

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

**CHAPTER 1240-08-04
SERVICES TO INDIVIDUALS**

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1240-08-04-.01 INTAKE: REFERRALS AND APPLICATIONS.

- (1) The Division of Rehabilitation Services (DRS) will receive referrals of individuals from any source by any means as long as the individual is present in the State and the following information is received:
 - (a) Name and address;
 - (b) Age and sex;
 - (c) Date of referral;
 - (d) Source of referral;
 - (e) Nature of disability.
- (2) An individual who has been referred to the Division will be considered an applicant when the individual has completed and signed a DRS application form or has otherwise requested services from DRS.

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. §§ 361.30; 361.41; 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.

1240-08-04-.02 EVALUATION OR ASSESSMENT FOR DETERMINING ELIGIBILITY AND PRIORITY FOR SERVICES.

- (1) An evaluation or assessment will be conducted by DRS to determine whether an individual is eligible for services and to determine the individual's priority category under an order of selection.

(Rule 1240-08-04-.02, continued)

- (2) The evaluation or assessment will be based on a review of existing data, including counselor observation and information provided by the individual. Additional data may be required to the extent that existing data does not describe current functioning or is deemed to be insufficient or inappropriate for determination of eligibility or priority for services.
- (3) DRS will make a decision on eligibility as soon as possible, but not to exceed sixty (60) days after an individual has submitted an application for vocational rehabilitation services, unless exceptional and unforeseen circumstances beyond the control of DRS preclude a determination and the individual agrees to an extension of time, or unless a period of trial work experiences is deemed necessary.
- (4) Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of the individual's disability, DRS must explore, through a period of trial work experiences or, in limited circumstances, extended evaluation, the individual's abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination.
 - (a) DRS must develop a written plan to provide trial work experiences, which must be provided in the most integrated settings possible, consistent with the informed choice and rehabilitation needs of the individual.
 - (b) Trial work experiences include supported employment, on-the-job training, and other experiences using realistic work settings.
 - (c) Trial work experiences must be of sufficient variety and over a sufficient period of time for DRS to determine that:
 1. There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or
 2. There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.
 - (d) DRS must provide appropriate support services, including assistive technology devices and services, and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.
 - (e) If, under limited circumstances, an individual with a significant disability cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before DRS is able to determine eligibility, DRS must conduct an extended evaluation to make these determinations.
 1. During the extended evaluation period, vocational rehabilitation services must be provided in the most integrated settings possible, consistent with the informed choice and rehabilitation needs of the individual.
 2. During the extended evaluation period, DRS must develop a written plan for providing services necessary to make a determination of eligibility.
 3. During the extended evaluation period, DRS will provide only those services necessary to determine eligibility. DRS must terminate extended evaluation services when the eligibility determination is completed.

(Rule 1240-08-04-.02, continued)

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.41; 361.42; 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.

1240-08-04-.03 ELIGIBILITY.

- (1) After evaluation of data or a period of trial work experiences or extended evaluation, eligibility for vocational rehabilitation services is determined by applying the following criteria:
 - (a) The presence of a physical or mental impairment which for the individual constitutes or results in a substantial impediment to employment;
 - (b) The individual can benefit from the provision of vocational rehabilitation services; and
 - (c) The individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- (2) Any applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act is presumed eligible for vocational rehabilitation services, provided that he or she intends to achieve an employment outcome, unless there is clear and convincing evidence that the individual is incapable of benefiting due to the severity of the disability.
- (3) Certification of eligibility will be completed, signed, and dated by the rehabilitation counselor when it is determined that the individual meets the criteria for eligibility. Even though an individual meets the eligibility criteria, services may not be available due to funding or priorities for services under an order of selection.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.41; 361.42; 361.43; 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.

1240-08-04-.04 PROCEDURES FOR INELIGIBILITY DECISION.

- (1) If it is determined that an applicant is ineligible based on the conditions in Rule 1240-08-04-.03 or the individual, after receiving services, is determined no longer eligible for services, the case will be closed as ineligible provided that the following conditions are met:
 - (a) This decision is made only after providing an opportunity for consultation with the individual or, as appropriate, his or her parent or guardian or other representative;
 - (b) The individual is provided the basis of the decision in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual); and
 - (c) The individual is provided with a description of the services available from the state's client assistance program and is referred to other training or employment-related programs that are part of the One-Stop service delivery system under the Workforce Investment Act.
- (2) In cases in which the client is determined ineligible because the individual is incapable of achieving an employment outcome, there will be a review of the ineligibility decision within

(Rule 1240-08-04-.04, continued)

twelve (12) months and annually thereafter if such a review is requested by the individual or the individual's representative. This review need not be conducted in situations in which the individual has refused a periodic review, has left the state, has unknown whereabouts, or has a medical condition that is rapidly progressive or terminal.

