

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

INFORMATION MEMORANDUM
RSA-IM-99-13
DATE: February 17, 1999

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
STATE REHABILITATION COUNCILS
CLIENT ASSISTANCE PROGRAMS
PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS
PROGRAMS
AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES
GRANTS
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Fact Sheets

CONTENT: The Rehabilitation Services Administration (RSA) has developed several fact sheets pursuant to the 1998 Amendments to the Rehabilitation Act of 1973, as amended (Act). This issuance transmits fact sheets on: the State Vocational Rehabilitation (VR) Services program; appeal rights for VR consumers; and the Client Assistance Program (CAP). These fact sheets are written in an easy-to-read style for consumers. We encourage you to use these fact sheets when providing services.

INQUIRIES: RSA Regional Commissioners

Fredric K. Schroeder, Ph.D.
Commissioner

ATTACHMENTS

cc: CSAVR
NAPAS
NCIL

FACT SHEET
THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

1. WHAT IS THE STATE VOCATIONAL REHABILITATION (VR) SERVICES PROGRAM?

Under the Rehabilitation Act of 1973, as amended (Act), States receive Federal grants to operate a comprehensive VR program. This State-operated program is designed to assess, plan, develop and provide VR services to eligible individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. By providing services in this way, the VR program enables individuals with disabilities to prepare for and engage in gainful employment.

2. WHAT DOES IT MEAN TO BE AN "INDIVIDUAL WITH A DISABILITY"?

An "individual with a disability" means any individual who:

- ? has a physical or mental impairment which constitutes or results in a substantial impediment to employment for the individual; and
- ? can benefit from VR services to achieve an employment outcome.

3. WHO IS ELIGIBLE FOR VR SERVICES?

To be eligible for VR services, an individual must:

- ? be an "individual with a disability," as defined above; and
- ? require VR services to prepare for, secure, retain, or regain employment.

4. IS ANYONE AUTOMATICALLY ELIGIBLE FOR VR SERVICES?

Individuals who receive Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI) benefits are "presumed" to be automatically eligible for VR services, unless there is clear and convincing evidence that they are too severely disabled to benefit from VR services.

5. DOES EVERY ELIGIBLE INDIVIDUAL RECEIVE VR SERVICES?

No. The Act requires VR to serve individuals with the most significant disabilities first when there are not enough resources to serve everyone who is eligible for VR services. This means that individuals with the most significant disabilities are given a priority over those with less significant disabilities. This process is called an "order of selection."

6. HOW DOES AN INDIVIDUAL APPLY FOR VR SERVICES?

- ? An individual has the right to submit a written application.
- ? An individual will be considered to have "submitted an application" when he/she "requests" VR services and provides sufficient information for VR to determine eligibility.
- ? VR should determine eligibility within 60 days of application.

7. HOW DOES AN INDIVIDUAL RECEIVE VR SERVICES?

- ? The VR agency assigns a VR counselor to each eligible individual.
- ? The counselor gathers as much information as possible about the individual's work history, education and training, abilities and interests, rehabilitation needs, and possible career goals. In gathering the information, the counselor will first look to existing information so it is important for an individual to bring copies of medical, educational and similar documentation.
- ? If existing information is not sufficient to determine whether the individual is eligible for VR services, then VR will provide assessment services to gather the needed information.
- ? Based on the information gathered in this assessment phase of the VR process, an Individualized Plan for Employment (IPE) that identifies the individual's desired employment outcome is developed. The IPE also lists, among other things, the steps necessary to achieve the individual's employment outcome, the services needed to help the individual achieve that outcome, and evaluation criteria used to determine progress toward the employment outcome. The VR agency may only provide those services listed on the IPE.
- ? The State VR counselor provides some services directly to the eligible individual and arranges for other services from providers in the community.

8. HOW DOES AN INDIVIDUAL DEVELOP AN IPE?

- ? Once an individual is determined eligible to receive VR services, he or she must develop an IPE. The individual must be given the opportunity to make an informed choice in selecting, among other things, an employment outcome, needed VR services, and providers of those VR services.
- ? The individual may develop the IPE: on his/her own; with the assistance of a qualified VR counselor; or with the assistance of anyone else who is willing to help.
- ? The VR agency must provide the individual with information in writing, as well as in an appropriate mode of communication, explaining the assistance available to the individual when developing the IPE as well as the full range of components that must be included in the IPE.
- ? Both the individual and the VR counselor must sign the IPE.

9. WHAT ARE THE VR SERVICES AN ELIGIBLE INDIVIDUAL MAY RECEIVE?

VR services are those services that an eligible individual may need in order to achieve his/her employment outcome. These include, but are not limited to, the following:

- ? an assessment for determining eligibility and VR needs;
- ? vocational counseling, guidance, and referral services;
- ? physical and mental restoration services;
- ? vocational and other training, including on-the-job training;
- ? maintenance for additional costs incurred while the individual is receiving certain VR services;
- ? transportation related to other VR services;
- ? interpreter services for individuals who are deaf;
- ? reader services for individuals who are blind;
- ? services to assist students with disabilities to transition from school to work;
- ? personal assistance services (including training in managing, supervising, and directing personal assistance services) while an individual is receiving VR services;
- ? rehabilitation technology services and devices;
- ? supported employment services; and
- ? job placement services.

