

4.00 DETERMINATION OF ELIGIBILITY-OVERVIEW

Introduction

The eligibility process identifies those persons who are legally blind that can be served through the vocational rehabilitation (VR) program. The intent of the VR program is to support eligible individuals toward the achievement of an employment outcome.

Determination of Eligibility

An individual is eligible for vocational rehabilitation services if the following two criteria are met:

Criterion I: The individual has a disability, defined as any individual who has a physical or mental impairment (which must include legal blindness) that results in a substantial impediment to employment; and who can benefit in terms of an employment outcome from vocational rehabilitation services.

Criterion II: The individual requires vocational rehabilitation services to prepare for, secure, retain or regain employment.

Presumption of Eligibility

An individual who has a disability, as determined by the Social Security Administration, is presumed to be eligible for vocational rehabilitation services, provided that the individual intends to achieve an employment outcome consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These individuals will be considered to be eligible unless there is clear and convincing evidence that the individual cannot achieve employment due to the severity of their disability.

Documentation stating that the individual was presumed eligible and the basis for the presumption must be included in the record of services. This can be done using the SSA Checklist or in a case note.

Who Determines Eligibility

The VR counselor has the sole responsibility for determining an individual's: eligibility for VR services; need for an extended evaluation; and ineligibility for VR services.

This responsibility cannot be delegated.

Assessment for Determining Eligibility

Supporting documentation for the assessment of eligibility for VR services is: limited to only the information necessary to make a determination; and based, to the maximum extent possible, on a review of existing information available from other programs or providers, especially education programs and Social Security, and information provided by the individual with a disability or the family of the individual.

If information is not available, or is not adequate for making a determination of eligibility, other assessments can be provided in order to obtain the necessary additional information.

Prohibited Factors

In considering the eligibility of an applicant, the counselor must apply the eligibility requirements:

1. without regard to the duration of residency in the state, disability, age, gender, race, color, creed, or national origin of the applicant; and
2. without regard to the particular service needs or anticipated cost of services required by an applicant or the income level of the applicant or applicant's family.

While there is no duration of residency requirement, the VR counselor must assure that a consumer is present in the State to complete the VR program and benefit from the services provided through the Individualized Plan for Employment (IPE).

Documentation of Eligibility

When the counselor determines an individual to be eligible, the decision should be documented on the IPE and the rationale for the determination should be clearly substantiated in a case note. This case note must be dated and signed by the counselor (see page 4.02.07).

As noted in the section on Presumption of Eligibility, the decision of presumptive eligibility must be documented for individuals presumed to be eligible based on receipt of SSI or SSDI. This can be done using the SSA Checklist or in a case note.

When it is determined that an individual is ineligible, the decision must be documented on the Certificate of Ineligibility (FORM-1024).

Note

An extended evaluation must be conducted before making a determination of

ineligibility based on the severity of disability (see Section 4.03).

Specific procedures for documentation of eligibility and ineligibility are discussed in Sections 4.06 and 4.07.

Time Frame for Eligibility

An eligibility determination must be made within a reasonable time period, not to exceed 60 days from the date that an application is received by NYSCB unless: the individual agrees that an extension is warranted because of unforeseen circumstances beyond the control of NYSCB, or an extended evaluation is required (see Section 4.03).

The details of an agreed extension must be documented in a case note which is dated and signed by the counselor.

Economic Need

Services necessary to determine eligibility are provided without regard to economic need status. However, economic need status should be determined when there is any possibility that services requiring economic need may be planned beyond the eligibility determination (see Section 5.00).

Contents of this Chapter

This chapter includes the following sections:

1. Eligibility for Active VR Services - Criterion I
2. Eligibility for Active VR Services - Criterion II
3. Extended Evaluation
4. Ineligibility for VR Services
5. Review of the Ineligibility Decision
6. Documentation of Eligibility/Extended Evaluation
7. Certificate of Ineligibility - FORM-1024

4.01 ELIGIBILITY FOR ACTIVE VR SERVICES-CRITERION I

Statement of Criterion I

The individual has a disability, defined as any individual who has a physical or mental impairment (which must include legal blindness) that results in a substantial impediment

to employment; and who can benefit in terms of an employment outcome from vocational rehabilitation services.

What is Legal Blindness?

Legal blindness is: a visual acuity of 20/200 or less in the better eye with best correction, or a visual field of no greater than 20 degrees in the better eye.

What is a Primary Disability?

A primary disability is generally considered to be the disability which presents the most severe impediment for the individual with multiple disabilities. For our purposes, legal blindness is always considered to be the consumer's primary disability even in situations where another disability may result in greater impediments to independent functioning. NYSCB has primary responsibility for providing services to individuals who are legally blind and eligible for VR services regardless of other documented secondary disabilities.

What is a Substantial Impediment to Employment?

