

Louisiana Rehabilitation Services



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Eligibility Determination And Order of Selection

Determining Eligibility for Vocational Rehabilitation Services

Eligibility Criteria

- The individual has a **physical or mental impairment** for which such individual constitutes or results in a **substantial impediment to employment**; and
- **Requires vocational rehabilitation services** to prepare for, secure, retain, or regain employment; and
- **Can benefit in terms of an employment outcome** from vocational rehabilitation services.
- Presumption of Eligibility for **SSI/SSDI** recipients

Timeline for Eligibility Determination

- The counselor should determine eligibility for vocational rehabilitation services as soon as sufficient information is obtained to do so.
- The eligibility determination (and Order Of Selection) must be made no later than 60 days from the date of the individual's application for services.
- Exceptions: Must document the circumstances that prevent a timeline eligibility determination and the individual's consent to the extension.
- SSI/SSDI recipients: No extension to 60 day timeline.

Physical or Mental Impairment

“Physical or mental impairment” means an injury, disease, or other condition that materially limits, or if not treated is expected to limit mental or physical functions.

See CFR 361.5(b)(36).

Physical or Mental Impairment

How we assess/document the impairment:

- Records/assessments from licensed professionals
- Professional judgment and counselor observation (for obvious physical disabilities)
- Pupil Appraisal Reports
- SSI/SSDI: If no other documentation is available within 60 days, we will presume there is a physical or mental impairment.

Substantial Impediment to Employment

- Substantial impediment to employment” means a **physical or mental impairment**, in light of attendance medical, psychological, vocational, educational, or other related factors, **hinders an individual** from preparing for, entering into engaging in, or retaining **employment** consistent with the abilities and capabilities.
- See 34 CFR 361.5 (b)(44).

Substantial Impediment to Employment

- Assessed through consideration of functional capacity areas.
- LRS has eight functional capacity areas:
 - Communication
 - Interpersonal Skills
 - Mobility
 - Motor Skills
 - Self Care
 - Self-Direction
 - Work Skills
 - Work Tolerance

Communication

The ability to exchange (give and receive) information.

- Talking/Speaking
- Generalizing, transferring, and/or assimilating information (written, spoken, receptive, expressive)

Interpersonal Skills

The ability to establish and maintain positive personal, family, and community relationships necessary to achieve/maintain work.

- Understanding obvious social cues
- Establishing or maintaining positive relationships
- Adjustment to disability-related characteristics which cannot be avoided or modified and have a very low degree of public and employer acceptance

Mobility

The physical and psychological ability to move from place to place at home and in the community.

- Obtaining a driver's license
- Traveling alone in unfamiliar areas
- Ambulating without assistance (person or device)

Motor Skills

The purposeful movement and control of the body and its members to achieve specific results.

- Using upper or lower extremity(ies) to control and coordinate motor movements.
- Performing tasks at a competitive work pace

Self Care

The ability to care for self and living environment.

- Managing a daily schedule
- Adjusting to changes in daily routine or new situation
- Performing activities of daily living

Self Direction

The ability to regulate behavior in a purposeful and predictable way, taking into account personal goals, environmental conditions, and cultural values and expectations.

- Identifying steps necessary to reach goals
- Identifying consequences of behavior
- Working independently

Work Skills

The capacity to learn and perform job tasks and to adapt to new skills needed to stay employed.

- Sporadic/no work history due to disability
- Maintaining job due to disability
- Remembering, understanding, following instructions
- Learning new tasks
- Achieving expected productivity
- Transferable work skills
- Requires individualized assistive technology to perform duties

Work Tolerance

The capacity to meet the physical and psychological demands of work.

- Working an eight hour work day
- Performing work requiring lifting, carrying
- Sitting/standing/walking for extended periods of time
- Maintaining a constant production rate

Requires VR Services

The individual requires VR services to prepare for, secure, retain, or regain employment:

Can benefit in terms of an employment outcome

- The counselor must **presume** that an individual with a disability is able to benefit from VR services in terms of an employment outcome.
- The presumption of benefit can be overcome only by **clear and convincing evidence** that unequivocally demonstrates that an individual is incapable of benefiting from services in terms of an employment outcome.
- Individual must be provided **trial work** experiences in realistic work settings if there are significant questions/concerns about ability to benefit.

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Federal Regulations Pertaining to Order of Selection

Order of Selection

A State vocational rehabilitation (VR) agency is **required** to implement an order of selection when it anticipates that it **will not have sufficient fiscal and/or personnel resources** to fully serve all eligible individuals. (Section 101(a)(5)(A) of the Rehabilitation Act of 1973 (Act) and 34 CFR 361.36(a)(1)).

