# Vocational Rehabilitation Services Manual Section B-300

Table of Contents

[Vocational Rehabilitation Services Manual Section B-300 1](#_Toc135380592)

[Notes on the Manual 2](#_Toc135380593)

[Manual Overview 3](#_Toc135380594)

[Vocational Rehabilitation Services Manual B-300: Determining Eligibility 4](#_Toc135380595)

[Introduction 4](#_Toc135380596)

[B-301: Legal Authority 4](#_Toc135380597)

[B-302: Presumption of Eligibility for Social Security Recipients 13](#_Toc135380598)

[B-302-1: Presumptive Eligibility and Trial Work Plans 14](#_Toc135380599)

[B-303: Eligibility Criteria for VR Services 14](#_Toc135380600)

[B-303-1: Determining Eligibility by the 60th Day 15](#_Toc135380601)

[B-303-2: Extension of Time for Determining Eligibility 15](#_Toc135380602)

[B-303-3: Determining Ineligibility 16](#_Toc135380603)

[B-303-4: Blind and Visual Impairment 16](#_Toc135380604)

[B-304: First Eligibility Criterion: Presence of an Impairment 17](#_Toc135380605)

[B-304-1: Establishing the Presence of an Impairment 17](#_Toc135380606)

[B-304-2: Determining There Is No Impairment 19](#_Toc135380607)

[B-305: Second Eligibility Criterion: Substantial Impediment to Employment 19](#_Toc135380608)

[B-305-1: Establishing a Substantial Impediment to Employment 20](#_Toc135380609)

[B-305-2: Determining There Is No Impediment to Employment 20](#_Toc135380610)

[B-306: Third Eligibility Criterion: Requires VR Services 21](#_Toc135380611)

[B-306-1: Determining the Customer Does Not Require VR Services 21](#_Toc135380612)

[B-307: Fourth Eligibility Criterion: Presumed to Have a Goal 22](#_Toc135380613)

[B-308: Assessments 22](#_Toc135380614)

[B-308-1: Required Assessments and Policy for Selected Conditions 23](#_Toc135380615)

[B-308-2: Diagnostic and Statistical Manual of Mental Disorders (DSM) Tool 34](#_Toc135380616)

[B-308-3: Selecting a Disability Classification 34](#_Toc135380617)

[B-308-4: Acute Medical Services Related to Assessments 39](#_Toc135380618)

[B-309: Establishing the Level of Significance 39](#_Toc135380619)

[B-309-1: Level of Significance Table 39](#_Toc135380620)

[B-309-2: Updating Level of Significance 42](#_Toc135380621)

[B-309-3: Required Level of Significance for Certain Cases 42](#_Toc135380622)

[B-309-4: Designating the Level of Significance in RHW 43](#_Toc135380623)

[B-309-5: Table of Functional Capacities and Examples 44](#_Toc135380624)

[B-310: Trial Work Services 48](#_Toc135380625)

[B-310-1: Trial Work Timelines 48](#_Toc135380626)

[B-310-2: Trial Work Plan 49](#_Toc135380627)

[B-310-3: Trial Work Experience 49](#_Toc135380628)

[B-310-4: Frequency of Contact for Trial Work Services 51](#_Toc135380629)

[B-310-5: Comparable Benefits 52](#_Toc135380630)

[B-310-6: Customer Participation in Cost of Services 52](#_Toc135380631)

[B-310-7: Ending Trial Work Services 52](#_Toc135380632)

[B-310-8: Trial Work for Disability Too Significant to Benefit from Services Closure 53](#_Toc135380633)

[B-311: Other Eligibility Considerations 53](#_Toc135380634)

[B-311-1: Residency Requirement 53](#_Toc135380635)

[B-311-2: Students 54](#_Toc135380636)

[B-312: Closing a Case Ineligible or before Eligibility Determination 54](#_Toc135380637)

[B-312-1: Closing a Case without Determining Eligibility 54](#_Toc135380638)

[B-312-2: Closing a Case after Determining the Customer Ineligible 55](#_Toc135380639)

[B-312-3: Required Review of Cases Closures as Disability Too Significant to Benefit from Services 56](#_Toc135380640)

[B-312-4: Referral to Other Resources 56](#_Toc135380641)

## Notes on the Manual

On October 1, 2017, Texas Workforce Commission’s Blind Services Division and Rehabilitation Services Division combined to create a single designated state unit (DSU) to administer the vocational rehabilitation program for Texans with disabilities.

The combined Vocational Rehabilitation Services Manual (VRSM) was initially published on October 1, 2017. The latest update to this manual is reflected in the chapters below.

Please note that VRSM includes links to information that is intended to provide additional decision-making supports to VR staff. Some of this information may not be available to individuals who are accessing the VRSM outside of TWC's firewall. Copies of materials that cannot be accessed directly through links can be made available upon request.

Substantive revisions to the content are noted in the VRSM List of Revisions. Any printed versions may not contain the latest policy changes.

If you have any questions about VRSM content, please contact the TWC Vocational Rehabilitation Division Policy Team at state office by sending an email message to [vrsm.support@twc.texas.gov](mailto:vrsm.support@twc.texas.gov).

## Manual Overview

The VR Services Manual:

* helps ensure VR customers receive quality services to assist them in achieving successful competitive integrated employment outcomes as a result of their participation in vocational rehabilitation services.;
* helps to ensure taxpayer funds are spent wisely and each purchase paid for with public funds represents full value to the taxpayer; and
* provides published policies and procedures for maintaining compliance with federal and state laws, statutes, and rules or regulations.

The latest update to this manual is reflected in the chapters below. Any printed versions may not contain the latest policy changes.

# Vocational Rehabilitation Services Manual B-300: Determining Eligibility

## Introduction

Determining eligibility for vocational rehabilitation services is a cornerstone of the VR process. Only the VR counselor may determine if an individual with a disability is eligible.

The VR counselor makes the determination of eligibility by reviewing information that is provided by:

* the customer;
* the customer's family;
* physicians who have examined or treated the customer; and
* other professionals or agencies that have knowledge of the customer.

Eligibility requirements are applied without regard to the customer's:

* Age,
* Sex,
* Race,
* Color,
* National origin,
* Type of expected employment outcome,
* Source of referral for VR services,
* Particular service needs or anticipated cost of services,
* Income level,
* Employment history or current employment status, and
* Educational status or current educational credential.

## B-301: Legal Authority

**34 CFR §361.5(c)(5)**

(5) Assessment for determining eligibility and vocational rehabilitation needs means, as appropriate in each case—

(i)(A) A review of existing data—

(1) To determine if an individual is eligible for vocational rehabilitation services; and

(2) To assign priority for an order of selection described in §361.36 in the States that use an order of selection; and

(B) To the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment;

(ii) To the extent additional data are necessary to make a determination of the employment outcomes and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual. This comprehensive assessment—

(A) Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

(B) Uses as a primary source of information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

(1) Existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in §361.36 for the individual; and

(2) Information that can be provided by the individual and, if appropriate, by the family of the individual;

(C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual;

(D) May include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

(E) To the maximum extent possible, relies on information obtained from experiences in integrated employment settings in the community and in other integrated community settings;

(iii) Referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(iv) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during Trial Work Experiences, including experiences in which the individual is provided appropriate supports and training.

**34 CFR §361.5(c) (14)**

(14) Eligible individual means an applicant for vocational rehabilitation services who meets the eligibility requirements of §361.42(a).

**34 CFR §361.5(c) (15)**

 (15) Employment outcome means, with respect to an individual, entering, advancing in, or retaining full-time or, if appropriate, part-time competitive integrated employment, as defined in paragraph (c)(9) of this section (including customized employment, self-employment, telecommuting, or business ownership), or supported employment as defined in paragraph (c)(53) of this section, that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**34 CFR §361.5(c) (30)**

(30) Individual with a significant disability means an individual with a disability—

(i) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, intellectual disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**34 CFR §361.41(b)**

(b) Applications. (1) Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in one-stop centers under section 121 of the Workforce Innovation and Opportunity Act, an eligibility determination must be made within 60 days, unless—

(i) Exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

(ii) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with §361.42(e).

(2) An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate—

(i)(A) Has completed and signed an agency application form;

(B) Has completed a common intake application form in a one-stop center requesting vocational rehabilitation services; or

(C) Has otherwise requested services from the designated State unit;

(ii) Has provided to the designated State unit information necessary to initiate an assessment to determine eligibility and priority for services; and

(iii) Is available to complete the assessment process.

