

Chapter 202: Eligibility

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Vermont Division of Vocational Rehabilitation
Policy and Procedures Manual

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Section I. Definitions

- A. **“Family member”**, for purposes of receiving vocational rehabilitation services, means an individual:
1. Who either—
 - a) Is a relative or guardian of an applicant or eligible individual; or
 - b) Lives in the same household as an applicant or eligible individual;
 2. Who has a substantial interest in the well-being of that individual; and
 3. Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.
- B. **“Individual’s representative”**, for purposes of receiving vocational rehabilitation services, means a representative chosen by the applicant or eligible individual to act on their behalf, including a parent or other family member, guardian, or advocate, unless a representative has been appointed by a court to represent the individual.
- C. **“Individual with a disability”** means an individual who:
1. Has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and
 2. Can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.
- D. **“Individual with a significant disability”** means an individual:
1. Who has a significant physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
 2. Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
 3. Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, ~~mental retardation~~, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, intellectual or developmental disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.
- E. **“Individual with a most significant disability”** means an individual who:

has been determined by DVR to have a physical or mental impairment that constitutes or results in a substantial impediment to employment and that seriously limits function in four or more areas of functional capacity (mobility, communication, work tolerance, work skills, self-care, self-direction, interpersonal skills, dexterity/coordination), requiring multiple services over a period of six months or more.

- F. **“Requires services”** means that, without provision of vocational rehabilitation services, the individual would not be able to prepare for entering, engaging in, regaining, or advancing in employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities, and informed choice.
- G. **“Trial Work Experience”** means supported employment, on the job training, progressive employment training placements and other experiences using realistic integrated work settings.
- H. **“Substantial impediment to employment”** means that a physical or mental impairment (in light of medical, psychological, vocational, educational, and other associated factors) hinders an individual from preparing for, entering into, engaging in, advancing in, or retaining employment consistent with their abilities and capabilities.

Section II. Prohibited Factors

When determining eligibility for vocational rehabilitation services, the following factors apply or are prohibited:

- A. No duration of residence requirement shall be imposed that excludes from services any applicant who is present in the state unless the applicant is in the United States illegally. DVR may not require an applicant to provide documentation of presence in the State that under State or local law, or practical circumstances, results in a de facto duration of residence requirement.
- ~~A.B. In addition, DVR cannot prohibit services for an eligible person present in the state, but whose residence is out of state. out of state services for an eligible individual.~~

Commented [SB1]: 361.42 (c)(1)

Guidance —

- If a Counselor receives an enquiry about DVR services from an individual who lives in another state, they should suggest the applicant contact their State's DVR agency for services. In most circumstances, their ~~local~~ State DVR agency will be best positioned to serve them over Vermont DVR. There may be some exceptions to this general guideline when an applicant has connections to the state. For example, if an applicant lives in a bordering community and is employed or goes to high school or college in Vermont it may be more favorable for the applicant to receive services ~~serve them~~ through Vermont DVR.

Commented [SB2]: Mandatory or discretionary?

- If an applicant is a college student in Vermont but has permanent residence in another state, the CDVR counselor shall should consult with contact the Field Services Manager. In these circumstances, DVR may develop an agreement with the student's home state VR agency to open concurrent cases. Under such an agreement, each state may develop an IPE for complementary services. For example, DVR may provide assistive technology and work-based learning services while the student is in Vermont. The home state may provide job placement services once the student returns to that community.

Commented [SB3]: Mandatory vs discretionary?

End Guidance.

B.C. No applicant or group of applicants shall be excluded or found ineligible solely based on the type of disability; and the eligibility requirements must be applied without regard to the:

1. Employment history or current employment status of the applicant;
2. Expected employment outcome of the applicant;
3. Educational status or current educational credential of the applicant;
4. Source of referral for vocational rehabilitation services;
5. Service needs or anticipated cost of services required by the applicant;
- 4-6. Income level of the applicant or the applicant's family; or
- 5-7. Age, gender, gender identity, sexual orientation, race, color, creed, or national origin of the applicant.

Commented [SB4]: Not in regulation, but still relevant to include

34 CFR 361.36 (d)(1)(2)

Commented [SB5]: I think this should be number 1 on the list.

