

## **CABINET FOR WORKFORCE DEVELOPMENT**

### **Department of Vocational Rehabilitation**

#### **781KAR 1:020. General Provisions for Operation of the Department of Vocational Rehabilitation.**

RELATES TO: KRS 151B.190, 29 USC 706(8)(A)

STATUTORY AUTHORITY: KRS 151B.185, 151B.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.200 accepts and agrees to comply with federal vocational rehabilitation acts, provides for a state rehabilitation agency and sets eligibility criteria for vocational rehabilitation services. KRS 151B.195 directs the Commissioner, Department of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the state rehabilitation agency. This administrative regulation prescribes general criteria for the provision of rehabilitation services and is necessary in order to distribute limited funds available for that purpose. The general criteria in this administrative regulation set forth the regulatory policies.

Section 1. Definitions. (1) "Applicant" means an individual who has signed a letter or document requesting vocational rehabilitation services and who is available to complete an assessment.

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(2) "Department" means the Department of Vocational Rehabilitation, and its appropriate staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.

(3) "Eligible individual" means an individual with a disability who has been determined by an appropriate department staff member to meet the basic conditions of eligibility for vocational rehabilitation services as defined in 34 CFR 361.42.

(4) "Legally blind" means an individual has a visual acuity of 20/200 or less in the better eye with correction or a visual field of twenty (20) degrees or less.

(5) "Occupational equipment" means equipment essential to perform the job duties at the job site and required as a condition of employment.

(6) "Relative" means an individual related to another individual by lineage, marriage, or adoption and includes a:

(a) Spouse;

(b) Parent;

(c) Grandparent;

(d) Brother;

(e) Sister;

(f) Son;

(g) Daughter;

(h) Grandchild;

(i) Aunt;

(j) Uncle;

(k) Niece;

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(l) Nephew; and

(m) First cousin.

(7) "Visual impairment" means an individual has a condition of the eye which constitutes or results for the individual in a substantial impediment to employment.

Section 2. Employees' Application for Services. (1) An applicant who is an employee and the department shall adhere to the following procedures if the employee wishes to apply for rehabilitation services.

(2) The employee shall advise the Director of Program Services or a designee of the intent to apply.

(3) The Director of Program Services or a designee and the employee shall select a counselor to take the application. If practicable, the counselor shall be located in an adjacent district.

Section 3. Employees' Relatives' Applications for Services. An employee shall not take an application or provide vocational rehabilitation services to a relative. The relative shall be referred to the Director of Program Services or a designee. The Director of Program Services or a designee and the individual shall identify a staff member who is not a relative to take the application and to provide services as deemed appropriate.

Section 4. Legal Fees. The department shall not be responsible for any fees incurred by an applicant or eligible individual for legal services.

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Section 5. Payment Rates for Purchased Services. (1) If practicable, payment for non-emergency transportation services shall be based on a percentage of the regional capitated transportation networks rates established by the Kentucky Transportation Cabinet.

(2) The department shall ensure that a service vendor agrees not to charge or accept from the applicant, eligible individual or a family member payment for services unless the amount of the charge or payment is previously known to and, if applicable, approved by the department.

(3) Payment to out-of-state vendors shall be governed by the rates established by the vocational rehabilitation agency in the state where services are to be provided.

Section 6. Potentially Terminal Illness. (1) Services shall not be provided to individuals with a potentially terminal illness unless:

(a) There is a favorable medical prognosis for recovery; or

(b) There is a prospect of survival for a reasonable period of time, allowing a return to work for at least twelve (12) months (work life expectancy).

(2) The following guidelines shall be followed in making a determination:

(a) If surgery, chemotherapy, nuclear medical treatment, or similar ancillary medical service is expected to cure the condition, it may be provided as with another medical problem.

(b) If the attending physician feels the prognosis is guarded, staff shall request a letter indicating the individual's work life expectancy. For those individuals with a twelve (12) month work life expectancy services may be considered.

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Section 7. Second Opinions. The department may seek a second opinion from a qualified practitioner before determining eligibility or before authorizing services.

Section 8. Self-Employment Enterprises. The following shall be met prior to planning for self-employment for an eligible individual:

- (1) An eligible individual shall agree to undergo appropriate assessment to determine work potential, including mental and physical abilities, and interests, aptitudes, personality traits and other pertinent characteristics.
- (2) The department may require an eligible individual to undergo prevocational training, as needed, to gain skills and knowledge and to complete small business training.
- (3) An eligible individual shall obtain the required license, permit, certificate, lease, and in all instances be in conformity with all federal and state laws, and local ordinances to commence an enterprise.
- (4) The department may review Recordkeeping systems prior to the establishment of the business and periodically thereafter until the case is closed or until liens on any department purchased equipment expire.

Section 9. Sex Change. Department funds shall not be used to pay for sex change surgery.

Section 10. Tools and Equipment. The department may recover tools, equipment, and supplies if the eligible individual ceases to use the equipment for the pursuit and practice intended or upon the death of the eligible individual.

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Section 11. Training. Post-secondary training may be provided for an eligible individual pursuant to this section.

(1) Except as provided in this section, tuition and initial registration fees provided to the training facility of the eligible individual's choice shall not exceed those of the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation. The Director of Program Services or a designee may make exceptions if it is clearly demonstrated that exceptions are reasonable to achievement of the work plan.

(2) The department may provide tuition and initial registration fees for post-secondary programs for the deaf recognized by the U.S. Congress as national programs due to the provision of essential support services (e.g., interpreting services, note-taking services, tutoring services).

(3) Other department approved post-secondary programs for the deaf offering interpreting services, note-taking services, and tutoring services may be used if the total cost of attendance does not exceed the total cost of tuition, fees and interpreting services, note-taking services, and tutoring services at the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation.

(4) Training shall be purchased only from training facilities that are accredited or licensed by appropriate accrediting or licensing bodies and which comply with all applicable state and federal requirements.

(5) Training shall be provided only to the operative vocational level.

(6) An eligible individual planning to attend a post-secondary training facility shall apply for all financial assistance available through the training facility.

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Section 12. Transplants or Implants. A transplant or implant procedure which is experimental or which does not have a consistent record of significant improvement in vocational functioning in better than fifty (50) percent of the subjects shall not be provided by the department.

Section 13. Vehicle Purchase. The department shall not purchase a vehicle unless the occupation of the eligible individual requires a vehicle as occupational equipment.

Section 14. Visual Impairments. An eligible individual with a secondary disability of visual impairment may be served if another impairment, other than visual, poses the more substantial impediment to employment. (17 Ky.R. 782; Am. 1493; eff. 12-7-90; 19 Ky.R. 1428; 1802; eff. 3-4-93; 21 Ky.R. 551; eff. 10-6-94; 24 Ky.R. 2429; 25 Ky.R. 78; eff. 7-13-98.)

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