

RSM 2
VR & IL POLICIES AND PROCEDURES MANUAL
SECTION 500

**ELIGIBILITY, SEVERITY OF DISABILITY
& PRIORITY FOR SERVICES**

Updated: 07/23

501 Eligibility for Vocational Rehabilitation Services	1
501.01 Eligibility Criteria	2
501.02 Assessment for Determining Eligibility and Priority for Services	4
501.03 Assessment and Comparable Benefits/Financial Need	4
501.04 Medical/Psychological Assessments.....	4
501.05 Assessment for Determining Rehabilitation Needs.....	5
501.06 Required Documentation	5
502 Eligibility Extension	5
502.01 Extenuating Circumstances – More than 60 days required to determine eligibility	6
502.02 Trial Work Experiences.....	6
503 Severity and Priority.....	8
503.01 Criteria for Determining Severity of Disability	8
503.02 Determination of Most Significant Disability	11
503.03 Required Timeline for Determining Severity.....	11
503.04 Required Documentation	12
503.05 Priority/Order of Selection.....	12
503.06 Order of Selection Categories.....	12
503.07 Notification of the Individual of Priority Status	13
503.08 Delayed Status (Waiting List).....	13
504 Ineligibility for VR Services.....	14
504.01 Ineligibility Decision.....	14
504.02 Notification of the Individual/Closure in AWARE™	14
504.03 Referral to Other Agencies.....	15
504.04 Ineligibility Subsequent to Determination of Eligibility and/or Initiation of an IPE	15
504.05 Required Documentation	15
504.06 Annual Review of Ineligibility Determination.....	15
505 Eligibility for Independent Living Older Blind Services - OBVS	16
505.01 Eligibility Criteria	16
505.02 Assessment for Determining Eligibility	16
505.03 Required Documentation	16
506 Ineligibility for Independent Living Older Blind Services	16
506.01 Ineligibility Decision.....	16
506.02 Ineligibility Subsequent to Determination of Eligibility.....	17
506.03 Certification of Ineligibility/Closure of Record of Services.....	17
506.04 Required Documentation	17
506.05 Annual Review of Ineligibility Determination.....	17

501 Eligibility for Vocational Rehabilitation Services

Timeline – The DORS counselor shall determine eligibility for services within a reasonable period of time, not to exceed 60 days from the date of application as documented in AWARE™, consistent with the application procedures outlined in **RSM 2, Section 404, Application Process**. Exceptions to the 60-day timeline will be made in accordance with **Section 502, Eligibility Extension**.

501.01 Eligibility Criteria

The determination of an applicant's eligibility for vocational rehabilitation (VR) services shall be based only on the following:

a. Eligibility Requirements:

1. The applicant has a physical or mental impairment, consistent with impairments listed in **RSM 2, Attachment 400-1**.
2. The applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant.
3. The applicant requires VR services to prepare for, secure, retain or regain, or advance in employment consistent with the applicant's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.
4. The applicant can benefit from the provision of rehabilitation services by achieving an employment outcome, and intends to achieve an employment outcome (full-time or, if appropriate, part-time, competitive integrated employment, including supported employment or self-employment).

DORS counselors shall ensure that applicants understand that extended employment (non-integrated or sheltered employment) is not an allowable employment outcome for vocational rehabilitation. An applicant's completion of the application process for VR services is sufficient evidence of their intent to achieve an employment outcome.

b. Presumption of Benefit:

It will be presumed that an applicant who meets eligibility requirements 1 and 2 (above) can benefit in terms of an employment outcome unless it is determined, based on clear and convincing evidence, that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation due to the severity of the disability of the applicant.

Prior to any determination that an applicant with a **most significant** or **significant disability** is incapable of benefiting from VR services in terms of an employment outcome because of the severity of that individual's disability, trial work experiences will be conducted to determine whether there is clear and convincing evidence to support such a determination (see **Section 502.02**).

c. Presumption of Eligibility – Recipients of SSI and/or SSDI:

1. **Basis in Law** – An individual who has a disability and is a recipient of Social Security Disability Insurance (SSDI) benefits and/or Supplemental Security Income (SSI) shall be:
 - i. Presumed to be eligible for VR services, unless there is clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from VR services due to the severity of the disability, and
 - ii. Considered to have a **significant** physical or mental disability (see **Section 503**).

Note: Applicants who report receiving Title 16, SSI old age benefits, may be eligible for VR services. Presumption of eligibility does not apply, as this type of SSI benefit was not based on a documented disability. In the event that an individual is receiving one of these types of Title 16 benefits, the Social Security Programs Unit staff will notify their DORS counselor. The DORS counselor shall apply the eligibility criteria in **Section 501.01** and shall make the eligibility determination within 60 days.

