

2. An inability to make a determination that vocational rehabilitation services might benefit the individual in terms of achieving an employment outcome due to the severity of the disability.

(b) The extended evaluation period shall begin on the date of certification for extended evaluation.

1. Only one 18-month maximum period shall be permitted during the time that the case is open.

2. If a case has been closed because of a determination that the individual's needs have changed, the case may be re-opened and a subsequent evaluation of vocational rehabilitation potential may be carried out.

(c) Vocational rehabilitation services, authorized after the expiration of the extended evaluation period, shall be provided only if the certification of eligibility has been executed by the counselor.

(d) The individual's progress during the extended evaluation plan shall be assessed as frequently as necessary but at least once every 90 days. This assessment shall include periodic reports from the facility or person providing the services and be used to determine whether the individual may be eligible or ineligible.

(e) The extended evaluation shall be terminated at any time before the end of the 18-month extended evaluation when:

1. It is determined that the individual with a disability can benefit in terms of an employment outcome from vocational rehabilitation services and thus is found eligible for such services; or

2. The individual is found ineligible for additional vocational rehabilitation services because it has been determined, on the basis of clear and convincing evidence, that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome.

i. A review of existing information generally would not provide clear and convincing evidence. Clear and convincing evidence might include a description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's needs due to the severity of the individual's disability. The demonstration of "clear and convincing evidence" must include, if appropriate, a functional assessment of skill development activities, with any necessary supports (including assistive technology), in real life settings.

Amended by R.1994 d.52, effective February 7, 1994.

See: 25 N.J.R. 5130(b), 26 N.J.R. 813(a).

Amended by R.1997 d.466, effective November 3, 1997.

See: 29 N.J.R. 3696(a), 29 N.J.R. 4695(a).

Added (e)2i.

12:45-1.8 Certification: eligibility; extended evaluation; ineligibility

(a) Before or at the same time that an individual with a disability is accepted for vocational rehabilitation services, there shall be a certification by the counselor that the individual has met the basic eligibility requirements as set forth at N.J.A.C. 12:45-1.4.

1. The certification of eligibility shall be dated and signed by the counselor.

(b) Before and as a basis for providing an extended evaluation to determine vocational rehabilitation eligibility, there shall be a certification by the counselor that the individual has met the requirements at N.J.A.C. 12:45-1.7(a).

1. The certification for extended evaluation shall be signed and dated by the counselor.

(c) Whenever the counselor determines on the basis of clear and convincing evidence that an applicant or recipient of vocational rehabilitation is ineligible for services, the counselor shall sign and date a certification. In cases where it appears that an ineligibility decision will be reached because of the severity of the disability of an individual not yet determined to be eligible, the counselor shall first conduct an extended evaluation.

1. The certification shall contain the following:

i. The reasons for the ineligibility determination;

ii. A statement that the determination is made only after full consultation with the individual or, as appropriate, the individual's parent, guardian, or other representative, or after giving a clear opportunity for this consultation; and

iii. A detailed explanation of the availability of the resources within a client assistance project established under section 112 of the Act, and a statement that referral is made to other agencies and facilities, including when appropriate, the State's independent living program.

2. Applicants shall be informed in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination including the reasons for that determination, and the means by which they may express and seek remedy for any dissatisfaction.

(d) The ineligibility determination shall be reviewed within 12 months and annually thereafter, if requested by the individual, or if appropriate, by the individual's representative, if the determination was based on a finding that the individual was incapable of achieving an employment outcome.

1. A review of an ineligibility determination shall not be conducted in situations where the individual has re-

fused the review, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal.

(e) The counselor may close a case without any determination of eligibility when an applicant is unavailable during an extended period of time to complete an assessment and the counselor has made repeated efforts to contact the individual and to encourage his or her participation.

Amended by R.1994 d.52, effective February 7, 1994.
See: 25 N.J.R. 5130(b), 26 N.J.R. 813(a).
Amended by R.1997 d.466, effective November 3, 1997.
See: 29 N.J.R. 3696(a), 29 N.J.R. 4695(a).
Added (c)2 and rewrote (d).

12:45-1.9 Order of selection for services

(a) In the event a shortage of funds precludes the provision of services to all eligible clients, the Director shall invoke an order of selection.

(b) After documentation of eligibility and execution of Certification of Eligibility, the following priorities will be followed according to the Director's determination of how many priorities can be served. The order of selection is as follows:

1. Clients classified as individuals with a most severe disability;
2. Clients classified as individuals with a severe disability; and
3. All other eligible clients.

