IDAPA 15 – OFFICE OF THE GOVERNOR

IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.01 – Rules Governing the Rehabilitation Programs

Who does this rule apply to?
All individuals who apply for and are receiving services in the Vocational Rehabilitation Program, Independent Living Program, and Prevention of Blindness and Sight Restoration program.

What is the purpose of this rule?
This rule governs the administration of the Vocational Rehabilitation, Independent Living, and Prevention of Blindness and Sight Restoration programs.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

State Government and State Affairs -
Commission for the Blind and Visually Impaired:

- Section 67-5407, Idaho Code - Duties
- Section 67-5408, Idaho Code - Commission as Agency to Administer Rehabilitation in Federal Programs

Who do I contact for more information on this rule?

Idaho Commission for the Blind and Visually Impaired
341 W. Washington Street
Boise, ID 83720-0012

P.O. Box 83720
Boise, ID 83720-0012
Phone: (208) 334-3220
Fax: (208) 334-2963
Email: mike.walsh@icbvi.idaho.gov
Web: https://icbvi.idaho.gov

This rule chapter will be reviewed in compliance with Section 67-5292, Idaho Code, and in accordance with the 8-year rule review schedule linked here.

Table of Contents

IDAPA 15 – OFFICE OF THE GOVERNOR
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15.02.01 – Rules Governing the Rehabilitation Programs

000. Legal Authority. 3
001. Scope. 3
002. Incorporation By Reference. 3
003. – 009. (Reserved) 3
010. Definitions. 3
011. – 099. (Reserved) 4

SUBCHAPTER A – VOCATIONAL REHABILITATION SERVICES

100. Information, Referral, And Application For VR Services. 4
101. Eligibility. 4
102. Comparable Benefits. 4
103. Purchasing Requirements. 4
104. Purchasing Standards. 5
105. – 149. (Reserved) 5
150. Client Appeals. 5
151. Order Of Selection. 5
152. – 199. (Reserved) 6

SUBCHAPTER B – INDEPENDENT LIVING PROGRAM

200. Provision Of Services On A Statewide Basis And Application. 6
201. Eligibility. 6
202. Independent Living Plan. 6
203. Purchasing Standards And Requirements. 6
204. – 299. (Reserved) 6

SUBCHAPTER C – THE PREVENTION OF BLINDNESS AND SIGHT RESTORATION PROGRAM

300. Provision Of Services On A Statewide Basis. 6
301. Eligibility. 7
302. – 349. (Reserved) 7
350. Payment For Necessary Expenses. 7
351. – 999. (Reserved) 7

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.01 – RULES GOVERNING THE REHABILITATION PROGRAMS

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Sections 67-5407 and 67-5408, Idaho Code. (3-31-22)

001. SCOPE.
The provisions of these rules establish procedures, requirements, and implement program changes necessitated by the Rehabilitation Act of 1973, as amended, which address the provisions of vocational rehabilitation services to the blind and visually impaired population of Idaho. These rules also establish the procedure and practice requirements governing the provision of services under the Independent Living Program. These rules also include the procedure and practice requirements governing the provision of services under the Prevention of Blindness and Sight Restoration Program. (3-31-22)

002. INCORPORATION BY REFERENCE.
The following federal laws and regulations are incorporated by reference into the rules of this chapter and copies are available at the Commission's office: (3-31-22)

01. 29 U.S.C. Section 701, et seq., Rehabilitation Act of 1973 as amended through Public Law 114-95, enacted December 10, 2015. (3-31-22)

02. 34 CFR 361, 363, 364, 367 and 397. (3-31-22)

03. Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128, enacted July 22, 2014. (3-31-22)

003. – 009. (RESERVED)

010. DEFINITIONS.

01. Blind or Visually Impaired. A person whose visual acuity with correcting lenses is not better than twenty/two hundred (20/200) in the better eye; or a person whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees; or a person who is functionally blind; or a person who is without any sight. (3-31-22)