Commented [SB6]: Gender, gender identity, sexual orientation are not found in the Rehab Act. I believe they are still appropriate to include.

Commented [SB7]: Still valid?

Guidance – Age exception.

DVR will not normally serve persons under age 18 without permission of the parent, guardian, or legal representative (see Chapter 306, "School-to-Work Transition" for more information).

End Guidance.

Substance Use Disorders

C. Eligibility requirements shall be applied without regard to the particular service needs or anticipated cost of services required by an applicant or applicant's family.

Commented [SB8]: This is the current reference in the DSM

Commented [SB9]: I think this text belongs under the Section IV as it pertains to eligibility not prohibited factors.

D. Referral of an individual persons with a disclosed substance use disorder abuse issues will be processed in the usual fashion. T; t there will be no arbitrary waiting period and each case will be evaluated individually.

Commented [SB10]: I think there should be a header for this section.

E. An individual may be eligible for vocational rehabilitation services based on a substance use disorder diagnosis made by a psychiatrist, psychologist, medical doctor, or certified substance use disorder counselor.

Commented [SB11]: Is this still accurate?

~~F. When determining a person's eligibility for services, the usual "Certification of Eligibility/Ineligibility" form will be used in accordance with all of its instructions, including those for determining the significance of the disability, the DVR counselor needs to consider substance use related characteristics which may interfere with employment. These include, but are not limited to: - Some possible characteristics for consideration in the eligibility and significance of disability (SD) determinations which may be related to substance abuse and which may interfere with employment may fall under:~~

- ~~1. Mobility (slowed reflexes, organic brain damage, gait problems);~~
- ~~2. Interpersonal Skills (mood swings, attitude changes, continued association with active substance abusers, inability to sustain positive personal relationships, having stigma of being a substance abuser);~~
- ~~3. Communication (withdrawal, short attention span, difficulty assimilating information);~~
- ~~4. Self-Care (problems with personal appearance or hygiene, insomnia, oversleeping, memory loss);~~
- ~~5. Self-Direction (poor task completion, difficulty working independently).~~

~~4.6. A review of the information on Substance Use Disorder in the current edition of the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders) may be helpful in making these determinations.~~

~~G. When an applicant has a substance use disorder but has abstained from substance misuse for several years applies for DVR services, the applicant. Although the person may have a disability present (Eligibility Criterion #1), The DVR counselor must then:~~

- ~~1. should Determine if a substantial impediment to employment still exists (Eligibility Criterion #2); and~~
- ~~2. The counselor should Assess if there has been cognitive or physical damage caused by the substance use or if psychological issues are present. This would then lead to a determination of the need for vocational rehabilitation services (Eligibility Criterion #3.)~~

In general, an applicant who presents with a substance use disorder is eligible for DVR services based on that diagnosis, provided that the other two criteria of eligibility are met. This is true whether the individual person is actively misusing substances or is in recovery. There is no requirement to be in treatment to be eligible for DVR services.

Guidance — Case practice for substance use disorders.

Counseling Issues and Case Practices for individuals with substance use disorders:

~~Therefore, in 2007 DVR revised policy and guidance around this issue to reflect a more individualized approach. In general, DVR counselors cannot should not treat an applicant with a substance use disorder differently or special way than we do for an applicant with another disability or other disabilities. As with any disability group, DVR services for individuals with substance use disorders must be individualized according to their specific needs, goals, challenges, and circumstances.~~

Commented [SB12]: The deleted 1st paragraph is outdated. I revised to reflect current policy and expectations.

~~The above approach does not preclude a DVR counselor from talking with a consumer about taking into account participating in treatment as part of their IPE. This is part of the rehabilitation counseling process. However, if the consumer declines, the DVR counselor should consider whether the applicant is ineligible for services following the procedures set forth in Section IX of this chapter. substance abuse or treatment issues in the rehabilitation counseling process.~~

Commented [SB13]: Not sure this belongs here. The focus is eligibility not IPE development.

Commented [SB14]: Should or must?

