

# 107 CMR: MASSACHUSETTS REHABILITATION COMMISSION

## 107 CMR 6.00: VOCATIONAL REHABILITATION SERVICES

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### 6.01: Scope and Purpose

107 CMR 6.00 establishes conditions and policies for the provision of vocational rehabilitation services.

### 6.02: Meaning of Terms in 107 CMR 6.00

Social Security Disability Insurance (SSDI) is financed with Social Security taxes paid by workers, employers and self employed persons. To be eligible for SSDI benefits, the individual must earn sufficient credits based on taxable work. Disability benefits are payable to blind or disabled workers, widowed spouses or adults disabled since childhood, who are otherwise eligible. The amount of the monthly disability benefit is based on the Social Security earnings record of the insured worker.

Supplemental Security Income (SSI) is a program financed through general revenues. SSI benefits are payable to adults or children who are disabled or blind, have limited income and resources, meet the living arrangement requirements, and are otherwise eligible. The monthly payment varies up to the maximum federal benefit rate, which may be supplemented by the State or decreased by countable income and resources.

The other terms used in 107 CMR 6.00 are defined in 107 CMR 3.00, unless otherwise noted.

### 6.03: Participation in Cost of Vocational Rehabilitation Services

(1) The Federal regulations governing the vocational rehabilitation program give the Commission the option to consider the financial need of individuals with disabilities when determining who should pay for the cost of rehabilitation services except for those individuals who receive SSI or SSDI benefits. The Commission will measure the financial need of individuals other than those individuals who receive SSI or SSDI benefits to determine the extent of their participation in the cost of their services. In this way, the Commission's resources can be targeted to individuals most in need.

## 6.03: continued

(2) An individual's financial participation must be determined before the Commission can fund any service. Financial participation must be determined at least once annually and whenever there is a change in the financial status of the individual, a dependent of the individual, and/or the person(s) claiming the individual as a dependent.

(3) The individual is responsible to inform the Commission of any changes in financial circumstances and provide the appropriate documentation within 30 days of the date of such changes. Failure to do so may result in termination of paid vocational rehabilitation services.

(4) Federal regulation prohibits requiring the financial participation of an individual who is an SSDI/SSI recipient regardless of his or her family's income or assets. However, the individual may be asked under certain circumstances to contribute to the costs of his or her services but this contribution can not be required. Individuals who receive SSDI or SSI benefits must provide documentation, sign and date the Commission's financial participation form. For those individuals who have verified SSDI and/or SSI benefits, their mandated contribution to the cost of their vocational rehabilitation services is zero.

(5) Financial participation is based on cash assets and annual income. Cash assets and annual income include: checking accounts; savings accounts; mutual funds; stocks and bonds; and the annual taxable income of the individual, the individual's spouse, dependents of the individual and the person(s) claiming or allowed to claim the individual as a dependent, such as the individual's parents, stepparents or legal guardians as documented by the most recent Internal Revenue tax forms. Cash assets do not include pension funds or individual retirement accounts.

(6) A dependent is any individual who for federal income tax purposes is claimed or allowed to be claimed as a dependent of another.

(a) When the individual is 18 years of age or older and is not claimed or allowed to be claimed as a dependent of another person, financial participation will be based on the individual's income and assets alone.

(b) When the individual is married, financial participation is based on the combined incomes and assets of the individual and the spouse, regardless of age.

(c) When the single individual is under 18 years of age, financial participation is based on the combined incomes and assets of the parent(s) and the individual.

(d) When the parent(s) claim or are allowed to claim a single individual 18 years of age or older as a dependent because the individual has received more than one half of his or her support during the most recent calendar year from the parents; financial participation is based on the combined income and assets of both the individual and the parent(s).

(7) When the income of the individual is subject to income tax, the individual shall provide copies of the most recent applicable portions of the Internal Revenue forms as required by the Commission. If an individual's income changes so significantly that the most recent Internal Revenue forms are no longer valid; verification of income shall be provided by other means.

When income is not subject to income tax, the individual must provide verification including copies of benefit eligibility notifications and most recently received checks or notices of direct deposit. This non-taxable income may include but is not restricted to:

(a) supplemental security Income; (Title XVI of the Social Security Act)

(b) transitional aid to families with dependent children (M.G.L. c. 118);

(c) emergency aid to elderly, disabled and children (M.G.L. c. 118 A);

(d) emergency assistance (M.G.L. c. 117);

(e) veterans services (M.G.L. c. 115);

(f) federal food stamp program and state supplemental food stamp program

(8) An individual's financial participation shall be determined by deducting the annual dollar standard from the sum of cash assets in excess of allowable cash assets and annual net income. Documentation includes:

(a) Most recently filed Internal Revenue Service forms (Form 1040, Form 1040A and/or Form 1040EZ); and

(b) Verified annual income for individuals not subject to filing income tax.

6.03: continued

(9) The annual dollar standard and allowable cash assets are each 300% of the Poverty Threshold by size of family as reported by the United States Census Bureau. The annual dollar standard and allowable cash assets will be disseminated by the Commission as instructions to staff.

When an individual's annual resources exceed the financial participation requirements, the Commission shall, after consideration of comparable benefits including financial aid for higher education, require the individual to apply the annualized excess to the annual cost of vocational rehabilitation services.

(10) The Massachusetts Wage Reporting System Statute (M.G.L. c. 62) may be used by the Commission for the verification of wages and assets.

(a) The wage information, including name, social security number, employer name, employer address, employer identifying number, and amount of wages and assets may be used by the Commission in the administration of the Vocational Rehabilitation (VR) Program to identify fraud, error, and abuse relative to financial eligibility of clients.

(b) Identification of such fraud, error, and abuse could result in termination of Commission assistance.

