

CHAPTER 3325
DEPARTMENT OF EMPLOYMENT AND ECONOMIC
DEVELOPMENT
REHABILITATION; VISUALLY IMPAIRED

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GENERAL

3325.0100 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of this chapter is to establish procedures and standards for the provision of rehabilitation services to blind and visually impaired persons present in Minnesota.

Subp. 2. **Scope.** This chapter applies to State Services for the Blind (SSB), all vendors of services under agreement with SSB, and all persons applying for or receiving rehabilitation service from SSB. This chapter does not require expenditures for an eligible individual if funds are not available to SSB from federal and state appropriations for the provision of rehabilitation services under the program in which the eligible individual is being served.

Subp. 3. **Exclusion.** All matters pertaining to the operation of the Business Enterprises Program under Code of Federal Regulations, title 34, part 395, are governed by parts 3321.0100 to 3321.1300 and are not affected by this chapter.

Subp. 4. [Repealed, 36 SR 33]

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; L 2005 c 56 s 2; 36 SR 33; 37 SR 939*

3325.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given to them in this part.

Subp. 1a. **Activities of daily living.** "Activities of daily living" means the basic tasks necessary to maintain one's functional independence in the following areas:

A. personal management;

B. communicating; and

C. traveling.

Subp. 2. **Adjustment to blindness services.** "Adjustment to blindness services" means vocational rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services as defined in subparts 50, 66, and 86a.

Subp. 3. [Repealed, 36 SR 33]

Subp. 4. **Alternative techniques.** "Alternative techniques" means methods that enable persons to perform activities of daily living independently without sight or with limited sight. These methods include cane travel and braille reading and writing.

Subp. 5. **Appellant.** "Appellant" means an applicant or eligible individual who has made a written request for review and mediation under part 3325.0478. Appellant includes, as appropriate, an appellant's designated representative.

Subp. 6. **Applicant.** "Applicant" means a person who submits a request, consistent with Code of Federal Regulations, title 34, section 361.41 (b)(2), to SSB for vocational rehabilitation services or a person on whose behalf the person's legal representative submits such a request, has provided SSB information necessary to initiate an assessment to determine eligibility and priority for services, and is available to complete the assessment process.

Subp. 7. **Audiological examination and audiologist.** "Audiological examination" means an examination by an audiologist of a person's hearing, including puretone threshold testing (air and bone); speech discrimination testing; impedance audiometry; and other special tests. "Audiologist" means a person with a degree in audiology who measures and evaluates the hearing of people of all ages; provides information on a person's hearing loss; prescribes hearing aids; and plans or refers for necessary rehabilitation programs.

Subp. 8. [Repealed, 36 SR 33]

Subp. 9. [Repealed, 36 SR 33]

Subp. 10. **Client Assistance Program or CAP.** "Client Assistance Program" or "CAP" means the federal and state sponsored program through which persons are provided with advocates to represent and assist them on matters related to rehabilitation. CAP is governed by Code of Federal Regulations, title 34, section 370.

Subp. 11. **Communication center services.** "Communication center services" means services provided through SSB's communication center. Through its communication center, SSB:

A. custom transcribes books and other materials onto cassette tape, digital media, or into braille;

B. researches the availability of textbooks on cassette tape, digital media, or in braille at sources other than SSB;

C. provides books that have been custom transcribed onto cassette tape, digital media, or into braille;

D. broadcasts closed circuit radio readings of recent newspapers, books, and magazines and lends the closed circuit radio receivers needed to receive the broadcasts;

E. lends playback machines needed to use cassette tapes or digital recordings obtained from SSB's communication center or the Library of Congress; and

F. repairs the playback machines and radio receivers it lends.

Subp. 12. **Communication skills training.** "Communication skills training" means instruction aimed at improving a blind, visually impaired, or deafblind person's ability to communicate with others. This training includes instruction in one or more of the following: braille; cursive writing; typing; sign language and other forms of manual communication; and the use of rehabilitation technology that aid communication.

Subp. 12a. **Community rehabilitation program.** "Community rehabilitation program" means a facility as defined in Code of Federal Regulations, title 34, section 361.5(b)(9), which is operated for the primary purpose of providing rehabilitation services to blind persons or other persons with disabilities. Except where specifically excluded, an individual providing services to an applicant or eligible individual under an agreement with SSB is considered a community rehabilitation program for the purposes of part 3325.0470.

Subp. 12b. **Comparable services and benefits.** "Comparable services and benefits," as applicable to the vocational rehabilitation program and defined by Code of Federal Regulations, title 34, section 361.5(b)(10), means services and benefits that are:

A. provided or paid for, in whole or in part, by other federal, state, or local public agencies, by health insurance, or by employee benefits;

B. available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's employment plan; and

C. commensurate with the services that the individual would otherwise receive from SSB.

For purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

Subp. 12c. **Competitive employment.** "Competitive employment," consistent with Code of Federal Regulations, title 34, section 361.5(b)(11), means work:

A. in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

B. for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same work performed by individuals who are not disabled.

Subp. 13. **Deafblind.** "Deafblind" refers to visually impaired or blind applicants or eligible individuals who have physiological, chronic hearing losses which prevent them from hearing and understanding most speech with optimum amplification.

Subp. 14. **Department.** "Department" means the Minnesota Department of Employment and Economic Development.

Subp. 15. **Designated representative.** "Designated representative" means a person designated by an applicant or eligible individual to represent the applicant or eligible individual in any matter pertaining to a request for or receipt of rehabilitation services.

Subp. 16. **Diagnostic assessment services.** "Diagnostic assessment services" means medical examinations, optometric examinations, audiological evaluations, and other rehabilitation services provided to help an applicant or eligible individual and a vocational rehabilitation counselor assess the applicant's or eligible individual's skills, abilities, and aptitudes in order to determine eligibility, establish an employment outcome, and identify the specific rehabilitation services the eligible individual will need to achieve the eligible individual's employment outcome.

Subp. 16a. **Direct service staff.** "Direct service staff" means SSB employees in the independent living and vocational rehabilitation units of SSB designated by the director to interact with and assist applicants and eligible individuals in the rehabilitation process. Direct service staff in the vocational rehabilitation unit of SSB includes the state classifications of vocational rehabilitation technician, rehabilitation counselor, and supervisors. Direct service staff in the independent living unit of SSB includes the classifications of state program administrator, rehabilitation counselor, and supervisor.

Subp. 17. **Director.** "Director" means the director of SSB or the director's designated representative.

Subp. 18. [Repealed, 36 SR 33]

Subp. 18a. **Eligible individual.** "Eligible individual" means a person who has been determined eligible for rehabilitation services from SSB under the vocational rehabilitation program or independent living program.

Subp. 19. [Repealed, 36 SR 33]

Subp. 19a. **Employment outcome.** "Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment, as defined in Code of Federal Regulations, title 34, section 361.5(b)(16), in the integrated labor market, supported employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Subp. 20. **Extended evaluation.** "Extended evaluation" means the process used in limited circumstances according to Code of Federal Regulations, title 34, section 361.42 (f), to determine the individual's ability to benefit from vocational rehabilitation services.

Subp. 21. **Family member.** "Family member" means, for purposes of receiving vocational rehabilitation services in accordance with Code of Federal Regulations, title 34, sections 361.5(b)(23) and 361.48 (i), an individual:

- A. who either:
 - (1) is a relative or guardian of an applicant or eligible individual; or
 - (2) lives in the same household as an applicant or eligible individual;
- B. who has a substantial interest in the well-being of that individual; and
- C. whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

For purposes of the independent living program, family member means an individual who meets the requirements of items A and B and whose receipt of independent living services is necessary to enable the eligible individual to achieve independent living goals.

Subp. 22. **Family income.** "Family income" means the income of an eligible individual and the following persons:

- A. the eligible individual's spouse; and
- B. the eligible individual's parent or parents if:
 - (1) the eligible individual is under 18 years of age and living with the eligible individual's parents;
 - (2) the eligible individual was claimed by a parent or parents as a dependent for federal income tax purposes in the most recent calendar year; or
 - (3) an application for grants at a postsecondary educational institution or an accredited institution of higher learning has determined that the eligible individual is a dependent student for purposes of determining financial aid for postsecondary training.

Subp. 23. [Repealed, 36 SR 33]

Subp. 24. [Repealed, 36 SR 33]

Subp. 25. [Repealed, 36 SR 33]

Subp. 26. **Income.** "Income" means cash payments or benefits, other than gifts or loans, received by or actually available to an eligible individual from public or private sources. These payments or benefits include:

- A. cash earnings from wage or salaried positions before payroll deductions;
- B. cash income receipts from one's own business, farm, or profession after deduction of operating expenses;
- C. unearned payments from government assistance programs or other public sources such as unemployment benefits, workers' compensation, veteran's benefits, Social Security, and government pensions; and

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D. unearned payments from private sources such as private pensions, annuities, net rental income, dividends, and interest.

Subp. 27. **Independence.** "Independence" means freedom from unwanted and unnecessary dependence upon other persons and things in all areas of life.

Subp. 27a. **Independent living counseling.** "Independent living counseling" means the process by which SSB direct service staff in the independent living program help an eligible individual:

- A. understand the individual's abilities and potential;
- B. realize that blindness and visual impairment are a natural part of the human experience, and that most of the physical limitations associated with blindness and visual impairment can be overcome by learning alternative techniques;
- C. identify and establish feasible independent living goals; and
- D. complete a program of services leading to the achievement of the individual's independent living goals.

Subp. 28. **Independent Living Program.** "Independent Living Program" means the state and federally funded SSB program that provides services to individuals whose severe visual impairment makes competitive employment extremely difficult to obtain, but for whom independent living goals are feasible.

Subp. 29. **Individualized plan for employment or IPE.** "Individualized plan for employment" or "IPE" means the individualized written document required for each eligible individual designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, and to the maximum extent appropriate, results in employment in an integrated setting, as defined in Code of Federal Regulations, title 34, sections 361.45 and 361.46.

Subp. 29a. **Informed choice.** "Informed choice" means a process by which individuals or, as appropriate, their designated representatives make decisions when applying for or receiving vocational rehabilitation services. The process consists of:

- A. the identification of available options;
- B. the identification of both favorable and unfavorable consequences of pursuing each option;
- C. selecting an option after weighing and deliberating each one and its consequences; and
- D. commitment and action to pursue the selected option.

SSB must assist applicants and eligible individuals or, as appropriate, their designated representatives by providing information and support services throughout the process consistent with Code of Federal Regulations, title 34, section 361.52.

Subp. 30. **Initial stocks and supplies.** "Initial stocks and supplies" are defined as follows.

- A. "Initial stocks" means the inventory of goods for direct resale to consumers by an eligible individual entering into a self-employment enterprise.
- B. "Supplies" means the expendable items that are necessary for the day to day operations of a business and that are consumed on the premises of the business.

Subp. 31. **Institutions of higher learning.** "Institutions of higher learning" means accredited universities, colleges, community colleges, junior colleges, business colleges, trade schools, and technical colleges.

Subp. 32. [Repealed, 36 SR 33]

Subp. 33. **Interpreter services.** "Interpreter services" means:

- A. manual or tactile interpreting of oral or written communication to deafblind applicants and eligible individuals by an interpreter; or
- B. foreign language interpreter.

Subp. 34. [Repealed, 36 SR 33]

Subp. 34a. **Job-related services.** "Job-related services" includes job search and placement assistance, job retention services, follow-up services, and follow-along services consistent with Code of Federal Regulations, title 34, section 361.48 (I).

