

3300.5010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3300.5000 to 3300.5060, the following terms have the meanings given them.

Subp. 1a. **Agency.** "Agency" means the vocational rehabilitation program in the Department of Employment and Economic Development.

Subp. 2. **Applicant.** "Applicant" means a person who has submitted an application for vocational rehabilitation services to the agency, or whose parent, guardian, or legal representative has submitted an application.

Subp. 3. **Assessment for determining eligibility and vocational rehabilitation needs.** "Assessment for determining eligibility and vocational rehabilitation needs" has the meaning given to the term "assessment for determining eligibility and vocational rehabilitation needs" by Code of Federal Regulations, title 34, section 361.5, paragraph (b)(6), as amended.

Subp. 3a. **Auxiliary aids and services for effective communication.** "Auxiliary aids and services for effective communication" has the meaning given auxiliary aids and services in Code of Federal Regulations, title 28, sections 35.104 and 36.303, paragraph (b).

Subp. 4. **Books and supplies for postsecondary training.** "Books and supplies for postsecondary training" means textbooks, paper, pencils, pens, small calculators, and similar items that all students are required to purchase for participation in a training program at a postsecondary training institution.

Subp. 5. [Repealed, 30 SR 1129]

Subp. 5a. **CARF.** "CARF" means the national independent, nonprofit organization that sets standards for service and quality of rehabilitation providers, formerly known as the Commission on the Accreditation of Rehabilitation Facilities.

Subp. 6. **Comparable services and benefits.** "Comparable services and benefits" means services or financial assistance available to an eligible individual, from sources other than the agency or the eligible individual, to meet, in whole or in part, the cost of vocational rehabilitation services. Examples of comparable benefits are: Medicare, Medicaid, individual and group insurance, workers' compensation benefits, community social service agencies, state agencies other than the agency, and public or private educational and training grants and scholarships.

Subp. 7. [Repealed, 30 SR 1129]

Subp. 8. **Durable medical equipment.** "Durable medical equipment" means wheelchairs; three-wheel self-propelled devices; canes, crutches, and other mobility aids; and other commercially available nonconsumable equipment whose primary purpose is

to enable an individual to perform life functions that, due to the individual's physical or mental impairment, the individual cannot adequately perform without the equipment.

Subp. 9. **Eligible individual.** "Eligible individual" means a person who is eligible for vocational rehabilitation services as provided by Code of Federal Regulations, title 34, section 361.42(a).

Subp. 10. **Employment goal.** "Employment goal" means:

A. an "employment outcome" as defined by Code of Federal Regulations, title 34, section 361.5, paragraph (b)(16), as amended; and

B. that is available in the labor market area where the eligible individual is willing to seek and accept employment.

Subp. 10a. **Employment plan.** "Employment plan" means an individualized plan for employment that is developed in accordance with Code of Federal Regulations, title 34, section 361.45, as amended, and that meets the requirements of Code of Federal Regulations, title 34, section 361.46, as amended.

Subp. 11. **Extreme medical risk.** "Extreme medical risk" means a determination, based on medical evidence provided by a licensed medical professional, that there is a risk of increasing functional impairment or risk of death if medical services are not provided expeditiously.

Subp. 12. [Repealed, 21 SR 1779]

Subp. 13. **Functional area.** "Functional area" means mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills. For the purposes of this subpart:

A. "communication" means the ability to effectively give and receive information through words or concepts, using methods such as reading, writing, speaking, listening, sign language, or other adaptive methods;

B. "interpersonal skills" means the ability to establish and maintain personal, family, and community relationships as it affects, or is likely to affect, job performance or job retention;

C. "mobility" means the physical or psychological ability to move about from place to place inside and outside the home, including travel to and from usual destinations in the community for activities of daily living, training, or work;

D. "self-care" means the skills needed to manage self or living environment, such as eating, toileting, grooming, dressing, money management, and management of special health or safety needs, including medication management, as they affect an individual's ability to participate in training or work-related activities;

E. "self-direction" means the ability to independently plan, initiate, organize, or carry out goal-directed activities or solve problems related to working;

F. "work skills" means:

(1) the ability to do specific tasks required to carry out job functions; or

(2) the capacity to benefit from training in how to perform tasks required to carry out job functions; and

G. "work tolerance" means the capacity or endurance to effectively and efficiently perform jobs requiring various levels of physical demands, psychological demands, or both.

Subp. 14. **Gift aid.** "Gift aid" means grants, scholarships, and other financial assistance from federal, state, or other sources that are used to pay for the costs of postsecondary training and that do not have to be repaid. Gift aid based on academic merit is not considered when calculating the agency contribution for required tuition and mandatory fees.