2. **Procedures for SSI/SSDI verification in support of presumption of eligibility:**

- i. **If an individual reporting receipt of SSI and/or SSDI provides documentation (e.g., award letter, check, Ticket to Work) to the DORS counselor at the time of application** – the DORS counselor shall determine eligibility and move the individual's case to eligible status in AWARE™ as soon as possible and no later than 60 days from the application date, unless a trial work experience plan has been implemented.
- ii. **If an individual reporting receipt of SSI and/or SSDI has not provided documentation at the time of application (e.g., award letter, check, or Ticket to Work):**
 - a. The Social Security Programs Unit shall:
 1. Ensure that the case is processed through the automated SVES benefits verification and AWARE™ is updated with benefit type and amount, within approximately 10 days of the case's entry into AWARE™.
 2. Ensure that, if an error is identified in the SVES automated batch processing, the Unit coordinates with the DORS counselor to inform them of the error and assist in its correction (for example, correcting name, DOB, SSN, etc.).
 - b. The DORS counselor shall:
 1. Move the record of services to eligible status as soon as possible, and not later than 60 days from the application date, unless a trial work experience plan has been implemented.
 2. Use trial work to determine whether an individual may benefit from VR services in terms of an employment outcome should be required on an exceptional basis (e.g., recent history earning subminimum wage). While the Rehabilitation Act allows for the possibility that an individual who receives SSI and/or SSDI may be "incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability," counselors are encouraged to convey and act in accordance with an optimistic belief that individuals even with the most significant disabilities can work if provided needed supports.
 3. The individual will be assigned to the appropriate category in the Order of Selection, based on information that exists at the time of eligibility determination. SSI and SSDI recipients automatically meet requirements for assignment to Category 2, Significant Disability, and may meet criteria for Category 1, Most Significant Disability (**Section 503**). Additional information gathered during the course of IPE development and service provision may justify reassignment from Category 2 to Category 1, consistent with established procedures (see **Section 503.02**).
- d. **Expedited Eligibility – Individuals Approved for BHA Supported Employment Funding** (see **RSM 2, Section 804.01(a)2, Eligibility/Priority**)
- e. **Expedited Eligibility – Individuals Approved for DDA Supported Employment Funding** (see **RSM 2, Section 804.02(c), Eligibility/Priority**)
- f. **Substance Abuse** – Substance abuse is **not** considered an impairment in determination of eligibility. Substance abuse may, however, be a **cause** of an impairment, such as cognitive impairment or psychosocial impairment. If the only significant issue an individual has is substance abuse without specific impairments, the individual would not meet eligibility

requirements for the VR program. Such individuals should be determined ineligible because of not having a disability, and should be referred to substance abuse treatment programs in the community and the local American Job Center, as appropriate.

501.02 Assessment for Determining Eligibility and Priority for Services

For each applicant the DORS counselor shall:

- a. Discuss with the applicant the disability and resulting impact on employment, as well as availability of existing information which would document the disability. The DORS counselor shall review and analyze existing data, including counselor observations, education records (for Transitioning Youth, see **RSM 2, Section 1301.07**), information provided by the individual or the individual's family, information used by the Social Security Administration, and determinations made by officials of other agencies, and information gathered when the VR applicant participated as a student in Pre-Employment Transition Services (Pre-ETS).
- b. Consider providing formal assessments, including assistive technology devices and services and work-site assessments, to determine whether an individual is eligible, if existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination.
- c. Determine priority of services under the Order of Selection based on a review of data as described in a. above, and an assessment of additional data, to the extent necessary.

501.03 Assessment and Comparable Benefits/Financial Need

In the provision of goods and services necessary to determine eligibility, comparable benefits and services will be used when appropriate, and any needed purchases shall be made in accordance with the Division's purchasing policy and Fee Schedules (see RSM 3, Section 1000 and RSM 5).

501.04 Medical/Psychological Assessments

After discussion with the applicant, review of self-reported information on the Application, and thorough review and analysis of other existing information, the DORS counselor shall consider whether additional assessment information is required, and if so, which kind of assessment will best answer remaining questions about the individual's eligibility. Choices in assessments and providers shall be presented to the applicant, as appropriate.

Counselors shall request supervisory consultation, as needed, if there are questions about whether formal assessments are needed, the specific questions to be answered, and the type of assessment that is most appropriate. Consideration may be given to the following types of assessment for eligibility:

- a. **General Medical Evaluation** – General medical evaluation should be considered when existing information does not describe the individual's impairment and impediment to employment and they are likely to be sufficiently documented in a general medical evaluation.
- b. **Medical Specialty Evaluations** – Referral for medical specialty evaluations, such as orthopedic or ophthalmologic assessment, shall be considered when current information about the individual's disability is not available and there are specific questions about:
 1. Whether a reported impairment constitutes an impediment to employment.
 2. The impact on life functions (priority).
- c. **Psychological Assessment** – Referral for psychological evaluation should be considered when current information about the individual's disability is not available and there are specific questions about:
 1. Whether a reported mental impairment constitutes an impediment to employment.

2. The impact on life functions (priority).

Referrals for psychological assessment shall be made via the **Referral for Psychological Services (RS-4d)**.