Subp. 35. **Legal blindness or blind.** "Legal blindness" or "blind" means a central visual acuity of 20/200 or less in the better eye with best correction or a defect in the peripheral field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Subp. 36. **Legal representative.** "Legal representative" means the parent or parents of a person under 18 years of age or a court appointed guardian or conservator who is authorized by the court to make decisions about services for a person.

Subp. 37. **Low vision aids.** "Low vision aids" means optical and nonoptical instruments and techniques that help blind persons and persons with visual impairments improve the use of their residual vision.

A. "Optical low vision aids" means lenses or lens systems that enlarge or clarify the retinal image of an object so that it can be better perceived without enlarging the object itself. These aids include, but are not limited to, monocular and binocular hand-held magnifiers, head and stand supported magnifiers of both simple and telescopic types, color filter lenses, and electro-optical devices such as closed circuit televisions.

B. "Nonoptical low vision aids" means techniques and instruments other than lenses that enlarge or clarify the retinal image of an object so that it can be better perceived. These aids include, but are not limited to, wide lined paper, high intensity lamps, large print, colored paper, wide tipped pens, and large print telephone dials.

Subp. 38. **Low vision clinician.** "Low vision clinician" means an ophthalmologist or optometrist who provides low vision services.

Subp. 39. **Low vision services.** "Low vision services" means services that help an eligible individual use or improve the use of residual vision in performing specific tasks involved in achieving and maintaining rehabilitation goals. These services consist of low vision aids and the functional assessments, ophthalmologic or optometric examinations and training necessary for the provision and effective use of low vision aids.

Subp. 40. **Low vision specialist.** "Low vision specialist" means:

- A. an SSB direct service staff person who has completed at least 80 hours of training in a low vision training program approved by the director; or
- B. a person with experience in low vision rehabilitation who has completed at least 80 hours of training in a low vision training program approved by the director. The 80 hours of training referred to in this item and in item A must include instruction in:
 - (1) basic low vision concepts, including the anatomy of the eye, common low vision conditions, and functional and psycho social implications of low vision; and
 - (2) low vision assessment and training including the use of a portable low vision kit and provision of visual training with and without optical aids.

Subp. 41. **Maintenance.** "Maintenance" means the minimum monetary support provided to an individual for expenses such as food, shelter, and clothing that are in excess of the normal expenses of the individual and that are necessitated by the individual's assessment for or participation in a rehabilitation program.

Subp. 42. [Repealed, 36 SR 33]

Subp. 43. [Repealed, 36 SR 33]

Subp. 44. **Note taking services.** "Note taking services" means the recording of oral or written communication for later use by applicants or eligible individuals.

Subp. 45. **Occupational equipment.** "Occupational equipment" means occupational fixtures, vehicles, and machinery normally required for entry into employment or for efficient job performance.

Subp. 46. **Occupational licenses.** "Occupational licenses" means any license, permit, or other written authority required by a state, city, or other governmental unit as a precondition to entering an occupation or starting a small business.

Subp. 47. **Occupational tools.** "Occupational tools" means instruments normally required for entry into employment or for efficient job performance.

Subp. 48. [Repealed, 36 SR 33]

Subp. 49. **Ophthalmologist.** "Ophthalmologist" means a physician who specializes in diseases of the eye and who is certified by the American Board of Ophthalmology.

Subp. 50. **Orientation and mobility services.** "Orientation and mobility services" means the provision of aids and devices and instruction in their use, which enable an eligible individual to travel safely and independently without sight or with impaired sight. These services include the provision of white canes and instruction in cane travel.

Subp. 51. **Orientation and mobility specialist.** "Orientation and mobility specialist" means a person with a degree in orientation and mobility from a college or university accredited by a regional accrediting association or by an agency with standards equivalent to those of the regional accrediting association.

Subp. 52. [Repealed, 36 SR 33]

Subp. 53. **Optometrist.** "Optometrist" means a person who is currently licensed to practice optometry under Minnesota Statutes, section 148.57.

Subp. 53a. **Personal assistance services.** "Personal assistance services," consistent with Code of Federal Regulations, title 34, section 361.5(b)(39), means a range of services provided by one or more persons 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. The services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

Subp. 53b. **Physical and mental restoration services.** "Physical and mental restoration services" means the medical or medically related services provided to correct or substantially modify, within a reasonable time, a physical or mental condition which is stable or slowly progressive. These services consist of the services listed under the definition of physical and mental restoration services in Code of Federal Regulations, title 34, section 361.5(b)(40).

Subp. 54. **Physician.** "Physician" means a medical doctor who is currently licensed to practice medicine under Minnesota Statutes, chapter 147.

Subp. 55. **Postemployment services.** "Postemployment services" means, as defined in Code of Federal Regulations, title 34, section 361.5(b)(42), one or more vocational rehabilitation services that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, are limited in scope and duration. If more comprehensive services are required, then a new rehabilitation effort must be considered.

Subp. 56. [Repealed, 36 SR 33]

Subp. 57. [Repealed, 36 SR 33]

Subp. 58. **Reader services.** "Reader services" means the oral reading of written material for an applicant or eligible individual.

Subp. 59. **Referral.** "Referral" means a person who has contacted or been placed in contact with SSB to inquire into the possibility of obtaining services but who has not applied for rehabilitation services under part 3325.0120, subpart 2.

Subp. 60. **Referral services.** "Referral services" means counseling or research on behalf of a referral, applicant, or eligible individual for the purpose of directing the individual to other agencies and organizations that provide financial assistance, rehabilitation services, or other services needed.

Subp. 61. [Repealed, 36 SR 33]

Subp. 62. [Repealed, 36 SR 33]

Subp. 63. [Repealed, 36 SR 33]

Subp. 64. [Repealed, 36 SR 33]

Subp. 65. **Rehabilitation services.** "Rehabilitation services" means the services arranged for or provided to an eligible individual by SSB to achieve employment outcomes or independent living goals.

Subp. 66. **Rehabilitation teaching services.** "Rehabilitation teaching services" means instruction in the use of alternative techniques other than outdoor cane travel, and aids and devices.

Subp. 67. **Rehabilitation teacher.** "Rehabilitation teacher" means a person with a degree in rehabilitation teaching from a college or university accredited by a regional accrediting association or by an agency with standards equivalent to those of the regional accrediting association.

Subp. 67a. **Rehabilitation technology.** "Rehabilitation technology," consistent with Code of Federal Regulations, title 34, sections 361.5(b)(45) and 361.48 (q), 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. Rehabilitation technology includes rehabilitation engineering, assistive technology and sensory aids and devices, telecommunications, and assistive technology services.

Subp. 68. [Repealed, 36 SR 33]

Subp. 69. [Repealed, 36 SR 33]

Subp. 70. [Repealed, 36 SR 33]

Subp. 71. [Repealed, 36 SR 33]

Subp. 72. **Services to family members.** "Services to family members," consistent with Code of Federal Regulations, title 34, sections 361.5(b)(23) and 361.48 (i), means one or more of the rehabilitation services provided by SSB programs to members of an eligible individual's family in order to help the individual achieve an employment outcome or independent living goal.

Subp. 73. [Repealed, 36 SR 33]

Subp. 74. [Repealed, 36 SR 33]

Subp. 75. [Repealed, 36 SR 33]

Subp. 75a. **Severe visual impairment.** "Severe visual impairment" means a visual impairment for an individual that makes competitive employment extremely difficult to obtain, but for whom independent living goals are feasible.

Subp. 76. **Similar benefits.** "Similar benefits" means services or financial assistance available to eligible individuals served in the independent living program from one or more sources other than SSB or an eligible individual to meet, in whole or part, the cost of rehabilitation services to be provided under an eligible individual's plan. Similar benefits include benefits available to eligible individuals from Medicare, Medicaid, the Veteran's Administration, individual and group insurance, community social service agencies, state agencies other than SSB, and public and private educational grants.

Subp. 77. **State Services for the Blind or SSB.** "State Services for the Blind" or "SSB" means the organizational unit of the Department of Employment and Economic Development responsible for providing and coordinating the provision of rehabilitation services to blind persons and persons with visual impairments. For purposes of the vocational rehabilitation and independent living programs, State Services for the Blind or SSB is the state unit as defined in the Code of Federal Regulations, title 34, sections 361.5(b)(14) and 361.13(b).

Subp. 78. **Substantial impediment to employment.** "Substantial impediment to employment," consistent with Code of Federal Regulations, title 34, section 361.5(b)(52), means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

Subp. 79. [Repealed, 36 SR 33]

Subp. 80. **Supervisory staff.** "Supervisory staff" means persons, other than the director employed by SSB, classified as supervisors or managers by the Minnesota Department of Management and Budget and employed by SSB.

Subp. 80a. **Supported employment.** "Supported employment," consistent with Code of Federal Regulations, title 34, section 361.5(b)(53), means:

A. competitive employment in an integrated setting, or employment in an integrated work setting in which an individual is working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual with ongoing support services for an individual with the most significant disabilities:

(1) for whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(2) who, because of the nature and severity of their disabilities, need intensive supported employment services from SSB and extended services after transition as described in Code of Federal Regulations, title 34, section 361.5(b)(20), to perform this work; or

B. transitional employment, as defined in Code of Federal Regulations, title 34, section 361.5(b)(56), for eligible individuals with the most significant disabilities due to mental illness.

Subp. 80b. **Supported employment services.** "Supported employment services," consistent with Code of Federal Regulations, title 34, section 361.5(b)(54), means ongoing supportive services and other appropriate services needed to support and maintain an individual with the most significant disability in supported employment that are provided by SSB:

A. for a period of time not to exceed 18 months, unless under special circumstance the eligible individual and the vocational rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the employment plan; and

B. following transition, as postemployment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

Subp. 81. **Supportive services.** "Supportive services" means rehabilitation services that facilitate the determination of eligibility for rehabilitation services or the provision of other rehabilitation services but which do not, in themselves, provide a person with skills or capabilities that will enable the person to function more independently without continuation of the services for an unlimited period of time. These services include maintenance, transportation services, reader services, note taking services, and interpreter services. The services must be necessary to determine eligibility for rehabilitation services or to the achievement of an employment outcome or independent living goal and may be provided only while the individual is receiving other nonsupportive vocational or independent living rehabilitation services.

Subp. 81a. **Technical assistance and other consultation services.** "Technical assistance and other consultation services," consistent with Code of Federal Regulations, title 34, section 361.48 (s), means conducting market analyses, developing business plans, and otherwise providing resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.

Subp. 82. [Repealed, 36 SR 33]

Subp. 82a. **Transition services.** "Transition services," consistent with Code of Federal Regulations, title 34, section 361.5(b)(55), means a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's employment plan.

Subp. 83. **Transportation services.** "Transportation services" means services defined by Code of Federal Regulations, title 34, section 361.5(b)(57), including travel and related expenses that are necessary to determine eligibility for or to enable an individual to participate in a vocational rehabilitation or an independent living program, including expenses for training in the use of public transportation vehicles and systems.

Subp. 84. **Visual impairment.** "Visual impairment" means:

- A. central visual acuity of 20/60 or less in the better eye with best correction;
- B. the absence of at least one full quadrant of binocular visual field; or
- C. a physical condition or progressive loss of visual ability that will more likely than not result in legal blindness.

Subp. 85. [Repealed, 36 SR 33]

Subp. 86. [Repealed, 36 SR 33]

Subp. 86a. **Vocational rehabilitation counseling.** "Vocational rehabilitation counseling" means the process by which a vocational rehabilitation counselor helps an eligible individual:

- A. understand the individual's abilities and potential;
- B. realize that blindness, visual impairment, and other impairments including combined vision and hearing loss are natural parts of the human experience, and that most of the physical limitations associated with blindness, visual impairment, and other impairments including combined vision and hearing loss can be overcome by learning and using alternative techniques;

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C. identify and establish an employment outcome, and the nature and scope of services to reach the employment outcome, consistent with the requirements in the Rehabilitation Act of 1973, as amended, under United States Code, title 29, section 701, et seq.;

D. complete a program of services leading to the achievement of the employment outcome established in the eligible individual's individualized plan for employment; and

E. obtain competitive employment consistent with the employment outcome established in the eligible individual's individualized plan for employment.

