



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Services for the Blind

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The purpose is to provide vocational rehabilitation services to blind citizens of Washington state, with the goal of competitive employment outcomes. The changes to rule are necessary to:

- Comply with revisions to the federal Rehabilitation Act of 1973 as it currently exists or is hereafter amended.
- Comply with rule changes to the Revised Code of Washington (RCW) 74.18.

Citation of existing rules affected by this order: WAC 67-25

Repealed: Repeals and revises WAC series pertaining to extended evaluation due to changes in statute and establishment of a new rule "trial work experience"; and repealing of one WAC pertaining to an administrative review to match RCW and revising WAC pertaining to fair hearing to include mediation as an option. Amended: Changes definition of "blind person" to match RCW.

Statutory authority for adoption: (RCW) 74.18

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-03-116 on January 19, 2005.

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: April 4, 2005

NAME (TYPE OR PRINT)

Ellen Drumheller

SIGNATURE

TITLE

Rules Coordinator

CODE REVISER USE ONLY

COMMERCIAL OFFICE
STANDARDIZATION

APR 11 2005

1146

TIME _____

WSR 05-08-097

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	<u>1</u>	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	<u>1</u>

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	<u>49</u>	Repealed	<u>14</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	<u>1</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-005 Definitions. (1) "Act" or "the law," except when context indicates otherwise, means the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.), as amended.

(2) "Applicant" means an individual who has submitted to the department an application or letter requesting vocational rehabilitation services in accordance with WAC 67-25-010.

(3) "Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

(4) "Assessment" means one or more of the following as appropriate in each case:

(a) ~~((A preliminary))~~ An assessment to determine eligibility of an individual with a disability for vocational rehabilitation services in accordance with WAC 67-25-020;

(b) ~~A comprehensive ((vocational)) assessment ((of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and needs, including the need for supported employment services, in the most integrated setting possible, consistent with the individual's informed choice. The assessment will be used to determine, with the individual, the employment objective to be achieved, and a detailed plan of services needed to attain an employment outcome;~~

~~(c) An extended evaluation, for a total period not exceeding eighteen months, if there is a question about the applicant's ability to benefit in terms of an employment outcome from vocational rehabilitation services due to severity of the disability;~~

~~(4))~~, in accordance with WAC 67-25-255, to determine with the individual the employment outcome to be achieved, and a detailed plan of services needed to obtain the employment outcome;

(c) Assignment for order of priority, in accordance with WAC 67-25-460, if the department is unable to serve all eligible individuals;

(d) Trial work experience and extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, if there is a question about the applicant's ability to benefit in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(5) "Blind person" means a person who:

(a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision;

(b) Has an eye condition of a progressive nature which may lead to blindness; or

(c) Is blind for purposes of the business enterprise program in accordance with RCW 74.18.200.

(6) "Client assistance program (CAP)" means a program, authorized under ((Section 112 of)) the act, which assists individuals with disabilities to receive vocational rehabilitation services by providing information and advocacy.

~~((5) "Community rehabilitation program" means a program that provides directly or facilitates the provision of one or more vocational rehabilitation services which enable individuals with disabilities to maximize opportunities for employment, including career advancement. Services include:~~

~~(a) Medical, psychiatric, psychological, social, and vocational services provided under one management;~~

~~(b) Testing, fitting, or training in the use of prosthetic and orthotic devices;~~

~~(c) Recreational therapy;~~

~~(d) Physical and occupational therapy;~~

~~(e) Speech, language and hearing therapy;~~

~~(f) Psychiatric, psychological and social services, including positive behavior management;~~

~~(g) Assessment for determining eligibility and vocational rehabilitation needs;~~

~~(h) Rehabilitation technology;~~

~~(i) Job development, placement, and retention services;~~

~~(j) Evaluation or control of specific disabilities;~~

~~(k) Assessment and training in adaptive skills of blindness;~~

~~(l) Extended employment;~~

~~(m) Psychosocial rehabilitation services;~~

~~(n) Supported employment services and extended services;~~

~~(o) Services to family members when necessary for the vocational rehabilitation of the participant;~~

~~(p) Personal assistance services; or~~

~~(q) Services similar to those described in (a) through (p) of this subsection.~~

~~(6) "Competitive employment" means work that:~~

~~(a) In the competitive labor market is performed on a full-time or part-time basis in an integrated setting; and~~

~~(b) For which an individual is compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.~~

~~(7) "Department of services for the blind" means the legal authority in its entirety:~~

~~(a) "Advisory council" means the members appointed by the governor as the vocational rehabilitation advisory council.~~

~~(b) "Department" means the agency which carries out the~~

~~operations of the Washington department of services for the blind.~~

~~(8)) (7) "Competitive employment" means work:~~

~~(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and~~

~~(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.~~

~~(8) "Customer" means any individual with a disability:~~

~~(a) Who has been found eligible for vocational rehabilitation services from the department; and~~

~~(b) For whom services have not been denied or terminated by the department.~~

~~(9) "Department" means the Washington department of services for the blind.~~

~~(10) "Director," except when the context indicates otherwise, means the director of the department of services for the blind.~~

~~((9) "Eligible" or "eligibility certification," when used in relation to an individual's qualification for vocational rehabilitation services, means a certification that:~~

~~(a) The individual is legally blind or has a visual impairment which alone or combined with other disabilities results in a substantial impediment to employment; and~~

~~(b) Vocational rehabilitation services are required for the individual to prepare for, enter, engage in, or retain gainful employment.~~

~~(10) "Employment outcome" means entering or retaining:~~

~~(a) Full-time or, if appropriate, part-time competitive employment (including supported employment) in the integrated labor market;~~

~~(b) Self-employment;~~

~~(c) Business enterprises;~~

~~(d) Homemaking;~~

~~(e) Farm or family work (including work for which payment is in kind rather than in cash);~~

~~(f) Extended employment; or~~

~~(g) Other employment consistent with the participant's abilities, capabilities, interests, and informed choice, as supported by an assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257-))~~

~~(11) "Eligible individual" means an applicant for vocational rehabilitation services who meets eligibility requirements in accordance with WAC 67-25-030.~~

~~(12) "Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment (WAC 67-25-436), or any other type of employment in an integrated setting, including self-employment, telecommuting, business enterprises, or business ownership, that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. This definition also includes employment as a~~

homemaker and employment as an unpaid family worker in accordance with procedures to be established by the department for determining the applicability of these outcomes for eligible individuals.

(13) "Employment service provider" means a program that provides directly or facilitates the provision of one or more vocational rehabilitation services, which enable individuals with disabilities to maximize opportunities for employment, including career advancement. Services include:

- (a) Medical, psychiatric, psychological, social, and vocational services provided under one management;
- (b) Testing, fitting, or training in the use of prosthetic and orthotic devices;
- (c) Recreational therapy;
- (d) Physical and occupational therapy;
- (e) Speech, language and hearing therapy;
- (f) Psychiatric, psychological and social services, including positive behavior management;
- (g) Assessment for determining eligibility and vocational rehabilitation needs;
- (h) Rehabilitation technology;
- (i) Job development, placement, and retention services;
- (j) Evaluation or control of specific disabilities;
- (k) Assessment and training in adaptive skills of blindness;
- (l) Extended employment;
- (m) Psychosocial rehabilitation services;
- (n) Supported employment services and extended services;
- (o) Services to family members when necessary for the vocational rehabilitation of the customer;
- (p) Personal assistance services; or
- (q) Services similar to those described in (a) through (p) of this subsection.

(14) "Extended employment" means work in a nonintegrated or sheltered setting for a public or private agency or organization that provides compensation in accordance with the Fair Labor Standards Act. The department will only support extended employment as an intermediate step toward competitive employment.

(15) "Individual with a disability" for purposes of this chapter means an individual who:

- (a) Has a physical or mental impairment which results in a substantial impediment to employment; and
- (b) Can benefit in terms of an employment outcome from vocational rehabilitation services.

~~((12) "Individual with a severe disability" means an individual:~~

- ~~(a) Who has a severe 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;~~
- ~~(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and~~
- ~~(c) 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, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, 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.~~

~~(13) "Individual's representative" means a parent, guardian, family member, advocate, or other representative authorized by the participant.~~

~~(14)) (16) "Individual's representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.~~

~~(17) "Informed choice" means the process by which an individual receiving vocational rehabilitation services from the department makes decisions about rehabilitation goals and the services and service providers necessary to reach those goals. Informed choice places primary responsibility for action and decision making with the individual, with support of a vocational rehabilitation counselor. Individuals have a right to make informed choices relating to:~~

~~(a) Assessment services in accordance with WAC 67-25-020, 67-25-255, and 67-25-257;~~

~~(b) Options for developing the individualized plan for employment in accordance with WAC 67-25-260;~~

~~(c) Vocational rehabilitation services and service providers in accordance with WAC 67-25-350; and~~

~~(d) Employment outcome and work setting.~~

~~(18) "Integrated setting" means a setting typically found in the community in which an individual with a disability, including those with the most ((severe)) significant disabilities in accordance with WAC 67-25-060, interact((s)) with nondisabled individuals, other than service providers, to the same extent that nondisabled individuals in comparable settings interact with other persons.~~

~~((15) "Legal blindness" means a physical impairment defined as:~~

~~(a) Central visual acuity of 20/200 or less in the better eye with correcting lenses; or~~

~~(b) A field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than 20°.~~

~~(16) "Medical consultant" means a physician, licensed pursuant to chapters 18.57 and 18.71 RCW, employed by the department to provide consultation to vocational rehabilitation counselors and rehabilitation teachers concerning the medical aspects of~~

rehabilitation, usually reviewing and discussing medical problems of individual participants.

~~(17) "Ophthalmic consultant" means a physician, licensed pursuant to chapters 18.57 and 18.71 RCW specializing in diseases of the eye, employed by the department to provide consultation to vocational rehabilitation counselors and rehabilitation teachers regarding procedures and prognosis relating to eye conditions.~~

~~(18) "Participant" means any individual with a disability:~~

~~(a) Who has applied for vocational rehabilitation services from the department, and~~

~~(b) For whom services have not been denied or terminated by the department.~~

~~(19) "Physical or mental impairment" means an injury, disease, or other disorder that materially reduces, or if not treated will probably result in materially reducing, mental or physical functioning. The term "physical impairment" includes legal blindness and/or visual impairment.~~

~~(20) "Rehabilitation teacher" (RT) means an employee of the department who has responsibility to:~~

~~(a) Provide or supervise the provision of all vocational rehabilitation services to participants with a vocational objective of homemaker, and~~

~~(b) Provide adaptive skills of blindness assessment and training to all vocational rehabilitation participants as needed.~~

~~(21) "Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.~~

~~(22)) (19) "Residence" or "residency" means, for purposes of this chapter, voluntarily living in the state for other than temporary reasons at the time of application.~~

~~((23) "Special modes of communication" means specialized media systems for individuals with disabilities including:~~

~~(a) Interpreters, open and closed captioned videos, and use of specialized services such as telecommunication devices and relay services for individuals who are deaf or hearing impaired,~~

~~(b) Materials in Braille, large print, or audio recordings for individuals who are blind, and~~

~~(c) Special materials for individuals who are deaf-blind.~~

~~(24)) (20) "Statewide workforce investment system" means a system described in section 111 (d) (2) of the Workforce Investment Act of 1998.~~

(21) "Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication and other related factors) ((which impedes an individual's occupational performance, by hindering or by preventing him or her from obtaining, retaining, or preparing for)) hinders an individual from preparing for, entering into, engaging in, or retaining employment

consistent with ~~((his or her capacities and abilities))~~ the individual's abilities and capabilities.

~~((25)) "Visual impairment" for purposes of this chapter, means a physical condition defined as follows:~~

~~(a) Visual acuity in the best eye between 20/200 and 20/70 with correction; or~~

~~(b) Angle of vision subtends between 20° and 30°, or~~

~~(c) Severe functional visual problem; or~~

~~(d) A progressive condition which ultimately will lead to a visual impairment or to legal blindness.~~

~~((26))~~ (22) "Vocational rehabilitation counselor" ~~((VRC))~~ means ~~((an))~~ a qualified employee of the department who has direct responsibility for providing or supervising the provision of all ~~((vocational))~~ rehabilitation services to ~~((a participant))~~ customers.

~~((27))~~ (23) "Vocational rehabilitation services" means any goods or services necessary for a ~~((participant))~~ customer to achieve an employment outcome ~~((See))~~ provided in accordance with WAC 67-25-350 ~~((for description and limitations.))~~.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-010 Application for services. (1) Any individual who is ~~((legally))~~ blind ~~((or who has a visual impairment))~~, as defined in WAC 67-25-005, may apply for vocational rehabilitation services, including any individual who has previously applied for, has previously received, or has previously been denied such services.

