



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: 4-17-92

(2) Purpose: Housekeeping on amendments
Establishing new sections: 67-75-042 and 67-75-044

(3) Citation of existing rules affected by this order:
Repealed:
Amended: 67-75-070, 67-75-075, 67-75-040, 67-25-446
Suspended:

(4) Authority for adoption:
Statute: 74.18 RCW
Other Authority:

(5 1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 92-06-036 on 2-27-92 (date)

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

(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	Emergency Rules
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____ *	<input type="checkbox"/> Later (specify) _____

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

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 17 1992

TIME: 1:30
WSR 92-09-090

NAME (TYPE OR PRINT) Bonnie Jindra
SIGNATURE
TITLE Assistant Director - Administration DATE 4-17-92

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-040 ELIGIBILITY FOR SERVICES--CRITERIA. (~~(1)~~-Eligibility for independent living services shall be dependent on documentation of a visual impairment including one or more of the following conditions:

(a) ~~Legal blindness or visually handicapped as they are customarily defined either in terms of a qualifying reduction in visual acuity and/or a qualifying reduction in visual field.~~

(b) ~~A visual impairment which is progressive in nature and can be expected to lead to blindness within a reasonable period of time.~~

(c) ~~Reduction in both visual acuity and visual fields is such that the effect is substantially that of legal blindness, or visual efficiency is reduced so as to have substantially the same effect as legal blindness.~~

(d) ~~A visual impairment which makes it impossible for the individual to perform successfully in one or more of life's functions.~~

(2) ~~In order to be eligible for the independent living program the department must show documented proof that the individual is not eligible for vocational rehabilitation services because of~~

(a) ~~A condition related to advanced age;~~

(b) ~~A progressive medical condition; or~~

(c) ~~A multiple handicap.~~

(3) ~~In order to be eligible, individuals must have a potential to benefit from services provided by independent living in terms of increased life options, greater participation in the community, or increased self-reliance.)~~ (1) Eligibility requirements are applied

without regard to sex, race, creed, color, marital status, sexual orientation, religion, or natural origin of the individual applying for service. No group of individuals is excluded from service solely on the basis of the type of disability or on the basis of age.

(2) No residence requirement is imposed which excludes from services any individual who is present in the state.

(3) Eligibility is based only upon:

(a) The presence of a severe physical or mental disability, which shall include a visual disability defined as follows:

(i) Legal blindness or visually handicapped as they are customarily defined either in terms of a qualifying reduction in visual acuity and/or a qualifying reduction in visual field.

(ii) A visual impairment which is progressive in nature and can be expected to lead to blindness within a reasonable period of time.

(iii) Reduction in both visual acuity and visual fields is such that the effect is substantially that of legal blindness, or visual efficiency is reduced so as to have substantially the same effect as legal blindness.

(iv) A visual impairment which makes it impossible for the individual to perform successfully in one or more of life's functions;

(b) The presence of a severe limitation in ability to function independently in family or community or to engage or continue in employment; and

(c) A reasonable expectation that independent living rehabilitation services will significantly assist the individual to improve his or her ability to function independently in family or community or to engage or continue employment.

For purposes of determining an individual's eligibility for independent living services, improvement in ability to function independently in family or community refers to a demonstration in functional and behavioral terms of an individual's greater independence or maintenance of independence in such areas as self-care, activities of daily living, driving, using public transportation, shopping, house-keeping, communicating, or living more independently.

NEW SECTION

WAC 67-75-042 CERTIFICATION FOR DECISION OF ELIGIBILITY OR INELIGIBILITY. (1) There will be a certification that the individual has met the basic eligibility criteria. The statement of eligibility will be dated and signed by the vocational rehabilitation counselor or rehabilitation teacher.

(2) Whenever it has been determined on the basis of clear evidence that an individual is ineligible for independent living services, there shall be a certification, dated and signed by the vocational rehabilitation counselor or rehabilitation teacher. Certifications of ineligibility shall indicate the reasons for the ineligibility determination and shall be made only after full consultation with the individual or, as appropriate, his or her parent, guardian, or other representative, or after giving a clear opportunity for this consultation.

NEW SECTION

WAC 67-75-044 NOTICE TO APPLICANT. (1) The individual shall be notified in writing of the action taken on eligibility or ineligibility.

(2) The individual shall be informed of the department's procedure for administrative review and fair hearings and the services available through the client assistance program if he or she is dissatisfied with the department's decision.