(3) The designated State unit must ensure that its application forms are widely available throughout the State, particularly in the one-stop centers under section 121 of the Workforce Innovation and Opportunity Act.

**34 CFR §361.42(a)**

Assessment for determining eligibility and priority for services.

In order to determine whether an individual is eligible for vocational rehabilitation services and the individual's priority under an order of selection for services (if the State is operating under an order of selection), the designated State unit must conduct an assessment for determining eligibility and priority for services. The assessment must be conducted in the most integrated setting possible, consistent with the individual's needs and informed choice, and in accordance with the following provisions:

(a) Eligibility requirements— (1) Basic requirements. The designated State unit's determination of an applicant's eligibility for vocational rehabilitation services must be based only on the following requirements:

(i) A determination by qualified personnel that the applicant has a physical or mental impairment;

(ii) A determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant; and

(iii) A determination by a qualified vocational rehabilitation counselor employed by the designated State unit that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice. For purposes of an assessment for determining eligibility and vocational rehabilitation needs under this part, an individual is presumed to have a goal of an employment outcome.

(2) Presumption of benefit. The designated State unit must presume that an applicant who meets the eligibility requirements in paragraphs (a)(1)(i) and (ii) of this section can benefit in terms of an employment outcome.

(3) Presumption of eligibility for Social Security recipients and beneficiaries. (i) Any applicant who has been determined eligible for Social Security benefits under title II or title XVI of the Social Security Act is—

(A) Presumed eligible for vocational rehabilitation services under paragraphs (a)(1) and (2) of this section; and

(B) Considered an individual with a significant disability as defined in §361.5(c) (29).

(ii) If an applicant for vocational rehabilitation services asserts that he or she is eligible for Social Security benefits under title II or title XVI of the Social Security Act (and, therefore, is presumed eligible for vocational rehabilitation services under paragraph (a)(3)(i)(A) of this section), but is unable to provide appropriate evidence, such as an award letter, to support that assertion, the State unit must verify the applicant's eligibility under title II or title XVI of the Social Security Act by contacting the Social Security Administration. This verification must be made within a reasonable period of time that enables the State unit to determine the applicant's eligibility for vocational rehabilitation services within 60 days of the individual submitting an application for services in accordance with §361.41(b)(2).

(4) Achievement of an employment outcome. Any eligible individual, including an individual whose eligibility for vocational rehabilitation services is based on the individual being eligible for Social Security benefits under title II or title XVI of the Social Security Act, must intend to achieve an employment outcome that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**34 CFR §361.42 (c) (d) and (e)**

(c) Prohibited factors. (1) The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that the State unit will not impose, as part of determining eligibility under this section, a duration of residence requirement that excludes from services any applicant who is present in the State. The designated State unit may not require the applicant to demonstrate a presence in the State through the production of any documentation that under State or local law, or practical circumstances, results in a de facto duration of residence requirement.

(2) In making a determination of eligibility under this section, the designated State unit also must ensure that—

(i) No applicant or group of applicants is excluded or found ineligible solely on the basis of the type of disability; and

(ii) The eligibility requirements are applied without regard to the—

(A) Age, sex, race, color, or national origin of the applicant;

(B) Type of expected employment outcome;

(C) Source of referral for vocational rehabilitation services;

(D) Particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family;

(E) Applicants' employment history or current employment status; and

(F) Applicants' educational status or current educational credential.

(d) Review and assessment of data for eligibility determination. Except as provided in paragraph (e) of this section, the designated State unit—

(1) Must base its determination of each of the basic eligibility requirements in paragraph (a) of this section on—

(i) A review and assessment of existing data, including counselor observations, education records, information provided by the individual or the individual's family, particularly information used by education officials, and determinations made by officials of other agencies; and

(ii) To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, an assessment of additional data resulting from the provision of vocational rehabilitation services, including trial work experiences, assistive technology devices and services, personal assistance services, and any other support services that are necessary to determine whether an individual is eligible; and

(2) Must base its presumption under paragraph (a)(3)(i) of this section that an applicant who has been determined eligible for Social Security benefits under title II or title XVI of the Social Security Act satisfies each of the basic eligibility requirements in paragraph (a) of this section on determinations made by the Social Security Administration.

(e) Trial work experiences for individuals with significant disabilities. (1) Prior to any determination that an individual with a disability is unable to benefit from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability or that the individual is ineligible for vocational rehabilitation services, the designated State unit must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations.

(2)(i) The designated State unit must develop a written plan to assess periodically the individual's abilities, capabilities, and capacity to perform in competitive integrated work situations through the use of trial work experiences, which must be provided in competitive integrated employment settings to the maximum extent possible, consistent with the informed choice and rehabilitation needs of the individual.

(ii) Trial work experiences include supported employment, on-the-job training, and other experiences using realistic integrated work settings.

(iii) Trial work experiences must be of sufficient variety and over a sufficient period of time for the designated State unit to determine that—

(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 due to the severity of the individual's disability, the individual is incapable of benefitting from the provision of vocational rehabilitation services in terms of an employment outcome; and

(iv) The designated State unit must provide appropriate supports, including, but not limited to, assistive technology devices and services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.

 (f) Data for determination of priority for services under an order of selection. If the designated State unit is operating under an order of selection for services, as provided in §361.36, the State unit must base its priority assignments on—

(1) A review of the data that was developed under paragraphs (d) and (e) of this section to make the eligibility determination; and

(2) An assessment of additional data, to the extent necessary.

Note to §361.42: Clear and convincing evidence means that the designated State unit has a high degree of certainty before it can conclude that an individual is incapable of benefiting from services in terms of an employment outcome. The clear and convincing standard constitutes the highest standard used in our civil system of law and is to be individually applied on a case-by-case basis. The term clear means unequivocal. For example, the use of an intelligence test result alone would not constitute clear and convincing evidence. Clear and convincing evidence might include a description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's needs due to the severity of the individual's disability. The demonstration of "clear and convincing evidence" must include, if appropriate, a functional assessment of skill development activities, with any necessary supports (including assistive technology), in real life settings. (S. Rep. No. 357, 102d Cong., 2d. Sess. 37-38 (1992))

**34 CFR §361.43**

Procedures for ineligibility determination.

If the State unit determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an individualized plan for employment is no longer eligible for services, the State unit must—

(a) Make the determination only after providing an opportunity for full consultation with the individual or, as appropriate, with the individual's representative;

(b) Inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including the reasons for that determination, the requirements under this section, and the means by which the individual may express and seek remedy for any dissatisfaction, including the procedures for review of State unit personnel determinations in accordance with §361.57;

(c) Provide the individual with a description of services available from a client assistance program established under 34 CFR part 370 and information on how to contact that program;

(d) Refer the individual—

(1) To other programs that are part of the one-stop service delivery system under the Workforce Innovation and Opportunity Act that can address the individual's training or employment-related needs; or

(2) To Federal, State, or local programs or service providers, including, as appropriate, independent living programs and extended employment providers, best suited to meet their rehabilitation needs, if the ineligibility determination is based on a finding that the individual has chosen not to pursue, or is incapable of achieving, an employment outcome as defined in §361.5(c) (15).

(e) Review within 12 months and annually thereafter if requested by the individual or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome. This review need not be conducted in situations in which the individual has refused it, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal.

**34 CFR §361.44**

Closure without eligibility determination.

The designated State unit may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and the State unit has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.

## B-302: Presumption of Eligibility for Social Security Recipients

Recipients of Social Security disability benefits (that is, Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI)) are:

* presumed eligible for VR services; and
* determined eligible immediately after receipt of benefits is verified unless there is a question about the customer's ability to achieve an employment outcome.

Recipients of SSI/SSDI benefits must also provide proof of identity and current, unexpired authorization for employment prior to determination of eligibility for VR services. See VRSM B-204-2: Customer Identification and Authorization for Employment for more information.

A copy of the documentation used to verify SSI or SSDI benefits, proof of identity, and authorization for employment must be filed in the customer's paper case file.

The VR counselor documents the determination of eligibility in a case note in RHW. See VRSM D-302-2: Required ReHabWorks Case Notes for more information.

### B-302-1: Presumptive Eligibility and Trial Work Plans

If there is a question about the customer's ability to achieve an employment outcome due to the severity of his or her disability, trial work services must be provided prior to closing the case. Multiple trial work experiences are required to demonstrate by clear and convincing evidence that the individual is not capable of benefiting in terms of a competitive and integrated employment outcome due to the severity of the individual's disability.

