

1 Department of Economic Security

2

3 Adopted Permanent Rules Relating to Vocational Rehabilitation

4 Services

5

6 Rules as Adopted

7 3300.5010 DEFINITIONS.

8 [For text of subps 1 to 3, see M.R.]

9 Subp. 3a. Auxiliary aids and services for effective

10 communication. "Auxiliary aids and services for effective

11 communication" has the meaning given auxiliary aids and services

12 in Code of Federal Regulations, title 28, sections 35.104 and

13 36.303, paragraph (b).

14 [For text of subps 4 to 26, see M.R.]

15 Subp. 27. Paratransit. "Paratransit" means the comparable

16 transportation service provided by a public entity as required

17 by United States Code, title 42, section 12143, for individuals

18 with disabilities who are unable to use fixed route

19 transportation services. Paratransit includes door-to-door or

20 demand responsive transportation for persons who are unable to

21 use conventional transportation provided by a public entity.

22 Paratransit may be provided directly by a public transit agency

23 or contracted out to a private company.

24 [For text of subp 28, see M.R.]

25 Subp. 28a. Physical and mental restoration services.

26 "Physical and mental restoration services" means the medical or

27 medically related services provided to correct or modify, within

28 a reasonable period of time, a physical or mental condition that

29 is stable or slowly progressive. These services consist of the

30 services listed under the definition of physical and mental

31 restoration services in Code of Federal Regulations, title 34,

32 section 361.1, subsection (c), paragraph (2), as amended.

33 [For text of subps 29 to 31, see M.R.]

34 Subp. 31a. Public entity. "Public entity" means:

35 A. any state or local government; or

1 B. any department, agency, special purpose district,
2 or other instrument of one or more state or local governments.

3 [For text of subps 32 to 37, see M.R.]

4 Subp. 38. [See repealer.]

5 [For text of subps 39 to 42, see M.R.]

6 Subp. 43. **Transportation services.** "Transportation
7 services" means payments for:

8 A. gasoline and parking;

9 B. transportation provided by a public entity
10 including paratransit;

11 C. a driver, if one is required;

12 D. other available transportation if transportation
13 provided by a public entity, including paratransit, and
14 transportation by private vehicle are unavailable; or

15 E. the purchase of vehicle repairs.

16 Subp. 44. **Tuition cap.** "Tuition cap" means:

17 [For text of item A, see M.R.]

18 B. for all other undergraduate programs, the dollar
19 amount equal to the average annual cost of tuition and mandatory
20 fees needed for a student to complete 60 credits in 12
21 consecutive months at a state community college. This amount is
22 available annually from the financial aid office at any state
23 community college.

24 [For text of subps 45 to 50, see M.R.]

25 3300.5040 CONSUMER FINANCIAL PARTICIPATION IN COST OF VOCATIONAL
26 REHABILITATION SERVICES.

27 [For text of subps 1 to 5, see M.R.]

28 Subp. 6. **Services exempted from financial participation.**

29 The division must not require eligible consumer financial
30 participation for the following services:

31 [For text of items A to I, see M.R.]

32 J. auxiliary aids and services for effective
33 communication;

34 K. single-time nonrecurring purchases of goods and
35 services costing \$300 or less; and

1 L. postemployment services consisting of the services
2 identified in this subpart.

3 [For text of subps 7 to 9, see M.R.]

4 3300.5050 COMPARABLE BENEFITS AND SERVICES.

5 [For text of subpart 1, see M.R.]

6 Subp. 2. **Consumer responsibilities.** Except in the
7 circumstances described in subpart 1, an eligible consumer must,
8 with the assistance of the division, participate in the search
9 for and use of comparable benefits as follows:

10 [For text of items A and B, see M.R.]

11 C. Before receiving physical and mental restoration
12 services, an eligible consumer must file a claim or application
13 with the consumer's health insurer, if any. If the eligible
14 consumer has no health insurance, or if the restoration services
15 provided are not covered by the eligible consumer's health
16 insurance, the eligible consumer must apply to a local human
17 services agency for medical assistance under Minnesota Statutes,
18 chapter 256B.

19 [For text of item D, see M.R.]

20 3300.5060 TERMS AND CONDITIONS FOR PROVISION OF VOCATIONAL
21 REHABILITATION SERVICES.

22 [For text of subpart 1, see M.R.]

