

STATE BOARD OF EDUCATION
Consent Item
July 17, 2019

SUBJECT: Amendments to Division of Vocational Rehabilitation Rules:
6A-25.008, Authorization for Services; 6A-25.014, Vocational and Other Training
Services; and 6A-25.019, Forms and Documents

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1001.02, Florida Statutes

EXECUTIVE SUMMARY

The Division of Vocational Rehabilitation proposes to incorporate the updated financial participation procedures and new financial participation form in Rules 6A-25.008 and 6A-25.019, respectively. The Division proposes to incorporate the new procedure for coordinating the provision of training services to residents of other states with the home-state vocational rehabilitation program in rule 6A-25.014. The Division proposes to incorporate by reference its updated referral forms and subrogation form in rule 6A-25.019.

Supporting Documentation Included: Proposed Rules 6A-25.008, 6A-25.014, and 6A-25.019, F.A.C. Forms: VRW300-Referral to Vocational Rehabilitation; VRW305-Referral to Vocational Rehabilitation, Spanish; DOE/VR-VCMT0007 Subrogation Worksheet; DOE/DVR VCMT094-Financial Participation Assessment Form under separate cover

Facilitator: Allison Flanagan, Director, Division of Vocational Rehabilitation

6A-25.008 Authorization for Services.

(1) through (2) No change.

(3) The division's highest allowable fee for health care services is the amount payable for such services in Florida under the Medicare Part B system ~~or, for hospital per diem payments, the amount payable under the Medicaid system~~. In setting its highest allowable fee for all other services, the division shall ensure such fee is not set so low as to deny individuals the right to make informed choices among service providers. The providers of choice shall agree to accept as payment for the service rendered no more than the division's highest allowable fee. If an individual chooses a service provider that charges in excess of the division's highest permitted fee, the individual shall be solely responsible to fully pay such excess, and a signed statement to that effect shall be placed in the case record.

(4) Financial Participation.

(a) The division considers the financial resources of individuals to determine the extent of their participation in the costs of vocational rehabilitation services. All vocational rehabilitation services permissible under 29 U.S.C. § 723 and 34 C.F.R. § 361.48 are subject to the financial participation requirements except for those services specifically exempted by paragraph (b) below.

(b) The following services are exempt from the financial participation requirements of this rule:

1. Assessment for determining eligibility and vocational rehabilitation needs;

2. Vocational rehabilitation counseling and guidance;

3. Referral and other services to assist individuals in securing services from other agencies;

4. Job-related services including job search and placement assistance;

5. Personal assistance services;

6. Any auxiliary aid (e.g., communication boards, speech synthesizers, telephone handset amplifiers, TDDs) or service (e.g., interpreter services for individuals who are deaf or hard-of-hearing, reader services, communication assistance in the individual's native language);

7. Supported employment services;

8. Trial work services;

9. On-the-job training;

10. Pre-employment transition services; and

11. Vehicle modifications.

(c) The following individuals are exempt from the financial participation requirements of this rule:

1. Individuals who have been determined eligible for Social Security benefits under titles II or XVI of the Social Security Act;

2. Any individual who has available resources, as described in paragraph (d) and (e), less than 285% of the U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs as set forth in the Financial Participation Assessment Form (Form DOE/DVR VCMT094); or

3. Individuals who were not legally required to file a U.S. tax return in the year prior to application, who are not married, and were not claimed as a dependent on another person's U.S. tax return.

(d) Each non-exempt individual shall be placed in one of the following categories:

1. Independent (the individual is not married and was not claimed as a dependent on any other person's U.S. tax return for the prior year or has been granted a "Dependency Override" by a financial aid administrator under 20 U.S.C. § 1087vv);

2. Dependent (the individual is not married and was claimed as a dependent on another person's U.S. tax return for the prior year); or

3. Married (the individual is married).

(e) For each category outlined in paragraph (d) above, the income, as reflected on the prior year's U.S. tax return, of the following people will be considered as an available resource for the individual, respectively:

1. The income of the individual;

2. The income of the individual and the income of the person(s) who claimed the individual as a dependent; and

3. The income of the individual and their spouse.

(f) Should the individual, their spouse, or any person claiming the individual as a dependent have not filed a U.S. tax return the prior year or should their income have changed since their last tax filing, the division will consider their current income as reflected in employer-generated pay stubs, retirement program documents, or documentation from public or private economic support groups. Should no such documentation be available, the division will use the prior year's U.S. tax return, if available. This documentation will be used to complete a new Financial Participation Assessment Form (Form DOE/DVR VCMT094) for the individual.

(g) The amount of an individual's financial participation must be established by the completion of a Financial

Participation Assessment Form (Form DOE/DVR VCMT094) as incorporated by reference in Rule 6A-25.019,
F.A.C.

1. The division must complete the Financial Participation Assessment Form (Form DOE/DVR VCMT094) for every individual at the creation of, and each amendment to, an IPE.
2. The completed Financial Participation Assessment Form (Form DOE/DVR VCMT094) must be included as an attachment to the individual's IPE or IPE amendment.
3. The division will use the most recently completed Financial Participation Assessment Form (Form DOE/DVR VCMT094) to determine the financial participation of the individual.
4. If an individual, or their family member, refuses to provide the information necessary to determine their financial participation, or if the individual, or their family member, refuses to accept responsibility for their expected contribution, the division shall not authorize services subject to financial participation.