A substantial impediment to employment exists when legal blindness and/or another disability(ies) (in light of attendant medical, psychological, vocational, educational, and other related factors) prevents an individual from preparing for, securing, retaining or regaining employment consistent with the individual's abilities, capabilities and interests.

Special Consideration, Randolph- Sheppard

Under the Rehabilitation Act, members of the vending facility program may be considered eligible for further education and additional training or retraining for improved work opportunities within the program even though they may not have a substantial impediment to their current employment.

Factors Contributing to an Impediment to Employment

Certain medical, psychological, vocational, educational, cultural and social factors combine with legal blindness to create an impediment to employment. Examples of such factors include: lack of marketable skills; limited educational level; community attitudes concerning legal blindness; long-term unemployment or limited work experience; socio-economic circumstances; lack of independent living skills; and the individual's attitudes toward work, family and community.

What is a Secondary Disability

A disability which may be either associated with or unrelated to the visual condition is considered a secondary disability. Examples include: diabetes; mental retardation; deafness; orthopedic impairment; and epilepsy.

Information on secondary disabilities should be obtained during the assessment to determine eligibility.

Rule 2

Individuals who are deaf or severely hearing impaired and legally blind should have deafblindness coded (Codes 290 through 298) as their secondary disability on the DSS-3667 Client Profile Form even when other secondary disabilities are present.

Presumption of Benefit

For the purposes of determining eligibility, it is presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services.

In order to make a determination that an individual is incapable of benefitting from vocational rehabilitation services in terms of an employment outcome, a counselor must demonstrate with clear and convincing evidence that no employment outcome is possible, including supported employment, even with the provision of VR services.

Clear and Convincing Evidence

In order to meet the standard of "clear and convincing" evidence, the counselor must possess evidence that demonstrates with a high degree of certainty that an individual cannot benefit from VR services.

To obtain evidence, the counselor should explore the individual's abilities, capabilities, and capacity to perform in work situations, using trial work experiences, with appropriate supports (e.g. rehabilitation technology, job coaching). These experiences should be varied and should take place over a period of time in order to provide sufficient information to either support the determination that the individual is eligible for services or that the individual cannot achieve an employment outcome due to the severity of their disabilities. Medical examinations and intelligence or psychometric tests alone would not constitute evidence for a determination of ineligibility. This must be done as part of an extended evaluation prior to concluding that an individual is ineligible due to the severity of disability (see Section 4.03).

Conditions that May Affect Ability to Benefit

The presence of a rapidly progressive, catastrophic or terminal illness may affect an individual's ability to benefit or participate in vocational rehabilitation services. In such situations, the counselor should work closely with the individual and the treating practitioners regarding anticipated ability to work and the span of time involved. The NYSCB medical consultant may also be a resource in these situations.

Rule - Verification of Legal Blindness

Any information that verifies that an individual is legally blind is acceptable for the purpose of determining eligibility, including: printed validation that a person is on the Eye Registry; the Mandatory Eye Report, the Medical Eye Report or a narrative letter from an ophthalmologist or optometrist; and any existing information from reliable sources such as schools, the Social Security Administration, low vision clinics or community health clinics.

This information must be filed in the individual's record of services.

Exceptions to Presumption of Benefit

In certain circumstances, individuals residing in New York State may not be able to benefit from VR services. These individuals may belong to one of the following categories: immigrant aliens; non-immigrant aliens; illegal aliens (undocumented residents); and institutionalized individuals.

Immigrant Aliens

With the exception of voting, all the privileges of citizenship, including working, are provided to individuals admitted for the purpose of permanent residence (Immigrant Aliens). All immigrant aliens must possess a valid Alien Registration Card (I-151, or I-551) issued by the United States Immigration and Naturalization Service (USINS) before they may be accepted for VR services.

Exception, Randolph-Sheppard

In order to be a member of the Randolph Sheppard Program, an individual must be a citizen of the United States. An immigrant alien interested in becoming a vending stand operator may participate in training toward that goal only if he or she is expected to take an oath of citizenship within six months.

Non-Immigrant Aliens

Non-immigrant aliens are individuals admitted to the United States for a particular purpose and time period who are expected to return to their home country upon completion of a specific purpose or time period. Examples include: visitors for business or pleasure; crew of vessels or aircraft; students pursuing a course of study; representatives to international organizations; ambassadors, public ministers and career diplomatic or consular officers.

Non-Immigrant Alien Guidelines

Non-immigrant aliens are usually not permitted to work in the U.S. The following statements provide guidance in providing VR services to non-immigrant aliens:

If the individual has a student visa (such as F1 and J1), then the student is admitted for the sole purpose of education with no authority to work except in relation to an academic program, and he/she would not be eligible for VR Services.

If the individual has a Temporary Registration Card I-94 (or other evidence regarding his/her status), then the card will indicate whether work is permitted under conditions of the visa and a decision regarding eligibility can be made accordingly.

Rule

The counselor's primary concern is that non-immigrant alien applicants must, under normal circumstances, be available to complete an Individualized Plan for Employment (IPE), which would include long-term employment in the United States.