(11) The following services are provided by the Commission without consideration of an individual's financial resources. This however, does not eliminate the requirement to use all available comparable benefits the individual is eligible to receive before providing Commission funds.

(a) information, referral and other services;

(b) services to determine eligibility and order of selection priority for vocational rehabilitation services;

(c) services to determine vocational rehabilitation needs;

(d) counseling and guidance;

(e) placement services;

(f) personal assistance services and auxiliary aids and services such as interpreter services for individuals who are deaf or hard of hearing including sign language and oral interpreter services, reader services, note taker, personal care attendant services, and rehabilitation teaching services as necessary for an individual to participate in the VR program as required under § 504 of the Rehabilitation Act or the Americans with Disabilities Act.

(12) Services that are not listed in 107 CMR 6.03(11) may be provided only after determining an individual's financial participation in the cost of services.

6.04: Comparable Benefits and Services

(1) Comparable benefits and services are those appropriate services or financial assistance from a source other than the Commission that will meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an Individualized Plan for Employment (IPE).

(2) Individuals are required to apply for any comparable benefits or services for which it appears they may be eligible. When and to the extent that, comparable benefits are available to the individual the Commission shall require such services to be used before the Commission provides funds to meet, in whole or in part, the cost of vocational rehabilitation services except when:

(a) it will result in an interruption or delay in achieving the employment outcome identified in the IPE; or

(b) an immediate job placement would be lost; or

(c) in the provision of services to an individual who is at extreme medical risk. Extreme medical risk means a risk of death or substantially increasing functional impairments if immediate medical services are not provided. A determination of extreme medical risk must be based on medical evidence provided by an appropriate licensed medical professional.

(3) Comparable benefits and services are:

(a) provided or paid for in whole or in part to the individual, by other public agencies, health insurance, or employee benefits;

6.04: continued

- (b) when needed to assure progress toward achievement of the employment outcome specified in the IPE of the individual; and
  - (c) similar in scope and quality to services provided by the Commission; but
  - (d) do not include awards and scholarships based on merit.
- (4) Comparable benefits and services do not have to be considered when providing:
- (a) counseling and guidance;
  - (b) information and referral; and
  - (c) placement services.
- (5) Comparable benefits and services shall be used before the Commission provides funds for the following services:
- (a) physical and mental restoration services;
  - (b) maintenance and transportation services;
  - (c) services to members of an eligible individual's family;
  - (d) occupational licenses, tools, equipment, and initial stocks and supplies;
  - (e) vocational training services including books, tools, and other training materials;
  - (f) personal assistance and auxiliary aids and services including interpreter services for the deaf, reader services, note taker, personal care attendant; and rehabilitation teaching services;
  - (g) employment services including supported employment and post employment services that are necessary to maintain, regain or advance in employment;
  - (h) rehabilitation technology, adaptive housing, motor vehicle modification, telecommunications, sensory and other technological aids and devices;
  - (i) transition services;
  - (j) other goods and services not listed.

6.05: Counseling and Guidance

- (1) Counseling and guidance means the provision of professional advice and guidance to an individual that includes the collection and assessment of medical, personal, social, and vocational information, aptitude and interest testing, personal interviews and referral to other agencies or resources, as necessary.
- (2) Counseling and guidance services shall be provided by a Commission counselor to each individual throughout the vocational rehabilitation process for the purpose of:
- (a) assisting the individual in developing an IPE towards a suitable vocational goal;
  - (b) reviewing progress towards the vocational goal, amending the IPE if necessary; and
  - (c) developing the individual ability to seek and maintain employment.
- (3) The provision of counseling and guidance services is not subject to a determination of an individual's financial resources, comparable benefits, or Order of Selection criteria.

6.06: Physical and Mental Restoration

- (1) Physical and mental restoration services means:
- (a) corrective surgery or therapeutic treatment likely to correct or substantially modify a physical or mental impairment which is stable or slowly progressive within a reasonable length of time
  - (b) necessary in or outpatient hospitalization, clinic services and/or drugs and supplies; in connection with surgery or treatment;
  - (c) prosthetic and orthotic devices;
  - (d) eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other visual aids
  - (e) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end stage renal disease;
  - (f) diagnosis and treatment for mental or emotional disorders and mental health services;
  - (g) dentistry;
  - (h) nursing services;
  - (i) podiatry;
  - (j) physical or occupational therapy;

6.06: continued

- (k) speech or hearing therapy;
- (l) treatment of acute or chronic medical complications and emergencies; and
- (m) other medical or medically related rehabilitation services.

(2) Physical and mental restoration services can be provided only if financial participation has been determined, any comparable benefit available to meet, in whole or in part, the cost of restoration services has been explored and:

- (a) An individual had an examination by an appropriate physician, psychiatrist, psychologist or other professional who meets applicable State licensure requirements, at least 90 days prior to the provision of restoration services and restoration is consistent with examination findings.
- (b) The specific services are authorized in writing by the Commission prior to provision. However, in a medical emergency the Commission may first make an oral authorization to a vendor before issuing a written authorization.
- (c) Restoration services shall be provided only at institutions and facilities meeting all statutory, regulatory, accreditation, licensing, certification, approval, health and safety, and related standards applicable to such institutions and facilities and by qualified personnel who meet applicable licensing requirements of the Commonwealth of Massachusetts.
- (d) Fees for restoration services are determined in accordance with applicable regulations of the Commonwealth of Massachusetts.

6.07: Vocational Training

(1) Vocational and other training services include, but are not limited to personal and work adjustment, books or other vocational training materials, vocational training services in institutions of higher education, and on-the-job training.

