendar months following the commencement of business operations.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-1)

460 IAC 14-13-2 Technical assistance and consultation services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) The VR program may provide technical assistance and other consultation services necessary to plan an eligible individual's small business operation.

(b) Technical assistance and other consultation services may include services to determine an eligible individual's readiness and appropriateness for self-employment, a feasibility analysis, and the development of a comprehensive written business plan.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-2)

460 IAC 14-13-3 Comprehensive written business plan

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) An eligible individual must develop a comprehensive written business plan for any small business operation.

(b) The comprehensive written business plan must address all aspects of start-up costs, sources of funding, sufficient resources to leverage start-up capital, ongoing operation costs, and the likelihood of profitability within a reasonable time frame.

(c) An eligible individual's comprehensive written business plan must identify any third-party sources sought, secured, or utilized for initial start-up costs of the eligible individual's business.

(d) The VR program shall not provide assistance for any eligible individual's business until the VR program reviews and approves the eligible individual's comprehensive written business plan.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-3)

460 IAC 14-13-4 Review and approval of the comprehensive written business plan

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) Each comprehensive written business plan must be submitted for review and approval by the VR program.

(b) The VR program shall notify the eligible individual in writing whether the eligible individual's comprehensive written business plan is approved.

(c) If the eligible individual's comprehensive written business plan is disapproved, the eligible individual may amend the comprehensive written business plan and resubmit it to the VR program.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-4)

460 IAC 14-13-5 Assumption of risk

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. An eligible individual pursuing a small business operation accepts the risks inherent in the establishment and ownership of a business.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-5)

460 IAC 14-13-6 Initial start-up costs

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. (a) The VR program will not be the sole source of financing initial start-up costs of any business.

(b) The VR program shall not pay for ongoing operating costs, tool and equipment replacement, upgrading, business relocation, or business expansion.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-6)

460 IAC 14-13-7 Use of business earnings during the initial start-up period

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. Earnings from business activities during the initial start-up period must be applied to the continuing costs of business operations.

(Division of Disability and Rehabilitative Services; 460 IAC 14-13-7)

Rule 14. Supported Employment Services

460 IAC 14-14-1 Supported employment services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program may provide supported employment services in accordance with 34 CFR 363.1 et seq.

(Division of Disability and Rehabilitative Services; 460 IAC 14-14-1)

Rule 15. Post-Employment Services

460 IAC 14-15-1 Individuals who qualify for post-employment services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. In order to qualify for post-employment services, an individual must be a prior eligible individual:
(1) who has achieved an employment outcome;
(2) who requires additional vocational rehabilitation services; and
(3) for whom services are needed to maintain, reenter, or advance in employment are of limited scope and duration.

(Division of Disability and Rehabilitative Services; 460 IAC 14-15-1)

Rule 16. Physical and Mental Restoration Services

460 IAC 14-16-1 Physical and mental restoration services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. Except when provided for the purposes of diagnosis and evaluation, the VR program can provide assistance only for physical and mental restoration services:
(1) to the extent that no private or public health insurance or other comparable services and benefits resource is available to the individual to provide or pay for the services needed, in whole or in part;
(2) that have been:
(A) prescribed or recommended by a qualified medical or mental health care provider, as described in section 2 of this rule; and
(B) determined by the VR program to be vocationally relevant and necessary for the individual's achievement of a planned employment outcome;
(3) that can be expected to:
(A) correct or significantly improve the physical or mental impairment;
(B) eliminate or significantly reduce the substantial impediment to employment; and
(C) accomplish both the required correction or improvement of the physical or mental impairment and the elimination or reduction of the impediment to employment within a reasonable period of time;
(4) that are identified as services to be provided under a current trial work experience, extended evaluation, or IPE, as applicable; and
(5) that are obtained with the full and prior knowledge, approval, and authorization of the VR program.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-1)

460 IAC 14-16-2 Diagnoses, prescriptions, and recommendations for physical and mental restoration services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. Diagnoses and prescriptions for physical and mental restoration services can be obtained only from a licensed or certified specialist, including, but not limited to, the following:
(1) Licensed physicians.

(2) Registered occupational therapists.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed podiatrists.
(6) Certified speech-language pathologists.
(7) Certified audiologists.
(8) Licensed speech and hearing therapists.
(9) Licensed nurses.
(10) Licensed alcohol and drug addiction counselors.
(11) Licensed social workers.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-2)

460 IAC 14-16-3 Maintenance, repair, and replacement of equipment

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) Maintenance costs for existing medical or assistive technology devices or equipment are the responsibility of the eligible individual or the eligible individual's family.

(b) The VR program will pay for repair costs for existing medical or assistive technology devices or equipment when such repairs are required for:
(1) the eligible individual to access and participate in vocational rehabilitation services; or
(2) job retention or advancement.

(c) The VR program will pay for the replacement of existing medical or assistive technology devices or equipment only if the VR program determines that the original devices or equipment no longer meets the vocational rehabilitation needs of the eligible individual's employment outcome.

(d) The VR program will not pay to repair or replace medical or other devices and equipment lost, damaged, or destroyed due to the eligible individual's own negligence or abuse.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-3)

460 IAC 14-16-4 Service appointments

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) An eligible individual must be available to participate in all examinations, evaluations, testing, fitting, and other scheduled appointments. Failure to participate may lead to termination of vocational rehabilitation services.

(b) An eligible individual is responsible for rescheduling any service appointment consistent with the service provider's cancellation policies.

(c) The eligible individual must notify his or her counselor if any service appointment must be canceled or rescheduled.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-4)

460 IAC 14-16-5 Second opinions

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. (a) The VR program will only pay for, or reimburse, the costs of obtaining a second or

subsequent opinion if the VR program determines that the second opinion is necessary.

(b) In all other instances, the costs associated with securing a second or subsequent opinion are the responsibility of the eligible individual or the eligible individual's family.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-5)

460 IAC 14-16-6 Visual restoration services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. (a) A prescription by a licensed optometrist or ophthalmologist is required prior to the provision of any visual restoration service.