A student, here to receive training presumably toward a vocation, should not be considered for the separate vocational goal of homemaker in order to meet his or her daily living needs while in the United States.

Illegal Aliens (Undocumented Residents)

Individuals present in the United States without legal status are not eligible for VR services. Counselors should encourage these individuals to register with the Immigration and Naturalization Service for legal alien status. Individuals applying for legal status should possess a Temporary Residence Card (I-688).

Individuals Residing in Institutional Settings

Any individual who resides in an institutional setting such as a nursing home, prison or a developmental center must be within six months of release for the VR counselor to reasonably expect that the individual can benefit from services.

Exceptions

Individuals residing in a nursing home, a prison, or a developmental center may be eligible for VR services if they have the opportunity to work in the community while continuing to reside in the institutional setting.

Examples include: a nursing home resident whose medical status would allow for community employment; a prisoner participating in a work release program; or an individual with developmental disabilities who has the opportunity to participate in supported employment.

The counselor, in consultation with the senior counselor, would determine when an exception was appropriate.

Referral to NYS VESID

NYSCB provides services to persons with multiple disabilities, when one of those disabilities is legal blindness. Persons with disabilities other than legal blindness are served by the Office of Vocational and Educational Services for Individuals with Disabilities (VESID).

Referrals are made to the local VESID District Office by the NYSCB counselor. When referring an individual to VESID, the NYSCB counselor will use the State of New York INTERAGENCY REFERRAL FORM (SED/VES-1).

4.02 ELIGIBILITY FOR ACTIVE VR SERVICES-CRITERION II

Statement of Criterion II

The individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

Employment Outcome

The term "employment outcome" means that an individual can enter or retain full-time or part-time competitive employment in the integrated labor market, self-employment,

supported employment, or any other type of employment that is consistent with their abilities, capabilities, interests, strengths, resources, priorities, concerns and informed choice as supported by an assessment for determining vocational rehabilitation needs.

An employment outcome may include extended employment (formerly sheltered employment) and non-remunerative goals, such as homemaker and unpaid family worker .

When are VR Services Required

VR services are required when an individual needs the specialized services offered by the vocational rehabilitation program in order to secure, retain or regain employment. For example, a person who is employed and also possesses adequate education and training to pursue another employment opportunity, might not meet this second criterion of eligibility.

Assessing the Requirement for VR Services

An individual's requirement for VR Services is assessed by considering the impact NYSCB services will have on: reducing the individual's functional limitations as well as the environmental barriers that prevent independent, integrated activities; overcoming the impediments to employment; and, providing opportunities to obtain employment in integrated settings.

The assessment is done to identify how VR services can support an individual with a disability to prepare for or secure employment that is consistent with her/his strengths, resources, priorities, concerns, interests, abilities, capabilities and informed choice.

Employment and Underemployment

For persons who are employed or who have a significant work history with demonstrated abilities and capabilities, the determination of whether or not the person requires VR services is difficult and must be highly individualized. The VR counselor must carefully judge a number of factors that will determine whether or not the person meets Criterion II.

These factors include: current job market conditions; work experience and training; current abilities and capabilities; need for assistive technology and employer's responsibilities under ADA; the individual's values, goals, and interests; whether or not the individual is in an entry level job which offers opportunities for advancement consistent with the individual's abilities and capabilities; and other personal issues affecting employment.

What is Underemployment?

A person is underemployed when the job held is substantially below the person's potential. This situation may be the result of a number of simple or complex factors. For vocational rehabilitation, a person is considered underemployed when a disability has prevented the person from obtaining employment in an occupation that would otherwise be available given the person's abilities, interests and achievements.

Decision Process

The following steps are used when deciding that an individual is underemployed:

1. The vocational rehabilitation counselor (VR counselor) systematically assesses the person's situation with regard to an analysis of the job, employment and training experiences, current abilities, current job market and available resources.
2. The VR counselor summarizes the assessment findings and compares the results with the eligibility criteria: Does the person require vocational rehabilitation services to achieve an employment outcome?
3. The VR counselor discusses the assessment findings with the consumer and senior counselor before making a final determination of eligibility. The district manager may also be consulted.
4. The VR counselor makes an eligibility determination, informs the consumer of the decision and advises regarding the availability of the Client Assistance Program, and the appeals process.

Gathering Information

The VR Counselor depends primarily on interviews with the consumer for the information gathered during the assessment but may also consult with employers, placement specialists, technology specialists or other experts as needed.

Underemployment Factors and Indicators

There are 15 factors in three categories that can be considered when assessing underemployment. The indicators are questions related to the factors that, when answered, will help the VR Counselor to determine whether or not the person is underemployed. The VR Counselor will examine the information gathered from the factors and indicators as they relate to the par principle below.

Par Principle

Individuals who are legally blind will have the opportunity to secure employment on par with their non-disabled peers with similar education, training and work experience.