23 Subp. 1a. **Auxiliary aids and services for effective**
24 **communication.** The division must provide auxiliary aids and
25 services for effective communication necessary to enable an
26 applicant or eligible consumer to access division services or
27 participate in vocational rehabilitation services under an
28 individualized written rehabilitation program, except that the
29 division must not assume the responsibility of other programs or
30 vendors, such as postsecondary training institutions, community
31 rehabilitation programs, physicians, psychologists, and
32 placement agencies, for providing program and service
33 accessibility under Code of Federal Regulations, title 28,
34 sections 35.149 to 35.164; and 36.301 to 36.310.

35 [For text of subp 2, see M.R.]

1 Subp. 3. Computer hardware and software.

2 A. Before the division purchases computer software or
3 hardware, including modems, printers, and other peripherals, the
4 amount of consumer financial participation in the cost of the
5 items must be determined under part 3300.5040.

6 B. The eligible consumer must, with the assistance of
7 the division, participate in the search for and use of
8 comparable benefits under part 3300.5050, subpart 2, item D,
9 except that a search for comparable benefits is not required if
10 the search would cause the eligible consumer to lose an
11 immediate job placement.

12 C. The division must purchase computer software or
13 hardware, including modems, printers, and other peripherals,
14 only for disability-related reasons, except for computers
15 purchased as equipment necessary for an eligible consumer to
16 achieve an employment goal of self-employment or operation of a
17 small business.

18 D. The division must not purchase computer software
19 or hardware, including modems, printers, and other peripherals,
20 if an eligible consumer's needs can be met through alternative
21 means of accessing computers, such as the use of computer
22 laboratories at postsecondary institutions.

23 E. Before the division purchases computer software or
24 hardware, including modems, printers, and other peripherals, if
25 either the counselor or the eligible consumer is uncertain
26 regarding the eligible consumer's needs, an assessment to
27 determine the eligible consumer's needs for computer hardware,
28 software, or modems, printers, and other peripherals must be
29 conducted by a person knowledgeable about computers who is not a
30 vendor of computer equipment.

31 F. Any division purchases of computer software or
32 hardware, including modems, printers, and other peripherals,
33 must be made using the information obtained from the assessment
34 under item E.

35 G. The division expenditures for the purchase of
36 computer hardware, modems, printers, and other peripherals for

1 an eligible consumer must not exceed \$3,000, excluding costs for
2 adaptations required because of the eligible consumer's
3 disability.

4 Subp. 3a. **Durable medical equipment.**

5 A. Before the division provides durable medical
6 equipment, the amount of consumer financial participation in the
7 cost of durable medical equipment must be determined under part
8 3300.5040.

9 B. The eligible consumer must, with the assistance of
10 the division, participate in the search for and use of
11 comparable benefits under part 3300.5050, subpart 2, item D,
12 except that a search for comparable benefits is not required if
13 the search would cause the eligible consumer to lose an
14 immediate job placement.

15 Subp. 4. [See repealer.]

16 [For text of subp 5, see M.R.]

17 Subp. 6. [See repealer.]

18 [For text of subp 7, see M.R.]

19 Subp. 7a. **Physical and mental restoration services.**

20 A. Before the division provides physical and mental
21 restoration services, the amount of eligible consumer financial
22 participation in the cost of physical and mental restoration
23 services must be determined under part 3300.5040.

24 B. The eligible consumer must, with the assistance of
25 the division, participate in the search for and use of
26 comparable benefits under part 3300.5050, subpart 2, items C and
27 D, except that a search for comparable benefits is not required
28 if the search would delay the provision of medical services to
29 an eligible consumer at extreme medical risk, or if the search
30 would cause the eligible consumer to lose an immediate job
31 placement.

32 C. The division must not pay for recurring, ongoing
33 physical or mental restoration services that an eligible
34 consumer would require regardless of participation in an
35 individualized written rehabilitation program, such as group or
36 individual psychotherapy, prescription drugs, or physical

1 therapy.

2 D. Eligible consumers may select:

3 (1) any licensed physician to perform physical
4 restoration services;

5 (2) any licensed dentist to perform dental
6 restoration services;

7 (3) any qualified professional to provide mental
8 health services, for example, a licensed clinical social worker,
9 licensed psychologist, registered psychiatric nurse, or
10 traditional American Indian healer; and

11 (4) any vendor to provide braces or artificial
12 limbs.

