

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF SERVICES FOR THE BLIND

(agency name)

Administrative Order No. 84-04

(1) I, Paul Dziezic, director of Department of Services for the Blind

do promulgate and adopt at 921 Lakeridge Drive, Room 202, Olympia, WA 98504 (place)

the annexed rules relating to:

- New Section: WAC 67-25-360-- Vocational Rehabilitation Services--Similar Benefits
Amendatory Sections: WAC 67-25-005-- Definitions
WAC 67-25-325-- Services Available From Other Agencies
WAC 67-25-385-- Vocational Rehabilitation Services--Physical and Mental Restoration
WAC 67-25-388-- Vocational Rehabilitation Services--Vocational and Other Training
WAC 67-25-390-- Vocational Rehabilitation Services--Training--Colleges

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 84-16-052 filed with the code reviser on July 27, 1984. These rules shall take effect: XX thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

- [] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.
[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

XX (c) This rule is promulgated under the general rule-making authority of the

DEPARTMENT OF SERVICES FOR THE BLIND

(agency)

is authorized in RCW Chapter 194, Laws of 1983, Section 18

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, with the rules provided in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON FILED

APPROVED AND ADOPTED SEP 6 1984

September 6 19 84

By Paul Dziezic Paul Dziezic Director

CODE REVISER'S OFFICE WSR 84-19-003

Title

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

WAC 67-25-325 SERVICES AVAILABLE FROM OTHER AGENCIES. The department's funds shall not be expended to purchase services for which a client is eligible (~~from~~) when another agency (~~which~~) has primary responsibility for providing the needed service. (~~In--all cases,--full-consideration-will-be-given-to-any-similar-benefits-available-to-a-handicapped-individual-on-any-other-program.~~)

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

WAC 67-25-385 VOCATIONAL REHABILITATION SERVICES--PHYSICAL AND MENTAL RESTORATION. (1) Physical and mental restoration shall include all medical and related services including the following:

(a) Medical treatment including but not limited to therapeutic programs under medical supervision, necessary laboratory work, and necessary medication;

(b) Surgical treatment; surgery for cardiac or gynecological conditions shall be provided only if approved by the medical consultant;

(c) Psychiatric treatment only when the diagnostic study clearly indicates a favorable prognosis for relatively short-term therapy. A program of psychiatric treatment which will extend beyond twelve months must have the prior approval of the medical consultant;

(d) Dental treatment only when it will significantly increase employability or remove an established vocational handicap, or in emergency situations involving pain, acute infections, or injury. Examples of disabling dental conditions for which restorative services may be authorized include widespread ulceration of teeth, destruction of tooth structures, decay which seriously affects the individual's ability to eat, badly malformed or positioned teeth, or rejection of the individual from employment on the basis of his appearance. Restorative dental services will not be provided when the restoration will not directly affect employability;

(e) Nursing services;

(f) Hospital (either inpatient or outpatient care) and clinic services;

(g) Convalescent, nursing, or rest home care only when there is an expectation of a normal period of convalescence after which other appropriate services leading to the rehabilitation of the client may be initiated or resumed. Such care shall not be provided by the (~~commission~~) department as a long-term process for conditions not expected to improve;

(h) Drugs and supplies;

(i) Prosthetic, orthoptic or other assistive devices essential to obtaining or retaining employment;

(j) Eyeglasses;

(k) Podiatry;

(l) Physical therapy; physical therapy shall consist of the employment of the physically beneficial properties of light, heat, cold, water, electricity, massage, manipulation, exercise, and mechanical devices as treatment of disease or injury;

(m) Occupational therapy; occupational therapy shall include all manual skills and recreational activities which provide specific active exercise for physical disabilities and shall include psychologic rehabilitation techniques;

(n) Medical or medically-related social work services;

(o) Medically directed speech or hearing therapy.

(2) Physical and mental restoration will be provided (~~on--an exception-basis~~) after (~~exhausting-all-other-resources~~

~~a)--Clients-needing-physical-restoration-who-appear-to-be-eligible-will-be-referred-to-the-prevention-of-blindness-program;~~

~~b))~~ consideration of similar benefits which may be available to the client.

Medical emergencies to prevent eminent loss of sight or prevent severe service interruption will be provided with the approval of the supervisor.

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

WAC 67-25-388 VOCATIONAL REHABILITATION SERVICES--VOCATIONAL AND OTHER TRAINING. (1) The department may provide, within budget constraints, any organized form of instruction which provides the knowledges and skills that are essential for performing the tasks involved in an occupation. Such knowledges 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 provided in subsection (5) of this section.

(2) The department will operate and maintain an orientation and training center for prevocational training for those clients for whom such training in the training center is determined to be appropriate.

(3) Training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) shall not be paid for with rehabilitation funds unless ~~((maximum--efforts have--been--made--by--the--department--on--the--client's--behalf--to--secure grant--assistance--in--whole--or--in--part--from--other--sources--to--pay--for such--training--or--training--services--))~~ a client ~~((must))~~ can demonstrate application for, and denial of, ~~((other--grants--and--scholarships))~~ federal or state grant assistance.