Consumer Participation

Selecting the most relevant factors and indicators, the VR Counselor determines their impact on employment through working directly with the consumer. The consumer's participation ensures that both the consumer and VR counselor gain an accurate understanding of the consumer's current employment situation. The VR Counselor can use other indicators when necessary for a more individualized assessment. The VR Counselor's judgement is critical to comparing the indicators to the par principle.

Job Analysis

Factor #1: Tasks and Responsibilities

Indicator: Does the current job reflect the consumer's capabilities?

Factor #2: Wages (should meet industry standard for work being done or capable of)

Indicator: Does the job offer fair wages and hours that enable the consumer to be economically self-sufficient?

Factor #3: Hours (Part-Time vs. Full-Time)

Indicator: Is the consumer in a part-time position but interested in and capable of full-time employment?

Factor #4: Working conditions

Indicator: Are the working conditions accommodating to the individual's disability?

Factor #5: Advancement Opportunities

Indicator: Are there reasonable opportunities for career advancement?

Experience, Achievement and Current Abilities

Factor #6: Work Experience (including years on current job)

Indicator: Is there evidence that other persons with similar work experience are in higher level positions?

Factor #7: Educational Achievement

Indicator: Is the consumer in a job that is below his/her educational achievement

and skill level?

Factor #8: Specific Work Skills

Indicator: Does the person's special skills and demonstrated interest in further achievement support that the person has the ability to obtain a more skilled level of employment?

Factor #9: Consumer's perspectives on special interests, career preferences and aspirations, professional and personal growth, potential for achievement, involvement with skill development activities (including previous NYSCB involvement) and advancement opportunities.

Indicator: What efforts has the consumer made to secure employment commensurate with abilities?

Indicator: Does previous NYSCB involvement demonstrate that the consumer either accepted employment that was clearly below his/her ability level or participated in training that was clearly below his/her ability level?

Indicator: Has the person gained independence such as the ability to travel more extensively?

Indicator: Does the current job offer real opportunities for career growth and advancement when possible disability-based discrimination and need for accommodation are taken into account?

Indicator: What does the consumer believe about the job and its potential?

Factor #10: Health, Vision and Secondary Disability Factors

Indicator: Have health, vision or other disability issues resulted in an increase or decrease in function requiring a change in occupation?

Current Job Market and Environmental Supports

Factor #11: Availability of Jobs

Indicator: Are jobs available that are consistent with the consumer's interests and abilities? (Consult with a placement specialist if necessary)

Factor #12: Transferable Skills

Indicator: What transferable skills does the consumer have for other jobs that exist in the job market?

Factor #13: Need for Technology

Indicator: Do opportunities for employment depend on the consumer's technical skills and the availability of assistive technology?

Factor #14: Transportation/Mobility

Indicator: How do transportation and mobility issues affect current or projected employment opportunities?

Factor #15: Availability of other resources, particularly those provided by employers or services designed for the general public.

Indicator: What resources are available to the consumer through their employer or through community organizations, particularly those designed to serve the employment needs of the general public?

Documentation and Decision

The VR Counselor documents each relevant indicator, writes a narrative description and determines whether or not the current job is commensurate with the consumer's abilities and capabilities. Considering the par principle, does the person require VR services to obtain an employment outcome?

If the current job is not commensurate with abilities and capabilities, the person must still require VR services to obtain an employment outcome in order to be eligible. If VR services are not required, the person is not eligible. In this situation, the VR Counselor should document that there are other resources available to the consumer for securing employment.

Some Examples

The following descriptions are provided as examples, rather than rules, to guide in the determination of eligibility. Each person's circumstances must be considered on an individual basis.

If a person is in jeopardy of losing a job due to disability related factors, then the person requires VR services.

If employed, and the job is commensurate with the individual's current abilities and capabilities, and there are no disability-related factors interfering with the person's ability to perform work, then the person would likely not require VR services.

If employed, and the job is not commensurate with the individual's current abilities and capabilities, and disability-related factors are contributing to the lack of job opportunities commensurate with the person's current abilities and capabilities, then the person would most likely be eligible.

Employer Responsibility

The VR counselor should consider the employer's responsibilities under Section 504 of the Rehabilitation Act and the employment provisions of the Americans with Disabilities Act. The employer's responsibility for accommodating individuals with disabilities may include providing appropriate opportunities and acquiring or modifying equipment/devices needed for employment. These responsibilities may affect the scope of services provided to individuals who are eligible for VR services.

Rehabilitation Technology and Personal Assistance Services

Rehabilitation technology, on-the-job and personal assistance services should be considered when assessing eligibility as these services may be required for the individual to achieve an employment outcome.

Certification of Eligibility for Vocational Rehabilitation Services

When the counselor determines an individual to be eligible, the decision should be documented on the IPE and the rationale for the determination should be clearly substantiated in a case note. The case note must be dated and signed by the VR counselor.