- (3) The rationale for the ineligibility decision shall be recorded in the record certifying that the individual is not eligible or is no longer eligible for services.
- (4) All applicants determined to be ineligible shall be notified of their right to appeal the decision through an administrative review or a fair hearing.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.43; 361.47; 361.5(b)(5); 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.

1240-08-04-.05 INDIVIDUALIZED PLAN FOR EMPLOYMENT.

- (1) An Individualized Plan for Employment (IPE) is initiated and periodically updated for each eligible individual. Vocational rehabilitation services are provided in accordance with the written plan.
- (2) The IPE is developed by the eligible individual or, as appropriate, his or her representative, with assistance available, to the extent determined appropriate by the eligible individual, from the vocational rehabilitation counselor or through other technical assistance. A copy of the written plan will be provided to each individual.
- (3) The IPE must be designed to achieve a specific employment outcome that is selected by the individual that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, and that will, to the maximum extent appropriate, result in employment in an integrated setting. As appropriate, it must include:
 - (a) The specific employment outcome chosen by the eligible individual, resulting, to the maximum extent appropriate, in employment in an integrated setting;
 - (b) A description of the specific vocational rehabilitation services that are needed to achieve the employment outcome, provided in the most integrated setting appropriate for the service involved and consistent with the informed choice of the individual;
 - (c) Timelines for the achievement of the employment outcome and for the initiation of services;
 - (d) A description of the entity chosen by the eligible individual to provide the services, and the methods used to procure such services;
 - (e) A description of criteria used to evaluate progress toward achievement of the employment outcome;
 - (f) The terms and conditions of the IPE, including: the responsibilities of DRS; the responsibilities of the eligible individual, including responsibilities of the eligible individual in relation to the employment outcome, financial participation in costs of services if applicable, and applying for and securing comparable benefits; and the responsibilities of other entities through comparable benefits;

(Rule 1240-08-04-.05, continued)

- (g) For individuals with the most significant disabilities who need a supported employment setting, information regarding the extended services needed and the source of the services;
- (h) As necessary, a statement of projected need for post-employment services;
- (i) As appropriate, a statement of any need for personal care assistance or rehabilitation technology services;
- (j) The rights of the individual and the means by which the individual may seek remedy for any dissatisfaction;
- (k) The availability of a client assistance program.

Authority: T.C.A. §§ 4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.45; 361.46; 361.5; 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.

1240-08-04-.06 COUNSELING, GUIDANCE, AND REFERRAL SERVICES.

- (1) The individual with a disability is provided counseling, guidance, and referral services that are necessary to develop or implement a rehabilitation program. Counseling is a process in which a vocational rehabilitation counselor works face-to-face with an individual with a disability to help clarify the best possible vocational, personal, and social adjustment, considering the functional limitations of the individual and the potentials for success. Referral means directing the individual to other entities for assistance not available from the Division of Rehabilitation Services.
- (2) As a minimum, each applicant will receive counseling and guidance as an essential service while determining eligibility, while providing services in accordance with the IPE, and after job placement to provide follow-along counseling for at least ninety (90) days.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.37; 361.48; 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.

1240-08-04-.07 PHYSICAL AND MENTAL RESTORATION SERVICES.

DRS provides physical or mental restoration services to individuals served when restoration services are expected to eliminate, reduce or contain the disabling condition within a reasonable length of time. "Restoration Services," in this context, refers to a variety of corrective medical, surgical, psychiatric or other therapeutic treatment that aids the client to be restored to an improved physical or mental condition.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.48; 361.5; 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.

1240-08-04-.08 PHYSICIANS' SERVICES AND MEDICAL DIAGNOSIS.

- (1) These services are provided by duly-licensed physicians who provide diagnostic and/or treatment services under a DRS program.

(Rule 1240-08-04-.08, continued)

- (2) Medical assessment, as appropriate, will be obtained to assist in determining the extent of an individual's disability in order to make an eligibility determination.
- (3) The disabling conditions for which restoration services are rendered must be stable or slowly progressive.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.09 HOSPITAL AND CLINIC SERVICES.

- (1) Hospitals licensed by the State of Tennessee may be used for in-patient and out-patient services if they accept the rates specified in the Delegated Purchase Authority, through which the State Department of Finance and Administration gives approval to a state entity to purchase services for an individual program, within specified limits and guidelines.
- (2) The attending physician has the right to choose the hospital or clinic of choice if the hospital or clinic accepts the rates specified in the Delegated Purchase Authority.
- (3) All in-patient and out-patient hospitalization, whether for diagnostic or treatment purposes, must be approved by the DRS state office.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.10 DENTAL DIAGNOSIS AND SERVICES.