(b) The VR program will pay for an optometric examination when required:
(1) to complete an assessment to establish eligibility and priority for services; or
(2) to complete an assessment of vocational rehabilitation needs.

(c) The VR program will not pay for:
(1) general, routine visual examinations on a recurring basis;
(2) general, routine maintenance or repair of existing eyeglasses or other corrective lenses or visual devices; or
(3) replacement of existing eyeglasses or other corrective lenses or visual devices, except when replacement is permitted in this rule.

(d) Conditions of the eye that are correctable to normal vision (20/20) by ordinary eyeglasses or contact lenses do not constitute a physical or mental impairment for purposes of vocational rehabilitation services eligibility.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-6)

460 IAC 14-16-7 Hearing restoration services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. (a) An examination by an otologist is required prior to the provision of any auditory training, surgery, or other therapeutic treatment.

(b) The VR program will pay for an examination when required:
(1) to complete an assessment to establish eligibility or ineligibility and priority for services; or
(2) to complete an assessment of vocational rehabilitation needs.

(c) The VR program will not pay for general, routine hearing examinations on a recurring basis.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-7)

460 IAC 14-16-8 Dental restoration services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. (a) An evaluation by a licensed dentist, oral surgeon, or other dental service provider is required prior to the provision of any dental restoration service.

(b) The VR program will only pay for a dental examination when required:

(1) to complete an assessment to establish eligibility or ineligibility and priority for services; or
(2) to complete an assessment of vocational rehabilitation needs.

(c) The VR program will not pay for:
(1) general, routine dental examinations on a recurring basis;
(2) dental services that are not restorative, such as preventive treatments;
(3) general, routine maintenance, repair, or replacement of existing braces, retainers, dentures, or similar devices;
(4) cosmetic procedures, including, but not limited to, polishing and whitening treatments; or
(5) over-the-counter items, such as toothpastes, toothbrushes, polishing and whitening preparations, picks, floss, mouthwash, or similar items and preparations.

(d) Conditions that are correctable by ordinary dental treatment do not constitute a physical or mental impairment for purposes of vocational rehabilitation services eligibility.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-8)

460 IAC 14-16-9 Conditions requiring continuing treatment

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 9. (a) The VR program may pay for services consisting of multiple treatments or sessions, such as physical or occupational therapy, chiropractic services, or psychiatric or psychological therapy, if:
(1) the number of treatments and the period of time over which the treatments will be required are finite; and
(2) the treatment is prescribed or recommended by a qualified medical or mental health care provider.

(b) The VR program may pay for services consisting of multiple treatments or sessions upon:
(1) receipt of a prescription or recommendation for continued services from a qualified medical or mental health care provider; and
(2) determination made by the eligible individual's counselor;
that continuation of the services can reasonably be expected to contribute to the eligible individual's achievement of his or her employment outcome.

(c) The VR program may terminate services consisting of multiple treatments or sessions whenever:
(1) continuation of the services fails to produce satisfactory progress toward meeting the purpose for which they are being provided; or
(2) there is a determination that the need for continued services is an ongoing medical or mental health maintenance need.

(Division of Disability and Rehabilitative Services; 460 IAC 14-16-9)

Rule 17. Hearing Aids and Assistive Listening Devices

460 IAC 14-17-1 Requirements

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) The VR program may provide a hearing aid or assistive listening device to an applicant or eligible individual who requires a hearing aid or assistive listening device to achieve his or her employment outcome and is determined to have:
(1) a pure tone average (PTA) loss, measured at 500, 1000, 2000, and 4000 Hz, of 40dB or more in the better ear without correction;
(2) a PTA loss, measured at 500, 1000, 2000, and 4000 Hz, of an equal or greater PTA loss in the other ear without correction; and
(3) an unaided speech discrimination score of less than seventy percent (70%), as determined with the

use of phonetically balanced word lists administered at 50dB in sound.

(b) If the applicant or eligible individual does not qualify for a hearing aid or assistive listening device pursuant to the requirements in subsection (a), the applicant or eligible individual must:
(1) meet any two (2) of the three (3) criteria described in subsection (a); and
(2) have either:
(A) a secondary hearing condition that causes the applicant or eligible individual to have a substantial impediment to employment verified by an otologist or other qualified specialist; or
(B) a hearing loss which makes the applicant or eligible individual unable to perform the essential job functions of the planned employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-17-1)

460 IAC 14-17-2 Hearing aids and assistive listening devices

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) The VR program may assist an eligible individual with the purchase of:
(1) one (1) hearing aid; or
(2) two (2) hearing aids, if required bilaterally;
including a two (2) year repair warranty and a one (1) year, one-time only replacement warranty for a lost or destroyed hearing aid. The eligible individual must pay the required deductible to the manufacturer together with any additional dispensing fees.

(b) The VR program may assist an eligible individual with the purchase of assistive listening devices, such as:
(1) FM systems;
(2) BiCROS (Bilateral Contralateral Routing of Signals);
(3) CROS (Contralateral Routing of Signals);
(4) wireless devices, components, and accessories;
(5) any surgically implanted hearing device; or
(6) other assistive listening devices, with prior approval of the deaf and hard of hearing services.

(c) The VR program may pay for a case, one (1) pack of batteries per hearing aid, cleaning tools, dry aid kit for hearing aids, and batteries for assistive listening devices.

(Division of Disability and Rehabilitative Services; 460 IAC 14-17-2)

460 IAC 14-17-3 Hearing aid and assistive listening devices limitations

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) The eligible individual is responsible for the costs of routine maintenance or repairs for any hearing aid or assistive listening devices.

(b) The VR program will not pay for an eligible individual's duplicate, backup hearing aid or assistive listening device.

(c) The VR program will not pay for the replacement of any hearing aid or assistive listening device that is stolen, lost, or damaged due to abuse or negligence of the eligible individual.