When it is determined that an individual is ineligible, the decision must be documented on the FORM-1024.

4.03 TRIAL WORK/EXTENDED EVALUATION

Introduction/General Information

In accordance with the eligibility criteria for VR services, NYSCB will presume an applicant is able to benefit from VR services if that applicant has a physical or mental impairment (legal blindness) that results in a substantial impediment to employment unless there is clear and convincing evidence that the applicant cannot benefit from VR services due to the severity of their disability.

When the counselor is unable to determine that the applicant can benefit from VR services due to the severity of his/her disability, the applicant's case will be moved to Status 06.

While in Status 06, the applicant will first be given the opportunity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support the determination that he/she is too severely disabled to benefit from VR services. These real work situations are called "trial work".

Trial work will be used to explore the applicant's abilities, capabilities and capacity to perform in realistic work situations in order to determine if the applicant is capable or incapable (due to the severity of the individual's disability) of benefiting from VR services in terms of an employment outcome. The applicant's interests should be considered when arranging trial work in order to maximize the potential success of the trial work.

A sufficient variety of trial work opportunities, over a sufficient period of time, in the most integrated settings possible, need to be arranged in order to make an accurate determination.

"Trial work" differs from "work experience" arranged for consumers during the course of their VR services in preparation for employment. Unlike in work experiences provided in accordance with an IPE, applicants are not paid to participate in trial work. Trial work is only used while an applicant is in Status 06 and is used solely for the purpose of determining whether an applicant can benefit from VR services.

When to Use Trial Work

Trial work must be used before making a determination that the applicant is incapable of benefiting from VR services in terms of an employment outcome due to the severity of their disability (unless the applicant is unable to participate in trial work – see information about Extended Evaluation in this section). The counselor should discuss the need for trial work with the applicant.

Trial Work Guidelines

Trial work must be:

1. Provided in the most integrated setting possible, consistent with the informed choice and the rehabilitation needs of the individual. It can be set up for an individual in a venue used for supported employment, with an employer in a competitive employment setting, with a private agency for the blind, a generic private not-for-profit or for profit agency or an independent living center that can provide a realistic work setting. Other possibilities can be explored as well if they meet the criteria in this section.
2. Of sufficient variety and over a sufficient period of time to enable the counselor to determine whether there is sufficient evidence to conclude that the individual can benefit from VR services in terms of an employment outcome or there is clear and convincing evidence that the individual is not able to benefit from VR services due to the severity of their disability.

Written Plan for Trial Work

The “Trial Work Plan” is a newly developed form in CIS. It will be used to:

1. Document the questions to be answered during trial work,
2. Identify each trial work opportunity set up for the applicant,
3. Identify the support services needed by the applicant in order to participate in the trial work opportunity and
4. Document how and when the individual’s progress will be evaluated.

The Trial Work Plan will be amended as needed if more trial work is needed to determine whether the individual can benefit from vocational rehabilitation services.

Only those trial work and support services identified on the Trial Work Plan will be able to be authorized for the applicant.

Arranging For and Purchasing Trial Work

Trial work will be arranged and provided using the service “situational assessment”. Counselors will work with the situational assessment provider to identify the most appropriate settings and types of trial work for the applicant.

What Can/Cannot Be Provided During Trial Work

Assessments and appropriate supports may be provided, in accordance with the policies associated with these assessments and support services, during trial work when necessary to enable the applicant to participate in the trial work opportunity. These assessments and appropriate supports could include:

1. Low vision exam and devices
2. Job coaching services
3. Interpreter services
4. Transportation to get to and from the trial work site
5. Limited orientation and mobility
6. Limited vision rehabilitation
7. Social casework services
8. Personal assistance services
9. Audiological aids if the applicant meets the definition in policy for the provision of audiological aids and cannot demonstrate their ability to benefit from VR services without them
10. Assistive technology devices and training, as needed to participate in trial work.

In circumstances where assistive technology is needed in order for the applicant to

perform the functions required during a trial work, assistive technology devices may be loaned to the applicant with supervisory approval. Any loaned device(s) must be returned to NYSCB at the end of the trial work opportunity. Hourly assistive technology training may be provided to enable the applicant to use the loaned device.

College and vocational school training and related services, job placement, occupational tools, occupational licenses, vocational training (when not done for assessment purposes), long term training programs, and self-employment services cannot be provided during the trial work period.

Documenting the Individual's Progress During Trial Work

As identified in the Trial Work Plan, the counselor must periodically assess the applicant's abilities, capabilities and capacity to perform in realistic work situations during the course of each trial work opportunity. The outcome of the counselor's assessment/evaluation should be documented in a case note at the end of each trial work opportunity or during the trial work if necessary. The documentation should note whether additional time is needed to make the determination of eligibility or ineligibility.