- (1) Dental services may be provided under the following conditions:
 - (a) When eligibility has been established due to another disability and following provision of service for the disability, the individual cannot secure remunerative employment due to the condition of the teeth, gums, or jaws.
 - (b) When eligibility has been established due to another disability and there is medical evidence documenting that the condition of the teeth or gums is causing or contributing to the major disability.
 - (c) In certain cases involving dysfunction of the temporomandibular joint, in which there is evidence of severe pain, muscle spasm, and difficulty in opening the mouth.
 - (d) As medical care for acute conditions when the program of services for another disability is likely to be interrupted due to an acute dental problem.
- (2) Dental diagnoses and services that are cosmetic in nature and do not cause sufficient functional limitation to be considered a substantial impediment to employment are not provided. Such diagnoses include, without limitation, smallness of the jaw, protrusion of the jaw, or crooked teeth in need of straightening.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; Executive Order No. 43. **Administrative History:** Original rule filed September 30,

(Rule 1240-08-04-.10, continued)

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.

1240-08-04-.11 EYEGLASSES AND VISUAL SERVICES.

- (1) The range of visual services includes examinations and refractions, eye surgery and treatment, visual training, orthoptics and pleoptics, conventional lenses, telescopic and microscopic devices, other special aids and prosthetic devices.
- (2) Glasses may be furnished when eligibility has been established on the basis of a visual limitation and glasses will help correct the visual loss. Glasses may also be furnished to individuals whose eligibility is based on another disability and glasses are necessary to achieve the rehabilitation plan.
- (3) Artificial eyes may be furnished when the provision of such will result in improved appearance necessary for improving the individual's chances of finding employment.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.12 MEDICAL CARE FOR ACUTE CONDITIONS.

Medical care for acute conditions, which are sudden in onset and may not be related to the disabling condition, may be provided if the individual with a disability is eligible on the basis of economic need, does not have comparable benefits to cover the cost of services, and the acute condition arose during the course of the IPE and is expected to interfere with evaluation of rehabilitation potential, or the achievement of the employment outcome.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.13 TRAINING SERVICES.

- (1) Training may be furnished to eligible individuals to the extent necessary to achieve a vocational rehabilitation goal. An applicant or eligible individual qualifies for training services when he or she has the necessary capacity and ability to directly benefit from the training that provides skills for suitable remunerative employment and may include: vocational, pre-vocational, and/or personal adjustment training.
- (2) Training may be provided by public or private facilities or other vendors to meet minimum standards and:
 - (a) Financial participation criteria will be applied to all post-secondary training services 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.
 - (b) DRS may limit the length of training or the rate of payment for tuition, maintenance, transportation, and other expenses associated with training.

(Rule 1240-08-04-.13, continued)

- (c) Eligible individuals in training will be expected to maintain progress toward achieving a vocational goal by taking a specified number of hours and maintaining passing grades. Failure to achieve progress may result in discontinuing the training program.
- (d) Comparable benefits are to be utilized in all cases where training services are planned so that DRS expenditures are reduced. All eligible individuals must apply for grant funds when appropriate in post-secondary training, but are not required to apply for awards and scholarships based on merit.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.14 MAINTENANCE.

- (1) Maintenance, as defined in rule 1240-08-02-.03(5), is a support service and may be provided only to enable an eligible individual to participate in and be fully involved in the vocational rehabilitation program. Maintenance services may be provided at any time when the living expenses exceed the normal expenses of the individual that are necessitated by the individual's participation in the rehabilitation program.
- (2) In accordance with 1240-08-03-.02, individuals must participate in the cost of maintenance, except in situations where maintenance services are needed to determine eligibility for rehabilitation services or to determine the nature and scope of services to be provided under the Individualized Plan for Employment (IPE).

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.48; 361.5; 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.

1240-08-04-.15 TRANSPORTATION.

- (1) Transportation is provided as necessary to applicants or eligible individuals in conjunction with other vocational rehabilitation services.
- (2) Transportation includes necessary travel and related expenses including subsistence during travel in connection with transporting individuals with disabilities and their attendants and escorts for the purpose of providing the full benefit of the other vocational rehabilitation service.
- (3) Transportation includes relocation and moving expenses necessary for achieving a vocational rehabilitation objective.
- (4) In accordance with 1240-08-03-.02, individuals must participate in the cost of transportation services except in determining eligibility for rehabilitation services or the nature and scope of services to be provided under an IPE.
- (5) Transportation assistance following placement will not exceed thirty (30) days beyond employment or after the individual with a disability receives the first paycheck, whichever comes first.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; Executive Order No. 43. **Administrative History:** Original rule filed September 30,

(Rule 1240-08-04-.15, continued)

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.

1240-08-04-.16 INTERPRETER SERVICES FOR THE DEAF.

