

3300.5040 CONSUMER FINANCIAL PARTICIPATION IN COST OF VOCATIONAL REHABILITATION SERVICES.

Subpart 1. **Financial participation required.** An eligible individual whose gross family income is more than the consumer financial participation threshold shall pay for vocational rehabilitation services an amount equal to the percentage by which the eligible individual's gross family income exceeds the consumer financial participation threshold. For example, if an eligible individual's gross family income exceeds the consumer financial participation threshold by ten percent, the eligible individual shall pay ten percent of the cost of vocational rehabilitation services provided and the agency would pay 90 percent.

Subp. 1a. **Consumer financial participation threshold.** The agency must calculate the consumer financial participation threshold annually. The consumer financial participation threshold is 200 percent of the poverty guidelines updated annually and published in the Federal Register by the United States Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981, as adjusted for family size.

Subp. 2. **No required financial participation.** An eligible individual whose gross family income is equal to or less than the consumer financial participation threshold is not required to pay any portion of the cost of the vocational rehabilitation services that the eligible individual receives. However, regardless of consumer financial participation requirements under this part, all eligible individuals are required to participate in the search for and utilization of comparable benefits and services as provided in part 3300.5050, and the agency's payments for any vocational rehabilitation services will not exceed the amounts described in part 3300.5060.

Subp. 3. **Basis for determining degree of financial participation required.** The agency shall determine the degree of financial participation required for eligible individuals who are not exempt from determination of the degree of financial participation under subpart 4. The degree of financial participation required is determined on the basis of the eligible individual's gross family income in relation to the consumer financial participation threshold.

A. For the purposes of this subpart, the eligible individual's gross family income includes cash payments or benefits, other than gifts or loans, received by or actually available to an eligible individual or an eligible individual's family from public or private sources. These payments or benefits include:

- (1) cash earnings from wage or salaried positions before payroll deductions;
- (2) cash income receipts from a business, farm, or profession after deduction of operating expenses;

(3) unearned payments from government assistance programs or other public sources such as unemployment benefits, workers' compensation, veteran's benefits, Social Security, and government pensions; and

(4) unearned payments from private sources such as private pensions, annuities, net rental income, dividends, and interest.

B. For purposes of determining gross family income, the eligible individual's family includes:

(1) the spouse of the eligible individual; and

(2) the parent or parents of the eligible individual if:

(a) the eligible individual is under 18 years of age and living with the parent or parents; or

(b) the parent or parents claimed the eligible individual as a dependent for federal income tax purposes in the most recent calendar year; or

(c) a postsecondary institution has determined that the eligible individual is a dependent student for purposes of determining financial aid for postsecondary training.

Subp. 4. Exemption from determination of degree of financial participation.

A. Except as provided in item B, an eligible individual is not required to pay any portion of the cost of the vocational rehabilitation services that the eligible individual receives if the eligible individual:

(1) receives benefits under title II or title XVI of the federal Social Security Act, under Code of Federal Regulations, title 34, section 361.54(b)(3)(ii), as amended; or

(2) has been determined eligible for a federal or state means-tested income assistance program, such as the Minnesota family investment program or general assistance, or a federal or state means-tested health insurance program, such as medical assistance, when the highest income eligibility requirements of the income assistance program or the health insurance program are equal to or less than the consumer financial participation threshold.

B. When the eligible individual has been determined eligible for a federal or state means-tested health insurance program, the agency must determine the degree of financial participation required of the eligible individual if:

(1) the eligible individual is under 18 years of age and living with the parent or parents;

(2) the parent or parents claimed the eligible individual as a dependent for federal income tax purposes in the most recent calendar year; or

(3) a postsecondary institution has determined that the eligible individual is a dependent student for purposes of determining financial aid for postsecondary training.

Subp. 5. **Services subject to financial participation.** An eligible individual may be required to participate in paying the cost of all vocational rehabilitation services not exempted from financial participation under subpart 6.