If additional time is needed, the counselor should indicate whether a new trial work opportunity is being planned to gather additional information or if the individual will continue with the current trial work opportunity. The Trial Work Plan must be amended as necessary and should include information about the purpose and goal(s) of the new or continuing trial work. Progress during trial work should be reviewed with the applicant on a regular basis.

The Action Alert PDQ can assist counselors and supervisors with monitoring the length of time an applicant is in Status 06.

Exiting Status 06 from Trial Work

As soon as the counselor has sufficient information from the trial work opportunity(s) to determine that an applicant can or cannot benefit from VR services, the applicant should be moved to either Status 10 – Eligible for VR Services or Status 08 – Closed from Referral, Applicant or Trial Work/Extended Evaluation. If the individual has been determined too significantly disabled to benefit from VR services due to the severity of his or her disability, the case record must contain clear and convincing evidence to support this determination.

Extended Evaluation

If an individual cannot take advantage of trial work, an extended evaluation to determine whether the individual is capable or incapable of benefiting from VR services due to the severity of the individual's disability should be conducted. Extended evaluation should only be considered after a thorough consideration of and determination that the applicant is unable to participate in trial work. Extended evaluation may be appropriate for someone who has multiple disabilities and/or medical conditions who has recently become blind and has never received mobility and/or daily living skills training.

In addition, if an individual has participated in more than one trial work opportunity and options for additional trial work opportunities have been exhausted but the counselor is not yet able to determine whether the individual is able to benefit from VR services, the counselor will conduct an extended evaluation to obtain additional information to make the determination.

The counselor should discuss the need for extended evaluation with the applicant. In addition, prior to moving an individual into extended evaluation, the counselor should discuss their plan with their supervisor.

Documenting the Need for an Extended Evaluation

After receiving supervisory approval to conduct an extended evaluation, the counselor must document the reason(s) for the extended evaluation in a case note. If the extended evaluation is being conducted in lieu of trial work, the documentation should include the reason for not providing trial work. If the extended evaluation is being conducted after trial work has been provided, the documentation should include information about why trial work is not continuing and the reason for needing additional evaluation information.

Evaluations/Assessments Provided During Extended Evaluation

Evaluations/assessments provided during an extended evaluation must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

During the extended evaluation, only those evaluations/assessments that are necessary to enable the counselor to assess whether or not an individual can benefit from VR services are to be provided. The goal of the evaluations/assessments provided during an extended evaluation is to assist the counselor in determining whether the applicant can benefit from VR services.

Extended Evaluation Plan

The “Extended Evaluation Plan” is a newly developed form in CIS. It will be used to identify the evaluations/assessments that will be provided during the extended evaluation.

Only those evaluations/assessments identified on the Extended Evaluation Plan will be able to be authorized for the applicant.

Documenting the Individual’s Progress During Extended Evaluation

Progress toward determining the applicant’s ability to benefit from VR services in terms of an employment outcome, must be documented in a case note at least every three months during extended evaluation. While there is no specified time limit restricting the duration of extended evaluation, there is a requirement to end the extended evaluation as soon as the counselor is able to make a determination of an applicant’s ability or inability to benefit from VR services.

The Action Alert PDQ can assist counselors and supervisors with monitoring the length of time an applicant is in Status 06.

Exiting Status 06 from Extended Evaluation

As soon as the counselor has sufficient information from the extended evaluation to determine that an applicant can or cannot benefit from VR services, the applicant should be moved to either Status 10 – Eligible for VR services or Status 08 – Closed from Referral, Applicant or Trial Work/Extended Evaluation. If the individual has been determined too significantly disabled to benefit from VR services due to the severity of his or her disability, the case record must contain clear and convincing evidence to support this determination.

Economic Need

Applicants in Status 06 are not exempt from economic need. If a non-assessment service that is contingent on economic need is planned on the Trial Work or Extended Evaluation Plan, the counselor must determine whether the applicant meets economic need prior to purchasing the service.

Use of Comparable Benefits

Assessment services in Status 06 are provided without a full consideration of comparable benefits. However, Medicaid benefits and other comparable benefits

known to be available must be used in accordance with policies and procedures for regarding the use of comparable benefits. See Chapter 9.00 - Comparable Benefits for further information.

CIS Procedures Related to Trial Work and Extended Evaluation

The following information will guide the counselor on how to proceed with trial work and/or extended evaluation in CIS.

1. Open the VR Eligibility Determination Worksheet
2. Enter the reason for trial work or extended evaluation in the “reason” field.
3. If the applicant will be participating in trial work, enter the “start date of trial work” and open the Trial Work Plan using the “Open TW Plan” button.
4. Complete the Trial Work Plan
5. Once trial work has ended, enter the date in the “end date of trial work”. You will no longer be able to issue authorizations from the Trial Work plan.
6. If the applicant is proceeding to extended evaluation, enter the date in the “start date of extended evaluation” field and open the Extended Evaluation Plan using the “Open EE Plan” button.
7. Complete the Extended Evaluation Plan.
8. When extended evaluation is completed, enter the date in the “end date of extended evaluation” field. You will no longer be able to issue authorizations from the Extended Evaluation Plan.
9. When you have made a determination of eligibility/ineligibility, enter a “Y” in the “Presumed Eligible for Services” field if the applicant receives SSI or SSDI or in the “Eligible for Services” field if the applicant does not receive SSI or SSDI and enter the date or enter a “N” in one of these fields and enter the date. If the applicant is not eligible, select the appropriate closure reason in the “reason for closure” field.

