GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department on Disability Services

Department on Disability Services	Policy Number: 15.2
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Cross References and Related Policies:	
Subject: Order of Selection Policy	

1. PURPOSE

The Order of Selection Policy is an explanation justifying the order in which eligible individuals will be served if the Rehabilitation Services Administration (RSA) cannot provide services to all eligible individuals.

2. APPLICABILITY

This policy applies to individuals who are eligible for vocational rehabilitation services and for whom an eligibility determination has been made. The Order of Selection will not apply to an individual applying for or receiving Independent Living Services under Title VII of the Rehabilitation Act; or, an individual who has begun to receive services under an Individualized Plan for Employment (IPE) before the effective date of the Order of Selection.

3. AUTHORITY

Rehabilitation Act of 1973, as amended (P.L. 105-220); Rehabilitation Services Program Establishment Act of 2004 effective April 12, 2005 (D.C. Law 15-332; D.C. Official Code § 32-332); 29 D.C.M.R. § 126 (District of Columbia Municipal Regulations, 2007); 34 C.F.R. § 361.36 (Code of Federal Regulations).

4. POLICY

The Order of Selection assures that priority is given to those individuals who are the most significantly disabled. In determining priority category, individuals are placed in the highest category for which they qualify. All individuals will be informed of the priority category for which they qualify. Under an Order of Selection, those individuals with the most significant disability (Category I) shall be served first, then those with significant disabilities (Category II), and then lastly those with disabilities (Category III). The determination is based on the individual's functional capacities, the services needed to reduce the impact of disability-related limitations and the duration of the rehabilitation services required for the individual to achieve an employment outcome. Significance of disability shall be based on existing information and may be amended at any time during the life of the case. Significance of disability is not based on a specific diagnosis or disability.

If DCRSA cannot serve all eligible individuals, it will place them on a District-wide waiting list. RSA ensures that those eligible individuals who do not meet the order of selection criteria will have access to services provided through information and referral.

An individual who is placed on a waiting list may appeal the determination of the priority category placement. DCRSA will provide the individual with information on the appeal process including informal and formal due process procedures, such as administrative review, mediation and review by an impartial hearing officer.

5. DEFINITIONS

Significance of Disability Categories

1. An individual with a most significant disability (Category I) means an individual:
    - A. who has one or more physical or mental disabilities, determined by an assessment of eligibility and vocational rehabilitation needs, which cause substantial functional limitations; and
    - B. who has a severe physical or mental impairment which seriously limits three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) impacting an employment outcome; and
    - C. whose vocational rehabilitation will require multiple vocational rehabilitation services over an extended period of time.

2. An individual with a significant disability (Category II) means an individual:

D. who has one or more physical or mental disabilities, determined by an assessment of eligibility and vocational rehabilitation needs, which cause substantial functional limitations; and
E. 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, or work skills) impacting an employment outcome; and
F. whose vocational rehabilitation will require multiple vocational rehabilitation services over an extended period of time, and
G. who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, muscular-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia, sickle cell anemia, specific learning disability, end-stage renal disease, 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 limitations.

3. An individual with a disability (Category III) means an individual:
   a. who has a physical or mental impairment which does not meet the criteria set forth in Categories I and II; and
   b. whose impairment constitutes or results in a substantial impediment to employment ; and
   c. who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

Determining Significance of Disability

There are three criteria to be reviewed for significance of disability:

Serious Limitations to Functional Capacity

DCRSA must determine which functional capacities of an individual are seriously limited by reviewing and assessing available information/reports including information provided by the individual and the individual's family, and by professionals' observations.

"Seriously limits" means that the limitation in functional capacity results in significant behavioral consequences in terms of intensity, frequency, or duration in relation to achieving an employment outcome. The counselor must consider these elements when determining whether the impairment seriously limits a functional capacity.`

Intensity - The degree to which the limitation affects the individual's ability to function.

Frequency - The number of times a given limitation affects the individual's ability to function within a set period of time.

Duration - The length of time the limitation has existed or is expected to last.

Functional capacities to be considered are:

(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, because of 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) 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 DUI (driving under the influence); or 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. Communication 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 herself or himself or her or his 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 is unable 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 because of the disability the individual has limited or no 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 in 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.

In determining whether there are serious limitations in work skills, consider the impact of the disability on specific employment goals rather than on the universe of jobs. For example, a math impediment may have a significant impact on an individual's ability to be an engineer, but little impact on many other careers, including rehabilitation counselor or DDS examiner.

Multiple Rehabilitation Services Required to Reduce Impact of Limitations on Employment

Only services that are necessary, as a direct result of the disability, to reduce the impact of limitations to functional capacity on an employment outcome are included in the determination of significance of disability. This includes services that are provided by others as comparable benefits. Specialized vocational or other training designed for individuals with disabilities, physical and mental restoration services, special transportation, rehabilitation technology, job search, placement assistance and job retention services are examples of services that are to be counted in this determination.

Counseling and guidance services, placement services, vocational and other training services that may be required by some individuals to meet a specific employment goal, and assessment services to determine eligibility are examples of services that may be required by the individual to meet an employment outcome but are not factors in determining significance of disability. Generic training, education or other services that are required by some individuals to meet an employment goal are not considered when determining significance of disability.

Duration of Services for an Extended Period of Time

A determination that services will be required for an extended period of time is made when required services are expected to last for six or more months after eligibility has been determined.

Social Security Recipients

An individual who has a disability and is receiving SSI or SSDI benefits, as determined by the Social Security Administration, is to be considered an individual with at least a significant disability. Further review by the Vocational Rehabilitation Specialist of the individual's functional capacities may result in a determination that the individual has a most significant disability.

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 for a year, during which time they will be advised if Agency funding becomes available to provide the requested services. Vocational Rehabilitation Specialists will provide information about other programs and will refer individuals placed on the waiting list to other programs which may be able to offer assistance Significance of Disability Categories

6. RESPONSIBILLITY

The responsibility for this policy is vested with the Director of the Department on Disability Services. Implementation for this policy is the responsibility of the Deputy Director, Rehabilitation Services Administration (DCRSA).

7. STANDARDS

In order to ensure compliance with this policy, below are the standards that will govern how DDS/RSA will ensure that individuals receive services consistent with agency policy:

- In accordance with 29 D.C.M.R. § 126, an assigned DCRSA Vocational Rehabilitation Specialist will first make an eligibility determination and then identify and assign eligible individuals based upon the severity of disability in accordance with 29 D.C.M.R. § 126 which defines the three categories: 1) Individual with a most significant disability (Category 1), Individual with a significant disability (Category II), and Individual with a disability (Category III).

- RSA ensures that those eligible individuals who do not meet the order of selection criteria will have access to services provided through information and referral pursuant to 29 D.C.M.R. § 126.3.

- The waiting list will be reviewed annually to assure that services are being provided on a District-wide basis and that the determination of priority category does not bar or discriminate against any eligible individual based on factors in accordance with 29 USC Sections 705(21) and 721(a)(5); 34 C.F.R.§§ 361.5(b)(30) and 361.36.

Judith E. Heumann, Director

9-30-08
Date