(3) If the applicant was determined to be ineligible for independent living services, the certification shall clearly specify how he or she failed to meet the criteria of eligibility. The individual shall be notified in writing of the determination of ineligibility and of his or her rights and the means by which he or she may express and seek remedy for any dissatisfactions, including the department's procedures for administrative review and fair hearings and the services available through the client assistance program.

(4) If the applicant was determined to be eligible for independent living services, the notice shall clearly specify the date of certification of eligibility.

(5) If an applicant was determined ineligible, he or she shall be given a full opportunity to participate in the review and reconsideration of eligibility no later than twelve months after the determination was made. The review need not be conducted in situations where the individual refuses the review, the individual is no longer present in the state, or the individual's whereabouts is unknown.

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-070 ADMINISTRATIVE REVIEW. (1) Any client who feels aggrieved by, or is otherwise dissatisfied with, any decision or action by the department or its agents with regard to ~~((the))~~ his or her independent living case may file a request with the department for, and shall thereupon receive, an administrative review ~~((and re-determination--of--that--decision-or-action))~~ by the director or his/her designee, or a fair hearing by an administrative law judge.

~~(2) ((A request for an administrative review may be made either verbally or in writing and may be filed in any office of the department. A verbal request shall promptly be reduced to writing.~~

~~(3) All requests for administrative review shall:~~

~~(a) Specify the date of the decision or action being appealed.~~

{b}-Specify-as-precisely-as-possible-the-issue-to-be-resolved--by-the-administrative-review.

{c}-Set-forth-the-address-of-the-client-or-of-his-representative.

{d}-Be-signed-by-the-client-or-by-his-representative.

{4}-A-request-for-an-administrative-review-must-be-made-within sixty-days-after-receiving-notice-from-the-department-of-the-decision-or-action-by-the-department-which-is-the-basis-for-the-request-for-review.

{5}-An-administrative-review-and-redetermination--shall--be--provided--by--the--director's--designee,--and--shall--be--provided--within--thirty--days--after--the--submission--of--the--request--for--review.

{6}-Within-fifteen-days-after-the-conclusion-of--the--administrative--review--the--designee--shall--certify--his--findings--to--the--client--in--writing--specifying--in--reasonable--detail--the--reasons--for--his--findings--and--informing--the--client--of--his--right--to--request--and--receive--a--fair--hearing--if--dissatisfied--with--those--findings.)) Clients of the department's independent living program will utilize the administrative review policies and time frames of the department's vocational rehabilitation program, covered in VR WAC 67-25-560.

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-075 FAIR HEARING. (({1}-Any-client-dissatisfied-with-the-finding-of-an-administrative-review-may-request-from--the--department,--and--shall--thereupon--be--granted,--a--fair--hearing.)) A-client-who-desires-a-fair-hearing-shall-request-such-hearing-within--thirty--days-after--receiving--notice--from--the--department--of--the--finding--of--the-administrative-review.

{2}-A-request-for-fair-hearing-shall-be-sent-to-the-Department-of-Services-for-the-Blind-at-924-Lakeridge-Drive,--Olympia,--WA-98504,--who-will-forward-it-to-the-office-of-administrative-hearings.

{3}-The-administrative-law-judge-will-make-a-proposed-decision-to-the-director-of-the-department-of-services-for-the-blind-who-will-make-a-final-determination.

{4}-The-client-will-be-notified-in-writing-by-the-director-within-fifteen--days--of--receipt--of--the--administrative-law-judge's-proposed-decision.)) (1) Any client who feels aggrieved by or is otherwise dissatisfied with any decision or action by the department or its agents with regard to his or her independent living plan or is dissatisfied with the results of an administrative review may request from the department, and shall thereupon be granted, a fair hearing.

(2) Clients of the department's independent living program will utilize the administrative review policies and time frames of the department's vocational rehabilitation program, covered in VR WAC 67-25-560.

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

WAC 67-25-446 VOCATIONAL REHABILITATION--SERVICES TO GROUPS.
~~((1)-Services-to-groups-of-handicapped-persons-may-be-provided-when
such-services-will-result-in-a-benefit-to-the-individual-members'
vocational-rehabilitation.~~

~~(2)-Members-of-such-groups-must-be-eligible-for-vocational--reha-
bilitation-services.~~

~~(3)-Special-services-to-groups-may-include-but-are-not-limited-to
the-production-of-brailled-and-recorded-materials.~~

~~(4)-These--services--may-include-removal-of-architectural-barri-
ers.)~~ The department may provide for facilities and services that may
be expected to contribute substantially to the rehabilitation of a
group of individuals with handicaps but that are not related to the
individualized written rehabilitation program of any one individual
with handicaps.