**12 DEPARTMENT OF LABOR**

**150 DIVISION FOR THE BLIND AND VISUALLY IMPAIRED**

**Chapter 101: RULES GOVERNING VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS WHO ARE BLIND OR VISUALLY IMPAIRED**

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**SECTION 1: PURPOSE AND GENERAL REQUIREMENTS OF THE DIVISION FOR THE BLIND AND VISUALLY IMPAIRED VOCATIONAL REHABILITATION PROGRAM** (hereinafter referred to as “DBVI” or the “Division”)

All printed information produced by the Division for the Blind and Visually Impaired will be available*,* upon request*,* in accessible formats based on the client’s documented visual impairment.

The Maine DBVI Vocational Rehabilitation (“VR”) program assists eligible individuals who have a visual impairment (and in addition may include physical and/or mental impairment) prepare for and achieve an employment outcome. "Employment outcome" means entering, retaining or advancing in full-time competitive integrated employment; part-time competitive integrated employment (including customized and supported employment); the practice of a profession; or self-employment. The VR process is based upon an Individualized Plan for Employment (IPE) which is oriented to the achievement of a suitable vocational goal consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. Services provided to individuals with visual impairment must be necessary to overcome the vocational impediment and must be provided as cost effectively as possible, and shall be of sufficient quality to meet individual needs.

The DBVI VR program is operated in compliance with the federal *Rehabilitation Act of 1973*, as amended and codified at 29 U.S.C.§720 *et seq.* (“Act”); Title 34 CFR 361 issued in the *Federal Register* August 19, 2016; and Title 26 M.R.S.A. §1418.

 1. Eligibility is determined without regard to sex, race, creed, age, color, gender identification or national origin. There are no residency requirements, durational or other, which would exclude from services an otherwise eligible individual who is living in the state.

 2. Throughout the eligible individual’s rehabilitation program, every opportunity will be provided to the individual to make informed choices regarding the rehabilitation process. Documentation of opportunities for making informed choices will be kept in the individual’s case record.

 3. The VR program shall establish and maintain a case record for each applicant for, and recipient of, vocational rehabilitation services, which include data necessary to comply with VR program and federal requirements.

 4. In the purchase of goods or services for persons with visual impairment, counselors shall comply with applicable regulations of the Maine Department of Labor and the Department of Administrative and Financial Services.

 A. Case service expenditures require written authorization prior to the initiation of the service or the purchase of any equipment. Oral authorizations are permitted in emergency situations but must be confirmed promptly in writing and forwarded to the provider.

B. Goods and services will be provided subject to the statewide availability of funds. Goods and services will be explored by the individual with assistance from the DBVI VRcounselor and the individual will be involved in the choice of who will provide goods and services. DBVI reserves the right to use community rehabilitation providers who meet state or national accreditation standards.

5. Maine DBVI shall process new referrals upon receipt in an equitable manner and will attempt to contact the individual within five (5) working days.

 6. When appropriate, VRcounselors shall provide the referral necessary to support individuals with visual impairment in securing needed services from other agencies and organizations.

 7. Each applicant or eligible individual, being provided vocational rehabilitation services, shall be informed of the procedure for requesting a review and a re-determination of agency action concerning the furnishing or denial of services, including the names and addresses of individuals with whom appeals may be filed and of the availability of the Client Assistance Program.

**SECTION 2: CONFIDENTIALITY**

1. **Informed Written Consent**

 All client/applicant information acquired by the VR program shall remain the property of DBVI and shall only be used and released for purposes directly connected with the administration of the VR program. Use and release of personal information acquired by DBVI VR shall conform with applicable state and federal regulations, including complying with performance accountability requirements under the Act, to include 29 U.S.C. §726.

 For purposes of this policy, informed written consent shall:

 A. be in language that the individual or his/her representative understands;

 B. be signed and dated by the individual or his/her representative;

 C. be specific in designating DBVI as the agency or person authorized to disclose information;

 D. be specific as to the nature of the information which may be released;

 E. specifically designate the parties to whom the information may be released; and

 F. be specific as to the purpose(s) for which the released information may be used.

2. **Release to Individual with Visual Impairment or His/Her Representative**

Upon informed written consent by the individual or his/her representative, all information in the case record shall be made available in a timely manner, except:

 A. Medical, psychological or other information that DBVI believes may be harmful to the individual. This information may not be released directly to the individual, but shall be provided through a third party chosen by the individual, which may include, among others, an advocate, a family member, or a qualified medical or mental health professional, unless a representative has been appointed by a court to represent the individual, in which case the information must be released to the court-appointed representative; and

 B. Information obtained from outside DBVI may be released only under the conditions established by the outside agency, organization or provider.

3. **Release to Other Programs**

 Upon informed written consent of the individual with visual impairment or his/her representative, DBVI may release to another agency or organization information that may be released to the individual but only to the extent that the other agency demonstrates that the information is necessary for its program.

 A. DBVI must release personal information, with or without consent of the individual, if required by state or federal law; in response to investigations connected with law enforcement, fraud, or abuse (except where expressly prohibited by federal or state laws or regulations); or in response to an order issued by a judge, magistrate, or other authorized judicial officer.

 B. DBVI may release personal information without informed written consent of the individual in order to protect the individual or others when the individual poses a threat to his/her safety or the safety of others except for HIV test results, which may not be released without informed written consent of the individual with visual impairment.

4. **Release for Audit, Evaluation or Research**

 At the discretion of the Division Director, personal information may be released to an organization, agency, or individual engaged in audit, evaluation or research only for purposes directly connected with the administration of the DBVI VR program, or for purposes which would significantly improve the quality of life for individuals with visual impairment, and only if the organization, agency or individual assures that:

 A. The information will be used only for the purposes for which it is being provided;

 B. The information will be released only to individuals officially connected with the audit, evaluation or research;

 C. The information will not be released to the involved individual;

 D. The information will be managed in a manner to safeguard confidentiality; and

 E. The final product will not reveal any personal identifying information without the informed written consent of the involved individual, or his/ her representative.

 5. **Subpoena for Release of Records or For Testimony**

 An employee shall not testify in court or in an administrative hearing, nor release records without the consent of the individual with visual impairment, unless served with an appropriate subpoena and ordered to do so by a judge or hearing officer.

**SECTION 3: DBVI - VR APPEALS PROCESS**

 An applicant for or recipient of vocational rehabilitation services who is dissatisfied with any determination concerning the denial of services may request (or, if appropriate, may request through the individual’s representative) a timely review of the determination. DBVI shall make reasonable accommodation to the individual's visual impairment in the conduct of the appeals process. Written notification of appeal rights will be provided to the individual at the time of application, when assigned an order of selection category, when an IPE is developed, and whenever DBVI VR services are reduced, suspended, or terminated. Notification will include the name and address of the person with whom an appeal may be filed and information regarding the Client Assistance Program.

 Mediation and/or Due Process Hearings are provided at no cost to the individual; however, costs related to legal representation are not covered by DBVI.

1. **Informal Review**

Whenever possible, DBVI will attempt to resolve conflicts informally prior to Mediation or a Due Process Hearing. An individual may request a meeting with the VRcounselor, the appropriate supervisor, and/or a Client Assistance Program representative, if desired, to explore options for resolving any conflicts. An individual may request Mediation or a Due Process Hearing immediately without having to participate in the informal process.

2. **Continuation of Services Pending Appeal**

 Pending a final determination following an appeal hearing, the Division may not suspend, reduce, or terminate services being provided under an IPE, unless the services were obtained through misrepresentation, fraud or collusion or the individual, or the individual’s authorized representative requests suspension, reduction or termination of services.

3. **Time Frames**

The formal appeal must take place within (60) sixty days from when the formal request is made to the Director. The time frames listed under Section 4. Mediation and 5. Due Process Hearing may be waived if both parties agree to an extension of time in order to conduct the Mediation or hearing, and render a decision.

 4. **Mediation**

A. Mediation is a voluntary process conducted by a qualified and impartial mediator. At any point during the Mediation process, either party, or the mediator, may elect to terminate the Mediation. Mediation is provided at no cost to the individual, but costs related to legal representation are not covered by DBVI.

B. An individual must request Mediation within thirty (30) calendar days of the agency notice regarding the provision or denial of services that are in question. The request shall be in writing and shall describe the basis for the grievance. The request should be sent to the Director of DBVI who will immediately forward it to a qualified mediator.

C. Upon receipt of the request, the mediator will commence a Mediation meeting within fifteen (15) calendar days. The Mediation shall be held at a location that is convenient to the parties to the dispute.

D. Any agreement reached in the Mediation process shall be set forth in a written Mediation agreement and shall be signed by both parties. Copies of the signed agreement must be sent to both parties.

E. Discussions that occur during the Mediation process shall be confidential and may not be used as evidence in any subsequent Due Process Hearing.

F. The individual may be represented at the Mediation, including, but not limited to, representation by the Client Assistance Program.

G. The Mediation process may not be used to deny or delay the individual’s right to pursue resolution of the dispute through a Due Process Hearing within the specified time period.

5. **Due Process Hearing**

A. A Due Process Hearing is a proceeding whereby an individual who is dissatisfied with any determination concerning the provision or denial of VR services may seek a review of agency action before a hearing officer.

B. The individual must request Due Process Hearing within thirty (30) calendar days of the agency notice regarding the provision or denial of service

C. If no request for a Due Process Hearing is made within thirty (30) calendar days, the agency decision becomes final.

D. The request for Due Process Hearing shall be in writing and shall describe the basis for the grievance. The request must be sent to the Director of DBVI who will immediately forward the request to a qualified hearing officer. DBVI will accommodate an individual’s visual impairment and offer assistance, if appropriate, in this process.

E The due process hearing shall be conducted within sixty (60) calendar days of receipt of the request for a Due Process Hearing.

F. A Due Process Hearing shall be conducted by an impartial hearing officer identified jointly by the Director of DBVI and the State Rehabilitation Council of DBVI.

G. The DBVI VR program may not deny or dismiss a request for Due Process Hearing unless the individual or his/her representative:

(1) withdraws the request in writing; or

(2) is adjudged by the hearing officer to be in default for failure to appear at the hearing without good cause.

H. The Due Process Hearing shall be conducted and will include an opportunity for the individual or the individual’s representative to present witnesses and relevant evidence. A decision will be issued in accordance with The Maine Administrative Procedure Act.

I. The Due Process Hearing officer shall issue a written decision containing findings and grounds for the decision within thirty (30) days of the completion of the hearing.

J. The hearing officer’s decision becomes final unless one of the parties requests a Civil Action.

6. **Civil Action**

Any party who disagrees with the decision resulting from the Due Process Hearing has the right to file a petition in Superior Court under Rule 80C of the Maine Rules of Civil Procedure or a civil action for judicial review in a state of federal court of competent jurisdiction under the Act 29 U.S.C. §722(c)(5)(j).

**SECTION 4: APPLICATION AND ELIGIBILITY**

 1. **Application for DBVI VR Services**

 An applicant is anyone who signs a dated application or dated document requesting services. Any individual who applies for services shall undergo an assessment for determining eligibility, with the individual being notified in writing of the results. Applicants shall receive written notification of appeals rights along with the determination, including the name and address of the person with whom an appeal may be filed and availability of the Client Assistance Program.

 2. **Eligibility Criteria**

 An individual is eligible for DBVI VR if the individual:

 A. has a significant visual impairment, which for the individual constitutes or results in a substantial impediment to employment; Note: Substantial impediment to employment means that a visual impairment hinders an individual from preparing for, engaging in, retaining, or advancing in employment consistent with the individual’s abilities and capabilities and

 B. requires vocational rehabilitation services to prepare for, secure, retain, advance or regain employment consistent with the applicant’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Required VR services must be necessary to overcome disability related barriers. Lack of resources by itself does not constitute a disability related barrier.

## 3. **Presumption of Benefit**

It shall be presumed that the individual can benefit in terms of an employment outcome from vocational rehabilitation services, unless the DBVI VR counselor can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services due to the severity of the visual impairment of the individual.

4. **Timeframe for Making an Eligibility Determination**

Eligibility for DBVI VR services shall be determined within a reasonable period of time, not to exceed sixty (60) days after the application for services has been received unless the applicant is notified in writing of the following:

A. That exceptional and unforeseen circumstances beyond the control of the VRcounselor preclude the counselor from completing the determination within the prescribed timeframe and the applicant agrees that a specific extension of time is warranted; or

B. That trial work experiences are necessary to determine if the individual is capable of benefiting from vocational rehabilitation services in terms of an employment outcome.

5. **Trial Work Experiences**

Before making a determination that an individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services, the DBVI VR counselor shall explore the individual’s abilities, capabilities, and capacity to perform in realistic work situations, through a written plan of trial work experiences with appropriate supports provided, except under limited circumstances when an individual cannot take advantage of such experiences. Trial work experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services due to the severity of the visual impairment of the individual.

6. **Presumption of Eligibility**

Individuals who are Social Security recipients and beneficiaries based on a visual impairment shall be:

A. Considered to be an individual with a significant visual impairment;

B. Presumed to be eligible for vocational rehabilitation services provided the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual unless the VR counselor can demonstrate by clear and convincing evidence that the individual is incapable of benefiting due to the severity of the visual impairment of the individual. The individual’s completion of the application process is sufficient evidence of the individual’s intent to achieve an employment outcome, and no additional tests or procedures shall be used to assess this intent.

C. If an applicant for vocational rehabilitation services states that he or she is eligible for Social Security benefits under Title II or Title XVI of the Social Security Act (and therefore is presumed eligible for vocational rehabilitation services), but is unable to provide evidence, such as an award letter, to support that assertion, the VR counselor must verify the applicant’s eligibility under Title II or Title XVI of the Social Security Act by contacting the Social Security Administration. This verification must be made within a reasonable period of time that enables the VR counselor to determine the applicant’s eligibility for vocational rehabilitation services within sixty (60) days of the individual submitting an application for services.

7. **Use of Existing Information**

To the maximum extent appropriate, the eligibility determination shall be based on existing and current information, including information available from other programs and providers, particularly information from schools and the Social Security Administration, and information provided by the individual and the family.

8. **Ineligibility**

In all cases where the VR counselor determines that an applicant for or recipient of vocational rehabilitation services does not meet the requirements for eligibility, the case record must include a certification of ineligibility, dated and signed by the counselor, which documents the reasons for the ineligibility determination. In cases where ineligibility is based on the individual being too severely disabled, the decision must be based on clear and convincing evidence and require the counselor to explore the individual’s abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences. (See Section 10).

9. **Potentially Eligible Students with Disabilities**

DBVI may provide pre-employment transition services to students with disabilities who are potentially eligible for vocational rehabilitation services. A *student with a disability* is a student who is at least 14 (9th grade) but not older than 21 who is enrolled in a secondary, postsecondary, or other recognized educational program and who is eligible for and receiving special education services or is an individual with a disability under Section 504. Students who are interested in participating in Pre-ETS activities do so by completing/submitting a registration form requesting such services from their local school or local VR office.

**SECTION 5: COMPREHENSIVE ASSESSMENT OF REHABILITATION NEEDS**

 For individuals who have been determined eligible for DBVI VR services, a Comprehensive Assessment of Rehabilitation Needs (CARN)shall be conducted to determine the goals, objectives, nature and scope of vocational services to be included in the IPE. To the extent that additional data is necessary, the CARN may include trial work experiences and assessment of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment services, in the most integrated setting possible, consistent with the informed choice of the individual. The Comprehensive Assessment of Rehabilitation Needwill be limited to information that is necessary to identify the rehabilitation needs of the individual and to develop an IPE. The CARN will be reviewed and updated as appropriate prior to any significant changes to the IPE.

1. **Sources of Information**

 The CARN will use, as a primary source of information, to the maximum extent possible and appropriate, and in accordance with confidentiality requirements, the following:

 A. existing information;

 B. information provided by the individual and, where appropriate, by the family of the individual.

2. **Elements of a CARN**

 The CARN may include, to the degree needed to make a determination of vocational needs and develop an IPE, an assessment of the following:

 A. personality;

 B. career interest;

 C. interpersonal skills;

 D. intelligence and related functional capacities;

 E. educational achievements;

 F. work experience;

 G. vocational aptitudes;

 H. personal and social adjustment;

 I. employment opportunities available to the individual;

 J. medical, psychiatric, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual;

K. an appraisal of the patterns of work behavior and services needed to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavioral patterns necessary for successful job performance, including trial work assessments to assess and develop the capacities of the individual to perform adequately in the work environment;

L. the individual’s capacity to perform in a work environment, including in an integrated setting, to the maximum extent feasible and consistent with the individual’s informed choice through provision of rehabilitation technology services; and

 M. an appraisal of the person’s blindness-specific skills related to competent and independent functioning.

**SECTION 6: ORDER OF SELECTION**

 If services cannot be provided to all eligible individuals who apply, Order of Selection procedures must be implemented. After determining eligibility, counselors must assign one of two priority categories and follow the Order of Selection for provision of services. Individuals whose Individualized Plan for Employment (IPE) has been developed and signed prior to the date of implementation of the Order of Selection will continue to receive cost services. DBVI will notify all eligible individuals of the priority categories in the Order of Selection. DBVI will also inform the individual of his/her right to appeal any decision. Such appeal must be in writing. Eligible individuals in priority categories not currently being served will be notified in writing of their assignment to a particular category and their right to appeal their category assignment.

1. **Criteria for Assignment of Priority Category**

 Individuals with disabilities shall be served by date of application within the following priority order categories:

 A. An individual with the most significant visual impairment is an individual:

 (1) whose visual impairment is of a permanent, chronic or cyclical nature; and

 (2) who has a significant visual impairment (and in addition may include physical and/or mental impairment) that seriously limits two or more functional capacities (mobility, communication, self- care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employment outcome; and

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

 B. An individual with a significant visual impairment is an individual:

 (1) whose visual impairment is of a permanent, chronic, or cyclical nature, and

 (2) who has significant visual impairment that limits one functional capacity (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employment outcome; and

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

2. **Individuals Not Meeting the Order of Selection Criteria**

Eligible individuals who do not meet the Order of Selection category currently being served will have access to services through information and referral. Individuals will be provided vocational rehabilitation counseling and guidance to assist such individuals in preparing for, securing, retaining, regaining or advancing in employment, and will be appropriately referred to other programs, including other components of the statewide workforce investment system.

3. **Order of Selection and Pre-Employment Transition Services**

Students with a disability who have been found eligible and placed on a waitlist for a closed priority category may only receive Pre-Employment Transition Services if they were receiving those services before being found eligible.

**SECTION 7: INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)**

1. **Elements of an IPE**

 An Individualized Plan for Employment (IPE) shall be agreed upon and signed by the individual with a visual impairment and, as appropriate, the authorized representative of the individual and the DBVI VR counselor within a counseling and guidance relationship. The IPE shall be designed to achieve competitive integrated employment for the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capacities, career interests and informed choice of the individual. The case record must support the selection of the vocational goal. DBVI VRcounselors shall provide a copy of the IPE and any amendments to the eligible individual. DBVI VR goods and services may only be provided in accordance with the IPE. The IPE is not a legal contract between the DBVI VR program and the eligible individual. Individuals shall receive written notification of appeal rights, including the name and address of the person with whom an appeal may be filed, and the availability of the Client Assistance Program during IPE development and whenever DBVI VR services are reduced, suspended, or terminated.

2. **Standards for Development and Review of the IPE**

The Individualized Plan for Employment must be developed as soon as possible, but not later than 90 days after the date of determination of eligibility, unless the DBVI and the eligible individual agree to the extension of that deadline to a specific date by which the individualized plan for employment must be completed.

3. **Options for Developing an IPE**

The eligible individual, and the individual’s representative, will be provided information on the individual’s options for developing the IPE. DBVI will not pay for an agency or a representative to develop an IPE. The options for developing all or part of the IPE include the following:

1. With assistance from a DBVI VR counselor, to the extent determined to be appropriate by the individual;

B. With technical assistance from the DBVI VR Program or other representatives selected by the individual; or

C. The individual alone without assistance.

4. **Required Components of an IPE**

Regardless of the approach selected by an eligible individual to develop an IPE, the IPE shall include the following:

1. A specific vocational goal, which must be based on the assessment for determining vocational rehabilitation needs, including the individual’s career interests, and must be in an integrated setting.

Students or youth with a disability may use a projected goal.

B. A description of the specific vocational rehabilitation services that are:

(1) needed to achieve the vocational goal, including, as appropriate, the provision of assistive technology services and personal assistance services, including training in the management of such services; and

 (2) provided in the most integrated setting that is appropriate for the service involved and consistent with the informed choice of the eligible individual; and

(3) timeliness for the achievement of the employment outcome and for the initiation of the services.

C. A description of the entity chosen by the individual, or as appropriate, the individual’s representative that will provide the vocational rehabilitation services, and the methods used to procure such services.

D. A description of the criteria to be used to evaluate the progress toward achievement of the employment outcome.

E. The terms and conditions of the IPE, including, as appropriate, information describing:

 (1) the responsibilities of DBVI;

(2) the responsibilities that the eligible individual will assume in relation to the vocational goal; and

(3) the responsibility of the individual with regard to applying for and securing comparable benefits.

F. For individuals for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying:

(1) the extended services needed by the eligible individual after closure;

 (2) the source of extended services or, to the extent that the source of extended services cannot be identified at the time of the development of the IPE, a description of the basis for concluding that there is a reasonable expectation that such source will become available.

 G. If determined to be necessary, a statement of projected need for post-employment services.

 H. An assurance that the eligible individual with disabilities has been informed of his/her rights and the means by which the individual may express and seek remedy for any dissatisfaction, including the opportunity for a review of the rehabilitation determination, as described in this chapter; and assurance that the eligible individual with disabilities has been provided a detailed explanation of the availability of the resources within the Client Assistance Program.

**SECTION 8: COMPARABLE SERVICES AND BENEFITS AND PARTICIPATION BY INDIVIDUALS WITH VISUAL IMPAIRMENT IN THE COST OF VR SERVICES**

1. If an eligible individual wishes to financially participate in a service consistent with the IPE, it shall be documented in the IPE.

2. If comparable services and benefits are available to the eligible individual, they must be utilized to meet, in whole or part, the cost of vocational rehabilitation services. If comparable services or benefits exist under any other program, but are not available to the individual at the time needed to satisfy the rehabilitation objectives in the individual’s IPE, DBVI shall provide vocational rehabilitation services until those comparable services and benefits become available. The utilization of comparable services and benefits do not apply in the following situations:

 A. if the determination of the availability would delay the provision of vocational rehabilitation to any eligible individual with visual impairment who is at extreme medical risk, based upon medical evidence provided by an appropriate qualified medical professional; or

 B. if an immediate job placement would be lost due to a delay in the provision of comparable benefits.

 3. The following categories of service are exempt from a determination of the availability of comparable services and benefits:

 A. assessment for determining eligibility, priority for services, and vocational rehabilitation needs;

 B. vocational rehabilitation counseling, guidance, and referral services;

 C. Non-restricted awards and scholarships based on merit from civic, professional or social organizations;

 D. rehabilitation technology services; including telecommunications, sensory and other technological aids and devices;

 E. job-related services, including job search and placement services; job retention services, follow-up services and follow-along services;

 F. post-employment services that would be included under (A) - (E) above.

**SECTION 9: VOCATIONAL REHABILITATION SERVICES**

 DBVI VR will provide, as appropriate to the vocational rehabilitation needs of each eligible individual and consistent with each individual’s informed choice, any goods or services determined necessary for the individual to achieve an employment outcome. Services that are of sufficient quality will be provided as cost effectively as possible to meet the individual’s needs. Services include, but are not limited to:

 1. An assessment for determining eligibility, priority for services and for determining vocational rehabilitation needs.

 2. Vocational rehabilitation counseling, guidance, and job-related services, including job search and placement assistance, customized employment, job coaching, job retention services, follow-up services and follow-along services.

 3. Referral and other services necessary to help applicants and eligible individuals secure needed services from other agencies and to advise those individuals about the Client Assistance Program.

 4. Physical and mental restoration services necessary to correct or to substantially modify a physical or mental condition of an individual that is stable or slowly progressive.

 5. **Post-Secondary, Vocational and Occupational Training Services**

 A. **Degree-granting programs**; Post-secondary training is that training offered by accredited institutions which qualify for federal financial student aid and is provided only when necessary to achieve an employment outcome consistent with an individual's strengths, resources, priorities, concerns, abilities, capacities and informed choice, and must be documented in the IPE.

(1) **Financial Consideration**

(a) DBVI contribution toward post-secondary training shall not be provided unless maximum efforts have been made to secure assistance in whole, or in part from the Federal Financial Aid Program and other sources. An individual must make a reasonable effort and provide evidence of this effort to resolve grant awards and student loans in default prior to obligation of DBVI funds. When an individual owes a refund on a previous grant award or has a student loan in default, has limited or no financial resources, has made a reasonable repayment effort, and still fails to reach an agreement with lender/grantor, it may be reasonable to conclude that maximum effort has been made to secure grant assistance.

(b) DBVI contribution will be based upon the degree granting institution’s Financial Aid Office (FA0) needs analysis including completion of the FAFSA and determination of individual financial aid, and the Vocational Rehabilitation Counselor’s examination of actual costs and visual impairment related expenses and will not exceed the current rate for tuition, fees and on-campus room and board at the University of Maine. (See exceptions in Section 9.5.A.(1)(a)).

(c) DBVI funding may not exceed the maximum determined “contribution plus visual impairment related expenses”. Visual impairment related expenses are defined as specific assistive technology or other visual impairment related services that are required to accommodate the individual with visual impairment while in attendance at, living on campus, and/or commuting to the post-secondary institution.

(d) DBVI’s contribution cannot replace the Family contribution, except when the student is a recipient of Social Security benefits under Titles II or XVI (SSI/SSDI) of the Social Security Act. Recipients SSI/SSDI due to a disability are not subject to a financial means test.

When appropriate, Maine DBVI shall encourage individuals with disabilities to participate in the cost of attendance through the use of scholarships, college work study and/or student loans. However, individual DBVI clients will not be required to apply for scholarships or accept student loan and/or college work study. If the student is awarded scholarships and/or accepts a student loan, DBVI will consider actual costs and unmet need when determining DBVI contributions towards the cost of post-secondary training.

(e) Students are encouraged to make their own choice of educational institutions that have both the academic programs and visual impairment related supports needed to help them reach the vocational goal in their IPE, whether they are public or private, in-state or out-of-state institutions. However, the maximum DBVI contribution is limited to an amount defined in Section 9.5.A.(1)(b); except

(i) when the individual’s vocational goal can be met ONLY by a more costly post-secondary training opportunity;

(ii) when no existing in-state program will meet the unique needs of the individual and when the employment outcome goal is unlikely to be met without participation in this post-secondary program;

(iii) when specialized instructional methods or other reasonable accommodations cannot be met by a qualified public in-state institution.

 B. **Academic Requirements**

(1) Students must demonstrate academic progress (with a course load of at least six (6) credit hours per semester), maintain eligibility for financial aid, and continue to make progress toward meeting the employment outcome written in the IPE. [Note: If an individual encounters unforeseen or visual impairment related circumstances that interfere with meeting the minimum course load requirements, DBVI may continue sponsorship of the student who takes one course during that semester, however, VR will not support a reduced course load beyond two (2) consecutive semesters.]

(2) If the individual is placed on academic probation, he/she has one grading period in which to attain good standing. DBVI sponsorship will terminate after that grading period unless the client achieves good standing.

(3) DBVI will provide post-secondary education services beyond the baccalaureate level only when:

(a) The individual requires advanced training to enter employment within the agreed upon profession in the IPE which is consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice;

(b) The individual is unable to function in an appropriate career position while simultaneously completing an advanced degree due to limitations related to his/her disabilities; and

(c) Funding levels for tuition and other direct school cost will be limited to levels equal to the University of Maine Graduate rates. (see Section 9.5.A.).

C. **Certification and Occupational Training**: This is skill and occupational specific training that will lead to an employment outcome.

(1) DBVI reserves the right to use programs that meet state or national certification.

1. The skills training must provide documentation of competency at the completion of the program.

(3) Certification and occupational training are provided only when necessary to achieve an employment outcome consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities and informed choice as written in the IPE.

(4) The student must apply for Federal Financial Student Aid and scholarships whenever available.

 (5) Requirements specified in Section 9.5.A. for visual impairment related expenses, choice of institutions, part-time students and academic progress also apply to this section.

 D. **On-the-job training**: When an eligible individual is receiving on-the-job training, the conditions of training, certification and wage payment must comply with applicable State and Federal wage and hour laws. On-the-job training requires a written agreement among the client, VR counselor, and employer which states the hourly wage, responsibility for Workers' Compensation coverage, and any other conditions of employment.

 6. Interpreter services and note-taking services for individuals who are deaf, including tactile interpreting for individuals who are deaf-blind; reader services; note-taking services, vision rehabilitation therapy, and orientation and mobility services for individuals who are blind; telecommunications, sensory and other technological aids and devices.

7. Occupational licenses, tools, equipment, initial stocks and supplies necessary in order to enter an occupation. DBVI will not purchase land or buildings for individuals withvisual impairment.

8. **Self-employment**: DBVI will assist the individual, as needed, in the development of a business plan and in the process of securing loans and other financial resources for the development of a business of which the individual will operate and own at least 51%. Hence, non-profit ventures are not considered self-employed and cannot be supported under this policy. Persons with a self-employment objective are expected to pursue resources to finance the start-up of their business. The DBVI expenditure limit is $7,500 for self-sufficient business that will generate income for the individual at a sufficient level so that the individual needs no supplemental income from any public source, such as SSI, SSDI, or TANF, and $2,500 for self-employment with income projected at a lesser level that will allow the continuance of public benefits. DBVI will not expend funds to support hobbies, which are defined as activities carried on with no intent to make a profit. Exceptions to the financial limit from self-employment are allowable if necessary to achieve agreed upon goal in the IPE.

A. Every VR client who intends to pursue self-employment is required to attend self-employment orientation and complete a comprehensive business plan, utilizing technical assistance as needed and as defined in guidance.

B. Every VR Counselor will base support of the plan on the careful review of considerations of the VR approved business consultant’s appraisal of viability and recommendations, which is a requirement for all self-sufficiency plans.

C. Cost incurred in training of the client or in the development and review of the business plan shall not be included in the maximum expenditure limit. Before VR funds are expended on implementing the business plan, individuals will be expected to contribute to their self-employment venture in the form of cash, loans, grants, materials, or in-kind labor. The DBVI VR counselor and/or business consultant shall assist individuals in exploring and applying for these additional resources.

D. For plans that are expected to provide self-sufficiency, consumers must have a good record of credit or exhibit a pattern of managing existing debt.

E. DBVI retains the right to reclaim occupational tools and equipment purchased by the agency in instances when the individual's IPE is not completed, the vocational goal is changed, resulting in purchased tools and equipment not being needed, or the case is closed as “Not Rehabilitated”.

9. **Time-limited ongoing support services.** For clients with the most significant disabilities who require jobsite training and support, time-limited ongoing support services are provided at the time of and after job placement.

 A. Supported-employment is defined as follows:

 (1) Competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual is working on a short-term basis toward competitive integrated employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual with ongoing support services for individuals with the most significant disabilities for whom competitive employment:

 (a) has not traditionally occurred, or;

 (b) has been interrupted or intermittent as a result of significant disability; and

 (c) because of the nature and severity of their disability, needs intensive supported-employment services and extended services after the transition from DBVI support in order to perform the work.

 (2) Short-term basis means that an individual can reasonably achieve competitive integrated employment within six (6) months of achieving a supported employment outcome, not to exceed twelve (12) months in limited circumstances based upon the needs of the individual and demonstrated progress towards competitive earnings.

 B. DBVI may provide extended services to a youth with a disability for a period not to exceed four (4) years for youth not older than Age 24. Extended services are defined as ongoing support services and other appropriate services that are needed to support an individual with a most significant disability in supported employment.

 C. DBVI may provide ongoing support services to individuals with visual impairment for up to twenty-four (24) months, unless under special circumstances the individual and the counselor jointly agree to the extension of time. in order for the individual to achieve job stability prior to transition to an extended support program.

10. **Post-Employment Services:** An individual who is determined rehabilitated may receive services necessary to assist that individual to maintain, regain or advance in employment, consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, and interests and informed choice. Post-employment services require an amendment to the IPE. Post-employment services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and thus, are limited in scope of two or less services and duration of no more than a year. If more comprehensive services are required, and/or there is a new disabling condition and/or it has been longer than three-years since the case was closed successfully, then a new application for DBVI services should be considered.

 11. Rehabilitation technology services may be provided to meet the needs and address the barriers confronted by individuals with visual impairment in order to achieve an employment outcome in areas which include education, rehabilitation, employment, transportation and independent living. Rehabilitation technology services may be provided at any time in the rehabilitation process, including the assessment for determining eligibility, vocational rehabilitation needs, trial work experiences, services provided under an IPE, annual reviews of ineligibility decisions, annual reviews of extended employment in rehabilitation facilities, and post-employment services.

 12. Transition services are a coordinated set of activities for youth with disabilities through Age 24 to achieve an employment outcome in a competitive integrated setting. These services promote the movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported-employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student’s needs, taking into account the youth’s preferences and interests, and include, as appropriate, instruction, community experience, the development of employment and other post-school adult objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of an employment outcome identified in the student’s individualized plan.

DBVI will assist in transition planning and in the development of student’s individualized education plan. For students eligible for services with an agreed upon or projected vocational goal, DBVI is expected to develop an Individualized Plan for Employment within 90 days of eligibility and, whenever possible, before the student leaves the school setting. In providing transition services, DBVI will facilitate the use of community-based services to the extent they are available and appropriate. Services will be provided in the most cost-effective manner.

Pre-employment transition services available to eligible or potentially eligible students with a vision disability, Age 14 through Age 21, enrolled in a secondary, postsecondary, or other recognized education program, are job exploration counseling; work-based learning experiences; counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs; workplace readiness training; and self-advocacy instruction.

 13. **Supportive Services May Include**

 A. Maintenance for additional expenses, such as food, shelter, and clothing that are in excess of usual expenses of the individual and that are necessitated by the individual’s participation in a rehabilitation program;

 B. Transportation, including travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service and achieve an employment outcome by the most cost-effective means possible.

 C. Services to an applicant’s/client's family members when those services are necessary to the vocational rehabilitation of the eligible individuals.

 D. Personal assistance services necessary to achieve an employment outcome provided while an individual with a visual impairment is receiving IPE services.

 14. Other goods and services determined necessary for the individual to achieve an employment outcome.

### **SECTION 10: CLOSURE**

The counselor shall close an individual's case record at any time in the DBVI VR process when it is determined that the individual is no longer eligible, is unavailable for diagnostic or planned services, chooses not to participate, or is rehabilitated.

1. **Ineligibility**

 A. The person has no visual impairment or substantial impediment to employment, or the individual does not require DBVI VR services to achieve an employment outcome, or is unwilling to consider employment in an integrated setting.

 Requires:

 (1) Opportunity for the individual's or his/her representative's participation in closure decision;

 (2) Written notification of closure decision;

 (a) Written notification of appeal rights, including the name and address of the person with whom an appeal may be filed, and of the availability of the Client Assistance Program;

 (b) IPE amendment, if appropriate;

 (c) Certification of ineligibility in case record that documents the reasons for closure and is dated and signed by the counselor;

 (d) Referral to other agencies and community rehabilitation programs, as appropriate.

 B. There is clear and convincing evidence after trial work experiences that the individual with a visual impairment is incapable of benefiting from DBVI VR services in terms of achieving an employment outcome in an integrated setting for which an individual is compensated at or above minimum wage.

 Requires:

 (1) Opportunity for the individual's or his/her representative's participation in closure decision;

 (2) Written notification of closure decision;

 (3) Written notification of appeal rights, including the name and address of the person with whom an appeal may be filed, and of the availability of the Client Assistance Program;

 (4) IPE amendment, if appropriate;

 (5) Review of the ineligibility determination within twelve (12) months. A review is not required in situations where the individual refuses it, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive;

 (6) Certification of ineligibility in the case record that documents the reasons for closure and is dated and signed by the counselor.

 (7) Referral to other agencies and community rehabilitation programs, as appropriate.

2. **Closure for Reasons other than Ineligibility**

 A. **Individual is Unavailable**

 The counselor may close a case when an individual is unavailable during an extended period of time for an assessment for determining eligibility and vocational rehabilitation needs, or to participate in planned vocational rehabilitation services, and the counselor has made repeated efforts to contact the individual and to encourage the individual's participation.

 Requires:

 (1) Rationale for closure documented in the case record;

 (2) Written notification to client;

 (3) Written notification of appeal rights, including the name and address of the person with whom an appeal may be filed and the availability of the Client Assistance Program;

 (4) IPE amendment, when appropriate

B. **Individual Refuses to Cooperate or Participate**

 The counselor may close an applicant or eligible client when there is sufficient evidence to conclude that the individual refuses to cooperate or to participate in an assessment for determining eligibility and rehabilitation needs or planned services that can be demonstrated to be critical to success after reasonable efforts have been made to encourage cooperation or participation.

 Requires:

 (1) Rationale for closure documented in the case record;

 (2) Written notification to client;

 (3) Written notification of appeal rights, including the name and address of

 (4) the person with whom an appeal may be filed and the availability of the Client Assistance Program;

 (5) IPE amendment, when appropriate.

 C. **Individual needs supported-employment and extended support services are not available**

 The counselor may close an applicant or eligible client who needs extended supports to become competitively employed, when it becomes apparent that extended supports will not be available. All options, such as agency funding from Department of Health and Human Services, The Bureau of Rehabilitation Services’ Basic or Brain Injury Extended Support Programs, natural supports, etc., must be first explored.

Additionally, for youth with a disability through the age of 24 who have satisfied the requirements below for case closure in achieving an employment outcome and need continued support, but are no longer eligible to receive extended services or any other vocational rehabilitation service provided by the VR agency with funds under Title I or the Supported Employment program and the individual no longer meets age requirements or has received extended services for a period of four years, the counselor may close the client unless an extension of support services has been jointly agreed by the client and the counselor.

 Requires:

 (1) Rationale for closure documented in the case record;

 (2) Written notification to client;

 (3) Written notification of appeal rights, including the name and address of the person with whom an appeal may be filed and the availability of the Client Assistance Program;

 (4) IPE amendment, when appropriate

 3. **Closure of Clients Who Have Achieved an Employment Outcome**

 A. In order to determine that a client has achieved competitive integrated employment, the case record must document the following:

 (1) the provision of services under the individual’s IPE contributed to the achievement of the employment outcome that is described in the individual’s IPE;

 (2) the employment outcome is consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice as agreed upon in the individual’s IPE;

 (3) the employment outcome is in an integrated setting for which the individual is compensated at or above minimum wage, consistent with the individual’s informed choice as agreed upon in the individual’s IPE;

 (4) the individual has maintained the employment outcome for at least 90 days; necessary to ensure the stability of the employment outcome and the individual no longer needs vocational rehabilitation services.

 (5) the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job;

 (6) the individual is informed, through appropriate modes of communication, including written notification, of the availability of post-employment services

 (7) Written notification of appeal rights, including the name and address of the person with whom an appeal may be filed and the availability of the Client Assistance Program;

 **4. Closure of Clients in Supported Employment**

 Clients have achieved a supported-employment outcome when the following conditions are met:

 (1) the individual has substantially met the goals and objectives of his/her IPE;

 (2) extended support services are immediately available to preclude any interruption in the provision of the ongoing support needed to maintain employment;

 (3) the individual has maintained competitive integrated employment for at least ninety (90) days after the transition to extended services

 (4) the individual or representative and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job;

 (5) the individual or representative is informed, through appropriate modes of communication, including written notification, of the availability of post-employment services; and

 (6) Written notification of appeal rights, including the name and address of the person with whom an appeal may be filed and the availability of the Client Assistance Program, is provided.

5. **Periodic Review of Unsuccessful Closures from Extended Employment with Community Rehabilitation Providers and Closures at Less than Minimum Wage**

 For all clients closed unsuccessfully in a non integrated extended employment setting or those closed in an integrated setting in which the individual is compensated at less than minimum wage, Maine DBVI must conduct an annual review and reevaluation of the status of each individual for two (2) years after closure (and thereafter, if requested by the individual or, if appropriate, the individual’s representative) to determine the interests, priorities, and needs of the individual with respect to competitive integrated employment or training in competitive integrated employment. This review must include:

 (1) input from the individual or, if appropriate, the individual’s representative, to determine the interests, priorities, and needs of the individual for employment or training for competitive integrated employment in the labor market;

 (2) make maximum effort, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable the eligible individual to benefit from training in, or to be placed in competitive integrated employment; and

 (3) provide services designed to promote movement from extended employment to competitive integrated employment, including supported‑ employment, independent living, and community participation.

EFFECTIVE DATE:

 September 19, 1994 - Chapter 101, “Vocational Rehabilitation Services for Individuals who are Blind”

EFFECTIVE DATE (ELECTRONIC CONVERSION)

 May 19, 1996

MOVED FROM DEPARTMENT OF EDUCATION:

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REPEALED AND REPLACED:

 June 10, 2006 – filing 2006-237, “Rules Governing Vocational Rehabilitation Services for Individuals Who Are Blind or Visually Impaired”

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