(2) Any individual who is ~~((legally))~~ blind ~~((or who has a visual impairment))~~ seeking to obtain vocational rehabilitation services from the department shall submit a written letter or application for services to the department, or shall request vocational rehabilitation services on an intake form at a WorkSource center operated under the statewide workforce investment system.

(3) The written letter or application for services shall be signed and dated by the individual requesting services or, if appropriate, by the individual's representative, and shall include:

(a) The applicant's name and address;

(b) The applicant's disability; and

(c) The applicant's Social Security number.

(4) The department shall not provide vocational rehabilitation services to any individual who has failed to submit a signed ~~((7))~~ and dated letter or application containing the above information.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-015 Initial interview. (1) An applicant for vocational rehabilitation services shall be interviewed personally by a vocational rehabilitation counselor (~~or other appropriate staff member as soon as possible~~) within ten working days upon receipt of an application by the department.

(2) The interviewer shall:

(a) Explain to the applicant the nature and operation of the vocational rehabilitation program as it relates to the applicant;

(b) Specifically inform the applicant of the right to appeal any eligibility decision made by the department on his or her behalf through (~~Administrative appeal in accordance with WAC 67-25-560;~~) mediation and fair hearing in accordance with WAC 67-25-570 (~~and judicial review~~);

(c) Inform the applicant of his or her right of confidentiality of information possessed by the department and conditions for its release in accordance with WAC 67-25-550;

(d) Provide to the applicant a description of client assistance program services; and

(e) Obtain information from the applicant necessary to determine his or her eligibility for vocational rehabilitation services in accordance with WAC 67-25-020 and 67-25-030.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-020 ((Preliminary)) Assessment for eligibility determination. (1) ((A preliminary)) An assessment shall be conducted for each applicant to determine whether:

(a) The individual is ((legally)) blind ((or has a visual impairment)) as defined in WAC 67-25-005, which alone or combined with other disabilities results in a substantial impediment to employment; and

(b) Vocational rehabilitation services are required for the ((individual)) applicant to prepare for, enter, engage in, or retain an employment outcome consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) If the department is operating under an order of priority, in accordance with WAC 67-25-460, the assessment must also include information to be used for determination of priority for service.

(3) The ((preliminary)) assessment shall, to the maximum extent possible, be based on a review of existing data in accordance with confidentiality requirements in WAC 67-25-550. The assessment shall, where appropriate, include information provided by the ((individual)) applicant or the ((individual's)) applicant's

family, education records, information used by the Social Security Administration, ~~((and))~~ determinations made by other agencies, and observations of the vocational rehabilitation counselor and other appropriate staff members.

~~((3))~~ (4) To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, the assessment may include provision of vocational rehabilitation services necessary to determine whether the ~~((individual))~~ applicant is eligible. Services provided for this purpose may include trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070. The department will provide assistance to the applicant, if necessary, to assure that the applicant is prepared to make an informed choice in the selection of services needed to make an eligibility decision.

~~((4))~~ (5) The ~~((preliminary))~~ assessment must include an appraisal of the current visual condition and prognosis of the applicant based on ophthalmological or optometric findings.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-025 Eligibility for services. (1) The department shall determine whether an individual is eligible for vocational rehabilitation services within sixty days after receipt of an application for services, unless ~~((~~

~~((a) The department notifies the individual that))~~, exceptional and unforeseen circumstances beyond the control of the department preclude completion of the determination within sixty days, ((and the individual agrees that an extension of time is warranted, or

~~((b) An extended evaluation as described in WAC 67-25-070 is required to determine eligibility))~~ in which case, the department will notify the applicant.

(2) The ~~((department shall utilize results of the preliminary assessment and))~~ applicant must agree to an extension of eligibility determination or, must agree to participate in trial work experience or extended evaluation ((if required) to determine)) in accordance with WAC 67-25-065 and 67-25-070. If the applicant does not agree to an extension of the eligibility determination or does not agree to participate in trial work experience or extended evaluation, the applicant will be determined ineligible for vocational rehabilitation services and the case service record will be closed in accordance with WAC 67-25-055.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-030 Eligibility for services--Criteria. (1) Eligibility shall be based only upon ~~((evidence))~~ determination by a vocational rehabilitation counselor that:

~~((a))~~ (a) The individual is ~~((legally))~~ blind ~~((or has a visual impairment))~~, as defined in WAC 67-25-005~~((, which))~~;

~~((b))~~ (b) The blindness alone or combined with other disabilities constitutes or results in a substantial impediment to employment; and

~~((b))~~ ~~((c))~~ (c) Vocational rehabilitation services are required for the individual to prepare for, enter, engage in, or retain an employment outcome consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) Any applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act and meets the criteria in subsection (1)(a) of this section is presumed eligible for vocational rehabilitation services and is considered to be an individual with a significant disability as defined in WAC 67-25-060.

(3) If an individual is blind, and the individual's disability results in a substantial impediment to employment, it shall be presumed that ~~((an))~~ the individual ~~((with a disability))~~ can benefit in terms of an employment outcome from vocational rehabilitation services, unless, the department can demonstrate by clear and convincing evidence, in accordance with WAC 67-25-065, that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the ~~((severity))~~ significance of his or her disability.

~~((3))~~ (4) Eligibility requirements are applied without regard to the race, color, sex, religion, national origin, creed, marital status, or age of the applicant.

~~((4))~~ (5) No individual or group of individuals shall be found ineligible solely on the basis of the type of disability.

~~((5))~~ (6) No individual shall be found ineligible based on requirements for duration of residence.

~~((6))~~ (7) No individual shall be found ineligible solely on the basis of lack of U.S. citizenship. However, before the department will pay for vocational rehabilitation services, including assessment services, the applicant must provide copies of documents requested by the department that verify his or her immigration and naturalization status, and verify his or her identity. If the applicant is not a United States citizen, his or her legal work status must also be verified. The department will provide services, including assessment services, only to applicants who meet at least one of the following conditions: United States citizenship; permanent residency status in the United States; or when a valid work permit has been issued.

~~((7))~~ (8) Eligibility requirements are applied without regard to the particular service needs or anticipated cost of

services required by an applicant or the income level of an applicant or applicant's family.

~~((+8))~~ (9) An individual who is blind or who has a visual ~~((problem))~~ disability which does not result in an impediment to employment, but who may have other disabilities which might result in impediments to employment, may be referred to other service providers or may be provided services through a cooperative plan with other service providers, such as, division of vocational rehabilitation, division of developmental disabilities, and WorkSource centers established under the statewide workforce investment system.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-050 Certification for decision of eligibility ~~((or ineligibility))~~. ~~((+1))~~ There shall be a certification of eligibility if the ~~((individual))~~ applicant meets the requirements specified in WAC 67-25-030. The certification shall be dated and signed by ~~((the))~~ a vocational rehabilitation counselor ~~((or other appropriate staff member.~~

~~(2) If the individual is determined ineligible for vocational rehabilitation services, there shall be a certification of ineligibility which shall be dated and signed by the vocational rehabilitation counselor or other appropriate staff member).~~

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-055 Eligibility determination--Notice to applicant.

(1) The applicant shall be notified in writing, using ~~((special))~~ appropriate modes of communication ~~((or)), and in~~ the individual's native language if necessary, of the action taken on eligibility or ineligibility.

(2) The ~~((individual))~~ applicant shall be advised of the right to appeal any eligibility decision made by the department ~~((on his or her behalf))~~ concerning the applicant including: The procedure ~~((for administrative review in accordance with WAC 67-25-560,))~~ to request mediation and fair hearing in accordance with WAC 67-25-570; and ~~((judicial review-))~~ a description of client assistance program services ~~((shall also be provided)).~~

(3) If ~~((the))~~ an applicant is determined ineligible for vocational rehabilitation services, the notice shall clearly specify how he or she failed to meet the eligibility criteria set

forth in WAC 67-25-030.

(4) If the applicant is determined eligible for vocational rehabilitation services, the notice shall clearly specify the date of eligibility certification.

(5) If the vocational rehabilitation counselor determines that an applicant is not eligible for vocational rehabilitation services, the rehabilitation counselor will provide the individual with information and referral to other agencies or organizations that may provide services to meet the individual's employment related needs.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-056 Ineligibility determination--Review. (1) After twelve months, and annually thereafter, if requested by the individual or by the individual's representative, the department shall ((initiate)) complete a review of an ineligibility determination ((within twelve months)) that is based on a finding that the individual is incapable of achieving an employment outcome, unless:

- (a) The individual has refused the review;
- (b) The individual is no longer present in the state; or
- (c) His or her whereabouts are unknown.

(2) ((Ineligibility determinations not requiring a review shall include a clear statement as to why the case does not require a review.

(3) If services have been provided under an individualized written rehabilitation program, in accordance with WAC 67-25-260, a determination of ineligibility based on evidence that the individual is incapable of achieving an employment outcome, in accordance with WAC 67-25-280, shall be reviewed annually if requested by the individual, or if appropriate, the individual's representative.

(4)) The individual, or if appropriate, the individual's representative, shall be given an opportunity to participate in any review and reconsideration of eligibility.

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

WAC 67-25-060 Criteria for ((the severely handicapped)) significant disability and most significant disability. ((A severely handicapped individual is a handicapped individual.)) (1) An individual with a significant disability is an individual:

(a) Who has a severe physical or mental disability which seriously limits his((/)) or her functional capacities (mobility, communication, self-care, self-direction, work tolerance or work skills) in terms of ((employability)) achieving an employment outcome; ((and

(2)) (b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

((+3)) (c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia and end-stage renal disease, or other disability or combination of disabilities determined on the basis of an ((evaluation)) assessment of rehabilitation ((potential)) needs to cause comparable substantial functional limitation.

(2) An individual with a most significant disability is an individual:

(a) Who has three or more functional limitations (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) related to employment; and

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

NEW SECTION

WAC 67-25-065 ✓ Trial work experience. (1) Trial work experience is a process of providing assessment and related vocational rehabilitation services to an applicant with significant disabilities, for the limited purpose of collecting information necessary to make an eligibility determination, if there is concern that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability.

(2) Trial work experience will be provided for a customer in an individualized plan for employment, if necessary, to assess his or her capability to continue benefiting, in terms of an employment outcome, from vocational rehabilitation services due to the significance of his or her disability.

(3) Trial work experience allows the individual to explore his or her abilities, capabilities, and capacities to perform in a realistic work situation, while addressing identified barriers to employment through the provision of appropriate vocational

rehabilitation services, including supported employment, on-the-job training, rehabilitation technology and personal assistance services in order to accommodate the rehabilitation needs of the individual during the trial work experience.

(4) A written plan, including periodic assessments, must be developed to determine the individual's abilities, capabilities, and capacities, to perform in work situations through use of trial work experiences. The individualized plan for employment, developed in accordance with WAC 67-25-260, must be inactivated while the individual is involved in the trial work experience.

(5) Trial work experience may take place more than once and may extend as long as necessary to determine that:

(a) There is sufficient evidence that the individual can benefit from vocational rehabilitation services and achieve an employment outcome, and is eligible to receive or to continue to receive vocational rehabilitation services; or

(b) There is clear and convincing evidence (a high degree of certainty) based on functional and situational assessments, that the individual cannot benefit from vocational rehabilitation services and achieve an employment outcome, due to the significance of his or her disability, and is not eligible or no longer eligible for vocational rehabilitation services.

(6) If a trial work experience is provided, it must occur in a variety of work environments, include an appropriate range of tasks, must occur in the most integrated settings possible and be consistent with the individual's informed choice and rehabilitation needs.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-070 Extended evaluation. (1) If an applicant or customer with significant disabilities is unable to participate in a trial work experience or if options for trial work experience have been exhausted before the vocational rehabilitation counselor is able to make the determination of eligibility, an extended evaluation must be conducted. The purpose of the extended evaluation is ((the process of providing assessment and related vocational rehabilitation services to an applicant for the limited purpose of)) to obtain information necessary to make an eligibility ((determination, if there is concern that the individual is incapable)) decision or to determine if trial work experience can be utilized. Extended evaluation involves provision of one or more vocational rehabilitation services designed to assess whether the applicant or customer is capable of benefiting ((in terms of an employment outcome)) from or capable of continuing to benefit from vocational rehabilitation services ((due to the severity of his or her disability. Extended evaluation is provided only when an

~~eligibility determination can not be made within the usual procedure)) in terms of an employment outcome.~~

(2) A written plan, including periodic assessments, must be developed to determine the individual's abilities, capabilities, and capacities, to perform in work situations through the use of extended evaluation. The individualized plan for employment developed in accordance with WAC 67-25-260, must be inactivated while the individual is involved in extended evaluation. Only those services considered necessary for making the eligibility or continuing eligibility decision may be provided. Vocational rehabilitation services provided during extended evaluation must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the applicant or customer.