Establishment of an Order of Selection

An order of selection consists of **priority categories** to which eligible individuals are assigned based on the significance of their disability. (34 CFR 361.36(d)(1)).

Under an order of selection, individuals with the **most significant disabilities** are selected first for the provision of vocational rehabilitation services.

(Section 101(a)(5)(C) of the Act and 34 CFR 361.36(a)(3)(iv)(A)).

Definition of “Most Significant Disability”

An “individual with a most significant disability” is defined in Section 7(21)(A) of the Act as an individual with a disability:

- who 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, motor skills or work skills*) **in terms of an employment outcome;**
- whose vocational rehabilitation can be expected to **require multiple vocational rehabilitation services** over **an extended period of time;** and
- who has **one or more physical or mental disabilities** listed in section 7(21)(A)(iii) of the Act or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

Requires multiple VR services

The individual requires vocational counseling and guidance and at least one other VR service in order to obtain, maintain or advance in employment.

- Assistive technology
- Establishment of a small business enterprise
- Job or training accommodations
- Job placement
- Physical/mental restoration services
- Supported employment
- Training (job readiness, vocational, college)

Requires VR services an extended period of time

- Does the eligible consumer require services are anticipated to extend three months or longer?
- The three month time period begins with the earliest service initiation date on the IPE (plan) through the 90 day follow-up period after employment.
- Supported employment: at least 90 days after stabilization on the job.

LRS Priority Categories

LRS has **five** priority categories, the OOS assures that individuals with the **most significant disabilities** receive priority for VR services. After determination of eligibility for VR services, each individual is then classified by placement into one of the five following priority categories.

LRS Order of Selection (OOS) Categories

LRS has five OOS Categories:

Category 1: Most Significantly Disabled

Category 2: Most Significantly Disabled

Category 3: Significantly Disabled

Category 4: Significantly Disabled

Category 5: Non-Significantly Disabled

LRS FUNCTIONAL CAPACITY AREAS

The eight functional capacity areas are used in determining order of selection. Are there significant limitations in any of these areas?

- Mobility
- Motor Skills
- Communication
- Self-Care
- Self-Direction
- Interpersonal Skills
- Work Tolerance
- Work Skills

OOS Categories

Category I - Most Significantly Disabled

- Has been determined **eligible** for VR services.
- Has severe limitations in **four or more** functional capacity areas
- The individual's vocational rehabilitation is expected to require **multiple services** over an **extended period of time**.

OOS Categories

Category II - Most Significantly Disabled

- Has been determined **eligible** for VR services.
- Has severe limitations in **three** functional capacity areas
- The individual's vocational rehabilitation is expected to require **multiple services** over an **extended period of time**.

OOS Categories

Category III - Significantly Disabled

- Has been determined **eligible** for VR services.
- Has severe limitations in **two** functional capacity areas
- The individual's vocational rehabilitation is expected to require **multiple services** over an **extended period of time**.

OOS Categories

Category IV - Significantly Disabled

- Has been determined **eligible** for VR services.
- Has severe limitations in **one** functional capacity area.
- The individual's vocational rehabilitation is expected to require **multiple services** over an **extended period of time**.

OOS Categories

Category V - Non - Significantly Disabled

- Has been determined eligible.
- Does not meet the criteria of a “most significant” or “significant” disability.

OOS and Functional Capacities

- OOS Group I: Significant limitations in 4 areas
- OOS Group II: Significant limitations in 3 areas
- OOS Group III: Significant limitations in 2 areas
- OOS Group IV: Significant limitations in 1 area
- OOS Group V: No significant limitations

FUNCTIONAL CAPACITY AREA EXAMPLES

COMMUNICATION

- The ability to exchange (give and receive) information.

A **significant limitation** indicates the individual is not able to communicate expressively or receptively, without modifications, assistive technology, and/or accommodations not typically made for other workers.

Examples of functional limitations that might require this level of intervention: unintelligible speech; significantly limited expressive or receptive communication skills.

FUNCTIONAL CAPACITY AREA EXAMPLES

INTERPERSONAL SKILLS

- The ability to establish and maintain positive personal, family, and community relationships necessary to achieve/maintain work.

A **significant limitation** indicates the individual requires modifications, accommodations, or other adaptations not typically made for other workers.

Examples of functional limitations that might require this level of intervention: has difficulty in establishing and maintaining personal relationships, responding appropriately to criticism from supervisors, accepting instructions from supervisors and/or exhibits behaviors/conditions that detract from the performance of or acceptance by others.

FUNCTIONAL CAPACITY AREA EXAMPLES

MOBILITY

- The physical and psychological ability to move from place to place at home and in the community.