- d. **Neuropsychological Evaluation** – Referral for neuropsychological evaluation should be conducted on an exception basis and be considered for individuals when current (within the last 12 months) information from treating sources is not available, when there are questions about:
 1. Whether a reported impairment constitutes an impediment to employment.
 2. The impact on life functions (priority).

It may also be considered if there are questions about the severity and impact on employment. Such assessment may be appropriate for individuals with a history of head injury and other neurological impairment. Referral requires approval of the supervisor and program director, and completion of the **Referral for Neuropsychological Evaluation (RS-4i)**.

501.05 Assessment for Determining Rehabilitation Needs

For individuals determined eligible who meet Order of Selection/priority criteria, the DORS counselor shall conduct an assessment of rehabilitation needs if and to the extent that additional data is necessary for development of the **Individualized Plan for Employment** (see **RSM 2, Section 600**).

501.06 Required Documentation

Within 60 days of application or by the agreed-upon eligibility determination extension date, the record will contain documentation used by the DORS counselor to determine the individual's eligibility for VR services including:

- a. Information supporting the determination of eligibility, including as appropriate and inasmuch as possible from other sources, medical records, a statement from a physician or licensed psychologist identifying the physical or mental disability/disabilities, and/or a Ticket to Work, a copy of an award letter or recent benefit check confirming that the individual receives SSI or SSDI.
- b. Information regarding the work limitations, capabilities and career aspirations of the individual (if the individual can be served under the Order of Selection).
- c. The AWARE™ Eligibility Determination Page completed in AWARE™ by the DORS counselor with signature/start date entered by the supervisor or designee.
- d. Other information as appropriate.

As of the eligibility determination date, the appropriate Eligibility Determination letter from AWARE™ will be sent to the applicant from the DORS counselor and retained in the electronic record of services (no need to keep a copy in the hard copy record of services).

502 Eligibility Extension

A timely eligibility determination is consistent with good customer service and is expected by prospective consumers, their families and stakeholders. However, the time frame for determination of eligibility may be extended in two ways with supervisory approval:

- a. If extenuating circumstances beyond the control of DORS prevent determination within 60 days and the DORS counselor and individual agree to a specific extension of time.

1. Extenuating circumstances must show the DORS counselor's good faith efforts, as well as timely follow-up to obtain required documentation for a timely eligibility determination.
 2. The DORS counselor should not ask the applicant to agree to an extension of the 60 days to determine eligibility unless documentation in the case record shows efforts of at least 45 days to obtain required records.
- b. If trial work experiences are required because there are concerns that an individual may not be able to benefit from services due to the severity of the disability.

502.01 Extenuating Circumstances – More than 60 days required to determine eligibility

- a. **When to extend eligibility determination** – In extenuating circumstances when it is not possible to determine eligibility within 60 days, the DORS counselor and applicant agree to a specific extension of time, not to exceed an additional 60 days, unless justified under a trial work experience plan. As indicated above, the DORS counselor should not ask the applicant to agree to an extension of the 60 days to determine eligibility unless documentation in the case record shows efforts of at least 45 days to obtain required records.
- b. **Approval and documentation of specific eligibility determination extension** – Supervisory approval of an extension of the eligibility determination time frame may not be considered before 45 of the 60 days for eligibility determination have elapsed.

Prior to supervisory approval, the DORS counselor is required to document in a case note:

1. Communication with the individual regarding the rationale for specific extension including efforts and progress to date toward eligibility determination extension and what will take place during the extension.
2. The individual's agreement with the extension, including the new eligibility determination extension date.

Upon approval, the supervisor or designee will:

1. Document approval of the specific extension of the 60-day time frame in a case note.
2. Enter the agreed-upon rationale and new date for eligibility determination on the Eligibility Determination Extension page in AWARE™ to move the case into "Application-E" status.
3. Ensure the Eligibility Determination Extension letter in AWARE™ is used to document the agreed upon new eligibility determination date for the applicant.

This extension does not apply to SSI/SSDI beneficiaries, or to individuals who receive BHA long-term supports who are pursuing competitive integrated employment, as they are presumed eligible for services.

502.02 Trial Work Experiences

- a. **When to use Trial Work** – A variety of trial work experiences shall be utilized when there are questions about an individual's ability to benefit from VR services (i.e., achieving competitive integrated employment, due to the severity of the disability) unless the individual is unable to take advantage of such trial work experiences. **Trial work must be used prior to a determination that an applicant is ineligible due to inability to benefit from VR services in terms of an employment outcome due to the severity of the disability.**

Trial work is not appropriate for individuals referred by Evidence-Based Practice in Supported Employment (EBPSE) sites (see **RSM 2, Section 804.02**).

1. Trial work experiences are appropriate only for applicants determined to have a significant or most significant disability.
2. Trial work experiences, including appropriate supports and training, provide the opportunity to explore the individual's abilities, capabilities and capacity to perform in "real" work situations when there are serious questions about the applicant's ability to benefit from VR services due to the severity of the disability.