(d) The VR program may pay for replacing an existing hearing aid or assistive listening device when:
(1) the eligible individual has experienced a difference of 10dB or greater in pure tone average per ear since the date on which the VR program purchased the last hearing aid; or
(2) the eligible individual's employment involves new, additional, or different job functions that require a different hearing aid or assistive listening device.

(Division of Disability and Rehabilitative Services; 460 IAC 14-17-3)

460 IAC 14-17-4 Documentation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) Prior to the VR program assisting an eligible individual with the purchase of a hearing aid or assistive listening device, the eligible individual must have had:
(1) an evaluation with a licensed physician within the previous year, which documents the eligible individual's:
(A) medical diagnosis;
(B) hearing aid clearance; and
(C) prescription for a hearing aid or assistive listening device;
(2) an evaluation with a licensed audiologist within the previous six (6) months old or less, which documents the eligible individual's:
(A) specific level of amplification; and
(B) particular characteristics recommended.

(b) The VR program may use the physician or audiologist evaluation to determine whether the eligible individual meets the requirements under 460 IAC 14-23-1 and to order hearing aids or assistive listening devices.

(c) The VR program may use the physician or audiologist evaluation older than those specified under subsection (a) for an eligibility determination for vocational rehabilitation services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-17-4)

460 IAC 14-17-5 Advanced hearing aids

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. If an eligible individual requests a more advanced hearing aid than is required to meet his or her vocational rehabilitation needs, the eligible individual may obtain the requested hearing aid if the eligible individual agrees in writing to pay the difference between the cost of the approved hearing aid and the advanced hearing aid.

(Division of Disability and Rehabilitative Services; 460 IAC 14-17-5)

Rule 18. Postsecondary Education

460 IAC 14-18-1 Postsecondary education assistance

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) The VR program may provide assistance for postsecondary education required to achieve an employment outcome, including assistance needed to obtain:
(1) an academic degree;
(2) a vocational skills certificate;
(3) selected coursework necessary to develop, update, or improve specific occupational skills and competencies; or
(4) industry-recognized licensing, certification, or other necessary credentialing.

(b) The VR program is the last-dollar funding source after the expected family contribution and all federal, state, institutional, and private grant, scholarship, loan, and other gift aid resources have been

applied to the eligible individual's necessary postsecondary education costs.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-1)

460 IAC 14-18-2 Individuals who qualify for postsecondary education assistance

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. The VR program may provide postsecondary education assistance for:
(1) applicants participating in an extended evaluation, to help meet the costs of limited, short-term training only, if necessary to help the counselor determine the applicant's ability to benefit from training in terms of an employment outcome; or
(2) eligible individuals, as needed to obtain specific skills or credentialing required to reach the employment outcome identified in the eligible individual's IPE.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-2)

460 IAC 14-18-3 Lowest cost postsecondary education provider

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) An eligible individual must attend the lowest cost provider for the eligible individual's postsecondary education.

(b) An eligible individual may attend a postsecondary education institution or program other than the lowest cost provider if:
(1) another institution of the eligible individual's informed choice offers a comparable program at a cost equal to the lowest cost provider; or
(2) the individual agrees to pay all additional costs that exceed those costs of the lowest cost provider.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-3)

460 IAC 14-18-4 Allowable postsecondary education expenses

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) The VR program may pay the lesser of the following documented postsecondary education expenses:
(1) The published fees and tuition costs of the training institution or program attended.
(2) The fees established by the VR program.
The VR program shall pay for postsecondary education for only one (1) term or semester or quarter at a time, as applicable.

(b) The VR program may pay for room and board expenses, not to exceed the amount documented:
(1) for institutional room and board; or
(2) for private housing other than the individual's own residence.
The VR program shall not pay for housing or meal assistance for any eligible individual who does not incur additional room and board expenses for his or her postsecondary education.

(c) The VR program may pay for the costs of books, tools, and other training materials required for courses in which the eligible individual is enrolled, including a personal computer, hardware, software, or services that are necessary for the eligible individual's postsecondary education and vocational rehabilitation needs. The VR program shall not pay for books, tools, or other training materials that are not required by published course descriptions or syllabuses.

(d) The VR program may pay for the care of a dependent minor or an aging or a disabled family member only if the eligible individual is the sole or primary caregiver and alternative dependent care is not available.

(e) The VR program shall not pay for personal expenses if the eligible individual's expected family contribution, grants, or other financial aid resources are available to meet the additional personal expenses to the eligible individual's associated postsecondary education.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-4)

460 IAC 14-18-5 Allowable postsecondary education transportation expenses

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. (a) In the case of an eligible individual who is a commuting student, the VR program may pay for transportation expenses for no more than one (1) round trip between the individual's place of residence and the institution, per day commuted.

(b) The maximum dollar amount paid for transportation expenses will not exceed the actual cost of transportation based on either:
(1) a published public transportation fare schedule; or
(2) the Financial Management Circular #2014-01 published by the Indiana state budget agency.

(c) The VR program will not pay transportation expenses if the expected family contribution, grant assistance, or other financial aid resources are sufficient to cover these expenses.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-5)

460 IAC 14-18-6 Academic performance expectations

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. (a) Eligible individuals participating in postsecondary education must meet the full-time enrollment requirements of the postsecondary education institution or program attended and complete training within the usual and customary period of time, except if full-time attendance or timely completion is precluded by the eligible individual's:
(1) disability or health;
(2) responsibilities as caregiver to dependent minors or other family members;
(3) scheduling conflicts among the required courses offered; or
(4) need to be employed to provide for his or her basic living needs.

(b) An eligible individual must maintain acceptable academic standing with the postsecondary education institution or program attended. Acceptable academic standing means, at a minimum:
(1) a cumulative grade point average of 2.0 or better on a 4.0 scale on an ongoing basis;
(2) "passing" or "satisfactory" performance in courses for which a point or letter grade is not given; or
(3) academic performance required to meet graduation requirements for the school within the degree program required by the planned employment outcome.