A **significant limitation** indicates that most common life and work activities are impaired or prevented because the person usually requires assistance from others to get around in the community and/or requires modifications, assistive technology, and/or accommodations not typically made for other workers.

Examples: Unable to obtain a driver's license due to disability, etc.; Unable to drive a vehicle without modification due to disability; requires a wheelchair, prosthesis or orthotic for mobility; requires mobility training.

FUNCTIONAL CAPACITY AREA EXAMPLES

MOTOR SKILLS

- The purposeful movement and control of the body and its members to achieve specific results.

A **significant limitation** indicates that the individual requires orthotics, prosthetics, or other adaptive equipment in order to perform common life/work activities and/or requires modifications, assistive technology, and/or accommodations not typically made for other workers.

Examples: Requires turntable on desk for person who has problems reaching; requires carrier/assistance to move objects less than 10 lbs. from one place to another.

FUNCTIONAL CAPACITY AREA EXAMPLES

SELF CARE

- The ability to care for self and living environment.

A **significant limitation** indicates the individual is not able to complete activities of daily living without modifications, assistive technology, and/or accommodations not typically made for other workers.

Examples: Requires personal assistance or assistive device for any of the following: eating, toileting, grooming, dressing, cooking, shopping, housekeeping, money management, and health and safety needs.

FUNCTIONAL CAPACITY AREA EXAMPLES

SELF DIRECTION

- The ability to regulate behavior in a purposeful and predictable way, taking into account personal goals, environmental conditions, and cultural values and expectations.

A **significant limitation** indicates the individual requires special supervision, modifications, assistive technology, and/or accommodations not typically made for other workers.

Examples of functional limitations that might require this level of intervention: unable to independently complete any of the following: begin and follow through on tasks, monitor one's own behavior; make decisions; sustain an ordinary routine; respond appropriately to change in the work setting; set realistic goals or make plans.

FUNCTIONAL CAPACITY AREA EXAMPLES

WORK SKILLS

- The capacity to learn and perform job tasks and to adapt to new skills needed to stay employed.

A **significant limitation** indicates the individual will require special supervision, modification, assistive technology, and/or accommodations not typically made for other workers.

Examples of functional limitations that might require this level of intervention: unable to learn new tasks without intensive and/or specialized instruction; reading, spelling, or math skills are below the 5th grade level; has unproductive work habits that require a job coach.

FUNCTIONAL CAPACITY AREA EXAMPLES

WORK TOLERANCE

- The capacity to meet the physical demands of work.

A **significant limitation** indicates the individual requires intervention to perform work activities and/or will require modification, assistive technology, and/or accommodations not typically made for other workers.

Examples of functional limitations that might require this level of intervention: requires frequent or extended periods of time from work due to necessary treatments or medical problems; unable to work for an eight hour work day due to limitations in physical or psychological stamina; unable to perform work requiring frequent lifting and carrying of objects weighing 10 lbs. or less and/or occasionally lift objects weighing 20 lbs. or less; unable to sit/stand for extended time periods; unable to maintain a constant production rate even though the amount of force exerted is negligible.

Presumed Eligibility of SSI and SSDI Recipients

SSI and SSDI beneficiaries are presumed eligible for VR services, as individuals with a **significant disability**, not a most significant disability.

This means when a VR agency is under an OOS and is only serving individuals with most significant disabilities, it is possible that an SSI or SSDI beneficiary may not meet the criteria of an individual with a most significant disability.

Deferred Services Waiting List

If an individual falls into a OOS Category that is not currently being served by the agency, they are put on a waiting list and, if funding becomes available, they will be served in chronological order according to the date of their original application.

This provision allows for a minimal delay in getting services to consumers who are waiting for services.

Order of Selection Timeline

- March 20, 1988 - LRS establishes an Order of Selection w/three categories.**
- July 20, 1999 - Only OOS Category I served (Cat II & III closed).**
- February 2000 - OOS Category II opened. (Serving I & II)**
- March 9, 2001 - Redefined OOS categories from three to five categories.**
- August 2002 - OOS Category III opened. (Serving I, II & III)**
- August 2003 - OOS Category III closed. (Serving I & II)**
- January 9, 2006 - OOS Category III opened. (Serving I, II & III)**
- January 10, 2006 - OOS Categories IV and V opened. (Serving all categories)**
- April 14, 2009 - September 30, 2010 - OOS Categories III – V closed. (Serving I & II)**
- October 1, 2010 - June 30, 2014 - OOS II closed. (Serving I)**
- July 1, 2014 - OOS Categories II and III are opened. (Serving I, II & III)**