(2) Vocational training services shall be provided at facilities and institutions within the Commonwealth unless:

- (a) medical conditions or functional limitations related to the disability make it necessary for an individual to attend a facility or institution outside the Commonwealth;
- (b) necessary vocational training services are not available to the individual within the Commonwealth; or
- (c) comparable vocational training outside of the Commonwealth is equal to or less than the cost of vocational training within the Commonwealth.

(3) Vocational training services shall not be provided beyond the customary time for completing the vocational training program, unless the individual is unable to complete vocational training due to an exacerbation of his or her disabling condition or other serious circumstances.

Services may be discontinued when the individual fails to attain training objectives or related vocational training program achievement standards.

(4) Vocational training services shall be provided only at institutions and facilities meeting all statutory, regulatory, accreditation, licensing, certification, approval, health and safety, and related standards. Vocational training services are subject to a determination of financial participation. Full consideration must be given to any comparable benefit available to meet, in whole or in part, the cost of such services.

(5) The term "institution of higher education" refers to institutions that qualify to participate in federal financial aid programs. The term refers to a college, junior college, community college, or post secondary vocational training institution (as designated by the United States Department of Education and defined in § 1201(A) of the Higher Education Act of 1965).

(6) No training services in institutions of higher education shall be paid for with Vocational Rehabilitation Program funds unless maximum efforts have been made to secure grant assistance and financial aid from other sources. Matters related to payment or student loan default must be resolved and evidence of financial aid determinations must be provided to the Commission prior to obligation of Commission funds.

6.07: continued

(7) College and junior college vocational training services shall be provided only at Commonwealth of Massachusetts public institutions unless the training services are:

- (a) not available to the individual at a Commonwealth of Massachusetts public institution; and
- (b) approved by officials designated by the Commission.

(8) Graduate Level vocational training and related vocational rehabilitation services shall not be provided unless a baccalaureate degree does not enable:

- (a) the eligible individual to attain an employment outcome; and
- (b) a graduate level vocational training program has been approved by officials designated by the Commission.

(9) The tuition, fees, and expenditures for books which the Commission may pay for vocational training of an individual determined eligible for vocational rehabilitation services at any institution of higher education in any fiscal year and for the entire duration of a program of vocational trade or technical skills training shall not exceed the maximum grant amount periodically determined by the Commission. For part-time training the Commission may provide an annual grant, prorated to the annual maximum grant amount, in proportion to the individual's course credits. The maximum amount which the Commission may authorize and expend for tuition, fees, and payments for books in an institution of higher education, or for a program of vocational trade or technical skills training may be exceeded only as approved by an official designated by the Commission. Maximum grant amount may be waived only when all applicable regulatory requirements have been met and when training programs specified in the IPE cannot be continued or will be delayed. The Commission may review and adjust the maximum grant amount periodically.

(10) The Commission will encourage eligible individuals attending institutions of higher education to take advantage of Student Work-study Programs, Student Loan Programs, and Social Security Administration Plan for Achieving self-support (PASS).

(11) The Commission may not obligate or expend funds for ordinary consumable training supplies. In addition to tuition, fees and expenditures for books, the Commission may pay up to a maximum dollar limit per semester as established by the Commission, for specialized training materials required to complete training for a particular occupation as described in the IPE. In circumstances where it is not possible for the individual determined eligible for vocational rehabilitation services to complete a course of study within the maximum payment this limit may be waived by the District Director. The Commission may review and adjust the dollar limit periodically.

(12) The term on-the-job training services means the occupational skills training provided by an employer to an individual to enable the individual to develop the skills necessary for employment in a specific occupation or trade. A formal written agreement between the Commission, the employer, and the individual must specify the training to be provided, the duration of the program, and the hourly rate to be paid by the Commission to the employer for on-the-job training services. The formal agreement must also stipulate that the employer will pay wages and benefits to the individual commensurate with the job duties and that, after successful completion of the training, the employer will make a reasonable effort to continue the individual in employment. The employer will be paid for supervised skill development, which is beyond the supervision customarily provided to an employee at a unit rate from a minimum unit of one hour per day to a maximum of eight hours per day. The maximum unit rate will not exceed the established hourly wage and the number of hours of the assigned employee training the individual. Lower fees may be negotiated with the employer.

(13) The duration of on-the-job training services shall be determined on a case by case basis by the individual, the Commission and employer, but must not exceed a maximum of six months unless the area office director decides that there are exceptional circumstances which warrant a waiver.

When on-the-job training services are provided for a period longer than six months the employer shall receive, beginning on the first day of training in the seventh month, a daily fee not to exceed 50% of the fee paid during the first six months.

6.08: Maintenance

(1) Maintenance means payments provided to an individual for expenses such as food, shelter, and clothing in excess of normal living expenses. Maintenance shall not exceed the amount of the increased cost of subsistence incurred by the individual's participation in a rehabilitation program and can be provided only after all available comparable benefits and the individual's financial resources have been considered.

(2) Maintenance during employment may be provided only when necessary to job placement and only until the individual actually receives wages or for a maximum period of 30 calendar days, whichever is less.

The maintenance provided shall not exceed the amount of increased costs of the individual's subsistence incurred by the individual's participation in his/her rehabilitation program. Commission expenditure for maintenance shall not exceed the maximum amount allowed unless personnel designated by the Commission have approved expenditure for longer than 30 days or for more than maximum dollar limits when exceptional circumstances warrant a waiver.

6.09: Transportation

(1) When transportation is provided to enable an individual to participate in a vocational rehabilitation service under an IPE, the IPE must describe the required transportation, including the purpose, costs, duration and how transportation service supports one or more vocational rehabilitation services.