Subp. 15. [Repealed, 21 SR 1779]

Subp. 16. **Independent living skills training.** "Independent living skills training" means training services that improve the ability of an individual with a significant disability to live and function more independently so as to achieve an employment outcome.

Subp. 17. **Individual with a most significant disability.** "Individual with a most significant disability" means an eligible individual:

A. who has a severe physical or mental impairment that results in a serious functional limitation in terms of employment in three or more functional areas;

B. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

C. who has one or more physical or mental impairments resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, developmental disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders including stroke and epilepsy, paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, and end-stage renal disease, or another physical or mental impairment or combination of physical or mental impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable serious functional limitation.

Subp. 18. **Individual with a significant disability.** "Individual with a significant disability" means an eligible individual:

A. who has a severe physical or mental impairment that results in a serious functional limitation in terms of employment in one or two functional areas;

B. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

C. who has one or more physical or mental impairments resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, developmental disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders including stroke and epilepsy, paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, and end-stage renal disease, or another physical or mental impairment or combination of physical or mental impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable serious functional limitation.

Subp. 19. [Repealed, 30 SR 1129]

Subp. 20. **Initial stocks and supplies.** "Initial stocks and supplies" means the initial inventory of goods for direct resale to customers by an eligible individual entering into or stabilizing a small business enterprise and a start-up supply of expendable items that are necessary for the day-to-day operation of a business, excluding the ongoing replacement of inventory and supplies.

Subp. 21. **Interpreter services.** "Interpreter services" means interpreting of oral, manual, or written communication for persons who are deaf or hard of hearing.

Subp. 21a. **Institutional aid.** "Institutional aid" means grants, scholarships, and other financial assistance a postsecondary institution awards from its own funds that are used to pay for the costs of postsecondary training and that do not have to be repaid. Institutional aid based on academic merit is not considered when calculating the agency contribution for required tuition and mandatory fees.

Subp. 22. **Job coaching.** "Job coaching" means services provided to assist an eligible individual to perform work duties and retain employment in a competitive employment setting, such as:

A. job skills training;

B. training and assistance with work behaviors; and

C. assistance to employers and coworkers when necessary to assist the eligible individual to retain employment.

Subp. 23. **Job related services.** "Job related services" means services that assist eligible individuals seek and obtain gainful employment. These services include job search and placement assistance, job retention services, follow-up services, and follow-along services.

Subp. 24. **Maintenance.** "Maintenance" means "maintenance" as defined by Code of Federal Regulations, title 34, section 361.5, paragraph (b)(35), as amended.

Subp. 24a. **Mileage rate.** "Mileage rate" means the amount calculated semiannually by dividing the average cost of regular gasoline in Minnesota during the preceding six months by the average fuel efficiency of all vehicles; the average cost of regular gasoline is determined using figures published by the United States Department of Energy, Energy Information Administration, and the average fuel efficiency of all vehicles is determined using figures published by the United States Department of Transportation, Federal Highway Administration, Highway Statistics Series.

When the calculated mileage rate exceeds the rate established by the Internal Revenue Service (IRS) for personal income tax deductions for mileage for charitable contributions under the Internal Revenue Code of 1986, section 170(i), as amended, the mileage rate for the next six months will be adjusted to the newly calculated rate.

When the calculated mileage rate is equal to or less than the rate established by the Internal Revenue Service for personal income tax deductions for mileage for charitable contributions under the Internal Revenue Code of 1986, section 170(i), as amended, the mileage rate for the next six months will be the IRS mileage rate for charitable contributions.

Subp. 25. **Notetaker services.** "Notetaker services" means the recording in writing of oral or written communication for later use by an eligible individual.

Subp. 25a. **Ongoing monthly living expenses.** "Ongoing monthly living expenses" means costs such as rent, utilities, and food.

Subp. 26. **Order of selection.** "Order of selection" means the priority system under which the agency provides vocational rehabilitation services to eligible individuals when all eligible individuals cannot be served.

Subp. 27. **Paratransit.** "Paratransit" means the comparable transportation service provided by a public entity as required by United States Code, title 42, section 12143, for individuals with disabilities who are unable to use fixed route transportation services. Paratransit includes door-to-door or demand responsive transportation for persons who are unable to use conventional transportation provided by a public entity. Paratransit may be provided directly by a public transit agency or contracted out to a private company.

Subp. 28. **Personal assistance services.** "Personal assistance services" means a range of services, provided by one or more persons, to assist an eligible individual to perform

daily living activities, on or off the job, that the eligible individual would typically perform without assistance if the eligible individual did not have a disability.

