

CHAPTER 11

ORDER OF SELECTION FOR SERVICES

Section 11.1 Definitions

- a. **"Division"** means the Delaware Division of Vocational Rehabilitation.
- b. **"Eligible person"** means a person who has been certified as being eligible for services.
- c. **"Extended period of time"** means six (6) months or longer.
- d. **"Multiple services"** means at least one additional primary service (e.g., training, physical restoration, assistive technology) required as part of an individualized plan for employment in addition to vocational rehabilitation counseling, guidance, and placement. These services may be provided by DVR or as a comparable benefit.
- e. **"Order of Selection for Services" (OSS)** means, if the Division cannot serve all eligible persons, the order in which a person will receive services.
- f. **"Priority category"** means a classification of eligible persons listed according to priority for receiving vocational rehabilitation services under an Order of Selection for Services.
- g. **"Application date"** means the date that a person signs the DVR application for services *and* meets with the assigned counselor. This date is used to determine the order in which individuals within a priority category will receive services.
- h. **"Restricted Priority Category"** means a category of persons who have been determined to be eligible for services but who are unable to receive services in accordance with the rules herein.

Section 11.2 Purpose

The Rehabilitation Act places emphasis on vocational rehabilitation services for persons with the most significant disabilities and assigns priority to meeting the needs of that group. This requirement is to assure that, in the event that vocational rehabilitation services cannot be promptly provided to all eligible persons, the needs of those with the most significant disabilities will be given priority. This policy defines the process to follow in selecting persons with disabilities to be provided rehabilitation services when an Order of Selection is invoked.

Section 11.3 Priority Categories

Priority Category I, Individuals with the Most Significant Disabilities (MSD)

Eligible individuals with impairments that result in serious limitations of three or more functional capacities that require multiple vocational rehabilitation services over an extended period of time, six months or more.

Priority Category II

a. Individuals with Significant Disabilities (SD) who receive Social Security Disability Benefits (SSI and/or SSDI)

An allowed SSDI beneficiary or SSI recipient is automatically considered to be, *at least*, an individual with a significant disability, and should be reviewed for possible Priority 1 status.

b. Individuals with Significant Disabilities (SD) who do not receive Social Security Disability Benefits

Eligible individuals with impairments that result in serious limitations in one or two functional capacities requiring multiple vocational rehabilitation services over an extended period of time, six months or more.

Priority Category III, Individuals with Non-Significant Disabilities

Eligible individuals with a disability who do not meet the definition for MSD or SD.

Section 11.4 Order of Selection for Services (OSS) - Key Requirements

- a. All eligible persons shall, at the time eligibility is determined, be classified by Priority Category. The OSS will have no effect upon the eligibility of the persons but only upon the order in which such persons may receive vocational rehabilitation services. Individuals identified for priority categories that are not restricted will move forward into services (status 10), while individuals determined to be in a restricted category move into the waiting status (status 04) until such time as funds are available to serve them.
- b. Invocation of an Order of Selection does not affect the required diagnostic and evaluation services which are provided for all DVR applicants to determine eligibility and level of disability.
- c. The counselor shall document the determination of the individual's priority category. To support a determination of Priority Category I or II, the counselor should clearly identify the factors, including functional limitation(s), which support the determination. In determining the Priority Category, persons are to be placed in the highest category for which they are eligible.
- d. Although a person's circumstances may change so that s/he is no longer eligible for a particular Priority Category, the person will remain in that category unless the change favors him/her. This will not apply to misclassification; a misclassified person, if moved to a less favorable Priority Category, will be advised of the change in writing and provided with appeal rights and information on the Client Assistance Program and the Disability Law Program.
- e. Persons requesting post-employment services and for whom post-employment services are appropriate and necessary to maintain employment may be served in post-employment status without regard to OSS Priority Categories.

Section 11.5 Clients Currently Receiving Services

If an individual is currently receiving services under a signed Individualized Plan for Employment when the Order of Selection is invoked, the Order of Selection will not affect the individual's current or subsequent plans so long as the current case is active.

Section 11.6 Notification of Classification

If an applicant is placed in a Restricted Category, s/he must be notified in writing of:

- a. Eligibility for services;
- b. The Priority Category in which he or she has been placed; and
- c. The Priority Categories within the OSS which are open for services.

- d. Such written notification shall include information on the procedures to appeal a Priority Category classification, the Client Assistance Program and Disability Law Program, and, if applicable, written referral to other possible resources (see 11.7).

Section 11.7 Information and Referral

Eligible Individuals placed in a restricted category will be provided accurate vocational rehabilitation information and guidance, and information about comparable services and benefits that are available to assist them in preparing for, securing, retaining, or regaining employment, and such individuals will be appropriately referred to other Federal and State programs including the statewide workforce investment system in the State. The referral information should include contact information for agencies that are included in the referral, including a specific contact name and phone number, including the contact information for the Disability Program Navigator.

Section 11.8 Placement in a Priority Category and Appeal Rights

- a. A determination of an individual's priority category is subject to due process review, including mediation, administrative review, and fair hearing, just as any other counselor determination is subject to review.
- b. If a request for mediation, an administrative review, or fair hearing is made, priority classification shall not be changed pending completion of the appeals process.

Section 11.9 Determination to Serve

- a. The DVR Director shall, at least quarterly, determine which Priority Categories shall be restricted, and when individuals in a restricted category are eligible to receive vocational rehabilitation services. Such determinations shall be based upon funds available to provide services.
- b. These determinations are made by the DVR Director, and are not subject to due process review.
- c. Whenever it is determined by the Director that resources are available to serve additional individuals in a restricted category, the individuals shall be identified first according to priority level and then, within the category being served, according to their date of application. When individuals are released from a restricted category, the counselor shall immediately begin to conduct an assessment to determine the individual's vocational rehabilitation needs, and develop an individual plan for employment.

Section 11.10 Closure.

Individuals closed from a restricted category, for whatever reason, shall be closed in status 38.