(3) Extended evaluation shall be terminated when the department has sufficient information to make the eligibility or continuing eligibility decision.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-077 Certification ((for)) of trial work experience or extended evaluation ((to determine an individual's ability to benefit in terms of an employment outcome from vocational rehabilitation services)). ((1) Prior to, and as a basis for providing an)) If an applicant or customer is offered an opportunity for trial work experience or extended evaluation ((to determine an individual's ability to benefit in terms of an employment outcome from vocational rehabilitation services)) in accordance with WAC 67-25-065 or 67-25-070, there shall be a certification ((that the individual meets)) of eligibility ((criteria)) for the services specified ((in WAC 67-25-075)). The certification shall be dated and signed by ((the)) a vocational rehabilitation counselor ((or other appropriate staff member.

~~(2) The participant shall receive written notification of the eligibility determination for extended evaluation using special modes of communication or the individual's native language if necessary.~~

~~(3) The participant shall be advised of the right to appeal any decision made by the department on his or her behalf, including: The procedure for administrative review)). A copy will be given to the individual with information regarding appeal rights, in accordance with WAC ((67-25-560, fair hearing in accordance with WAC)) 67-25-570((7)), and ((judicial review. A description of)) information about the client assistance program ((services shall also be provided)) (CAP).~~

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-255 Comprehensive assessment. (1) To the extent possible, current data including: That provided by the customer and his or her family; information available from other programs and providers such as schools and the Social Security Administration; and information utilized for the determination of eligibility, must be used to determine the employment outcome and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment, in accordance with WAC 67-25-260. If additional data is necessary, there ~~((shall))~~ must be a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capacities, interests, informed choice, and the need ~~((s of the participant))~~ for supported employment services of the customer conducted in the most integrated setting possible ~~((, consistent with the informed choice of the individual))~~.

(2) The comprehensive assessment must be limited to information necessary to identify the rehabilitation needs and develop the ~~((rehabilitation program))~~ individualized plan for employment with the individual, and may, if necessary, include:

(a) A comprehensive analysis of pertinent medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors affecting the employment and rehabilitation needs of the individual;

(b) An analysis of the individual's personality, interests, interpersonal skills, intelligence and related functions, educational achievements, work experience, vocational aptitudes, personal ~~((and social))~~, cultural, environmental, and recreational adjustments, and employment opportunities;

(c) ~~((An appraisal of the individual's patterns of))~~ Work in a real job situation or use of other available data to evaluate or develop work behaviors and capacities necessary to achieve an employment outcome. This includes an appraisal of the customer's pattern of work behaviors and identification of services needed to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance;

(d) Assessment of the need for the provision of rehabilitation technology ~~((services to an individual with a disability))~~ to develop the capacities of the individual to perform in a work environment, including in an integrated setting, to the maximum extent feasible ~~((7))~~, consistent with the individual's informed choice.

(3) ~~((The comprehensive assessment shall, to the maximum extent possible and appropriate, be based on existing information provided by the individual and by the individual's family in accordance with confidentiality requirements.))~~ Information pertaining to conditions or circumstances, such as criminal record, INS identity and work status that restricts the type of employment

the customer can legally perform must be disclosed to the department prior to development of the individualized plan for employment.

(4) If a customer desires an employment outcome in a field that customarily requires a background check as a condition of employment, the department must obtain a criminal history background check verifying that the customer is not excluded from employment in the field or specific job prior to development of the individualized plan for employment.

(5) If the department becomes aware of a condition or circumstance that may affect the customer's ability to achieve an employment outcome after the individualized plan for employment has been developed, the vocational rehabilitation counselor will conduct necessary assessment services, including trial work experience or extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, to determine whether the customer is capable of achieving the employment outcome identified in the individualized plan for employment.

(6) If a customer declines to authorize the release of information or to participate in vocational rehabilitation services necessary to collect pertinent information for development of an appropriate individualized plan for employment, the vocational rehabilitation counselor will close the case service record.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-257 Assessment--Adaptive skills of blindness. (1) ((There shall be an)) As a part of the assessment to determine vocational rehabilitation service needs, there must be a determination of each individual's use of and ability to benefit from adaptive skills of blindness. Rehabilitation objectives and service needs identified with the ((individual)) customer during this assessment process shall be incorporated into the individualized ((written rehabilitation program)) plan for employment.

(2) Adaptive skills of blindness assessment include, as appropriate in each case:

- (a) Communications, including braille and keyboarding;
- (b) Personal management;
- (c) Orientation and mobility;
- (d) Home management;
- (e) Activities of daily living;
- (f) Personal adjustment to blindness, and ((/or)) if applicable, adjustment to other disabilities;
- (g) Ability to benefit from rehabilitation technology; and
- (h) Use of residual vision and ability to benefit from low vision devices and related training.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-260 Individualized (~~written rehabilitation program~~) plan for employment. (1) The individualized (~~written rehabilitation program~~) plan for employment is a written agreement that documents important decisions made between the customer and a vocational rehabilitation counselor concerning the customer's employment outcome including, responsibilities agreed upon by the department and the customer, and the vocational rehabilitation services to be provided.

(2) The customer must be actively involved in developing the individualized plan for employment including making meaningful and informed choices about the selection of the employment outcome, intermediate objectives, the vocational rehabilitation services provided, service providers, settings, and methods of procuring services.

(3) The employment outcome the customer chooses must be consistent with the information and results of the assessment of the individual's vocational rehabilitation needs.

(4) The department supports customers to achieve an employment outcome as defined in WAC 67-25-005. If a customer chooses another type of employment outcome, the department will, to the extent possible, refer the customer to other programs or organizations that may offer the type of employment that the customer desires.

(5) The individualized plan for employment must be agreed upon and signed by the customer, or as appropriate, the individual's representative, and a vocational rehabilitation counselor.

(6) The individualized plan for employment shall be designed to achieve the employment (~~objective~~) outcome of the (~~participant~~) customer consistent with the unique strengths, resources, priorities, concerns, abilities, (~~and~~) capabilities, and interests of the individual. To the extent possible, consistent with the informed choice of the individual, the (~~program~~) plan shall include placement in an integrated setting.

(~~2~~) (7) The (~~program~~) plan shall include:

(a) The individual's long-term (~~vocational goal~~) employment outcome based on the assessment for determining vocational rehabilitation needs and the career interests of the individual;

(b) Specific and measurable intermediate rehabilitation objectives to achieve the (~~vocational goal~~) employment outcome, based on the assessment for determining vocational rehabilitation needs;

(c) Specific vocational rehabilitation services to be provided to achieve the intermediate rehabilitation objectives;

(d) Projected initiation dates and the anticipated duration of each service;

(e) Objective criteria, and an evaluation procedure and schedule to determine whether goals and objectives are being achieved;

(f) The views of the individual, in the words of the individual, or, as appropriate, in the words of the individual's representative, describing how he or she was informed about and involved in choosing among alternative goals, objectives, services, providers, and methods used to procure or provide services, including alternatives in integrated settings;

(g) How, to the maximum extent possible, information will be provided to the individual, or if appropriate, to the individual's representative, in his or her native language ~~((or))~~ if necessary, and using ~~((special))~~ appropriate modes of communication;

(h) Terms and conditions for provision of vocational rehabilitation services, including:

(i) Responsibilities ~~((of the individual in implementing the program))~~ the customer has agreed to, including steps the customer will take to achieve the employment outcome, and services the customer agrees to apply for and use that are available at no cost from another program;

(ii) The extent to which goods and services shall be provided in integrated settings, consistent with the informed choices of the individual;

(iii) The extent to which comparable services and benefits, in accordance with WAC 67-25-360, are available to the individual under any other program;

(iv) The entity or entities that will provide services and the process and setting to be used to provide or procure services;

~~((i))~~ (v) Assessment of the ~~((expected))~~ need for post-employment services ~~((and, if appropriate, extended services, including provision for reassessment of these needs)), in accordance with WAC 67-25-444, prior to closing the ~~((individual's successful rehabilitation))~~ case service record, of a customer who has achieved an employment outcome and, if appropriate, a statement of how post-employment services are to be arranged or provided using comparable services and benefits, in accordance with WAC 67-25-360;~~

~~((j))~~ (vi) Information regarding the right to appeal any decision made by the department on behalf of the individual ~~((by the department))~~ including the procedure for ~~((administrative review))~~ mediation, fair hearing, and judicial review, in accordance with WAC 67-25-570;

~~((k))~~ (vii) A description of client assistance program services; and

~~((l))~~ (viii) The basis on which the individual is determined to have achieved an employment outcome.

(8) An individualized plan for employment that includes a supported employment outcome, in accordance with WAC 67-25-436 must also document:

(a) The supported employment services to be provided by the department;

(b) Extended services or natural supports that are likely to be needed;

(c) The source of extended services or, to the extent that it is not possible to identify the source of extended services when the plan is developed, a description of the basis for concluding that there is a reasonable expectation that those sources will become available;

(d) A goal for the number of hours per week the customer is expected to work and a plan to monitor the customer's progress toward meeting that expectation;

(e) A description of how the services on the individualized plan for employment are to be coordinated with other individualized plans established under other federal or state services;

(f) If job skills training is provided, the individualized plan for employment must reflect that the training is provided on-site; and

(g) Placement in an integrated setting for the maximum number of hours possible based on the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the customer.

(9) Transition students who are determined eligible for vocational rehabilitation services must have an individualized plan for employment prior to leaving school. An individualized plan for employment for a transition student who is receiving special education services should be coordinated, to the extent possible, with the individualized education plan of the individual in terms of identified goals, objectives, and services.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-270 Individualized ~~((written rehabilitation program))~~ plan for employment--Participation of the ((individual)) customer. (1) A customer or, as appropriate, the individual's representative may develop all or part of the individualized ((written rehabilitation program (IWRP) shall be jointly developed, agreed upon, and signed by)) plan for employment:

(a) ((The participant, or as appropriate, the participant's representative; and)) Independently, without any assistance from the department or another entity;

(b) ((The)) With assistance from a vocational rehabilitation counselor ((or other appropriate staff members)) employed by the department;

(c) With assistance from a vocational rehabilitation counselor who is not employed by the department but who meets the minimum qualifications for a vocational rehabilitation counselor as established by the department; and

(d) Other resources such as a representative, family member, advocate, or other individual.

(2) ((Participants must take an active role in their own

~~rehabilitation programs, including making meaningful and informed choices about the selection of vocational goals, intermediate objectives, the vocational rehabilitation services they receive, service providers, and methods of procuring services.)~~ The department shall provide, as appropriate to each customer, information to assist the individual or the individual's representative in developing the individualized plan for employment, including:

(a) Information describing the full range of components that must be included in an individualized plan for employment;

(b) Information on assistance available for completing required forms; and

(c) Additional information that the customer requests or the department determines to be necessary for development of the individualized plan for employment.

(3) The department will provide assistance to customers who choose to develop their individualized plan for employment with someone other than a department vocational rehabilitation counselor, and will identify individuals, to the extent possible, who may be of help in that process. However, the department will not pay fees or other expenses associated with obtaining assistance from such individuals.

(4) Substantive changes to the ((IWRP)) individualized plan for employment must ((also)) be jointly made and agreed upon by the ((participant)) customer and ((staff members)) the department vocational rehabilitation counselor.

~~((4))~~ (5) A copy of the individualized ((written rehabilitation program)) plan for employment and copies of any revisions and ((addendums)) amendments shall be provided ((in)), using appropriate ((alternative format, in the individual's native language)) modes of communication, to the ((participant)) customer or, as appropriate, to the individual's representative.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-275 Individualized ((written rehabilitation program)) plan for employment--Annual review. (1) The individualized ((written rehabilitation program)) plan for employment shall be reviewed as necessary but at least annually. The ((participant)) customer, or if appropriate, the individual's representative, shall be given an opportunity to review the ((program)) plan and jointly redevelop and agree to its terms.

(2) ((The)) Services shall be modified as needed and incorporated into the ((program)) plan.

(3) If ((the vocational objective of the participant changes)) it is determined that the employment outcome of the customer will be changed, the new ((program)) plan shall not take effect until

agreed upon and signed by the ((participant)) customer, or if appropriate, the individual's representative, and the vocational rehabilitation counselor.

(4) If a ((participant's)) customer's vision is restored so that he or she is not ((legally)) blind ((or has no visual impairment, and)), as defined in WAC 67-25-005, further services shall be limited to those identified in an assessment of vocational rehabilitation service needs in accordance with WAC 67-25-255. If ((he or she)) the customer has ((no)) other ((disability)) disabilities, which result((s)) in an impediment to employment, ((further services shall be limited to those already identified in)) the ((individualized written rehabilitation program)) individual will be referred to the appropriate organization for assistance.