02. Commission. Idaho Commission for the Blind and Visually Impaired. (3-31-22)

03. Comparable Benefits and Services. Any benefit or service that exists under any other programs that is available to the client. Examples are, but not limited to, Medicaid, Medicare, private health insurance, and medical indigence programs for medication. (3-31-22)

04. Functionally Blind. A person with a visual impairment that constitutes or results in a substantial impediment to employment or substantially limits one (1) or more major life activities. This is determined by a qualified, rehabilitation professional, not a physician. (3-31-22)

05. Immediate Danger of Blindness. The status of an individual or client who is in danger of becoming blind or visually impaired within two (2) years. (3-31-22)

06. Independent Living Services. Services that reduce the impact of functional limitations on the ability of a client to achieve independence in the home or community. (3-31-22)

07. Most Significant Disability. Meets the criteria as Significant Disability as found in the Rehabilitation Act of 1973, as amended, and defined in 34 CFR 361.5(c)(29), and is further defined as: Having a severe physical, mental, cognitive, or sensory impairment that seriously limits four (4) 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, and whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time. (3-31-22)

08. Prevention of Blindness and Sight Restoration Services. Treatment or surgery to prevent

blindness or restore vision to clients without financial resources to procure such services for themselves. (3-31-22)

09. Vocational Rehabilitation (VR) Service or Services. Services that reduce the impact of functional limitations on the ability of a client to achieve an employment outcome and are offered on a statewide basis to individuals who are blind or visually impaired or functionally blind, subject to eligibility. (3-31-22)

011. – 099. (RESERVED)

SUBCHAPTER A – VOCATIONAL REHABILITATION SERVICES
(Rules 100 Through 199)

100. INFORMATION, REFERRAL, AND APPLICATION FOR VR SERVICES.
Any person or entity may refer an individual to the Commission for services. (3-31-22)

01. Contact by the Commission. Each referred individual must be seen or contacted by Commission staff within three (3) working days of the referral's receipt by scheduling an initial appointment, or documentation in a case note of telephone contact or email contact. Staff will inform the referral of application requirements and information necessary to initiate an assessment for determining eligibility. (3-31-22)

02. Right to Apply. All individuals have the right to apply for VR Services and to have a decision made regarding their eligibility for such services. (3-31-22)

03. Availability and Residence Requirements. Individuals must be available and legally permitted to join the labor market prior to eligibility determination. Residence requirements will not exclude any individual present in the state from vocational rehabilitation services. Individuals must have legal status in the United States and be authorized to work. (3-31-22)

04. Work Status and Identity Documentation. Documents that establish work status (employment eligibility) and identity must be consistent with Form I-9, Immigration and Naturalization Services (Form I-9, Employment Eligibility Verification). (3-31-22)

101. ELIGIBILITY.

01. Eligibility Requirements. Eligibility of a client for vocational rehabilitation services is based upon a determination that: (3-31-22)

a. The client is blind or visually impaired; (3-31-22)

b. The client's blindness or visual impairment constitutes or results in a substantial impediment to employment; and (3-31-22)

c. There is a reasonable expectation that vocational rehabilitation services will benefit the client in terms of securing, retaining, or regaining employment. (3-31-22)

d. The client has a disability priority which can include no significant disability (D), significant disability (SD), or most significant disability (MSD). (3-31-22)

102. COMPARABLE BENEFITS.
Eligible clients are to identify and use all available comparable benefits that may be available during the development of the Individualized Plan for Employment. Services that are exempt from this requirement are identified in 34 CFR 361.53(b). (3-31-22)

103. PURCHASING REQUIREMENTS.
All services and purchases will follow federal, state, and agency purchasing guidelines. Client services require written Authorization for Purchase (AFP) prior to the initiation of the purchased service. An authorization will be issued on or before the beginning date of service. If services are provided without an approved authorization, the Commission reserves the right to deny the vendor's invoice. (3-31-22)