Guidance - Substance Use Disorder

~~A applicant presents with For example, a counselor may require a consumer enter treatment or demonstrate a period of abstinence before providing paid services, if he/she presents a history of repeated job loss related to substance misuse. They express no interest in treatment as part of their DVR services. In this instance, the DVR counselor may require the applicant to participate in Trial Work Experiences before determining their eligibility for DVR services. This situation is/would be no different from the DVR counselor considering a history of job loss that was related to an untreated mental illness or physical illness.~~

However, the DVR counselor must assess each person's needs and circumstances on an individualized basis. The DVR counselor must document in the case record why said conditions are necessary for the applicant to prepare for, enter, retain, or advance in employment.

End Guidance.

Section III. Basic Conditions of Eligibility

Requirements for Eligibility

- A. An applicant's eligibility for vocational rehabilitation services shall be based on all of the following requirements:
 - (1) The applicant must be an individual with a disability;

- (2) The disability must constitute or result in a substantial impediment to employment for the applicant, be chronic and persistent, and the benefit of services expected to last at least 6 months; and
- (3) The applicant must require vocational rehabilitation services to prepare for, enter, retain, or advance in, or regain employment.

B. There is no entitlement to vocational rehabilitation services even if the applicant meets all the requirements for services.

C. Even if an applicant meets the basic conditions of eligibility, services can only be started if the applicant meets the Order of Selection criteria. The Rehabilitation Act requires DVR to prioritize services for individuals with the most severe disabilities when vocational rehabilitation services cannot be provided promptly to all individuals eligible for services. The Order of Selection mechanism assures that those with severe disabilities who have more complex needs, and a probable higher cost of services will not be deferred but rather given priority for services. For more information see Chapter 106.

Commented [SB15]: I've rewritten this section to get away from the very long and complex sentence structure in the existing text.

Guidance — Requirements for service.

Conditions resolvable with treatment such as a short-term injury with a good prognosis for recovery — i.e., a broken bone that will heal without permanent disability resulting, staph infection with hospitalization resulting, knee or hip replacement with no complications, etc. — do not meet the eligibility criteria.

An applicant who is an "individual with a disability," as defined in Section 1, may still be ineligible for services if they do not require services to achieve an employment outcome. In this case an applicant has adequate supports, work experience, and skills to achieve their employment goals and there is no substantial impediment to employment, and they do not require services to enter, engage in, regain, retain, or advance in employment.

End Guidance.

Ability to Benefit from DVR Services and Trial Work Experiences

D. It shall be presumed that an applicant can benefit from vocational rehabilitation services unless clear and convincing evidence demonstrates that the applicant is incapable of benefiting from such services in terms of an employment outcome and be successful without long-term supports. This does not change the requirement that an applicant must require vocational rehabilitation services.

C.E. Before making an ineligibility determination due to the severity significant nature of the applicant's disability, the DVR counselor must first explore the applicant's abilities, capabilities, and capacity to perform in realistic work situations, through the use of trial work experiences with appropriate supports. The DVR counselor must develop a written plan to periodically assess the applicant's individual's abilities, capabilities, and capacity

to perform in typical competitive integrated work situations through the use of Trial Work Experiences (TWE). The TWE must be in competitive, integrated employment settings to the maximum extent possible. They must also be consistent with the informed choice and rehabilitation needs of the applicant. Such experiences shall be of sufficient variety and over a sufficient period ~~of time~~ to determine the eligibility of the applicant or to determine the existence of clear and convincing evidence that the applicant is indeed incapable of benefiting in terms of an employment outcome.

(1) "Clear and convincing evidence" means the DVR shall have a high degree of certainty before it can conclude that a person is incapable of benefiting from services in terms of an employment outcome. The "clear and convincing" standard constitutes the highest standard used in our civil system of law and is to be applied on a case-by-case basis. The term "clear" means unequivocal. Clear and convincing evidence must be based on a functional assessment of the individual's ability to benefit from vocational rehabilitation services through realistic employment settings.

D.F. Although there is no required time limit for this determination, the DVR feels that such an exploration ~~can should be able to~~ be completed within 180 days of the end of the usual 60-day limit for eligibility — in other words, within 240 days from the date of application. However, more time may be used if needed. It is suggested that local job developers and supported employment programs, if appropriate, be used to locate suitable work settings.

Commented [SB16]: Presumably the 180 and 240 days referenced here are calendar days. Correct?

E.G. The case record must contain the rationale for believing the applicant may not be able to benefit in terms of an employment outcome, the need for more than the usual sixty (60) days, and how, using integrated work settings, the determination of eligibility may be made.

