

202.00P Eligibility Procedure

July 2002

See corresponding policy: 202.00 Eligibility Policy

Note: Vocational Rehabilitation procedures provide internal guidance for ACCES-VR staff only and create no procedural or substantive rights for any individual or group.

Table of Contents

- Description
- Assessment for Determining Eligibility
- Qualified Professional
- Supplemental Security Income (SSI) or Social Security Disability Insurance Benefits (SSDB)
- Criteria for Determining Eligibility
- Timeliness of Eligibility Determination
- Eligibility Outcomes
 - Eligibility Decisions
 - Ineligibility Procedure
 - Closures for Intervening Reasoning (Status 08)
- Written Documentation for the Determination of Eligibility

Description

ACCES-VR is required to make a determination that an applicant is eligible for vocational rehabilitation services. To the maximum extent possible, staff should rely on information provided by the individual or the referral source to reach this determination. If additional information is needed, ACCES-VR will provide appropriate assessment activities to obtain the necessary information to make the determination.

1. Residency. ACCES-VR can not establish any length of residency requirement that an individual must meet in order to be considered for services. That is, once the individual has established a presence in the state, that person can immediately apply for services, and their eligibility considered. All individuals are considered to be present in the State if they are available to receive services and obtain an employment outcome. An exception to this would be individuals who are present in the State for the sole purpose of obtaining a post-secondary education. They will have established a presence in the state when they are ready to seek placement services in New York State to obtain an employment outcome and do not have an open vocational rehabilitation case in another state.
2. Citizenship. Individuals who are not United States citizens, and want to be considered applicants for ACCES-VR services, must provide the District Office with a copy of a work permit or letter from the United States Department of Immigration and Naturalization Services (INS). This document must clearly provide current permission for the individual to reside in the United States and have the legal right to work in the United States long enough to achieve an employment outcome. Staff

should recommend to persons without permission to work in the United States that they seek the legal right to work in the United States through the INS office prior to applying for services.

Assessment for Determining Eligibility

1. The ACCES-VR Counselor has the sole responsibility to apply professional judgment for determination of eligibility. Individuals with disabilities and their representatives will be involved throughout the eligibility determination process.
2. If the individual is a former consumer, closed in Status 26, the first consideration is to determine if the individual should be served under a plan for post employment services.
3. The basis for eligibility determination must be documented in the case record. This can be accomplished through referral records, or documentation provided by the individual directly.
4. When non-documented information is received directly from the individual or other authoritative sources, and when counselor observation and professional opinion confirms this information, it is to be recorded in the **Information for Certification of Eligibility** or the **Information for Certification of Ineligibility Case Note**. Describing this information in the case note will provide the basis for the eligibility decision, as it will otherwise not be contained in the record of services. While Standard Language Phrases do not currently exist to describe these individual circumstances, the information can be entered in the appropriate header through free text.
5. Documentation that is available in previously closed cases can be used to determine the individual's eligibility to the extent that it is descriptive of the individual's current condition. The documentation should be copied and placed in the newly opened case.
6. When additional information is needed the counselor should first obtain the needed information from:
 - A. The applicant
 - B. The referral agency
 - C. Other parties
7. Additional information should be obtained only when existing information is insufficient to make an eligibility determination.
8. Necessary assessments may be purchased, once the case is moved to status 02. Documentation in the record of services will need to provide a justification for the additional assessment, and record how the individual was involved in deciding what assessments are needed to complete documentation for eligibility determination. The **Non-IPE Services Case Note** can be used to record this information.
9. Some individuals may have a dual diagnosis. Each impairment is considered equally significant, and must be documented but only one impairment may be coded as a primary impairment.
10. A determination of eligibility is not a guarantee of the provision of any particular service or of ACCES-VR financial support.

