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**CHAPTER 3 - ELIGIBILITY**

**Federal Regulations**

- [34 CFR 361.5](#) - Definitions
- [34 CFR 361.36](#) - Order of Selection
- [34 CFR 361.42](#) - Assessment for Determining Eligibility and Priority For Services
- [34 CFR 361.44](#) - Closure without Eligibility Determination

**State Rules**

[5 CSR 20-500](#)

**300 BASIC ELIGIBILITY REQUIREMENTS**

**300.1 Definitions**

**Physical or mental impairment**

- Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; or
- Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

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**Substantial impediment to employment**

- A physical or mental impairment which hinders an individual from preparing for, entering into, engaging in or retaining employment consistent with the individual's abilities and capabilities.

**Employment outcome**

- Entering or retaining full-time or, if appropriate, part-time competitive employment, in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**300.2 Assessment for Determining Eligibility and Disability Priority for Services**

- The counselor must review/assess existing data:
  - To determine if an individual is eligible for services; and
  - To assign Disability Priority under an order of selection for services.
- A review and assessment of existing data may include:
  - counselor observations from the initial interview,
  - medical/psychological/educational records,
  - Social Security benefit documentation,
  - other agency records, and
  - other information provided by the individual or individual's family
- Upon review of the existing data, the counselor should be able to determine the individual's disability(ies), and identify the specific functional limitations resulting from the individual's disability(ies).
- To the extent existing data does not describe the current functioning of the individual, or existing records are unavailable/insufficient, provision of the following services may be provided/authorized to assist the counselor in making a determination of eligibility:
  - assistive technology devices/services
  - personal assistant services
  - trial work experiences
  - any other support services necessary

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### 300.3 Basic Eligibility Requirements

- Determination of an applicant's eligibility for services is based on the following requirements:
  - A physical or mental impairment, as determined by qualified personnel licensed or certified in accordance with state law or regulation,
  - that constitutes or results in a substantial impediment to employment, and
  - requires vocational rehabilitation services to prepare for, secure, retain or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

### 300.4 Presumption of Benefit

- The counselor must presume that an applicant who meets the basic eligibility requirements can benefit from the provision of vocational rehabilitation services in terms of an employment outcome, unless it can be demonstrated by clear and convincing evidence (i.e. high degree of certainty) that the applicant is incapable of benefiting from services due to the severity of the applicant's disability.
- Prior to any determination that an individual with a disability is incapable of benefiting from services, a Trial Work Plan and/or an Extended Evaluation Plan must be developed to explore the individual's abilities, capabilities, and capacity to perform in realistic work situations.

### 300.5 Presumption of Eligibility (Social Security Recipients and Beneficiaries)

- Any applicant who has been determined eligible for Social Security benefits under Title II (SSDI) or Title XVI (SSI-D) of the Social Security Act is:
  - Presumed eligible for VR services
  - Considered an individual with a significant disability
- Presumptive eligibility does not apply to individuals receiving SSI-Aged or SSDI-Survivor Benefits; however, any applicant who has been determined eligible for Social Security benefits under Title II, and **transitions** from SSDI to SS Retirement upon reaching full retirement age, would be presumed eligible.

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- If an applicant indicates they are receiving SSDI or SSI-D benefits, and either cannot provide appropriate documentation, or identify the type of social security benefits received; it is the counselor's responsibility to contact the local social security office to verify this information.

### **300.6 Ineligibility Certification**

- A certification of ineligibility is required when the counselor determines the individual ineligible for any of the following reasons:
  - Disability is too severe, or an unfavorable medical prognosis with clear and convincing evidence (i.e. high degree of certainty)
  - No disabling condition
  - No impediment to employment
- The counselor should make the ineligibility determination only after providing an opportunity for full consultation with the individual or his/her representative.
- The counselor will inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, and the reasons for that determination/potential case closure. Personal contact is the recommended method of contact in addition to the required written notification.
- If the counselor is able to make direct contact with the individual who has been determined ineligible, they should also refer them to:
  - Other programs that are part of the statewide Workforce Investment Career Centers, and/or
  - Local extended employment providers
- The closure letter should include the following:
  - Reason for case closure
  - Individual's right to appeal or request mediation services if dissatisfied with closure decision
  - Description of services available from a Client Assistance Program (CAP)
- If the case is closed because the individual is incapable of achieving an employment outcome due to the severity of his/her disability(ies), the counselor is required to review the ineligibility determination within 12 months and annually thereafter, if requested by the individual or his/her representative.