Completing a Trial Work Plan (TWP) meets the requirement of making an "immediate" eligibility decision, even though that decision is that trial work services are necessary. If the customer is not available to participate in services, an appointment must be scheduled with the customer to complete the trial work plan as soon as possible.

For more information about trial work services, see VRSM B-310: Trial Work Services.

## B-303: Eligibility Criteria for VR Services

To decide whether a customer is eligible for VR services, the VR counselor must:

1. determine that the customer has a physical or mental impairment (first criterion);
2. determine that the impairment constitutes or results in a substantial impediment to employment (second criterion);
3. determine that the customer requires VR services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice. (third criterion); and
4. presume that the customer can have a goal of an employment outcome, unless Trial Work Experiences demonstrate by clear and convincing evidence that the customer cannot achieve a competitive and integrated employment outcome because of the severity of the customer's disability (fourth criterion).

VR customers must also provide and maintain authorization to work in the United States in order to be eligible for VR services. For more information, refer to VRSM B-204-2: Customer Identification and Authorization for Employment.

### B-303-1: Determining Eligibility by the 60th Day

The VR counselor must determine whether a customer is eligible for VR services as soon as possible, but not later than on or before the 60th day from the date that the application is signed, unless:

* the customer agrees to a need to extend the time to determine eligibility; or
* VR counselor cannot determine the customer's ability to achieve an employment outcome without the customer participating in Trial Work Experiences.

### B-303-2: Extension of Time for Determining Eligibility

If the VR counselor cannot determine eligibility by the 60th day after the date the customer signs the application for services, the VR counselor must:

1. inform the customer of the exceptional and unforeseen circumstances (beyond VR control) that are delaying eligibility determination;
2. obtain agreement from the customer that an extension of time (EOT) to determine eligibility is necessary;
3. document in the comments section of the EOT for Eligibility page in RHW
   * the reasons that an extension of time is required, and
   * that the customer is in agreement with the extension of time;
4. complete the EOT for Eligibility page in RHW.

If the customer does not agree to an EOT for determining eligibility for VR services, document the customer's decision in a case note and explain to the customer that eligibility for VR services cannot be determined at this time with the information available. Inform the customer that the case will be closed as ineligible, inform the customer of the right to appeal the decision and provide the "Can We Talk" brochure. Proceed to close the case. VR staff must document in RHW the date and method the information was provided to the customer.

If the VR counselor cannot contact the customer to obtain agreement to complete the EOT for eligibility by the 60th day, the VR counselor may consult with the VR Supervisor for guidance on how to proceed with the case. If it is determined that the case should be closed, refer to VRSM B-600: Closure and VRSM B-312: Closing a Case Ineligible or before Eligibility Determination for information about closing the case.

### B-303-3: Determining Ineligibility

The VR counselor may determine that the customer is ineligible for VR services if, after reviewing all records and considering all diagnostic data, the VR counselor concludes that the customer does not:

* have a physical or mental impairment;
* have a disability that creates a substantial impediment to employment;
* require VR services to obtain, retain, or advance in competitive and integrated employment; or
* after completing trial work services, can achieve a competitive and integrated employment outcome.

See VRSM B-312: Closing a Case Ineligible or before Eligibility Determination for additional information.

### B-303-4: Blind and Visual Impairment

Individuals with visual impairments that create a substantial impediment to employment may be eligible for VR services. TWC-VR recognizes the following three categories of visual impairments:

* Blindness - visual acuity with best correction of 20/200 or less in the better eye; a visual field of 20 degrees or less; or a combination of both.
* Low Vision- visual acuity with best correction of 20/70 or less in the better eye; a visual field of 30 degrees or less in the better eye; or a combination of both.
* Significant Visual Impairment - A disease or condition of the eye that does not meet the definitions of Blind or Low Vision but does create a significant impediment to employment and cannot be corrected with glasses or contact lenses.

The "visual acuity" to be used is the best corrected distance acuity.

"Best correction" is the best visual acuity obtained with a simple refraction (glasses or contact lenses), not with a low vision aid, such as a telescopic aid.

An ophthalmologist or optometrist must

* measure the visual acuity using the distance Snellen chart, or
* measure and then convert the measurement to the distance Snellen equivalent in writing.

The VR2006E, Interagency Eye Examination Report may be used for assessment and evaluative purposes.

## B-304: First Eligibility Criterion: Presence of an Impairment

The first eligibility criterion is that the customer must have a physical or mental impairment.

### B-304-1: Establishing the Presence of an Impairment

For impairments that the customer reports are unchanged for several years, use available medical and other reports (even if they are several years old) to determine the presence of an impairment and completion of the comprehensive assessment.

If the existing records are insufficient or there are no available medical records or other documentation to substantiate the presence of an impairment, the VR counselor can authorize the purchase of additional examinations or evaluations to determine if the customer is eligible for VR services. See VRSM D-200: Purchasing Goods and Services for purchasing requirements.

#### Requesting Records

When existing records are needed to determine the presence of an impairment, the records must be requested by VR within five business days of the completion of the customer's application for services.

#### Scheduling Additional Assessments

If it is determined that additional assessments are required to determine eligibility, either at the time of application or when existing records are reviewed, the VR counselor documents the need for these assessments in a case note. VR staff then contact the provider within five business days to coordinate the appointment for the assessment. The date of the assessment should be as soon as possible to ensure timely movement of the case through the VR process, but it can occur after this five-day period.

#### Determining Whether Records Are Current

Evaluate records based on a thorough understanding of

* the customer's medical and/or psychological treatment, if any; and
* significant life events that have occurred since the date of the records.

If the records sufficiently and accurately reflect the customer's current functioning and impediments to employment, the VR counselor may consider them current.

#### VR3106, Work Restriction Checklist

In most cases, when an individual has a physical impairment, a formal functional capacity assessment (FCA) is not required to determine the presence of an impairment. The VR counselor may use the VR3106, Work Restriction Checklist to gather information about a customer's physical limitations from a treating physician or evaluating specialist to determine eligibility and or for completing the comprehensive assessment, if needed.

See Tips on Using the VR3106, Work Restriction Checklist, located on the intranet.

#### Observable Impairments

If a VR counselor observes a customer's impairment and can determine that he or she has an impairment-related impediment to employment, the first two eligibility criteria have been satisfied; medical reports are not required. However, existing medical records and or assessments may be necessary to complete a comprehensive assessment and to develop the customer's individualized plan for employment.

Examples of impairments that can be observed and documented in a case note by the VR counselor include amputation, required use of a wheelchair, deafness, or observable blindness. Additional documentation may be required to assess the level of impairment.

#### Unstable or Acute Conditions

A "physical or mental impairment" is an injury, disease, or other condition that results in persistent functional limitations. See VRSM B-309-5: Table of Functional Capacities for additional information.

For conditions that appear to be unstable or acute, and may not result in persistent functional limitations, the VR counselor may consult with their VR Supervisor, local medical consultant (LMC), state optometric consultant (SOC), regional program specialist, or state office program specialist, as needed.

As a part of these consultations, the LMC or SOC will provide information on the completeness of the medical records, the medical necessity of a procedure, and can assist with interpreting information on the proposed treatment and prognosis.

The consultants will not make the decision on whether or not the customer is eligible for VR services; The VR counselor is responsible for deciding if the customer is eligible for VR services and whether or not the requested or recommended services are within the scope of VR.

### B-304-2: Determining There Is No Impairment

The VR counselor must not purchase evaluations if:

* neither the customer nor the referral source alleges a current impairment; and
* following a thorough diagnostic interview, there is still no evidence of an impairment.

The VR counselor determines that the customer does not have an impairment, then the customer is:

* ineligible; and
* referred to services at the local workforce development board, as appropriate, and to other available community resources or programs to meet the customer's needs.

See VRSM B-312: Closing a Case Ineligible or Before Eligibility Determination for additional information.

## B-305: Second Eligibility Criterion: Substantial Impediment to Employment

The second eligibility criterion is that the physical or mental impairment must constitute or result in a substantial impediment to employment.

### B-305-1: Establishing a Substantial Impediment to Employment

Although a customer may have an impairment that limits certain functions, there may not be an associated substantial impediment to employment.

A substantial impediment to employment exists when the impairment and resultant functional limitations:

* prevent the customer from obtaining a job consistent with the customer's abilities;
* significantly interfere with preparing for employment consistent with the customer's abilities;
* cause the customer to need special help to perform job duties; or
* interfere with job retention or job advancement.

For additional information about the customer's condition and treatment and the condition's possible impact on employment, consult the [Medical Disability Guidelines](http://www.mdguidelines.com/).

If a customer's physical or mental impairment constitutes or results in a substantial impediment to employment, the customer has a disability for purposes of the VR services.

### B-305-2: Determining There Is No Impediment to Employment

The VR counselor determines that the customer does not have a substantial impediment to employment, then the customer is

* ineligible, and
* referred to services at the local workforce development board, as appropriate, and to other available community resources or programs to meet the customer's needs.

See VRSM B-312: Closing a Case Ineligible or Before Eligibility Determination for additional information.

## B-306: Third Eligibility Criterion: Requires VR Services

The third eligibility criterion is that the customer requires VR services to prepare for, enter, engage in, retain, or advance in a competitive integrated employment outcome consistent with the customer's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

VR services are required when:

* one or more VR services are expected to:
  + have a substantial impact on the customer's disability and resultant functional limitations; or
  + reduce the impediment to employment, thus allowing the customer to prepare for, obtain, retain, regain, or advance in competitive employment consistent with the customer's capabilities and abilities; and
* the customer cannot access these services elsewhere without VR intervention.

### B-306-1: Determining the Customer Does Not Require VR Services

The VR counselor determines that the customer does not require VR services to prepare for, enter, engage in, retain, or advance in a competitive integrated employment outcome consistent with the customer's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, then the customer is

* ineligible, and
* referred to services at the local workforce development board, as appropriate, and to other available community resources or programs to meet the customer's needs.

See VRSM B-312: Closing a Case Ineligible or Before Eligibility Determination for additional information.

## B-307: Fourth Eligibility Criterion: Presumed to Have a Goal

The fourth eligibility criterion is that a customer is presumed to have a goal of a competitive integrated employment outcome after receiving VR services. The customer meets this criterion when they sign their application for VR services unless it is determined that trial work services are required to further assess eligibility.

The VR counselor must presume the customer capable of achieving an employment goal, unless clear and convincing evidence obtained during trial work demonstrates that the customer cannot attain an employment goal after receiving VR services because of the severity of the customer's disability. See VRSM B-310: Trial Work Services for more information.

## B-308: Assessments

To the maximum extent possible, the VR counselor must:

* use existing records;
* rely on information from the individual's experiences in an integrated employment setting or in other integrated community settings; and
* consider the validity or correctness of the information based upon the source and the VR counselor's knowledge of the customer.

Only when existing records are unavailable or insufficient, the VR counselor can authorize the purchase of additional diagnostics to address basic eligibility questions. The VR counselor must document the justification for all assessments in a case note in RHW. For more information see VRSM B-304-1: Establishing the Presence of an Impairment.

An eligibility determination should not be delayed pending the receipt of the VR3110, Surgery and Treatment Recommendations, VR3109, Eye Surgery and Treatment Recommendations, or VR3101, Consultant Review if existing records are available.

If worksite assessments are necessary to determine whether a customer is eligible for VR services, they must be:

* conducted in the most integrated setting possible; and
* consistent with the customer's needs and informed choice.

The VR counselor may authorize the purchase of eyeglasses if these supports are required for the customer to participate in required assessments to determine eligibility for VR services. VR Supervisor approval is required before authorizing the purchase of any other assistive technology devices, such as hand controls for vehicles, while the customer is in application status. For more information, see VRSM C-204: Vehicle Modification Services, VRSM C-703-13: Eyeglasses and Contact Lenses, and VRSM D-200: Purchasing Goods and Services.

### B-308-1: Required Assessments and Policy for Selected Conditions

For all conditions, medical records must be obtained from the appropriate licensed professional and placed in the customer's case file before determining eligibility. The only exception to this requirement is for customers with an observable impairment or for customers with proof of Supplemental Security Income (SSI) or Social Security Disability Income (SSDI).

The Table of Required Assessments and Policy for Selected Conditions below includes only content related to eligibility determination. See VRSM C-700: Medical Services for information about services.

The following sections include information about obtaining and using assessments and a table of condition-specific assessments or related documentation required before the VR counselor can make an eligibility determination, and policy governing eligibility for customers with those conditions.

Eligibility determinations must comply with the condition-specific assessments and policy in the following table. Review this table before making an eligibility determination.

**Table of Required Assessments and Policy for Selected Conditions**

|  |  |  |
| --- | --- | --- |
| **Condition** | **Required Assessments** | **Policy** |
| AIDS/HIV  See Counselor Desk Reference A1: AIDS/HIV, located on the intranet. |  | VR does not provide HIV testing because it is available through the [Texas Department of State Health Services HIV and STD Program](http://dshs.texas.gov/hivstd/).  See also VRSM C-701-1: Professional Medical Services, Restrictions. |
| Asthma  See Counselor Desk Reference A24: Respiratory Disease. | * Evaluation by physician trained in allergic conditions, or * Exam by physician specializing in lung diseases   Use VR3102, Pulmonary Evaluation Report. |  |
| Back disorders  See Counselor Desk Reference A4: Back Disorders. | The VR counselor must have:   * treating physician's:   + radiographic evidence of an abnormality; or   + medical history of back surgery; or   + clear diagnosis and prognosis based on physical findings; and * medical documentation of functional limitations persisting for at least 90 days before eligibility. | See information about back surgery and steroid injections in VRSM C-703-2: Back or Neck Treatment. |
| Cancer  See Counselor Desk Reference A6: Cancer. | VR3112, Cancer Diabetes Disability Medical Report, completed by the:   * referring physician; * clinic; or * hospital. | Cancers include all carcinomas and sarcomas of the internal organs (muscles, bones, nerves, brain, or glands) and lymphomas and leukemia. The completed VR3112 must contain information about the general prospects for the customer's life expectancy and work capabilities.  If a poor prognosis prevents the case from being accepted, The VR counselor may decide with the attending physician how the "non-acceptance" will be conveyed to the patient.  Screening procedures for cancer (for example, mammograms or Pap smears) are not considered part of the VR diagnostic procedure.  Also, see VRSM C-701-1: Professional Medical Services and VRSM C-703-19: Mammograms, Pap Tests, and Colonoscopy. |
| Cardiac Disorders  See Counselor Desk Reference A7: Cardiac Disorders. | Use VR3103, Cardiac Evaluation Report or a comparable documentation. | See informational about cardiac catheterization or angiography in VRSM C-703-5: Cardiac Catheterization or Angiography and VRSM C-703-32: Specialized Physical Restoration Programs. |
| Dental  See Counselor Desk Reference A10: Dental. |  | Missing teeth are not considered an impairment for the purpose of determining eligibility.  See information about dental treatment, including maxillofacial services, in VRSM C-703-8: Dental Surgery and Treatment and VRSM C-701-2: Medical Services Required Review and Approvals Policy. |
| Deaf  See Counselor Desk Reference C1: Deaf and Hard of Hearing.  See also the Hard of Hearing section of this table, below. | Use VR3105A, Hearing Evaluation Report Customer Questionnaire. | See information about cochlear implant in VRSM C-703-7: Cochlear Implant and Bone Anchored Hearing Aid surgery. |
| Ear diseases and other conditions of the auditory system that result in a hearing loss  See Counselor Desk Reference C1: Deaf and Hard of Hearing. | Current evaluation by an otologist, otolaryngologist, or ENT/EENT specialist. Use VR3105B, Hearing Evaluation Report Otological Examination.  Current evaluation by licensed audiologist. Use VR3105C, Hearing Evaluation Report Audiometric Examination.  Documentation of social, educational, and/or psychological hearing loss implications from licensed audiologist or specialist in deafness rehabilitation. | Ear diseases and other conditions of the auditory system may cause substantial impediments to employment if the customer has a:   * "ski slope" audiogram; * profound unilateral hearing loss; * vocational objective requiring a high degree of hearing sensitivity; * poor adjustment to hearing loss; * multiple disabilities; or * other unusual conditions. |
| Epilepsy (seizure disorders)  See Counselor Desk Reference A13: Epilepsy and Seizure Disorders. | Medical records from a neurologist  If the customer is not currently being treated by a neurologist, obtain this evaluation before determining eligibility unless the customer is on SSI/ and/or SSDI. |  |
| Fractures  See Counselor Desk Reference A14: Fractures. | If the customer is wearing an external fixation device or an external fixation device has been recommended for the treatment of a fracture, medical records must be reviewed by the medical director before eligibility determination.  Nonunion or malunion fractures require medical records from a physician specializing in orthopedics. | A fracture that has healed abnormally (malunion) or failed to heal (nonunion) may constitute an impairment for eligibility purposes.  State Medical Director review is required before determining eligibility. Refer to VRSM C-703-33: Fractures for more information. |
| Gynecological condition |  | Screening procedures for cancer (for example, mammograms or Pap smears) are not allowable VR diagnostic procedure. |
| Hard of Hearing  See Counselor Desk Reference C1: Deaf and Hard of Hearing.  See also the Deaf section of this table, above. | Audiometric evaluation (including audiogram) that documents level and type of hearing loss. Documentation older than six months may be used to determine eligibility.  Use VR3105A, VR3105B, and VR3105C, Hearing Evaluation Report, or the equivalent. | See information about hearing aids in VRSM C-704-10: Hearing Aids. |
| Intellectual Developmental Disorders  See Counselor Desk Reference B9: Intellectual Disabilities. |  | A customer has an impairment in adaptive behavior when he or she cannot successfully accomplish two or more of the following:   * Communication * Self-care * Home living * Social and interpersonal skills * Use of community resources * Self-direction * Functional academic skills * Work * Leisure * Health and safety |
| Psychological Disorders  See the Psychological and Neurodevelopmental Disorders chapters in the Counselor Desk Reference. |  | Before eligibility is determined, customers with these disorders must be:   * currently receiving needed medication or therapeutic treatment; or * willing to participate in a recommended treatment plan.   See VRSM C-800: Neurodevelopmental and Psychological Services. |
| Psychological Disorders somatoform, dissociative, personality, disruptive, adjustment, cognitive, and other mental disorders  See the Psychological and Neurodevelopmental Disorders chapters in the Counselor Desk Reference. |  | To be determined eligible, customers with mental disorders in these categories must be participating, or willing to participate, in a structured program to modify their behavior and approach to employment.  See VRSM C-800: Neurodevelopmental and Psychological Services for information about mental health restoration service guidelines. |
| Obesity |  | Obesity is not considered an impairment for eligibility determination purposes if it does not meet the criteria of severe (morbid) obesity, that is, a body mass index (BMI) of 40 or greater.  Obesity may be an attendant factor that affects other established disabilities. |
| Pregnancy |  | Pregnancy is not considered an impairment for purposes of eligibility determination, but the condition does not prevent a customer with a disability from receiving disability-related vocational rehabilitation services. VR does not pay for assessments or medical services related to the pregnancy. |
| Severe (Morbid) Obesity  See Counselor Desk Reference A20: Morbid Obesity. |  | For severe obesity to be considered an impairment for eligibility purposes, the customer must have:   * a body mass index (BMI) of 40 or greater; and * physical limitations in work capacity measured by a functional capacity assessment (FCA) performed by a physical or occupational therapist.   If the customer is:   * employed, an occupational or physical therapist must perform a job analysis to determine the functional requirements of the customer's job; or * unemployed, the customer must be unable to meet the physical demands of the proposed employment goal.   See VRSM C-703-27: Surgery for Morbid Obesity for specific requirements for determining whether severe obesity results in an impediment to employment. |
| Substance Use Disorder  See Counselor Desk Reference B14: Substance-Related and Addictive Disorders. |  | To be determined eligible, customers with substance use disorders must be participating, willing to participate, or have completed a structured program to modify their behavior and approach to employment.  See VRSM C-806: Substance Use Disorders Services for guidance about how the customer's responsibilities are reflected in the IPE.  Exception: A customer with a coexisting brain injury who is unable to benefit from other types of therapeutic programs may use a VR-sponsored post-acute brain injury rehabilitation program to establish involvement in a therapeutic program. |
| Traumatic Brain Injury (TBI)  See Counselor Desk Reference A5: Brain Injury. | Neuropsychological evaluation | When the VR counselor cannot presume that the customer is capable of an employment outcome, refer to VRSM B-310: Trial Work Services. |
| Tuberculosis (TB)  See Counselor Desk Reference A24: Respiratory Disease. |  | Eligibility for VR services requires that the customer has recovered sufficiently so that he or she is no longer considered infectious to VR employees, potential employers, and others.  The customer must:   * use effective medications, and cooperate in taking them as prescribed; and * show definite improvement as ascertained by the physician in charge.   The treating physician must state in writing that the person is ready for employment or training.  See VRSM C-701-1: Professional Medical Services, Restrictions. |
| Tumors (masses or growths) |  | Non-painful lumps are not considered impairments for the purposes of eligibility determination.  Screening procedures for cancer (for example, mammograms or Pap smears) are not an allowable part of the VR diagnostic assessment. |

### B-308-2: Diagnostic and Statistical Manual of Mental Disorders (DSM) Tool

Mental health professionals use codes in the Diagnostic and Statistical Manual of Mental Disorders (DSM) to refer to various mental disorders in their reports. The DSM states conditions that can be diagnosed but that, as a primary disability, are not likely to meet the criteria for eligibility for VR services. Refer to the Diagnostic and Statistical Manual Reference Chart on the TWC intranet to determine whether a DSM code diagnosis may be considered a primary disability for purposes of determining eligibility for services. For additional guidance, contact the VR state office program specialist for behavioral health.

### B-308-3: Selecting a Disability Classification

**B-308-3: Selecting a Disability Classification**

Disabling conditions are classified according to a structure that combines an impairment with a specific cause or source. Using prescribed categories, select the impairment and then the cause or source that best describes the customer's primary disability that results in a substantial impediment to employment in Vocational Rehabilitation (VR).

Complete the following steps to select the disability code on the ReHabWorks (RHW) Disability Information page:

1. Select the impairment category that best identifies the disability from the following:
   * Blind Sensory
   * Sensory-communicative
   * Physical
   * Mental
2. Select the impairment subcategory within the table, such as:
   * deafness, primary communication visual;
   * respiratory; or
   * cognitive.
3. Select the specific cause or source of the disabling condition, such as:
   * cause unknown;
   * amputation;
   * congenital conditions or birth injury; or
   * digestive.

Using the same sequence of actions, select the secondary impairment that contributes to, but is not the primary basis, of the impediment to employment in VR or to the rehabilitation goals in comprehensive rehabilitation services and independent living services. If there is a tertiary disability, follow the same steps to add the third impairment. For more information see ReHabWorks (RHW) Users Guide, Chapter 10: Application, 10.2 Disability Information, located on the TWC intranet.

For information about eligibility requirements for specific conditions, see VRSM B-308-1: Required Assessments and Policies for Selected Conditions.

**Primary and Secondary Disability Categories**

Use the following in selecting primary and secondary disability categories.

**Sensory and/or Communicative Impairments**

**Blindness**

* An impairment that results in the customer being legally blind, which is defined as central visual acuity 20/200 or less in the better eye with best correction, or visual fields restriction of 20 degrees or less (both eyes).

**Other Visual Impairments**

* Other visual impairments that do not result in legal blindness.

**Deafness, Primary Communication Visual**

* A hearing impairment causing dependence primarily upon visual communication (for example, writing, manual communication, gestures) or when combined with blindness, tactile communication (for example, finger spelling).

**Deafness, Primary Communication Auditory**

* The customer uses spoken language primarily for expressive communication and has been identified in the past as being oral deaf or late-deafened adult. This category might include customers who use cochlear implants. These customers might depend primarily on receptive visual communication, such as:
  + speech-to-text translation;
  + lip reading; and/or
  + English-based sign language.

**Hearing Loss, Primary Communication Visual**

The customer's primary receptive mode of communication is visual (for example, writing, lip reading, manual communication, gestures). The customer's primary expressive mode of communication is spoken language (when the customer voices or speaks).

The customer has some access to sound, with or without amplification, which results in an impediment to employment. This may include customers with hearing loss less than 30 dB if the VR counselor justifies the need for VR services and how the hearing loss can or will cause a substantial impediment to employment.

**Hearing Loss, Primary Communication Auditory**

The customer's primary receptive mode of communication is auditory with or without the assistance of amplification (for example, hearing aids). The customer's primary expressive mode of communication is spoken language (when the customer voices or speaks).

The customer has some access to sound, with or without amplification, which results in an impediment to employment. Included in this group are people who may use similar modalities similar those in the Deafness, Primary Communication Auditory; however, the individuals may have more residual hearing. This may include customers with hearing loss less than 30 dB if the VR counselor justifies the need for VR services and how the hearing loss can or will cause a substantial impediment to employment.

**Other Hearing Impairments**

Diseases and conditions of the ear or auditory systems that do not cause a hearing loss in the conversational range in both ears but that do cause an impediment to employment (for example, tinnitus, Meniere's disease, hyperacusis, etc.). This may include customers with hearing loss less than 30 dB if the VR counselor justifies the need for VR services and how the hearing impairment can or will cause a substantial impediment to employment.

**DeafBlind**

* A customer who is DeafBlind is someone:
* who has:
  + a central visual acuity of 20/200 or less in the better eye with corrective lenses;
  + a field defect in which the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees (tunnel vision), or a progressive visual loss having a prognosis leading to one or both conditions;
  + a chronic hearing impairment so significant that most speech cannot be understood with optimum amplification (speech discrimination of less than 50 percent); or
  + a progressive hearing loss having a prognosis leading to this condition; and
* for whom the combination of impairments described above cause significant difficulty in attaining an employment outcome; or
* who, despite the inability to be measured accurately for hearing and vision loss because of cognitive and/or behavioral constraints, can be determined through a functional and performance assessment to have significant hearing and visual disabilities that cause extreme difficulty in attaining an employment outcome.

**Communicative Disorder (Expressive or Receptive)**

* A disorder that affects a customer's ability to communicate or understand communication.

**Physical Impairments**

**Mobility Impairment—Orthopedic or Neurological**

* Mobility that is affected by either an orthopedic or neurological condition.

**Manipulation or Dexterity Impairment—Orthopedic or Neurological**

* Orthopedic or neurological conditions that affect manipulation or dexterity.

**Both Mobility and Manipulation-Dexterity Impairment—Orthopedic or Neurological**

* Orthopedic or neurological conditions that affect both mobility and manipulation and/or dexterity.

**Other Orthopedic Impairments**

For example, seriously limited range of motion requiring accommodations beyond that of an average similarly-situated person

* Limitations caused by other orthopedic impairment

**Respiratory Impairments**

* Impairment resulting in reduced breathing capacity.

**General Physical Debilitation**

* A physical condition that results in a reduced capacity to work (For example, fatigue, weakness, pain).

**Other Physical Impairments (not listed above)**

**Mental Impairments**

**Cognitive Impairments**

* Involves learning, thinking, processing information, and concentration.

**Psychosocial Impairments**

* Interpersonal and behavioral impairment, difficulty coping
* A mental condition that affects both psychological and social functioning.

**Other Mental Impairments (not listed above)**

**Long COVID**

Long COVID (Post-COVID) conditions are a wide range of new, returning, or ongoing health problems that people experience after being infected with the virus that causes COVID-19.

If a customer has a documented diagnosis of Long COVID, VR staff indicates the diagnosis in the Long Covid Impact field on the RHW Disability page.

### B-308-4: Acute Medical Services Related to Assessments

If circumstances directly related to an assessment result in or contribute to, the need for acute medical services and comparable benefits are not readily available, the VR counselor may approve the use of VR funds for such care after

* documenting the circumstances,
* confirming the unavailability of comparable benefits, and
* obtaining VR Supervisor approval.

## B-309: Establishing the Level of Significance

The level of significance refers to the combination of the functional capacity threshold of the individual combined with the level of Vocational Rehabilitation (VR) services needed to help a customer reach a competitive integrated employment outcome.

To be considered as having a significant disability, a VR customer must have serious limitations in one or more functional areas and require multiple VR services over an extended period. Having a most significant disability means that the VR customer must:

* have serious limitations in three or more functional areas (for example, mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills); and
* require multiple VR services over an extended period.

If an individual is an SSI or SSDI recipient, then he or she is presumed eligible and is considered significant or most significant.

The VR counselor must document the reason for the decision in a case note. The VR counselor may document the level of significance as a stand-alone case note or as part of the eligibility case note.

### B-309-1: Level of Significance Table

Use the table below to determine the level of significance of each case:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Scenario** | **SSI/SSDI** | **Limited Functional Capacities if Threshold = 3** | **Anticipated Need for Multiple Services over Extended Period** | **Level of Significance** |
| 1 | No | 0 | Yes | No Significant Disability |
| 2 | No | 1 or 2 | Yes | Significant Disability |
| 3 | Yes | 0, 1, or 2 | Yes or No | Significant Disability |
| 4 | No | 0, 1, or 2 | No | No Significant Disability |
| 5 | Yes | 3, 4, 5, 6, or 7 | Yes or No | Most Significant Disability |
| 6 | No | 3, 4, 5, 6, or 7 | No | No Significant Disability |
| 7 | No | 3, 4, 5, 6, or 7 | Yes | Most Significant Disability |

Text version of table above:

Note: The situations described below are based on a threshold of three.

Situation 1. If the:

* SSI/SSDI is "No";
* Limited Functional Capacities is "0"; and
* Anticipated need for multiple services over Extended Period is "Yes";
* then the Level of Significance must be "No Significant Disability."

Situation 2. If the:

* SSI/SSDI is "No";
* Limited Functional Capacities is "1" or "2"; and
* Anticipated need for multiple services over Extended Period is "Yes";
* then the Level of Significance must be "Significant Disability."

Situation 3. If the:

* SSI/SSDI is "Yes";
* Limited Functional Capacities is "0," "1," or "2"; and
* Anticipated need for multiple services over Extended Period is "Yes" or "No";
* then the Level of Significance must be "Significant Disability."

Situation 4. If the:

* SSI/SSDI is "No";
* Limited Functional Capacities is "0," "1," or "2"; and
* Anticipated need for multiple services over Extended Period is "No";
* then the Level of Significance must be "No Significant Disability."

Situation 5. If the:

* SSI/SSDI is "Yes";
* Limited Functional Capacities is "3," "4," "5," "6," or "7"; and
* Anticipated need for multiple services over Extended Period is "Yes" or "No";
* then the Level of Significance must be "Most Significant Disability."

Situation 6. If the:

* SSI/SSDI is "No";
* Limited Functional Capacities is "3," "4," "5," "6," or "7"; and
* Anticipated need for multiple services over Extended Period is "No";
* then Level of Significance must be "No Significant Disability."

Situation 7. If the:

* SSI/SSDI is "No";
* Limited Functional Capacities is "3," "4," "5," "6," or "7"; and
* Anticipated need for multiple services over Extended Period is "Yes;"
* then the Level of Significance must be "Most Significant Disability."

### B-309-2: Updating Level of Significance

After the initial level of significance is set in ReHabWorks (RHW), the level of significance of a case may be changed if the change is based on additional information that is gathered during the comprehensive assessment.

When the change to the customer’s level of function (not level of significance) is a direct result of VR services, such as physical restoration, rehabilitation technology, or medical devices, the level of significance of the case should not be changed from the level of significance that was designated before the provision of VR services.

For more information about selecting and updating the level of significance in RHW, refer to the ReHabWorks (RHW) Users Guide C-100: Eligibility, C-102: Level of Significance.

### B-309-3: Required Level of Significance for Certain Cases

The following types of cases must be designated in RHW as having either a significant disability or a most significant disability for the life of the case:

* Customers who require trial work services
* SSI/SSDI recipients who are presumed eligible for VR services

#### Level of Significance and Trial Work Services

The level of significance for customers who require trial work services must be:

* assigned before completing the Individualized Plan for Employment (IPE) for Extended Evaluation in ReHabWorks (RHW) (the IPE for Extended Evaluation in RHW is the same as a Trial Work Plan in policy references); and
* updated anytime when information is available to support the changes to the designated level of significance.

#### Level of Significance and Supported Employment Services

All customers who require supported employment services must have their cases designated in RHW as "most significant" disability for the life of the case.

#### Extended Services

All customers who require extended services must have their cases designated in RHW as "most significant" disability for the life of the case. For more information on extended services, see VRSM C-1202-3: Extended Services.

### B-309-4: Designating the Level of Significance in RHW

The level of significance is designated at the time of eligibility on the "Disabilities" page in RHW. It must be entered prior to selecting "yes" or "no" for eligibility in RHW. This ensures that the snapshot of data that is taken at the time that eligibility is determined in RHW, which is reported to Rehabilitation Services Administration (RSA), includes the designated level of significance.