Trial work should be considered when an individual has not been able to demonstrate a period of stability and readiness for work-related activities (e.g., lack of participation in or commitment to a recovery process) for an individual with a psychiatric disability and substance abuse. (Work-related assessment activities may be provided to individuals determined eligible for VR services as part of assessment of rehabilitation needs leading to development of the IPE – see **RSM 2, Section 602.**)

3. Results of trial work provide supporting information in the event that a determination is made that the individual cannot benefit in terms of an employment outcome because of the severity of the disability and is, therefore, ineligible for services.

b. **Trial Work Requirements** – Trial work experiences shall be provided:

1. For a period of time not to exceed 18 months.
2. In the most integrated setting possible, consistent with the informed choice of the individual.
3. For the sole purpose of determining eligibility and the nature and scope of needed rehabilitation services.

Progress in trial work experiences shall be assessed as often as needed, but no less than every 90 days. Trial work experiences shall be terminated at any point during the 18-month period if the DORS counselor determines that there is sufficient evidence that the individual can benefit from services and is therefore eligible or that there is clear and convincing evidence that the individual is incapable of benefiting from VR services in terms of an employment outcome, and is therefore ineligible.

- c. **What is Trial Work?** – Trial work experiences encompass a variety of community-based, on-job activities in competitive integrated employment to the maximum extent possible, consistent with the informed choice and needs of the individual. Trial work experiences may include shadowing a worker for a few hours, informational interviewing, performing volunteer work for a few days. Community-based trial work experiences may be offered through Community Rehabilitation Programs (CRPs) as part of work adjustment or other experiences using realistic integrated work settings.
- d. **Pre-ETS and Trial Work Experience Plans** – Pre-ETS may be provided for students with disabilities who have trial work plans as they are "potentially eligible" for services. One or more Pre-ETS may be included with traditional VR services on a trial work experience plan, and information gleaned from these experiences may be used to assist with eligibility determination. However, a student's participation in Pre-ETS may not be the only source of information used to determine eligibility or ineligibility for DORS services, as the primary intent when providing Pre-ETS must be to increase the student's understanding of and experience with the world of work, rather than to fulfill assessment requires for VR eligibility determination.
- e. **Approval and Documentation of the Trial Work Plan** – A plan for provision of trial work experiences and associated services will be developed with applicants requiring trial work experiences to determine eligibility for VR services. Appropriate supports and training required for trial work experiences shall be included. The **Trial Work Plan** in AWARE™ will be

completed, signed and dated by the DORS counselor and the applicant, and requires supervisory approval.

Prior to supervisory approval, the DORS counselor is required to document the disability priority on the Disability Priority Page in AWARE™ and document in a case note:

1. The Trial Work Experience plan development.
2. The applicant's agreement with the Trial Work Experience plan, including the expected end date.

Upon approval, the supervisor or designee will:

1. Document approval of the Trial Work Experience Plan in a case note.
2. Enter the signature/start date on the Trial Work Experience Plan page drafted in AWARE™ to move the case into "Application-T" status.
3. Ensure the applicant receives the "Participant" copy of the Trial Work Experience Plan.

503 Severity and Priority

The Rehabilitation Act of 1973, as amended, specifies that an Order of Selection shall be determined on the basis of serving first those individuals with the **most significant** disabilities. DORS allocates case service funds in a manner that ensures this priority status in the delivery of VR services.

It is emphasized that determination of priority category is based on the **disability** and its impact on employment. There must be clear evidence, demonstration or documentation of the limitations imposed by the disability. Priority category shall not be based solely on self-report, except for disabilities that are readily apparent.

Individuals may have a number of other compelling factors, aside from the disability, affecting their ability to achieve employment, including poverty, limited English proficiency, and lack of family support. These related factors would need to be taken into account in rehabilitation planning if the individual were determined eligible and could be served under the Order of Selection. However, **such related factors are not to be included as a basis for determination of severity of disability and priority category.**

The Disability Priority Page in AWARE™ shall be used to document the justification of priority category assignment. The supervisor or designee is required to review eligibility/priority category determination and enter a case note indicating approval or disapproval. The **VR Priority Worksheet (RS-4m)** may be used to assist as appropriate, and may be particularly useful for new DORS counselors.

503.01 Criteria for Determining Severity of Disability

An individual shall be certified as having a **significant** disability when:

- a. The individual has a severe physical or mental impairment which **seriously limits one or more functional capacities** such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills, in terms of an employment outcome. Functional capacities to be considered include the following:
 1. **Mobility** – Mobility refers to the ability to move from place to place inside and outside the home.

A **serious limitation in mobility** exists if, due to the disability, the person requires assistance from others to get around in the community; or if the individual requires modifications, adaptive technology, or accommodations (not typically made for other workers) in order to move around the community; or if the person needs specialized training to learn to move around in the community.

The following circumstances **do not** constitute serious, disability-related limitations in mobility, though they may be considered in rehabilitation planning as related factors:

- Absence of or limitations in public transportation available in a geographic area.
- Loss of driving privileges because of accumulation of points and/or charges such as DWI.
- Lack of a personal vehicle.

2. **Communication** – Communication is the ability to effectively exchange information through words or concepts (writing, speaking, listening, sign language, or other adaptive methods).

