

**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D.C. 20202-2800**

INFORMATION MEMORANDUM
RSA-IM-06-03
DATE: November 21, 2005

TO: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
AMERICAN INDIAN VOCATIONAL REHABILITATION
PROGRAMS
CLIENT ASSISTANCE PROGRAM (CAP)
PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS PROGRAM
(PAIR)
REGIONAL REHABILITATION CONTINUING EDUCATION
PROGRAMS (RRCEPs)

SUBJECT : Information to Assist Vocational Rehabilitation Agencies in the Provision
of Services to Individuals with Disabilities Affected by Hurricanes Katrina
and Rita.

BACKGROUND: Thousands of people left the Gulf Coast region immediately preceding
Hurricanes Katrina and Rita and during their devastating aftermath.
Among these were many individuals with disabilities who now are either
temporarily or permanently displaced from their communities. During the
weeks that have passed since the hurricanes came ashore, these displaced
individuals have attempted to resolve their critical and pressing needs for
food, housing, clothing and financial assistance. However, they now may
be ready to pursue options for employment in their original communities
or in new locations throughout the United States.

Several vocational rehabilitation (VR) agencies, particularly those in states
that have been affected directly by the hurricanes and those that have
received large numbers of displaced individuals, have engaged in
discussions with the Rehabilitation Services Administration (RSA)
regarding the best ways in which to assist the increased numbers of
individuals with disabilities who may be seeking their services. RSA is
providing the information contained in this Information Memorandum

(IM) to assist VR agencies to work with individuals with disabilities previously being served by agencies in the affected states of the Gulf coast region as well as individuals who have acquired physical and psychiatric disabilities as a result of the hurricanes.

LEGISLATION:

On September 30, 2005, the “Assistance for Individuals with Disabilities Affected by Hurricane Katrina or Rita Act of 2005” was enacted (P.L. 109-82, 119 Stat. 2056). This legislation was designed to provide assistance through the reallocation process to those states in which the Hurricanes Katrina and Rita occurred or which had received large numbers of displaced individuals (defined in section 2)(a)(1) as “affected states”), so that they can better meet the needs of individuals with disabilities for employment resulting from these major disasters. Specifically, the legislation established a preference in the reallocation of funds for fiscal year (FY) 2005 in favor of the affected states. In addition, the legislation provided for the return of funds to Louisiana that had been previously relinquished during the FY 2005 reallocation process due to the state’s inability to meet the matching requirements established under Title I of the Rehabilitation Act of 1973, as amended (Act)(section 2(b)(1)). Furthermore, the legislation permitted the waiver of the matching requirements with respect to the funds reallocated to the affected states under the preference and those funds returned to Louisiana (section 2(b)(2)).

As provided in the legislation, these funds may be used by the affected states to pay for services available through the VR program for individuals with disabilities affected by the hurricanes, to provide VR services to individuals with disabilities affected by the hurricanes and who do not meet the order of selection (OOS) criteria in an affected state wherein the VR agency is operating under an OOS, and to provide for other activities allowable under the VR program (section (2)(c)). Note that the language of section (2)(c) is permissive, using the term “may.” Likewise, section (2)(c)(4) allows these funds to be used for any activity available through the VR program. Therefore, the use of these funds is not restricted to the provision of services to individuals with disabilities affected by the hurricanes.

On September 30, 2005, RSA completed the reallocation process for FY 2005 in accordance with the preference established under this legislation, and returned the FY 2005 funds to Louisiana that the agency previously relinquished. The agencies may now use these much-needed funds to work with individuals with disabilities affected by the hurricanes and other individuals with disabilities as they rebuild their lives through the pursuit of employment.

ELIGIBILITY:

RSA encourages all VR agencies assisting individuals, who are currently eligible for and/or receiving services from agencies in states from which they have been displaced, to work patiently but efficiently to obtain pertinent information from these individuals. As these individuals likely will not have evacuated their communities with written copies of their Individualized Plans for Employment (IPEs) or other documents related to their VR programs, they will be providing much of this information verbally based on their recollections. In order to expedite the provision of services to these individuals by corroborating or obtaining missing information, VR agencies should contact the affected State agency as quickly as possible. While written or electronic service records maintained at local VR offices may have been partially or completely damaged or destroyed during the storms and resulting flooding, the affected agencies may still be able to provide relevant information concerning eligibility determinations, the employment outcomes specified on IPEs, services authorized through the IPEs, and the progress of individuals through their particular plans.

In addition, in light of the fact that so many individuals with disabilities who are either currently engaged in the VR program or who have acquired disabilities as a result of the hurricanes have been displaced from the affected states, RSA reminds VR agencies that the Act and the implementing regulations prohibit VR agencies from imposing a “residency requirement ...that excludes from services provided under the [state plan] any individual who is present in the State”(Section 101(a)(12) of the Act and 34 CFR 361.42(c)(1)). Additionally, many displaced individuals still will be residing temporarily with relatives or friends, or in donated housing or shelters at the time they are seeking services in their new locations outside the Gulf Coast region. VR agencies need only require individuals to provide addresses and telephone numbers at which they can be contacted at the time of application, and then update this information as needed while services are being provided.