104. PURCHASING STANDARDS.

The Commission pays usual, customary, and reasonable charges for services. In accordance with 34 CFR 361.50, the Commission has established a fee schedule for client services and levels of purchasing authority for Counselors. Exceptions to the upper limits established in the fee schedule need to be approved by the Rehabilitation Services Chief. Services that will meet the client's need at the least cost to the Commission will be the service considered for planning purposes. (3-31-22)

105. – 149. (RESERVED)

150. CLIENT APPEALS.

01. Informal Dispute Resolution. Within fifteen (15) calendar days of notification of the contested action, lack of action or decision, the client may make a written request to the Rehabilitation Services Chief that an informal dispute resolution be held, stating the reason for the review. (3-31-22)

a. The Rehabilitation Services Chief will inform the client in writing as to the time, place, and date of the informal dispute resolution. The client may choose to represent himself or may have a representative speak on his behalf. (3-31-22)

b. The Rehabilitation Services Chief will make a decision regarding the specifics of the informal dispute resolution. This decision will be in written form, and it will be sent to the client. (3-31-22)

02. Mediation. The request will be made in writing to the Rehabilitation Services Chief stating the reason for the review. The mediation must take place within sixty (60) days of client's request. (3-31-22)

03. Impartial Due Process Hearing. An impartial due process hearing can be held without an informal dispute resolution or mediation or if the client is dissatisfied with the result of the informal dispute resolution or mediation. The impartial due process hearing will deal with the issues involved in the original informal dispute resolution or mediation if one took place. The request for an impartial due process hearing will be made in writing to the Administrator within fifteen (15) calendar days of the Rehabilitation Services Chief's decision from the informal dispute resolution or the mediation proceedings. The hearing by an impartial hearing officer must be held within sixty (60) days of a request by the client unless both parties agree to a specified delay. (3-31-22)

151. ORDER OF SELECTION.

01. Prioritizing Services. In the event that the Commission lacks the personnel or financial resources to provide the full range of services to all eligible individuals, the following Order of Selection (OOS) will be used to prioritize service provisions. Students with disabilities, as defined by 34 CFR 361.5(c)(51), who received pre-employment transition services prior to eligibility determination and assignment to a priority category will continue to receive such services. All clients who have an Individualized Plan for Employment will continue to be served. Priority will be given to eligible individuals as follows: (3-31-22)

a. Priority 1. Eligible individuals with the Most Significant Disabilities. (3-31-22)

b. Priority 2. Eligible individuals with Significant Disabilities. (3-31-22)

c. Priority 3. All other eligible individuals with Disabilities. (3-31-22)

02. Inability to Serve. If the Commission cannot serve all eligible individuals within a priority category, individuals will be released from the statewide waitlist based on priority category and date of application. (3-31-22)

03. Exemption. Employed individuals, who are eligible for VR services and require immediate equipment or services to maintain their employment, are exempt from the OOS policy, as authorized in the Rehabilitation Act, as amended by WIOA, 34 CFR 361.36(a)(3)(v). (3-31-22)

152. – 199. (RESERVED)

SUBCHAPTER B – INDEPENDENT LIVING PROGRAM
(Rules 200 Through 299)

200. PROVISION OF SERVICES ON A STATEWIDE BASIS AND APPLICATION.

01. Services. Independent Living Services are offered on a statewide basis to eligible individuals who are blind or visually impaired. (3-31-22)

02. Application. To apply for Independent Living Services, an individual must meet with a Rehabilitation Teacher and complete an application for Independent Living Services. An individual is considered to have applied for Independent Living Services with the Commission when that individual has signed an application for Independent Living Services, including completion and signature of required forms relating to independent living rights and responsibilities and to the release and exchange of information. (3-31-22)

201. ELIGIBILITY.
Eligibility of a client for Independent Living Services is based upon a determination that: (3-31-22)

01. Blind or Visually Impaired. The client is blind or visually impaired; (3-31-22)

02. Ability to Function. The client's blindness or visual impairment substantially limits the client's ability to function in the family or community; (3-31-22)

03. Result of Services. Provision of Independent Living Services will improve the client's ability to function, continue functioning, or move toward functioning independently in the family or community; and(3-31-22)