A **serious limitation in communication** exists if the disability results in severely impaired expressive or receptive communication, either oral or written, and to be able to communicate effectively, the individual requires modifications, adaptive technology, or accommodations not typically made for other workers. Upon first contact, the individual may not be readily understood by others or may not understand others.

Communications problems stemming from a language or cultural difference that are not disability-based **would not** constitute serious limitations in communication, though they would need to be considered in rehabilitation planning.

3. **Self-Care** – Self-care is the ability to manage oneself or ones living environment (including but not limited to eating, toileting, grooming, dressing, money management, and medication compliance) as they affect the individual's ability to participate in services or work-related activities.

Limitations may occur because of physical, cognitive or emotional impairments and could impact all tasks or only specific tasks. A **serious limitation in self-care** exists if the disability results in the individual being dependent upon other individuals, services, or devices to manage themselves or their living environment.

Lack of or limited financial resources affecting self-care **would not** constitute serious limitations in self-care because it is not disability-related. However, such factors would need to be considered in rehabilitation planning.

4. **Self-Direction** – Self-direction refers to the ability to plan, initiate, problem solve, organize and independently carry out goal-directed activities related to self-care, socialization, recreation and work.

A **serious limitation in self-direction** exists if due to the disability the individual is confused or disoriented, or requires assistance or intervention on an ongoing basis or during episodes in order to perform tasks, monitor own behavior, and make decisions.

General impulsivity and lack of focus, often characteristics of teenagers, would not in and of themselves constitute a serious limitation in self-direction for transitioning students, but would need to be considered in rehabilitation planning.

5. **Interpersonal Skills** – Interpersonal skills refers to the ability to establish and maintain personal, family, community and work relationships.

A **serious limitation in interpersonal skills** means that due to the disability the individual has no or limited ability to interact with others in a socially acceptable manner or is unable to relate to peers or co-workers without exhibiting inappropriate behaviors.

Immaturity, which is a common characteristic of teenagers and may be expressed as lack of developed communication skills, in and of itself **does not** constitute a serious limitation in interpersonal skills. Such traits, however, should be considered in rehabilitation planning.

6. **Work Tolerance** – Work tolerance refers to the capacity to perform effectively and efficiently jobs that require various levels of physical and/or psychological demand, for at least a partial work day.

A **serious limitation in work tolerance** exists when the individual will require modification, adaptive technology, or accommodations (not typically made for other workers) in terms of capacity or endurance. For example, the individual may not be able to sustain an 8-hour workday, meet production standards, or perform at a consistent pace without frequent rest breaks.

Individuals who could work full time but choose to work less than full time in order to retain benefits or for other reasons **are not** considered to have a serious limitation in work tolerance.

7. **Work Skills** – Work skills refers to the ability to perform specific tasks required to carry out job functions, the capacity to benefit from training in the necessary skills, and the capacity to practice the work habits needed to stay employed.

A **serious limitation in work skills** exists when the disability results in an inability to obtain or maintain employment normally available to persons of equivalent age, education, training, or experience. In order to acquire work skills, the person requires modifications, adaptive technology or accommodations not typically made for other workers.

Lack of work skills, for example, of transitioning youth because of age, **does not** in and of itself constitute a serious limitation in work skills, but may be considered as a related factor in rehabilitation planning. Anticipated difficulty in achieving work skills, and requirements for AT and other modifications, aside from absence of work experience, may be considered in determining limitations related to work skills.

- b. The individual's vocational rehabilitation can be expected to require multiple VR services – at least two from the main services of guidance and counseling, medical rehabilitation services including technology services, job placement and vocational training.
- c. The individual's vocational rehabilitation is projected to require an extended period of time of at least six months.
- d. Any individual meeting the above criteria may be determined to have at least a **significant** disability. An individual is deemed to **automatically** meet the above criteria when one of the following is true:
1. The individual is a recipient of Social Security Disability Insurance (SSDI) benefits or Supplemental Security Income (SSI) payments by reason of blindness or disability.
 2. The individual is in Special Education and receiving the majority of educational/academic supports in a self-contained classroom and/or facility.
 3. The individual is receiving DDA funding or deemed eligible for potential future funds as documented by DDA.

4. The individual has one of the major disabling conditions automatically meeting the definition of "significant" disability or "most significant" disability, specified on the **VR Priority Guide**.
- e. The DORS counselor is required to enter on the Disability Priority Page of AWARE™ a description of the justification of the priority category of **Significant Disability (Category 2)**. The counselor shall either:
 1. Indicate the disability and state that it is "automatic" according to the **VR Priority Guide**, or
 2. State how at least one capacity checked on the list on the Disability Priority page is seriously affected by the disability.
- f. The supervisor or designee is required to review the eligibility/priority determinations and enter the eligibility determination date on the Eligibility Determination Page in AWARE™ to document supervisory approval of the eligibility determination decision. (See **Section 503.04** below.)