(c) The eligible individual must resolve any incomplete grade received for any course in accordance with the requirements established by the postsecondary education institution or program attended and the course instructor for receiving an acceptable final grade.

(d) The eligible individual must submit final grade reports to his or her counselor for each grading period at the end of the term.

(e) The VR program may terminate vocational rehabilitation services for postsecondary education if the eligible individual fails to comply with the requirements of this section.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-6)

460 IAC 14-18-7 Expected family contribution

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. An eligible individual must determine his or her expected family contribution. The VR program requires an eligible individual and his or her family meet his or her expected family contribution as their financial obligation toward paying for the allowable educational expenses of postsecondary education. The VR program shall not pay for any portion of the eligible individual's expected family contribution.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-7)

460 IAC 14-18-8 Repeated courses

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. (a) The VR program will not pay for required courses that must be repeated because the eligible individual failed, the eligible individual dropped the course after the institution or program's deadline to withdraw from the course, or any other reason that is the fault of the eligible individual except those provided in subsection (b).

(b) The VR program will pay for required courses that must be repeated if:
(1) the failing grade or withdrawal was due to circumstances beyond the eligible individual's control, which resulted in the eligible individual's inability to successfully complete the course; and
(2) the eligible individual notified his or her counselor of the eligible individual's inability to successfully complete the eligible individual's required course work.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-8)

460 IAC 14-18-9 Elective courses

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 9. (a) The VR program may pay the costs associated with elective courses needed to complete a degree program.

(b) For elective courses outside the prescribed coursework, the VR program may pay the costs of tuition and books only. The VR program will not pay the costs of course-specific fees, specialized tools, and other training materials, or the costs of related tutoring services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-9)

460 IAC 14-18-10 Summer sessions

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 10. The VR program may pay for assistance for summer school on a case-by-case basis. Summer school assistance must be approved by an eligible individual's counselor.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-10)

460 IAC 14-18-11 Advanced degrees

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 11. The VR program may pay for graduate or postgraduate studies only if an advanced degree is the minimum qualification required to achieve the eligible individual's approved employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-11)

460 IAC 14-18-12 Disability-related accommodations and supports

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 12. The VR program may pay for the costs of supporting services that are not required to be provided by the postsecondary education institution or program attended.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-12)

460 IAC 14-18-13 Remedial courses

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 13. The VR program may pay for remedial courses if:
(1) remedial courses are required or recommended by the postsecondary education institution or program for the eligible individual; or
(2) the counselor has determined that the eligible individual has demonstrated satisfactory progress toward achievement of his or her employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-13)

460 IAC 14-18-14 Tutoring

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 14. (a) The VR program may pay for the costs of tutoring on a one-on-one or small group basis when:
(1) the course instructor, academic advisor, or office that provides services for students with disabilities recommends tutoring; or
(2) the counselor determines the eligible individual is at risk of failing the course.

(b) Tutoring must be provided by an individual recommended by the course instructor, academic advisor, or office that provides services for students with disabilities.

(c) The VR program will not pay the costs of tutoring when:
(1) student supports are provided for developmental or remedial courses; or
(2) the eligible individual wants to raise already satisfactory academic performance.

(Division of Disability and Rehabilitative Services; 460 IAC 14-18-14)

Rule 19. Vehicle Modification

460 IAC 14-19-1 Vehicle modification services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) The VR program may provide vehicle modification services, including, but not limited to:
(1) driver training; or
(2) vehicle modification.

(b) Prior to any vehicle modification, the eligible individual and his or her counselor must:
(1) explore alternative modes of transportation;
(2) determine that alternative modes of public or private transportation are unavailable, inappropriate, inadequate to meet the vocational rehabilitation needs of the eligible individual; and
(3) document in a written evaluation in the eligible individual's record of services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-1)

460 IAC 14-19-2 Driver evaluation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) A driver evaluation must be completed prior to the VR program authorizing a vehicle modification evaluation except as provided in subsection (b).

(b) A driver evaluation can be waived by the counselor only if:
(1) the eligible individual will not be operating the vehicle as a driver;
(2) the eligible individual is the planned operator or driver of the vehicle and:
(A) he or she has a valid driver's license;
(B) the eligible individual's functional status has not significantly changed from the date on which the eligible individual's driving license was issued or last renewed; and
(C) the modifications requested are limited to the repositioning or relocation of existing modifications in the same vehicle, the transfer of existing adaptive equipment to another vehicle, or replication of existing equipment in another vehicle.

(c) Each driver evaluation used to assess an eligible individual's ability to drive and need for driver training must:
(1) be no more than twelve (12) months old;
(2) include an assessment of the eligible individual's ability or anticipated ability with training or suitable adaptive equipment to drive;
(3) be performed by an evaluator of the individual's informed choice who meets the driver evaluator qualifications identified in section 5 of this rule; and
(4) be documented in a written evaluation in the eligible individual's record of services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-2)

460 IAC 14-19-3 Driver training

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. Driver training recommended by the driver evaluation must be provided, and the eligible individual must successfully complete the recommended training and obtain a valid driver's license prior to the provision of any vehicle modifications.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-3)

460 IAC 14-19-4 Vehicle modification evaluation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. (a) A vehicle modification evaluation must be obtained prior to the provision of any vehicle modification services.