(2) Unless approved by designated Commission personnel, when exceptional circumstances warrant a waiver, transportation to employment may be provided only when necessary to enable the individual to commute from home to employment for the first 30 calendar days of employment;

(3) Maximum payment provided by the Commission shall be the cost of public transportation. If there is no public transportation available or the functional limitations imposed by the individual's impairment prevent the use of public transportation, transportation services may be provided by an appropriate carrier at the least cost available.

(4) Transportation services are subject to a determination of financial participation, comparable benefits and Commonwealth of Massachusetts statutory, regulatory, and related requirements governing purchases of services and goods.

6.10: Placement Services

(1) Placement services include: employment information; work-seeking skills instruction; employment opportunities information; referral to and collaboration with public placement agencies and specialists; development of employment opportunities for the individual; referral to employers and follow-up with the individual and the employer. Placement services will be provided without consideration of comparable benefits and services or an individual's financial resources.

(2) Placement services will be provided when the individual has been determined to be eligible for vocational rehabilitation services, an IPE has been developed which specifies the nature of the placement services to be provided and it has been determined that the individual is ready for employment. An individual shall be considered ready for employment when the individual has skills, knowledge, functional capacities and work tolerance to perform the work duties of the vocational objective specified in the IPE.

(3) Factors that indicate successful placement consistent with the vocational goal on the IPE as amended are: placement services that result in gainful work for period of 90 days or more; the individual and employer are satisfied; the work is consistent with the individual's capacities, abilities, and skills; the individual has adjusted satisfactorily to the work environment and to other employees; the employment is stable; the individual receives a wage or remuneration commensurate with that paid others for similar work consistent with legal requirements; and the duties and conditions of employment are not expected to aggravate the individual's impairment or to jeopardize the health or safety of the individual or others.

6.11: Vocational Rehabilitation Services to Family Members

Vocational rehabilitation services to family members may only be provided when such services are necessary and will make a substantial contribution to the achievement of an employment outcome by the individual. The IPE must describe the family services and how those services are necessary to support the other vocational rehabilitation services on the IPE. The family services will be terminated when such services are no longer necessary to achieve an employment outcome. Vocational rehabilitation services to family members are subject to the determination of financial participation and any available comparable benefit.

6.12: Adaptive Housing

(1) Adaptive housing services are architectural alterations to the private residences of individuals with disabilities to remove impairment related barriers to occupancy by the individual. Such services include, but are not limited to; installation of lifts, construction of ramps and railings, reconstruction of doorways, lowering of kitchen counters, and installation of grab bars and replacement of bathroom fixtures.

(2) Adaptive housing is limited to construction and equipment for functional access, personal hygiene and simple meal preparation needs of the individual. Adaptive housing services do not include and the Commission shall not provide architectural modifications:

- (a) that are not necessitated by disability related limitations of the eligible individual;
- (b) that would significantly add to the resale or assessed value of the home;
- (c) to a new home or a home under construction
- (d) that add a room or living space to a home currently being renovated or to a recently renovated home unless the renovation was completed before the onset of the impairment;
- (e) for items considered portable in nature that do not permanently modify the home;
- (f) when property owner is a public entity such as a housing authority or otherwise has a legal obligation to provide accessible housing under provisions of the Fair Housing Act.

(3) The Commission may establish maximum dollar limits for adaptive housing services. However, personnel designated by the Commission may approve expenditure of more than maximum dollar limits for adaptive housing services when exceptional circumstances warrant a waiver.

(4) Housing adaptations must be performed in accordance with all applicable building codes, specifications and architectural drawings of the Commission, and in conformance with building trade standards. Equipment devices and installations shall conform to all federal and state health and safety standards and installations shall conform to manufacturer specifications. Work will be performed by qualified licensed and insured individuals in carpentry, plumbing, electrical, concrete, related building trades, and mechanical trades.

(5) Procurement of all services, goods and supplies will be through a competitive bid process. Services, goods and supplies will be provided at the lowest cost to the Commission.

(6) Adaptive housing services are subject to a determination of financial participation and consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of such services.

6.13: Motor Vehicle Modification

(1) Motor vehicle modification services are changes to privately owned motor vehicles that are provided only when necessary to remove impairment related transportation barriers for an eligible individual to achieve an employment outcome. The IPE must describe the required vehicle modification service and how the vehicle modification service enables the individual to achieve the employment outcome. Vehicle modification services are subject to a determination of financial participation and to consideration of any comparable benefit available to an individual to meet in whole or in part, the cost of vehicle modification services. The commission may set maximum dollar limits for these services and may periodically review and update those limits. Personnel designated by the Commission can approve any of the services listed in 107 CMR 6.13(2) through (17) and/or waive the maximum amounts for those services when exceptional circumstances warrant a waiver.