503.02 Determination of Most Significant Disability

- a. An individual with a "**most significant**" disability (Category 1) is an individual who is available and willing to participate in the DORS program and meets the definition of **significant disability** (Category 2, see **Section 503.01**) and has a disability which seriously affects three **or more functional capacities** (see **Section 503.01**).
- b. Individuals who **automatically** meet the definition of individual with a **significant disability** (Category 2, see **VR Priority Guide**) may also meet the definition of individual with a **most significant disability** (Category 1), if **three capacities** are seriously affected.
- c. Refer to the **VR Priority Guide** for disabilities/circumstances which are considered to automatically meet the definition of individual with a **most significant disability**.
- d. Individuals who have BHA long-term supports and are pursuing competitive integrated employment or supported employment in an integrated setting are presumed eligible for VR services, but may be subject to an Order of Selection. (See **Section 501.01(d)**.)
- e. Individuals who have been determined eligible for DDA services and are pursuing competitive integrated employment are presumed eligible for VR services, but may be subject to an Order of Selection. (See **Section 501.01(e)**.)
- f. Staff are required to enter on the Disability Priority page of AWARE™ a description of the justification of the priority category of **Most Significant Disability**. Staff shall either:
 1. Indicate the disability and state that it is "**automatic**" according to the **VR Priority Guide**; or
 2. State how **at least three capacities** checked on the list on the Disability Priority page are seriously affected by the disability.
- g. The supervisor or designee is required to review the eligibility/priority determinations and enter the eligibility determination date on the Eligibility Determination page in AWARE™ to document supervisory approval of the decisions.

503.03 Required Timeline for Determining Severity

The determination that an individual has a **most significant** or **significant** disability shall be made:

- a. Concurrent with the determination of eligibility in order to identify whether the eligible individual meets Order of Selection/Priority criteria and can therefore be provided services.

- b. Prior to the **Trial Work Plan**, during which the Disability Priority page must reflect either a determination of significant or most significant disability. (Trial Work Experiences are used only when there are questions concerning an applicant's ability to benefit from services in terms of an employment outcome due to the severity of the disability and are not used for individuals in EBPSE (see **RSM 2, Section 804.02**).

503.04 Required Documentation

The record of services shall contain reports and other information supporting the determination that the individual has a significant or most significant disability. The Disability Priority page shall include justification of the priority category, as indicated above.

The DORS counselor shall complete the Eligibility Determination and Disability Priority Pages in AWARE™, and forward to a supervisor or designee to review and approve the eligibility decision and priority category determinations.

If approved, the supervisor or designee will:

- a. Enter the eligibility date on the Eligibility Determination page in AWARE™.
- b. Ensure the appropriate Eligibility Determination letter in AWARE™ is sent to the applicant from the DORS counselor to document the eligibility determination, consistent with **Section 503.07** below.

To document disapproval, the supervisor or designee will enter the reason for disapproval in a case note, as well as required next steps.

503.05 Priority/Order of Selection

VR services shall be provided based upon availability of resources. Because sufficient resources are not available to provide vocational rehabilitation services to all eligible individuals, DORS has instituted an Order of Selection which has been in effect since February 1991.

The Order of Selection does not apply to individuals applying for or receiving Independent Living Services under Title VII or to potentially eligible students with disabilities when requesting only Pre-ETS.

503.06 Order of Selection Categories

Individuals applying for or receiving services shall be placed in priority categories. Depending upon DORS resources, the categories shall be closed for services in ascending order beginning with Category 3 and proceeding to Category 2 and then Category 1. Services shall be provided only to those individuals in an open category. However, DORS shall continue to plan for and provide services to any individual determined eligible prior to the date on which the Order of Selection category to which the individual has been assigned has been closed, irrespective of the severity of the individual's disability.

Under the Order of Selection, DORS will continue to emphasize and enhance services to students with disabilities transitioning from school to work.

DORS staff will be advised via formal issuance when categories are closed or reopened.

The Order of Selection categories are as follows:

- **Category 1: Individuals with the Most Significant Disabilities**
- **Category 2: Individuals with Significant Disabilities**

- **Category 3: Individuals with Non-Severe Disabilities** – This includes individuals determined eligible for VR services but who are determined to not have a **significant** or **most significant** disability.

503.07 Notification of the Individual of Priority Status

The DORS counselor will notify all eligible individuals of:

- a. The priority categories in the Order of Selection
- b. Their assignment to a particular category
- c. Their right to appeal their assignment to Category 2 (Significant Disability) or Category 3 (Non-Severe Disability) (see **RSM 1, Section 304, Appeal Hearing**).

503.08 Delayed Status (Waiting List)

Eligible individuals who cannot presently be served under the Priority of Services/Order of Selection will be advised that their record will be placed on a waiting list, during which time they will be advised if DORS resources become available to provide the requested services.