(5) The individualized plan for employment review may be conducted with a qualified vocational rehabilitation counselor who is not employed by the department. However, in such cases, the department vocational rehabilitation counselor shall have final signature authority on the review and any changes to the plan.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-280 Individualized ((written rehabilitation program)) plan for employment--Termination due to ineligibility.

(1) The services under an individualized ((written rehabilitation program)) plan for employment shall be terminated if it is determined, based on clear and convincing evidence in accordance with WAC 67-25-065, that the individual is incapable of achieving ((a vocational goal)) an employment outcome and is therefore ((not)) no longer eligible for vocational rehabilitation services.

(2) A decision to terminate the ((program)) plan shall only be made with participation of the ((individual)) customer, or as appropriate, the individual's representative.

(3) The views of the ((individual)) customer, or the individual's representative, concerning the decision shall be documented in the ((program)) plan.

(4) Rationale for the decision must be documented as part of the ((program)) plan including any assessment results from a trial work experience or extended evaluation in accordance with WAC 67-25-065 and 67-25-070.

(5) When ((an individual)) a customer is determined ineligible for vocational rehabilitation services, there shall be a ((certification,)) written notification dated and signed by the vocational rehabilitation counselor ((or other appropriate staff member,)) placed in the ((individual's file)) customer's case service record, and a copy shall be provided to the customer or to the individual's representative.

(6) The ((participant)) customer shall be notified of the opportunity for review and reconsideration of the decision ((within twelve months)) in accordance with WAC 67-25-056.

(7) The individual will be provided with a description of services and a referral to other programs available from the statewide workforce investment system, including information about services available at a local WorkSource center, that may address the individual's training or employment related needs, and will be referred to local extended employment providers if the ineligibility determination is based on a finding that the individual is incapable of achieving an employment outcome.

(8) Upon termination, the customer, or as appropriate, the individual's representative, will be informed in writing, using appropriate modes of communication and the individual's native language if necessary, of the right to appeal any eligibility decision made by the department on his or her behalf through mediation and fair hearing in accordance with WAC 67-25-570. The customer shall also be provided information on services available from the client assistance program.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-284 Individualized ((~~written rehabilitation program~~)) plan for employment--Termination for reasons other than ineligibility. (1) Vocational rehabilitation services provided under an individualized ((~~written rehabilitation program~~)) plan for employment shall be terminated prior to completion if a ((participant)) customer:

(a) Has died;

(b) Cannot be located by the department after reasonable efforts to do so;

(c) Has been institutionalized under circumstances which preclude provision of services for a substantial or indefinite period of time;

(d) Has moved to another jurisdiction and the department is unable to continue provision of services;

(e) Declines to accept or utilize vocational rehabilitation services after reasonable efforts have been made to encourage participation.

(2) A decision to terminate services for any reason described in subsection (1) of this section does not require a review and reconsideration ((within)) after twelve months pursuant to WAC 67-25-056.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-325 Services available from other agencies. Vocational rehabilitation funds shall not be expended to purchase services for a ((participant)) customer when another agency has primary responsibility for providing the needed service.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-350 Vocational rehabilitation--Services provided. Based on the vocational rehabilitation needs of each ((eligible participant shall be provided)) customer, the department will make the following vocational rehabilitation services ((, identified during the preliminary and comprehensive vocational assessments,)) available to assist the customer in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice ((, necessary for the individual to achieve an appropriate employment outcome. Services may include)):

((1)) Assessment ((to determine the individual's skills, abilities, interests, priorities,)) for determining eligibility in accordance with WAC 67-25-020, and order of priority for services in accordance with WAC 67-25-460;

((2)) Assessment for determining vocational rehabilitation needs ((, and how these relate to selection of meaningful employment)) in accordance with WAC 67-25-255 and 67-25-257;

((+2)) (3) Vocational rehabilitation counseling and guidance including information and support services to assist an individual in exercising informed choice in accordance with WAC 67-25-380;

((+3)) (4) Referral and related services to help ((participants)) the individual secure needed services from other agencies, including other partners in the statewide workforce investment system and referral to the client assistance program;

((+4)) (5) Physical and mental restoration services in accordance with WAC 67-25-384;

((+5)) (6) Vocational and other training in accordance with WAC 67-25-388, 67-25-390, 67-25-394, 67-25-396, and 67-25-398, subject to limitations in WAC 67-25-360;

((+6)) (7) Maintenance related to the provision of vocational rehabilitation services in accordance with WAC 67-25-400;

((+7)) (8) Transportation ((in connection with)) related to the provision of vocational rehabilitation services in accordance with WAC 67-25-404;

((+8)) (9) Services to family members in accordance with WAC 67-25-408;

~~((9))~~ (10) Interpreter and ~~((note-taking))~~ translation services ~~((for individuals who are deaf and tactile interpreting services for individuals who are deaf-blind))~~ in accordance with WAC 67-25-412;

~~((10))~~ (11) Reader~~((/driver))~~ services in accordance with WAC 67-25-408;

~~((11))~~ (12) Assessment and training in adaptive skills of blindness in accordance with WAC 67-25-257 and 67-25-398;

~~((12) Recruitment and training services to develop new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other public service employment in accordance with WAC 67-25-440;))~~

(13) Job search and placement assistance, and job retention services in accordance with WAC 67-25-440;

(14) Supported employment services in accordance with WAC 67-25-436;

(15) Personal assistance services, including training in managing, supervising, and directing these services in accordance with WAC 67-25-418;

(16) Post-employment services in accordance with WAC 67-25-444;

(17) Occupational licenses, tools, equipment, initial stocks, and supplies in accordance with WAC 67-25-448;

(18) Rehabilitation technology and telecommunications services in accordance with WAC 67-25-448;

(19) Transition services for students in accordance with WAC 67-25-399;

(20) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome; and

(21) Other goods and services necessary for the ~~((participant))~~ customer to achieve an employment outcome in accordance with WAC 67-25-452.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-360 Vocational rehabilitation services--Comparable services and benefits. (1) Consideration of comparable services and benefits is required by Section 101 (a)(8) of the act. Therefore, this section prevails over all other sections describing conditions under which vocational rehabilitation services shall be provided.

(2) Comparable services and benefits include((s)) any

financial or other resource for which a ((participant)) customer is legally qualified, or entitled, or meets the criteria for obtaining without undue contingencies. The resource must be an organized, ongoing form of service provision or financial assistance, whether public or private. It must be free or may require a deductible, co-insurance feature, token payment or personal claim.

(3) ((Participants)) Customers are required to apply for and accept comparable services and benefits which they are entitled to receive before vocational rehabilitation funds can be expended, except as provided in subsections (5) and (6) of this section.

(4) The vocational rehabilitation counselor((s—and rehabilitation teachers have)) has an obligation to inform ((participants)) customers of known sources for comparable services and benefits and shall assist with application for these services when necessary.

(5) The following services are provided without consideration of comparable services and benefits:

(a) Assessment in accordance with WAC 67-25-020, 67-25-055 and 67-25-057;

(b) Counseling and guidance in accordance with WAC 67-25-380;

(c) Referral;

(d) ((Vocational and other)) Training services including ((personal and vocational adjustment)) work skills building and work readiness training, books, and other training materials((except that no training in institutions of higher education (universities, colleges, community colleges, vocational schools, technical institutes, or hospital schools of nursing) shall be paid for with vocational rehabilitation funds unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for training)) in accordance with WAC 67-25-388, 67-25-394, 67-25-396, 67-25-398;

(e) Placement services in accordance with WAC 67-25-440;

(f) Rehabilitation technology services in accordance with WAC 67-25-448;

(g) Services listed in (a) through (f) of this subsection as post-employment services in accordance with WAC 67-25-444.

(6) Determination of comparable services and benefits shall not be required if:

(a) Utilization of such a service would delay provision of vocational rehabilitation services to an individual determined to be at extreme medical risk, based on medical evidence provided by ((an appropriate,)) a qualified medical professional, indicating a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously; or

(b) An immediate job placement would be lost due to a delay resulting from utilization of comparable services and benefits.

(7) The following services may be provided only after consideration of comparable services and benefits:

(a) Physical and mental restoration services in accordance with WAC 67-25-384;

(b) Maintenance in accordance with WAC 67-25-400;

(c) Transportation in accordance with WAC 67-25-404;

- (d) Services to family members in accordance with WAC 67-25-408;
- (e) ~~Interpreter and ((note-taking services for individuals who are deaf and tactile interpreting services for individuals who are deaf-blind))~~ translation services in accordance with WAC 67-25-412;
- (f) Reader services in accordance with WAC 67-25-416;
- (g) Training at institutions of higher education in accordance with WAC 67-25-388 and 67-25-390;
- (h) Supported employment services in accordance with WAC 67-25-436;
- (i) Personal assistance services in accordance with WAC 67-25-418;
- (j) Post-employment services, in accordance with WAC 67-25-444, except as specified in subsection (5) of this section;
- (k) Occupational licenses, tools, equipment, initial stocks and supplies in accordance with WAC 67-25-448;
- (l) Transition services for students in accordance with WAC 67-25-299;
- (m) Other goods and services not specified in this section.
- (8) Consideration of comparable services and benefits shall be documented in the ((participant's)) customer's case services record ((of services. Documentation)) and shall include sources of assistance considered, whether the ((participant)) customer applied, acceptable reasons for failure to apply, outcome of application, and basis for the decision to expend vocational rehabilitation funds for services described in subsection (7) of this section.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-380 Vocational rehabilitation services--Counseling and guidance. (1) ~~((Counseling and guidance is a necessary component of vocational rehabilitation to help each participant develop work skills, a strong self-image, and the adaptive skills of blindness needed to achieve an employment outcome.~~

~~(2))~~ Counseling and guidance services, based on needs of the ((participant)) individual, shall be available throughout all phases of the rehabilitation process to assist the participant with:

(a) Adjustment to blindness and other disabilities; understanding the importance of developing and using adaptive skills of blindness; and, identifying strategies to overcome negative social attitudes regarding disability;

(b) Identifying his or her unique strengths, resources, priorities, concerns, abilities, and capabilities related to planning for and achieving an employment outcome;

(c) Identifying and overcoming potential barriers to achieving

an employment outcome including ~~((impairment))~~ disability-related, personal, and social factors;

(d) Selecting ~~((a vocational goal))~~ an employment outcome consistent with his or her abilities, capabilities, and interests;

(e) Obtaining and utilizing resource information to make meaningful and informed choices regarding selection of vocational rehabilitation goals, objectives, services, and providers;

(f) Overcoming potential barriers and achieving an employment outcome through development of skills such as: Study and work habits; grooming; management of finances; preparation for job interviews and tests; self-advocacy; and effective interpersonal relationships.

~~((+3+))~~ (2) Counseling and guidance services may also be provided to:

(a) Assist family members to effectively participate in the rehabilitation process;

(b) Assist prospective employers to develop positive attitudes regarding hiring and accommodating individuals who are blind ~~((or visually impaired))~~.

~~((+4+))~~ (3) Counseling and guidance shall be provided without consideration of comparable services and benefits ~~((pursuant to))~~ in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-384 Vocational rehabilitation services--Physical and mental restoration services. (1) Physical and mental restoration services shall be provided to a ~~((participant))~~ customer under an individualized ~~((written rehabilitation program))~~ plan for employment when the vocational rehabilitation counselor ~~((or rehabilitation teacher, in consultation with the medical or ophthalmic consultant as appropriate,))~~ determines that such services are likely, within a reasonable period of time, to substantially correct or modify a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment for the ~~((participant))~~ customer.

(2) All authorized physical and mental restoration services shall be provided by qualified ~~((physicians, dentists, or other health professionals licensed in the state))~~.

(3) When receiving physical and mental restoration services, the ~~((participant))~~ customer may choose the physician or other health professional and appropriate facilities ~~((from those licensed in the state))~~. Service providers and facilities ~~((may, but are not required to,))~~ should, to the maximum extent appropriate, be selected from those who will accept reimbursement in accordance with the Washington State Department of ~~((Social))~~ Labor and ~~((Health Services))~~ Industries Schedule of Maximum

Allowances and Program Descriptions.

(4) Physical and mental restoration services may be provided to ~~((a participant))~~ an applicant or customer during ~~((extended evaluation))~~ trial work experience or extended evaluation, in accordance with WAC 67-25-065 and 67-25-070, if it is necessary to stabilize or halt progression of a chronic illness for purposes of determining eligibility or continued eligibility.