Subp. 86b. **Vocational rehabilitation counselor.** "Vocational rehabilitation counselor" means a person meeting the requirements of the classification of rehabilitation counselor and employed by SSB in the vocational rehabilitation program. An individual who meets the qualifications established by the Department of Management and Budget for being a vocational rehabilitation counselor, but is not employed by SSB, shall be considered a vocational rehabilitation counselor for the purposes of part 3325.0165, subpart 2, item A, subitem (2), unit (b).

Subp. 87. **Vocational rehabilitation program.** "Vocational rehabilitation program" means the state and federally funded SSB program under which an eligible individual receives services leading to an employment outcome in accordance with Code of Federal Regulations, title 34, part 361.

Subp. 88. **Vocational training services.** "Vocational training services" means instruction and supplies provided to a vocational rehabilitation eligible individual to help the eligible individual acquire the knowledge, skills, attitudes, and educational qualifications necessary to achieve an employment outcome. Vocational training services consist of:

A. tuition and materials required for training at an institution of higher learning; and

B. fees and materials required for vocational skills training in settings other than institutions of higher learning.

Subp. 89. [Repealed, 36 SR 33]

Subp. 90. [Repealed, 36 SR 33]

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; L 1987 c 258 s 12; L 1989 c 246 s 2; L 1994 c 438 s 1; L 1997 c 66 s 80; L 1999 c 107 s 66; L 2000 c 343 s 4; L 2005 c 56 s 2; L 2005 c 112 art 2 s 41; L 2008 c 204 s 42; L 2009 c 101 art 2 s 109; 36 SR 33*

VOCATIONAL REHABILITATION PROGRAM**3325.0120 ACCESSING VOCATIONAL REHABILITATION PROGRAM SERVICES.**

Subpart 1. **Referral.** Referral may be from another agency or person or a self-referral and may be oral or written. The referral must provide the person's name and a method of contact.

Subp. 2. **Written application.** A written application must be submitted by each person requesting vocational rehabilitation services. The application may be on an application form supplied by SSB, by letter, or by other written means such as a common intake form in a workforce center requesting vocational rehabilitation services. The application must be signed and dated by the applicant or applicant's designated representative.

Subp. 3. **Legal representative.** All signature requirements placed on an applicant or eligible individual by this chapter may be satisfied by the signature of an applicant's or eligible individual's legal representative. All written notices which must be provided to an applicant or eligible individual under this chapter must be provided to the applicant's or eligible individual's legal representative unless providing the information would violate provisions of the Minnesota Data Practices Act.

Subp. 4. **Designated representative.** An applicant or eligible individual or legal representative of the same may designate one person to represent the applicant or eligible individual in any matter pertaining to the applicant's or eligible individual's request for or receipt of rehabilitation services. The applicant or the eligible individual shall designate a representative in writing and shall not designate more than one representative at any given time. SSB shall provide an applicant's or eligible individual's designated representative with a copy of a written notice only if specifically authorized to do so in writing by the applicant or eligible individual.

Subp. 5. **Initial interview.** A vocational rehabilitation counselor shall personally interview each person referred to or who applied to SSB for vocational rehabilitation services within 30 days unless exceptional and unforeseen circumstances beyond SSB's control make it impossible to do so or unless otherwise agreed upon by the individual and the vocational rehabilitation counselor. As part of the interview, the vocational rehabilitation counselor shall:

A. explain that the purpose of the vocational rehabilitation program is that the individual achieves an employment outcome consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice, and, to the maximum extent appropriate, that it results in employment in an integrated setting;

B. explain the vocational rehabilitation process, including roles and responsibilities;

C. explain other services offered by SSB;

D. request the applicant to provide the information needed to determine eligibility; and

E. inform the referral or applicant of the:

(1) protection, use, and release of personal information in accordance with Code of Federal Regulations, title 34, section 361.38, and Minnesota Statutes, section 13.791;

(2) right of appeal under part 3325.0478;

(3) services available and information on how to contact the client assistance program; and

(4) identity of and means to contact organized support and advocacy groups of the blind and deafblind in Minnesota.

As part of the interview, SSB shall provide each individual with a written summary of the information referenced in items A to C and E.

Subp. 6. **Selection of program.** SSB direct service staff shall assume that all referrals to SSB are for the purpose of vocational rehabilitation unless the referral expressly and unequivocally states the referral does not want to pursue an employment outcome. In that case, SSB shall provide the individual with information about other SSB programs.

Subp. 7. **Residency.** No applicant who is present in Minnesota may be denied rehabilitation services on the basis of residency.

Subp. 8. **Access to contents of record of services.** Access to the contents of an applicant's or eligible individual's record of services or to any other information maintained by SSB that pertains to an applicant or eligible individual must be administered by SSB in accordance with the Minnesota Data Practices Act, Minnesota Statutes, chapter 13, and all other applicable laws and regulations.

Subp. 9. **Written communication.** All written communication with an individual must be supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

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3325.0130 CONDITIONS OF ELIGIBILITY.

An applicant is eligible for rehabilitation services under the vocational rehabilitation program only if a vocational rehabilitation counselor determines that the conditions of either item A or B are met.

A. The applicant has a visual impairment and meets the following conditions:

(1) the visual impairment constitutes or results in a substantial impediment to employment for the applicant; and

(2) a vocational rehabilitation counselor determines that the applicant requires vocational rehabilitation 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.

If the applicant meets both requirements, SSB shall presume the applicant can benefit from the provision of vocational rehabilitation services in terms of employment, unless clear and convincing evidence demonstrates the individual is incapable of benefiting in terms of an employment outcome. Prior to any determination that an applicant is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of the applicant's impairment, SSB must conduct a trial work experience pursuant to part 3325.0145, or if the applicant cannot take advantage of a trial work experience, an extended evaluation pursuant to part 3325.0150.

B. The applicant has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act based upon a visual impairment, in which case the applicant is presumed eligible consistent with Code of Federal Regulations, title 34, section 361.42 (a)(3).

The determination of eligibility must be made within 60 days of receipt of an application unless documentation supports:

(1) exceptional and unforeseen circumstances beyond the control of SSB precludes making an eligibility determination within 60 days and SSB and the individual agree to a specific extension of time;

(2) a trial work experience is required pursuant to part 3325.0145 regarding the presumption that the applicant can benefit from the provision of vocational rehabilitation services; or

(3) an extended evaluation is required pursuant to part 3325.0150 regarding the presumption that the applicant can benefit from the provision of vocational rehabilitation services.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0135 PRIORITY FOR SERVICES UNDER AN ORDER OF SELECTION.

An eligible individual must be assigned a priority of service status if SSB is under an order of selection according to Code of Federal Regulations, title 34, sections 361.36 and 361.42 (g). SSB's order of selection policy shall be identified in the Minnesota state plan for vocational rehabilitation services according to Code of Federal Regulations, title 34, section 361.36 (a)(1). The Minnesota state plan for vocational rehabilitation services is incorporated by reference, is not subject to frequent change, and is available at SSB's offices. The eligible individual assigned to a priority of services status must be provided a description of services available from and information on how to contact the client assistance program.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0140 INFORMATION REQUIRED TO DETERMINE ELIGIBILITY AND PRIORITY FOR SERVICES.

Subpart 1. **Purpose.** SSB shall conduct an assessment to determine whether an applicant is eligible for services under the vocational rehabilitation program and the applicant's priority for services.

Subp. 2. **Scope.** Each eligibility and priority for services determination must be based on the information specified in items A and B.

A. A written report that documents the results of a medical eye or optometric examination of the applicant and is signed by a physician or optometrist. The report contains sufficient information for eligibility purposes if it enables the applicant's vocational rehabilitation counselor who reviews the report to determine whether the applicant has a visual impairment as of the date of application.

B. To the extent necessary, information regarding the applicant's employment history, educational background, and medical and other information needed to determine whether:

(1) the applicant's visual impairment constitutes or results in a substantial impediment to employment; and

(2) the applicant requires vocational rehabilitation services under part 3325.0180 to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Subp. 3. **Notice of eligibility.** After a vocational rehabilitation counselor has determined that an applicant is eligible for rehabilitation services, the vocational rehabilitation counselor shall inform the applicant in writing of the eligibility determination. The notice must be mailed by SSB within ten working days after a determination is made and shall inform the applicant that individuals who receive services must intend to achieve an employment outcome.

Subp. 3a. **Procedures for ineligibility determination.** If a vocational rehabilitation counselor determines that an applicant is ineligible for vocational rehabilitation services, the vocational rehabilitation counselor must:

A. make the determination only after providing an opportunity for full consultation with the applicant, or as appropriate, the applicant's representative;

B. inform the applicant in writing within ten working days after a determination is made, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the applicant, of the ineligibility determination, including the reasons for the determination, the requirements under this part, and right of appeal under part 3325.0478;

C. provide a description of services available from and information on how to contact the client assistance program;

D. refer the applicant to other training or employment-related programs that are part of the one-stop service delivery system under the Workforce Investment Act of 1998, as amended, under United States Code, title 20, section 9701, et seq.;

E. provide information and referral to other organizations or programs from which the applicant might benefit, including independent living services; and

F. if requested by the applicant, or as appropriate the applicant's representative, review the ineligibility decision within 12 months and annually thereafter if the eligibility decision is based on a finding that the applicant is incapable of achieving an employment outcome.

Subp. 4. [Repealed, 36 SR 33]

Subp. 5. [Repealed, 36 SR 33]

Subp. 6. [Repealed, 36 SR 33]

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Subp. 7. [Repealed, 36 SR 33]

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0142 CLOSURE WITHOUT AN ELIGIBILITY DECISION.

An applicant's record of services may be closed without an eligibility decision in cases where the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority of services and SSB has made multiple and varied attempts to contact the applicant or, if appropriate, the applicant's designated representative, to encourage the applicant's participation.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0145 TRIAL WORK EXPERIENCE.

Subpart 1. **Purpose.** Prior to a determination that an individual with a disability is incapable of benefiting from services in terms of employment because of the severity of that disability, SSB must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations to determine whether clear and convincing evidence supports such a determination. Where an individual cannot take advantage of a trial work period under this part, an extended evaluation under part 3325.0150 must be conducted.

Subp. 2. **Plan.** SSB must develop a written plan to assess periodically the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences, which must be provided in the most integrated setting possible, consistent with informed choice and rehabilitation needs of the individual.

Subp. 3. **Scope and duration.** Trial work experiences include supported employment, on-the-job training, and other experiences using realistic work settings. Trial work experiences must be of sufficient variety and duration to determine that:

A. there is sufficient evidence to conclude that the individual can benefit from services in terms of employment; or

B. there is clear and convincing evidence that the individual is incapable of benefiting from services in terms of an employment outcome due to the severity of the individual's disability.

Subp. 4. **Supports during trial work experiences.** SSB shall provide supports, including rehabilitation technology and services, and personal assistance services to accommodate the rehabilitation needs of the individual during the trial work experiences.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0150 EXTENDED EVALUATION.

Subpart 1. **Purpose.** Where an individual cannot take advantage of a trial work period under part 3325.0145, an extended evaluation must be conducted to determine whether there is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of employment outcome or if there is clear and convincing evidence that an individual with a disability is incapable of benefiting from services in terms of employment because of the severity of that disability.