F.H. If the trial work experience necessitates going past the sixty (60) day limit from application to ~~eligibility determination/certification~~, the case status in the DVR data system ~~must should~~ be adjusted to "06" (extended evaluation) to indicate that a TWE is in progress. No formal individualized plan ~~must be~~ signed by the individual is required. However, the DVR counselor must develop a written plan noting questions or concerns to be resolved during TWE. ~~They also must -and-~~ evaluate and document the information received on each TWE site and compare that against the stated needs.

Commented [SB17]: Still correct term?

Commented [SB18]: Should this be mandatory?

G.I. In any instance when a DVR counselor is considering utilizing status 06, they shall ~~should~~ consult with their Senior Counselor and/or Regional Manager for guidance around this decision and resulting processes. This status may be used when working with an applicant who has been consistently unsuccessful in multiple prior employment efforts with DVR. A ~~TWE trial work experience~~ will help demonstrate what has or has not changed in their situation before moving to a status 10 (Development of IPE). In other cases, a DVR counselor may choose not to use this status and instead advance a medically eligible applicant to status 10 using and use assessments ~~similar to like~~ the ~~TWE trial work experience~~ as a means of empowering the applicant and providing them an opportunity to determine their own ability to move into an Individualized Plan for Employment.

Commented [SB19]: Mandatory?

Presumptive Eligibility for SSDI and SSI Recipients

~~H.J.~~ A recipient of Social Security Disability Insurance (SSDI, aka Title II) or Supplemental Security Income (SSI, aka Title XVI) ~~is shall be~~ considered ~~to be an individual~~ with a significant disability and ~~is shall be~~ presumed ~~to be~~ eligible for services. Signing an application for services shall be considered as the applicant's intent to achieve an employment outcome. Trial work experiences (TWE) cannot be used for an eligibility determination for ~~anyone~~ individuals receiving SSI/SSDI benefits. ~~as they are automatically considered medically eligible by meeting presumptive eligibility.~~

Commented [SB20]: Is this correct? Or is the SSI/SSDI factor demonstrate that they meet the first prong of disability i.e. person with a significant disability?

Commented [SB21]: Do we need the rest of this sentence since we state at the beginning that these individuals are presumed eligible for VR Services?

~~H.K.~~ If a DVR counselor can verify the receipt of SSA benefits via an award letter, copy of deposits from SSA, a Benefit Query or other forms, no additional medical information is needed to find the applicant eligible.

Need for Further Medical Documentation or Functional Data

~~H.L.~~ From a counseling perspective, further medical documentation will almost always be needed to better understand strengths, limitations, accommodation needs and to develop a strong plan for employment. In some cases, a DVR counselor may not be able to proceed with development of an IPE if medical information is not obtained.

For Example: There are serious health consequences that could result from DVR supporting a work goal that is unknowingly in direct opposition to medical recommendations.

~~H.M.~~ If the DVR counselor needs further functional assessment data to make an eligibility determination, they may use a Trial Work Experience, excluding SSI/SSDI beneficiaries.

Section IV. Using Existing Information

A. Existing data, including DVR counselor observation, shall be used whenever possible to expedite the determination of eligibility. Existing information may include medical and psychological records, education records, information provided by the person or their family members, information used by the Social Security Administration, and determinations made by officials of other agencies involved with people with disabilities.

Guidance — Examples of counselor observation.

Examples of DVR counselor observation might include:

- An applicant who is clearly deaf and uses a ASL interpreter.
- An applicant who presents with a significant and observable physical disability.

Guidance — How to solicit and interpret existing information.

Information furnished by the applicant or their family may be very useful in determining eligibility. Such information need not be in writing but may be

responses to pertinent questions such as: "How does your disability affect your ability to work?" and "What types of services do you think you need to get past the disability and get to work?" Information furnished by the applicant also may include their physical presence and/or behaviors as observed by the DVR counselor.

Determination ~~Certification~~ of eligibility may be made immediately based on information furnished by the applicant or a family member if the DVR counselor feels that a disability exists which is a substantial impediment to employment and that the applicant requires services for work. The DVR counselor must then obtain medical information supporting the information used to ~~determine~~ certify the applicant eligible for services. Additional information to develop a good plan of services may be gathered after eligibility has been determined if both the applicant seeking services and the DVR counselor feel it may be helpful.