(4) The department may provide, assist in providing, or cause to be provided books, tools and other training materials agreed upon in joint planning of the individualized written rehabilitation program between the counselor and the client. The amount of assistance provided on a quarterly or semester basis for students carrying a full academic load will be established by the director of the department, provided that exceptions can be made on a case-by-case basis. Students attending less than full time will have amount reduced proportionately.

(5) The Washington state constitution forbids the use of public funds to assist an individual in the pursuit of a career or degree in theology or related areas.

(6) Clients may attend private institutions or out-of-state institutions of higher learning in pursuit of a vocational goal; however, the financial assistance available to any such individual is limited by that amount charged at the University of Washington or the actual cost, whichever is less.

(7) The department may provide, assist in providing, or cause to be provided financial assistance to clients in pursuit of post-graduate degrees when such degree is clearly necessary to achieve employment in a given field. However, financial assistance will not be provided to clients pursuing graduate programs only to enhance their employability or to achieve upward mobility.

(8) Training will be provided to the extent that it meets the criteria established by the client and the department in the client's individualized written rehabilitation program and meets the standards of the occupation the client intends to enter.

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

WAC 67-25-390 VOCATIONAL REHABILITATION SERVICES--TRAINING--COLLEGE. (1) College training may be provided when

(a) The nature of the client's disability is such as to require college training to place him/her on a reasonably competitive basis in a suitable occupation.

(b) The client's previous school record or other indications of achievement demonstrate an ability to successfully carry on and benefit from college training.

(c) Evaluation of the client's motivation, study habits, personality and character traits, or other relevant factors, indicates that it would be appropriate to provide him/her with college training even though he/she has otherwise failed to meet minimal intellectual or academic achievement standards.

(2) A client provided with college training services shall be required to meet established scholastic standards. If his/her grades fall below the standards required in the field of his/her choice, it may be necessary to select a new objective for college training through joint planning between the client and the vocational rehabilitation counselor or to modify or cancel that portion of the rehabilitation plan which involves college training. If college training is cancelled, the vocational rehabilitation counselor shall then counsel with the client about a vocational objective which does not require college training.

~~((3)--No-training-or-training-services-in-institutions-of-higher education-(universities,-colleges,-community/junior-colleges)-shall-be paid-for-with-funds-under-this-part-unless-maximum-efforts--have--been made-to-secure-grant-assistance-in-whole-or-in-part-from-other-sources to-pay-for-such-training-or-training-services-))~~

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

WAC 67-25-005 DEFINITIONS. (1) "Accepted for services" shall mean that the department has determined that the applicant has been certified as eligible to receive vocational rehabilitation services.

(2) "Act" means the Rehabilitation Act of 1973 (29 U.S.C. chapter 16).

(3) "Applicant" shall mean an individual who has submitted to the department a letter or application requesting vocational rehabilitation services which:

(a) Has been signed by the individual, his/her parents or guardian or other representative; and

(b) Sets forth the name, address, age, sex, and nature of disability of the requesting individual and source of referral.

(4) "Blind or visually impaired" for purposes of this chapter is a physical disability defined as follows:

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

(b) Vision so defective as to prevent the performance of ordinary activities for which eyesight is essential; or

(c) An eye condition of a progressive nature which may lead to blindness.

(5) "Client" shall mean any handicapped individual:

(a) Who has applied for services from the department; and

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

(6) "Department of services for the blind" shall mean the legal authority in its entirety:

(a) "Advisory council" shall mean the members appointed by the governor as the advisory body.

(b) "Department" shall mean the agency which carries out the operations of the Washington department of services for the blind.

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

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

(a) The individual has blindness and may also have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

(9) "Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his/her capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

(10) "Evaluation of rehabilitation potential" means, as appropriate, in each case:

(a) A preliminary diagnostic study to determine:

(i) That an individual has blindness and may also have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(ii) That vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability, and that the individual is eligible therefore for vocational rehabilitation services;

(b) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors, which bear on the individual's handicap to employment and rehabilitation potential, and an appraisal of the individual's work behavior and ability to develop work patterns suitable for successful job performance in order to determine which

vocational rehabilitation services may be of benefit to the individual in terms of employability;

(c) Any other goods or services provided for the purposes of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability;

(d) The provision of vocational rehabilitation services to an individual for a total period of extended evaluation not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual for whom a vocational goal is feasible, including the initiation and continuing development of an individual written rehabilitation program, and a periodic assessment of the results of the provision of such services to ascertain whether an individual is an eligible individual for whom a vocational goal is feasible.

(11) "Family member" or "member of the family" means:

(a) Any relative by blood or marriage of a handicapped individual; and

(b) Other individuals living in the same household with whom the handicapped individual has a close interpersonal relationship.

(12) "Handicapped individual" means an individual:

(a) Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Who is expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might benefit in terms of employability from the provision of vocational rehabilitation services.

(13) "Medical consultant" shall mean a physician licensed pursuant to chapters 18.57 and 18.71 RCW employed by the department to provide consultation to rehabilitation counselors and rehabilitation teachers concerning the medical aspects of rehabilitation, usually reviewing and discussing medical problems of individual clients.