Subp. 2. **Plan.** SSB must develop a written plan for providing only those services necessary to make a determination whether or not there is clear and convincing evidence that an individual with a disability is incapable of benefiting from services in terms of employment because of the severity of that disability. Services must be provided in the most integrated setting possible, consistent with informed choice and rehabilitation needs of the individual.

Subp. 3. **Scope and duration.** Extended evaluation services must be of sufficient variety and duration to determine that:

A. there is sufficient evidence to conclude that the individual can benefit from services in terms of employment; or

B. there is clear and convincing evidence that the individual is incapable of benefiting from services in terms of an employment outcome due to the severity of the individual's disability.

Subp. 4. [Repealed, 36 SR 33]

Subp. 5. **Supports during extended evaluation.** SSB must provide supports, including rehabilitation technology and services, and personal assistance services to accommodate the rehabilitation needs of the individual during the extended evaluation.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0160 [Repealed, 36 SR 33]

3325.0165 DEVELOPMENT OF INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE).

Subpart 1. **Purpose.** SSB must conduct an assessment for determining vocational rehabilitation needs, if appropriate, for each eligible individual or, if SSB is operating under an order of selection as provided in part 3325.0135, for each eligible individual to whom SSB is able to provide services. The purpose of this comprehensive assessment is to determine the employment outcome and the nature and scope of vocational rehabilitation services to be included in the IPE. The IPE must:

A. be designed to achieve the 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

B. to the maximum extent appropriate, result in employment in an integrated setting.

Subp. 2. **Introductory information.** SSB must provide the introductory information in items A and B to each eligible individual or, as appropriate, the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or the individual's representative.

A. SSB must provide information on the available options for developing the IPE and amendments thereto, including the option that an eligible individual or, as appropriate, the individual's representative may develop all or part of the IPE:

(1) without assistance from SSB or other entity; or

(2) with assistance from:

(a) a qualified vocational rehabilitation counselor employed by SSB;

(b) a qualified vocational rehabilitation counselor who is not employed

by SSB; or

(c) resources other than those in items A and B.

B. SSB must provide additional information to assist the eligible individual or, as appropriate, the individual's representative in developing the IPE and amendments, including:

(1) information describing the full range of components that must be included in an IPE;

(2) as appropriate to each eligible individual:

(a) an explanation of agency guidelines and criteria for determining an eligible individual's financial commitments under an IPE;

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(b) information on the availability of assistance in completing SSB forms required as part of the IPE; and

(c) additional information that the eligible individual requests or SSB determines to be necessary to the development of the IPE;

(3) a description of the rights and remedies available to the individual, including, if appropriate, recourse to the processes described in part 3325.0478; and

(4) a description of services available from and information on how to contact the client assistance program.

Subp. 3. **Mandatory procedures.** SSB must ensure that:

A. the IPE is a written document prepared on forms provided by SSB;

B. the IPE is developed and implemented in a manner that gives eligible individuals the opportunity to exercise informed choice, consistent with part 3325.0110, subpart 29a, in selecting:

(1) the employment outcome, including the employment setting;

(2) the specific vocational rehabilitation services needed to achieve the employment outcome, including the settings in which services will be provided;

(3) the entity or entities that will provide the vocational rehabilitation services; and

(4) the methods available for procuring the services;

C. the IPE is:

(1) agreed to and signed by the eligible individual or, as appropriate, the individual's representative; and

(2) approved and signed by a qualified vocational rehabilitation counselor employed by SSB;

D. a copy of the IPE and a copy of any amendments to the employment plan are provided to the eligible individual or, as appropriate, the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, the individual's representative;

E. the IPE is reviewed at least annually by a vocational rehabilitation counselor and the eligible individual or, as appropriate, the individual's representative to assess the eligible individual's progress in achieving the identified employment outcome;

F. the IPE is amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a qualified vocational rehabilitation counselor employed or not employed by SSB, if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the providers of the vocational rehabilitation services;

G. amendments to the IPE do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative and by a qualified vocational rehabilitation counselor employed by SSB;

H. if SSB intends to institute a suspension, reduction, or termination of vocational rehabilitation services contained in an eligible individual's IPE because the eligible individual did not meet agreed-upon obligations contained in the IPE, or because the eligible individual has experienced life-changing events preventing the eligible individual from meeting agreed-upon obligations in the IPE, SSB must:

(1) send notice to the eligible individual by certified mail of the proposed suspension, reduction, or termination at least ten working days prior to the effective date of the proposed suspension, reduction, or termination, unless circumstances beyond SSB's control make the time requirement impractical;

(2) provide in the notice the basis for and effective date of the proposed suspension, reduction, or termination;

(3) provide in the notice a summary of the eligible individual's appeal rights under part 3325.0478; and

(4) provide in the notice a description of and information on the client assistance program; and

I. an IPE for a student with a disability receiving special education services is developed:

(1) in consideration of the student's special education plan; and

(2) in accordance with the plans, policies, procedures, and terms of the inter-agency agreement required under Code of Federal Regulations, title 34, section 361.22.

Subp. 4. **Standard for prompt development of IPE.** IPE's shall be completed within 90 days following the determination of eligibility unless there are exceptional and unforeseen circumstances beyond the control of SSB, and SSB and the eligible individual or, as appropriate, the individual's representative, agree to a specific extension of time. In addition, for transition students the IPE must be completed within 90 days following the determination of eligibility, or by the time the eligible individual leaves the school setting, whichever is earlier.

Subp. 5. **Data for preparing IPE.**

A. To the extent possible, the employment outcome and the nature and scope of vocational rehabilitation services to be included in the individual's IPE must be determined based on the data used for the assessment of eligibility and priority for services.

B. If additional data are necessary to determine the employment outcome and the nature and scope of services to be included in the IPE of an eligible individual, SSB must conduct a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment services, of the eligible individual, in the most integrated setting possible, consistent with the informed choice of the individual in accordance with Code of Federal Regulations, title 34, section 361.5(b)(6)(ii).

C. In preparing the comprehensive assessment, SSB must use, to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information that is current as of the date of the development of the IPE, including:

(1) information available from other programs and providers, particularly information used by education officials and the Social Security Administration;

(2) information provided by the individual and the individual's family; and

(3) information obtained under the assessment for determining the individual's eligibility and vocational rehabilitation needs.

D. The alternative techniques of blindness of all eligible individuals must be assessed, and any deficits identified addressed in the IPE.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0170 [Repealed, 36 SR 33]

3325.0175 CONTENT OF IPE.

Subpart 1. **Mandatory components.** Regardless of the approach in part 3325.0165, subpart 2, item A, development of the IPE that an eligible individual selects for purposes of developing the IPE, each IPE must include:

A. a description of the specific employment outcome that is chosen by the eligible individual that:

(1) is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice; and

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(2) to the maximum extent appropriate, results in employment in an integrated setting;

B. a description of the specific rehabilitation services under part 3325.0180 that are:

(1) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services; and

(2) provided in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;

C. time lines for the achievement of the employment outcome and for the initiation of services;

D. a description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services;

E. a description of the criteria that will be used to evaluate progress toward achievement of the employment outcome; and

F. the terms and conditions of the IPE, including, as appropriate, the information describing:

(1) the responsibilities of SSB;

(2) the responsibilities of the eligible individual, including:

(a) the responsibilities the individual will assume in relation to achieving the employment outcome;

(b) if applicable, the extent of the individual's participation in paying for the cost of services; and

(c) the responsibility of the individual with regard to applying for and securing comparable services and benefits as described in part 3325.0430; and

(3) the responsibilities of other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in part 3325.0430.

Subp. 2. **Supported employment requirements.** An IPE for an individual with the most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must:

A. specify the supported employment services to be provided by SSB;

B. specify the expected extended services needed, which may include natural supports;

C. identify the source of extended services or, to the extent that it is not possible to identify the source of extended services at the time the IPE is developed, include a description of the basis for concluding that there is a reasonable expectation that those sources will become available;

D. provide for periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the IPE by the time of transition to extended services;

E. provide for the coordination of services provided under an IPE with services provided under other individualized plans established under other federal or state programs;

F. to the extent that job skills training is provided, identify that the training will be provided on site; and

G. include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.

Subp. 3. **Postemployment services.** The IPE for each individual must contain, as determined to be necessary, statements concerning:

- A. the expected need for postemployment services prior to closing the record of services of an individual who has achieved an employment outcome;
- B. a description of the terms and conditions for the provision of any postemployment services; and
- C. if appropriate, a statement of how postemployment services will be provided or arranged through other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in part 3325.0430.

Subp. 4. **Coordination of services for students with disabilities who are receiving special education services.** The IPE for a student with a disability who is receiving special education services must be coordinated with the special education plan for that individual in terms of goals, objectives, and services identified in the special education plan.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0180 SCOPE OF SERVICES.

SSB provides the following services to vocational rehabilitation eligible individuals subject to the conditions specified in part 3325.0420:

- A. adjustment to blindness services that consist of vocational rehabilitation counseling, rehabilitation teaching services, and orientation and mobility services;
- B. communication center services;
- C. diagnostic assessment services;
- D. interpreter services;
- E. job-related services;
- F. low vision services;
- G. maintenance;
- H. note-taking services;
- I. occupational licenses, tools, equipment, and initial stocks and supplies;
- J. personal assistance services;
- K. physical and mental restoration services;
- L. postemployment services;
- M. reader services;
- N. referral services;
- O. services to family members;
- P. supported employment services;
- Q. technical assistance and other consultation services;
- R. rehabilitation technology;
- S. transition services;
- T. transportation services;
- U. vocational training services; and
- V. other goods and services related to employment or vocational training.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

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3325.0190 CLOSING THE RECORD OF SERVICES.

Subpart 1. **Closing the record of services of individuals who have not achieved an employment outcome.** The record of services of an individual who has not achieved an employment outcome will be closed when the individual:

- A. does not satisfy the eligibility conditions of the program identified in part 3325.0130; or
- B. has not responded to multiple and varied attempts to contact the individual and has not responded to correspondence mailed to the person's last known address and containing a specific notification that the failure to respond within 15 calendar days after mailing shall result in closure of the individual's record of services;
- C. has died;
- D. has been institutionalized and will, as a result, be unavailable to receive needed services or evaluation from SSB;
- E. has refused to comply with any of the requirements of parts 3325.0120 to 3325.0490 or with any terms or conditions in the eligible individual's written IPE;
- F. has refused repeatedly to accept or use the rehabilitation services necessary to rehabilitate the eligible individual. Before closing the record of services or refusing to provide services based on this condition, the eligible individual's vocational rehabilitation counselor shall explain to the eligible individual the purpose of the program and the services to be provided and shall encourage the eligible individual's participation;
- G. has been transferred to another agency;
- H. was unable to accept or maintain employment because suitable transportation was either not feasible or not available; or
- I. would have benefitted from the provision of supported employment services but for whom no source of extended services was available.

Subp. 2. **Conditions for closing the record of services of individuals who have achieved an employment outcome.** The record of services of an individual who has achieved an employment outcome will be closed when the individual has:

- A. achieved the employment outcome identified in the eligible individual's written IPE, and:
 - (1) it is consistent with the eligible individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and
 - (2) it is in the most integrated setting possible, consistent with the eligible individual's informed choice;
- B. maintained employment for at least 90 calendar days and the eligible individual and vocational rehabilitation counselor agree that no further vocational rehabilitation services are needed, the employment outcome is satisfactory, and the eligible individual is performing well; and
- C. been informed through appropriate modes of communication of the availability of postemployment services.