(5) Physical and mental restoration services include but are not limited to:

- (a) Surgical and therapeutic treatment;
- (b) Diagnosis and treatment for mental or emotional disorders;
- (c) Dental treatment;
- (d) Nursing services;
- (e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;
- (f) Convalescent or nursing home care;
- (g) Drugs and supplies;
- (h) Prosthetic, ~~((orthoptic))~~ orthopedic or other assistive devices;

(i) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by qualified medical practitioners;

- (j) Podiatry;
- (k) Physical therapy;
- (l) Occupational therapy(~~(7~~
- ~~(m) Medical or medically-related social work services;~~
- ~~(n) Speech or hearing therapy;~~
- ~~(o) Special services for the treatment of individuals with end-stage renal disease, including transplantation and dialysis, artificial kidneys, and supplies;~~
- ~~(p) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment)).~~

(6) Physical and mental restoration services shall be provided only after consideration of comparable services and benefits except as specified in WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-388 Vocational rehabilitation services--General training provisions. (1) The individualized ~~((written rehabilitation program))~~ plan for employment may include any organized form of instruction providing the knowledge and skills necessary for a ~~((participant))~~ customer to perform competitively

in an occupation and achieve an employment outcome. Knowledge and skills may be acquired through training in an institution, on the job, by correspondence, by tutors, or through a combination of these methods. Training may be given for any occupation, except as prohibited in subsection (2) of this section.

(2) Article IX of the Washington state Constitution forbids use of public funds to assist an individual in the pursuit of a career or degree in theology or related areas.

(3) Programs or schools used to provide training shall ~~((generally))~~ be limited to those which are accredited, licensed, or approved either by a legal authority, or are recognized as adequate by the professional or trade group with which they are associated.

(4) The department may provide books, tools and other training materials and shall periodically establish guidelines for determining the provision of these services.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-390 Vocational rehabilitation services--Training--Institutions of higher education. (1) Training at a university, college, community college, vocational school, technical institute, or hospital school of nursing may be provided if necessary to achieve the employment ~~((objective))~~ outcome agreed upon by the ~~((participant))~~ customer and vocational rehabilitation counselor except as prohibited in accordance with WAC 67-25-388.

(2) No training or training services in institutions of higher education shall be ~~((funded in accordance with WAC 67-25-360))~~ paid for with vocational rehabilitation funds unless the customer has applied for financial aid and other grant assistance from other sources to pay for the training in whole or in part. If the customer has applied for financial aid and is waiting for the results, and denial of training funds by the department would result in interruption or delay of the progress of the customer toward achieving his or her employment outcome, the vocational rehabilitation counselor may pay training costs on an interim basis until the results of the financial aid application is known.

(3) ~~((Participants))~~ A customer may attend private or out-of-state institutions of higher education in preparation for an employment outcome; however, financial assistance shall be limited to the tuition amount at the University of Washington or the actual cost, whichever is less. Exceptions may be made when required training is not available, or if other significant factors preclude the ~~((participant))~~ customer from attending an available training program at a public institution of higher education in the state.

(4) The department may provide financial assistance to a ~~((participant))~~ customer wishing to obtain a post-graduate degree

when the training is necessary to achieve the individual's employment ((objective)) outcome. However, financial assistance shall not be provided to a ((participant)) customer pursuing a graduate program for the sole purpose of achieving upward mobility unless it can be determined that the customer is not currently employed in work that is consistent with his or her unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and the individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment of this nature.

(5) A ((participant)) customer receiving training at an institution of higher education must meet established scholastic standards required by the program ((of his or her choice)). If the ((participant's)) customer's grades fall below minimum standards, it shall be necessary, through assessment, counseling, and planning with the ((participant)) customer, to revise the individualized ((written rehabilitation program)) plan for employment including the possible selection of a new employment ((objective)) outcome.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-394 Vocational rehabilitation services--Training--On-the-job. (1) On-the-job training (OJT) is training service((s)) an employer provides to a customer, after the individual is placed in a job, to assist the customer to learn the skills needed to perform the work. On-the-job training may be provided ((when necessary)) as a vocational rehabilitation service to achieve the ((participant's)) customer's employment ((objective)) outcome.

(2) OJT services shall be provided as a program of organized training resulting in employment of the customer, giving ((a participant)) the individual the opportunity to learn an occupation under actual conditions of commercial, industrial, or other on-the-job employment. The department will pay for the training costs, and the employer is responsible for costs related to employment.

(3) OJT services shall be provided to a ((participant)) customer only when the vocational rehabilitation counselor establishes that the following conditions have been ((or shall be)) met:

(a) The training program has been prepared in advance and outlined in detail;

(b) The ((participant's)) customer's training will follow a definite schedule of specified operations, instructions, and practices which will insure well-rounded preparation for the ((participant's)) customer's selected occupation;

(c) A mutual understanding has been reached between the trainee--((participant)) customer, the trainer--employment training provider, and the vocational rehabilitation counselor regarding the

((participant's)) customer's employment training plan including: Length of the training period; financial arrangements; and operations and skills to be learned;

(d) The employer agrees to closely supervise the ((participant's)) customer's work and shall submit regular reports on the ((participant's)) customer's progress and performance to the vocational rehabilitation counselor;

(e) The training program meets any requirements for licensing in the trade or occupation in which the ((participant)) customer is to be employed;

(f) The employment training program for the ((participant)) customer is acceptable to other employees of the training provider.

(4) A business or industrial establishment utilized by the department to provide OJT services shall:

(a) Have personnel qualified with appropriate knowledge, skills, and personality to provide instruction;

(b) Have sufficiently diversified operations and adequate, suitable materials and equipment to insure a trainee thorough preparations and training within the scope and limits of his or her occupational objective;

(c) Ensure that training ((VR-participants)) vocational rehabilitation customers is only incidental to the business activity of the facility;

(d) Ensure that the training program shall be consistent with the informed choice of the customer, and designed to assist him or her to achieve an employment outcome in an integrated setting.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-396 Vocational rehabilitation services--Training--
((Vocational adjustment)) Work skill building. (1) ((Vocational adjustment)) Work skill building and related employment training services may be provided to a ((participant)) customer through ((a community rehabilitation program)) an employment service provider. This option may be appropriate if a ((participant)) customer is not ready for, or does not wish to receive training in an integrated setting.

(2) ((Vocational adjustment)) Work skill building training may be provided to assist the ((participant)) customer with:

(a) Understanding the meaning, value, and demands of work;
(b) Developing appropriate attitudes, habits, and work behaviors; and ((/or))

(c) Developing functional capacities necessary to achieve an optimum employment outcome.

(3) Prior to provision of ((vocational adjustment training)) work skill building, there shall be an assessment of the individual's patterns of work behavior, and the services needed for

him or her to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, social skills, and behavior patterns suitable for successful job performance.

(4) (~~Vocational adjustment training~~) Work skill building shall meet the following criteria:

(a) The training program shall be outlined in detail and agreed upon by the ((participant)) customer, or if appropriate, his or her representative, the vocational rehabilitation counselor, and the ((community rehabilitation program)) employment service provider, and shall include: Anticipated length of training; methods to be used; and objectives to be achieved.

(b) The training program shall, consistent with the informed choice of the ((participant)) customer, be designed to assist him or her to achieve an employment outcome in an integrated setting.

(c) The ((community rehabilitation program)) employment service provider agrees to ((assess)) closely supervise the ((participant's)) customer's training and submit regular reports on the customer's progress and ((shall submit reports)) performance to the vocational rehabilitation counselor.

(d) The ((community rehabilitation program)) employment service provider is certified by the department of social and health services division of vocational rehabilitation to provide ((vocational adjustment)) work skill building training.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-398 Vocational rehabilitation services--Training--Adaptive skills of blindness. (1) Adaptive skills of blindness are those skills necessary for individuals who are blind ((or visually impaired)) to function independently ((in-as)), distinguished from the vocational skills necessary to perform a specific occupation. Adaptive skills include:

- (a) Communications, including Braille and keyboarding;
- (b) Personal management;
- (c) Orientation and mobility;
- (d) ((Personal)) Adjustment to blindness;
- (e) Home management;
- (f) Activities of daily living;
- (g) Use of rehabilitation technology; and
- (h) Use of residual vision and related devices.

(2) Training in adaptive skills of blindness shall be provided to a ((participant)) customer in accordance with standards established by the department for instruction of the specific adaptive skill.

(3) Training in adaptive skills of blindness may be provided to a ((participant)) customer under an individualized ((written rehabilitation program)) plan for employment in accordance with WAC

~~((67-25-080 and))~~ 67-25-260, or during the assessment to determine rehabilitation needs in accordance with WAC 67-25-257.

(4) The department ~~((shall))~~ may operate and maintain an orientation and training center as a structured setting to provide assessment and training in adaptive skills of blindness for ~~((participants))~~ customers.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-399 Vocational rehabilitation services--Transition services for students. (1) Transition services are a coordinated set of outcome-based activities ~~((which directly))~~ for blind students, age fourteen to twenty-one, designed to facilitate ~~((the smooth and efficient movement of a student who is blind or visually impaired from the K through 12 public or private education system to the vocational rehabilitation program. This includes any activity or program designed to introduce the student to a wide variety of available occupational choices, or to provide the student with work experience opportunities))~~ school to employment.

(2) ~~((Transition services))~~ Activities shall be ~~((provided, when appropriate, to any))~~ based on the individual student's ~~((who is blind or visually impaired, age fourteen or older, who is enrolled in a public or private school))~~ needs, taking into account the student's preferences and interests. Activities shall include instruction, community experience, functional assessment, employment development, instruction in daily living skills, and development of other post-school adult living objectives. Additional activities may include post-secondary education, vocational training, integrated employment (including supported employment), adult services, and independent living.

(3) ~~((Transitioning students shall, to the extent necessary and appropriate, receive a thorough assessment of their abilities, interests and rehabilitation needs in the following areas:~~

- ~~((a) Adaptive skills of blindness,~~
- ~~((b) Social and interpersonal skills,~~
- ~~((c) Vocational exploration and work experience.))~~ Students, age sixteen to twenty-one, who choose to seek an employment outcome will be referred to the vocational rehabilitation program.

(4) ~~((A transition plan or the prevocational component of a student's individualized education plan (IEP), with specific goals and objectives based on the assessment, shall be developed for each student. Services shall be planned jointly by the student, the family, and department staff. Maximum efforts shall be made to coordinate all services with the local school district.~~

- ~~((5) Transition services may include, but are not limited to:~~
- ~~((a) Counseling and guidance for participants and their parents/representatives,~~

~~(b) Training in specific areas identified through the needs assessment after all other resources and approaches to remediation have been explored and found to be unobtainable;~~
~~(c) Conferences and workshops for participants, parents/representatives, education personnel and vocational rehabilitation counselors;~~
~~(d) Information and referral;~~
~~(e) Advocacy for the rights of all students who are blind or visually impaired to assure equal and appropriate access to the same educational, recreational, cultural and social opportunities as their sighted peers.)~~ Case management activities for students who apply for vocational rehabilitation services will be coordinated between the child and family program of the department and the vocational rehabilitation program until the student leaves the K-12 school system.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-400 Vocational rehabilitation services--
Maintenance. (1) Maintenance for living expenses may be provided only when these expenses are in excess of the normal subsistence expenses of a ((participant)) customer, and only when necessary for the individual to participate in services under an individualized ((written rehabilitation program)) plan for employment. Maintenance includes monetary support for food, shelter, clothing and other subsistence items.

(2) Maintenance shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

(3) Individuals with emergency needs for shelter, food, financial support, etc. will be referred to community sources who may provide these services.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-404 Vocational rehabilitation services--
Transportation. (1) Transportation services for travel and related expenses may be authorized ((for travel and related expenses)) if necessary for ((a participant)) an applicant or a customer to receive any vocational rehabilitation service.

(2) Transportation may include:

(a) Fares or travel costs associated with using public or private ((conveyances)) vehicle;

(b) Food and ~~(/or)~~ lodging while in travel status;

(c) Wages, travel, and related expenses for ~~((an))~~ a driver, attendant or aide if the services of that person are necessary for the ~~((participant))~~ customer to travel;

(d) Relocation and moving expenses, if necessary for the vocational rehabilitation of the individual.

(3) Transportation services shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-408 Vocational rehabilitation services--Services to family members. (1) A family member is an individual:

(a) Who is a relative or guardian of a ~~((participant))~~ customer, or who lives in the same household as a ~~((participant))~~ customer;

(b) Who is integrally involved in the vocational ~~((adjustment or))~~ rehabilitation of the ~~((participant))~~ customer; and

(c) Whose receipt of vocational rehabilitation services would further the vocational ~~((adjustment or))~~ rehabilitation of the ~~((participant))~~ customer.