6.13: continued

- (2) The Commission shall require a written request for and agreement of understanding from the individual prior to the provision of vehicle modification services.
- (3) The need for motor vehicle modification services, the nature and extent of modifications, the type of vehicle necessary, and the individual's ability to operate the vehicle safely shall be determined by the official(s) designated by the Commission on the basis of an evaluation procured by the Commission from a provider approved by the Commission.
- (4) Motor vehicle modification services are limited to alterations necessary to assist an individual to drive independently or to be safely transported as a passenger. Motor vehicle modification services do not include and the Commission will not provide modifications when such modifications are not needed for the individual to drive independently or be safely transported.
- (5) Motor vehicle modification services do not include and the Commission can not assume responsibility for maintenance or repair of vehicles or modifications, including modifications provided by the Commission. The Commission cannot repair nor replace motor vehicle modifications damaged or lost by accident, vandalism, theft, or fire or pay for insurance coverage. Individuals who receive vehicle modification services should arrange for insurance adequate for coverage of the vehicle and adaptive equipment.
- (6) Motor vehicle modification services do not include and the Commission cannot contribute to the procurement of motor vehicles of any type or to the procurement of optional motor vehicle equipment. Such equipment includes, but is not limited to, automatic transmissions, power steering, power brakes, automatic speed controls, air conditioning, heavy duty alternators, power windows, power door locks, heavy duty shocks/suspension, heavy duty batteries, front or rear heaters, radios, CB transceivers, burglar alarm systems, mobile phones, insulation.
- (7) The Commission cannot modify a vehicle which does not meet the requirements of the Massachusetts State Inspection (*see* M.G.L. c. 90, § 7A) nor modify a vehicle to enable an individual to drive who has been determined to be incapable of operating a motor vehicle safely.
- (8) Motor vehicle modification services must be performed in accordance with all specifications of the Commission and in conformance with applicable:
  - (a) automotive trades standards;
  - (b) federal and state health and safety standards for equipment and devices;
  - (c) manufacturer installations specifications; and by
  - (d) mechanics and technicians skilled in automotive mechanical, electrical, and related trades.
- (9) Procurement of motor vehicle modification services is subject to Commonwealth of Massachusetts' regulatory and related requirements governing purchases and procurements of services and goods and supplies from vendors approved by the Commission.
- (10) Structural motor vehicle modification services are alterations made to a vehicle that alter the structure or integrity of the vehicle. Structural motor vehicle modification services may include, but are not limited to: widening doors; reversing door hinges; lowering a floor; raising a roof or side entry; modifying the steering or braking system such as to permit "zero effort steering or braking;" converting a steering system to a horizontal structure; systems to secure wheelchairs; restraint systems; and wheelchair lifts.
- (11) The Commission Motor Vehicle Modification Program is responsible for structural motor vehicle modification services to eligible individuals referred by Commission area offices including determinations specific to structural motor vehicle modification services.
- (12) Structural motor vehicle modification services may be provided only when the employment outcome described in the IPE is competitive employment and the individual is within one year of such employment or is competitively employed.

6.13: continued

(13) The Commission shall not provide structural modifications to a vehicle when the Commission has previously provided structural motor vehicle modification services to the individual until seven years and one day subsequent to the previous modification and the individual has met a minimum of two years of cumulative competitive employment within the seven years. The seven year requirement may be waived by authorized Commission personnel for high mileage driven vehicles.

(14) The Commission shall not provide structural modifications to a vehicle which is more than two years old, or has more than 24,000 miles on the odometer. However, the official designated by the Commission may authorize the provision of modifications to such a vehicle when the overall condition of the vehicle warrants modification and as evidenced by a letter from a qualified vehicle inspection/repair service.

(15) Nonstructural motor vehicle modifications are the addition of adaptive equipment to a vehicle that do not alter the structure or integrity of the vehicle. Nonstructural motor vehicle modification services may include, but are not limited to: Veterans Administration approved hand controls; wheelchair carriers or trunk loaders; pedal blocks; left foot brake and accelerator pedals; extensions to turn signal or shift lever; electric parking brakes; and wide-angle mirrors. Nonstructural motor vehicle modifications do not require an employment outcome of competitive employment.

(16) The Commission area offices are responsible for nonstructural motor vehicle modification services and related determinations to eligible individuals. There is a limit of one non-structural modification every three years. This limit may be waived if the vehicle has high mileage with the approval of authorized Commission staff.

(17) At the discretion of the local office, evaluations for nonstructural modifications may be performed by licensed driving schools, occupational therapists/physical therapists, or similar professionals.

6.14: Personal Assistance, Auxiliary Aids and Services

(1) Personal assistance services are a range of services to assist an individual with a disability to perform daily living activities on or off the job which the individual would typically perform if he or she did not have a disability. These services increase the individual's control in life and ability to perform everyday activities leading to greater independence and achievement of the individual's vocational goal.

(2) The Commission will provide personal assistance services for a maximum of 40 hours per week. However, additional hours may be approved by personnel designated by the Commission when necessary for the individual to participate in the vocational rehabilitation services described in the IPE.

(3) Personal assistance services may only be provided to enable an individual to participate in an eligibility determination or in a vocational rehabilitation service in accordance with requirements for Order of Selection and an IPE. The IPE must describe all needed vocational rehabilitation services including the required personal assistance services and describe how the services support the achievement of an employment outcome.

(4) Auxiliary aids and services include interpreter services for individuals who are deaf or hard of hearing such as sign language, oral interpreter services, reader services and rehabilitation services.

(5) Auxiliary aids and services do not include personal devices such as wheelchairs, individually prescribed devices such as prescription eyeglasses or hearing aids, readers for personal use or study, personal attendants, or other devices or services of a personal nature.

(6) These aids and services may only be provided when necessary to enable an individual to participate in a vocational rehabilitation service. The case record must describe the purpose, costs, duration and how the aids and services support the vocational rehabilitation service(s).

6.14: continued

(7) Auxiliary aids and services are not subject to the determination of financial participation when they are necessary to enable an individual to access the VR program as required under § 504 of the Rehabilitation Act and/or the Americans with Disabilities Act.

Rates, fees, and expenditures for personal assistance, auxiliary aids and services are subject to all applicable Commonwealth of Massachusetts statutory, regulatory, and related requirements governing purchases of services and goods.

Comparable benefits that are available to meet, in whole or in part, the cost of personal assistance, auxiliary aids and services must be used prior to Commission funding.

6.15: Telecommunications, Sensory, and Technological Aids and Devices

(1) Telecommunications, sensory and other technological aids and devices include: alerting and signaling devices; amplified or text telephones and personal and large area FM assistive listening devices for individuals who are deaf or hard of hearing. Such devices or aids may include but are not limited to: visual or vibrating alerts for doorbells; kitchen timers; alarm clocks and smoke detectors. These aids may be needed by an individual with hearing loss instead of or in addition to hearing aids.