Subp. 3. **Consultation prior to closing the record of services.** If SSB expects to discontinue services an eligible individual is receiving under a written IPE because the eligible individual no longer satisfies the eligibility conditions identified in part 3325.0130, SSB shall, before closing the record of services, offer the eligible individual a clear opportunity to discuss the anticipated closing of the case record according to Code of Federal Regulations, title 34, section 361.43.

Subp. 4. **Notice of closing the record of services.** If an eligible individual's record of services is to be closed for reasons other than successful rehabilitation under subpart 2, or death, SSB shall notify the eligible individual of the proposed closing of the record of services in accordance with part 3325.0165, subpart 3, item H. The record of services

must contain a summary or description of the information or circumstances upon which the closure decision was based. If the closure decision was based on the eligible individual's refusal to accept or use necessary services provided by SSB, the record of services must include a description of the efforts made by SSB to encourage the eligible individual's participation in the vocational rehabilitation process.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0200 RECORD OF SERVICES.

SSB shall maintain for each applicant and eligible individual a record of services that contains the information required under the Code of Federal Regulations, title 34, section 361.47.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

INDEPENDENT LIVING PROGRAM

3325.0205 ACCESSING INDEPENDENT LIVING PROGRAM REHABILITATION SERVICES.

Subpart 1. **Referral.** Referral may be from another agency or person or a self-referral and may be oral or written. The referral must provide the person's name and a method of contact.

Subp. 2. **Initial interview.** Each person referred to SSB for independent living rehabilitation services shall be personally interviewed within 30 days unless exceptional and unforeseen circumstances beyond SSB's control make it impossible to do so or unless otherwise agreed upon by the individual and the SSB direct service staff. As part of the interview, the SSB direct service staff must:

- A. explain the independent living services available;
- B. request the information needed to determine eligibility under part 3325.0220;
- C. explain and determine interest in workforce development and communication center services offered by SSB; and
- D. inform the individual of the:
 - (1) protection, use, and release of the individual's personal information in accordance with Code of Federal Regulations, title 34, section 364.56, and Minnesota Statutes, section 13.791;
 - (2) right of appeal under part 3325.0478;
 - (3) services available from and information on how to contact the client assistance program; and
 - (4) identity of and means to contact organized support and advocacy groups of the blind and deafblind in Minnesota.

Subp. 3. **Legal representative.** All signature requirements placed on individuals by parts 3325.0205 to 3325.0478 may be satisfied by the signature of an individual's legal representative. All written notices that must be provided to individuals under parts 3325.0205 to 3325.0490 must be provided to the individual's legal representative unless providing the information would violate provisions of the Minnesota Data Practices Act.

Subp. 4. **Designated representative.** An individual or an individual's legal representative may designate one person to represent the individual in any matter pertaining to the individual's request for or receipt of independent living rehabilitation services. The individual must designate a representative in writing and may not designate more than one representative at any given time. SSB must provide an individual's designated representative with a copy of a written notice only if specifically authorized to do so in writing by the individual.

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Subp. 5. **Residency.** No individual who is present in the state of Minnesota may be denied independent living rehabilitation services on the basis of residency.

Subp. 6. **Access to contents of record of services.** Access to the contents of an individual's record of services or to any other information maintained by SSB which pertains to the individual must be administered by SSB in accordance with the Minnesota Data Practices Act, Minnesota Statutes, chapter 13, and all other applicable laws and regulations.

Subp. 7. **Written communication.** All written communication with a referral or eligible individual must be supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0208 PRIORITY FOR SERVICES IF FUNDS ARE NOT AVAILABLE.

If the director determines that SSB will not have sufficient funds to serve all current and anticipated eligible individuals in the independent living program in a given fiscal year, the director must implement the following priorities in serving individuals:

A. Priority 1: all eligible individuals currently served at the time of the determination under this part;

B. Priority 2: all eligible individuals living alone in a home or apartment in need of independent living services;

C. Priority 3: all eligible individuals living with others in a home or apartment in need of independent living services; and

D. Priority 4: all other eligible individuals in need of independent living services.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0210 CONDITIONS OF ELIGIBILITY.

An individual is eligible to receive rehabilitation services under the independent living program only if:

A. the individual has a severe visual impairment;

B. the severe visual impairment makes competitive employment extremely difficult to obtain;

C. independent living goals are feasible for the individual; and

D. the individual is at least 18 years of age and the individual's school district is not legally obligated to provide independent living services.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0220 PRELIMINARY INTERVIEW AND ASSESSMENT.

Subpart 1. **Purpose of interview and assessment.** SSB shall conduct an initial interview to determine whether an individual is eligible for rehabilitation services under the independent living program.

Subp. 2. **Scope of interview and assessment.** Each eligibility determination must be based on the information specified in items A, B, and C.

A. An oral description by the individual of the individual's visual impairment, observation by the SSB direct service staff, or a written report which documents the results of a medical eye or optometric examination. The description, observation by the SSB direct service staff, or report contains sufficient information for eligibility purposes if it enables the SSB direct service staff interviewing the individual to determine whether the individual has a severe visual impairment.

B. A discussion by the SSB direct service staff and the individual regarding the individual's employment status and interests. The discussion contains sufficient information for eligibility purposes if it enables the SSB direct service staff to determine whether the individual's severe visual impairment makes competitive employment extremely difficult to obtain.

C. Other information regarding the individual to determine if independent living goals are feasible and whether the individual's school district is legally obligated to provide independent living services.

Subp. 3. **Notice of eligibility.** After the SSB direct service staff has determined that an individual is eligible for independent living rehabilitation services, the SSB direct service staff shall inform the individual of the eligibility determination.

Subp. 4. **Prior consultation.** If SSB expects to find an individual ineligible for rehabilitation services, SSB shall, before making its final determination, offer the individual a clear opportunity to discuss the anticipated determination.

Subp. 5. **Notice of ineligibility.** After the SSB direct service staff has determined that an individual is ineligible for rehabilitation services, the SSB direct service staff shall inform the individual in writing of the reasons for the determination, the individual's appeal rights under part 3325.0478, and a description of services available from and information on how to contact the client assistance program. The notice must be mailed by SSB within ten working days after the determination.

Subp. 6. [Repealed, 36 SR 33]

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0230 THOROUGH ASSESSMENT.

Subpart 1. **Purpose of assessment.** After an individual is determined eligible for independent living services and before formulating an independent living customer service record, as provided in part 3325.0240, the eligible individual and the SSB direct service staff shall conduct a thorough assessment to identify the independent living rehabilitation goals and services needed to achieve the goals.

Subp. 2. **Scope of assessment.** The thorough assessment of each eligible individual must consist of a review of the following:

- A. The eligible individual's nonvocational interests.
- B. The eligible individual's beliefs and concerns regarding the severe visual impairment and any other information that is important in assessing the degree of independent living counseling needed to overcome any self-doubts caused by the severe visual impairment or other impairments such as combined vision and hearing loss.
- C. The eligible individual's ability to travel independently and need for orientation and mobility services.
- D. The eligible individual's communication skills and need for braille instruction, computer, and other communication skills training.
- E. The eligible individual's personal management skills and the need for rehabilitation teaching services.
- F. The eligible individual's ability to use residual vision and the extent to which low vision services could be used to assist the individual in performing specific educational activities or activities of daily living.
- G. Any other information needed to determine the eligible individual's independent living rehabilitation goals and rehabilitation service needs.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; L 2005 c 56 s 2; 36 SR 33*

3325.0240 REHABILITATION; VISUALLY IMPAIRED

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3325.0240 INDEPENDENT LIVING CUSTOMER SERVICE RECORD (ILCSR).

Subpart 1. **Preparation of ILCSR.** After a thorough evaluation is completed, the eligible individual and the SSB direct service staff shall jointly prepare an independent living customer service record (ILCSR). The ILCSR is primarily an electronic record of all documentation regarding SSB's communications with and services provided to eligible individuals.

Subp. 2. **Contents of ILCSR.** The ILCSR must contain the following information:

A. The independent living rehabilitation goals that the SSB direct service staff and eligible individual have agreed to pursue.

B. The specific rehabilitation services that the eligible individual must receive in order to achieve the independent living rehabilitation goals.

Subp. 3. **Basis for contents of the ILCSR.** The independent living rehabilitation goals and services identified in an eligible individual's ILCSR must be based on and supported by information obtained in the preliminary and thorough assessments and any subsequent information developed during the rehabilitation process in assessing the eligible individual's rehabilitation potential and service needs.

Subp. 4. **Assessment of progress.** The eligible individual and the SSB direct service staff shall assess progress towards the independent living rehabilitation goals as frequently as necessary, but at least once a year.

Subp. 5. **Amendment to ILCSR.** An eligible individual's ILCSR must be amended jointly by the eligible individual and the SSB direct service staff at any time when necessary to reflect changes in the service needs, health, or independent living rehabilitation goals.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0250 SCOPE OF SERVICES TO ELIGIBLE INDIVIDUALS AND ADJUSTMENT OF LIMITATIONS.

Subpart 1. **Scope of services.** SSB provides the following services to independent living eligible individuals subject to the conditions specified in part 3325.0420 and those contained in this part:

A. group and individual blindness services that consist of independent living counseling, rehabilitation teaching services, and orientation and mobility services;

B. communication center services;

C. diagnostic assessment services;

D. interpreter services;

E. low vision services with the following limitations:

(1) only up to a limit of \$300 per period of eligibility for each spectacle mounted low vision aid with at least a +4.00 diopter add; and

(2) SSB does not purchase electronic magnification systems for individuals;

F. maintenance;

G. referral services;

H. services to family members identified in part 3325.0110, subpart 72, up to a limit of \$300 per period of eligibility;

I. rehabilitation technology with the following limitations:

(1) only up to \$100 per period of eligibility for each nonelectronic technology device;

(2) only up to \$1,000 total per period of eligibility for adaptive software;

(3) only up to ten hours of training, excluding travel time, per period of eligibility for keyboarding, computer literacy, and use of computerized aids or devices; and

(4) SSB does not purchase computers, related accessories, or other computerized aids and devices for individuals; and

J. transportation services.

Subp. 2. **Adjustment of limitations.** Expenditure limitations imposed by subpart 1 must be adjusted by the director on an annual basis according to the requirements of this subpart.

A. In November of each year, the director must obtain from the Federal Register the percentage change in the Consumer Price Index published by the secretary of labor for October of the preceding federal fiscal year and October of the federal fiscal year in which such publication is made.

B. If in any fiscal year the percentage change indicates an increase in the Consumer Price Index, as determined under item A, then the expenditure limitations imposed by subpart 1 for the subsequent fiscal year must be equal to the expenditure limitation increased by such percentage change, rounded off to the nearest \$5 increment.

C. If in any fiscal year the percentage change does not indicate an increase in the Consumer Price Index, as determined under item A, then the expenditure limitations imposed by subpart 1 for the subsequent fiscal year must be equal to the expenditure limitation in place at the time of publication.

D. For purposes of this subpart, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, published monthly by the United States Department of Labor, Bureau of Labor Statistics.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0260 CLOSING THE RECORD OF SERVICES.

Subpart 1. **Closing the record of services of an eligible individual who has not achieved independent living goals.** The record of services of an eligible individual who has not achieved independent living goals must be closed when the individual:

A. does not satisfy the eligibility conditions of the program identified in part 3325.0210; or

B. has not responded to multiple and varied attempts to contact the individual and has not responded to correspondence mailed to the person's last known address and containing a specific notification that the failure to respond within 15 calendar days of mailing the notice shall result in closure of the record of services;

C. has died;

D. has refused to comply with any of the requirements of parts 3325.0205 to 3325.0470 or with any terms or conditions in the eligible individual's plan; or

E. has refused to accept or use the independent living rehabilitation services necessary to achieve the identified independent living goals. Before terminating or refusing to provide services based on this condition, the SSB direct service staff shall explain to the eligible individual the purpose of the program and the services to be provided and shall encourage the eligible individual's participation.