(2) Services provided to family members may include any vocational rehabilitation services available to ~~((participants))~~ customers in accordance with WAC ~~((67-25-085 and))~~ 67-25-350. However, the services must be directly related to the vocational rehabilitation of the ~~((participant))~~ customer. Family members of any age may be served.

(3) A vocational rehabilitation service provided to family members shall be terminated when it no longer substantially contributes to the vocational rehabilitation of the ~~((participant))~~ customer.

(4) Services to family members shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-412 Vocational rehabilitation services--Interpreter ~~((services for individuals who are deaf))~~ and translations services. (1) Interpreter services ~~((shall be provided for a participant))~~ include sign language or oral interpretation services

for individuals who ((is)) are deaf, or ((for the individual's representative if appropriate, during all phases of the rehabilitation process including during any administrative appeal, fair hearing, and judicial review)) hard of hearing and tactile interpretation services for individuals who are deaf-blind.

((2)) (a) Interpreter services must be provided by qualified personnel.

(b) Interpreter services shall be authorized, to the maximum extent possible, in accordance with the department of social and health services schedule of maximum allowances and program descriptions.

((3) Interpreter services shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.) (2) Translation services are provided to non-English speaking individuals, and for the individual's representative if appropriate, during all phases of the rehabilitation process including mediation, fair hearing, and judicial review.

(a) Translation services include oral translation of English into the primary language of an individual.

(b) Upon request, the following written communication shall be translated into the primary language of an applicant or customer:

- (i) Application for services;
- (ii) Notification of eligibility or ineligibility;
- (iii) Individualized plan for employment;
- (iv) Notification of case closure;
- (v) Notification of annual review, if appropriate; and
- (vi) Any notice requiring a response or a signature from an individual to continue receiving services.

(c) The department shall translate the Washington Administrative Code (WAC) regarding VR services or service providers into the primary language of an applicant or customer upon his or her request.

(d) Translation services shall be authorized in accordance with procedures and fee schedules established by the department.

(3) Vocational rehabilitation expenditures for interpreter or translation services for applicants and customers will be authorized in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-416 Vocational rehabilitation services--Reader services. (1) Reader services may be provided to an applicant or customer when necessary to ((complete an intermediate objective under an individualized written rehabilitation program or, during assessment if necessary to)) the provision of other vocational rehabilitation services.

(2) Reader services consist of orally reading (~~(ink-)~~) print material to the blind (~~(participant)~~) customer which is not available (~~(in-an)~~) through other appropriate (~~(, alternative format)~~) modes of communication.

(3) If reader services are necessary beyond the initial stages of employment, the department shall, if desired by the individual, assist him or her to negotiate with the employer for reader services as a reasonable accommodation.

(4) Reader services shall be purchased in accordance with the department's procedures (~~(for purchase of reader services)~~) and shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

~~((5) Participants shall be encouraged through counseling and guidance to use reader services efficiently and effectively.))~~

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-418 Vocational rehabilitation services--Personal assistance services. (1) Personal assistance services (~~(may be)~~) include a range of services provided by at least one person to assist (~~(a participant)~~) an individual with (~~(on-the-job or related)~~) a disability to perform daily living activities (~~(that)~~) on or off the job, the individual typically would perform if he or she did not have a disability, and will not be able to perform even after receiving adaptive skills training. This includes personal attendant services: Personal services that an attendant performs for an individual with a disability, including, but not limited to, bathing, feeding, dressing, providing mobility and transportation. These services shall, to the extent appropriate and desired by the (~~(participant)~~) customer, include training in managing, supervising, and directing personal assistance services.

(2) Personal assistance services may be provided, if necessary, for the (~~(participant)~~) customer to achieve an employment outcome, and shall be provided only while the (~~(participant)~~) customer is receiving other vocational rehabilitation services.

(3) (~~(Provision of)~~) The case service record must document how personal assistance services (~~(under an individualized written rehabilitation program is contingent on an assurance that ongoing services)~~) will be (~~(available for the individual at)~~) provided after the completion of (~~(the)~~) vocational rehabilitation (~~(program)~~) services or, to the extent that it is not possible to identify how personal assistance services will be provided when the individualized plan for employment is developed, there must be a description of the basis for concluding that there is a reasonable expectation that resources will become available.

(4) Personal assistance services are provided only after

consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-432 Vocational rehabilitation services-- Rehabilitation technology and telecommunications. (1) Rehabilitation technology is the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address barriers confronted by ((participants)) customers in education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(2) The department (~~((maintains an assistive technology program to coordinate provision of))~~) will provide, as appropriate, rehabilitation technology services throughout all phases of the vocational rehabilitation process for ((participants)) customers. Services include:

- (a) Assessment to determine rehabilitation technology needs;
- (b) Job site and training site analysis including testing and research;
- (c) Rehabilitation engineering services;
- (d) Comprehensive training in the use of assistive technology devices;
- (e) Procurement, installation and follow-up related to assistive technology devices.

(3) Any assistive technology device requiring an individualized prescription or fitting must be provided by a professional who meets any ((state)) licensing or certification requirements to fill the prescription or to perform the fitting. Aids and devices not requiring individual fittings must meet engineering and safety standards recognized by experts in the field.

(4) Telecommunications services include telecommunication devices and relay services for individuals who are deaf or hearing-impaired. Telecommunications shall be utilized as necessary for service delivery.

(5) Rehabilitation technology services shall be provided without consideration of comparable services and benefits pursuant to WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-436 Vocational rehabilitation services--Supported employment services and extended services. (1) Supported employment is competitive employment in an integrated setting (~~for a participant with a severe disability~~), consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, with ongoing support services for customers with the most significant disabilities who need((s)) intensive, ongoing support to perform in a work setting. ((Typically, competitive employment has not traditionally occurred for these individuals or, has been interrupted or intermittent due to a severe disability.))

(2) A customer may be employed in an extended employment setting in which he or she is working toward competitive employment as a planned step in the process of completing an employment outcome in supported employment. While the customer is working toward competitive employment, he or she may be certified to be paid subminimum wages, consistent with provisions of the Fair Labor Standards Act, based on his or her productivity.

(3) An individual shall be eligible to receive supported employment services if:

(a) The individual is eligible for vocational rehabilitation services in accordance with WAC 67-25-030;

(b) The individual needs intensive supported employment services from the department and ongoing services from other resources to perform competitive work due to the nature and ~~((severity))~~ significance of his or her disabilities; and

(c) Supported employment is an appropriate ~~((rehabilitation objective))~~ employment outcome for the individual based on a comprehensive assessment of his or her rehabilitation needs in accordance with WAC 67-25-255.

~~((3))~~ (4) A ~~((participant))~~ customer with ~~((a vocational objective))~~ an employment outcome of supported employment may receive any vocational rehabilitation service described in WAC 67-25-350. ~~((Supported employment services typically include as appropriate:~~

~~(a) Individualized assessment in addition to the comprehensive assessment of rehabilitation needs;~~

~~(b) Intensive job skill training at the work site provided by skilled job trainers;~~

~~(c) Job development and placement;~~

~~(d) Interpersonal skills training;~~

~~(e) Regular observation or supervision of the individual;~~

~~(f) Follow-up services including regular contact with the employer, the individual, the individual's representative, and other appropriate professionals to reinforce and stabilize the job placement;~~

~~(g) Facilitation of natural supports at the worksite; and~~

~~(h) Other services similar to those in (a) through (g) of this subsection.~~

~~(4))~~ (5) Supported employment must occur in an integrated work setting for the maximum number of hours possible, based on the unique strengths, resources, interests, concerns, abilities, and capabilities of the ((participant)) customer with ((severe)) significant disabilities. An integrated setting, in the context of supported employment, is one where:

(a) Most coworkers are not disabled and the ((participant)) customer is not part of a work group of individuals with disabilities; or

(b) Most coworkers are not disabled, and if a job site as described in (a) of this subsection is not possible, the ((participant)) customer is part of a small work group of not more than eight individuals with disabilities; or

(c) If there are no coworkers, or the only coworkers are members of a small work group of not more than eight individuals all of whom have disabilities, the ((participant)) customer has regular contact with nondisabled individuals (other than personnel providing support services) in the immediate work setting.

~~((5) The participant must be paid wages consistent with the Fair Labor Standards Act. Subminimum wages may be paid in accordance with the act, depending on the severity of the individual's disability and the nature of training and support services available to the individual.))~~

(6) The department shall provide intensive training and support services during the first eighteen months of supported employment to facilitate the ((participant's)) customer's adjustment at the worksite and determine the need for extended services from other resources. Additional services beyond eighteen months may be authorized ((as an exception to policy)) with supervisory approval based on ((strong)) evidence that additional ongoing support is needed to stabilize the individual in employment. If such evidence is not available, the department must close the case. Support must include:

(a) ((Worksite visits and observation provided at least twice per month, and)) Ongoing assessment of the customer's employment situation, or under special circumstances or request of the customer, an assessment regarding the customer's employment situation that takes place away from the worksite to: Determine what is needed to maintain job stability; and coordinate services or provide specific intensive services that are needed at or away from the customer's worksite to assist the individual in maintaining job stability.

(b) ((If appropriate and desired by the participant, off-site monitoring which must include two face-to-face meetings with the participant and one contact with the employer each month.)) Intensive job skill training for the customer at the job site by skilled job trainers.

(c) Job development, job placement and job retention services.

(d) Social skills training.

(e) Regular observations or supervision.

(f) Follow-up services such as regular contacts with the customer's employer, the customer, or the customer's representative, and other appropriate individuals to help

strengthen and stabilize the job placement.

(g) Facilitation of natural supports at the worksite.

(h) Other services similar to services described in (a) through (g) of this subsection.

(i) Any other vocational rehabilitation services.

(7) The ((participant)) customer shall transition to extended services after receiving supported employment services from the vocational rehabilitation program. Extended services are ongoing support services and other appropriate services needed to support and maintain the ((participant)) customer in supported employment. Long-term funding for extended services may be provided through cooperative agreements with public agencies, nonprofit agencies or organizations; employers; natural supports; and any resource other than federal vocational rehabilitation funds.

(8) An individualized ((written rehabilitation program for)) plan for employment with an employment outcome of supported employment must specify the expected extended services needed and, must identify the source, including natural supports, of extended services. If the source of extended services cannot be identified when the individualized ((written rehabilitation program)) plan for employment is developed, supported employment services shall be initiated ((if documentation supports a reasonable expectation that such sources will become available within six months)) while resources to provide extended services are sought.

(9) A ((participant)) customer with ((a vocational objective)) an employment outcome of supported employment may receive post-employment services in accordance with WAC 67-25-444 when the services to be provided are not the responsibility of the extended services provider.

(10) The department shall provide transitional employment services as supported employment services for a ((participant)) customer with a ((severe)) significant disability due to mental illness. Transitional employment is a series of temporary competitive job placements in integrated work settings with ongoing support services. In transitional employment, ongoing support services must include continuing sequential job placements until job permanency is achieved.

(11) Supported employment services are provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-440 Vocational rehabilitation services--Placement.

(1) Placement services shall be provided to a ((participant)) customer under an individualized ((written rehabilitation program)) plan for employment to assist the individual with obtaining and

retaining appropriate employment consistent with his or her ~~((vocational objective))~~ employment outcome.

(2) The department and ~~((participant))~~ customer shall be mutually responsible to find and secure suitable employment for the individual. The individualized ~~((written rehabilitation program))~~ plan for employment shall describe the nature and scope of placement services to be provided by the department, and the participant's responsibility to actively and independently conduct job-seeking efforts.

(3) Placement services include the following range of activities:

(a) Job development and employer relations (which may or may not be on behalf of a specific ~~((participant))~~ customer);

(b) Job task analysis to determine how a person who is blind ~~((or visually impaired))~~ can be accommodated in a position;

(c) Job-seeking skills training to prepare a ~~((participant))~~ customer for employment;

(d) Communication and negotiation with a variety of employment resources and other community resources regarding employment of people who are blind ~~((or visually impaired))~~;

(e) Work skill building, counseling, and other follow-up and follow along services to stabilize the ~~((participant))~~ customer in employment until the ~~((placement goal))~~ employment outcome has been satisfactorily achieved.

(4) Placement services may be provided using the following methods:

(a) Vocational rehabilitation counselors ~~((shall deliver placement services to participants as a primary function and the principal focus of their professional responsibilities and activities))~~ employed by the department.

(b) An employee specializing in business relations may provide placement services through communication and negotiation with a variety of employers and community resources, regarding employment of people who are blind ~~((or visually impaired))~~.

(c) No-cost placement resources in the community such as ~~((the state department of employment security))~~ one-stop WorkSource centers, projects with industry, ~~((private industry council,))~~ and other entities shall be utilized whenever possible.

