

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

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

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**1240-08-04-.01 REFERRAL AND APPLICATION FOR VR SERVICES.**

- (1) The VR Program will receive referrals of individuals from any source and by any means, including individuals who believe they may be eligible for VR services. The referral source must provide appropriate contact information.
- (2) An individual is considered to have submitted an application when the individual or, as appropriate, the individual's representative:
  - (a) Has completed an agency application form;
  - (b) Has completed a common intake application form in a one-stop center requesting VR services; or
  - (c) Has otherwise requested services from VR;
  - (d) Has provided to VR information necessary to initiate an assessment to determine eligibility and priority for services; and
  - (e) Is available in the State to complete the application process.
- (3) VR must make application information widely available throughout the State, including one-stop centers under section 121 of the Workforce Innovation and Opportunity Act.
- (4) An individual's residence may be in an adjoining state. If the individual is receiving services from the VR program in the adjoining state, the VR Counselor must contact the individual's VR Counselor in that state to coordinate services to prevent duplication of services.
- (5) Individuals seeking VR services who are minors (under 18 years of age) and who are legally emancipated from their parents or guardians must provide appropriate court documentation.
- (6) Individuals applying for services must be eligible to work in the United States. An applicant who cannot be identified as a natural citizen must provide an unexpired credential of eligibility to work on the United States. Credentials may include Permanent Resident Card (I-551), U.S. Citizen ID Card (I-197), Employment Authorization Document that contains a photograph of the individual (I-766), or Identification Card for Use of Resident Citizen in the United States (I-179). An I-9 work visa may be determined acceptable when warranted for the type of employment objective.

(Rule 1240-08-04-.01, continued)

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.30 and 361.41; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rules filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.

#### **1240-08-04-.02 ELIGIBILITY AND DISABILITY PRIORITY.**

- (1) Following completion of the application process in Rule 1240-08-04-.01, an eligibility determination must be made within 60 days, unless:
  - (a) Exceptional and unforeseen circumstances beyond the control of VR preclude making an eligibility determination within 60 days and VR and the individual agree to a specific extension of time; or
  - (b) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out through trial work experiences in accordance with VR requirements.
- (2) An individual is eligible for VR services when the individual meets the basic requirements for eligibility and whose disability priority has been determined to be in an open priority category in accordance with Rule 1240-08-05-.01.
- (3) The basic requirements for eligibility are:
  - (a) The individual has a physical, cognitive, mental, or sensory impairment that constitutes or results in a substantial impediment to employment;
  - (b) The individual requires VR services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and
  - (c) The individual can benefit in terms of an employment outcome from the provision of VR services.
- (4) Disability priority is based on the federal definition of an individual with a significant disability in accordance with Rule 1240-08-05-.01. Each individual who meets the basic requirements for eligibility will be placed into the highest disability priority category in accordance with Rule 1240-08-05-.01.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 49-11-604(b), 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.5 and 361.36; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rules filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.

#### **1240-08-04-.03 INDIVIDUALIZED PLAN FOR EMPLOYMENT.**

- (1) An Individualized Plan for Employment (IPE) is initiated for each eligible individual in an open priority category in a timely manner, but not later than 90 days after the date of determination of eligibility, unless VR and the eligible individual agree to the extension of that deadline to a specific date by which the IPE must be completed. VR services are provided in accordance with the approved IPE.

(Rule 1240-08-04-.03, continued)