Subp. 2. **Conditions for closing the record of services of an eligible individual who has achieved independent living goals.** The record of services of an eligible individual who has achieved and maintained independent living goals for a period of 30 calendar days must be closed if the eligible individual:

A. has moved to a less restrictive living situation; or

B. maintains or increases the individual's independence in one or more of the following areas:

(1) personal management and daily living skills;

(2) communicating; or

(3) traveling.

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Subp. 3. **Consultation prior to closing the record of services.** If SSB expects to discontinue services an eligible individual is receiving under a plan for any reason, SSB must, before closing the record of services, offer the eligible individual an opportunity to discuss the anticipated closing of the record of services.

Subp. 4. **Notice of closing the record of services.** If an eligible individual's services are to be discontinued for reasons other than successful rehabilitation under subpart 2, except for death, SSB shall notify the eligible individual. The notice and record of services must contain a summary or description of the information or circumstances upon which the decision was based and a summary of the eligible individual's appeal rights under part 3325.0478 and a description of services available from and how to contact the client assistance program. If the decision was based on the eligible individual's refusal to accept or use necessary services provided by SSB, the record of services must include a description of the efforts made by SSB to encourage the eligible individual's participation in the rehabilitation process.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0270 RECORD OF SERVICES.

SSB shall maintain for each individual a record of services that contains the information required under parts 3325.0205 to 3325.0478.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0280 [Repealed, 36 SR 33]

3325.0290 [Repealed, 36 SR 33]

3325.0300 [Repealed, 36 SR 33]

3325.0310 [Repealed, 36 SR 33]

3325.0320 [Repealed, 36 SR 33]

3325.0330 [Repealed, 36 SR 33]

3325.0340 [Repealed, 36 SR 33]

3325.0350 [Repealed, 36 SR 33]

3325.0360 [Repealed, 36 SR 33]

3325.0370 [Repealed, 36 SR 33]

3325.0380 [Repealed, 36 SR 33]

3325.0390 [Repealed, 36 SR 33]

3325.0400 [Repealed, 36 SR 33]

3325.0410 [Repealed, 36 SR 33]

PROGRAM ADMINISTRATION**3325.0420 CONDITIONS OF SERVICE.****Subpart 1. Source of services.**

A. Services provided by SSB may be provided directly to applicants and eligible individuals by SSB staff or purchased for applicants and eligible individuals from third parties such as physicians, optometrists, private businesses, state agencies, and community rehabilitation programs that meet the standards identified in part 3325.0470.

B. Services provided to applicants and eligible individuals must be delivered by SSB staff and third parties who have been properly trained regarding the services provided.

Subp. 2. **Conditions governing the provision of all rehabilitation services.**

A. Rehabilitation services to determine eligibility for SSB services are subject to subparts 3 to 14 and informed choice.

B. Subject to subparts 3 to 14 and informed choice, SSB must ensure that each eligible individual receives only the available rehabilitation services necessary to enable the eligible individual to achieve the eligible individual's employment or independent living outcome except:

(1) SSB must not provide a rehabilitation service, other than a diagnostic assessment service, to an eligible individual unless the service is identified in the IPE or ILCSR; and

(2) SSB must not provide a rehabilitation service to an eligible individual if the eligible individual's school district is legally obligated to provide the service consistent with an interagency agreement with the Minnesota Department of Education that identifies each party's roles, responsibilities, and financial obligations.

C. Only in the most unusual of circumstances may a family member be a vendor or provider of services to the individual, and then only with prior supervisory approval.

Subp. 3. **Communication center services.** SSB must provide communication center services to a person, regardless of whether the person is an eligible individual, if the person provides SSB with written documentation signed by a physician, optometrist, or other "competent authority" as defined in the Code of Federal Regulations, title 36, section 701.6(b)(2), stating that the person has a physical disability that prevents the person from reading standard printed material.

Subp. 4. **Interpreter services.** Interpreter services may be provided only for communication needs necessary to conduct a diagnostic assessment or to implement the eligible individual's IPE or ILCSR.

Subp. 5. **Low vision services.** Items A to C govern the provision of low vision services.

A. Low vision aids requiring prescription must be prescribed by a low vision clinician. Low vision aids which do not require prescription may be provided directly by a low vision specialist or clinician.

B. The provision of vision aids must be followed by training in the use of such aids by a low vision specialist or low vision clinician.

C. SSB must not provide low vision services to an eligible individual who is or is likely to become legally blind in place of instruction in the use of alternative techniques necessary for achievement of the eligible individual's employment outcome or independent living goal.

Subp. 6. [Repealed, 36 SR 33]

Subp. 7. **Note-taking services.** Items A and B govern the provision of note taking services.

A. Note-taking services may be provided to an eligible individual only if the eligible individual has a medical condition other than blindness which renders the eligible individual unable to use braille or other means to record information for later use.

B. Note-taking services may only be provided for note-taking needs necessary to conduct a diagnostic assessment or to implement the eligible individual's employment plan.

Subp. 8. **Orientation and mobility services.** Items A to C govern the provision of orientation and mobility services.

A. SSB must provide outdoor cane travel instruction to an eligible individual who is legally blind unless:

(1) the eligible individual is not expected to travel alone outside the eligible individual's residence because of one or more severe nonvisual disabilities; or

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(2) the eligible individual and an orientation and mobility specialist or a person described in item B determine that the eligible individual can travel safely and independently outside the eligible individual's residence without receiving outdoor cane travel instruction.

B. Travel techniques for purposes of outdoor travel must be taught by an orientation and mobility specialist or a person who has demonstrated a mastery of the travel techniques used by blind persons and the ability to safely and effectively teach these techniques to others. The provision of outdoor travel techniques to eligible individuals who are legally blind and have multiple impairments, such as legal blindness combined with hearing loss, may require additional expertise. The director must determine whether a person is qualified in these areas by considering all of the following factors:

- (1) the person's education;
- (2) the person's prior experience in rehabilitation; and
- (3) any performance evaluations or written tests of the person's skills in these areas that the director may require.

C. Orientation and mobility training of an eligible individual must give the eligible individual an opportunity to travel without the instructor and on increasingly difficult routes to help the eligible individual develop confidence in the eligible individual's ability to travel independently. Orientation and mobility training of legally blind eligible individuals who have some remaining vision must include the use of sleepshades unless an orientation and mobility specialist or a person described in item B determines that because of age or one or more nonvisual disabilities the use of sleepshades would be unsafe.

Subp. 9. [Repealed, 36 SR 33]

Subp. 10. **Reader services.** Items A and B govern the provision of reader services.

A. SSB may provide reader services to an eligible individual only if:

- (1) the reading requirements result from implementation of the eligible individual's IPE; and
- (2) the material to be read is not available in braille or accessible electronic or audio recording formats in time to meet an immediate need in the rehabilitation process which, if not met, would impede the eligible individual's rehabilitation progress or if the available formats do not lend themselves to effectively or efficiently conveying information contained in the reading requirements.

B. An eligible individual receiving reader services must, each month, submit to SSB an invoice indicating the hours of reader services received.

Subp. 11. **Rehabilitation teaching services.** Items A to C govern the provision of rehabilitation teaching services.

A. SSB must provide an eligible individual with instruction leading to proficiency in braille unless the eligible individual can read print with enough proficiency to successfully complete the eligible individual's plan or unless the eligible individual has a medical condition which prevents the eligible individual from reading braille.

B. Braille instruction must be provided by a rehabilitation teacher or a person who has demonstrated a mastery of contracted braille and the ability to teach contracted braille to blind persons. The director must determine whether a person is qualified in these areas by considering all of the following factors:

- (1) the person's education;
- (2) the person's prior experience in rehabilitation; and
- (3) any performance evaluations or written tests of the person's skills in these areas that the director may require.

C. Rehabilitation teaching services other than braille instruction must be provided by a rehabilitation teacher or a person who has demonstrated a mastery of alternative techniques other than braille or outdoor cane travel and the ability to teach alternative techniques to blind persons. The provision of rehabilitation teaching services other than braille instruction to eligible individuals who are legally blind and have multiple impairments, such as legal blindness combined with hearing loss, may require additional expertise. The director must determine whether a person is qualified in these areas by considering all of the following factors:

- (1) the person's education;
- (2) the person's prior experience in rehabilitation; and
- (3) any performance evaluations or written tests of the person's skills in these areas that the director may require.

Subp. 12. **Physical and mental restoration services.** Items A to D govern the provision of physical and mental restoration services.

A. SSB may provide a physical or mental restoration service to an eligible individual only if:

- (1) the eligible individual's condition for which the physical or mental restoration service is needed is stable or slowly progressive, or is an acute or chronic medical complication or emergency arising from or associated with the provision of restoration services;
- (2) the eligible individual's condition constitutes, contributes to, or, if not corrected, is likely to constitute or contribute to a substantial impediment to employment; and
- (3) the eligible individual's condition can be corrected or substantially modified within a reasonable period of time.

B. SSB may purchase physical and mental restoration services only from physicians, optometrists, or other health professionals licensed under Minnesota Statutes, chapter 147 or 148.

C. SSB must not pay for experimental medical supplies or procedures. Experimental supplies or procedures means:

- (1) health services which have progressed to limited human application and trial but which lack wide recognition as proven and effective procedures in clinical medicine as determined by the National Blue Cross and Blue Shield Association Medical Advisory Panel; and
- (2) drugs or devices that the United States Food and Drug Administration has not yet declared safe and effective for the use prescribed.

D. SSB must pay for restoration services in accordance with the rates established by the United States Department of Health and Human Services for Medicare.

Subp. 13. **Transportation services.** Items A to C govern the provision of transportation services.

A. SSB may provide transportation services only for transportation requirements that are necessary to enable an applicant or eligible individual to be determined eligible for or participate in the vocational rehabilitation or independent living program.

B. SSB must provide the least expensive mode of transportation that serves the eligible individual's rehabilitation needs and accommodates any nonvisual disability related limitations the eligible individual may have. When a private vehicle is the mode of transportation identified in the eligible individual's plan, SSB must pay parking fees and mileage at the rate established for state of Minnesota employees in the current managerial plan published by the Minnesota Department of Management and Budget. This document is incorporated by reference and is not subject to frequent change. It is available for inspection at SSB's headquarters office.

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C. SSB must pay for the transportation of an escort to accompany the eligible individual while traveling only if the eligible individual cannot yet travel safely without the assistance of an escort.

Subp. 14. **Vocational training services.** SSB may provide tuition, supplies, maintenance, and transportation to an eligible individual for training at an institution of higher learning only if there is evidence that the eligible individual is capable of completing the required coursework or degree program. Tuition, supplies, maintenance, and transportation paid by SSB for training at a private or non-Minnesota institution of higher learning must not exceed those amounts charged by Minnesota public colleges, universities, or technical and community colleges offering the same program nearest the eligible individual's residence unless the necessary training is not available to the eligible individual at a public Minnesota institution.

Subp. 15. **Self-employment.** SSB may support an employment outcome of self-employment if:

- A. the eligible individual has developed a written business plan;
- B. the business plan has been reviewed for feasibility by a representative of the Small Business Administration (SBA), a Small Business Development Center (SBDC) authorized by the Department of Employment And Economic Development, or the Service Corps of Retired Executives (SCORE); and
- C. the review determines the eligible individual's business plan to be feasible.