Subp. 28a. **Physical and mental restoration services.** "Physical and mental restoration services" means "physical and mental restoration services" as defined by Code of Federal Regulations, title 34, section 361.5, paragraph (b)(40), as amended.

Subp. 29. **Postemployment services.** "Postemployment services" means "post-employment services" as defined by Code of Federal Regulations, title 34, section 361.5, paragraph (b)(42), as amended.

Subp. 30. **Postsecondary training.** "Postsecondary training" means training provided by a postsecondary training institution.

Subp. 31. **Postsecondary training institution.** "Postsecondary training institution" means a public or private university, college, community college, junior college, vocational school, business school, technical college, technical institute, hospital school of nursing, barber school or college, cosmetology school, commercial driver training school, or other school as defined in Minnesota Statutes, section 136A.62, subdivision 3, or 136A.821, subdivision 5, that is registered as provided by Minnesota Statutes, chapter 154, or section 136A.63, licensed as provided by Minnesota Statutes, chapter 154, section 136A.822, or 171.34, or exempt from such licensing or registration requirements.

Subp. 31a. **Public entity.** "Public entity" means:

- A. any state or local government; or
- B. any department, agency, special purpose district, or other instrument of one or more state or local governments.

Subp. 32. [Repealed, 30 SR 1129]

Subp. 33. **Reader services.** "Reader services" means the oral reading of written material for an eligible individual.

Subp. 34. **Referral.** "Referral" means counseling or research on behalf of an applicant or eligible individual for the purpose of directing the applicant or eligible individual to other agencies and organizations that provide financial assistance, rehabilitation services, or other services needed by the applicant or eligible individual.

Subp. 35. **Rehabilitation counseling and guidance.** "Rehabilitation counseling and guidance" means the process by which a rehabilitation counselor assists an eligible individual to:

- A. understand the eligible individual's abilities and potential and develop self-confidence;
- B. identify and establish an employment goal;

C. complete a program of services leading to the achievement of the employment goal established in the eligible individual's employment plan; and

D. gather information and identify support services, if needed, to assist an eligible individual to exercise informed choice.

Subp. 36. **Rehabilitation counselor.** "Rehabilitation counselor" means a person classified by the Minnesota Department of Management and Budget as a rehabilitation counselor and employed by the agency to determine eligibility for services, provide rehabilitation counseling and guidance, develop employment plans and amendments collaboratively with eligible individuals, approve employment plans and amendments, provide and coordinate the provision of vocational rehabilitation services, and determine if an employment outcome is satisfactory.

Subp. 37. **Rehabilitation technology.** "Rehabilitation technology" means services that apply technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by an eligible individual. These services include:

A. any piece of equipment, or product system, including taped books and text, and alternative format books accessible by computer, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities; and

B. any service that directly assists an eligible individual in the selection, acquisition, or use of a piece of equipment or product system described in item A.

Subp. 38. [Repealed, 20 SR 168]

Subp. 39. **Self-help aid.** "Self-help aid" means forms of student financial assistance, such as loans and work-study, offered to a student by a postsecondary institution and that the student must repay or work to earn.

Subp. 40. **Serious functional limitation.** "Serious functional limitation" means that, due to a severe physical or mental impairment, one or more of an individual's functional capacities, including mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills is restricted to the degree that the individual requires services or accommodations not routinely made for other individuals in order to prepare for, secure, retain, or regain employment.

Subp. 40a. **Small business enterprise.** "Small business enterprise" means a business that is owned, operated, and managed by an eligible individual who sells goods or services for the purpose of making a profit. An eligible individual is considered to be making a profit when income from the business exceeds expenses, including reasonable payment for the owner's time and efforts. Small business enterprise includes self-employment, sole proprietorships, partnerships, limited liability companies, and corporations.

Subp. 40b. **Stabilize a small business enterprise.** "Stabilize a small business enterprise" means to provide goods and services when an eligible consumer has an existing business which for disability related reasons requires changes to the product, service, or method of operation of the business, or it means to allow resumption of the operation of a business which has been disrupted, suspended, or interrupted due to disability.

Subp. 41. **State Rehabilitation Council.** "State Rehabilitation Council" means the council established under United States Code, title 29, chapter 16, section 725, as amended.

Subp. 42. **Tools and equipment.** "Tools and equipment" means implements required for participation in an employment plan that aid in accomplishing a task and the set of physical resources used to perform an operation or activity necessary in the practice of a vocation, profession, or small business enterprise, excluding the ongoing replacement or repair of tools and equipment. It includes all fixed assets other than land and buildings of a small business enterprise.