Telecommunications, sensory and other technological aids and devices may be provided only to the extent necessary to enable an individual to attain a suitable employment outcome or as necessary to enable an individual to complete an assessment, trial work experience or extended evaluation to determine eligibility and vocational rehabilitation needs

(2) Evaluations, prescriptions, installations, and fittings for telecommunications, sensory, and technological aids and devices must be performed by skilled personnel who meet applicable licensing or certification requirements of the Commonwealth of Massachusetts. Aids, devices and related services must meet established state or federal health and safety standards. The Commission may establish criteria and limits designed to ensure product quality, durability, safety, and reliability.

(3) The Commission may retain legal title and control of any aids and devices purchased for an individual. Such legal title and control shall be in accordance with all applicable Massachusetts laws, regulations and related requirements governing title, use, replacement, disposition, and transfer. The Commission may require the return of such aids and devices if it determines the aids or devices are not being utilized for the purposes for which it was provided. All aids and devices shall be returned to the Commission in good condition upon request. Aids and devices shall not be attached, confiscated, or otherwise encumbered by creditors or other sources. At such time as an individual is performing successfully in employment and considered to have attained his/her vocational rehabilitation goals, title to and control of aids and devices may be transferred to the individual.

(4) Rates, fees, and expenditures for telecommunications, sensory and other technological aids and devices are subject to all applicable Commonwealth of Massachusetts statutory, regulatory, and related requirements governing purchases of services and goods.

(5) Telecommunications, sensory and other technological aids and devices are subject to the determination of financial participation and to consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of telecommunications, sensory and other technological aids and devices.

6.16: Occupational Licenses, Tools, Equipment, and Initial Stocks and Supplies

(1) Occupational licenses, tools, equipment, and initial stocks and supplies may be provided only to the extent necessary to enable an eligible individual to attain a suitable employment outcome and in accordance with requirements for Order of Selection and the IPE. Occupational licenses, tools, equipment, and initial stocks and supplies are subject to the determination of financial participation and to consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of occupational licenses, tools, equipment and initial stocks and supplies.

6.16: continued

- (2) Occupational licenses and tools may be provided only to enable an eligible individual to derive the full benefit of other vocational rehabilitation services to enter or maintain employment.
- (3) Equipment may be purchased, leased or rented when necessary to enable an eligible individual to carry out the requirements and efficient operation of a business, trade, or profession.
- (4) Initial stocks and supplies may be provided only when necessary to establish an individual in self employment. The Commission may provide up to six months of stocks and supplies that are necessary to establish an eligible individual in self-employment but will not provide initial stocks and supplies as post employment services.
- (5) The Commission shall retain legal title and control of any tools, equipment, and initial stocks and supplies purchased for an individual by the Commission. Such legal title and control shall be in accordance with all applicable Massachusetts laws, regulations and related requirements governing title, use, replacement, disposition, and transfer and shall not be attached, confiscated, or otherwise encumbered by creditors or other sources.
  - (a) The Commission may require the return of tools, equipment, and initial stocks and supplies if it is determined that equipment is not being utilized for the purposes for which it was provided. All equipment shall be returned to the Commission in good condition on request.
  - (b) At such time as an individual is performing successfully in employment and considered to have attained his/her vocational rehabilitation goals, title to and control of the equipment may be transferred to the individual.
- (6) Rates, fees, and expenditures for occupational licenses, tools, equipment, and initial stocks and supplies are subject to all applicable Commonwealth of Massachusetts statutory, regulatory, and related requirements governing purchases of services and goods.

6.17: Rehabilitation Technology Services

- (1) Rehabilitation technology services assist individuals with disabilities to overcome barriers to full participation in rehabilitation, employment, transportation, independent living and recreation. The Commission will only support rehabilitation technology that is necessary to achieve an individual's vocational objectives and goals. An individual's need for rehabilitation technology should be considered at any stage of the vocational rehabilitation process.
- (2) Rehabilitation technology refers to the systematic application of technologies, engineering methodologies, or scientific principles to address the barriers confronted by individuals with disabilities. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.
  - (a) Assistive technology device is any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
  - (b) Assistive technology service is any service that directly assists an individual in the selection, acquisition, or use of an assistive device and includes:
    1. the evaluation of the needs of an individual, including functional evaluation of the individual in the environment where the device will be used, such as the home or worksite;
    2. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
    3. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
    4. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

6.17: continued

5. training or technical assistance for an individual or, where appropriate, the family of an individual; and
6. training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) Rehabilitation technology services, including evaluation of the need for rehabilitation technology services, shall be provided when necessary to assess eligibility and vocational rehabilitation potential, especially when the disabling condition of the individual is so severe that the absence of rehabilitation technology services could result in a determination of ineligibility.

(4) In the development and review of the IPE, rehabilitation technology services shall be considered to eliminate barriers to and/or enhance opportunities for the development of capacities for successful job performance. Rehabilitation technology services provided to individuals to assist them to attain intermediate objectives and long-range rehabilitation goals, including supported employment, shall be specified in the individual's IPE.

(5) Reviews of ineligibility or inability to attain a vocational goal due to the severity of the disability shall include consideration of rehabilitation technology services. The effect of rehabilitation technology services on the determination of eligibility shall be considered in any review initiated by the individual and in annual reviews initiated by the Commission.

(6) Annual reviews and evaluations of extended employment in rehabilitation facilities to identify individuals capable of competitive employment shall, include consideration of rehabilitation technology services.

(7) Review of post employment services shall include consideration of rehabilitation technology services.