(d) Placement services may be purchased when it is in the ~~((participant's))~~ customer's vocational interests, when the department's services are not otherwise available, or when placement is offered by ~~((a vendor))~~ an employment service provider as part of a service package.

(5) Placement services shall be terminated when the ~~((participant))~~ customer has been provided vocational rehabilitation services, in accordance with an individualized ~~((written rehabilitation program))~~ plan for employment, which have enabled the individual to obtain and retain employment in an integrated setting consistent with his or her capacities and abilities for at least ~~((sixty))~~ ninety days.

(6) ~~((If a participant is placed in extended employment (formerly extended sheltered employment) in a community rehabilitation program, his or her status shall be reviewed and~~

reevaluated by the department at least annually. The department shall make maximum efforts to place these individuals in competitive employment, including supported employment, or in training for competitive employment consistent with the informed choice of the individual or the individual's representative if appropriate.

(7)) Placement services shall be provided without consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-444 Vocational rehabilitation services--Post-employment services. (1) Post-employment services may be provided to a ((participant)) customer, subsequent to achieving an employment outcome, if necessary for the ((participant)) customer to maintain, regain, or advance in employment consistent with the individual's abilities, capabilities, and interests.

(2) Post-employment services are intended to provide short-term intervention related to the established ((rehabilitation objective)) employment outcome. Accordingly, post-employment services do not require a new determination of eligibility, and may be provided as long as the established individualized ((written rehabilitation program)) plan for employment and necessary documentation are available and pertinent.

(3) Post-employment services include all vocational rehabilitation services identified in WAC 67-25-350 and are subject to any conditions affecting provision of that vocational rehabilitation service.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-446 Vocational rehabilitation--Services to groups.

(1) The department may provide the following vocational rehabilitation services to groups of individuals:

(a) Establishment, development, or improvement of a public or other nonprofit ((community rehabilitation program)) employment service provider providing services that promote integration and competitive employment.

(b) Development and implementation of services that enhance the use of ((special)) modes of communication ((and/or)) or telecommunications for individuals with disabilities.

(c) Technical assistance and support services, such as job site modification and other reasonable accommodations, for businesses not subject to Title I of the Americans with Disabilities Act of 1990 that are seeking to employ individuals with disabilities.

(d) Establishment of small business enterprises, operated by individuals with the most ~~((severe))~~ significant disabilities under supervision of the department, including, management services and supervision, and the acquisition of vending facilities, equipment, initial stocks, and supplies.

(e) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized ~~((written rehabilitation program))~~ plan for employment of any one individual.

(2) Services to groups are provided in accordance with department procedures for the provision of these services.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-448 Vocational rehabilitation services-- Occupational licenses, tools, equipment, initial stocks and supplies. (1) Goods and services described in this section may be provided only under an individualized ~~((written rehabilitation program))~~ plan for employment when necessary for the ~~((participant))~~ customer to achieve an ~~((appropriate))~~ employment outcome. ~~((Initial stocks and supplies may be provided only when a participant enters a self-employment business.))~~ The department will pay for a customer to be bonded if the employment he or she is entering requires a bond and the customer supplies all necessary information to the bonding firm.

(2) Occupational licenses ~~((include any))~~ are licenses, permits, or certificates showing that the individual meets certain standards, has accomplished certain achievements, or has paid dues, fees, or has other written authority required by a state, city, or other government unit ((for)) that qualifies the individual to ((enter an occupation or)) engage in a business, specific trade, or other work.

(3) Occupational tools include those customarily required for a worker to perform efficiently on the job, and which ~~((are normally provided by))~~ workers in the same or similar trade or profession are normally provided. These may include specialized tools adapted to accommodate the individual's disability.

(4) Occupational equipment includes occupational fixtures normally found in places of business. These include machinery, and appliances that are usually stationary during utilization. However, self-powered vehicles may also be provided.

(5) Initial stocks include the initial inventory of

merchandise or goods necessary for a participant to enter self-employment. It may also include the initial purchase of livestock as a base stock, and stocks of seed, fertilizer, fuel, etc., for farming or agricultural self-employment.

(6) Initial supplies include expendable items necessary for the ((participant)) customer to carry out day-to-day business operations, and which are consumed on the premises in the course of the ((participant's)) customer's self-employment business or in a business enterprise location.

(7) Purchase, accountability, legal title, insurance, maintenance, and other considerations regarding provision of goods and services described in this section are addressed in the department's procedures governing their provision.

(8) Goods and services described in this section shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-452 Vocational rehabilitation services provided--
Other goods and services. (1) Other goods and services not described in this chapter may be provided to a ((participant)) customer when necessary to determine the individual's eligibility for services and rehabilitation needs, or when necessary for the individual to achieve an appropriate employment outcome.

(2) Other goods and services, except those required for assessment of the individual, shall be provided only after consideration of comparable services and benefits in accordance with WAC 67-25-360.

AMENDATORY SECTION (Amending WSR 01-21-073, filed 10/18/01, effective 11/18/01)

WAC 67-25-460 (~~((What if the department of services for the blind (DSB) vocational rehabilitation (VR) program does not have sufficient resources to serve all eligible individuals?))~~) Order of priority. (1) The purpose of an order of priority is to establish an equitable and organized system which, when resources are not sufficient to meet the demand for services, gives the first priority to those eligible ((VR participants)) vocational rehabilitation customers who meet the definition of ((#))most ((severely)) significantly disabled, ((#)) in accordance with WAC ((67-25-470(1))) 67-25-460.

~~(2) ((In the event that sufficient funds or other resources are not available to serve all VR eligible individuals, DSB will use a prioritized order, as established in subsection (3) of this section, for selection of individuals to develop and carry out an individualized plan for employment (IPE) supported by expenditure of VR funds.~~

~~(3))~~ When the order of priority is in effect, eligible individuals will be assigned to one of two priority categories:

(a) First priority: New eligible ((participants)) customers who meet the definition of ((^))most ((severely)) significantly disabled.((^))

(b) Second priority: New eligible ((participants)) customers who do not meet the definition of ((^))most ((severely))significantly disabled.((^))

(3) The director shall decide when to implement an order of priority, if necessary, and will determine which priority categories will be open or closed for the development of new individualized plans for employment. In the event sufficient funds or other resources become available to serve all eligible individuals, the order of priority will be revoked by the director.

(4) Eligible individuals can develop and carry out an ((IPE)) individualized plan for employment based on:

(a) The priority of the category to which they are assigned((~~7~~ and whether or not that category is open for development of new IPEs-));

(b) ((~~And,~~) Whether or not that category is open for development of new plans; and

(c) The order in which they applied for ((DSB)) vocational rehabilitation services as indicated by the date of application.

~~(5) ((Individuals who are receiving services under an IPE at the time an order of priority is implemented will continue to receive services as planned. They are not subject to the order of priority and are not a category within that order.~~

~~(6))~~ Customers will be placed in the highest priority category for which they are qualified. The date of application will be used whenever it is determined that a waiting list is required for a category.

(6) Customers will be notified in writing of their category status when they are notified of their eligibility, as well as of the conditions pertaining to that category:

(a) Whether the category is open or closed.

(b) Their position on any existing waiting list.

(7) The only services to individuals in a closed order of priority category will be information and referral services. These individuals will not receive counseling and guidance, assessment and training, placement, or other ((VR)) vocational rehabilitation services until their category is reopened and they come off the waiting list.

(8) Customers will be notified of the right to appeal the category decision, in accordance with WAC 67-25-570, and of their responsibility to notify the department if their situation changes in a way that may affect their priority category placement.

(9) Individuals who are receiving services under an

individualized plan for employment at the time an order of priority is implemented will continue to receive services as planned. They are not subject to the order of priority and are not a category within that order.

(10) The order of priority will not affect the provision of services needed to determine eligibility for vocational rehabilitation services, WAC 67-25-010 through 67-25-030:

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-540 Individualized ~~((written rehabilitation program))~~ plan for employment--Successful rehabilitation. (1) An individual shall be considered successfully rehabilitated when he or she has maintained an employment outcome for at least ninety days that is:

(a) The result of services provided under an individualized ~~((written rehabilitation program))~~ plan for employment;

(b) Commensurate with the individual's unique strengths, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(c) ~~((As often as))~~ Whenever possible, employment achieved is competitive as defined by being in the competitive labor market, performed on a full-time or part-time basis in an integrated setting, and 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 paid by the employer for the same or similar work performed by nondisabled individuals;

(d) In the most integrated setting possible, consistent with the individual's informed choice; and

(e) Considered to be a satisfactory employment outcome by both the ~~((participant))~~ customer and vocational rehabilitation counselor ~~((, who also agree))~~ with agreement that the ~~((participant))~~ customer is performing ~~((satisfactory))~~ satisfactorily on the job.

(2) The individual shall be notified of the termination decision and appeal procedures in accordance with WAC ~~((67-25-288))~~ 67-25-545.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-545 Notification of termination. The department shall provide written notification ~~((, using special modes of~~

~~communication if appropriate,))~~ to every individual who has applied for services, in the individual's primary language if necessary, and using appropriate modes of communication, when a determination is made to terminate services to the individual. The written notice shall specify in detail the reasons for the ~~((department's))~~ decision to terminate services and shall clearly inform the ~~((participant))~~ individual of ~~((his or her))~~ the right to ~~((an administrative review, a))~~ mediation and fair hearing ~~((, and judicial review of the decision))~~ in accordance with WAC 67-25-570. A description of client assistance program services shall also be provided.

AMENDATORY SECTION (Amending WSR 98-23-078, filed 11/17/98, effective 12/18/98)

WAC 67-25-550 Confidential information--Protection, use and release. (1) Confidential information refers to all documented and undocumented personal information, including lists of names and photographs, about any past or present ~~((participant))~~ applicant or customer in the vocational rehabilitation program, given or made available to the department, its representatives, or its agents in the course of the administration of the program.

(2) ~~((Participants))~~ customers, their representatives as appropriate, service providers, cooperating agencies, and interested persons shall be informed of the confidentiality of personal information and policies governing its use. This information shall be provided to the ~~((participant))~~ applicant or customer, and to the individual's representative in the individual's ~~((native))~~ primary language if necessary, ~~((in the))~~ using appropriate ~~((alternative format, or using special))~~ modes of communication ~~((if appropriate)),~~ and shall include:

(a) Identification of the authority under which information is collected;

(b) Explanation of the principal purposes for which the department intends to use or release information;

(c) Explanation of whether providing requested information is mandatory or voluntary and the effects of not providing requested information;

(d) Identification of those situations where the department requires or does not require informed written consent of the individual before information may be released; and

(e) Identification of other agencies to which information is routinely released.

(3) All personal information must be used only for purposes directly connected with the administration of the vocational rehabilitation program. Personal information shall not be shared with an organization, agency or individual not having official responsibility for administration of the program, except as

provided for in subsection (6) of this section.

(4) Except as provided in (a) and (b) of this subsection, the department shall, upon receipt of a written request by a ((participant)) customer, release all information in that individual's record, to the individual or the individual's representative within fifteen working days.

(a) Medical, psychological, or other information that the department determines may be harmful to the individual may not be released directly to the individual, but must be provided to the individual's representative or to a qualified medical or psychological professional or to a person appointed by the court to act as that individual's representative.

(b) Personal information obtained from service providers and cooperating agencies under assurances that the information shall not be further divulged may be released only under conditions established by the other agency or organization except as provided in subsections (5) and (6) of this section.

(5) The ((participant)) customer may request that misleading or inaccurate information in ((the individual's)) his or her record of services be amended and ((to have the)) that such request for amendment be documented in the individual's ((file)) record.

(6) Personal information may be released to an organization, agency, or individual for purposes of audit, evaluation, or research directly connected with administration of the vocational rehabilitation program, such as the department's ((advisory)) rehabilitation council or for purposes that would significantly improve the quality of life for ((participants)) customers, and only if the organization, agency, or individual assures that:

(a) Information shall be used only for the purposes for which it is being provided;

(b) Information shall be released only to persons officially connected with the audit, evaluation, or research;

(c) Information shall not be released to the ((participant)) customer;

(d) Information shall be managed in a manner to safeguard confidentiality; and

(e) The final product shall not reveal any personal identifying information without the informed written consent of the ((participant)) customer or the individual's representative.

(7) The department may release personal information to other agencies and programs under the following conditions:

(a) Upon receiving the informed written consent of the ((participant)) customer, or, the individual's representative if appropriate, the department may release personal information to another agency or organization only to the extent that the information may be released to the ((participant)) customer, and only to the extent that the agency or organization demonstrates that the information requested is necessary for its program.