SSB does not require the eligible individual to take out an SBA-insured loan, or other loan, in conjunction with a self-employment outcome.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; L 1987 c 258 s 12; L 1989 c 246 s 2; L 2008 c 204 s 42; L 2009 c 101 art 2 s 109; 36 SR 33*

3325.0430 COMPARABLE SERVICES AND BENEFITS; VOCATIONAL REHABILITATION.

Subpart 1. **Scope.** Comparable services and benefits that would contribute toward and not interfere with an eligible individual's vocational rehabilitation must be used if available to an eligible individual or members of an eligible individual's family for all rehabilitation services identified in the eligible individual's IPE except:

- A. diagnostic assessment for determining eligibility and vocational rehabilitation needs;
- B. vocational rehabilitation counseling including information and support services to assist an individual in exercising informed choice;
- C. referral services;
- D. rehabilitation technology;
- E. job-related services; or
- F. postemployment services consisting of the services identified in this subpart.

Comparable benefits do not include awards and scholarships based on merit.

Subp. 2. **Eligible individual responsibilities.** An eligible individual must, with the assistance of the eligible individual's vocational rehabilitation counselor, participate in the search for and use of comparable services and benefits as follows:

- A. Before receiving physical and mental restoration services other than nonprescription low vision aids, an eligible individual must file a claim or application for coverage with the eligible individual's health insurer, if any. If the eligible individual has no health insurance or if the physical and mental restoration services provided are not covered by the eligible individual's health insurance, the eligible individual must apply to a local human services agency for medical assistance under Minnesota Statutes, chapter 256B.

B. Before receiving any rehabilitation service other than those identified in subpart 1, items A to F, an eligible individual must apply or provide evidence of having already applied for any state or federal assistance program for which the eligible individual's vocational rehabilitation counselor determines the eligible individual may be eligible.

C. Before receiving vocational training services in an institution of higher learning, an eligible individual must apply for educational grants to cover the costs of tuition, supplies, and living expenses.

D. If comparable services and benefits exist under any other program, but are not available to the eligible individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's IPE, SSB must provide vocational rehabilitation services until those comparable services and benefits become available.

Subp. 3. **Relation to financial need eligibility.** The extent to which comparable services and benefits are available to an eligible individual must be determined before determining the degree of financial participation required of the eligible individual under part 3325.0440.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0435 SIMILAR BENEFITS; INDEPENDENT LIVING SERVICES.

Subpart 1. **Scope.** Similar benefits that would contribute toward and not interfere with an eligible individual's independent living rehabilitation must be used if available to an eligible individual or members of an eligible individual's family for all rehabilitation services identified in the eligible individual's ILCSR except:

- A. communication center services;
- B. diagnostic assessment for determining eligibility and independent living rehabilitation needs; and
- C. referral services.

Subp. 2. **Eligible individual responsibilities.** An eligible individual must, with the assistance of an SSB direct service staff, participate in the search for and use of similar benefits as follows:

A. Before receiving any independent living rehabilitation services other than those identified in subpart 1, items A to C, an eligible individual must apply or provide evidence of having already applied for any state or federal assistance program for which the eligible individual's SSB direct service staff determines the eligible individual may be eligible.

B. The application for or use of similar benefits must not be required if the application for or use of similar benefits would significantly delay the provision of these services to the detriment of the eligible individual.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0440 FINANCIAL PARTICIPATION BY ELIGIBLE INDIVIDUALS IN THE VOCATIONAL REHABILITATION PROGRAM.

Subpart 1. **Services exempted from financial participation.** Regardless of an eligible individual's income, SSB must not require eligible individual financial participation for the following services:

- A. diagnostic assessment services except those services provided under an extended evaluation or trial work experience that are not diagnostic in nature;
- B. vocational rehabilitation counseling and other adjustment to blindness services;
- C. job-related services;

- D. referral services;
- E. interpreter and note-taking services;
- F. low vision services, including closed circuit televisions, up to a cumulative value of \$500;
- G. communication center services;
- H. maintenance or transportation services needed by an eligible individual to obtain adjustment to blindness services;
- I. reader services;
- J. rehabilitation technology, other than technology which can be classified as low vision aids, up to a cumulative value of \$3,000; and
- K. postemployment services consisting of the services identified in this subpart.

Subp. 2. **Services subject to financial participation.** An applicant or eligible individual may be required to participate in paying the cost of all rehabilitation services not exempted from financial participation under subpart 1.

Subp. 3. **Basis for determining the degree of financial participation required.** The degree of financial participation required of an eligible individual is determined on the basis of the eligible individual's monthly and annual family income in relation to the most recent estimate of Minnesota median income levels as adjusted for family size using the adjustment methodology specified in the Code of Federal Regulations, title 45, section 96.85. This estimate is published annually by the United States Department of Health and Human Services in the Federal Register. The applicable sections of the Federal Register are incorporated by reference.

Subp. 4. **No required financial participation.** The following eligible individuals are exempt from financial participation:

- A. an eligible individual whose monthly family income is equal to or less than the state median monthly income as adjusted for family size;
- B. an eligible individual who has been determined eligible for Social Security benefits based on the individual's own disability under Title II or XVI of the Social Security Act consistent with Code of Federal Regulations, title 34, section 361.54 (b)(3)(ii); or
- C. an eligible individual who had been determined eligible for an individual or family means-tested public assistance program of the Department of Human Services.

Subp. 5. **Financial participation required.** An eligible individual whose monthly family income is more than the state median monthly income as adjusted for family size must pay for rehabilitation services provided under the eligible individual's IPE an amount equal to the percentage by which the eligible individual's family income exceeds the adjusted median income. Example: If an eligible individual's monthly family income exceeds the state median monthly income adjusted for the eligible individual's family size by ten percent, the eligible individual must pay ten percent of the cost of rehabilitation services provided under the eligible individual's IPE; SSB would pay 90 percent.

Subp. 6. [Repealed, 36 SR 33]

Subp. 7. **Variance.** An eligible individual who is unable to pay for rehabilitation services to the extent required by subparts 4 and 5 because of unusual financial circumstances may apply to the director for a variance in the determination of the eligible individual's required financial participation as follows:

- A. A request for a variance must be submitted in writing by the eligible individual or the eligible individual's legal representative. The request must provide the director with evidence describing the eligible individual's unusual financial situation. If additional information is required by the director to determine eligibility for a variance, SSB must, within 15 calendar days after receiving the written request, inform the eligible individual in writing of the specific additional information required.

B. The director must determine whether the eligible individual is eligible for a variance and notify the eligible individual of the determination in writing within 30 calendar days after the director receives all the information required under item A. The written notification must:

- (1) specify whether the eligible individual is eligible for a variance;
- (2) indicate the reasons for the determination;
- (3) specify the amount of the variance, if any;
- (4) inform the eligible individual of review and appeal rights under part 3325.0478; and
- (5) be signed and dated by the director.

C. The director must grant a variance only if the eligible individual demonstrates that it would be impossible for the eligible individual to make the cost contributions required under subparts 5 and 6 without using the eligible individual's savings because of:

- (1) court ordered financial obligations of the eligible individual;
- (2) legal financial obligations incurred by the eligible individual prior to being found eligible to receive rehabilitation services from SSB; or
- (3) extraordinary expenditures for necessities such as food, shelter, clothing, or medical care the eligible individual is required to make because of illness or disability.

D. The director must determine the amount of an eligible individual's variance by:

- (1) calculating the sum of the eligible individual's financial obligations and extraordinary expenditures identified in item C which make it impossible for the eligible individual to make the cost contributions required under subparts 5 and 6; and
- (2) subtracting that sum from the financial participation amount the eligible individual would have to pay without the variance.

E. An eligible individual who receives a variance must immediately notify the director in writing if the eligible individual's financial situation improves.

F. The director may review the financial situation of an eligible individual who receives a variance at any time to determine whether the eligible individual's financial situation continues to justify the variance.

Subp. 8. **Income verification.** If an eligible individual's employment plan includes or is expected to include rehabilitation services other than those identified in subpart 1, the eligible individual must provide SSB with written verification of the eligible individual's most recent annual family income and sources of income.

Subp. 9. **Annual redetermination.** SSB must redetermine at least annually, the financial need of each eligible individual.

Subp. 10. **One source payments; conditions and reimbursement.** If purchasing services for an eligible individual who is subject to financial participation from a vendor that requires payment from one source (e.g., any Visa purchase) SSB must authorize for the full amount after first receiving the eligible individual's required financial participation.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0445 FINANCIAL PARTICIPATION BY ELIGIBLE INDIVIDUALS IN THE INDEPENDENT LIVING PROGRAM.

Subpart 1. **Services exempted from financial participation.** Regardless of an eligible individual's income, SSB must not require eligible individual financial participation for the following services:

- A. blindness services that consist of independent living counseling, rehabilitation teaching services, and orientation and mobility services;

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- B. communication center services;
- C. diagnostic assessment services;
- D. interpreter services;
- E. low vision services with the following limitations:
 - (1) only up to a limit of \$300 per period of eligibility for each spectacle-mounted low vision aid with at least a +4.00 diopter add; and
 - (2) SSB must not purchase electronic magnification systems for individuals;
- F. maintenance;
- G. referral services;
- H. services to family members identified in part 3325.0110, up to a limit of \$300 per period of eligibility;
- I. rehabilitation technology with the following limitations:
 - (1) only up to \$100 per period of eligibility for each nonelectronic technology device;
 - (2) only up to \$1,000 total per period of eligibility for adaptive software;
 - (3) only up to ten hours of training, excluding travel time, per period of eligibility for keyboarding, computer literacy, and use of computerized aids or devices; and
 - (4) SSB must not purchase computers, related accessories, or other computerized aids and devices; and
- J. transportation services.

Subp. 2. **Services subject to financial participation.** An eligible individual must participate in paying the cost of all rehabilitation services not exempted from financial participation under subpart 1.

Subp. 3. **Basis for determining the degree of financial participation required.** The degree of financial participation required of an eligible individual is 100 percent of all costs in excess of those exempted. All eligible individuals in the independent living program are subject to this part, and no variances shall be granted.

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0450 RECOVERY OF MONETARY ASSISTANCE OVERPAYMENTS.

Subpart 1. **Written notification.** SSB must notify an eligible individual in writing as soon as possible after discovering that the eligible individual has received monetary assistance from SSB in excess of that to which the eligible individual is entitled under parts 3325.0100 to 3325.0478. The written notification must:

- A. specify the dates and amounts of incorrect payments;
- B. indicate SSB's basis for determining that the payments were incorrect;
- C. inform the eligible individual of appeal rights under part 3325.0478;
- D. indicate whether SSB intends to refer the case to the attorney general to investigate the possibility of fraud; and
- E. be signed and dated by the eligible individual's appropriate SSB staff person.

Subp. 2. **Repayments.** Overpayments of maintenance benefits or other monetary assistance caused by the eligible individual, SSB error, or by an eligible individual's inability or refusal to continue implementing an IPE or ILCSR must be repaid by the eligible individual in a lump sum or in monthly payments of not less than ten percent of the incorrect payment or five percent of the eligible individual's monthly family income, whichever is less. If the eligible individual does not repay erroneous overpayments in accordance with

this subpart, SSB may exercise its recoupment rights under Minnesota Statutes, section 248.11.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0460 PURCHASE, TRANSFER, AND MAINTENANCE OF EQUIPMENT.

Subpart 1. **Scope.** For purposes of this part, the term "equipment" includes occupational equipment, occupational tools, software, and rehabilitation technology purchased for the permanent use of an eligible individual by SSB as part of an IPE or ILCSR.

