

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
REHABILITATION SERVICES DIVISION**

**CHAPTER 1240-08-02  
GENERAL RULES**

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**1240-08-02-.01 PURPOSE.**

The Department of Human Services, Division of Rehabilitation Services is the designated State unit that is primarily concerned with vocational and other rehabilitation of individuals with physical and mental disabilities. The Division of Rehabilitation Services (the Division) is responsible for the vocational rehabilitation program which includes the determination of eligibility, the determination of the nature and scope of services, and the provision of rehabilitation services for individuals consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice so that they may prepare for and engage in employment.

**Authority:** T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 34 C.F.R. Part 361; Executive Order No. 43. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

**1240-08-02-.02 DEFINITIONS.**

The words and terms as used herein have the following meanings.

- (1) "Act" means the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 720 et seq.). Words and terms defined in federal law and regulations are adopted by reference into these rules;
- (2) "Applicant" means an individual who applies to the Division for vocational rehabilitation services;
- (3) "Assistant Commissioner" means the chief administrative officer for the Division of Rehabilitation Services;
- (4) "Blind" means a person who had been determined to have not more than 20/200 vision acuity in the better eye with best correction, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees;
- (5) "Commissioner" means the executive head of the Department of Human Services;
- (6) "Competitive Employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled;

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- (7) "Counselor" means an employee of the Tennessee Division of Rehabilitation Services who is designated in the job description as a counselor;
- (8) "Department" means the Tennessee Department of Human Services;
- (9) "Designated State Unit" means the Division of Rehabilitation Services, which is primarily concerned with vocational and other rehabilitation of individuals with disabilities and is responsible for the administration of the State's vocational rehabilitation program;
- (10) "Division" means the Division of Rehabilitation Services (the Division or DRS);
- (11) "Employment Outcome" means entering or retaining full-time or, if appropriate, part-time competitive employment in an integrated labor market to the greatest extent practicable; supported employment; or any other type of employment that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
- (12) "Fair Hearing" shall mean a contested case proceeding before an impartial hearing officer designated by the Commissioner of the Department of Human Services who shall afford the individual and the Division, or their authorized representatives, the opportunity to present their case, with or without witnesses, to determine whether action or inaction by the county, area, regional, district, or state office is erroneous and should be corrected. Each party has an opportunity to disclose all relevant facts and issues, respond to and present evidence, conduct cross-examination, and submit rebuttal evidence as permitted under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq. Hearings may be conducted by telephone, television, or other electronic means, and shall be open to public observation unless otherwise provided by state or federal law. Hearings are conducted in accordance with the Uniform Administrative Procedures Act codified at T.C.A. § 4-5-101 et seq. An aggrieved party may obtain a review of any final order by appealing to chancery court in Nashville, or the county where he or she resides, in accordance with T.C.A. § 4-5-322. If dissatisfied with the chancery court's decision, the individual may appeal further to the court of appeals of Tennessee, in accordance with T.C.A. § 4-5-323.
- (13) "Individual" means a person who has been referred or has applied for services and/or determined eligible for and receives services from the Division;
- (14) "Maximum Effort" means a specific method or action to achieve a particular benefit to pay for specified rehabilitation services. It may consist of a set policy or process which may be applied in appropriate cases. For example, the Division could have a cooperative agreement with State university officials for financial assistance officers to interview and evaluate the financial need of all Division of Rehabilitation Services sponsored students;
- (15) "State Plan" means the plan for vocational rehabilitation services submitted by the Division to the Rehabilitation Services Administration in compliance with Title I, Rehabilitation Act of 1973, as amended.

**Authority:** T.C.A. §§4-5-202; 4-5-301 et seq. 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. Part 361; 34 C.F.R. §§ 370.1 et seq.; and Executive Order No. 43.  
**Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Amendment filed November 10, 2009; effective April 30, 2010.

### 1240-08-02-.03 SCOPE OF SERVICES.

The following vocational rehabilitation services are available to individuals if appropriate to the vocational

(Rule 1240-08-02-.03, continued)

rehabilitation needs of each individual:

- (1) Evaluation or assessment, including diagnostic and related services incidental to the determination of eligibility, priority for services, and the nature and scope of services to be provided;
- (2) Counseling, guidance and referral services necessary to help individuals secure needed services from other entities;
- (3) Physical and mental restoration services necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive;
- (4) Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials except that no training or training services in institutions of higher education (universities, colleges, community junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid with funds under this part unless maximum efforts have been made by the Division and the individual to secure grant assistance in whole or in part from other sources. Awards and scholarships based on merit are excepted from this provision;
- (5) Maintenance payments for subsistence that are in excess of the normal living expense of the individual and may be provided at any time in support of other rehabilitation services being provided. Maintenance covers an individual's basic living expenses, such as food, shelter, clothing, and other subsistence expenses which are necessitated by the individual's participation in a program of vocational rehabilitation services;
- (6) Transportation, including necessary travel and related expenses and subsistence during travel in connection with transporting individuals and their attendants or escorts for the purpose of supporting and deriving the full benefit of other vocational rehabilitation services. Transportation may include relocation and moving expenses necessary for achieving an employment outcome;
- (7) Services for family members of an applicant or eligible individual if necessary to enable the individual to achieve an employment outcome;
- (8) Interpreter services and note taking services for individuals who are deaf, including tactile interpreting for deaf-blind individuals;
- (9) Reader services, rehabilitation services, note taking services and orientation and mobility services for individuals who are blind;
- (10) Rehabilitation technology including telecommunications, sensory and other technological aids and devices;
- (11) Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public services employment;
- (12) Personal assistance services designed to assist the individual to perform daily living activities that are necessary for the achievement of an employment outcome. This service may be provided only while the individual is actually receiving a major service as outlined in the Individualized Plan for Employment (IPE). Attendant service is not provided during vacation time from training, or while an individual is not actively participating in other rehabilitation services;

(Rule 1240-08-02-.03, continued)

- (13) Employment services;
- (14) Supported employment services as appropriate for individuals with a most significant disability;
- (15) Post-employment services necessary to maintain employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
- (16) Occupational licenses (including any license, permit or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation or enter a small business), tools, equipment, initial stocks (including livestock) and supplies;
- (17) Other goods and services determined necessary for an individual with a disability to achieve an employment outcome.

**Authority:** T.C.A. §§ 4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C.A. § 720 et seq.; 34 C.F.R. §§ 361.48; 361.5. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

#### **1240-08-02-.04 PROCEDURES.**

Procedures governing the provision of services are developed by the Division of Rehabilitation Services in accordance with these rules and the Rehabilitation Act of 1973, as amended.

**Authority:** T.C.A. §§4-5-202; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. Part 361. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

#### **1240-08-02-.05 LEGAL BASIS.**

The Tennessee Department of Human Services, Division of Rehabilitation Services, is the sole state entity designated to administer the vocational rehabilitation program and is authorized to submit a plan as a condition for receipt of federal funds under Title I of the Rehabilitation Act of 1973, as amended, and agrees to administer the program in accordance with the State Plan, the Act, and all applicable regulations, policies, and procedures established by the Secretary.

**Authority:** T.C.A. §§4-5-202; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C.A. § 720 et seq.; 34 C.F.R. § 361.13; Executive Order No. 43. **Administrative History:** New rule filed July 12, 2002; effective September 25, 2002. (Formerly 1240-08-02-.04). Repeal and new rule filed June 30, 2009; effective September 13, 2009.