Note: If the applicant’s case is being closed, the supervisor will receive an email notification alerting them that they need to review the case and approve the closure. Once this is done, the counselor will receive an email notification alerting them that the supervisor has approved the closure.

4.04 INELIGIBILITY FOR VR SERVICES

Introduction

An individual who applies for NYSCB services may not be eligible for VR services. Likewise, during the time that someone is receiving services in extended evaluation or active VR status, he or she may be found ineligible for further services.

Rule

An individual will be determined ineligible only after it has been ascertained beyond any reasonable doubt that the individual does not meet the eligibility requirements for vocational rehabilitation services.

Reasons for Ineligibility

There are three reasons why persons may be found ineligible.

1. Information indicates that there is **NO** physical or mental impairment.
2. The person cannot benefit in terms of an employment outcome from vocational rehabilitation services due to severity of disability (or the impediments resulting from the disability).
3. The person does not require vocational rehabilitation services to achieve employment. For example, the individual who is currently employed in a position that is commensurate with abilities and capabilities with no impediments to continued employment most likely does not require vocational rehabilitation services.

Criteria for Eligibility

The determination of ineligibility relates directly to the two criteria for eligibility for VR services:

1. If there is no legal blindness with a substantial impediment to employment and/or no ability to benefit in terms of an employment outcome, then the individual does not meet Criterion I.

Note

There must be clear and convincing evidence documented in the record of services before an ineligibility determination is based on an inability to benefit due the severity of disability.

2. If the applicant does not require vocational rehabilitation services in order to achieve employment, then the individual does not meet Criterion II.

Procedure for Ineligibility Determination

To make an ineligibility determination, the counselor will follow this procedure:

1. The counselor will review and assess all information regarding an individual's situation including but not limited to: medical and/or psychological information; work and social history; vocational information; results of services provided during an extended evaluation; preferences of the individual and family/caregivers regarding vocational rehabilitation needs. If the a medical consultant is available, the counselor can present the information to the consultant to obtain the consultant's opinion regarding the medical and assessment information. If the basis of the ineligibility decision is that the severity of disability precludes the person's ability to benefit from services, an extended evaluation must be conducted prior to an ineligibility decision. Rehabilitation technology, personal assistance services and opportunities for work try-outs in real work settings should be provided as part of the extended evaluation when appropriate.
2. The decision that an individual cannot achieve a vocational goal and is therefore ineligible for services must be made in full consultation with the individual. The counselor will provide the individual with an opportunity to discuss his/her case in a personal interview whenever possible. When an individual chooses to not participate in a personal interview, notification may be made by mail. This communication shall include an invitation to discuss the decision with the counselor.
4. If the counselor's assessment remains unchanged after Step 2 is completed, the counselor can proceed with the closing the record of services (see Chapter 2.00 VR Process).

4.05 REVIEW OF THE INELIGIBILITY DECISION

Notification of the Individual

The individual must be notified in writing of the ineligibility decision with a clear explanation of: the reasons for the decision; information about the appeals process (See NYSCB Handbook for VR Services and VR Policy Manual, Chapter 1); information about the Client Assistance Program (CAP); information about other programs or community resources that might be helpful, such as independent living centers. Notification must be in a individual's preferred format.

Policy

All individuals who have had their cases closed in Statuses 08, 28, or 30 due to ineligibility will have a review of the ineligibility decision within one year of the

determination when the ineligibility decision was based on medical factors; or, on the inability to achieve a vocational goal.

Purpose

The purpose of the review is to reevaluate the determination of ineligibility, considering new information and changes in the individual's condition which may have an impact upon his/her potential to achieve a vocational goal. The review process is also a means to determine whether or not the individual wants to have the ineligibility decision reconsidered and this process will allow full consultation with the individual.

When to Conduct the Review

When closure is from Status 02 to Status 08, one review must be done within 12 months of the ineligibility determination.

When closure is from Status 06 to Status 08 or when closure is in Status 28 or 30, a first review must be conducted within 12 months after closure. Subsequent reviews will be done at the request of the individual when closure is in Status 28.

Initiating the Review

Individuals will be informed in writing of the date scheduled for their ineligibility review.

A sample letter is included for your information (See page 4.05.04). In all situations, the individual must be afforded a clear opportunity for full consultation in the reconsideration of the ineligibility decision. The individual should be invited to present any new information concerning his/her situation. If an individual reapplies for services on his/her own, prior to the review date, such reapplication will be considered to take the place of the review.