The rationale for using existing data is to streamline the eligibility process and to expedite access to services. Decisions regarding whether and how specific data are to be used must be made on a case-by-case basis, and while the accuracy and timeliness of existing data are important factors in determining their usefulness, older data can be used if still pertinent.

Information from sources other than education and Social Security officials may be used to expedite the eligibility determination process. Examples are the applicant's personal physician, a previous or current employer, an insurance company, an advocate or representative of the applicant, and any organization or individual suggested by the applicant seeking services. Other sources may include mental health and developmental disabilities agencies, Medicaid and Medicare agencies, Workers' Compensation, and other programs that require that a "disability" be established as a condition for receiving services.

End Guidance.

- B. To the extent existing information does not describe the current functioning of the applicant is unavailable, insufficient, or inappropriate to make an eligibility determination, the DVR counselor ~~must~~ will procure and assess whatever examinations, tests, assessments, etc. (including assistive technology devices/services, trial work experiences, personal assistance services and any other support services) that are necessary to determine whether a person is eligible.

Section V. Factors and Decisions in Determining Eligibility

Determining Primary vs. Secondary Disability

- A. The primary disability impedes function significantly and the secondary disability impedes function to a lesser degree. Function in this case is related to work tasks and work tolerance. This determination is often derived from the applicant's stated

Commented [SB22]: Still, correct? Does AWARE Change this in some way?

experience, but in some cases the DVR counselor may determine the primary disability based on intensity of related service need.

Guidance — Need for primary and secondary disability determination.

Is a Secondary Disability required?

No, the disabling conditions that impact the applicant's person's ability to work should be reflected but there is no requirement to have two conditions listed.

If the medical diagnosis changes, should the Certification Determination of Eligibility/Ineligibility form be amended?

No. The determination of eligibility certification represents the information used to determine the person's initial eligibility for DVR services. That decision -what the person was found eligible for at the time of certification and does not need to be amended if a medical diagnosis changes. Changes in the individual's circumstances and medical condition must should be documented in case notes and updated medical documents.

Commented [SB23]: Must be documented?

Can a diagnosis related to substance use disorder abuse or dependence be used as a source for a primary or secondary disability?

- Substance use abuse or dependence disorder can be used as either a primary or secondary disability depending on how much it impacts the functioning applicant's functioning.
- When determining eligibility certifying for someone with using a substance use disorder abuse diagnosis, consider whether this diagnosis is presenting a current and significant barrier to employment.
- In the instance when someone is in recovery and there are no current barriers to employment, the applicant may still meet eligibility criteria. This may be an example of a priority III case and could be discussed with a Senior Counselor or Regional Manager.

Commented [SB24]: Is the intent here that a person without barriers to employment may still be eligible under priority III?

End Guidance.

Determining Type and Source Based on Impact of Disability

- B. DVR counselors should use their own discretion to determine the type and source based on information they have from observations, medical information, and the applicant's report. First, consider how the disabling condition impacts the applicant and then make an educated determination of which type code is most appropriate. Differentiation based on the person's experience is encouraged.

Commented [SB25]: What does type and source mean? Is it type of disability and source of information?

Guidance

The type and source may be different from one applicant to the next even when the medical diagnosis is the same. Multiple sclerosis could be considered type 10 (mobility orthopedic), type 11 (manipulation/dexterity orthopedic), or type 12 (mobility/manipulation/dexterity orthopedic) depending on the applicant's experience of the neurological disorder. If the applicant's primarily suffers from lack of coordination and muscle stiffness that impairs dexterity, then type 11 is appropriate. If the applicant experiences numbness and weakness in limbs, unsteady gait, and muscle stiffness which impairs mobility then type 10 is appropriate. Also consider which symptoms most impair the applicant ability to work to help determine the most applicable type code.

End Guidance

Determining Functional Capacity

- C. It is important for DVR counselors to consider how the applicant interprets their functional strengths and limitations in relation to their disabling condition. Completing this section of the Certification of Eligibility/Ineligibility Form by determining functional loss based on the applicant's experience is more helpful/accurate than only referring to what is typical of a particular medical diagnosis.