10. DOES THE ELIGIBLE INDIVIDUAL HAVE TO PAY FOR VR SERVICES?

Based on the individual's available financial resources, the State VR agency may require an eligible individual to help pay for services. However, the following services are available to all eligible individuals, regardless of their financial resources, without charge:

- ? assessments to determine eligibility and VR needs;
- ? vocational counseling, guidance, and referral services; and
- ? job search and placement services.

11. WHAT ARE COMPARABLE SERVICES AND BENEFITS?

"Comparable services and benefits" are those benefits or services that are: 1) paid for, in whole or in part, by another Federal, State or local public agency or employee benefits; 2) available at the time the individual needs them; and 3) comparable to the services that the individual would receive from the VR agency. Merit-based awards and scholarships are not considered "comparable services and benefits." Before providing certain VR services, the counselor must determine whether another source, such as medical insurance or Medicaid, etc., can pay for the service. However, the counselor is not required to look for a "comparable service or benefit" if it would delay: 1) the individual's progress toward achieving an employment outcome; 2) an immediate job placement; or 3) the provision of services to an eligible individual who is at extreme medical risk.

12. WHAT IS THE CLIENT ASSISTANCE PROGRAM (CAP)?

CAP is available in each State to assist individuals in their relationships with the VR agency. If an applicant for or recipient of VR services is not satisfied with the services received or the decisions made by the VR counselor, CAP may be able to help resolve the dispute.

13. DO INDIVIDUALS HAVE APPEAL RIGHTS WITH THE VR PROGRAM?

Yes. If an applicant for or recipient of the VR program is unhappy with a decision made by a VR employee, he/she may request a review of that decision. The law requires the VR agency to offer at least two methods of resolving a dispute: mediation or a formal hearing process. An individual may choose to use one or both of these processes to resolve the matter. In addition, the law provides the VR agencies with the flexibility to develop and implement informal review procedures to resolve disputes prior to the mediation or formal hearing process. These informal review procedures generally involve the applicant or individual, or, as appropriate, the applicant or individual's representative, negotiating a resolution with the counselor or the counselor's supervisor.

14. WHERE CAN I GET MORE INFORMATION ABOUT THE VR AGENCY IN MY STATE?

The addresses and telephone numbers of the local VR agency offices generally are listed under "State Government" in the local telephone directory.

QUICK FACTS ABOUT YOUR APPEAL RIGHTS

If you are unhappy with the services you are seeking or receiving from the Vocational Rehabilitation (VR) agency:

- ? You can file an appeal. Be sure to ask your VR counselor about how to appeal, as well as any deadlines for appealing, as soon as a problem arises.
- ? There are three options on how to handle the appeal:
 1. **Informally** -- with a VR administrator;
 2. **Mediation** -- with a neutral third party who will help you **TRY TO** reach a compromise or agreement with the VR agency; or
 3. **Formal Hearing** -- during which an impartial hearing officer (IHO) will hear the facts of the case and make a decision.
- ? It is up to you how you want to handle the appeal. You can do all three steps, two of the steps, or only one. If you choose to do more than one step, you must go in the order the options are stated above.
- ? The VR agency pays for all costs related to mediation and the formal hearing.
- ? If you do mediation, the mediator will help you try to reach an agreement with the VR agency. If you reach an agreement, the mediator will put the agreement in writing. All information learned during mediation is confidential and cannot be used against you later.
- ? If you go to a formal hearing, the IHO will make a written decision about your case within 30 days.
- ? If you are not happy with the IHO's decision, you can appeal it. There may be two ways to file an appeal of that decision: with a "reviewing official" or in court. Not all States have a "reviewing official." Be sure to ask your VR counselor how to appeal the IHO's decision if you are not happy with it.
- ? You can present any information that helps your case during any stage of the appeal process.
- ? You can have anyone you want represent you during mediation or the formal hearing. However, if you go to court, it would be best to have an attorney.
- ? The Client Assistance Program (CAP), which is an advocacy program, may be able to help you during your appeal. Ask your vr agency about how to contact CAP.

The Client Assistance Program (CAP)

Background:

The Client Assistance Program (CAP) is an advocacy program established by Section 112 of the Rehabilitation Act of 1973, as amended (Act). Each State and Territory of the United States has a CAP to help individuals with disabilities get the services they need from programs funded under the Act.

Eligibility for CAP Services:

You are eligible for **all** CAP services if you are applying for or receiving services from a program funded under the Act. Two of the commonly-used programs are the vocational rehabilitation (VR) program and the independent living (IL) program.

You are eligible **only** for information and referral services if you are an individual with a disability who is **not** applying for or receiving services from a program funded under the Act.

Types of Services CAP can Provide:

CAP has the right to decide how its advocates can best serve the individuals who need CAP services. This means that CAP is not required to provide every service to every individual. CAP makes these decisions after considering the facts and merits of the case, the needs of the client, and available resources. Below is a list of the services CAP can provide. All services are free.

1. Information and referral services regarding:
 - a. services and benefits available under the Act; and
 - b. rights under Title I of the Americans with Disabilities Act (ADA);
2. Advice and interpretation of the Act and its regulations;
3. Negotiation to resolve problems; and
4. Advocacy and representation at mediation sessions, informal reviews, formal hearings, and in court.

CAP also can help solve problems that affect many individuals through "systemic advocacy." This often involves making changes to State rules and policies and participating on councils, such as the State Rehabilitation Council.

When to Contact CAP:

You should contact CAP whenever you have a question about your rights under the Act or you are unhappy about the services you are receiving from a program funded under the Act.

How to Contact CAP:

Ask your VR or IL counselor CAP's address and telephone number.