Who Does the Review

Review of ineligibility decisions will be done by the VR counselor or an appropriate staff member designated by the senior VR counselor.

Exceptions to the Requirement for a Review

At the time of the ineligibility decision and case closure, certain facts may have been documented which would justify an exception to the requirement for a review. In other cases, reasons may have arisen since closure to indicate an exception. Some reasons

for exceptions are: the documented presence of a rapidly progressive or terminal medical condition; a recorded statement by the individual that she/he does not want to be considered for services; the individual has relocated out of state; the individual's whereabouts are unknown or the individual is not available to participate in a review; or the individual does not have a disability or their disability is not an impediment to obtaining employment.

Conducting the Review

To review the ineligibility decision, the counselor will have a face-to-face meeting with the individual to consider, at a minimum, the individual's: current situation (including employment status and interest in vocational rehabilitation); and medical condition (including examination reports and the individual's self-report).

Exception

At times, an individual who is interested in having his/her case reviewed may not be available for a face-to-face meeting with the counselor. In lieu of the meeting, the counselor can review documentation submitted by the individual.

Note

When an individual's case has been closed either in Status 08 from Status 06, or in Status 28, the individual will be informed that subsequent reviews will only be held upon request.

Purchasing Assessments

Counselors may authorize the purchase of medical assessments or other assessment services when such information is necessary to conduct the review.

Review Outcomes

Review outcomes will be determined using the following guidelines:

If during the review no new information is presented to warrant reopening the case, then the counselor will uphold the ineligibility decision.

If during the review new information is presented which could provide the basis for a redetermination of ineligibility, then the counselor will inform the individual in writing that his/her case can be reopened to explore new information, and advise the individual to reapply for VR services if she/he desires a new eligibility determination.

Documenting the Review

The content of the review or, where appropriate, the reason(s) for not conducting the review will be documented as a case contact in the individual's record of services.

4.06 DOCUMENTATION OF ELIGIBILITY/EXTENDED EVALUATION

Obtaining Information to Document Eligibility/Extended Evaluation

Only information necessary to determine eligibility is required to document eligibility for VR services or the need for extended evaluation. Once an individual is determined to be eligible, a comprehensive assessment can be conducted, with the individual's participation and informed choice, as necessary to obtain additional information to prepare the Individualized Plan for Employment (IPE).

Existing information will be used whenever possible as the basis for an eligibility determination. In addition, information provided by the individual who is blind or the family of the individual will be used, to the maximum extent appropriate, to document factors (other than legal blindness) related to establishing eligibility.

Verifying Legal Blindness

Any written information that verifies that an individual is legally blind is acceptable for the purpose of determining eligibility, including: printed validation that the individual is registered as legally blind on the eye registry; the Mandatory Eye Report, the Medical Eye Report, or a narrative report/statement from an optometrist or ophthalmologist; any existing information from schools, the Social Security Administration (e.g. an award letter), eye or health clinics, or community rehabilitation facilities. This documentation must be placed in the record of services.

Confidential Health Assessment

Part I of the Confidential Health Assessment is the only general medical document necessary for a determination of eligibility. Part II is not required to determine eligibility. However, Part II can still be obtained after the determination of eligibility or during an extended evaluation when, in the counselor's opinion, it will provide information useful for planning services.

How to Document the Eligibility Determination

The determination of a decision of eligibility will be documented in a case note. The counselor will explain the rationale for the determination as related to the eligibility criteria. The case note must be dated and signed by the VR counselor. For individuals who are presumed eligible on the basis of receipt of SSI or SSDI, documentation stating that the individual was presumed eligible and the basis for the presumption must be included in the record of services. This can be done using the SSA Checklist or in a case note.

How to Document the Need for an Extended Evaluation

The determination of the need for an extended evaluation will be documented on the IPE. The counselor will explain the rationale for the determination as related to the eligibility criteria, in a corresponding case note.

4.07 DOCUMENTATION OF INELIGIBILITY - FORM-1024

Purpose

The FORM-1024 is used to document a determination of an applicant's ineligibility for services.

Who Completes the Form

The VR counselor is responsible for completing the FORM-1024.

Instructions for Completion of the FORM-1024

Use the following procedures to complete the FORM-1024:

1. Enter the applicant's name.
2. Under section for the first eligibility criterion, check whether or not the first criterion was met.

If the first eligibility criterion was met, then move to the section for the second eligibility criterion (see Step 3).

If the first eligibility criterion was not met, then check the appropriate box which

specifies the reason and complete the section that explains the reason for the determination. Then proceed to Step 4.

Note

If the person is ineligible due to the severity of the disability, the results of the extended evaluation should be summarized as part of the explanation.

3. Under the section for the second criterion, check the box which indicates that the criterion was not met, and explain the basis for the determination.
4. Sign and date the form.

Note

In addition to completing the FORM-1024, documentation to support the decision of ineligibility should be included in the record of services.