(b) Each vehicle modification evaluation used to determine the specific vehicle modifications needs of an eligible individual must:
(1) be no more than twelve (12) months old;
(2) include any assessment of the eligible individual and the vehicle to be modified;
(3) be provided by an evaluator of the eligible individual's informed choice who is qualified in accordance with section 5 of this rule;
(4) include a recommendation for a premodification vehicle inspection as applicable in section 6 of this rule; and
(5) be documented in a written evaluation in the eligible individual's record of services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-4)

460 IAC 14-19-5 Vehicle modification services provider standards

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. All vehicle modification evaluations and driver evaluations, including driver training, must be secured from an evaluator of the eligible individual's informed choice who:
(1) is a service provider approved by BRS;
(2) has no ownership or other financial interest in the sale of any vehicle or the sale or installation of any vehicle modification to the eligible individual being evaluated; and
(3) has no family or other significant personal or business relationship with the eligible individual being evaluated or the eligible individual's family member.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-5)

460 IAC 14-19-6 Premodification vehicle inspection

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. (a) A premodification vehicle inspection is required prior to the provision of vehicle modifications for any vehicle:
(1) more than one (1) year old;
(2) that has ever sustained serious structural or mechanical damage consequent to a collision, fire, vandalism, or other similar incident; or
(3) that has been previously modified.

(b) The premodification vehicle inspection must:
(1) be secured from a service provider of the individual's informed choice who is qualified in accordance with section 5 of this rule;
(2) include a thorough inspection of the mechanical and structural condition of the vehicle to be modified; and
(3) be documented in a written evaluation in the eligible individual's record of services.

(c) Prior to the VR program approving any vehicle modification recommend in the premodification vehicle inspection, an eligible individual or registered owner must sign a vehicle modification customer agreement to be included in the eligible individual's record of services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-6)

460 IAC 14-19-7 Allowed modifications

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. (a) The VR program may provide limited vehicle modifications for which National Mobility

Equipment Dealers Association (NMEDA) guidelines have been established, such as:
(1) wheelchair tie-downs and lock-downs;
(2) wheelchair lifts;
(3) manual hand controls;
(4) electronic consoles for operating controls;
(5) adaptive steering and braking systems that reduce or modify the physical effort required for steering and braking;
(6) raised roofs and door openings, when necessary for vehicle entry and exit;
(7) lowered floors and other floor modifications; and
(8) power transfer seat bases.

(b) The VR program may pay for a vehicle modification using an eligible individual's previous adaptive equipment if it is appropriate to the current vehicle modification described in the premodification vehicle inspection.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-7)

460 IAC 14-19-8 Final inspection

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. (a) Final inspections are required for all vehicle modifications. The VR program can only process payment for the completed vehicle modifications once a receipt of goods signed by the eligible individual or vehicle owner has been received by his or her counselor.

(b) Each final inspection must:
(1) be conducted by an inspector who is a service provider approved by BRS;
(2) be conducted with the eligible individual and the vendor present;
(3) include an on-site inspection and review of all completed vehicle modifications; and
(4) be documented in a written evaluation in the eligible individual's record of services.

(c) The final inspection must ensure that the vehicle modifications provided:
(1) have been completed in accordance with the vehicle modification evaluation report and approved by the counselor;
(2) are consistent with section 7 of this rule; and
(3) can be accessed and utilized by the eligible individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-8)

460 IAC 14-19-9 Final inspection service provider standards

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 9. All final inspections must be secured from an inspector of the individual's informed choice who:
(1) is a service provider approved by BRS;
(2) has no ownership or other financial interest in the sale of any vehicle or the sale or installation of any vehicle modification to the individual; and
(3) has no family or other significant personal or business relationship with the individual or with any immediate family member of the individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-9)

460 IAC 14-19-10 Insurance

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 10. (a) Prior to driving any modified vehicle, the eligible individual or the registered owner must secure and maintain auto insurance for the modified vehicle.

(b) If subsequent modifications consist of vehicle modification repair or replacement or the transfer of modifications to another vehicle:
(1) the eligible individual must provide proof of insurance; and
(2) the eligible individual must apply any insurance settlement amounts received for insured modifications;
prior to the provision of any requested services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-10)

460 IAC 14-19-11 Rebates

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 11. Any time an eligible individual or a family member purchases a new vehicle to be modified for which a manufacturer's vehicle modification rebate is offered, the eligible individual or family member must apply for the rebate if they qualify. Once an eligible individual or family member receives a rebate, the eligible individual or family member must reimburse the VR program for the cost of vehicle modification services provided up to the amount of the rebate.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-11)

460 IAC 14-19-12 Repeat modification

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 12. (a) The VR program will not pay for repeated modifications to the same vehicle or to modify any other vehicle within three (3) years following the most recent vehicle modification service provided.

(b) If the repeated vehicle modifications are required within a period of three (3) to five (5) years following the most recent vehicle modification service, the VR program will pay fifty percent (50%) of the cost of the subsequent vehicle modifications if the vehicle has been driven for at least fifty thousand (50,000) miles since the most recent vehicle modification service provided.

(c) The VR program may pay for the full cost of any subsequent vehicle modification needed if it has been at least five (5) years since the most recent vehicle modification service provided and the vehicle has been driven for at least seventy-five thousand (75,000) miles.

(d) If the repeated vehicle modifications are required due to a substantial change in the eligible individual's vocational rehabilitation needs, the VR program may pay for the full cost of the vehicle modification service.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-12)

460 IAC 14-19-13 Comparable services and benefits exemption

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 13. All vehicle modification services are exempt from program comparable services and benefits requirements.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-13)