(8) Evaluation of the need for rehabilitation technology services and the provision of those services shall be performed by personnel who are skilled in rehabilitation technology and who meet applicable licensing or certification requirements of the Commonwealth of Massachusetts.

The Commission may review or conduct studies to evaluate rehabilitation technology services and the provision of such services. Such reviews and studies may evaluate utilization, cost effectiveness, fee schedules, safety and reliability.

(9) The Commission shall retain legal title and control of any equipment purchased for an individual as a rehabilitation technology service. Such legal title and control will be in accordance with all applicable Massachusetts laws, regulations and related requirements governing title, use, replacement, disposition, and transfer. Equipment will not be attached, confiscated, or otherwise encumbered by creditors or other sources however:

- (a) the Commission may require the return of such equipment, in good condition, if it determines that equipment is not being utilized for the purposes for which it was provided; and
- (b) at such time as an individual is performing successfully in employment and considered to have attained his/her vocational rehabilitation goals, title to and control of the equipment may be transferred to the individual.

(10) Rates, fees, and expenditures for rehabilitation technology services are subject to all applicable Commonwealth of Massachusetts statutory, regulatory, and related requirements governing purchases of services and goods.

The Commission may establish maximum dollar limits designed to ensure the lowest reasonable cost for rehabilitation technology services. The maximum dollar limits will include a waiver process so that rehabilitation technology services that are essential to vocational rehabilitation and employment of otherwise eligible individuals are not precluded by the maximum dollar limits established to control costs.

6.17: continued

Provision of rehabilitation technology services is subject to determination of financial participation rehabilitation technology services do not require a determination that comparable benefits and services are unavailable under any other program. However, resources from other programs may be utilized when readily available.

6.18: Post Employment Services

(1) Post employment services (PES) are provided when necessary for an individual to maintain, regain or advance in employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities and interests.

(2) PES may only be provided when the provision of services under an IPE contributed to achievement of an employment outcome and the case record of the individual has not been destroyed. PES are subject to determination of an individual's financial resources except for counseling, follow up and other such services that are provided by a qualified vocational rehabilitation counselor. Counseling and guidance should constitute the core service around which all other post employment services are provided. In addition, post employment services may include any vocational rehabilitation services which are not complex or comprehensive, but which are necessary to assist the individual in maintaining, regaining or advancing in employment.

(3) In order to provide post employment services all of the following conditions must exist:

- (a) the individual must have achieved an employment outcome after Commission services; and
- (b) additional Commission services are required as a result of the individual's disability limiting his/her ability to maintain, regain or advance in employment; and
- (c) services must be limited in scope and duration. The provision of PES can not entail a complex or comprehensive rehabilitation effort. Long term, extensive, multiple services require a new eligibility determination; and
- (d) the individual's case record has not been destroyed.

(4) PES can be provided to advance in employment when all the criteria above are met, and the existing employment is no longer consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests; and

- (a) the individual's disability and resulting functional limitations are an impediment to advancement and prevent opportunities for advancement to a higher level of employment without Commission support; and
- (b) the individual does not have access to other resources or comparable benefits to advance in employment, such as employer sponsored training or financial aid; the need for financial support alone, unrelated to the impediments imposed by the individual's disability, is not sufficient reason for Commission to provide PES to advance in employment.

(5) All services provided under PES are subject to the same policies that apply before an employment outcome is achieved. A new determination of eligibility is not required and the IPE must be amended to include any services to be provided under PES. A determination of financial participation and/or comparable benefits must be made, if any service to be provided under PES is contingent upon economic need and/or comparable benefits. Support services, such as maintenance, transportation, personal assistance services, adaptive housing, interpreter services and services to family members, can only be provided in conjunction with a primary vocational rehabilitation service.

(6) The case record must include a basis or rationale for providing the services as well as a statement explaining how the services will be provided. A course of action, developed jointly with the individual, should project a date when the goal of self sufficiency and job stability is expected to be achieved. This should include any continuing use of available comparable benefits, support from other resources, Independent Living Center services, and the individual's own resources.

6.19: Information and Referral Services

- (1) Information and referral services assist applicants and eligible individuals to secure needed services from other agencies including components of the statewide workforce investment system and ensure that eligible individuals who do not meet order of selection criteria for receiving vocational rehabilitation services from the Commission or who choose extended employment as an employment outcome, are provided accurate vocational rehabilitation information and guidance to assist them in preparing for, securing, retaining or regaining employment.
- (2) The Commission will refer individuals with disabilities to other appropriate Federal and State programs, including other components of the statewide workforce investment system. In making such referrals the Commission will:
  - (a) refer the individual to programs best suited to address the specific employment needs of the individual; and
  - (b) provide the individual with a notice of the referral by the Commission to the agency carrying out the program, with a specific point of contact regarding the most suitable services to assist, prepare for, secure, retain, or regain employment.
- (3) The Commission will refer an individual who makes an informed choice to pursue extended employment as an employment goal to local extended employment providers. Extended employment is work for a public or private nonprofit agency or organization in a non-integrated or sheltered setting.
- (4) Information and referral services will be provided to all individuals without any determination of financial participation or consideration of comparable benefits and services.

6.20: Supported Employment Services

- (1) Supported employment is competitive work that offers ongoing support services in integrated settings for individuals with the most significant disabilities. The work can be either full time or part time based on the unique strengths, resources, interests, concerns, abilities and capabilities of the individual. Supportive employment is intended for those individuals who have not traditionally been in competitive employment or for individuals whose employment has been interrupted or intermittent as a result of a most significant disability. Supported employment must be considered for an individual who can not work independently in a competitive setting before an extended or sheltered employment.
- (2) Ongoing support services are those specific services needed to support and maintain an individual in supported employment based on the Commission's and the individual's determination of his or her need as specified in the IPE. Ongoing support services are provided by the Commission from job placement until stabilization and transition to extended services, unless post-employment services are provided instead. Thereafter ongoing support services are provided by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment.

