

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

**CHAPTER 1240-08-03
ADMINISTRATION**

TABLE OF CONTENTS

1240-08-03-.01 State and Local Organization and Administration	1240-08-03-.03 Staff Development and Training
1240-08-03-.02 Participation of Individuals in Cost of Services Based on Financial Need.	1240-08-03-.04 Repealed

1240-08-03-.01 STATE AND LOCAL ORGANIZATION AND ADMINISTRATION.

- (1) It is the responsibility of the Division of Rehabilitation Services to provide services necessary for the rehabilitation and habilitation of individuals with disabilities of Tennessee.
- (2) The authority and responsibility for administration of the program affecting eligibility for, the nature and scope of available vocational rehabilitation services, and the provision of these services, is vested in the head of the designated State Division of Rehabilitation Services. This responsibility may not be delegated to any other entity or individual.
- (3) Supervisors are assigned to supervise the work of rehabilitation counselors, Tennessee Business Enterprise counselors, and rehabilitation teachers.
- (4) Any person who believes he or she may be eligible for vocational rehabilitation services may contact any Division office or employee for assistance. Also, individuals may seek assistance from the Client Assistance Program (CAP) established under 34 C.F.R. § 370.1 et seq.
- (5) Counselors have the assigned responsibility to make the initial eligibility determination for vocational rehabilitation services and to provide such services in accordance with policies and procedures of the Division of Rehabilitation Services.
- (6) Affirmative action for equal employment opportunity:
 - (a) Executive Order No. 8, an Order pertaining to Equal Employment Opportunity, is provided to all employees of the combined state entity of general and blind services. The Department of Human Services fully supports the policy of achieving equal employment opportunity for persons of every race, color, sex, religion, creed, or physical or mental impairment;
 - (b) Services of Tennessee's Division of Rehabilitation Services within the Department of Human Services are provided on a non-discriminatory basis without regard to disability, race, color, sex, religion, creed, or national origin in compliance with Title VI of the Civil Rights Act of 1964 and Title V of the Vocational Rehabilitation Act of 1973, as amended.

Authority: T.C.A. §§4-5-202; 71-1-105(12); 49-11-601 et seq.; 34 C.F.R. Part 361; Executive Order No. 43; 34 C.F.R. 370.1 et seq. **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.

1240-08-03-.02 PARTICIPATION OF INDIVIDUALS IN COST OF SERVICES BASED ON FINANCIAL NEED.

- (1) The Division will consider the financial need of each individual in determining the extent of his or her participation in the cost of specific services. The resources of the individual's family unit will be reviewed and assessed each twelve (12) months. Prior to expenditure of agency funds, the eligible individual's financial circumstances must be reviewed and documented to determine the extent of the individual's participation in the cost of those services that require such participation.
 - (a) Participation in the cost of tuition and fees at a post-secondary institution participating in federal financial aid programs is based on the expected family contribution (EFC) as determined by that institution's financial aid office. The EFC is based on the individual's Free Application for Federal Student Aid (FAFSA) and reported to the college or university on the individual's Student Aid Report (SAR).
 1. Participation in the cost of tuition and fees is waived, regardless of EFC level, for clients with an IPE in place on or before October 1, 2009 that includes as vocational rehabilitation services tuition and fees at a post-secondary institution participating in federal financial aid programs until one of the following conditions is met, whichever occurs first:
 - (i) The client has received the Division's sponsorship for a total of twelve (12) full academic semesters or the institution's equivalent over the course of the client's vocational rehabilitation case; or
 - (ii) The client's IPE identifies only an associate's degree and the client has received the Division's sponsorship for a total number of attempted academic hours equal to the institution's academic hour requirement for the associate's degree specified in the IPE or subsequent IPE amendments; or
 - (iii) The client's IPE identifies a bachelor's degree and the client has received the Division's sponsorship for a total number of attempted academic hours equal to the institution's academic hour requirement for the bachelor's degree specified in the IPE or subsequent IPE amendments; or
 - (iv) The client's IPE identifies a graduate degree and the client has received the Division's sponsorship for a total of attempted academic hours equal to the institution's academic hour requirement for the degree specified in the IPE.
 2. Additional exceptions for clients in part 1 may be granted at the Commissioner's discretion based on significant extenuating circumstances that are disability-related and under which a client would be effectively denied post-secondary education services necessary to achieve the client's employment objective if such exception were not granted.
 - (b) Participation in the cost of services required under this Rule, other than for those clients seeking DRS assistance only for tuition and fees at a post-secondary institution participating in federal financial aid programs described in 1240-08-03-.02(1)(a), is determined according to the following formula:

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

1. Determine individual's adjusted gross income based on the prior year Federal income tax return;
 2. Subtract non-reimbursed medical and dental expenses paid during the prior calendar year; court-ordered payments other than alimony; and post-secondary educational loans being repaid by the client to obtain the available household resources;
 3. Compare the Low Income Home Energy Assistance Program (LIHEAP) levels established by the Federal Department of Health and Human Services for the current Federal fiscal year with the available household resources to determine the financial exemption level;
 4. Subtract the financial exemption level from the available household resources;
 5. If the client participation level is above zero, the client must participate in the cost of services at the amount of the client participation level;
 6. If the client participation level is zero or below, the client is not required to participate in the cost of services.
- (c) Clients who have an EFC pursuant to subparagraph (1)(a) above and a financial participation level pursuant to subparagraph (1)(b) above are required to participate in the total cost of their services required under this Rule at the level of the EFC or the financial participation level, whichever is greater.
- (d) No requirement for financial participation of the individual may be applied as a condition for furnishing any vocational rehabilitation service if the individual has been determined eligible for Social Security disability benefits (SSDI) or Supplemental Security Income disability benefits (SSI).
- (2) All expenditures for client services must be consistent with the vocational rehabilitation needs of the individual and directly connected to achievement of the employment outcome identified in the Individualized Plan for Employment (IPE).
- (3) All expenditures for client services must be consistent with the purchasing procedures of the Division of Rehabilitation Services.
- (4) Any vendor who accepts the authorization of the Division of Rehabilitation Services must agree not to charge an individual with a disability or his/her family for any balance after the Division of Rehabilitation Services has paid for those services.
- (5) The Division does not require the financial participation of an individual as a condition for furnishing the following vocational rehabilitation services:
- (a) Assessment for determining eligibility and priority for services, except those non-assessment 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) Assessment for determining vocational rehabilitation needs;
 - (c) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising an informed choice;

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

- (d) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other entities, including other components of the statewide workforce investment system and to advise those individuals about client assistance programs;
 - (e) Job-related services including job search and placement assistance, job retention, follow-up, and follow-along services;
 - (f) Personal assistance services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that an individual would typically perform without assistance if the individual did not have a disability. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising and directing personal assistance services;
 - (g) Any auxiliary service such as an interpreter, reader, or orientation and mobility services, required under Section 504 of the Act or the Americans with Disabilities Act necessary to participate in vocational rehabilitation services;
 - (h) Training and related services provided through the Tennessee Rehabilitation Center in Smyrna, any of the community Tennessee Rehabilitation Centers, or equivalent services through community rehabilitation providers.
- (6) The Division requires the financial participation of an individual as a condition for furnishing the following vocational rehabilitation services:
- (a) Physical and mental restoration services, including medical care for acute conditions;
 - (b) Maintenance and transportation costs for all non-assessment services, including, without limitation, services provided under an IPE for trial work experiences or extended evaluation;
 - (c) Tuition and related fees for post-secondary training at universities, community and junior colleges, vocational/technical schools, trade or business schools, or any other type of school accredited by a nationally recognized accrediting association and/or registered with the State's Higher Education Commission to confer the degrees, certificates, or diplomas that are offered;
 - (d) Books, training supplies and tools including, without limitation, computers;
 - (e) Assistive technology services and devices;
 - (f) Rehabilitation technology services and devices, including rehabilitation engineering and vehicle modifications, except as necessary to determine eligibility for vocational rehabilitation services or the nature and scope of services;
 - (g) Initial stock, supplies, and all other goods approved for self-employment or vending stands;
 - (h) Wardrobes, professional licenses, tools, and incidental expenses;
 - (i) All other goods and services.
- (7) Exceptions to the Financial Participation Requirements:

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

- (a) Exceptions to the financial participation requirements may be granted only if, and to the extent necessary, to ensure that the level of an individual's participation in the cost of vocational rehabilitation services is:
 - 1. Reasonable;
 - 2. Based on the individual's financial need, including consideration of any disability-related expenses paid by the individual; and
 - 3. Not so high as to effectively deny the individual a necessary service.
- (b) No financial participation shall be required if the individual in need of services has been determined eligible for Social Security benefits under Titles II or XVI of the Social Security Act.

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. § 361.54. **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.

1240-08-03-.03 STAFF DEVELOPMENT AND TRAINING.

- (1) The purpose of staff development, for all staff positions, is to ensure the availability of qualified rehabilitation personnel. The Division will, to the degree possible:
 - (a) Provide systematic training programs to improve staff effectiveness and qualifications;
 - (b) Orient new staff; and
 - (c) Provide appropriate training to all classes of personnel consistent with their needs.
- (2) Training plans and curricula are developed by a DRS Program Manager with consultation from:
 - (a) The DRS State Office staff;
 - (b) The State Rehabilitation Council;
 - (c) Regional supervisory staff; and
 - (d) Individual employees.

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. §§ 361.16; 361.18. **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.

RULE 1240-08-03-.04 REPEALED.

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. §§ 361 et seq. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal filed June 30, 2009; effective September 13, 2009.