460 IAC 14-19-14 Prohibited vehicle modification services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 14. The VR program will not pay for the following:
(1) The purchase, lease, or rental of any motor vehicle.
(2) The modification of any vehicle:
(A) of which the eligible individual or a family member of the individual is not the titled owner;
(B) that is more than ten (10) years old or has more than one hundred thousand (100,000) miles on the odometer, except if permitted by the counselor based on the premodification vehicle inspection; or
(C) that is not the eligible individual's primary means of transportation.
(3) The modification of any secondary vehicle for the eligible individual's use.
(4) The purchase, installation, maintenance, repair, replacement, modification, or transfer of duplicate adaptive equipment or systems.
(5) The modification of any vehicle based on information obtained from a vehicle modification evaluation or a premodification vehicle inspection to be:
(A) unfit for the necessary and appropriate vehicle modifications; or
(B) not modifiable in a manner consistent with section 7 of this rule.
(6) For any of the cost of vehicle repairs undertaken by the eligible individual or vehicle owner required to make the vehicle fit for vehicle modifications.
(7) Additional modifications requested within three (3) years of the last vehicle modification provided, unless the vehicle modification is required due to a substantial change in the eligible individual's vocational rehabilitation needs.
(8) Vehicle modifications for any eligible individual who has failed to satisfy any of the requirements of this rule.
(9) Any of the ordinary and ongoing costs of vehicle ownership and operation.
(10) Any equipment, modification, or service that is not specifically related to an eligible individual's vocational rehabilitation needs for transportation.
(11) The installation, maintenance, repair, replacement, repositioning, relocation, or transfer of any equipment that has not been certified in accordance with the federal Department of Transportation National Highway Traffic Safety Administration (49 CFR Part 595).
(12) The cost of any repair or replacement that is covered under warranties or insurance.
(13) Retrofitting any vehicle with standard or optional equipment or features available to the general public at time of purchase, except if it is necessary for the eligible individual's vocational rehabilitation needs.
(14) Repositioning or relocating existing adaptive equipment in the same vehicle or transferring the existing equipment from one (1) vehicle to another for the same eligible individual, except when such vehicle modification complies with the requirements of this rule.
(15) The removal of adaptive equipment, reversal of other modifications, or other restoration of any vehicle after vehicle modification services have been provided.

(Division of Disability and Rehabilitative Services; 460 IAC 14-19-14)

Rule 20. Home Modification

460 IAC 14-20-1 Home modification services

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) The VR program may provide home modification services, which include the following:
(1) Home modification evaluation.
(2) Home modification.
(3) Inspection of a completed home modification.

(b) Home modification services must be vocationally necessary to achieve the eligible individual's employment outcome.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-1)

460 IAC 14-20-2 Home modification evaluation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) An eligible individual must obtain a home modification evaluation, regardless of the anticipated type, scope, complexity, or cost of the home modifications.

(b) Each home modification evaluation must:
(1) be performed by an evaluator in accordance with subsection (c);
(2) include any assessment of the eligible individual and his or her place of residence;
(3) identify the nature and scope of the eligible individual's needs for home modification services;
(4) include the appropriate specifications of the required home modifications;
(5) be documented in a written evaluation in the eligible individual's record of services; and
(6) demonstrate how the home modification service is relevant to employment outcome.

(c) The service provider selected to perform the required home modification evaluation must be an evaluator of the eligible individual's informed choice who:
(1) is a service provider approved by BRS;
(2) has no ownership or other financial interest in the residence to be modified or the modifications to be made; and
(3) has no significant conflict of interest with the eligible individual or with the immediate family members of the eligible individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-2)

460 IAC 14-20-3 Home modifications

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. The VR program may pay for, or reimburse, home modification services including, but not limited to:
(1) modifying an exterior door;
(2) creating an accessible work site within the residence;
(3) modifying a bathroom, kitchen, or bedroom in the residence; or
(4) providing minimum pass-through accommodations to hallways and other connecting accesses to and between other areas of the residence.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-3)

460 IAC 14-20-4 Home modification service provider standards

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. The service provider selected to provide approved home modification services must be a contractor of the eligible individual's informed choice who:
(1) is a service provider approved by BRS;
(2) has no ownership or other financial interest in the residence to be modified;
(3) has no family or other significant personal relationship with the eligible individual or with the family members of the eligible individual; and
(4) has general liability insurance coverage of one hundred thousand dollars ($100,000) at a minimum.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-4)

460 IAC 14-20-5 Inspection of completed home modifications

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. (a) An eligible individual must obtain an inspection for all home modifications once they are completed, regardless of the type, scope, complexity, or cost of the home modifications.

(b) A home modification inspection must document that the home modifications provided in section 3 of this rule:
(1) have been completed and meet all applicable specifications written in the home modification evaluation;
(2) are consistent with applicable accessibility standards, local building codes, and zoning ordinances; and
(3) are functioning appropriately.

(c) Each home modification inspection must:
(1) be conducted by an inspector in accordance with subsection (d);
(2) include any on-site inspection and evaluation of all completed home modifications as specified in subsection (b); and
(3) be documented in a written evaluation in the eligible individual's record of services.

(d) The home modification inspection must be conducted by:
(1) the evaluator who performed the home modification evaluation; or
(2) a service provider of the individual's informed choice who is qualified under section 4 of this rule.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-5)

460 IAC 14-20-6 Home modification services payments

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. (a) Prior to the VR program providing any home modification services, an eligible individual must search for and obtain comparable services and benefits for which he or she may qualify.

(b) The VR program shall not pay for, or reimburse, home modification services, which exceed the actual cost of the home modification services approved by the VR program in the home modification evaluation.

(c) The VR program may require two (2) or more price quotes must be obtained for the eligible individual's home modification services.

(d) If there is more than one (1) price quote available for providing the necessary home modifications, the least costly price quote will establish the maximum cost that will be paid by the VR program.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-6)

460 IAC 14-20-7 Prerequisites for home modification assistance

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. (a) The VR program will pay for home modification services for a residence owned or being purchased by an eligible individual or the eligible individual's family.

(b) The VR program will not pay for home modification services to residential properties that are leased, rented, or in foreclosure.

(c) The eligible individual must provide written consent from the homeowner and proof of ownership prior to the provision of any home modification services.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-7)

460 IAC 14-20-8 Prohibited uses of home modification assistance

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. The VR program will not provide home modification services for:
(1) the purchase of land or the purchase or construction of a building for any eligible individual;
(2) any modification inconsistent with applicable accessibility standards or in violation of local building codes or zoning ordinances;
(3) the modification of any home determined to be unsuitable or unfit for the appropriate and necessary modifications;
(4) any ordinary or ongoing costs of home ownership;
(5) the modification of any home that is not the eligible individual's primary place of residence;
(6) any room addition or extension;
(7) any modification that has no relevance to the eligible individual's IPE;
(8) any modification related to general safety or security solely; or
(9) maintenance, repair, or replacement of home modifications that are not vocationally relevant.