Subp. 2. [Repealed, 36 SR 33]

Subp. 3. [Repealed, 36 SR 33]

Subp. 4. [Repealed, 36 SR 33]

Subp. 5. [Repealed, 36 SR 33]

Subp. 6. **Transfer of title.** SSB must transfer legal title of equipment to an eligible individual when the equipment is purchased for the eligible individual's permanent use. SSB must transfer equipment to former eligible individuals within one year after August 8, 2011.

Subp. 7. [Repealed, 36 SR 33]

Subp. 8. **Maintenance responsibility.** SSB must include, as part of the purchase of equipment, an initial maintenance or service agreement, or extended warranty, if available. SSB may forego such inclusion if the eligible individual expressly and unequivocally objects to it at time of purchase. Upon transfer of title, it is the sole responsibility of the eligible individual to maintain and repair the equipment.

Subp. 9. **Employer responsibility.** SSB must not provide an employed eligible individual with equipment that the eligible individual's employer normally provides to employees. If the equipment is not normally provided by the employer, SSB or the eligible individual may ask the employer to pay all or a portion of the cost of equipment needed. SSB and the eligible individual, subject to financial participation requirements in part 3325.0440, must contribute toward the cost of equipment only to the extent the eligible individual's employer refuses to contribute.

Subp. 10. [Repealed, 36 SR 33]

Subp. 11. **Abuse or neglect of equipment.** SSB must not provide additional equipment to an eligible individual if the eligible individual has a history of abuse or neglect of equipment previously provided to the eligible individual by SSB. History of abuse or neglect means that on two or more occasions equipment provided to an eligible individual has sustained, by reason of acts or omissions of the eligible individual, damage beyond that which would result from normal use.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; 36 SR 33*

3325.0470 STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS.

Subpart 1. **Written operating agreement.** SSB must execute written operating agreements with each community rehabilitation program from which SSB purchases rehabilitation services for applicants and eligible individuals unless the community rehabilitation program has a current operating agreement with the department or the rehabilitation agency of another state. The agreement must be signed by the director of the community rehabilitation program, or the sole proprietor, if an individual, and the director of SSB and must contain, at a minimum, assurances that the community rehabilitation program will comply with the standards established in subparts 2 to 8. SSB may only purchase services from a community rehabilitation program that meets the standards established in subparts 2 to 8. Individuals providing rehabilitation services under an operating agreement with SSB are excluded from meeting standards in subparts 3 and 6, item D.

Subp. 2. **Applicable state and federal laws.** Community rehabilitation programs must comply with all applicable state and federal laws, including the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Applicant and eligible individual records must be stored under lock with reasonable protection against fire, water damage, and other hazards.

Subp. 3. **Representation and employment of the blind.** The governing bodies of community rehabilitation programs for the blind and visually impaired must include blind or visually impaired persons. Community rehabilitation programs must make and document affirmative attempts to employ blind persons, including blind persons with additional impairments such as combined vision and hearing loss, at all levels of employment.

Subp. 4. **Evaluation of community rehabilitation program effectiveness.** Community rehabilitation programs must have systematic procedures for evaluating program effectiveness. Community rehabilitation program staff must periodically review aggregate data on the progress and outcome of eligible individuals served. The results of effectiveness evaluations must be available to the governing body and staff of the community rehabilitation program, SSB, and the public.

Subp. 5. [Repealed, 36 SR 33]

Subp. 6. **Adjustment to blindness training services.** Community rehabilitation programs and individuals who provide training services for the blind and visually impaired must comply with the requirements of items A to E.

A. The services must include a class or activities designed to help eligible individuals develop a positive attitude toward blindness. If the community rehabilitation program serves deafblind eligible individuals, the community rehabilitation program's services must include a class or activities designed to develop a positive attitude about being both blind and deaf.

B. Low vision and adjustment to blindness services must be provided in accordance with the requirements established in part 3325.0420, subparts 5, items A and B; 8, items B and C; and 11, items B and C.

C. Consistent with an eligible individual's IPE or ILCSR, all eligible individuals must be provided with the opportunity to engage in a wide range of activities for the purpose of building self-confidence and overcoming doubts and fears concerning what blind persons can do, or what deafblind persons can do, if applicable.

D. During training, all eligible individuals must be provided with the opportunity to interact with employed or otherwise independent blind persons, or deafblind persons if applicable, who are not in need of rehabilitation services.

E. The services must include a requirement that eligible individuals use the alternative technique skills they are learning outside of the training setting to manage their own lives in the activities of daily living and use of rehabilitation technology.

Subp. 7. **Progress reports.** Community rehabilitation programs must provide timely written reports as required by SSB concerning the progress of eligible individuals in the development of self-confidence, the performance of activities of daily living, and the use of rehabilitation technology, if applicable.

Subp. 8. **Location of community rehabilitation programs.** SSB may purchase services from a community rehabilitation program located outside Minnesota only if:

A. the eligible individual needs rehabilitation services which are not available at community rehabilitation programs within Minnesota;

B. the eligible individual's residence is geographically closer to a community rehabilitation program outside Minnesota than it is to any community rehabilitation program within Minnesota; or

C. the eligible individual expressly indicates that adjustment to blindness training is wanted at a community rehabilitation program outside the state. If an eligible individual obtains training at a non-Minnesota community rehabilitation program under this item, SSB must not pay more for the eligible individual's training, maintenance, and transportation than it would otherwise pay for the eligible individual's training, maintenance, and transportation at the community rehabilitation program located in Minnesota which would be the least costly for the eligible individual to attend.

Statutory Authority: *MS s 248.07*

History: *11 SR 1784; L 2005 c 56 s 2; 36 SR 33*

3325.0478 REVIEW AND MEDIATION OF DETERMINATIONS.

Subpart 1. **Written request.** An appellant may make a written request for review and mediation to the director if dissatisfied with any determination that affects the provision of rehabilitation services. To preserve the appellant's right to a review and mediation, the request must be received by the director no more than 60 calendar days after the appellant is notified of the action for which the review is requested. The appellant must identify the determination with which the appellant is dissatisfied. SSB must not institute a suspension, reduction, or termination of rehabilitation services being provided to an appellant until completion of the review process unless the appellant requests a suspension, reduction, or termination, or if SSB has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the appellant.

Subp. 2. **Review and mediation options.** SSB must contact the appellant within five calendar days following receipt of the request and explain review and mediation options. SSB must also provide the appellant a description of services available from and information on how to contact the client assistance program, established under Code of Federal Regulations, title 34, section 370, to assist the appellant in the review of determinations. An appellant may request one or more of the following options: informal review, mediation, or impartial hearing. If the appellant is dissatisfied with the results of an informal review or mediation, or chooses an impartial hearing initially, an impartial hearing must commence within 60 calendar days of the request in subpart 1 unless the parties agree to a specific extension of time.

Subp. 3. **Communication.** If the appellant is disabled in communication, then SSB must appoint an interpreter, consistent with Minnesota Statutes, sections 546.42 to 546.44. Review and mediation process information, decisions and reports, agreements if applicable, and any required supporting documentation resulting from a request under subpart 1 must be provided to the appellant in writing. Consistent with the informed choice of the appellant, review and mediation proceedings and related communication must be provided in the native language of the appellant, supplemented as necessary by other appropriate modes of communication including the use of auxiliary aids and services.

Subp. 4. **Informal review.** An appellant may request an informal review. An informal review must not be used to deny the right of an appellant to pursue mediation or an impartial hearing.

A. Participation in the informal review is voluntary on the part of the appellant and on the part of SSB. The appellant or SSB may terminate the informal review at any time. In the event an informal review is terminated, the appellant or SSB may pursue resolution through mediation or an impartial hearing.

B. The informal review must be conducted by supervisory staff not involved in the original determination that caused the appellant to ask for a review. An appellant may choose:

(1) an informal review of written materials only. Supervisory staff conducting the review must consider all written evidence presented from the time the request for informal review is received until the final decision is made; or

(2) an informal review of written materials with a review conference. Supervisory staff conducting the informal review must consider all written and oral evidence presented from the time the request for review is received until the final decision is made.

C. The final decision regarding the informal review must be made by the reviewing supervisory staff either within ten calendar days following the request for an informal review of written materials only, or within ten calendar days following the conclusion of an informal review conference, unless the parties agree to a specific extension of time. The supervisory staff conducting the informal review must notify the appellant in writing by mail of the informal review decision. The informal review decision must contain a summary of the nature and basis of the decision and the appellant's review rights under this part.

Subp. 5. **Mediation.** An appellant may request mediation at any time. Mediation must not be used to deny the right of an appellant to pursue an impartial hearing.

A. Participation in the mediation process is voluntary on the part of the appellant and on the part of SSB. The appellant, SSB, or mediator may terminate mediation at any time. In the event mediation is terminated, the appellant or SSB may pursue resolution through an impartial hearing.

B. A qualified and impartial mediator who meets the requirements of Code of Federal Regulations, title 34, section 361.5(b)(43), must be chosen on a random basis, by mutual agreement of the director of SSB and the appellant or, as appropriate, the appellant's designated representative, or in accordance with SSB's procedure for assigning mediators in a neutral manner. Mediation sessions must be held in a timely manner and at a location convenient to both parties.

C. Mediation discussions are confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties may be required to sign a confidentiality pledge prior to the commencement of mediation. Any agreement resulting from mediation must be in writing with the assistance of the mediator, signed by both parties, and copies provided to both parties. SSB must pay for the cost of mediation, but is not required to pay for any costs related to the representation of an appellant.

Subp. 6. **Impartial hearing.** An appellant may choose an impartial hearing.

A. The impartial hearing officer for a particular case must be selected on a random basis from a list of qualified impartial hearing officers who have been jointly identified by SSB and the State Rehabilitation Council for the Blind.

B. The hearing must be initiated and conducted according to parts 1400.5100 to 1400.8400; Minnesota Statutes, sections 14.57 to 14.62; and Code of Federal Regulations, title 34, part 361.57 (e).

C. The impartial hearing officer must provide by mail to both parties a full written report of the findings and grounds for the decision within 30 calendar days of the completion of the hearing. The impartial hearing officer's decision is final unless a review is requested under item D.

D. An appellant may request a review of the impartial hearing officer's decision using the following process:

(1) A party who is dissatisfied with the impartial hearing officer's decision may request a review of the decision within 20 calendar days of the mailing of the impartial hearing officer's decision. The review must be conducted by the commissioner of employment and economic development, who may not delegate the review to any employee of SSB.

(2) The commissioner must provide both parties with an opportunity to submit additional evidence and information relevant to a final decision concerning the matter under review.

(3) The commissioner may not overturn or modify the impartial hearing officer's decision, or any part of the decision, that supports the position of the appellant unless the commissioner concludes, based on clear and convincing evidence, that the decision of

the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved state plan, federal law and regulations, or state rules and policies that are consistent with federal requirements.

(4) The commissioner must make an independent, final decision within 30 calendar days of the request after reviewing the entire hearing record and provide the decision in writing, including a full report of the findings and the statutory, regulatory, or policy grounds for the decision to both parties.

(5) The commissioner's decision is final unless either party disagrees and brings a civil action, in which case the commissioner's decision must be implemented pending review by the court.

(6) Any party dissatisfied with the commissioner's decision after reviewing the impartial hearing officer's decision may bring a civil action with respect to the matter in dispute in any state court of competent jurisdiction or district court of the United States of competent jurisdiction, as provided in Code of Federal Regulations, title 34, section 361.57 (i).

Statutory Authority: *MS s 248.07*

History: *36 SR 33*

3325.0480 [Repealed, 36 SR 33]

3325.0490 [Repealed, 36 SR 33]