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Guidance

One applicant suffers from depression and states they have difficulty with irritability and bouts of crying but are managing self-care and direction just fine. ~~Another second person~~ suffers from depression and is having difficulty getting out of bed, paying bills, and initiating action. The Functional Capacity section should be completed differently for these two applicants even though the diagnosis is the same.

End Guidance

- D. When considering the applicant's mobility as part of the eligibility determination process~~section of the Certification form~~, DVR counselors need to will determine if mobility limitations are present ~~as a result~~ because of the disabling condition(s).

Commented [SB26]: Not sure whether corrections are appropriate given AWARE.

Guidance

This section is not intended to capture limited mobility because of a criminal suspension or legal limitations. If criminal involvement does impact their access to transportation, this would not be used as an eligibility criterion, but rather an aspect of their plan for employment to assist with this barrier if possible.

End Guidance

Identifying Potential Services on the Certification Form

Commented [SB27]: Is there actually a form? What would the appropriate reference be given AWARE?

D-E. DVR counselors will consider whether:

- (1) ~~The~~ ~~These are services that a~~ DVR counselor believes that services will be required to support the applicant in moving toward employment in addition to counseling and guidance.
- (2) The services checked off ~~must~~~~should~~ be reflected within an eligible individual's IPE to demonstrate support being offered by DVR or in collaboration with a partner agency or community partner.
- (3) ~~Extended~~~~The period of time (6 months or more): If a~~ applicant's need for multiple services and the benefit from the provision of services will not extend for 6 months or more. This would be considered a Priority IV case under Order of Selection. When an eligible individual is placed in a Priority IV, they are not able to receive paid services, which include counseling and guidance, until permission is provided by the State Rehabilitation Council (SRC) and DVR Management on an annual basis.

Section VI. Timeframe for Determining Eligibility

A. The eligibility determination shall be made as soon as possible but no later than sixty (60) days after the person has applied for services. Exceptions to this 60-day timeframe may occur only if:

- (1) Exceptional and unforeseen circumstances beyond the control of the DVR preclude a determination within sixty (60) days and the applicant and the DVR agree to a specific extension of time. In this circumstance, the reason for the delay and the specific date the certification will be completed must be documented in the case record; or
- (2) The DVR counselor ~~believes~~~~feels that~~~~that~~ DVR may not be able to make an eligibility determination within the sixty (60) day timeline due to the severity/significance of the applicant's disability and the need to:
 - a) ~~Determine~~ ~~the person may not be able to~~ ~~whether the applicant can~~ benefit in terms of an employment outcome and implementation of an IPE; ~~and plan~~
 - a) ~~Explore the~~ applicant's abilities, capabilities, and capacity to perform in competitive integrated work settings, including trial work experiences, ~~will exceed the 60 day timeframe.~~
 - b)

Guidance – Timeframes for determining eligibility.

The need to use sixty (60) days to determine eligibility should be rare. In some cases, written information from other sources to determine existence of a disability and ultimate eligibility may not be needed. In the absence of newly written materials from other sources, a DVR counselor may determine that an applicant's disability makes them eligible for services as soon as the initial meeting. This determination may be made in many situations such as the following:

- The applicant has received services on a prior occasion and their record of services remains pertinent, is available, and will become part of the new record; or
- Information from another source adequate to fulfill the eligibility criteria is known to exist, is attainable, and has been requested from that source; or
- The disability is obvious to the DVR counselor (as well as to any other reasonable person).

If medical/psychological data from another source is not in the record, the DVR counselor must describe the functional limitations posed by the disability and how they interfere with gainful work.

End Guidance

(3) If more than sixty (60) days is needed, the record of services must~~should~~ document~~indicate~~:

- a) The reason(s),
- b) The specific date by which the certification will be completed~~completed~~, and
- c) The person agrees to the delay.

Guidance

Determination Certification of eligibility means that an IPE can be developed and that services can begin. Each case may fall into one of three types:

~~(2)~~(4) **Fast Track**

In some situations, the IPE may be written at the same time as eligibility is determined~~certification~~. Those situations are:

- The applicant is known to DVR~~the Division~~, disability-related data are present or easily attainable, and the employment~~vocational~~ goal, services needed, and resources are known and attainable.
- The applicant is new to the DVR, but other features in the example above are the same, and the DVR counselor and individual feel comfortable with proceeding.