- (1) Interpreter services are provided to deaf individuals when such services will assist in the attainment of the rehabilitation objective.
- (2) The interpreter must abide by the "Interpreter Code of Ethics" promulgated by the National Registry of Interpreters for the Deaf, as revised. This Code represents standards of ethical practice, including an emphasis on confidentiality, impartiality, non-paternalism, and the continued development of skills.
- (3) DRS will arrange to have staff or other individuals available to communicate with applicants for service and eligible individuals who rely on special modes of communication.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.17 READER, TEACHING, ORIENTATION AND MOBILITY SERVICES.

- (1) Reader services, rehabilitation teaching services, note taking services, and orientation and mobility services for the blind are provided to the individual with a disability when such services are helpful in reaching the rehabilitation objective.
- (2) Rehabilitation teaching services aid visually-impaired persons to manage their own lives and reach the vocational objective.
- (3) Orientation and Mobility Services train visually-impaired individuals in the use of dog guides, canes, vision aids, and other aids that help individuals with disabilities reach optimum levels of independence.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.18 TELECOMMUNICATIONS, SENSORY AND OTHER TECHNOLOGICAL AIDS AND DEVICES.

DRS provides telecommunications systems to improve vocational rehabilitation service delivery methods and may develop appropriate programming to meet the particular needs of individuals with disabilities, including telephone, television, video description services, satellite, tactile-vibratory devices, and similar systems, as appropriate.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.19 SERVICES TO FAMILY MEMBERS.

- (1) DRS provides services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(Rule 1240-08-04-.19, continued)

- (a) Services are provided only after a determination of eligibility, and must be provided under an Individualized Plan for Employment (IPE).
 - (b) Such services should be supportive of the vocational rehabilitation needs of the eligible individual and contribute toward achievement of the employment outcome.
 - (c) Such services are provided only to family members. "Family member" means any relative, by blood or marriage, of an eligible individual, and any other individual living in the same household for whom the eligible individual has responsibility for care.
- (2) The counselor must fully consider comparable benefits and services available under other programs before providing services to family members.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.48; 361.5; 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.

1240-08-04-.20 STANDARDS FOR CLOSING CASES.

- (1) DRS may close a case from applicant status prior to making an eligibility determination if the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and DRS has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative, to encourage the applicant's participation.
- (2) DRS may close a case from trial work experiences or extended evaluation if:
 - (a) There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or
 - (b) There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.
- (3) DRS may close a case because of a determination that applicant is ineligible for vocational rehabilitation services or that an eligible individual receiving services under an IPE is no longer eligible for services.
- (4) To determine that an individual has achieved a successful employment outcome, all of the following conditions must be met:
 - (a) The individual has achieved the employment outcome described in the individual's IPE that is:
 1. Consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and
 2. In the most integrated setting possible, consistent with the individual's informed choice.
 - (b) The employment outcome has been maintained for an appropriate period of time, but not less than ninety (90) days, to ensure the stability of the employment outcome; and the individual no longer needs vocational rehabilitation services;

(Rule 1240-08-04-.20, continued)

- (c) At the end of the appropriate period described in (b), the individual and the DRS counselor consider the employment outcome to be satisfactory and agree that the individual is performing well in the employment; and
- (d) The individual is informed through appropriate modes of communication of the availability of post-employment services.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.44; 361.55; 361.56; 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.

1240-08-04-.21 POST-EMPLOYMENT SERVICES.

- (1) Post-employment services are one or more vocational rehabilitation services that are provided subsequent to the achievement of an employment outcome that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- (2) Post-employment services must be provided under the terms of an Individualized Plan for Employment (IPE).
- (3) Post-employment services are subject to the same requirements as services leading to employment, including the requirement to consider and seek comparable benefits and services available under other programs.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. §§ 361.48; 361.5; 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.

1240-08-04-.22 LICENSES, TOOLS, EQUIPMENT, INITIAL STOCKS AND SUPPLIES.

Occupational licenses, tools, equipment, initial stocks and supplies are provided to eligible individuals if needed for achievement of a successful 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. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.23 OTHER GOODS AND SERVICES.

Other goods and services determined necessary for the eligible individual to achieve an employment outcome may be provided.

Authority: T.C.A. §§4-5-202; 71-1-104; 71-1-105(12); 49-11-601 et seq.; 29 U.S.C. §§ 720 et seq.; 34 C.F.R. § 361.48; 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.

1240-08-04-.24 RESERVED FOR FUTURE USE.

Authority: T.C.A. §§4-5-202; 71-1-105(12). **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.

1240-08-04-.25 REPEALED.

Authority: T.C.A. §§14-1-104, 14-1-105, and 49-11-601 et seq., 34 CFR 361.42(a)(15), Executive Order No. 43. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Repeal filed July 12, 2002; effective September 25, 2002.

1240-08-04-.26 REPEALED.

Authority: T.C.A. §§14-1-104, 14-1-105, and 49-11-601 et seq., 34 CFR Part 361, Executive Order No. 43. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Repeal filed July 12, 2002; effective September 25, 2002.