

107 CMR 10.00: INDEPENDENT LIVING SERVICES

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10.01: Scope and Purpose

(1) 107 CMR 10.00 establishes the policy and procedures to be followed to provide access to comprehensive Independent Living Rehabilitation Services (ILRS), which are available only through Title VII Part B of 29 USC § 701 *et seq.*

(2) Independent Living Rehabilitation Services through this program are designed to meet the current and future needs of individuals whose disabilities are severe but who may benefit from Independent Living Rehabilitation Services to maintain or improve their ability to function independently in family and community.

10.02: Meaning of Terms

The terms used in 107 CMR 10.00 shall, unless the context otherwise requires, have the following meaning or the meanings ascribed in 107 CMR 3.00: *Definitions.*

Comparable Benefits refers to resources, services or benefits which are available from another program or source such as other public agencies, health insurance or employee benefits that will enable the consumer or the consumer's family to receive pay for or appropriately substitute for the services specified in the Independent Living Plan (ILP).

Consumer an individual referred to an Independent Living Centers for Independent Living Rehabilitation Services and certified by that Center as eligible to receive services under Title VII Part B.

Consumer Service Record is the file which contains all the necessary federally required and other supportive documentation necessary for the receipt of specific Part B services. The file is held at the Independent Living Center.

Independent Living Center (ILC) means a community-based, consumer controlled center that is staffed and managed by a majority of persons with disabilities and approved by the Commission to provide independent living rehabilitation services to eligible consumers.

Independent Living Plan (ILP) means an individualized written plan that is developed by the ILC and periodically updated, for each eligible individual who receives independent living rehabilitation services unless the individual chooses to waive a written plan.

Independent Living Rehabilitation Services (ILRS) means any service that will enhance the

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ability of an individual with a severe disability to maintain or improve their ability to live independently and function within their family or community as enumerated in the State Plan for Independent Living which can be obtained through the Administrative Office of the Commission.

Individual With A Severe Disability means an individual who has a significant physical, mental, cognitive or sensory impairment whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment.

10.02: continued

Program Coordinator means the Commission employee in the Independent Living Department of the Commission who is responsible for authorizing the purchase of services approved by the Independent Living Centers.

Title VII Part B refers to the Independent Living Rehabilitation program which is authorized under Part B of Title VII of the Rehabilitation Act of 1992, as amended, and is administered by the Massachusetts Rehabilitation Commission in accordance with the procedures established in the Independent Living State Plan, as it has been approved by the Secretary of the U.S. Department of Education.

10.03: Application for Services

A consumer applies for ILRS by filing an application with the community based Independent Living Center in his or her area.

10.04: Process for Determining Eligibility and Order of Selection for Services

- (1) Eligibility for independent living services is based only on ILC staff decisions that verify:
 - (a) the presence of a severe physical, mental, cognitive or sensory impairment;
 - (b) the presence of a severe limitation in one's ability to function independently in family or community or to engage or continue in employment; and
 - (c) a reasonable expectation that independent living rehabilitation services will significantly assist the individual to improve his or her ability to function in family or community or to engage or continue in employment. Eligibility verification must be documented in the consumer service record.
- (2) Individuals with a severe disability who have been determined eligible for services may receive paid or unpaid services as described in their Independent Living Service Plan.
- (3) Eligibility for paid services is determined by an ILC and based upon one's designated order of selection category, one's position on an established waiting list, a determination of one's financial need and the availability of any needed service through a comparable benefit resource.
- (4) When the ILC staff makes a determination that an individual with a severe disability is eligible for services, they shall simultaneously make a determination of the individual's order of selection priority category. The priority category determines the general priorities that govern which eligible consumers shall be provided paid independent living services when the Commission has determined that funds are insufficient to provide services to all eligible individuals.
- (5) The priority categories are:
 - (a) Priority Category I: This category includes consumers who are not presently receiving vocational rehabilitation services under the State vocational rehabilitation service program under Title I of the Act because of the severity of their physical, mental, cognitive or sensory impairment, and those individuals with a severe disability who are institutionalized, have been institutionalized in the past, or are at risk of becoming institutionalized.
 - (b) Priority Category II: This category includes all consumers not eligible for Priority Category I who need Independent Living Services to maintain or improve their independent

living situation.

(c) Priority Category III: This category includes all consumers not eligible for Priority Categories I and II, who are presently receiving vocational rehabilitation services and who need Independent Living Services to enter into, or continue to engage in employment.

(6) Purchase of ILRS shall be determined by the availability of comparable benefits from other resources including other state agencies, health insurance or employee benefits, the individual's financial need and the allocation and availability of funds, with individuals assigned to Priority Category I receiving the highest priority. Eligible individuals in all priority categories may receive information and referral and service coordination.

10.05: Waiting Lists

In the event that funds for the Title VII Part B program are insufficient to serve all certified individuals, the Commission shall institute a waiting list for purchased ILRS. The name of each individual who is eligible for services shall be placed on a statewide waiting list that is subdivided according to the priority categories described in 107 CMR 10.04. Placement of each individual's name shall be determined according to their priority category and by the date when the ILC approved the specific services on the ILP. When funds become available to provide purchased services to eligible individuals in a specific priority category, individuals on the waiting list in that category shall be served by the ILC based on the chronological order of their approval date.

10.06: Independent Living Rehabilitation Services (ILRS)

(1) Independent Living Rehabilitation Services (ILRS) which may be available through Title VII Part B funding through the Massachusetts Rehabilitation Commission are those services defined in the State Plan for Independent Living, as it has been approved by the Secretary of the U.S. Department of Education.

(2) No purchased ILRS is available through Title VII Part B, if the same, or essentially the same, service is available from a comparable benefit. (*See* 107 CMR 10.02).

10.07: Appeal Process

(1) The ILC is responsible for the approval or denial of all independent living rehabilitation services.

(2) Any dissatisfaction with the service delivery or dissatisfaction with the reason for a denial of services should be expressed to the ILC in accordance with their appeal policy.

REGULATORY AUTHORITY

107 CMR 10.00 M.G.L. c. 6, §§ 75 and 78A; and 129; 29 USC 721(a)(10); 34 CFR 361.58;
34 CFR 361.15 (h).

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