- a. **Limited Service Provision in Delayed Status** – Because of DORS limited case service resources, purchase of goods and services which require completion of an **Individualized Plan for Employment (IPE)** may not be provided to individuals in delayed status. However, DORS has some capacity to provide limited assessment and counseling services to individuals in Delayed status, in addition to assessment for determining eligibility and priority for services (see **Section 501.02**). Provision of these services in Delayed status shall be documented in case notes. Services provided during Delayed status are limited to the following:

1. **Guidance and Counseling** – on a limited basis to the degree that it does not impact the capacity of DORS staff to address referrals and applications and provide the full range of services to individuals already in Service, Job Ready, and Employment statuses.
2. **Career Assessments** – on a limited basis (focused and exploratory only), as may be needed to make appropriate referrals to “other appropriate Federal and State programs,” (e.g., American Job Centers).
3. **AT Assessments** – if needed in order to benefit from community services. Note that except for AT devices needed for determining eligibility and priority category, purchase of AT devices and services requires completion of an **IPE**. DORS and other sources may loan equipment and devices to individuals in Delayed status.

Scheduling of AT assessments should take into account the likely timing of **IPE** development (moving from Delayed to Service status) so that the AT assessment does not need to be repeated once the device or services can be purchased.

4. **Information and Referral** – should be provided to individuals being placed on the waiting list. Consideration should be given to referral to community college (especially if the individual can access a tuition waiver), Centers for Independent Living, and American Job Centers, as well as other local resources as appropriate.
 5. **Referral for Job Placement** – to no-cost (comparable benefit) providers (e.g., the local American Job Center), as indicated in the Eligible/Delayed letters.
- b. **Annual Review of Delayed Status** – After one year on the waiting list (and subsequently on an annual basis at the request of the individual), individuals will be sent a **Delayed Status Annual Follow-Up Letter** to determine if they wish to remain on the waiting list. The letter will state the current status of the Order of Selection and whether or not there is the likelihood that services can be provided in the near future.

- c. **Coming off the Waiting List** – Eligible individuals will be removed from the waiting list based on their application date once resources are available to serve them. They will be notified by letter and given the opportunity to develop an **IPE** and receive VR services consistent with the plan.
- d. **Closure from Delayed Status** – If the individual does not wish to remain on the waiting list, the record of services will be closed in accordance with **RSM 2, Section 1000**:
 - 1. If the eligible individual placed on the waiting list requests that the record be closed within the first 12 months; or
 - 2. After one year in Delayed status, unless the individual requests to remain on the list.
- e. **Required Documentation—Order of Selection Category Assignment** – The record of services will include:
 - 1. Information supporting the assignment to the Order of Selection category.
 - 2. The completed **Waiting List (Eligible/Delayed) Letter** in AWARE™; a copy of the letter shall be retained in the electronic record of services.
 - 3. The completed justification for priority category on the Eligibility Determination page text box, and case note from the supervisor or designee indicating approval of eligibility/priority.

504 Ineligibility for VR Services

504.01 Ineligibility Decision

An applicant who does not meet the eligibility criteria (see **Section 501.01**) will be determined ineligible for services as follows:

- a. The decision will be based on the review and assessment of data, including a variety of trial work experiences if required.
- b. The decision will be made only after providing an opportunity for full consultation with the applicant and/or the applicant's representative, as appropriate.
- c. If ineligibility is based on the inability of the applicant to benefit from services due to the severity of the disability, the record must include a variety of trial work experiences which show clear and convincing evidence that the applicant cannot benefit.

504.02 Notification of the Individual/Closure in AWARE™

- a. When an applicant is determined ineligible, the record shall be closed in AWARE™ (see **RSM 2, Section 1000, Closure**).
- b. The DORS counselor will inform the applicant in writing, supplemented as necessary by appropriate modes of communication, of:
 - 1. The ineligibility determination
 - 2. The reasons for that determination.
 - 3. The rights of the individual, including the right to an Appeal Hearing.
 - 4. The availability of the **Client Assistance Program (CAP)** and information about how to contact CAP.

This will be accomplished by sending the appropriate ineligibility letter from AWARE™. A copy of the letter shall be placed in the record.

504.03 Referral to Other Agencies

The DORS counselor, as appropriate, shall include information in the closure letter about referral to:

- a. Other programs that are part of the American Job Centers service delivery system under the Workforce Innovation & Opportunity Act that can address the individual's training or employment-related needs.
- b. Local providers (e.g., CRPs or ENs) if the ineligibility determination is based on a finding that the individual is incapable of achieving an employment outcome in an integrated setting or chooses not to pursue competitive integrated employment.

504.04 Ineligibility Subsequent to Determination of Eligibility and/or Initiation of an Individualized Plan for Employment

If an individual is determined ineligible after determination of eligibility, the requirements noted in this section (**Section 504**) apply. The DORS counselor shall provide the individual a variety of work experiences similar to those described in **Section 502.02, Trial Work Experiences**, in order to determine if there is clear and convincing evidence that the individual cannot benefit from rehabilitation services or further rehabilitation services in terms of an employment outcome.

If an individual receiving services under an **IPE** makes the informed choice not to pursue competitive integrated employment, then the individual will be determined ineligible for further VR services.