Qualified Professional

1. The ACCES-VR counselor makes a determination that a physical or mental impairment exists primarily through the review of existing information and reports. Counselors may utilize reports from medical and other diagnosticians, educational sources, therapists, and other professionals who evaluate and report on functional limitations but are not diagnosticians. When the counselor feels sufficient information is not available to make a decision regarding the presence of an impairment, further assessments may be authorized. **(See Revision to Eligibility Policies and Procedures - August 1, 2002.)**
2. Determination if the impairment is a substantial impediment to the individual's employment, may only be provided by a ACCES-VR counselor or a non-ACCES-VR Rehabilitation Counseling Professional who has or is eligible to obtain certification as a Certified Rehabilitation Counselor (CRC).
3. As to the determination of whether the applicant can benefit from services in terms of an employment outcome, it is presumed by ACCES-VR that all individuals can benefit from services.
4. The decision of whether or not the individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the individual's employment factors can only be made by the ACCES-VR counselor.

Supplemental Security Income (SSI) or Social Security Disability Insurance Benefits (SSDB)

1. SSI/SSDB recipients are presumed to be eligible with at least a significant disability. The only exception to the presumption of eligibility is if the ACCES-VR counselor demonstrates by clear and convincing evidence that the person cannot benefit from an employment outcome because of the severity of the individual's disability. Acquiring documentation regarding the individual's impairment(s) must not delay the eligibility determination even if it may be critical for vocational planning purposes and IPE Development. This includes not delaying the eligibility determination in order to confirm with documentation the nature of the primary disability. For data folder purposes, the referral disability is to be used as the primary disability in instances where documentation of disability is not immediately available.
2. Individuals who are employed and receive Medicaid benefits as the result of 1619b will be regarded as SSI eligible, for as long as they maintain Medicaid benefits. This means that they are presumed to be eligible for ACCES-VR services in the same way as individuals receiving SSI/SSDI monthly payments. Since they are employed (otherwise they would have resumed monthly SSI payments), then it is extremely unlikely that a Trial Work Experience will be appropriate. As individuals engaged in employment at the time of application, there would not appear to be in most cases the need for a TWE to demonstrate whether they can achieve an employment outcome. Since 1619b benefits are not time-limited, these individuals will have access to ACCES-VR services for an extended and indefinite period of time after they have obtained employment.

3. Recipients of SSI/SSDB will need to present current proof of benefits such as an award letter or a "Ticket to Work", issued by the Social Security Administration. Anyone who was previously receiving SSI cash benefits and now has 1619b status can verify their status by asking a SSA claims representative to check the "SSID Query" on SSA's computers to get written verification of 1619b status. For all SSA beneficiaries, the Social Security Administration (SSA) provides a Social Security Benefit Statement (Form SSA-1099) for each tax year. The benefit statements are mailed out by January 31 of each year and show the amount of Social Security benefits. This can also be used for verification. If the consumer does not have verification information, ACCES-VR staff may request that the consumer call the SSA 800 number (1-800-772-1213) to request a current statement of benefits or ACCES-VR staff may immediately make a written request to the SSA. The consumer should receive a statement within several days. ACCES-VR staff will request that individual forward the statement to ACCES-VR so that SSDI/SSI status can be verified. This verification must be made within a reasonable period of time so that eligibility for vocational rehabilitation services may be made within 60 days of the application for services. In instances where the individual, by reason of disability, is unable to independently verify SSI/SSDI status or has reported problems in communicating with SSA, ACCES-VR staff should take the initiative and seek to verify SSI/SSDI status directly with SSA. District Offices can use the Verification of Public Assistance standard letter in CaMS for this process or a form letter that the District Office may have developed with the local SSA Office.
4. In certain instances, an individual may present documentation that would satisfy the information required on the **Information for Certification of Eligibility Case Note**. When this documentation is provided to ACCES-VR in advance of verification of SSI/SSDB status, this eligibility case note should be used and the decision should not be delayed to wait for Social Security verification. Otherwise, the **Information for Certification of Eligibility Case Note-SSI/SSDB**, which is designed to contain just that information needed for SSI/SSDI recipients, should be used.