13 Subp. 8. [See repealer.]

14 Subp. 9. **Rehabilitation technology.**

15 A. Before the division provides rehabilitation
16 technology, the amount of consumer financial participation in
17 the cost of rehabilitation technology must be determined under
18 part 3300.5040, except that items that are also auxiliary aids
19 and services for effective communication are not subject to
20 consumer financial participation.

21 [For text of item B, see M.R.]

22 C. Division purchases of vehicle adaptations must be
23 made as follows:

24 (1) before the division purchases vehicle
25 adaptations, an evaluation of the vehicle and the consumer's
26 needs must be conducted by a person knowledgeable in adapting
27 vehicles for persons with disabilities who is not a vendor of
28 vehicle adaptations;

29 (2) any vehicle adaptations purchased by the
30 division must be consistent with the findings of the evaluation
31 in subitem (1);

32 (3) the division must not consider the
33 availability of transportation provided by a public entity,
34 including paratransit, or carpooling in determining whether to
35 provide vehicle adaptations; and

36 (4) the division must only purchase vehicle

1 adaptations that have not been previously owned and that are not
2 yet installed in the consumer's vehicle at the time of purchase
3 of the vehicle.

4 Subp. 10. [See repealer.]

5 Subp. 11. **Small business enterprises.**

6 A. Before the division purchases occupational
7 licenses, tools, equipment, and initial stocks and supplies to
8 establish a small business enterprise, the amount of consumer
9 financial participation in the cost of the occupational
10 licenses, tools, equipment, and initial stocks and supplies must
11 be determined under part 3300.5040.

12 [For text of item B, see M.R.]

13 C. Division assistance in the establishment of a
14 small business enterprise is for the purchase of occupational
15 licenses, tools, equipment, and initial stocks and supplies.

16 D. Before the division provides occupational
17 licenses, tools, equipment, and initial stocks and supplies for
18 the establishment of a small business enterprise, the eligible
19 consumer must:

20 (1) obtain advice and consultation from a small
21 business development center or comparable organization on
22 developing a business plan and possible sources of funding for
23 the proposed business; and

24 (2) develop and submit to the eligible consumer's
25 rehabilitation counselor a business plan based on the advice and
26 consultation received under subitem (1) that includes a market
27 analysis, a description of the technical and management
28 expertise of the person or persons expected to manage and
29 operate the business, and a financial analysis including an
30 estimation of the viability of the business.

31 E. The division must not require an eligible consumer
32 to accept a loan, but an eligible consumer may choose to accept
33 a loan to supplement the division's purchases of occupational
34 licenses, tools, equipment, and initial stocks and supplies to
35 establish a small business.

36 F. The division's purchases of occupational licenses,

1 tools, equipment, and initial stocks and supplies for the
2 establishment of a small business enterprise must be made only
3 after the eligible consumer and the rehabilitation counselor
4 take into consideration the information obtained in item D.

5 G. Total division expenditures for occupational
6 licenses, tools, equipment, and initial stocks and supplies for
7 a small business enterprise must not exceed \$5,000 for the life
8 of the business, excluding costs for rehabilitation technology.

9 H. The division must not purchase occupational
10 licenses, tools, stocks, supplies, or equipment for the ongoing
11 operation of a business after initial stocks, supplies, and
12 equipment are provided.

13 I. The division must not pay any costs of bankruptcy
14 proceedings or costs due to the bankruptcy of an eligible
15 consumer's small business.

16 Subp. 12. **Transportation services.**

17 [For text of item A, see M.R.]

18 B. The eligible consumer must, with the assistance of
19 the division, participate in the search for and use of
20 comparable benefits under part 3300.5050, subpart 2, item D,
21 except that a search for comparable benefits is not required if
22 the search would cause the eligible consumer to lose an
23 immediate job placement.

24 [For text of item C, see M.R.]

25 D. The division must not purchase, lease, or
26 otherwise obtain, maintain, or insure vehicles for applicants or
27 eligible consumers.

28 E. If transportation provided by a public entity,
29 including paratransit, is available and used by the eligible
30 consumer, division payments for transportation must not exceed
31 the actual cost of the transportation.

32 F. If transportation provided by a public entity,
33 including paratransit, is available, but the eligible consumer
34 chooses alternate transportation, division payments for
35 transportation must not exceed the equivalent cost of
36 transportation provided by a public entity.