- (2) The IPE is developed by the eligible individual or, as appropriate, the individual's representative, with assistance available, to the extent determined appropriate by the eligible individual, from the VR Counselor or through other technical assistance. A copy of the IPE will be provided to each individual, or, as appropriate, to the individual's representative.
- (3) The IPE must be designed to achieve a specific employment outcome that is selected by the individual that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, and that will result in competitive integrated employment. It is presumed that individuals with disabilities determined eligible for VR services are capable of working in competitive integrated employment until proven otherwise.
- (4) IPE development includes determining the extent of an individual's participation in the cost of services that require such participation in accordance with Rule 1240-08-05-.02.
- (5) For eligible students with disabilities, the IPE will include coordination with the goals, objectives and pre-employment transition services identified by the IDEA program determined necessary to contribute towards a projected post-school employment outcome and may be amended subsequently as necessary for services and an employment objective that will lead to competitive integrated employment. A student's IPE must be developed, signed, and approved before the student exits the school system.
- (6) An employment outcome must meet the requirements for competitive integrated employment and be consistent with the customer's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice and where the customer is compensated at or above the minimum wage and that the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by non-disabled individuals and services must have been provided under an IPE that contributed to the achievement of the employment outcome. An individual must maintain employment for ninety (90) days for a successful employment outcome and case closure in accordance with Rule 1240-08-04-.06.
- (7) An individual is responsible for following the terms identified in the IPE Participant Responsibilities.
- (8) The IPE must be reviewed annually to assess an individual's progress in achieving the identified employment outcome and may be amended when a change in services or service providers is warranted and approved by VR.
- (9) An individual may choose to not pursue competitive integrated employment. VR must provide an individual referral to community resources that may include extended (sheltered) employment where appropriate rehabilitation services may be provided by an entity other than VR. VR will close the case in accordance with Rule 1240-08-04-.06. An individual in extended (sheltered) employment may return to VR at any time to pursue competitive integrated employment.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 49-11-604(b), 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.5, 361.41, 361.42, 361.45, and 361.46; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rules filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.

**1240-08-04-.04 COUNSELING AND GUIDANCE, PERSON-CENTERED PRACTICES, AND REFERRAL SERVICES.**

- (1) The VR Program will provide counseling and guidance and person-centered practices for applicants and eligible individuals or, as appropriate, their representatives throughout the life of the case in order to facilitate informed choice and actively directing, planning, and participating in making decisions about VR services, supports, and employment outcomes.
- (2) Counseling and guidance is provided by the VR Counselor for each applicant and eligible individual or, as appropriate, the individual's representative through one-on-one discussions with the individual and by specific activities to facilitate the provision of services and achievement of competitive integrated employment and to assist the individual or, as appropriate, the individual's representatives to exercise informed choice.
- (3) Person-centered practices are provided for applicants and eligible individuals or, as appropriate, their representative to promote an ongoing person-oriented approach that empowers an individual or, as appropriate, the individual's representative to be actively involved in directing, planning, and participating in making decisions about the individual's VR program by focusing on the individual's unique strengths, abilities, capabilities, interests, personal choices, and informed choice.
- (4) Referral services are provided to direct an individual to other entities for assistance and/or services not available from VR that may contribute to achievement of an employment outcome.
- (5) The customer will be informed of his or her rights of appeal and how to contact a CAP representative in accordance with 1240-08-05-.06.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 49-11-604(b), 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.37, 361.41, 361.42, 361.43, and 361.48; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rules filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.

**1240-08-04-.05 VOCATIONAL REHABILITATION SERVICES.**

- (1) The provision of VR services and support needs is based on the vocational rehabilitation and support needs of applicants and eligible individuals consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, informed choice and VR policy and procedures as determined by an appropriate assessment conducted by the appropriate staff and identified in the individual's IPE.
- (2) VR services comprise diagnostic and assessment services necessary for the diagnosis of impairments and determining rehabilitation need, services that contribute to the achievement of competitive integrated employment, and support services that enable an eligible individual to participate in diagnostic and assessment and contributing services.
- (3) VR diagnostic and assessment, contributing, and support services must be provided in accordance with VR policies and procedures.
- (4) Prior to providing VR services, a determination must be made by VR as to the availability of comparable services and benefits in accordance with Rule 1240-08-05-.04 and the extent to which the comparable services or benefits can be utilized to provide or pay for the VR services.