(Division of Disability and Rehabilitative Services; 460 IAC 14-20-8)

Rule 21. Occupational Tools and Equipment

460 IAC 14-21-1 Occupational tools and equipment

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec 1. (a) The VR program may purchase occupational tools and equipment for an eligible individual if:
(1) the tools and equipment are specifically required to enter or practice the trade or profession identified in the eligible individual's IPE; and
(2) the required tools and equipment are not provided by a training institution or an employer.

(b) The VR program shall not purchase occupational tools or equipment for an eligible individual if the occupational tools or equipment may be obtained from a comparable services and benefits provider, such as an insurance provider.

(c) The VR program will not purchase duplicate tools, equipment, or other goods solely for contingency use in the event of the breakage, failure, or unavailability of the primary items.

(Division of Disability and Rehabilitative Services; 460 IAC 14-21-1)

460 IAC 14-21-2 Provision of occupational tools and equipment

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. The VR program must approve all occupational tools and equipment prior to the purchase.

(Division of Disability and Rehabilitative Services; 460 IAC 14-21-2)

460 IAC 14-21-3 Ownership of occupational tools and equipment

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) All occupational tools and equipment purchased by the VR program remain the property of the VR program until:
(1) the eligible individual has achieved his or her employment outcome;
(2) the eligible individual's record of services is closed; and
(3) the occupational tools and equipment are transferred to the eligible individual.

(b) Occupational tools and equipment paid for by:
(1) the eligible individual;
(2) the eligible individual's family; or
(3) comparable services and benefits providers;
are the property of the eligible individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-21-3)

Rule 22. Ownership and Transfer of Goods

460 IAC 14-22-1 Ownership by the VR program

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program owns any and all tools, equipment, medical and assistive technology devices, and other tangible goods until the VR program transfers ownership to the eligible individual upon successful case closure.

(Division of Disability and Rehabilitative Services; 460 IAC 14-22-1)

460 IAC 14-22-2 Ownership by an eligible individual

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. An eligible individual owns a tool, equipment, medical and assistive technology device, or other tangible good upon receipt if it is:
(1) purchased, in part, by the eligible individual or the eligible individual's family;
(2) provided for the eligible individual entirely through comparable services and benefits providers;
(3) a medical or assistive technology device made to meet the specific needs of the eligible individual; or
(4) purchased for a small business operation employment outcome and needed as collateral for a small business loan.

(Division of Disability and Rehabilitative Services; 460 IAC 14-22-2)

460 IAC 14-22-3 Ownership by the business enterprise program

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. Tools, equipment, and adaptive devices purchased by the VR program specifically for the operation of the vending site are the property of the business enterprise program from time of purchase, except that hand tools and adaptive equipment purchased for the personal use of an eligible individual become the property of the eligible individual upon successful case closure.

(Division of Disability and Rehabilitative Services; 460 IAC 14-22-3)

460 IAC 14-22-4 Eligible individual's responsibilities

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. An eligible individual must agree, in writing:
(1) to use the goods only for the intended purposes for which they have been provided;
(2) to be responsible for repair or replacement of goods lost, damaged, or destroyed by the individual through abuse or carelessness;
(3) not to sell, gift, transfer ownership, or dispose of the goods;
(4) not to rent, lease, lend, subcontract, or otherwise transfer possession, control, or use of the goods;
(5) to notify the VR program immediately if any goods are lost, stolen, damaged, or destroyed; and
(6) to notify the VR program immediately if any goods are no longer needed for the purpose for which they were provided.

(Division of Disability and Rehabilitative Services; 460 IAC 14-22-4)

460 IAC 14-22-5 Reclamation of goods

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. (a) The VR program shall reclaim goods purchased for an eligible individual if:
(1) the eligible individual or individual's representative obtained the goods through misrepresentation, fraud, or collusion;
(2) the goods are no longer needed or are no longer being used by the individual for the purpose for which they were provided;
(3) the eligible individual did not achieve his or her employment outcome, and his or her record of services is closed;
(4) the goods have been used by the eligible individual or individual's representative to commit a criminal act or for any unlawful purpose;
(5) the eligible individual has violated any of the conditions set forth in section 4 of this rule.

(b) Instead of reclaiming goods under subsection (a), the VR program may recover the fair market value of those goods provided to the eligible individual.

(Division of Disability and Rehabilitative Services; 460 IAC 14-22-5)

Rule 23. Medicaid Rate Use

460 IAC 14-23-1 Rates

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. The VR program shall pay published standard Medicaid rates for all medical services, psychological services, durable medical equipment, and physical and mental restoration services and equipment except as otherwise provided in this rule, the VR program's fee schedule, or contractual agreements.

(Division of Disability and Rehabilitative Services; 460 IAC 14-23-1)

Rule 24. Informal Supervisory Review

460 IAC 14-24-1 Informal supervisory review

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) An informal supervisory review is available upon written or oral request by any applicant or

eligible individual who disputes any determination or action taken by the assigned counselor with respect to services received.

(b) An informal supervisory review must be conducted no later than five (5) business days following the date of the request by the local area supervisor or his or her designee.

(c) An area supervisor may affirm, reverse, or modify any determination or action taken by the counselor within three (3) business days of the informal supervisory review.

(Division of Disability and Rehabilitative Services; 460 IAC 14-24-1)

Rule 25. Mediation and Impartial Due Process Hearing

460 IAC 14-25-1 Right of appeal

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 1. (a) Any applicant or eligible individual who is dissatisfied with any determination or action taken by the VR program that denies, limits, or otherwise affects his or her vocational rehabilitation services may request a review of the disputed determination or action through mediation or an impartial due process hearing.

(b) An applicant or eligible individual must submit a request for review to the VR program. The request for review must be received by close of business no later than eighteen (18) days from the date of the notification of the determination or the effective date of the action, whichever is later.