Subp. 6. **Services exempted from financial participation.** The agency must not require consumer financial participation for the following services:

A. assessment for determining eligibility, priority for services, and vocational rehabilitation needs, except those nonassessment services that are provided to an individual with a significant disability during either an exploration of the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences or an extended evaluation;

B. vocational evaluation;

C. work adjustment training;

D. rehabilitation counseling and guidance;

E. job related services;

F. referral services;

G. job coaching;

H. on-the-job training;

I. independent living skills training that supports an employment goal;

J. auxiliary aids and services for effective communication;

K. postemployment services consisting of the services identified in this subpart;
and

L. personal assistance services.

Subp. 7. **Income verification.** If an eligible individual's employment plan includes or is expected to include vocational rehabilitation services other than those identified in subpart 6, the eligible individual shall provide the agency with written verification of the eligible individual's gross family income and sources of income, unless the eligible individual provides the agency with written verification that the eligible individual is exempt from the determination of the degree of financial participation under subpart 4. The eligible individual shall provide the agency with a copy of the first page of the most recent federal income tax return documenting the eligible individual's gross family income. If there has been a substantial change in the eligible individual's or family's income, either an increase or a decrease, to the degree that it would change the eligible individual's financial

participation, the eligible individual shall provide the agency with written verification of the eligible individual's present gross family income.

Subp. 8. **Consumer financial participation.** The amount of consumer financial participation in the costs of services and the amount of agency payments for services must be determined as follows:

- A. determine the actual cost of the service;
- B. subtract the amount of available comparable benefits from the amount determined in item A;
- C. if the result obtained under item B is greater than zero, determine the dollar amount of consumer financial participation based on the lesser of:
 - (1) the amount determined in item B; or
 - (2) the maximum amount the agency is permitted to pay for the service under part 3300.5060;
- D. subtract the amount of consumer financial participation determined under item C from the amount determined under item B;
- E. if the result obtained under item D is greater than zero, agency payments must be the lesser of:
 - (1) the amount determined under item D; or
 - (2) the maximum amount the agency is permitted to pay for the service under part 3300.5060, minus the amount of consumer financial participation determined under item C.

Subp. 9. **Variance.** An eligible individual who cannot pay for vocational rehabilitation services to the extent required in subpart 1 may apply to the director of the vocational rehabilitation program or designee for a variance in the determination of financial need as follows:

A. A request for a variance must be submitted in writing by the eligible individual or the eligible individual's legal representative. The request must provide the director of the vocational rehabilitation program or designee with evidence describing the unusual financial situation. If the director of the vocational rehabilitation program or designee requires additional information to determine eligibility for a variance, the agency must, within 15 days after receiving the written request, inform the eligible individual in writing of the specific additional information required.

B. The director of the vocational rehabilitation program or designee must determine whether the eligible individual is eligible for a variance and notify the eligible individual of the determination in writing 30 days after the director of the vocational

rehabilitation program or designee receives all the information required under item A. The written notification must:

- (1) specify whether the eligible individual is eligible for a variance;
- (2) indicate the reasons for the determination;
- (3) specify the amount of the variance, if any;
- (4) inform the eligible individual of review and appeal rights under Code of Federal Regulations, title 34, section 361.57, as amended; and
- (5) be signed and dated by the director of the vocational rehabilitation program or designee.

C. The director of the vocational rehabilitation program or designee shall grant a variance only if the eligible individual demonstrates that it is impossible for the eligible individual to make the cost contributions required under subpart 1 because of extraordinary costs resulting from illness or disability in areas such as mobility, communication, self-care, medical care, shelter, food, and clothing.

D. The director of the vocational rehabilitation program or designee shall determine the amount of a variance by:

- (1) calculating the sum of the eligible individual's extraordinary expenditures identified under item C that make it impossible for the eligible individual to make the cost contributions required under subpart 1; and
- (2) subtracting the sum in subitem (1) from the financial participation amount the eligible individual would have to pay without the variance.

E. An eligible individual who receives a variance must immediately notify the director of the vocational rehabilitation program or designee in writing if the eligible individual's gross family income improves.

F. The director of the vocational rehabilitation program or designee may review the financial situation of an eligible individual who receives a variance at any time to determine whether the individual's financial situation continues to justify the variance.

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

History: *18 SR 2248; 20 SR 168; 21 SR 1779; L 1997 c 66 s 80; L 1999 c 107 s 66; L 2000 c 343 s 4; 30 SR 1129; 34 SR 901*

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