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### **300.7 Physical or Mental Impairment (Expeditious Review of Records)**

- The counselor should act with a sense of urgency when determining eligibility by making the decision as soon as possible after receipt of information.
- Use existing information and information provided by the individual and individual's family, other programs and providers, as a primary source for eligibility.
- When the individual is receiving SSI /SSDI, document proof of benefit was obtained and that it was used to presume eligibility.
- Request (release of information forms) the minimum amount of medical documentation necessary to determine eligibility.
- In those rare instances in which additional information is needed to establish eligibility, the counselor may schedule and authorize the appropriate examination(s).

### **300.8 Substantial Impediment to Employment**

- Once the counselor has reviewed the medical records and determined the disabling conditions and resulting functional limitations, a direct correlation between the disability(ies), functional limitations and impediment to employment should be established.
- Consider how the individual's disability(ies) affects his/her ability to:
  - Obtain, retain or prepare for employment
  - Perform job tasks associated with past and/or current employment
- The impediment to employment should be identified, and addressed as appropriate, throughout the vocational planning process and case closure.

### **300.9 Requires Services to Reach an Employment Outcome**

- Once the counselor has identified the disabling condition(s), resulting limitations, and substantial impediment to employment, consider/document how services will benefit the individual's employability by determining:
  - The services needed to help the individual obtain/return to employment
  - The objective evidence in the case folder to support these services

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- The counselor is responsible for the determination of eligibility, completion of the Eligibility Determination, and individual notification of the eligibility decision.

### **300.10 Procedure**

- The counselor will request an extension if eligibility cannot be determined within 60 days of the individual's application for services. Eligibility extension requires the following documentation be obtained **prior to** the 60th day:
  - Reason for extension and time frame needed to determine eligibility
  - Verbal permission from individual with follow-up letter, or
  - Written permission from individual via extension letter
  - Complete the Eligibility Determination Extension
- If trial work and/or extended evaluation is needed to determine if the individual can benefit from VR services:
  - Complete Disability Priority (must be Most Significantly Disabled)
  - Complete Trial Work Experience Plan and/or Extended Evaluation Plan
  - Evaluate individual's progress as specified in the Trial Work Experience and/or Extended Evaluation Plan
- Once eligibility has been determined:
  - Complete Eligibility Determination
- If individual is assigned a Disability Priority category currently being served:
  - Complete/send eligibility appointment letter
- If individual is assigned a Disability Priority category not currently being served due to insufficient funds:
  - Complete/send wait list letter
- If individual is not eligible for services, or a decision has been reached to close the individual's case prior to eligibility determination:
  - Complete/send appropriate closure letter

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## 310 SIGNIFICANTLY DISABLED (SD) CLASSIFICATION

### 310.1 SD Classification Definitions

#### Category I - Individual with the Most Significant Disability (MSD):

- An individual with a significant disability, who is seriously limited in **three or more** of the following functional capacity areas:
  - Self-Care
  - Communication
  - Mobility
  - Self-Direction
  - Work Tolerance
  - Work Skills
  - Interpersonal Skills

#### Category II - Individual with a Significant Disability (SD):

- An individual with a disability who has a severe physical or mental impairment that seriously limits **one or more** functional capacity areas (listed above) in terms of an employment outcome;
- Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- Who has one or more physical or mental disabilities or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.
- An applicant who is determined eligible for Social Security Benefits Title II (SSDI) or Title XVI (SSI-D) of the Social Security Act is considered, at minimum, and individual with a significant disability. This does not apply to individuals receiving SSI-A or SSDI-Survivor Benefits.