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

- (5) The provision of VR contributing and support services, with the exception of support services provided during diagnostic services, may be subject to the financial need of the individual as determined by VR in accordance with Rule 1240-08-05-.03. Based on the financial need assessment, some individuals may be required to participate in the cost of VR services that are subject to financial need. Refer to Rule 1240-08-05-.03 for services that are not subject to financial need.
- (6) Except for diagnostic and assessment services and diagnostic and assessment support services, VR services must be provided under an IPE in accordance with Rule 1240-08-04-.03.
- (7) VR has established a fee schedule for individual purchases of goods and services. Fees are authorized for payment by VR in accordance with the rules, policies, and procedures of the State's Central Procurement Office, or in accordance with fees established by the Centers for Medicare and Medicaid Services.
- (8) Goods and services may be procured through approved vendors, a federal or state funded program, contracted pre-paid services, journal voucher for another state agency, in-house service, or direct purchase by an individual by reimbursement or advanced payment in accordance with VR requirements.
- (9) Price quotes in accordance with VR requirements are required prior to the purchase of tangible (material) items that exceed \$5,000.
- (10) Any goods or equipment purchased for a customer who later becomes unable to complete a training program or achieve an employment outcome must be returned by the customer to VR.
- (11) VR services must be provided by appropriately credentialed professionals or approved service providers in accordance with VR requirements.
- (12) Some VR services cannot be provided while a customer is not participating in VR services, such as during breaks between school terms or during summer vacations or while a customer is otherwise unable to participate.
- (13) The individual may be required to participate in testing, training or an evaluation prior to receiving VR services.
- (14) Diagnostic and assessment services are not subject to financial need and are based on individual need for determining eligibility and priority for services in accordance with Rule 1240-08-04-.02 and for IPE development in accordance with Rule 1240-08-04-.03. Diagnostic and assessment services are not provided under an IPE. Diagnostic and assessment services may be needed to diagnose physical, psychological, cognitive, neuropsychological, and sensory impairments, which includes disability-related examinations and testing when existing records do not adequately describe an individual's current condition and to assess rehabilitation need.
  - (a) Diagnostic services must be provided by appropriately credentialed professionals and may not be used as a means for identifying impairments that the individual does not report.
  - (b) Assessment services to determine rehabilitation need may be provided in accordance with VR requirements by a registered Community Rehabilitation Provider (CRP).

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

- (c) Financial assistance with transportation, temporary lodging, and meals necessary to participate in a diagnostic service may be provided, when justified, and is not subject to financial need.
- (15) Contributing VR services and service providers are based on individual need for achieving competitive integrated employment. Contributing VR services may be provided for physical and mental restoration, training, employment, supported and customized employment, self-employment, rehabilitation technology, students with disabilities, and other services developed by VR that have been determined necessary for an individual to achieve an employment outcome.
  - (a) Physical and mental restoration may be necessary to eliminate, reduce, or modify the effects of stable or slowly progressive physical or mental or emotional disorders so that an individual can return to previous work or achieve another employment outcome and includes corrective surgery or therapeutic treatment, nursing care, hospitalization, drugs and supplies, prosthetic and orthotic devices, eyeglasses and visual services, physical, occupational, and speech or hearing therapy, other medical or medically related services, and mental health services which includes therapy, medication, and treatment for substance use by voluntary referral to treatment services provided at no cost to VR.
    - 1. Physical and mental restoration services do not include services to prolong life, prevent premature death, alleviate pain, or reduce or prevent disease unless these services may be expected to lead to or contribute to an employment outcome.
    - 2. VR is not responsible for the treatment of conditions that are unrelated to the disability and the resulting impediment to employment.
    - 3. Physical and mental restoration services must be completed within a reasonable period of time and will not be provided for an extended period of time.
    - 4. Individuals who are able to return to previous work following physical and mental restoration services will not be provided post-secondary training for the purpose of changing jobs.
    - 5. VR may purchase prescribed medications recommended by the treating physician.
    - 6. Mental restoration services may include treatment for substance use by treatment programs licensed by the State. Treatment services must be paid through comparable services and benefits. VR will not pay for substance use treatment.
    - 7. Some contributing services for physical or mental restoration services must be prescribed by an appropriately credentialed professional.
  - (b) Training includes vocational and other training services, including personal and vocational adjustment training, advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business; except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other post-secondary education institution) may be paid for with VR funds unless maximum efforts have been made by VR and the individual to secure grant assistance in whole or in part from other sources to pay for that training.