(c) A public safety officer whose impairment arose from a disability sustained in the line of duty, and the immediate cause of disability being a criminal act, apparent criminal act, or a hazardous condition resulting from the officer's performance of duties in direct connection with the enforcement, execution, and administration, of law or fire prevention, firefighting, or related public safety activities, will receive services on a priority basis within any of the three priority categories to which he or she is assigned.

(d) If the Division cannot serve every individual within the designated priority group due to the amount of available funds, then the Division will provide services to clients in the order in which they applied for services.

Example: If all individuals with a most severe disability in priority 1 cannot be served due to lack of available funds, then services will be provided to those clients determined to be priority 1, in the order in which they applied for services.

(e) When imposed, the order of selection shall not preclude:

1. Diagnostics necessary to establish a client's eligibility; and

2. Post-employment services.

Amended by R.1994 d.52, effective February 7, 1994.
See: 25 N.J.R. 5130(b), 26 N.J.R. 813(a).

12:45-1.10 Case record for the individual

(a) Each counselor shall maintain for each applicant for, and recipient of, vocational rehabilitation services a case record which shall include, to the extent pertinent, the following information:

1. Documentation concerning the preliminary assessment supporting the determination of eligibility, the need for an extended evaluation, and, as appropriate, documentation concerning the comprehensive assessment supporting the nature and scope of vocational rehabilitation services to be provided;

2. In the case of an individual who has applied for vocational rehabilitation services and has been determined to be ineligible, documentation specifying the reasons for the ineligibility determination, and noting a review of the ineligibility determination carried out not later than 12 months after the determination was made;

3. Documentation supporting any determination that the individual has a severe disability or a most severe disability;

4. Documentation as to periodic assessment of the individual during an extended evaluation;

5. An individualized written rehabilitation program and any amendments to the program;

6. In the event that physical and mental restoration services are provided, documentation supporting the determination that the clinical status of the individual with a disability is stable or slowly progressive unless the individual is being provided an extended evaluation;

7. Documentation supporting any decision to provide services to family members;

8. Documentation relating to the participation by the individual with a disability in the cost of vocational rehabilitation services if the State unit elects to condition the provision of services on the financial need of the individual;

9. Documentation relating to the eligibility of the individual for any similar benefits, and the use of any similar benefits;

10. Documentation that the individual has been advised of the confidentiality of all information pertaining to his or her case, and documentation and other material concerning any information released about the individual with a disability with his or her written consent;

11. Documentation supporting the development of the long-term vocational goal, intermediate rehabilitation objectives, and nature and scope of services included in the individual's IWRP and, for students with disabilities who are receiving special education services, in the student's IEP;

12. In the event that an individual's IWRP provides for services or a job placement in a non-integrated setting, a justification for that non-integrated setting;

13. Documentation of the periodic reviews and evaluations of progress toward achieving intermediate rehabilitation objectives;

14. In the event that an individual obtains competitive employment, verification that the individual is compensated at or above the minimum wage and that the individual's wage and level of benefits are not less than that customarily paid by the employers for the same or similar work performed by non-disabled individuals;

15. Documentation of any plans to provide post-employment services after the employment objective has been achieved, the basis on which these plans were developed, and a description of the services provided and the outcomes achieved; and

16. Documentation concerning any action and decision involving the individual's request for review of rehabilitation counselor or coordinator determinations.

Amended by R.1994 d.52, effective February 7, 1994.

See: 25 N.J.R. 5130(b), 26 N.J.R. 813(a).

Amended by R.1997 d.466, effective November 3, 1997.

See: 29 N.J.R. 3696(a), 29 N.J.R. 4695(a).

Deleted (a)11; inserted new (a)11 through (a)14; and recodified existing (a)12 and (a)13 as (a)15 and (a)16.

12:45-1.11 Individualized written rehabilitation program: procedures

(a) When a counselor determines that an individual is eligible for vocational rehabilitation services, an individualized written rehabilitation program shall be prepared for the individual as soon as the required services are identified and before initiation of services.

(b) The counselor shall develop the individualized written rehabilitation program with the participation of the client or his or her parent, guardian or other representative.

(c) The counselor shall monitor the individualized written rehabilitation program to assure that services are being provided in accord with the written program.

(d) The counselor shall provide a copy of the written program and any amendments to the client or his or her parent, guardian or other representative including other suitable professional and informed advisors.