To determine the level of significance of the case, the VR counselor

1. decides on the significance of the disability per the criteria for significance as defined above and supports the designation with information from
   * the customer; and
   * a review of available records and reports.
2. determines that the customer meets all criteria for the selected level of significance and selects the corresponding response in the drop-down menu in RHW;
3. selects one or more capacities in the Limited Functional Capacities page in RHW if "significant" or "most significant " was selected;
4. ensures that the case file reflects evidence of the serious limitations in the limited functional capacity categories selected;
5. documents the rationale for the level of significance selected
   * in a standalone RHW case note;
   * as part of a case note for eligibility; or
   * by completing and filing in the paper file VR1390, Checklist for Determining Significance of Disability (When using the VR1390, a RHW case note must also be entered that states that the form was completed and is in the paper file.)
6. indicates, when completing the IPE with the customer, the need for an extended time to deliver more substantial services beyond the date that the IPE is signed;
7. includes in the IPE any needed interventions for each functional capacity area identified as seriously limited;
8. changes the designation of level of significance of the case if he or she determines that the effect of the disability does not require the extent of services originally planned, or if it is determined that the designation was made in error. Otherwise, the designated level of significance remains throughout the life of the case, even though the customer's functional capacities may improve over the course of the case.

### B-309-5: Table of Functional Capacities and Examples

The following table lists specific functional capacities and examples of the nature and extent of limits to capacities.

|  |  |
| --- | --- |
| **Capacity** | **Definition and Examples of Limitations** |
| Mobility | Because of the disability, a customer's ability to move from place to place and move the body into certain positions is limited, and the customer requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in mobility that requires intervention include when the customer needs:   * help to get to and from work, such as   + special training to learn to get to and from work, or   + a vehicle modification; * modifications, adaptive technology, or accommodations not typically made for other workers to move around the workplace; for example, a customer needs   + modifications to a workstation or work environment, such as ramps or elevators;   + a scooter, wheelchair, or other mobility aid; or   + a service dogs. |
| Self-care | Because of the disability, a customer's ability to perform activities related to health and hygiene are limited in a way that requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in self-care that requires intervention include when the customer   * needs help to manage self-care activities such as eating, dressing, grooming, or taking medication; or * uses assistive or adaptive devices for self-care, such as braces, upper-limb orthotics, or grab bars.   Seriously limited capacity in self-care might occur because of physical, cognitive, or emotional impairments and might apply to all tasks of self-care or only to specific tasks. |
| Self-direction | Because of the disability, a customer's ability to control and regulate his or her personal, social, and work life is limited in a way that requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in self-direction that requires intervention include when the customer   * becomes confused or disoriented in performing routine job tasks and needs the help of a job skills trainer or other supports; * needs ongoing help or intervention (such as a job skills trainer or constant monitoring and redirection on the job) to begin activities related to task completion, socialization, or behavior management; or * requires supervision or assistance with managing money or time, or maintaining a schedule. |
| Work Skills | Because of the disability, a customer's capacity to acquire and maintain needed job skills is limited, and the customer requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in work skills that requires intervention include when the customer needs   * modifications, adaptive technology, or accommodations (such as a note taker, interpreter, or personal assistant to get to and from training or to plan, problem solve, or organize work functions) not typically needed by workers without a disability to acquire necessary work skills or training or to get or keep gainful employment; or * specialized supports not typically needed by workers without disabilities to get or keep a job; for example, a job skills trainer or natural supports, job duty modification, or job restructuring.   The lack of work skills alone does not meet the criteria for seriously limited capacity in work skills. |
| Work Tolerance | Because of the disability, a customer's ability to consistently and adequately perform a job based on the physical, emotional, environmental, and psychological demands of the position is limited, and the customer requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in work tolerance that require intervention include when the customer   * needs modified job duties or assistive devices to perform job duties, or needs an altered work schedule or work hours, or needs frequent rest or breaks not typically needed by other workers in the workplace; or * lacks the capacity to perform effectively and efficiently job duties that require various levels of psychological demands (such as works poorly under stressful conditions or deadlines) and requires prescribed medication or specialized supports to sustain required levels of work function. |
| Interpersonal Skills | Because of the disability, a customer's ability to establish and maintain appropriate relationships with other individuals in the workplace is limited, and the customer requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in interpersonal skills that requires intervention include when the customer requires   * specialized services, modifications, or supports to establish appropriate relationships with co-workers, employers, and others in the workplace (for example, history of job loss because of conflicts with employers or co-workers); * medication or specialized services to interact with others in a socially appropriate manner; or * specialized services or supports to reduce inappropriate behaviors that interfere with getting or keeping a job (for example, the customer has difficulty relating to co-workers, talks excessively, or behaves inappropriately in the job or training setting). |
| Communication | Because of the disability, a customer's ability to convey and receive information efficiently and effectively is limited, and the customer requires services or accommodations not typically needed by workers without disabilities.  Examples of seriously limited capacity in communication that requires intervention include the following:  The customer requires modifications, adaptive technology, or accommodations (not typically required for other individuals) to effectively and efficiently communicate orally or in writing with individuals without disabilities (for example, the need for an interpreter for training, use of a TTY or TDD to perform job duties, use of a hearing aid (or aids) to understand speech on the job, or use of specialized communication equipment to produce speech). |

## B-310: Trial Work Services

If the VR counselor is unable to determine if a customer can benefit from VR services because of the severity of his or her disability, the customer must be provided with trial work services. The decision to proceed with trial work services should be made before determining that a customer is eligible for services. While providing trial work services, the VR counselor and the customer explore the customer's abilities, capabilities, and capacity to perform in realistic work situations until there is enough information to decide about whether the customer is eligible for VR services.

### B-310-1: Trial Work Timelines

If trial work is necessary, develop the Trial Work Plan (TWP) as soon as possible, but no later than the 60th day after the application has been signed.

If the customer is receiving Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSI/SSDI), the VR counselor must make an eligibility decision on the same business day that verification is received. Completing a TWP and moving the case into trial work services meets the requirement of making an eligibility decision, even though that decision is that trial work experiences are necessary. If the customer is not available, an appointment must be scheduled with the customer to complete the Trial Work Plan as soon as possible. For more information on presumptive eligibility, see VRSM B-302: Presumption of Eligibility for Social Security Recipients.

### B-310-2: Trial Work Plan

If the VR counselor cannot determine whether the customer is eligible because of the customer's questionable ability to benefit from services in terms of an employment outcome because of the severity of his or her disability, the VR counselor develops a TWP with the customer.

The VR counselor uses Trial Work Plan in ReHabWorks to complete the Trial Work Plan. If RHW is not available, use VR5161, Individualized Plan for Employment (IPE) for Trial Work Experience, available from the intranet VR Forms list.

When developing the TWP, consider the need for interpreter, translator, reader, or personal assistant services; rehabilitation technology, and/or other support services needed to determine eligibility.

A signed TWP is required before any services, including trial work experiences, can be purchased, provided, or arranged for the customer.

#### TWP Objective

The objective for a TWP is to assess the customer's ability to benefit from vocational rehabilitation (VR) services when there is a specific concern about the severity of the customer's disability. The customer's knowledge, skills, abilities, or other key attributes must be thoroughly assessed using multiple trial work experiences to determine if the customer can participate in VR services and achieving an employment outcome.

As soon as there is enough information to decide that the customer is eligible for services, trial work services can be terminated so that an individualized plan for employment can be developed.

### B-310-3: Trial Work Experience

All policies throughout the VRSM that are related to purchasing, arranging, or providing specific goods or services for VR customers apply to customers that are receiving trial work services. If a good or service has special requirements or restrictions for eligible customers, those same requirements and restrictions apply to customers receiving services through a trial work plan.

Trial work experiences can include:

* Supported employment refer to VRSM C-1200: Supported Employment Services and SFP Chapter 18: Supported Employment Services,
* On-the-job training refer to VRSM C-1007-4: On-the-Job Training,
* Work Experience Services (excluding Paid Work Experience purchased from the Local Workforce Development Boards) refer to VRSM C-421: Work Experience Services and SFP Chapter 14: Work Experience Services,
* Wage Services for Work Experience through WorkQuest refer to VRSM C-1408: Wage Services for Work Experience through WorkQuest,
* Work Adjustment Training refer to SFP 13.6 Work Adjustment Training, and
* Other experiences using real work settings.

Pre-ETS funds cannot be used for Trial Work.

#### Supported Employment as Trial Work Experience

If at any time while the customer is participating in Supported Employment Services it is determined the customer is eligible for services, an IPE must be implemented to continue supported employment service.