Criteria for Determining Eligibility

1. Physical or Mental Impairment. Eligibility is determined on the basis that the individual has a permanent and/or progressive impairment with accompanying functional limitations. One of the following two conditions must be documented:
 - A. The individual has any physiological disorder or condition, cosmetic disfigurement, or anatomical loss; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
 - B. The individual has a progressive condition that does not presently limit functioning, but there is a strong likelihood that functional limitations will exist during the person's vocational rehabilitation program. These limitations will relate to functioning in employment.
 - C. The statement of impairment is recorded in the **Impairment** header of the Information for **Certification of Eligibility Case Note**. CaMS provides the opportunity to import the primary and secondary impairment(s) directly from

the Data Folder into the case note header **Impairment(s)** through the use of Standard Language phrases.

2. Impediment To Employment

- A. An impediment to employment affects vocational functioning and activities. It is recorded in the **Functional Limitations/Impediments to Employment** header of the **Information for Certification of Eligibility Case Note**. The case note needs to identify the functional limitations and restrictions that prevent or make difficult preparing for, securing, retaining, regaining or advancing in employment consistent with the individual's employment factors.
- B. There are Standard Language Phrases that are available that may be used or these impediments/functional limitations can be added into the case note through free text. These Standard Language Phrases provide a great deal of specificity in terms of the impediments/functional limitations experienced by the individual. Incorporating these detailed statements in the header sets up information for the **Referral Case Note**, and **Referral Form** and therefore has value beyond the eligibility case note itself. It is acceptable, however, to complete this header in the eligibility case note, by use of the General Capacities and references to the documentation on which the selection of the particular capacity is based. By way of example, the text could read:
"Cognition, as described in the Psychological Exam Report, dated March 1, 2002; Mobility, as described in the Orthopedic Exam Report, dated April 12, 2002."
- C. Individuals who have acquired vocational skills through previous education, training and work experience, as well as those in employment at the time of application may be found to meet the impediment criteria when their impairment and functional limitations serve to hinder the individual in preparing for, securing, retaining, or regaining employment consistent with their employment factors. As a general guideline, examples of such persons who may be eligible for services who are employed could include those currently working in a job that:
 - i. provides long-term extended employment in a non-integrated setting and the individual is interested in and capable of working in an integrated setting either with or without supports; or
 - ii. requires skills that are significantly below the abilities of the individual as demonstrated by objective measures such as academic achievement, evaluations, work site assessments, work or volunteer experience.

3. Benefit From Services

- A. The counselor begins the eligibility process with the presumption that all persons can benefit from vocational rehabilitation services in terms of an employment outcome.
- B. If, in the counselor's judgment, based upon currently available information, there is a strong likelihood that the individual will not be able to benefit from vocational rehabilitation services in achieving an employment outcome due to the severity of the individual's disability, a Trial Work Experience (TWE) or Extended Evaluation is required and the case should be placed in status 06. Status 06 can not be used for any other purpose.

- C. A determination that a person is ineligible due to the inability to benefit from services requires clear and convincing evidence. Clear and convincing evidence means to have a high degree of certainty before the conclusion is reached that an individual is unable to benefit from services to achieve an employment outcome. Evidence is considered clear and convincing when a TWE has been done and there is a report from an individual skilled in assessing work performance and the ACCES-VR Counselor concurs with the findings.
- D. When in the judgement of the ACCES-VR Counselor, the individual can not participate in a TWE, an extended evaluation must be done and the conclusion reached upon completion of the evaluation must be documented by at least two professionals with which the ACCES-VR Counselor concurs. The record of services must clearly demonstrate that a Trial Work Experience was considered, and state the reasons for using Extended Evaluation in its stead.
- E. Both Trial Work Experience (TWE) and Extended Evaluation have the limited purpose of demonstrating whether or not the person can benefit from vocational rehabilitation services.
- i. The decision to place an applicant into TWE or Extended Evaluation can be based on information provided by referral agencies, treatment agencies, records of previous ACCES-VR services, school records or other sources, or the individual's affect or behavior during counseling meetings.
 - ii. An individualized TWE must occur in the most integrated setting that is consistent with the individual's employment factors. This may include work in an employer-based work setting or a Community Rehabilitation Program.
 - iii. During the TWE period, the individual is performing actual work in order to explore the individual's abilities, capabilities, concerns, interest and capacities to perform in a work setting. The TWE will provide services and a variety of experiences that are intended to demonstrate whether the individual can benefit from vocational rehabilitation services and the support services that will assist the individual in terms of achieving an employment outcome. . The ACCES-VR Counselor must consider support services, rehabilitation technology, situational assessment, job coaching, etc. that would allow the individual to benefit from the experience.
 - iv. The TWE should last only until it may be demonstrated the applicant can or cannot benefit from vocational rehabilitation services. As a guideline, this will generally be no more than 16 weeks. The individual's progress must be reviewed every 4 weeks. When a service provider has agreed to monitor the individual's progress and to provide supports in the work place, the assessment of progress can be provided in an interim written report, electronically or by phone, as agreed to by the ACCES-VR Counselor and provider. The counselor must record any reports provided orally in the record of services, usually in the **Chronological Case History/Important Events Case Note** using the header most descriptive