(e) The counselor shall inform the individual of all the requirements affecting the development, initiation and re-

view of the individualized written rehabilitation program, including the availability of appropriate modes of communication.

(f) In developing an IWRP for a student with a disability who is receiving special education services, the counselor shall consider the student's IEP.

(g) The counselor shall review the individualized written rehabilitation program as often as necessary but at least on an annual basis.

1. Each individual with a disability or, as appropriate, that individual's parent, guardian, or other representative, shall be given an opportunity to review the program and, if necessary, jointly redevelop, and agree to its terms.

Amended by R.1994 d.52, effective February 7, 1994.

See: 25 N.J.R. 5130(b), 26 N.J.R. 813(a).

Amended by R.1997 d.466, effective November 3, 1997.

See: 29 N.J.R. 3696(a), 29 N.J.R. 4695(a).

Inserted new (f); and recodified (f) as (g).

12:45-1.12 Contents of the individualized written rehabilitation program (IWRP)

(a) The individualized written rehabilitation program (IWRP) must contain the individual's name and social security number, along with a statement that he or she has been found eligible for vocational rehabilitation services or that the IWRP is an amendment to an earlier plan. Each IWRP shall include statements concerning:

1. The employment objective of the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities and informed choice of the individual;

2. A rationale for the employment objective which is based on the assessment used to determine eligibility and vocational rehabilitation needs, including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

3. The intermediate rehabilitation objectives related to the attainment of the consumer's goals, determined through assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

4. The specific vocational rehabilitation services to be provided, and the projected dates for the initiation of and the anticipated duration of each service and the projected timeframe for the achievement of the individual's vocational goal;

5. If appropriate, the specific rehabilitation technology services to be provided to assist in the implementation of the individual's intermediate rehabilitation objectives and long-term rehabilitation goals;

6. If appropriate, the specific on-the-job and related personal assistance services to be provided to the client.

and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided;

7. An assessment of the expected need for post-employment services and, if appropriate, an assessment of the need for extended services;

8. At the time of successful closure, the IWRP must reassess the need for post-employment services and, if appropriate, the need for extended services, including a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

9. The objective criteria, the evaluation procedure, and the review schedule to be used in determining whether the stated goals and objectives are being achieved;

10. The terms and conditions under which the goods and services described in the IWRP will be provided to the individual in the most integrated setting, consistent with the informed choice of the individual, and the identity of the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

11. The consideration given to the availability of comparable benefits (similar benefits) to the client or to members of the client's family under any program to meet, in whole or in part, the cost of any vocational rehabilitation services;

12. A description by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate or an authorized representative of the individual) regarding how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services and the methods used to provide or procure such services;

13. The responsibilities of the individual in implementing the individualized written rehabilitation program and the extent of client participation in the cost of services, if any;

14. An assurance that the individual has been informed of that individual's rights and the means by which the individual may express and seek remedy for any dissatisfaction, including the opportunity for a review and fair hearing of rehabilitation counselor or coordinator determinations;

15. An assurance that the individual has been provided a description of the availability of a client assistance program established under section 112 of the Act;

16. The basis on which the individual has been determined to be rehabilitated:

17. If necessary, an amendment specifying the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation and the rights and remedies available to such an individual; and

18. The coordination of services for students with disabilities who are receiving special education services with the IEP.

(b) Each individualized written rehabilitation program shall also contain, for individuals with the most severe disabilities for whom a vocational objective of supported employment has been determined to be appropriate:

1. A description of the time-limited services to be provided by the State; and

2. A description of the extended services needed and an identification of the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available.

Amended by R.1994 d.52, effective February 7, 1994.

See: 25 N.J.R. 5130(b), 26 N.J.R. 813(a).

Amended by R.1997 d.466, effective November 3, 1997.

See: 29 N.J.R. 3696(a), 29 N.J.R. 4695(a).

Inserted (a)18.

12:45-1.13 Vocational rehabilitation services

(a) Vocational rehabilitation services are any goods or services necessary to render an individual with a disability employable, including, but not limited to, the following:

1. An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. Counseling, guidance, and work-related placement services for individuals with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services, and follow-up, follow-along, and specific postemployment services necessary to assist such individuals to maintain, regain, or advance in employment;

3. Vocational and other training services for individuals with disabilities, which shall include personal and vocational adjustment, books, or other training materials, and such services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals, except that no training services in institutions of higher education shall be paid for unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

4. Physical and mental restoration services, including, but not limited to: