

Nevada Rehabilitation Division
Summary of Participant Services Policy Manual Changes for Nevada State Rehabilitation Council
Date: 5/10/2022

Overview

Separation of Policy and Procedures Rational:

In order to better serve the needs of Nevada Vocational Rehabilitation participants in a timely manner, it was identified that the procedural instructions, intermingled with policy complicated the delivery of service and made the document less agile when changes are required. By carefully separating out internal business practices from policy, VR agency will now be able to strengthen consistent standards of service to all participants as well as keep up-to-date with the needs of operation as a state agency. As a result of this work, policy language is simplified, removing unnecessary technical procedural terminology, which will better serve our Vocational Rehabilitation participants and the general public at large. By completing the separation of the two, future circumstances warranting changes to the essence of policy will continue to be handled with Nevada State Rehabilitation Council contributions and VR agency review.

Abbreviations:

- CAP- Client Assistance Program
- CFR- Code of Federal Regulations
- IPE- Individualized Plan for Employment
- SA- Situational Assessment
- SSA- Social Security Administration
- TTW- Ticket To Work
- VR- Vocational Rehabilitation

Policy will contain the following:

- Table of Contents
- Policy Sections and Subsections
- Definitions Definition of Terms / Acronyms

Policy and Procedure Combined Manual was 441 pages. Version 8 Participant Service Policy Manual is 118 pages.

Target Effective Date: 07/01/2022

Note: Minor changes, clarification on current policy, as well as rearranging, re-formatting, or changes in wording that don't change the essence of the policy etc. are not summarized below. Policy changes that affect other sections of the policy may not be summarized in each section; however, it will be noted in the main section.

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Section 4: Referral of Participants

Topic:	Clarification or Change Summary:	Explanation:
Subminimum wage referral	<p>Policy Update Page 2: Referral of Individuals Participating in Subminimum Wage Employment: 34 CFR 397.40 What are the responsibilities of a designated State unit for individuals with disabilities, regardless of age, who are employed at a subminimum wage? The agency must provide or coordinate provision of career counseling and information and referral services to individuals with disabilities who are earning subminimum wage and are known by the agency, to be employed by an entity holding a special wage certificate under Section 14(c) of the Fair Labor Standards Act.</p>	CFR was added to clarify agency requirements when dealing with subminimum wage.
CCI&R Intervals	<p>Policy Update Page 2-3: Required intervals for Career Counseling, Information and Referral Services taken out as it is outlined in CFR indicated in the section.</p>	Required intervals for Career Counseling, Information and Referral Services details removed as it is outlined in CFR 34 CFR 397 Limitations of Subminimum Wage , with includes documentation requirements.

Section 5: Ticket to Work Program

Topic:	Clarification or Change Summary:	Explanation:
Ticket Assignment	<p>Policy Update Page 1: Many work incentives are available to SSA beneficiaries whether or not their Ticket is being used. A limited number of additional benefits are available to SSA beneficiaries from the TTW program, and those benefits can only be used if the Ticket has been placed "In-Use" with a State Vocational Rehabilitation (VR) agency or "Assigned" to an approved Employment Network (EN). The Ticket cannot be "Assigned" to an EN and "In-Use" with a State VR agency at the same time; however, collaborated efforts may be coordinated.</p>	Addition to clarify that although ticket can only be assigned or In-Use with one entity; both parties must collaborate to provide services to prevent duplication of services.

Nevada Rehabilitation Division
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 Date: 5/10/2022

Section 06: Application and Intake

Topic:	Clarification or Change Summary:	Explanation:
Information and Disclosure statement	<p>Policy Update Page 03: <u>Applicants are provided an</u> Information and Disclosure Statement <u>that</u> includes <u>the availability of the Client Assistance Program (CAP)</u>, Fair Hearing Process, Participant Bill of Rights, and information of confidentiality. Applicants are provided an Information and Disclosure Statement, that includes the availability of the Client Assistance Program (CAP), Fair Hearing Process, Participant Bill of Rights, and information on confidentiality.</p>	<p>Addition to when CAP and Fair Hearing information is being provided for clarity and alignment with other sections (10, 22, and 27).</p>

Section 7: Financial Need and Participation

Topic:	Clarification or Change Summary:	Explanation:
Exemptions for Certain Goods and Services	<p>Policy Update Page 2-3: The following goods and services are exempt from financial participation, regardless of whether or not the individual is exempt based on financial needs:</p> <ul style="list-style-type: none"> • Job related services, such as job search and placement assistance, job retention services, <u>job coaching</u> and follow along services; • <u>O&M Training and Rehabilitation Instruction</u>; and.... 	<p>Added job coaching as an example of job-related services for clarity. Added O&M Training and Rehabilitation Instruction to the list of financial participation exempt as they are services normally provided by in-house staff, but there are times when an outside vendor needs to be utilized to provide the service.</p>

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Section 10: Counseling and Guidance, Assessment of Vocational Rehabilitation Needs (AVRN) and Individualized Plan for Employment (IPE)

Topic:	Clarification or Change Summary:	Explanation:
Expiring IPEs	Policy Update Page 6: 11. <u>Expired IPE and Individual IPE Services</u> <u>Participants will be notified in writing with appeal rights of an upcoming expiring IPE and/or individual IPE services.</u>	Expiration of IPEs added to provide public that participants will be contacted when their IPE is expiring and that they will be provided appropriate rights information. Provided for clarity and alignment with other sections (6, 22, and 27).

Section 12: Scope of VR Services Overview

Topic:	Clarification or Change Summary:	Explanation:
Scope of Services Available	Policy Update Page 01: Job related services, including job search and placement assistance, job retention services, <u>job coaching</u> and follow up or follow along services.	Added job coaching as an example of job-related services for clarity.

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Subsection 12.1: Medical/Psychological/Dental/Hearing Loss/Blindness/Substance Use

Topic:	Clarification or Change Summary:	Explanation:
34 CFR 361.5 (c) (39)	Policy Update Page 1: <u>The agency provides physical and psychological treatment services in accordance with 34 CFR 361.5 (c) (39) Applicable definitions: Physical and mental restoration services.</u>	Added 34 CFR 361.5 (c) (39) to provide scope of services information.
NAC 483.415	Policy Update Page 4: The application process to operate a motor vehicle while wearing a bioptic telescopic device is defined in Nevada Administrative Code (NAC) 483.405 (Driver’s License- License to operate a motor vehicle while wearing the device: Application), eligibility requirements are defined in Nevada Administrative Code (NAC) 483.410 (Driver’s License- License to operate motor vehicle while wearing device: Requirements for eligibility), <u>and restrictions are defined in Nevada Administrative Code (NAC) 483.415 (Driver’s License- License to operate motor vehicle while wearing device: Restrictions).</u> Other driving alternatives will be considered.	Added NAC 483.415 to provide information on driver license restrictions while waring telescopic device.

Subsection 12.2: Work Based Exploration, Learning and Training Experiences

Topic:	Clarification or Change Summary:	Explanation:
Drug Testing Requirement for Situational Assessment (SA)	Policy Update Page 2: <u>The participant must complete and pass a drug test prior to participating in a SA.</u>	Addition to be transparent of drug testing requirements for SA as this is already part of the SA program; and to be in alignment with other type of work assessment and experience requirements.

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 Date: 5/10/2022

Subsection 12.3: Scope of VR Services; Employment Development, Job Placement, Job Retention, Job Coaching and Service Coordination

Topic:	Clarification or Change Summary:	Explanation:
Choosing a placement provider	Policy Update Page 2: Participants who need a basic level of job search assistance and support will be referred to internal (the internal job development team) and external resources (JobConnect/American Job Centers) .	Examples provided of internal and external resources for job placement.

Section 13 Supported Employment

Topic:	Clarification or Change Summary:	Explanation:
34 CFR 363.1	Policy Update Page 1: Based on 34 CFR 363.1 What is the State Supported Employment Services program?	Added 34 CFR 363.1 to provide full definition of supported employment.
34 CFR 363.54	Policy Update Page 3: 34 CFR 363.54 When will an individual be considered to have achieved an employment outcome in supported employment?	Added 34 CFR 363.54 to provide guidance on employment outcome achievement for supportive employment.
CFR 363.4 and 34 CFR 363.22	Policy update Page 4: IV. Use of Supported Employment Funds: The agency receives Supported Employment funding to provide supported employment services. Refer to 34 CFR 363.4 (What are the authorized activities under the State Supported Employment Services program?) for a description of these activities. Per 34 CFR 363.2234 CFR 363.22 (How are funds reserved for youth with the most significant disabilities?) Fifty percent (50%) of Supported Employment funds must be reserved for the provision of supported employment and/or extended services for youth who are eligible for supported employment services.	Added 34 CFR 363.4 and 34 CFR 363.22 to provide information on requirements for utilization of supported employment funds.

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Section 22: Fair Hearing and Mediation Procedures

Topic:	Clarification or Change Summary:	Explanation:
Availability of CAP and Fair Hearing Information	Policy Update Page 1: <u>The availability of the Client Assistance Program (CAP) and Fair Hearing information is provided to participants in writing:</u> <ul style="list-style-type: none"> • <u>At time of application,</u> • <u>At the time of Order of Selection category assignment,</u> • At the time of IPE development (included under terms and conditions of the IPE), and • Whenever services are reduced, suspended, or terminate 	Addition to when CAP and Fair Hearing information is being provided for clarity and alignment with other sections (6, 10 and 27).

Section 27: Workplace Safety, Disruptive Behavior and Expected Code of Conduct

Topic:	Clarification or Change Summary:	Explanation:
Other Disruptive Behaviors	Policy Update Page 02: <u>The availability of the Client Assistance Program (CAP) and Fair Hearing information is provided in writing to participants whenever services are reduced, suspended, or terminated.</u>	Addition to when CAP and Fair Hearing information is being provided for clarity and alignment with other sections (6, 10 and 22).

Nevada Rehabilitation Division
Additional Updates to Participant Services Policy Manual for Nevada State Rehabilitation Council Meeting Date: 09/13/2022

Policy and Procedure Combined Manual was 441 pages. Version 8 Participant Services Policy Manual is 118 pages.

Note that the definition Competitive Intergraded Employment is in the Definition of Terms and Acronyms which will be included in the manual.

New Target Effective Date: 10-01-2022

Topic:	Clarification or Change Summary:	Explanation:
Recipients of SSI and SSDI Benefits for a disability	<p>Remove references that a participant receiving SSI or SSDI will be expected to contribute 75% of their SSI/SSDI allowance to the cost of their living expenses before VR provides maintenance funding for a student to attend a training institution.</p> <p style="text-align: center;">Applies to Sections: 12.5 Post-Secondary Education and Training at Vocational Training Facilities 12.8 Maintenance and Services to Family Members 16 Comparable Services and Benefits</p>	<p>This comes in response to RSA Technical Assistance Circular (RSA-TAC-22-03) which prohibits beneficiaries of SSI due to a disability and SSDI from financially participating in the cost of VR services. The TAC is attached to this email for your reference.</p> <p>NV- VR has implemented via directive to staff.</p>

Topic:	Clarification or Change Summary:	Explanation:
OIB Reference	<p>Added reference specific for the OIB program when individuals with a disability makes an informed choice not to pursue an employment outcome under the vocational rehabilitation program..... as applicable, refer individuals to the Older Individuals Who Are Blind Program.</p> <p style="text-align: center;">Applies to Section 6 Application and Intake</p>	<p>This comes in response to NSRC Member recommendation from 05-11-2022 meeting.</p>

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202-2800

TECHNICAL ASSISTANCE CIRCULAR
RSA-TAC-22-03
DATE: April 22, 2022

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES
STATE REHABILITATION COUNCILS
CLIENT ASSISTANCE PROGRAMS

SUBJECT: Prohibition Against Applying Financial Needs Tests or Requiring Cost Participation as a Condition for the Receipt of Vocational Rehabilitation Services for SSI and SSDI Recipients

PURPOSE:

The U.S. Department of Education's (Department) Rehabilitation Services Administration (RSA), within the Office of Special Education and Rehabilitative Services, issues this Technical Assistance Circular (TAC) to remind State Vocational Rehabilitation (VR) agencies of the prohibition at 34 C.F.R. § 361.54(b)(3)(ii) against applying a financial needs test or requiring financial participation as a condition for providing VR services to an individual who has been determined eligible for Social Security benefits under titles II or XVI of the Social Security Act (i.e., recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI)).

BACKGROUND:

VR program regulations in 34 C.F.R. § 361.54 govern the participation of individuals with disabilities in the cost of services based on financial need. In general, these regulations—

- State that there is no Federal requirement that VR agencies consider the financial need of individuals with disabilities when providing VR services (34 C.F.R. § 361.54(a));
- Require VR agencies to maintain written policies if they choose to consider the financial need of eligible individuals, as well as individuals with disabilities engaging in trial work experiences, for purposes of determining the extent of their participation in the cost of VR services (34 C.F.R. § 361.54(b)(1) and (2)(i));
- Require that the written policies, among other things, explain the method to be used when determining financial need and specify the VR services to which the policies will apply (34 C.F.R. § 361.54(b)(2)(i)(A) and (B));
- State that certain VR services are exempt from cost participation and financial needs tests (34 C.F.R. § 361.54(b)(3)(i)); and

- Prohibit VR agencies from applying financial needs tests or requiring participation in the cost of VR services as a condition for providing VR services to individuals with disabilities determined eligible for Social Security benefits under titles II and XVI of the Social Security Act (34 C.F.R. § 361.54(b)(3)(ii)).

RSA issues this TAC to ensure State VR agencies' understanding of the regulatory requirements governing financial needs testing and client financial participation, particularly the prohibition in 34 C.F.R. § 361.54(b)(3)(ii).

TECHNICAL ASSISTANCE:

RSA reminds State VR agencies that 34 C.F.R. § 361.54(b)(3)(ii) prohibits agencies from applying a financial needs test or requiring financial participation as a condition for providing VR services to individuals with disabilities eligible to receive SSI or SSDI benefits. In other words, if a State VR agency maintains written policies for applying a financial needs test or requiring client financial participation in the cost of VR services, SSI and SSDI recipients are exempt from both under 34 C.F.R. § 361.54(b)(3)(ii).

Section 103(a) of the Rehabilitation Act of 1973 (Rehabilitation Act) and 34 C.F.R. § 361.48(b) require VR agencies to make available the full scope of VR services, based on the rehabilitation needs of the individual and consistent with the individualized plan for employment (IPE), to assist the individual with a disability in preparing for, securing, retaining, advancing in, or regaining an employment outcome that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. In addition, regulations implementing the amendments to the Rehabilitation Act made by the Workforce Innovation and Opportunity Act (WIOA) emphasize the provision of services, including financial support for postsecondary and graduate-level education, designed to lead to high-quality competitive integrated employment outcomes (see 34 C.F.R. § 361.48(b)(6)).

When State VR agencies fail to comply with the prohibition in 34 C.F.R. § 361.54(b)(3)(ii), these agencies may be preventing SSI and SSDI recipients from receiving the full array of VR services needed to achieve their employment outcomes. Financial needs tests and policies that require participation in the cost of VR services may disincentivize these individuals from participating in the VR program, thereby hampering their ability to achieve competitive integrated employment and reduce their reliance on public benefits.

Notably, under 34 C.F.R. § 361.45(c)(2)(ii)(A), during the IPE development process, VR agencies must inform an individual of the applicable agency guidelines and criteria for determining the eligible individual's financial commitments under the IPE. Thus, VR agencies must inform individuals eligible for SSI or SSDI benefits that they are not responsible for the cost of any VR service listed on their IPEs.

INQUIRIES:

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/s/

Carol L. Dobak
Acting Deputy Commissioner,
delegated the authority to perform the
functions and duties of the Commissioner

cc: Council of State Administrators of Vocational Rehabilitation
National Council of State Agencies for the Blind
National Disability Rights Network