#### Category III - Individual with a Disability:

- Any individual with a physical or mental impairment,
- Whose impairment constitutes or results in a substantial impediment to employment; and

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- Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

### **310.2 SD Classification Form/Procedure**

- The functional limitations selected must be expected to be permanent, ongoing, and seriously limiting with respect to employment.
- Comments should be made to clarify the endorsement of any functional limitation which is not clearly documented in the case file.
- Information contained in the eligibility determination, application documentation/initial interview case note, and medical, psychological, or academic records must substantiate how the disability/functional limitations create an impediment to employment.
- Complete Disability Priority in association with the Eligibility Determination and mail appropriate eligibility letter.

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## 320 ORDER OF SELECTION – DISABILITY PRIORITY CATEGORIES

### 320.1 Order of Selection and Disability Priority Categories – Guidance

- In the event vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State of Missouri, Vocational Rehabilitation (VR) will implement a statewide Order of Selection.
- In accordance with the following Disability Priority Categories, individuals with the most significant disabilities will be selected first for the provision of Vocational Rehabilitation services. Services shall be provided based upon the eligible individual’s placement in one (1) of the following Disability Priority categories:
  - **Disability Priority Category I:** An individual with the most significant disability.
  - **Disability Priority Category II:** An individual with a significant disability.
  - **Disability Priority Category III:** An individual with a disability.
- An eligible individual will:
  - Be placed in the appropriate Disability Priority category;
  - Receive written notification of the assigned Disability Priority category; and
  - Be notified of his/her right to appeal his/her category assignment.
- An eligible individual’s placement in a Disability Priority category is decided at eligibility. If additional information is received after the determination of eligibility which would indicate his/her qualification for a higher Disability Priority category, document such information in a case note in the case management system. If this move to a higher Disability Priority category results in the need to release the client from the waiting list, submit a request to Central Office Field Operations for the release.
- Rationale for Disability Priority category placement must be documented.
- The order of selection or closing of a Disability Priority category shall in no way affect:
  - The provision or authorization of diagnostic and evaluation services needed to determine eligibility
  - The eligible individual’s access to services provided through VR’s information and referral system

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- Services already authorized or provided to any eligible individual
- The provision of Post-Employment Services
- Eligible individuals who are in a Disability Priority category not currently being served shall be provided the following:
  - Referral to other appropriate Federal and State programs, including the statewide Workforce Investment Career Centers that offer short term training programs and/or job placement assistance.
  - A notice of the referral to the agency carrying out the program, and
  - Information identifying a specific point of contact within the agency to which the individual is being referred

### **320.2 Procedure**

- The counselor should complete Disability Priority identifying the Disability Priority Category to which the individual has been assigned and determine eligibility.
- Once eligibility and Disability Priority category are determined, send the individual appropriate written notification of eligibility including his/her assigned Disability Priority category.
- If the individual is determined eligible, and assigned to a Disability Priority Category not currently being served, send eligibility letter to include the following information:
  - Eligibility Determination
  - Disability Priority Category Assignment
  - Individual's right to appeal, and information on Client Assistance Program (CAP)
  - Referral to Workforce Investment Career Centers/other agencies to meet the individual's needs
- To maintain a current waiting list, the following practices should be followed:
  - Every six months the counselor should attempt phone contact with the client and/or client's contact numbers, and the outcome of that contact should be documented in the case folder.
  - If unable to contact by phone, the category review letter requesting a response should be mailed to the client, and
    - If the client indicates he/she wants to remain on the waiting list, the above process will be repeated every 6 months.



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## **330 TRIAL WORK EXPERIENCES AND/OR EXTENDED EVALUATION**

### **330.1 Procedure**

- Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services due to the severity of that individual's disability, the counselor must obtain clear and convincing evidence (i.e. high degree of certainty) that the client cannot benefit from services in terms of an employment outcome.
- In order to obtain clear and convincing evidence (i.e. high degree of certainty), conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic/integrated work situations using trial work experiences and/or extended evaluations which include trial work experiences.
- If the counselor determines that trial work experiences and/or extended evaluation is needed for individuals who are determined Most Significantly Disabled (MSD), the following tasks are required:
  - Determine Disability Priority
  - Develop a written Trial Work Experiences Plan and/or Extended Evaluation Plan with the client.
  - If services are being purchased, complete the appropriate authorization in accordance with the written plan.
  - Follow up as outlined in the written plan.
  - Provide additional diagnostic services as needed.