504.05 Required Documentation

The record of services will include the following documentation related to the determination of ineligibility (see **RSM 2, Section 1000** for required documentation related to closure of the record of services):

- a. Completed Ineligibility letter (AWARE™), retained in the electronic record of services (a copy of the letter is not required to be in the hard copy record of services).
- b. If the reason for ineligibility is that the applicant is unable to benefit from services due to the severity of the disability, results of a variety of trial work experiences are required, showing clear and convincing evidence that the individual is incapable of benefiting from services in terms of an employment outcome (see **Section 502.02**).
- c. As appropriate, medical records or a statement from a medical professional supporting the existence or lack of a disability.
- d. As appropriate, documentation that the individual does not require services to prepare for, enter, engage in, or retain gainful employment.
- e. As appropriate, documentation of referral to other programs and agencies.

504.06 Annual Review of Ineligibility Determination

An ineligibility determination based on a finding that the individual is incapable of achieving an employment outcome (due to the severity of the disability) will be reviewed within 12 months and annually thereafter if requested by the individual or, if appropriate, by the individual's representative. The DORS counselor will be alerted to the need for Annual Review in AWARE™ via "Activity Due." Staff shall use the "**Ineligibility Annual Review**" letter in the Participant module to request information from the individual about their current status.

When the ineligible individual is in extended employment (non-integrated work setting) at the time of closure of the record, the review will be conducted annually for two years, consistent with **RSM 2, Section 1001.10**. This review need not be conducted in situations in which the individual has refused it, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal.

505 Eligibility for Independent Living Older Blind Services - OBVS

505.01 Eligibility Criteria

An applicant is eligible for Independent Living Older Blind (ILOB) services when:

- a. The applicant is age 55 or older with a visual impairment which limits their ability to function independently in the family or community; and
- b. The delivery of ILOB services will improve the ability of the applicant to function, continue functioning or move toward functioning independently in the family or community.

505.02 Assessment for Determining Eligibility

An assessment will be conducted with each applicant for ILOB services. The assessment will be limited in scope to that information necessary to determine whether the applicant has a significant disability and is eligible to receive ILOB services (see **Section 505.01**). The assessment will be sufficient in scope to determine which services best meet the current and future needs of the applicant for functioning more independently in the family or community.

Only if available information is not complete, relevant or current will additional assessment be conducted for the purpose of determining eligibility for ILOB services. Available comparable benefits will be applied to the purchase of any additional assessments and such purchases will be made in accordance with DORS purchasing policy (**RSM 3, Section 1000**) and **Vendor Fees**.

505.03 Required Documentation

The record of services will contain documentation supporting the individual's eligibility for ILOB services. This documentation will include:

- a. The AWARE™ Eligibility Determination completed in AWARE™ by the DORS counselor with signature/start date entered by the supervisor or a designee.
- b. Eligibility letter in AWARE™ (copy retained in the electronic record of services).
- c. As appropriate, information regarding disability, limitations, capabilities and goals. Relevant documentation available from existing DORS files or the files of other agencies will be used to the maximum extent possible. Additional sources of information may include the individual, family, medical and other professional service providers.

506 Ineligibility for Independent Living Older Blind Services

506.01 Ineligibility Decision

An applicant who does not meet the eligibility criteria (see **Section 505.01**) will be determined ineligible for ILOB services. This decision will be based on the review and assessment of data. The applicant or, as appropriate, the applicant's representative will be given the opportunity for full consultation in the decision. The applicant will be advised of rights and remedies available, including the right to an appeal, and the availability of services provided by the Client Assistance Program (CAP). If appropriate,

the DORS counselor shall refer the applicant to other agencies and facilities, including DORS VR program or Centers for Independent Living in Maryland, as appropriate.

506.02 Ineligibility Subsequent to Determination of Eligibility

The requirements in this section also apply to applicants determined ineligible following a determination of eligibility.

506.03 Certification of Ineligibility/Closure of Record of Services

When an individual has been determined ineligible for ILOB services, the record shall be closed in AWARE™ (see **RSM 2, Section 1000**) and the **ILOB Ineligibility** letter shall be sent to the individual.

506.04 Required Documentation

The record shall contain the following documentation related to the determination of ineligibility (see **RSM 2, Section 1000** for documentation requirements for closure of the record of services):

- a. Completed **ILOB Ineligibility** letter from AWARE™ (retained in the electronic record of services).
- b. As appropriate and inasmuch as possible from other sources, medical records or a statement from a medical professional supporting the lack of a significant (i.e., severe) disability.
- c. As appropriate, documentation that the delivery of independent living older blind services will not improve the individual's ability to function, continue functioning or move toward functioning independently in the family, community or in employment.
- d. As appropriate, documentation that the applicant was referred to other agencies and services including vocational rehabilitation.

506.05 Annual Review of Ineligibility Determination

The DORS counselor will review the individual's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever the counselor determines that the applicant's status has materially changed. The review need not be conducted in situations where the individual has been determined not to have a significant disability, has refused the review, is no longer present in the State, or when the individual's whereabouts are unknown. The DORS counselor will be alerted to the need for annual review via "Activities Due" in AWARE™.