(c) For purposes of this section, "close of business" means 4:30 p.m., local time, on the business day where the appeal is received. If the eighteenth day is either a:
(1) Saturday;
(2) Sunday;
(3) state holiday; or
(4) day the VR program is closed during regular business hours;
the request for review must be received by close of business the next business day. A request for review received after the close of business on the eighteenth day is untimely.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-1)

460 IAC 14-25-2 Accessibility and accommodation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 2. (a) If an individual requires disability-related accommodations or other supports to participate effectively, the individual must notify the area supervisor and the assigned mediator or the IHO of his or her needs at least five (5) business days prior to the scheduled proceeding.

(b) If the proceeding must be rescheduled in order to secure the accommodations or supports required, the mediator or the IHO must notify all parties of the rescheduled date, time, and location at least twenty-four (24) hours prior to the time scheduled.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-2)

460 IAC 14-25-3 Submitting a request for an impartial due process hearing

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 3. (a) An applicant, eligible individual, or individual's representative must submit a written request for an impartial due process hearing. An applicant, eligible individual, or individual's representative may submit a request for an impartial due process hearing on a form available in the local VR program office.

(b) The individual may seek assistance completing a request for an impartial due process hearing from a counselor, a CAP representative, the individual's representative, or an advocate of the individual's choice.

(c) An applicant, eligible individual, or individual's representative may withdraw his or her request for an impartial due process hearing, in writing, at any time.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-3)

460 IAC 14-25-4 Impartial hearing officer

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 4. An impartial hearing officer may serve as both a qualified and impartial mediator and an impartial hearing officer, but cannot be assigned as both for the same dispute.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-4)

460 IAC 14-25-5 Impartial due process hearing

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 5. (a) An applicant, eligible individual, or individual's representative has the right to representation by legal counsel or any other advocate of his or her choice during an impartial due process hearing.

(b) An impartial due process hearing must be scheduled by the assigned IHO at a date, time, and location available and accessible to all parties.

(c) The IHO must send written notice of the date, time, and place of the impartial due process hearing to all parties.

(d) Prior to the impartial due process hearing, the IHO must conduct a prehearing conference. The IHO must send written notice of the date, time, and place of the prehearing conference to all parties.

(e) If a party fails to participate in the impartial due process prehearing conference, the IHO may dismiss the impartial due process hearing.

(f) The impartial due process hearing must occur no later than sixty (60) days of receipt of the applicant's, eligible individual's, or individual's representative's written request for review, unless agreement is reached during mediation prior to the sixtieth day or the parties agree to a specific extension of time.

(g) The IHO must provide a written decision to all parties, which must include:
(1) findings of fact;
(2) the reasons for the decision; and
(3) the evidence and statutes, regulations, rules, and policies supporting the decision.

(h) The IHO must provide his or her written decision to all parties within thirty (30) calendar days of the completion of the impartial due process hearing.

(i) The IHO's decision is final unless either party requests an administrative review.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-5)

460 IAC 14-25-6 Mediation

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 6. (a) An applicant or eligible individual must submit a written request for mediation at the same time a request is made for an impartial due process hearing.

(b) Mediation is voluntary for both parties and cannot occur unless the applicant, eligible individual, or individual's representative and the VR program agree.

(c) If the applicant, eligible individual, individual's representative, or the VR program does not agree to mediation, the parties must proceed directly to the impartial due process hearing.

(d) Once initiated, mediation can be terminated at any time by either party or by the mediator.

(e) An applicant, eligible individual, or individual's representative has the right to representation by legal counsel or any other advocate of his or her choice during mediation.

(f) An applicant, eligible individual, or individual's representative who intends to have the assistance of legal counsel must provide written notice to the mediator and counselor at least ten (10) business days prior to the scheduled mediation.

(g) An applicant, eligible individual, or individual's representative is not permitted to choose a particular mediator.

(h) The mediator must notify the parties, in writing, of the date, time, and place of mediation as well as provide necessary instructions and information for participation in the mediation.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-6)

460 IAC 14-25-7 Administrative review

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 7. (a) A party who is dissatisfied with the outcome of the impartial due process hearing must submit a written request for an administrative review.

(b) A party's written request for an administrative review must be submitted within twenty (20) days of the date of the IHO's written decision.

(c) Any party wishing to submit additional evidence concerning the issue under administrative review may do so pursuant to instructions issued by the hearings and appeals section of the family and social services administration.

(d) The reviewing authority shall review the IHO's decision to determine if the decision is supported by the evidence in the record and is in accordance with the statutes, regulations, rules, and policies applicable to the issues under appeal.

(e) The reviewing authority may not overturn or modify the IHO's decision, or any part of that decision, that supports the position of the applicant or eligible individual unless the reviewing authority concludes, based on clear and convincing evidence, that the decision of the IHO is clearly erroneous on the basis of being contrary to the statutes, regulations, rules, and policies applicable to the issue under review.

(f) The reviewing authority must issue his or her written decision, including a full report of the findings and the statutory, regulatory, or policy grounds for the decision, to the applicant or eligible individual or, as appropriate, the individual's representative and to the VR program within thirty (30) days of the request for administrative review.

(g) The reviewing authority's decision is final and must be implemented. If a party brings a civil action to challenge the final decision, the decision of the reviewing authority must be implemented pending review by the court.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-7)

460 IAC 14-25-8 Civil action

Authority: IC 12-8-8.5-4; IC 12-9-2-3; IC 12-9-5-1; IC 12-9-5-3
Affected: IC 12-9-5; IC 12-12-1

Sec. 8. (a) Any party who disagrees with the final action after administrative review may bring a civil action.

(b) The action may be brought in any state court or a United States district court of competent jurisdiction without regard to the amount in dispute.

(c) The court must be provided with the records related to the impartial due process hearing and the administrative review.

(Division of Disability and Rehabilitative Services; 460 IAC 14-25-8)

Notice of Public Hearing

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