A TWP must include trial work experiences that are of sufficient variety and duration to provide:

* evidence that the customer can benefit from VR services; or
* clear and convincing evidence that the customer cannot benefit from VR services in terms of an employment outcome owing to the severity of his or her disability.

Trial Work experiences must be provided in competitive integrated employment settings to the maximum extent possible, consistent with the informed choice and rehab needs of the individual.

#### Additional Assessments

If existing records do not meet the assessment needs for determining eligibility for services, the VR counselor includes any additional diagnostics and or assessments that are required as planned services in the TWP. Refer to VRSM B-300: Determining Eligibility for additional information about requirement for use of existing records to determine eligibility.

#### Services that Require Approval as part of the Trial Work Plan

The following goods or services require VR Supervisor review and approval when provided as part of a trial work plan:

* Residential modifications
* Worksite modifications
* Durable medical good
* Orthotics and prosthetics
* Any services related to self-employment
* Modification of vehicles
* Academic or vocational training
* Medical services specified in VRSM C-700: Medical Services
* Services or goods to support any of these items

#### Paid Work Experience

Paid Work Experience purchased from the Local Workforce Development Boards cannot be used to meet the requirements for trial work experience.

For more information on Paid Work Experience, refer to the Requirements for Vocational Rehabilitation Services Provided by Local Workforce Development Boards, Chapter 2: Wage Services for VR Participants in Paid Work Experience.

### B-310-4: Frequency of Contact for Trial Work Services

It is important to maintain frequent contact with a customer who is participating in trial work services to ensure that timely progress is being made towards finalizing an eligibility decision. The frequency of contact is individualized to meet the customer's needs and is included as part of the TWP.

### B-310-5: Comparable Benefits

If comparable benefits are readily available, use these benefits during completion of   trial work services. However, if the use of these benefits would interrupt or delay the individual's eligibility assessment, document the reason that comparable benefits are not being used in a case note in RHW and move forward with coordinating necessary assessments. Refer to VRSM D-203-3: Use of Comparable Benefits for additional information about comparable benefits.

### B-310-6: Customer Participation in Cost of Services

Services identified on a TWP are considered assessments for the determination of eligibility. Customers are not required to participate in the cost assessments. Do not apply BLR to customers receiving trial work services. Refer to VRSM D 203-4: Customer Participation in Cost of Services for additional information about required customer participation in cost of services.

### B-310-7: Ending Trial Work Services

For reporting purposes, a case remains in "application status" while the customer is participating in trial work services. When there is sufficient evidence to make a determination of eligibility or when the case is closed for another reason, including ineligibility, the case will move into the next reportable status.

To move the customer's case out of application status when he or she has had a TWP, the VR counselor must:

1. enter the eligibility or ineligibility decision or close the case in RHW;
2. document the decision in a case note; and
3. notify the customer of the decision.

Refer to VRSM B-312: Closing a Case Ineligible or before Eligibility Determination for more information.

A customer cannot receive trial work services for more than 12 months without VR Supervisor approval. If there is an individualized need to extend the trial work services beyond 12 months, a full case review must be completed by the VR Supervisor in TxROCS before approving the extension of trial work.

### B-310-8: Trial Work for Disability Too Significant to Benefit from Services Closure

At any point after eligibility has been determined, the VR counselor must evaluate the customer in multiple realistic work settings using trial work before closing the case with the closure reason "Disability Too Significant to Benefit from Services." Refer to VRSM B-604-1: Disability Too Significant to Benefit from Services for specific closure processes and procedures.

#### Level of Significance

Trial Work services can be used only with customers whose disability is expected to meet the criteria of "significant" or "most significant." Refer to VRSM B-309: Establishing Level of Significance for more information about determining and updating the level of significance.

#### Twelve-Month Review of Ineligibility Determination Based on Severity of the Disability

When a customer is determined to be ineligible for VR services based on a finding that the customer is incapable of achieving an employment outcome due to the severity of the disability, the customer must be contacted within 12 months (and annually thereafter, if requested by the customer or, if appropriate, by the customer's representative) to discuss whether his or her circumstances have changed and a new application for services should be completed. Document the contact in a case note in RHW.

## B-311: Other Eligibility Considerations

The VR counselor must determine eligibility for VR services without regard to sex, age, race, religion, color, national origin, the type of employment outcome expected, the type of disability, the source of the referral, the services needed, income level, employment history, current employment status, education status, current educational credential, or the anticipated cost of the services required by a customer. The VR counselor cannot base a decision of ineligibility solely on the type of disability.

### B-311-1: Residency Requirement

It is not required that a customer reside in Texas to be considered eligible for VR services; he or she must only be present in Texas. The customer must be able to participate with assessments and services in Texas to be eligible for VR services.

If a customer presents an unexpired identification or authorization for employment document with an out-of-state address, staff should ask the customer if he or she is receiving VR services from another state. If the answer is yes, VR staff must coordinate with the out-of-state VR agency to ensure that services are not duplicated.

### B-311-2: Students

A student who is in special education, or who has received special education or Section 504 services, is not automatically eligible for VR services.

See VRSM C-1300: Transition Services for Students and Youth with Disabilities.

## B-312: Closing a Case Ineligible or before Eligibility Determination

See also VRSM B-602: Reasons for Closures.

### B-312-1: Closing a Case without Determining Eligibility

A variety of reasons exist for closing a case before determining eligibility.

The VR counselor must apply the following general closure procedure in all cases closed before determining eligibility:

1. Notifies the customer in writing (if the address is known) of the case closure and of the right of appeal;
2. Ensures that the case file contains the justification for closing the case; and
3. Uses an appropriate reason for closure.

#### Reasons for Closing a Case without Determining Eligibility

After the closure has been processed in RHW, a closure letter is available to complete, print, and mail to the customer. Refer to the chart in VRSM B-308-2: Diagnostic and Statistical Manual of Mental Disorders (DSM) Tool.

Apply the following general closure procedure in all cases closed before determining eligibility.

The VR counselor:

1. notifies the customer in writing (if the address is known) of the case closure and of the right of appeal;
2. ensures that the case file contains the justification for closing the case; and
3. uses an appropriate reason for closure.

### B-312-2: Closing a Case after Determining the Customer Ineligible

There are four reasons a case may be closed as ineligible:

* No impediment to employment
* No disabling condition
* VR services not required
* Disability too significant to benefit from services

Before closing any case as ineligible:

* discuss with the customer and/or the customer's representative the reason for the closure; and
* ensure that the case reflects the justification for the decision.

#### Reasons and Procedure for Closing a Case Because of Ineligibility

If after the completion of Trial Work Experiences, the VR counselor determines the customer is unable to benefit from VR services to reach an employment outcome due to the severity of his or her disability, refer to VRSM B-604-1: Disability Too Significant to Benefit from Services for detailed processes and procedures for closing the case.

If the customer:

* has no disabling condition - the assessment for eligibility reveals that the customer does not have a disability;
* has no impediment to employment - the assessment for eligibility reveals no substantial impediment to employment; or
* does not require VR services - the customer does not require VR services to prepare for, obtain, retain, or regain employment; already is receiving the needed services; or already has available the needed services without VR services providing, paying for, arranging, or coordinating the services.

Take the following actions to close the case:

1. Before case closure, give the customer an opportunity to fully discuss the decision, including the right of appeal.
2. Refer the customer to:
   * another program; or
   * other programs that are part of workforce development (programs that can address the customer's training or employment needs); and
   * document the referral in a case note.
3. Notify the customer in writing of his or her ineligibility using ReHabWorks form VR5104, VR Ineligibility Notice, and include:
   * reason(s) for the determination of ineligibility;
   * right of appeal; and
   * availability of the Client Assistance Program (CAP).
4. Use the appropriate reason for closing the case.

### B-312-3: Required Review of Cases Closures as Disability Too Significant to Benefit from Services

Review within 12 months (and annually thereafter, if requested by the customer or, if appropriate, by the customer's representative) any ineligibility determination that is based on a finding that the customer is incapable of achieving an employment outcome due to the severity of the disability.

### B-312-4: Referral to Other Resources

When the VR counselor closes the case before eligibility, refer the customer to another agency or program for services if the

* customer is available and needs other services; and
* needed services are available from another agency or program.

Describe for the customer the services available from the other agency or program. If the customer provides a written release, the VR counselor may contact the agency or program, set up an appointment for the customer, and provide the agency or program with information requested about the customer, when appropriate.

When needed, use the [Texas Information and Referral Network (Finding Help in Texas)](https://www.211texas.org/) to assist in identifying available resources.