of the information provided. Adding headers to other case notes is also acceptable.

- v. A final written report from the provider must be submitted for the record of services.
 - vi. Use Situational Assessment (case service code 180) when providing TWE. Supported employment contracts can not be used for TWE.
 - vii. An extended evaluation should be provided only if, as a result of the severity of the individual's disability, the ACCES-VR Counselor determines that is not appropriate to participate in a TWE. The extended evaluation should last only until it may be demonstrated the applicant can or cannot benefit from vocational rehabilitation services, generally no more the 18 months. A review of the applicant's status should be done at least every 90 days.
 - viii. The Written Plan for Trial Work Experience/Extended Evaluation will record the plan and timetable. This case note must describe the method in which the TWE will be accomplished and include at a minimum the
 - a. duration of the trial work experience,
 - b. services that are involved, and
 - c. information needed to make a determination of eligibility or ineligibility.
4. Requirement of Services
- A. The last criterion is the requirement of services. The decision regarding whether services are required; what services are required; and why the services are required is based on the assessment of the ACCES-VR counselor.
 - B. Factors, such as education, current employment work history, motivation, vocational counseling issues, employer resistance, employment opportunities, responsibility of other agencies, transferable skills, availability of comparable benefits that substantiate the answer to this question.
 - C. The record of services will need to contain documentation to support this decision.
 - i. The **Information for Certification of Eligibility Case Note** has the **Requirement of Services** header to record why the individual will need vocational rehabilitation services to achieve his/her employment outcome.
 - ii. Whether services are required is not always apparent. Consider factors, such as education, employment work history, motivation, vocational counseling issues, employer resistance, employment opportunities, responsibility of other agencies, reasonable accommodations, skills, availability of comparable benefits.
 - iii. Individuals who are currently employed and/or have transferable skills may require ACCES-VR services in order to achieve an appropriate employment outcome consistent with their employment factors. These individuals may require assistance in identifying employment opportunities that they can access with their transferable skills, and may need assistance in obtaining employment and negotiating reasonable accommodations with employers. Their skills may need to be increased or

updated in order to compete successfully with other job seekers. They may require assistance in accessing services through other agencies in order to become successfully employed.

- iv. Addressing the employment factors associated with individuals who are currently employed may aid in the eligibility determination process. The relevant factors should be recorded in the **Requirement of Services** header.

Timeliness of Eligibility Determination

Eligibility determination must be completed within sixty days of the time that the individual is considered to be an applicant for services (enters status 02).

1. At the time that the individual is considered to be an applicant, the individual will have provided available information necessary to initiate the assessment process. If this information is sufficient for eligibility, the eligibility case note should be completed as quickly as possible and the case will then move to status 10.
2. In the event that this information is insufficient, a strategy should be developed with the individual that will result in obtaining the required information within the sixty-day period.
3. If it becomes evident due to exceptional and unforeseen circumstances during the eligibility determination process that the 60-day timeframe will be exceeded, District Office staff should negotiate an extension with the individual. The case should be placed in Status 07, Pending Eligibility. The agreement with the individual must be documented using the Pending Eligibility Case Note, and the consumer notified by use of the **Status 07 Letter**.