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

1. Personal adjustment training is disability-related and is provided to train or adapt an individual in the use of personal and adaptive equipment and techniques for the purpose of participating in VR services and to secure and maintain employment.
2. Vocational adjustment training is provided to develop and maintain an individual's capacities necessary for achievement of an employment outcome.
3. A post-secondary training institution is approved for VR funding if the institution is:
  - (i) A state-operated vocational school, two-year community college, or four-year college or university located in any of the fifty (50) U.S. states;
  - (ii) Approved by the U.S. Department of Education to disburse Federal Aid (Pell grant, FSEOG, etc.);
  - (iii) Accredited by an accrediting association recognized by the Federal Department of Education;
  - (iv) Registered with the State's Higher Education Commission;
  - (v) Licensed by the appropriate State licensing agency; or
  - (vi) Approved by VR.
4. Post-secondary, graduate, and post-graduate training services may be provided based on the individual's aptitudes, abilities, capabilities, interests and work experience and the entry education level for the approved specific employment outcome. The continuing provision of post-secondary, graduate, and post-graduate training services must be based on a review of the individual's progress and participation in services.
5. VR may not sponsor individuals in undergraduate, graduate, or post-graduate training who are in default of a Title IV school loan or who have failed to repay an overpayment of a Pell grant.
6. VR may not sponsor training services for individuals whose disabling conditions may be or have been corrected through physical or mental restoration services and who are able to return to previous or similar employment using existing or transferable skills.
7. VR will not sponsor any individual for classes that are not included in the curriculum approved by the school that is required for the degree that is necessary to achieve the specific employment outcome.
8. VR probation or suspension of post-secondary, graduate, and post-graduate training services may occur when an individual does not meet certain requirements for VR funding. These requirements include maintaining a grade point average (GPA) established by the school and for the course of study, whichever is greater, or maintain satisfactory academic progress necessary to remain in good standing with the school or complying with VR requirements for attendance, completion of classes as required, and providing grade reports and class schedules.

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

9. The individual must provide documentation for the purchase of any training-related items required for a course.
- (c) Employment includes job-related services, including job search and placement assistance, job retention services, and follow-up services and follow-along services after the completion of employment services. Employment services must result in full- or part-time competitive integrated employment (CIE) at a location typically found in the community.
1. With the exception of job retention services, employment services may be provided by VR staff, in accordance with VR requirements by a registered CRP, or other qualified employment service.
  2. Part-time placements of less than fifteen (15) hours per week must be approved by VR for meeting all CIE requirements.
  3. VR will determine whether a job position is typically found in the community and whether the job position is integrated for the purpose of performing the job duties.
- (d) Job retention services comprise a program of VR services in order for an individual to maintain current employment or return to employment from extended leave with the same employer. Services may include workplace adjustments, accommodations, assistive technology, or orientation and mobility training necessary to perform the essential job duties.
1. Job retention services may only be provided for eligible individuals with a disability that creates permanent functional limitations and who require such services.
  2. Job retention services are not subject to financial need and do not require a determination of comparable services and benefits.
  3. An assessment to determine the nature and scope of job retention services must utilize the least intrusive method and be in accordance with customer choice.
  4. Job retention services may not be provided for physical, mental, or sensory restoration requiring surgery and/or hospitalization or counseling services for the purpose of eliminating, reducing, or modifying the effects of a stable or slowly progressive disabling condition; to replace aging assistive technology that continues to work for the intended purpose; to assist an individual with being more independent outside of work or at the individual's place of work where there is no effect on job duties; to assist an individual with getting to work or back home; or to assist an individual with changing jobs.
- (e) Supported employment will be provided in accordance with Rule 1240-08-11.
- (f) Customized employment is based on an individualized determination of the unique strengths, abilities, interests, and informed choice of an individual with a significant disability; is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and is carried out through flexible strategies such as: job exploration and working with an employer to facilitate placement through task assignment, job carving, and job sharing. Customized employment services must be provided in accordance with VR requirements by a registered CRP with the appropriate training certification and must result in full- or part-time CIE at a location typically found in the community.



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

- (g) Self-employment may be provided for eligible individuals who want to operate and/or expand a for-profit business for the purpose of manufacturing a product or providing a service for public sale in the competitive market. Self-employment services include the purchase of goods, services, and apparatus necessary for an individual to start or expand a business based on a business plan approved by VR and the cost of goods, services and apparatus approved by VR. Self-employment services do not include investments or cash funding; the purchase of vehicles, land, or franchises; the construction of buildings; interior or exterior building improvements; underwriting of loans; funding of illegal activities; or hobby ventures.
  - 1. An assessment of an individual requesting self-employment services and the proposed business must be conducted by VR to determine if the proposed business will more than likely result in a successful employment outcome for VR. An assessment may include but is not limited to:
    - (i) The business proposal and the individual's experiences, learned skills, and abilities to perform the major tasks needed to operate the proposed business.
    - (ii) The individual's capability of performing the majority of work required to operate the proposed business, including the number of hours required to operate similar businesses operated by individuals who do not have disabilities.
    - (iii) The business's expected income must be comparable to the income received by individuals who are not individuals with disabilities, who are self-employed in similar businesses and who have similar training, experiences, and skills.
  - 2. An individual must have the aptitudes, abilities and capabilities necessary for the operation of the business. VR may provide training to assist an individual with obtaining the skills necessary for the operation of the business. If an individual is unable to obtain the skills necessary for the operation of the business, VR will conduct an appropriate assessment to develop a more appropriate employment objective that will lead to CIE consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
  - 3. Individuals who have been determined to have the aptitudes, abilities and capabilities necessary for the operation of the business must develop a business plan. The individual must seek assistance from a Small Business Development Center; the Service Corps of Retired Executives; Chamber of Commerce; similar business owner; or other recognized community resources or business council to research and develop a business plan.
  - 4. An individual's business plan is reviewed by a team consisting of VR staff or area professionals as determined appropriate based on the type and complexity of the business. The team will make a recommendation for approval and for developing an IPE for self-employment. After an individual's business plan is approved, changes will not be made without approval by VR.
  - 5. If an individual's business plan is not approved, the individual may correct identified deficiencies and re-submit the business plan for approval. If the re-submitted business plan is not approved, other types of businesses consistent with the individual's strengths, resources, priorities, concerns, abilities,