~~(3)~~(5) **Plan Development and Implementation**

In some situations, more time is needed for gathering information and for planning. For example:

- The person has acquired a disability and must change jobs but doesn't know how, to what type of job, etc. Aptitude testing, counseling and guidance, and referral to pertinent resources may

Commented [SB28]: This should be policy not guidance.

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be the only services needed to identify a suitable direction and write an IPE.

- The person receives Workers' Compensation and must work through the Workers' Compensation "protocol" for returning to work. An IPE may be written with counseling and guidance re: Workers' Compensation rules and working through the protocol in collaboration with a private rehabilitation worker as the initial service. The IPE may be amended later if necessary.

(4)(6) Information and Extensive Support

In other situations, more time is needed for planning as well as service delivery. *For example:*

- The *applicant* has no work history and very significant disabilities. A series of evaluations and trials will be needed to identify a vocational goal. It is known from the start that long-term involvement may be needed.
- The *applicant* has excellent work and educational histories but has recently become disabled. Although the person may be able to resume *their* former job with accommodations and assistive technology, *they* will likely need multiple services over an extended period of time.

End Guidance.

Section VII. Citizenship Aliens

~~Prior to developing an Individualized Plan for Employment, the aliens must be clarified. An IPE will not be developed with an alien whose visa prohibits work. Also, an illegal alien does not have proper credentials and an IPE cannot be completed; consequently, services will not be provided. DVR services are available to individuals who are U.S. citizens or are eligible non-citizens. Eligible non-citizens are those who are authorized to work in the United States. DVR cannot provide services to an applicant that does not meet these requirements.~~

Commented [SB29]: Under the current administration there is a concerted effort to do away with the terms illegal and aliens. The preferred term for alien is "non-citizen" or "migrant". The term for illegal is now "undocumented". I talked with Rocko obo Barre office and they feel undocumented immigrants is acceptable.

Commented [SB30]: VR needs to consider how this language comports with its practice. Would it be better to state who is eligible rather than who is not in policy?

Section VIII. Data for Service Priority under Order of Selection for Services (OSS)

A. If operating under an order of selection for services (See Chapter 106, "Order of Selection for Services"), the *DVR* shall base its priority assignments on:

1. A review of the data developed to make the eligibility determination; and
2. An assessment of additional data to the extent necessary.

B. **A *an [applicant] [eligible individual]* cannot move to plan status or receive any paid services including counseling and guidance if they are determined eligible in *an OSS Priority Category that is not open* (see Chapter 106, "Order of Selection for Services").**

Commented [SB31]: Which term is correct?

Section IX. Ineligibility Determinations

If the DVR determines that an applicant is ineligible for services or ~~determines that a person receiving services under an IPE is no longer eligible~~, the DVR shall:

Commented [SB32]: Does this clause belong in this chapter. It is covered in Chapter 204.

- A. Make the determination only after providing an opportunity for full consultation with the ~~or applicant or~~, as appropriate, the applicant's representative;
- B. Inform the applicant in writing of their ineligibility (supplemented as needed by other appropriate modes of communication consistent with the informed choice of the person.) ~~The written notice of ineligibility must include: determination, including~~
 1. The reasons for that determination,
 2. The requirements under this section, and
- ~~1. the means by which~~How the person may express and seek remedy for any dissatisfaction, including the procedures for review of a determination by the DVR counselor, by way of mediation, administrative review, and/or fair hearing set forth in Chapter 105)
- C.
- ~~B-D.~~ Provide the applicant with a description of services available from the Client Assistance Program and information on how to contact that program; and
- ~~G-E.~~ Review within twelve (12) months and annually thereafter if requested by the applicant or, if appropriate, by the applicant's representative) any ineligibility determination that is based on a finding that the person is incapable of achieving an employment outcome. This review need not be conducted in situations in which the individual has refused it, is no longer present in the state, whose whereabouts is unknown, or whose medical condition is rapidly progressive or terminal.

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Section X. Closure without Eligibility Determination

The DVR may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in vocational rehabilitation services or is unavailable to complete an assessment for determining eligibility and priority for services, and the DVR has made a reasonable number of attempts to contact the applicant (or, if appropriate, the applicant's representative) to encourage the applicant's participation.