(14) "Ophthalmological consultant" shall mean 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 rehabilitation counselors and rehabilitation teachers regarding procedures and prognosis relating to eye conditions.

(15) "Physical and mental restoration services" means those services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive.

(16) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. The term "physical disability" includes blindness and/or visual impairment.

(17) "Public safety officer" means a person serving the United States or a state or unit of general local government, with or without compensation, in any activity pertaining to:

(a) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the armed forces;

(b) A correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(c) A court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(d) Firefighting, fire prevention, or emergency rescue missions.

(18) "Referral" is defined as any individual who applied or has been referred to a department office by letter, telephone, direct contact or by any other means for whom the minimum information has been furnished:

(a) Name and address;

(b) Disability;

- (c) Age and sex;
- (d) Date of referral; and
- (e) Source of referral.

(19) "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals and which provides one or more of the following services for handicapped individuals:

- (a) Vocational rehabilitation services which shall include under one management, medical, psychological, social, and vocational services;
- (b) Testing, fitting, or training in the use of prosthetic and orthoptic devices;
- (c) Prevocational conditioning or recreational therapy;
- (d) Physical and occupational therapy;
- (e) Speech and hearing therapy;
- (f) Psychological and social services;
- (g) Evaluation of rehabilitation potential;
- (h) Personal and work adjustment;
- (i) Orientation and mobility training and other adjustment services;

(j) Braille instruction;

(k) Evaluation or control of specific disabilities;

(l) Transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market provided that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.

(20) "Rehabilitation teacher" (RT) shall refer to an employee of the department who has responsibility to determine eligibility, and to develop and implement individual written rehabilitation programs leading to a vocational outcome of homemaker. The full range of vocational rehabilitation services may be provided or purchased as determined by the needs of the individual written rehabilitation program.

(21) "Similar benefits" is a financial resource for which a client is legally qualified, or entitled, or meets the criteria for obtaining without undue contingencies. The financial resource must be an organized, ongoing form of service or financial assistance, whether public or private. It must be free or may require a deductible, coin-surance feature, token payment or personal claim.

(22) "Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his/her obtaining, retaining, or preparing for employment consistent with his/her capacities and abilities.

~~((22))~~ (23) "Vocational rehabilitation counselor" (VRC) shall refer to an employee of the department who has direct responsibility for providing, or supervising the provision of all vocational rehabilitation services to a client of the department.

~~((23))~~ (24) "Vocational rehabilitation services," shall mean any of the following:

(a) Any goods or services provided to a client that is likely to enable him/her to enter or retain employment consistent with his/her capacities and abilities in the competitive labor market.

(b) Any goods or services provided to a client for the purpose of extended evaluation to determine his/her rehabilitation potential.

(c) The establishment, construction, development, operation, and maintenance of workshops and rehabilitation facilities.

(d) The provision of any facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation program.

~~((24))~~ (25) "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in a production or service operation and which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be

readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

NEW SECTION

WAC 67-25-360 VOCATIONAL REHABILITATION SERVICES--SIMILAR BENEFITS. (1) In as much as full consideration of similar benefits is required by federal regulations, this section prevails over all other sections describing the conditions under which rehabilitation services will be provided. Similar benefits include all sources of public funds and private insurance benefits for which the client may be eligible.

(2) The following services are provided without full consideration of similar benefits:

- (a) Evaluation of rehabilitation potential;
- (b) Counseling;
- (c) Guidance;
- (d) Referral;
- (e) Placement;

(f) Vocational and other training services not provided in an institution of higher education;

(g) Related and necessary services which may be provided to family members;

(h) Post-employment services.

(3) Training in institutions of higher education may be provided only after the client produces proof of application for and denial of eligibility for federal grant programs. Institutions of higher education include universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

(4) The following services may be provided only after giving full consideration to similar benefits:

- (a) Physical and mental restoration services;
- (b) Maintenance;
- (c) Interpretor services for the deaf;
- (d) Reader services for the blind;

(e) Recruitment and training services in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other public services employment;

(f) Rehabilitation teaching services;

(g) Orientation and mobility services for the blind;

(h) Occupational licenses, tools, equipment, initial stocks and supplies;

(i) Transportation;

(j) Telecommunications, sensory, and other technological aids and devices.

(5) Clients are required to apply for and accept similar benefits to which they are entitled before rehabilitation funds may be expended for services.

(6) The vocational rehabilitation counselors and rehabilitation teachers have an obligation to inform clients of known sources of similar benefits and to assist in application for such services when necessary.

(7) Exception to policy in two areas of service:

(a) Physical and mental restoration; and

(b) Maintenance may be made with supervisory approval when it has been determined that the lack of such services will delay completion of the client's rehabilitation program.

(8) The consideration of similar benefits will be documented in the client's case record. The documentation will include sources of assistance considered, whether the client applied, acceptable reasons

for failure to apply, outcome of application, and basis for the decision to expend vocational rehabilitation funding for services in subsections (3) and (4) of this section.