(h) Computation of an Individual's Financial Participation

1. The individual's percentage of participation is established in the Financial Participation Assessment Form (Form DOE/DVR VCMT094).
2. For each non-exempt service provided to the individual, the individual will be required to pay the percentage of the cost of the service based on their percentage of participation. Such payment is to be made directly to the vendor of the service.
3. Over the course of the individual's case, the maximum the individual can be required to pay in financial participation is the required participation from the Financial Participation Assessment Form (Form DOE/DVR VCMT094).
4. Once the individual has contributed the required participation toward non-exempt services, the individual will not be required to contribute to future non-exempt services.

5. Financial Participation Assessment Form (Form DOE/DVR VCMT094) must still be completed and incorporated in the individual's IPEs and IPE amendment as a change in circumstances for the individual could increase the amount of required participation.

(i) Exception to Financial Participation.

1. In exceptional cases, circumstances may occur where rigid adherence to the financial participation rule could seriously jeopardize the individual's opportunity to achieve rehabilitation objectives and an employment outcome.

In such cases, the counselor may elect to seek an exception to the financial participation requirements of this rule by submitting a written request to the division and providing the following information:

- a. A description of the service for which the exception is sought;
 - b. The cost of the service for which the exception is sought;
 - c. A copy of the current Financial Participation Assessment Form (Form DOE/DVR VCMT094); and
 - d. A copy of any documentation provided by the individual in support of their request for an exception.
2. An exception to these requirements can only be granted based on one or more of the following reasons:
- a. substantial change in financial circumstances (based on employer-generated pay stubs, retirement program documents, or documentation from public or private economic support groups);
 - b. need for immediate medical intervention (based on medical recommendations included in the case file); or
 - c. the required financial participation, based on the percentage of participation, exceeds the individual's applicable income as calculated in the Financial Participation Assessment Form (Form DOE/DVR VCMT094).
3. When an exception to the financial participation requirements of this rule is granted by the division, the individual will not be required to provide funds toward the provision of the service for which the exception is granted. This exception does not exempt the individual from the required financial participation for any other service.

Rulemaking Authority 413.22, 1001.02 FS. Law Implemented 413.24, 413.28, 413.30 FS. History—New 5-14-12, Amended 10-18-18.

6A-25.014 Vocational and Other Training Services.

(1) through (6) No change.

(7) Out-of-State Students Attending Florida Schools.

(a) When an individual requests support for training services to pursue an Associate's Degree or Bachelor's Degree at any college or university in Florida, the division will ascertain whether the individual is a resident of another state. If an individual refuses to disclose their state of residence, then the division cannot authorize the requested training services for the individual.

(b) The presentation of any two of the following documents are sufficient to determine that an individual has established their residence in Florida:

1. A sworn declaration of domicile for the individual meeting the requirements of section 222.17, F.S.;

2. A Florida driver license or identification card for the individual;
 3. A Florida vehicle registration for the individual's vehicle; or
 4. A Florida voter registration card for the individual.
- (c) An individual can provide evidence of residence in Florida, as described in paragraph (b), when applying for services or after becoming eligible for services. Upon presentation of such evidence, the restrictions on the provision of services in this subsection will no longer apply to the individual.
- (d) For any individual seeking training services, as described in paragraph (a), who is a resident of another state, the division must refer the individual to the designated state agency/designated state unit (DSA/DSU) under the federal Rehabilitation Act of 1973, as amended, in the individual's state of residence.
- (e) If the individual refuses to seek support for the training services, as described in paragraph (a), from the DSA/DSU of their state of residence, the division will not authorize training services.
- (f) The division will rely on the determination regarding the provision of training services, as described in paragraph (a), made by the DSA/DSU of the individual's state of residence. The division will not provide training services, as described in paragraph (a), following a denial of such services by the DSA/DSU of the individual's state of residence.
- (g) The requirements of this subsection will not affect the eligibility determination for the individual, as governed by law and the rules of this chapter. The requirements of this subsection will not affect the provision of other vocational rehabilitation services to the individual, as governed by law and the rules of this chapter.

Rulemaking Authority 413.22, 1001.02 FS. Law Implemented 413.24, 413.28, 413.30, 413.32 FS. History—New 5-14-12.

6A-25.019 Forms and Documents.

The following forms and documents are incorporated by reference into this rule, to become effective August 2019 May 2012, and may be obtained from the Division of Vocational Rehabilitation, 4070 Esplanade Way, Second Floor 2002 Old St. Augustine Road, Building A, Tallahassee, FL 32399-0696:

- (1) Form DVR-001, Department of Education, Division of Vocational Rehabilitation, Vehicle Modification Consumer Acknowledgment (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00642>), (rev. 01/2012);
- (2) Form DVR-002, Department of Education, Division of Rehabilitation, Home Modification Consumer Acknowledgment (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00643>), (rev. 01/2012);

- (3) Form VRW300 DVR-003A, Department of Education, Division of Vocational Rehabilitation,
Referral/Application for to Vocational Rehabilitation Services
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00644>), (rev. 05/2019 01/2012);
- (4) Form VRW305 DVR-003A, Department of Education, Division of Vocational Rehabilitation,
Referral/Application for to Vocational Rehabilitation Services, Spanish
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00645>), (rev. 05/2019 01/2012); and,
- (5) Form DOE/VR-VCMT0007 DVR-004, Subrogation Worksheet
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00647>), (rev. 12/2018); and-
- (6) Form DOE/DVR VCMT094, Department of Education, Division of Vocational Rehabilitation, Financial Participation Assessment Form (DOS link), (rev. 3/2019).

Rulemaking Authority 413.22, 413.445 4001.02 FS. Law Implemented 413.24, 413.28, 413.30, 413.32, 413.445 FS. History–New 5-14-12.