On going support services must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability. Ongoing support services need to be based on, at a minimum, twice-monthly monitoring at the worksite of the individual or twice monthly meetings with the individual and one meeting with the employer. Off site meetings must be documented as such in the case record. Ongoing support services consist of:

  - (a) any assessment in addition to the comprehensive assessment of rehabilitation needs;
  - (b) job coaches at the work site;
  - (c) job development and placement;
  - (d) social skills training;
  - (e) regular observation or supervision of the individual;
  - (f) follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

6.20: continued

- (g) facilitation of natural supports at the worksite; natural supports refer to community and/or workplace supports such as family, neighbors, or co-workers to supplement job supports that are provided by a job coach; and
- (h) other needed vocational rehabilitation services.

(3) Intensive supported employment services refer to ongoing support and other specifically needed services that support and maintain an individual in supported employment. These services may include but are not limited to: assessment and job orientation, travel training, job skills training at the worksite, counseling and advocacy, periodic reassessment and any necessary changes in program strategies and job development and placement. These services may be provided:

- (a) for a period of time not to exceed 18 months, unless under special circumstances when stabilization has not occurred and the individual and the counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE; and
- (b) following transition, as post employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

The source of extended services should be identified at the time that intensive supported employment services are planned during IPE development. If no source can be identified at that time, but there is a reasonable expectation that such a source will become available, then a statement must be included in the IPE and intensive supported employment services may be provided.

Intensive supported employment services address employment related objectives such as learning:

1. specific work duties and performance standards;
2. formal and informal site related expectations about adjustment such as dress or time and attendance, socializing with co-workers, taking direction from supervisors;
3. employment benefits such as using leave, participating in employee programs; and
4. developing a support system at work.

The case should be closed when the individual's work performance stabilizes and the job coaching and related interventions have decreased to the lowest level needed by the individual to maintain the employment outcome. The closure decision should be made jointly by the individual, the counselor, and the employer.

(4) Transitional employment is a series of temporary job placements in integrated competitive work settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

(5) Extended services are ongoing support and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment after an individual has made the transition from support provided by the Commission. Such services are provided by a state agency, a private nonprofit organization, employer, or any other appropriate resource including natural supports. Extended services are not provided from funds received under the Vocational Rehabilitation Services Program or Supported Employment Services Program.

(6) Supported employment services can be provided only in accordance with requirements for Order of Selection (OOS) and requirements for IPE, including an amended IPE.

Supported employment services are subject to determination of financial participation and consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of supported employment services.



6.21: Transition Services

- (1) Transition services refers to a coordinated set of activities for a student with a disability which promote movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
- (2) The coordinated set of activities must be based on the individual student's needs, taking into account the student's preferences and interests, and include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.
- (3) Transition services must promote or facilitate the achievement of the employment outcome identified in the student's IPE based on Commission determination of the needs of the student.
- (4) Transition services can be provided only in accordance with requirements for OOS and requirements of the IPE.
- (5) Transition services for a student with a disability are subject to determination of financial participation. Full consideration must be given to any comparable benefit available to an individual to meet, in whole or in part, the cost of transition services.

6.22: Other Goods and Services

- (1) Other goods and services refers to goods and services determined necessary for an individual under an IPE to achieve the employment outcome specified in his or her IPE and not otherwise included in the usual scope of services. Other goods and services can be provided only in accordance with requirements for OOS and the IPE, except when incidental to the determination of eligibility, priority for vocational rehabilitation services or the determination of vocational rehabilitation needs.
- (2) Other goods and services can include but are not limited to: Short-term or emergency financial assistance to an individual to cover occasional or emergency purchases that are not covered under maintenance and will not support an individual's everyday living expenses or substitute for, provide the services of, or become a payment program similar to transitional assistance and other public benefit programs.
- (3) Other goods and services do not include:
  - (a) counseling and guidance;
  - (b) physical and mental restoration;
  - (c) vocational training;
  - (d) maintenance;
  - (e) transportation;
  - (f) placement services;
  - (g) vocational rehabilitation services to family members;
  - (h) adaptive housing;
  - (i) motor vehicle modification;
  - (j) interpreter services for individuals who are deaf;
  - (k) telecommunications, sensory and technological aids and devices;
  - (l) occupational licenses, tools, equipment, and initial stocks and supplies
  - (m) personal care assistance;
  - (n) rehabilitation technology;
  - (o) post employment services;
  - (p) information, referral, and other services;
  - (q) supported employment services; or
  - (r) transition services.

6.22: continued

(4) Before providing any vocational rehabilitation services to an individual as other goods and services, the counselor needs to determine all of the following:

- (a) whether the goods and services to be provided are available from other sources as a comparable benefit or service including, but not limited to, health or disability insurance, employee benefits, social security programs, transitional assistance and other programs sponsored by federal, state, city, and county government agencies that serve individuals with disabilities; and
- (b) the extent of the individual's financial participation in the cost of goods and services to be provided; and
- (c) that other, more cost effective, alternative goods and services are not available.

6.23: Rates and Expenditures for Vocational Rehabilitation Services

Rates, fees, and expenditures for vocational rehabilitation services are subject to all applicable Commonwealth of Massachusetts statutory, regulatory, and related requirements governing purchases of services and goods.

REGULATORY AUTHORITY

107 CMR 6.00: M.G.L. c. 6, § 75 and 29 USC 706 and 722.

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