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

- capabilities, interests, and informed choice may be considered or VR may determine a more appropriate employment objective other than self-employment.
6. Costs paid by VR to purchase goods, services, and apparatus to start or expand a business are based on the specific needs of the business as documented in an approved business plan and will not exceed \$10,000 unless approved by the VR Director.
  7. VR will not purchase goods, services, or apparatus different in type, specification, quantity or use from what is approved by VR in the business plan. All goods, services and apparatus approved and purchased by VR must be included in the customer's IPE prior to VR authorizing services. The individual must coordinate with VR for the purchase and delivery of all goods, services, and apparatus.
  8. Pre-owned or used apparatus that may be used in the business operation must be included in the business plan. VR will not replace pre-owned or used apparatus unless an authorized authority has certified the equipment unusable for the approved business.
  9. VR may assist with the purchase of additional goods, services, and apparatus in accordance with the approved business plan for up to three (3) months after business operation begins.
  10. The individual must provide evidence of income for the business to VR using standard bookkeeping methods every three (3) months to document when a successful self-employment outcome is achieved.
  11. If after ninety (90) days of business operation the business's income does not meet the requirement for a successful case closure, VR will review the business's income as provided by the individual every three (3) months thereafter for up to eighteen (18) months to determine when the business's income meets the requirement for successful case closure.
  12. If after eighteen (18) months the business's gross annual income has not reached the requirement for a successful case closure, VR will consider the individual's business unsuccessful. VR will discuss with the individual the possibility of other VR services.
  13. For unsuccessful businesses, VR will determine the continuation of VR services based on a more appropriate employment objective, excluding self-employment, that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice will lead to CIE.
  14. If the individual is unable to continue with the business operation and goods and apparatus purchased by VR will no longer be used for their intended purpose, the individual is required to return the goods and apparatus to VR.
- (h) Rehabilitation technology means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.
1. Rehabilitation engineering means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute

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

- technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.
2. Assistive technology, devices, and services includes:
    - (i) Assistive technology designed for use in an assistive technology device or assistive technology service.
    - (ii) Assistive technology devices, equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
    - (iii) Assistive technology services that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.
  3. Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices is exempt from a determination of the availability of comparable services and benefits.
  4. Assistive technology devices and services do not include auxiliary aids and services required for public accommodation in accordance with Rule 1240-08-05-.06.
  5. VR will evaluate an applicant's or eligible individual's need for assistive technology, devices, and services contemporaneously with its evaluation of the individual's rehabilitation potential or trial work experiences. VR will reevaluate an individual's need for assistive technology, devices, and services throughout the rehabilitation process on an annual basis.
- (i) Students with disabilities who meet the definition in Rule 1240-08-02-.02 must, with coordination with Local Education Agencies, be provided pre-employment transition services (pre-ets) that include job exploring counseling, work-based learning experiences, counseling on opportunities for enrollment in post-secondary educational programs, workplace readiness training, and instruction in self-advocacy.
    1. Students with disabilities are not required to have an eligibility of determination or priority for service or an IPE in order to receive pre-employment transition services. Pre-ets cases are managed by pre-ets specialists.
    2. Students with disabilities may be referred for VR services. For students who are determined eligible for VR services, pre-ets services can continue under the pre-ets case until the IPE is completed and the provision and documentation of pre-ets services is transferred to the VR case.
    3. Recognized education programs may include but are not limited to secondary and post-secondary education programs, non-traditional or alternative secondary education programs, including home schooling, post-secondary education programs providing transitional learning or similar programs, and other recognized educational programs, such as those offered through the juvenile justice system.
    4. VR services will not take the place of academic or pre-vocational training that is the responsibility of the school system. This may include the purchase of

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

equipment and/or assistive devices used primarily for educational purposes and/or transportation. Consideration may be given when the equipment or service is directly related to an employment service or to the achievement of an employment outcome.