However, medical or psychological information that the department determines may be harmful to the individual may be released if the agency or organization assures the department that information shall be used only for the purpose for which it is being provided and shall not be released to the ((participant))

customer.

(b) The department shall release personal information if required by federal law or regulation.

(c) The department shall release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by federal or state laws or regulations, or in response to judicial order.

(d) The department may release personal information to protect the participant or others if the individual poses a threat to his or her safety or to the safety of others.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-570 ((Fair hearing-)) Resolving a disagreement about vocational rehabilitation services. (1) ((Any participant who feels aggrieved by or is otherwise dissatisfied with any decision or action by the department or its agents concerning the provision or denial of vocational rehabilitation services or is dissatisfied with the results of an administrative review, may request from the department, and shall thereupon be granted, a fair hearing. A participant who desires a fair hearing shall request the hearing within sixty days after the date of the decision or action by the department which is the basis for the request for fair hearing.

(2) A request for fair hearing shall be sent to the Director, Department of Services for the Blind, 521 East Legion Way, Olympia, WA 98504-4093, who shall forward it to the office of administrative hearings within five working days.

(3) The office of administrative hearings shall appoint an administrative law judge and shall schedule a fair hearing within forty-five days after receiving the request.

(4) The individual, or the individual's representative shall be given an opportunity to:

(a) Present additional evidence, information, and witnesses to the administrative law judge;

(b) Be represented by counsel or other appropriate advocate;

(c) Examine all witnesses and other relevant sources of information and evidence.

(5) Within thirty days after completion of the hearing, the administrative law judge shall make an initial decision based on provisions of the approved state plan, the act, and federal and state vocational rehabilitation regulations and policies, and shall provide to the individual, or the individual's representative, and to the director of the department a full written report of the findings and grounds for the decision.

(6) The director shall notify the participant or the individual's representative in writing within twenty days after

receiving the administrative law judge's decision that:

- ~~(a) The decision is accepted as the final determination, or~~
- ~~(b) The director has decided to review the initial decision of~~

~~the administrative law judge.~~

~~(7) If the director fails to provide notice in accordance with subsection (6) of this section, the administrative law judge's decision becomes a final decision.~~

~~(8) The director shall not overturn or modify a decision, or part of a decision, of an administrative law judge that supports the position of the individual unless the director concludes, based on clear and convincing evidence that one or more of the following criteria apply:~~

~~(a) The initial decision appears arbitrary or capricious,~~

~~(b) The initial decision does not appear to be supported by substantial evidence,~~

~~(c) The administrative law judge has not given adequate consideration to: Federal statute and regulations, the department state plan, the department policies and procedures, options in service delivery authorized by federal statute, restrictions on service provision specified by federal statute, or, other state or federal policies.~~

~~(9) If the director decides to review the decision of the administrative law judge, the participant, or the individual's representative, shall be given opportunity to submit additional evidence and information relevant to the final decision.~~

~~(10) Within thirty days after providing notice of intent to review the administrative law judge's decision, the director shall make a final decision, and shall provide to the individual, or the individual's representative, a full written report of the findings and grounds for the decision.~~

~~(11) A participant who is dissatisfied with the final result of the fair hearing may file a petition for reconsideration with the office of administrative hearings in accordance with RCW 34.05.470, or the individual may file a petition for review in superior court.~~

~~(12) The department shall not suspend, reduce, or terminate any services being provided under an individualized written rehabilitation program pending a final determination of any administrative review or fair hearing, unless the individual, or the individual's representative so requests, or the department has evidence that the services were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual.~~

~~(13) Communication with the participant or the individual's representative during any administrative review, fair hearing or judicial review shall be conducted in a language reasonably expected to be understood by the individual including use of special modes of communication as appropriate.)~~ If at any time during the vocational rehabilitation process, the department makes a decision relating to the provision of vocational rehabilitation services that a customer does not agree with, the customer or the customer's representative has the right to use one or more of the following options to resolve the issue:

(a) Talk to the vocational rehabilitation counselor or to the counselor's supervisor to resolve the disagreement;

(b) Ask for help or information from the client assistance program;

(c) Request mediation; and/or

(d) Request a fair hearing.

(2) Efforts to reach agreement with the vocational rehabilitation counselor or supervisor will not be used to deny or delay mediation or a fair hearing.

(3) Mediation is voluntary and must be agreed to by both the customer and the department. Mediation is not used to deny or delay a fair hearing. A customer may request both mediation and a fair hearing at the same time. If agreement is:

(a) Reached during mediation, the fair hearing is canceled.

(b) Not reached during mediation, the fair hearing is held as scheduled.

(4) Mediation is conducted by a trained mediator who knows the laws and rules about vocational rehabilitation services and who does not work for the department. The mediator does not make case service decisions.

(5) During mediation, the mediator:

(a) Allows each party to present information or evidence;

(b) Helps each party listen to and understand the other party's position;

(c) Reviews and explains any laws that apply; and

(d) Facilitates an agreement, if possible, between the parties.

(6) If agreement is reached during mediation, the department will provide a written statement of the agreement to the customer. Agreements made through mediation are not legally binding.

(7) The customer may choose to be represented by a family member, advocate or other individual at the mediation meeting.

(8) The department schedules mediation sessions in a timely manner at a convenient location to all parties.

(9) The department pays for costs related to mediation, except costs related to a representative or attorney engaged by the customer.

(10) The department will pay for vocational rehabilitation services necessary for the customer to participate in mediation, such as transportation or child care.

(11) Information discussed during mediation is kept confidential and may not be used in a later hearing or civil proceeding, if one is held. Before beginning a mediation session, all parties must sign a statement of confidentiality.

(12) A fair hearing is a proceeding as outlined under the Administrative Procedure Act, chapter 34.05 RCW and Chapter 388-02 WAC. An administrative law judge who works for the office of administrative hearings holds a fair hearing.

(13) A customer who does not agree with a decision made by the Department about eligibility or vocational rehabilitation services may ask for a fair hearing within twenty days of that decision.

(14) To ask for a fair hearing, the customer must send a written request to the office of administrative hearings. The

written request must include:

(a) The customer's name, address, and telephone number;

(b) A written statement about the decision and the reasons for disagreement; and

(c) Any other information that supports the customer's position.

(15) The office of administrative hearings must hold a formal hearing within sixty days of receipt of written request for a hearing, unless:

(a) The customer or the department ask for a delay; and

(b) There is a reasonable cause for the delay.

(16) After the customer submits a request for a fair hearing, the department will offer the customer a prehearing meeting. The prehearing is optional for the customer and can be conducted in person, by telephone, or by another method agreeable to both parties. The purpose of the prehearing meeting is to:

(a) Clarify the decision with which the customer disagrees;

(b) Provide copies of laws, rules or other information to be presented in the fair hearing;

(c) Explain how the fair hearing is conducted; and

(d) Settle the disagreement, if possible.

(17) During the formal hearing, the customer and the department may present information, witnesses and/or documents to support their position.

(18) The customer may choose to be represented by an attorney, a relative, or someone else;

(19) The administrative law judge makes a decision after:

(a) Hearing all of the information presented;

(b) Reviewing any documents submitted; and

(c) Reviewing relevant federal and state laws and regulations.

(20) The office of administrative hearings sends a written report of the findings and decisions to the customer and to the department within thirty days of the formal hearing.

(21) The office of administrative hearings decision is final and the department must implement the decision.

(22) If a customer does not agree with the office of administrative hearings decision, the individual may pursue civil action through superior court to review that decision.

(23) The department will not suspend, reduce, or terminate services to a customer while waiting for a formal hearing decision, unless the department believes the customer:

(a) Provided false information to obtain vocational rehabilitation services; or

(b) Committed fraud or other criminal action to obtain vocational rehabilitation services.

AMENDATORY SECTION (Amending WSR 95-06-057, filed 2/28/95, effective 3/31/95)

WAC 67-25-590 ((~~Client~~)) Case service records. The department shall maintain for each ((~~participant~~)) applicant or eligible individual a record of services that includes, to the extent pertinent, the following documentation:

(1) If an applicant has been determined ineligible:

(a) ((~~A written and dated statement of ineligibility signed by the appropriate staff member,~~

~~(b))~~) Documentation specifying reasons for the ineligibility determination; and

((~~(c)~~)) (b) Documentation of a review of the determination ((~~not later than~~)) in twelve months after the determination was made, except as provided in WAC 67-25-056.

(2) When an ((~~individual~~)) applicant is determined eligible:

(a) A written and dated statement of eligibility signed by the ((~~appropriate staff member~~)) vocational rehabilitation counselor; and

(b) Supporting rationale for the determination, including documentation from the assessment for determining eligibility, in accordance with WAC 67-25-020.

(3) If it is determined that ((~~an extended evaluation~~)) a trial work experience or an extended evaluation for an individual with a ((~~severe~~)) significant disability is necessary to make an eligibility determination in accordance with WAC 67-25-065 and 67-25-070:

(a) A written and dated statement of this determination signed by the ((~~appropriate staff member~~)) vocational rehabilitation counselor;

(b) Supporting documentation, including the determination that the individual is an individual with a ((~~severe~~)) significant disability; and

(c) Documentation of periodic assessments in accordance with WAC ((~~67-25-100~~)) 67-25-065 and 67-25-070.

(4) The individualized ((~~written rehabilitation program~~)) plan for employment for the ((~~individual~~)) customer in accordance with WAC 67-25-260 ((~~, 67-25-270, and 67-25-275~~)).

(5) Documentation from the assessment for determining vocational rehabilitation needs in accordance with WAC 67-25-255 and 67-25-257 to support:

(a) The determination of the ((~~long-term vocational goal~~)) employment outcome and intermediate rehabilitation objectives for the individual; and

(b) The nature and scope of services needed to achieve the intermediate objectives and ((~~long-term goal~~)) employment outcome.

(6) Documentation of how the ((~~individual~~)) customer was provided information necessary to make informed choices in selecting the ((~~long-term vocational goal~~)) employment outcome, intermediate rehabilitation objectives, rehabilitation services, and providers of services identified in the individualized ((~~written rehabilitation program~~)) plan for employment.

(7) Documentation of how the ~~((individual))~~ customer was provided information regarding the level of integration of service provision and job placement options. ~~((If the individualized written rehabilitation program provides for services or a job placement in a nonintegrated setting, a justification for that nonintegrated setting.))~~

(8) If physical and mental restoration services ~~((are))~~ were provided, in accordance with WAC 67-25-384, documentation supporting the determination that the clinical status of the ~~((individual is))~~ customer was stable or slowly progressive.

(9) Documentation supporting any decision to provide services to family members in accordance with WAC 67-25-408.

(10) Documentation of the individual's participation in the cost of any vocational rehabilitation services.

(11) Documentation of the individual's eligibility for and use of any comparable services and benefits in accordance with WAC 67-25-360.

(12) Documentation that the individual has been advised of the confidentiality of all personal information, and that any information about the individual has been released with the individual's informed written consent, in accordance with WAC 67-25-550.

(13) Documentation of the reason for terminating services to ~~((an individual,))~~ a customer, in accordance with WAC 67-25-545, and, if the ~~((individual))~~ customer was determined rehabilitated, the basis for that determination in accordance with WAC 67-25-540.

(14) Documentation of any plans to provide post-employment services after the employment outcome has been achieved, the basis on which these plans were developed, and a description of services provided and outcomes achieved in accordance with WAC 67-25-444.

(15) Documentation concerning any action and decision resulting from a request for ~~((administrative review or))~~ a fair hearing in accordance with WAC ~~((67-25-560 or))~~ 67-25-570.

(16) If ~~((an individual))~~ a customer has been provided vocational rehabilitation services under an individualized ~~((written rehabilitation program))~~ plan for employment, but after the initiation of these services he or she has been determined no longer capable of achieving an employment outcome, documentation of any reviews of this determination in accordance with WAC 67-25-056.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 67-25-075	Extended evaluation--Eligibility criteria.
WAC 67-25-080	Extended evaluation--Individualized written rehabilitation program.

WAC 67-25-085	Extended evaluation--Services provided.
WAC 67-25-090	Extended evaluation--Services not provided.
WAC 67-25-095	Extended evaluation--Duration of services.
WAC 67-25-100	Extended evaluation--Assessment.
WAC 67-25-110	Extended evaluation--Termination.
WAC 67-25-288	Individualized written rehabilitation program--Termination--Notification of rights.
WAC 67-25-300	Purpose of vocational rehabilitation.
WAC 67-25-326	Services to special groups of individuals with disabilities.
WAC 67-25-395	Vocational rehabilitation services--Training--College and trade school.
WAC 67-25-470	How will DSB determine whether a person meets the definition of "most severely disabled"?
WAC 67-25-480	How will DSB implement an order of priority?
WAC 67-25-560	Administrative review.