Subp. 43. **Transportation services.** "Transportation services" means payments for:

- A. gasoline and parking;
- B. transportation provided by a public entity including paratransit;
- C. a driver, if one is required;
- D. other available transportation if transportation provided by a public entity, including paratransit, and transportation by private vehicle are unavailable; or
- E. the purchase of vehicle repairs.

Subp. 44. **Tuition fee schedule.** "Tuition fee schedule" means:

A. For the regular academic year at all private postsecondary institutions and at public postsecondary institutions outside Minnesota:

(1) for postsecondary training institutions not offering baccalaureate degrees, an amount determined by averaging the cost of full-time resident tuition at each of the technical and community colleges in the Minnesota State Colleges and Universities system. This amount will be calculated annually based on figures from the Minnesota Office of Higher Education;

(2) for postsecondary training institutions offering baccalaureate degrees, an amount determined by averaging the cost of full-time undergraduate resident tuition at each of the state universities in the Minnesota State Colleges and Universities system. This amount will be calculated annually based on figures from the Minnesota Office of Higher Education; or

(3) for postsecondary training institutions when the eligible individual is enrolled in a postbaccalaureate degree program, an amount determined by averaging the

cost of full-time graduate resident tuition at each of the state universities in the Minnesota State Colleges and Universities system. This amount will be calculated annually based on figures from the Minnesota Office of Higher Education.

B. For the summer session at all private postsecondary institutions and at public postsecondary institutions outside Minnesota:

(1) for postsecondary training institutions not offering baccalaureate degrees, an amount determined by averaging the cost of full-time resident summer school tuition at each of the technical and community colleges in the Minnesota State Colleges and Universities system. This amount will be calculated annually based on figures from the Minnesota Office of Higher Education;

(2) for postsecondary training institutions offering baccalaureate degrees, an amount determined by averaging the cost of full-time undergraduate resident summer school tuition at each of the state universities in the Minnesota State Colleges and Universities system. This amount will be calculated annually based on figures from the Minnesota Office of Higher Education; or

(3) for postsecondary training institutions when the eligible individual is enrolled in a postbaccalaureate degree program, an amount determined by averaging the cost of full-time graduate resident summer school tuition at each of the state universities in the Minnesota State Colleges and Universities system. This amount will be calculated annually based on figures from the Minnesota Office of Higher Education.

C. For eligible individuals attending any postbaccalaureate degree program at the University of Minnesota:

(1) for the regular academic year, the dollar amount equal to the cost of full-time graduate resident tuition and mandatory student services fees at the Graduate School of the University of Minnesota - Twin Cities campus. This amount is available annually from the Minnesota Office of Higher Education; or

(2) for summer school, the dollar amount equal to the cost of full-time graduate resident summer school tuition and mandatory student services fees at the Graduate School of the University of Minnesota - Twin Cities campus. This amount is available annually from the Minnesota Office of Higher Education.

D. Except as provided in item C, for training in a Minnesota public postsecondary institution, an amount equal to the cost of resident tuition and mandatory academic fees at the Minnesota public postsecondary institution the eligible individual is attending.

Subp. 45. **Vehicle adaptations.** "Vehicle adaptations" means changes made to the structure or control devices of a motor vehicle for an eligible individual to enter, exit, or operate the vehicle safely and legally.

Subp. 46. **Vocational evaluation.** "Vocational evaluation" means an assessment of a person's performance in a simulated or real work situation to determine the person's abilities, skills, attitudes toward work, and work behaviors.

Subp. 47. **Vocational rehabilitation program.** "Vocational rehabilitation program" means the organizational unit in the agency that determines eligibility for, and provides vocational rehabilitation services to, individuals.

Subp. 48. **Vocational rehabilitation services.** "Vocational rehabilitation services" means the services provided or arranged for individuals by the vocational rehabilitation program to determine and achieve an employment goal.

Subp. 49. [Repealed, 34 SR 901]

Subp. 50. **Vocational adjustment training.** "Vocational adjustment training" means using real or simulated work situations to assist persons to:

- A. understand the meaning, value, and demands of work;
- B. learn or reestablish skills, attitudes, and work behaviors; and
- C. develop physical or mental capacities necessary for work.

Statutory Authority: *MS s 116J.035; 268.021; 268A.03*

History: *18 SR 2248; L 1994 c 483 s 1; 20 SR 168; 21 SR 1779; L 2005 c 27 s 9; L 2005 c 56 s 2; L 2005 c 107 art 2 s 60; L 2005 c 112 art 2 s 41; 30 SR 1129; L 2008 c 204 s 42; L 2009 c 101 art 2 s 109; 34 SR 901; L 2015 c 69 art 2 s 46*

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