04. Residency. The client is a resident of the state of Idaho. (3-31-22)

202. INDEPENDENT LIVING PLAN.

01. Plan Development. For those clients determined eligible for Independent Living Services, an Independent Living Plan will be jointly developed by the client and a Rehabilitation Teacher, unless waived by the client in writing. (3-31-22)

02. Plan Contents. The plan will include the Independent Living goals and objectives, Independent Living Services to be provided, including start and end dates, costs, comparable benefits and services, client financial participation and any other elements deemed necessary by the Rehabilitation Teacher. (3-31-22)

203. PURCHASING STANDARDS AND REQUIREMENTS.
There is no fee assessed for Independent Living Services provided to the client by the Rehabilitation Teacher. However, where the provision of Independent Living Services includes the purchase of aids, appliances, assistive technology, computer hardware and software, and other purchased services or devices, the client's ability to pay will be taken into consideration with the expectation that the client will contribute toward or pay for the required service. The Commission will expend no more than five hundred dollars ($500) per client. Any exceptions to this rule are only granted upon review and approval of the Independent Living Coordinator. All purchases will follow federal, state, and agency purchasing guidelines. (3-31-22)

204. – 299. (RESERVED)

SUBCHAPTER C – THE PREVENTION OF BLINDNESS AND SIGHT RESTORATION PROGRAM
(Rules 300 Through 999)

300. PROVISION OF SERVICES ON A STATEWIDE BASIS.
Prevention of Blindness and Sight Restoration Services are offered on a statewide basis to individuals who are Blind or Visually Impaired or who are in immediate danger of Blindness, subject to eligibility and available funding. To

apply, individuals must meet with a vocational rehabilitation assistant from the Commission to complete and sign an application. (3-31-22)

301. ELIGIBILITY.
Eligibility of a client for Prevention of Blindness and Sight Restoration Services is based upon a determination by the Commission that a client is blind or visually impaired, functionally blind, or in immediate danger of blindness and that the client is without financial resources to procure services for themselves. Clients must also meet the following requirements: (3-31-22)

01. Demonstration of Financial Need. Only clients without financial resources to procure Services for themselves are eligible for Prevention of Blindness and Sight Restoration Services. Clients will undergo a financial needs assessment with Commission staff to determine whether financial eligibility requirements are met. (3-31-22)

02. Residency Requirements. In order to be eligible for Prevention of Blindness and Sight Restoration Services, a client must demonstrate the following residency requirements: (3-31-22)

a. If client is not a United States citizen, client must provide proof of their legal presence as a registered alien in the United States. (3-31-22)

b. Residence in the state of Idaho for a minimum of six (6) months; and (3-31-22)

c. Presence in the state of Idaho at the time of provision of Prevention of Blindness and Sight Restoration Services. (3-31-22)

302. – 349. (RESERVED)

350. PAYMENT FOR NECESSARY EXPENSES.
The Commission's payment of necessary expenses associated with provision of Prevention of Blindness and Sight Restoration Services to eligible clients is subject to availability of funds during any single state fiscal year. In the event available funds for Prevention of Blindness and Sight Restoration Services are exhausted prior to the end of any single state fiscal year, eligible clients are placed on a waiting list until such time as funding is available to resume Prevention of Blindness and Sight Restoration Services. (3-31-22)

01. Upper Limits. The Commission will pay no more than five thousand dollars ($5,000) per eligible client for necessary expenses incurred for Prevention of Blindness and Sight Restoration Services during each eligible client's lifetime participation in the Blind Prevention and Sight Restoration Program. (3-31-22)

02. Comparable Benefits and Services. Eligible clients must apply for and secure any comparable benefits and services which shall be applied towards payment of necessary expenses incurred for Prevention of Blindness and Sight Restoration Services before any expenditure of Commission funds. (3-31-22)

03. Exceptions. Any exceptions to the individual lifetime limit per eligible client set forth in Subsection 350.01 of these rules are only granted upon approval of the Independent Living Coordinator. (3-31-22)

351. – 999. (RESERVED)