Eligibility Outcomes

Eligibility Decisions

1. Eligible - sufficient information and documentation exists to determine eligibility and the **Information for Certification of Eligibility Case Note** is completed. The individual is then notified of the eligibility decision via the **Eligibility Letter (ELILTR)** and planning for services continues.
2. Ineligible (08) - One or more of the following must apply.
 - A. There is no impairment. This reason for ineligibility can not be used if the individual is a recipient of SSI or SSDB.
 - B. There is no impediment to employment. This reason for ineligibility can not be used if the individual is a recipient of SSI or SSDB.
 - C. The Trial Work Experience results in clear and convincing evidence that the individual cannot benefit from vocational rehabilitation services in terms of achieving an employment outcome, a determination of ineligibility should be made. The Case Note: Information for Certification of Ineligibility is completed and the individual and the referral source are notified of the decision. This can be the only reason for ineligibility for a recipient of SSI or SSDB.
 - D. The individual does not require services. This reason for ineligibility can not be used if the individual is a recipient of SSI or SSDB.

Ineligibility Procedure

1. After fully consulting with the individual in which each factor of eligibility is discussed and the individual is advised on which factors the determination of ineligibility is based and why, the counselor completes the appropriate sections of the **Information for Certification of Ineligibility Case Note**.
2. The counselor must notify the individual of the decision in writing using the **Ineligibility Notification to Consumer Letter (Elineltr)** or by other means if the individual can not understand written language. At the same time, the individual must be informed of his or her right to due process including administrative review, mediation, and/or an impartial hearing. The individual is also informed of the availability of services from the Client Assistance Program and provided information on the nearest Independent Living Center.
3. The counselor must notify the referral source of the decision of ineligibility, with a copy of the ineligibility letter, when this has been agreed to as part of the procedures for information exchange.
4. For all individuals determined to be ineligible a referral is to be made to other training or employment-related programs that are part of the One-Stop service delivery system under the Workforce Investment Act.

Closures for Intervening Reasoning (Status 08)

1. In cases where the individual does not require ACCES-VR services because they have chosen to work in a non-integrated setting or they are incapable of working in an integrated setting due to the significance of the individual's disability a referral to a local extended employment provider is to be made.
2. The reason for closure for individuals who choose to pursue an extended employment outcome rather than employment in an integrated setting is that they have become clients of a different agency.
3. The individual is to be notified of closure with the **Notification to Consumer of Status 08 Closure Letter (C08LTR)**.

Written Documentation for the Determination of Eligibility

1. The **Information for Certification of Eligibility Case Note** is to be used at the time that the eligibility decision is made to record the determination. There are two eligibility case notes, one for SSI/SSDB recipients, and one for all others.
2. The **Information for Certification of Eligibility Case Note-SSI/SSDB** is to be used for SSI/SSDB recipients. In this case note, statements of the impairment, impediments/functional limitations and requirement of services are not required, and eligibility determination must not be delayed to secure documentation of this information. The information for eligibility that is required can be summarized in the **SSI/SSDB** Verify header alone. The **Rehabilitation Technology** and the **Impact on Financial Benefits** headers are not mandatory headers, and should only be used if there is no delay in completing eligibility determination.
3. After the eligibility determination has been made any additional information that is received and impacts eligibility must be recorded in a case note, usually the

Chronological Case Note, by adding the appropriate header(s): **Impairment, or Functional Limitations/Impediments**. This is required because the eligibility case note can not be accessed once eligibility has been established. Additionally, the newly acquired information may require an updated designation of the significance of disability.

4. The data folder must be updated for primary and secondary impairment if there is any change based on this additional information.

Related Memos:

- 08/01/2002 - Revision to Eligibility Policies and Procedures
- 05/28/04 – Memo on Presumptive Eligibility for Persons Receiving SSI/SSDI
- 01/30/09 - Memo on Clarification on the Definition of an Application and When an Individual is Placed in Status 02 and Revised Eligibility Policy 202.00