Furthermore, as explained in the Senate Committee Report on the 1998 Amendments to the Act and guidance to the implementing regulations, the requirement that the individual be present in a state is to be applied at the point at which eligibility is determined, and not interpreted in such a manner as to prevent an individual from receiving services out-of-state (Senate Report 105-166, p. 13). Displaced individuals who were engaged in postsecondary or other training activities through the VR program may be unable to attend universities, colleges, community colleges and other training programs in the disaster area. Also, vendors of other services, such as assistive technology, may have sustained damage to their operations so that they are unable to provide services at this time. Agencies in affected states should use their best efforts to assist individuals now temporarily located in other states to continue receiving

training and other services from out-of-state programs and providers under amended IPEs. In this way, individuals may experience only short-term interruptions in training and service provision, and will have the greatest opportunity to complete their VR programs within the time frames originally anticipated.

POST TRAUMATIC

STRESS DISORDER: Individuals may have experienced new or additional disabilities as a result of the hurricanes, subsequent flooding and dislocation. Among these disabilities are post traumatic stress disorder (PTSD) and acute stress disorder (ASD). RSA first issued guidance on PTSD and ASD, their effects and possible treatments in the wake of the terrorist activities in the United States on September 11, 2001 (IM-01-43, “Basic Information and Resources Available regarding Post Traumatic Stress Disorder, September 25, 2001). As discussed in IM-01-43 and based on the “Diagnostic and Statistical Manual for Mental Disorders, Fourth Edition” (DSM IV), PTSD is “a disorder that can occur following the experience or witnessing of an event in which there is actual or threatened death or serious injury or a threat to an individual’s physical integrity.” Events giving rise to PTSD must involve “intense fear, helplessness or horror...” Symptoms of PTSD include the persistent re-experiencing of the event, avoidance of stimuli associated with the triggering event and increased symptoms of arousal. PTSD can significantly inhibit an individual’s ability to function in employment and to perform other activities of daily life. The disorder can be treated through a variety of methods, including cognitive behavioral therapy, and group and exposure therapy.

Clearly natural disasters such as Hurricanes Katrina and Rita, as well as man-made warfare and terrorism, can result in the intensity of emotion giving rise to the development of PTSD. In view of the significant numbers of persons affected by the hurricanes, we ask VR staff to become familiar once again with the more detailed contents of and the resources listed in IM-01-43, in order that they can best assist individuals affected by the storms. A copy of IM-01-43 is attached for your convenience.

OTHER ISSUES: While the provision of services to individuals with disabilities affected and/or displaced by Hurricanes Katrina and Rita is of the uppermost concern to RSA and VR agencies at this time, RSA understands that VR agencies affected by the disasters will face other issues related to their performance in the future. RSA recognizes that those agencies affected by the hurricanes will experience difficulties in providing services to individuals currently engaged in their programs and to newly disabled individuals, as a result of the destructive impact of the disasters on agency resources and the need to serve larger numbers of individuals than is typical. Also, the affected states may experience significant economic downturns, making it difficult for VR agencies to successfully obtain

employment for individuals with disabilities. Therefore, with respect to FY 2005 and relevant future years, RSA will assess the performance of affected agencies on the evaluation standards and performance indicators established pursuant to section 106 of the Act and other measures in light of these circumstances.

In addition, the Act and implementing regulations impose a maintenance of effort (MOE) requirement on state agencies, requiring the expenditure from nonfederal sources in a given fiscal year of an amount equal to or greater than the amount expended from nonfederal sources two years prior. If a state fails to meet its MOE requirement, the Secretary of the Department of Education will reduce the allotment otherwise available to the state agency by the amount of the MOE deficit (sections 111(a)(2)(B) of the Act and 34 CFR 361.62(a)(1)). To avoid the reduction, the state agency can request a waiver of all or part of the MOE deficit. The request can be granted if the agency demonstrates that the MOE deficit resulted from exceptional or uncontrollable circumstances, defined as:

a major natural disaster or a serious economic downturn, that --

- (i) Causes significant unanticipated expenditures or reductions in revenue that result in a general reduction of programs within the State; or
- (ii) Requires the State to make substantial expenditures in the [VR] program for long-term purposes due to the one-time costs associated with the construction of a facility for community rehabilitation program purposes, the establishment of a facility for community rehabilitation program purposes, or the acquisition of equipment

(see section 111(a)(2)(C) of the Act and 34 CFR 361.62(d)(1)). Therefore, should VR agencies experience an MOE shortfall, which they believe resulted from an economic downturn in the State or significant expenditures in connection with the disasters, these agencies may request a waiver of the MOE deficit, in whole or in part, in the year in which the deficit is discovered. Additional information regarding the calculation of MOE shortfalls and the supporting documentation necessary to justify a request for waiver of the deficit can be found in a Technical Assistance Circular (TAC), dated September 26, 2002, and entitled "Documents to Submit when Requesting a Waiver or Modification of the State's Maintenance of Effort Requirements under the State Vocational Rehabilitation Services Program" (TAC-02-02).

SUMMARY : Hurricanes Katrina and Rita have imposed many hardships on individuals with disabilities, along with the VR agencies and their staff in the Gulf

Coast region. Through the enactment of legislation on September 30, 2005, the federal government has demonstrated its commitment to the VR program and the important role it serves in the lives of people with disabilities. RSA trusts that this legislation, along with the information contained herein, will help to guide and support the efforts of VR agencies not only in the affected states, but also throughout the nation, as they endeavor to achieve high quality employment outcomes for individuals with disabilities during these difficult times.

INQUIRIES : RSA Commissioner at (202) 245-7488.

Edward Anthony, Ph.D.
Delegated the authority
to perform the functions of
Commissioner for Rehabilitation
Services Administration

ATTACHMENT

cc: Council of State Administrators of Vocational Rehabilitation (CSAVR)
National Disability Rights Network (NDRN)