5. Auxiliary aids and services required to meet ADA and Section 504 accommodations may be provided for students with sensory and communicative disorders.
6. Students enrolled in a secondary school system cannot also be enrolled in post-secondary training at VR's expense.
7. A pre-ets case ends when a student ages out, graduates, is no longer enrolled or eligible for secondary school services, is no longer interested in receiving services, cannot be located, has been determined ineligible for VR services, or has been determined eligible for VR services and an IPE has been completed.

(j) Other services developed by VR are based on factors that have been determined necessary for an individual to participate in VR services and/or achieve an employment outcome and includes but is not limited to medical, mental, optical, speech, and audiology care and treatment and therapy, deaf-blind, surgery, hospitalization, dental, durable medical equipment, electronic equipment, job coaching, on-the-job training, physical and occupational therapy, prosthetics and orthotics, service animals, transitional and specialized services to support students in a post-secondary setting, tools and equipment, business licenses, vehicle modification, family member services, worksite and home modifications, service animals, Braille and orientation and mobility training, and comprehensive rehabilitation centers for evaluations and/or training.

1. Electronic equipment includes, but is not limited to, computer systems, CCTVs, and other electronic assistive technology devices required to accommodate a disability for the purpose of participating in a VR service or for employment, including the provision of upgrades and repairs to existing equipment. Electronic equipment must be prescribed by a qualified professional or approved by VR self-employment or for educational purposes in accordance with VR policy and procedures.
2. Family member services may only be provided for an individual who either is a relative or guardian of an applicant or eligible individual or lives in the same household as an applicant or eligible individual who has a substantial interest in the well-being of that individual and whose receipt of VR services is necessary to enable the applicant or eligible individual to achieve an employment outcome.
3. Vehicle modification services may be provided if an individual is unable to effectively and reasonably use other modes of transportation and requires appropriate transportation to prepare for, secure, retain or regain employment.
4. Worksite and home modification services may be necessary to modify a work site to permit job retention or job placement or to construct a ramp, widen a door, install handrails, etc. in an individual's home so that the individual can participate in VR services.

(16) Support services and service providers are based on individual need for participating in contributing services as determined during IPE development or annual review of the IPE. Support services may also be provided for diagnostic services. Support services include but are not limited to:

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

- (a) Transportation in-state or out-of-state in order to participate in a contributing service or secure employment. An individual's own vehicle may be used for transportation.
- (b) Meals in-state or out-of-state necessary to participate in a contributing service or secure employment.
- (c) Housing or lodging in-state or out-of-state necessary to participate in a contributing service or secure employment.
- (d) Books, supplies, training materials, and wardrobe in order to participate in a training program.
- (e) Personal supports in order to participate in a contributing service such as medication, drivers, child care, interpreters, readers and note takers, tutors, auxiliary aids, vehicle repair, professional dues, and disability-related supports.
- (f) Drug screens for compliance with abstinence from substance use, to meet the requirements of employment, or, under certain circumstances, for an individual's attendant care provider. Drug screens require approval from the individual.
- (g) Background checks for program planning or for employment or, under certain circumstances, for an individual's attendant care provider. Background checks require approval from the individual.
- (h) Vehicle repair for limited repair work or parts replacement in accordance with VR policy and as determined by an ASE certified mechanic necessary to return a customer's car to a drivable safe condition.
- (i) Medication required for an individual's impairment and to support participation in VR services and prescribed by a treating or other credentialed physician.
- (j) Tutorial services determined necessary by VR to provide an individual participating in post-secondary training assistance or guidance for an individual to become an independent learner and maintain a school's academic standard. A tutor will not be used to help an individual excel in an academic subject or to be an accommodation for academic deficiencies.
- (k) Uniforms or wardrobe necessary to participate in a contributing service or secure employment.
- (l) Attendant care services designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability; to increase the individual's ability to perform everyday activities on or off the job; necessary to the achievement of an employment outcome; and provided only while the individual is receiving other VR services. Attendant care services are not intended to supplement or replace services that would be provided regardless of participation in VR services. Attendant care services may not be provided if the intended employment outcome on the IPE will not provide the customer the ability to pay for attendant care services with the exception that attendant care services will more than likely be available through other resources after achievement of the employment outcome.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 49-11-701, et seq., 49-11-801, et seq., 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.5, 361.43, 361.47, and 361.48; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule

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

*filed June 30, 2009; effective September 13, 2009. Repeal and new rules filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.*

**1240-08-04-.06 STANDARDS FOR CLOSING CASES.**

- (1) VR may close a case from applicant status prior to making an eligibility determination if the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and VR has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative, to encourage the applicant's participation.
- (2) VR may close a case if an applicant does not meet eligibility requirements for VR services, the eligible individual receiving services under an IPE is incapable of achieving an employment outcome due to the severity of the individual's disability, or the individual has chosen to not pursue competitive integrated employment.
  - (a) An individual does not meet eligibility requirements if:
    1. There is no diagnosable impairment;
    2. There is a diagnosable impairment but no substantial impediment to employment;
    3. There is a diagnosable impairment and substantial impediments to employment but there are no expected VR services that will reduce, eliminate, or accommodate the participant's impediment to employment and contribute to an employment outcome; or
    4. It is determined through trial work experiences that the individual will not benefit from VR services in terms of an employment outcome.
  - (b) A case will not be closed because an individual is unable to achieve an employment outcome due to the severity of the individual's disability without documenting by Trial Work Experiences clear and convincing evidence that the individual is incapable of benefiting from VR services in terms of an employment outcome due to the severity of the individual's disability.
  - (c) Cases that are closed due to extended employment in a non-integrated or sheltered setting or in other employment compensated in accordance with section 14c of the Fair Labor Standards Act (sub-minimum wage) must be provided career counseling and information services at the time of case closure and every six (6) months for the first year following case closure and annually thereafter for the duration of such employment.
  - (d) Cases that are closed due to the severity of the individual's disability must be reviewed twelve (12) months from case closure and annually thereafter if requested by the individual to determine potential for competitive integrated employment.
- (3) VR may close a case of an individual who has achieved a successful employment outcome if all of the following requirements are met:
  - (a) The individual has achieved competitive integrated employment described in the individual's IPE that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice and is at a location typically found in the community (in the competitive labor market) where the individual:

(Rule 1240-08-04-.06, continued)

1. Is compensated at not less than the legal minimum wage or at the customary rate for the same or similar work performed by employees who are not individuals with disabilities;
  2. Is eligible for the level of benefits provided to other employees who are not individuals with disabilities;
  3. Interacts with fellow employees for the purpose of performing the job duties within the work unit who are not individuals with disabilities;
  4. Has the opportunity for advancement that is similar for other employees who are not individuals with disabilities and who have similar positions; and
- (b) The employment outcome has been maintained for an appropriate period of time, but not less than ninety (90) days, to ensure the stability of the employment outcome, and the individual no longer needs VR services; and
- (c) At the end of the appropriate period described in (b), the individual and the VR Counselor consider the employment outcome to be satisfactory and agree that the individual is performing well in the employment.
- (4) VR may close a case due to intervening reasons in which the individual is not available for diagnostic assessments or continuation of services because the individual has died, has moved out of state and shows no intention of continuing with the VR program, has not been contacted after required efforts, has been institutionalized for an indefinite or extended period of time, has refused services, or is no longer interested in VR services after reasonable counseling and guidance efforts by the VR Counselor.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.5, 361.44, 361.45, 361.46, 361.55, and 361.56; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rules filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.

#### **1240-08-04-.07 POST-EMPLOYMENT SERVICES.**

- (1) Post-employment services are one or more VR services limited in scope and duration that are necessary subsequent to the achievement of a successful employment outcome. The services must be necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- (2) Post-employment services must be provided under the terms of an amended IPE.
- (3) Post-employment services are subject to the same requirements for services provided prior to employment in accordance with 1240-08-04-.05. Services are subject to financial need in accordance with 1240-08-05-.02, with the exception that post-employment services are exempt from a determination of the availability of comparable services and benefits.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. §§ 361.5, 361.37, and 361.48; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.