



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency Department of Services for the Blind

- Permanent Rule
 Emergency Rule

(1) Date of adoption: 9-20-91

(2) Purpose:

Housekeeping

(3) Citation of existing rules affected by this order:

Repealed:

Amended: 67-25-005 and 67-25-030

Suspended:

(4) Authority for adoption:

Statute: 74.18 RCW

Other Authority:

(5 1) **PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 91-16-085 on 8-6-91 (date)

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

67-25-005 (9) add "supported employment" after "home based employment"

67-25-005 (22) Replace the words "Similar benefits" with "Comparable Services & Benefits"

(5 2) **EMERGENCY RULE ONLY**

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) 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.
- (b) 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:

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

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

31 days after filing

Other (specify) _____ *

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

Immediately

Later (specify) _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 20 1991

TIME 3:54 AM

WSR 91-20-010

(NAME TYPE OR PRINT)

Bonnie Jindra

(TITLE)

Bonnie Jindra

(OFF)

Assistant Director - Administration

(DATE)

9-20-91

AMENDATORY SECTION (Amending Order 85-02, filed 3/1/85)

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) "Adaptive skills assessment and training" includes assessment and training in the skills which are necessary for blind persons to function independently in all settings as distinguished from the vocational skills necessary to perform a specific occupation. The adaptive skills assessment and training provided by the department include communications, personal management, orientation and mobility, personal adjustment, home management, activities of daily living, and client's use of residual vision.

(4) "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 degrees; 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) "Comparable services and 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, coinsurance feature, token payment or personal claim.

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

~~((8))~~ (9) "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))~~ is blind or visually impaired;

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

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

~~((9))~~ (10) "Employability" ~~((refers to))~~ means a determination that with the provision of vocational rehabilitation services, the individual is likely to ((enable an individual to)) enter or retain as a primary objective, full time employment or, if appropriate, part time employment, consistent with ((his/her)) the capacities ((and)) or abilities of the individual 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~~) home based employment; supported employment; or other gainful work.

((~~10~~)) (11) "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~~) or visual impairment and 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~~)) (12) "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~~)) (13) "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~~)) (14) Legal blindness for purposes of this chapter is a physical disability defined as follows:

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°.

(15) "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~~)) (16) "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~~)) (17) "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.

((+6)) (18) "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.

((+7)) (19) "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.

((+8)) (20) "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.

((+9)) (21) "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)) (22) "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,--co-insurance--feature,--token--payment--or--personal--claim--"

(+22) --"Prevocational--services"--includes--assessment--and--training--in--the--skills--which--are--necessary--for--blind--persons--to--function--independently--in--all--settings--as--distinguished--from--the--vocational--skills--"

necessary--to--perform--a--specific--occupation;--The--pre-vocational--ser-vices--provided--by--the--department--include--communications;--personal--man-agement;--orientation--and--mobility;--personal--adjustment;--home management;--activities--of--daily--living;--and--client's--use--of--residual vision;))

(23) "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.

(24) Visual impairment for the purpose of this chapter is a physical disability defined as follows: Visual acuity in the best eye between 20/200 and 20/70 with correction; or angle of vision subtends between 20° and 30°, or severe functional visual problem; or a progressive condition which ultimately will lead to a visual handicap or to blindness.

(25) "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.

~~((25))~~ (25) "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.

~~((26))~~ (27) "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.

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

WAC 67-25-030 ELIGIBILITY FOR SERVICES--CRITERIA. (1) Eligibility shall be based only upon:

(a) The existence of a condition of legal blindness or visual impairment as defined in WAC 67-25-005;

(b) The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

~~((b))~~ (c) A reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

(2) ~~Persons ((found-eligible-shall-have-a-primary-disability-of blindness-or-visual-impairment;--Persons-for-whom-blindness-or--visual impairment--is-determined-to-be-a-secondary-disability-may-be-provided services-at-the-discretion-of-the-director-or-may-be-referred-to-other appropriate))~~ who are found to be blind or visually impaired and who also have a physical or mental disability which for that person constitutes or results in a substantial handicap to employability, but for whom the usual scope of services offered by the department are not expected to benefit the individual in terms of employability may be referred to other service providers or may be provided services

through a ((~~coordinated~~)) cooperative plan with other service providers.

(3) Eligibility requirements will be provided by the department without regard to sex, race, age, creed, color, or national origin of the individual applying for service.

(4) No person or group of persons shall be found ineligible for services solely on the basis of type of disability.

(5) No person shall be found ineligible for services solely on the basis of age.

(6) No person shall be found ineligible for services based on residence requirement, durational or other.