1 G. When transportation provided by a public entity,
2 including paratransit, is unavailable and the eligible consumer
3 is being transported by personal vehicle, the division's
4 payments must not exceed the costs of gasoline and parking plus
5 the cost of a driver if required. The division's payments for
6 gasoline costs must be determined by using the rate established
7 by the Internal Revenue Service for personal income tax
8 deductions for mileage for charitable contributions under the
9 Internal Revenue Code of 1986, section 170i, as amended through
10 December 31, 1992. The division's payments for a driver must be
11 determined by the usual and customary rate for the area.

12 H. When transportation provided by a public entity,
13 including paratransit, and transportation by personal vehicle
14 are unavailable, division payments must not exceed the actual
15 cost of the available transportation.

16 [For text of item I, see M.R.]

17 Subp. 13. **Tuition, fees, books, supplies, and tools and**
18 **equipment for postsecondary training.**

19 [For text of items A to D, see M.R.]

20 E. The tuition cap for an eligible consumer enrolled
21 in a graduate program less than full time must be prorated in
22 accordance with the specific program standards for full-time or
23 part-time status without regard to credit hour designations.

24 F. The tuition cap for an eligible consumer enrolled
25 in an undergraduate program for fewer than 12 credits per term
26 must be prorated as follows:

27 [For text of subitems (1) to (3), see M.R.]

28 G. When the eligible consumer's individualized
29 written rehabilitation program includes attendance at Gallaudet
30 University or National Technical Institute for the Deaf, the
31 division must not apply the tuition cap in determining the
32 amount of division payments for tuition, fees, books, supplies,
33 and tools and equipment for postsecondary training.

34 H. If the field of study required by the eligible
35 consumer's individualized written rehabilitation program is not
36 available at a Minnesota public postsecondary institution, the

1 division shall not apply the tuition cap in determining the
2 amount of division payments for tuition, fees, books, supplies,
3 and tools and equipment for postsecondary training.

4 I. The amount of gift aid available to the eligible
5 consumer to pay for the costs of postsecondary training must be
6 determined annually, based on information obtained from the
7 postsecondary training institution.

8 J. When the amount of gift aid equals or exceeds the
9 cost of tuition, fees, books, supplies, and tools and equipment,
10 the division shall not pay any of the costs of tuition, fees,
11 books, supplies, or tools and equipment.

12 K. When the amount of gift aid is less than the cost
13 of tuition, fees, books, supplies, and tools and equipment, the
14 amount, if any, to be paid by the eligible consumer must be
15 determined by applying the consumer financial participation
16 requirements under part 3300.5040 to the lesser of:

17 [For text of subitems (1) and (2), see M.R.]

18 L. When the cost of tuition, fees, books, supplies,
19 and tools and equipment exceeds the total of gift aid and
20 eligible consumer financial participation, the division shall
21 pay the lesser of:

22 [For text of subitems (1) and (2), see M.R.]

23 M. Regardless of the provisions in items A to L, the
24 division must make payments for tuition, fees, books, supplies,
25 and tools and equipment for postsecondary training only to the
26 extent that the division payments do not reduce the amount of
27 gift aid available to the eligible consumer.

28 N. The division does not require an eligible consumer
29 to accept self-help aid. The eligible consumer has the right to
30 accept or reject a postsecondary training institution's offer of
31 self-help aid. When the division assistance results in a
32 reduction of eligibility for self-help aid from a postsecondary
33 training institution, the eligible consumer may choose whether
34 to accept the division assistance in full or in part, or to
35 accept the self-help aid.

36 O. The division must report to the postsecondary

1 training institution, with the eligible consumer's release, the
2 amount of planned division purchases of services for
3 postsecondary training for an eligible consumer. If the
4 eligible consumer does not provide a release for the division to
5 report planned division purchases of services for postsecondary
6 training, the division must not make the purchases.

7 REPEALER. Minnesota Rules, parts 3300.5010, subpart 38; and
8 3300.5060, subparts 4, 6, 8, and 10, are repealed.

9
10 EFFECTIVE DATE. Parts 3300.5010 to 3300.5060 are effective
11 either five working days after the notice of adoption of these
12 rules is published in the State Register, or July 3, 1995,
13 whichever is later.