

## **Chapter 1: Timeliness, Intake and Eligibility**

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## **MVR Policy 1.1            Timely Services**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/ 1/1999

**Federal Authority:** 34 CFR 361.41 Processing Referrals and Applications

**State Authority:** ARM 37.30.102 Vocational Rehabilitation Policy:  
Incorporation by Reference of Federal and State Authority

### **Policy Statement:**

MVR will inform individuals of the time requirements incorporated in the application and eligibility determination process at the time the individual expresses intent to apply. MVR shall process applications and determine eligibility and ineligibility within sixty days of the date of application unless the consumer and the counselor mutually agree on a specific extension of time due to circumstances beyond the control of the consumer or agency. The agency shall provide all services in a timely and equitable manner.

## **MVR Policy 1.2            Timeliness of Referral**

**Applied Effective Date:** 10/01/03

**Last Edition Date:**

**Federal Authority:** Sec. 361.41 Processing referrals and applications

**State Authority:**

### **Policy Statement:**

Montana Vocational Rehabilitation will inform individuals who are referred to the MVR agency of application requirements and the necessity of gathering information necessary to initiate an assessment for determining eligibility and priority for services within 30 days from notification of referral. The means by which the individual is to be informed shall be either:

1. Through a face to face meeting with an agency representative or when that is not possible;
2. By means of a mailing (or other appropriate electronic means of transfer) of information in accessible format and language including an application form.

## **MVR Policy 1.3            Information and Referral Services**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/1/1999

**Federal Authority: 34 CFR 361.37 Information and Referral Services**

**State Authority: ARM 37.30.102 Vocational Rehabilitation Policy:**

Incorporation by Reference of Federal and State Authority

**Policy Statement:**

MVR will implement an information and referral system to ensure individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment. In addition to information regarding the availability and benefits of, and information on eligibility standards for vocational rehabilitation services, consumers will be appropriately referred to federal and state programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the state.

An appropriate referral will be made through MVR to federal or state programs, including programs carried out by other components of the statewide workforce investment system in the state, best suited to address the specific employment needs of an individual with a disability; and include, for each of these programs, provision to the individual of:

1. A notice of the referral by MVR to the agency carrying out the program;
2. Information identifying a specific point of contact within the agency carrying out the program;
3. Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment; and
4. Provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system.

**MVR Policy 1.4 Use of Existing Information**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/ 1/1999

**Federal Authority: 34 CFR 361.42 Assessment for Determining Eligibility and Priority for Services**

**State Authority: ARM 37.30.102 Vocational Rehabilitation Policy:**

Incorporation by Reference of Federal and State authority.

**Policy Statement:**

1. Use of Existing Information.

The determination of eligibility and the development of the Individualized Plan for Employment (IPE) shall be based on a review of existing data and to the extent

that additional data is necessary, a preliminary review of that data. Determinations made by officials of other agencies regarding whether an individual has an impairment that creates a substantial impediment to employment shall be used to the extent appropriate and available. To the extent appropriate, information provided by the individual and by the family of the individual will be used. Prior to the determination of eligibility, the case record must contain evidence of the disability upon which the determination was based. An individual is eligible for MVR Title I services if the individual is an individual with a disability and requires vocational rehabilitation services to prepare for, secure, retain, or regain employment. The term "individual with a disability" means any individual who:

- a. Has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and
- b. Can benefit in terms of an employment outcome from vocational rehabilitation services.

## **MVR Policy 1.5            Presumption of Eligibility**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/ 1/1999

**Federal Authority: 34 CFR 361.42 Assessment for Determining Eligibility and Priority for Services**

**State Authority: ARM 37.30.102 Vocational Rehabilitation Policy: Incorporation by Reference of Federal and State Authority.**

### **Policy Statement:**

An individual who has a disability or is blind as determined pursuant to Title II or Title XVI of the Social Security Act shall be:

1. Considered to be an individual with a significant disability; and
2. Presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless MVR can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

Nothing in this policy shall be construed to create an entitlement to any vocational rehabilitation service.

## **MVR Policy 1.6          Presumption of Benefit**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/ 1/1999

**Federal Authority: 34CFR 361.42 Assessment for Determining (2)  
Eligibility and Priority for Services**

**State Authority: ARM 37.30.102 Vocational Rehabilitation Policy: Incorporation  
by Reference of Federal and State Authority.**

### **Policy Statement:**

An individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services, unless the counselor can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual. In making the demonstration, the counselor shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences with appropriate supports provided through MVR, except under limited circumstances when an individual cannot take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

## **MVR Procedure 1.1    Procedure and Instruction for Learning Disorders**

**Applied Effective Date:** 03/21/11

**Last Edition Date:** 06/05/03

### **Policy Statement:**

Individuals who have diagnosed learning disabilities may be eligible for Montana Vocational Rehabilitation Services if their disabilities cause a substantial impediment to employment, and if they require services to prepare for, secure, retain or regain employment.

### **Definitions**

- Learning Disorder

The term "learning disorder" includes a number of related structural and/or functional central nervous system disorders that affect higher cognitive functioning. The DSM-IV lists the following categories: reading disorder (dyslexia), mathematics disorder (dyscalculia), disorders of written expression (dysgraphia) and learning disorders that are not otherwise specified, usually because the disorder may include problems in multiple areas. Learning disorders are not the result of visual, hearing, or motor disabilities, intellectual disabilities, mental illness, or environmental, cultural, or economic disadvantage.

➤ **Specific Learning Disability**

As described in IDEA, the term "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

## **Criteria for Evidence of Learning Disability**

Evidence of a learning disability may be established via the following criteria:

1. A report from a qualified professional, including clinical psychologists, \*\*school psychologists, educational psychologists, and neuro-psychologists.
2. The report must contain a diagnosis based on a comprehensive assessment battery which includes:
  - a. A diagnostic interview
  - b. Assessments of academic achievement and information processing.
  - c. Evidence of a substantial limitation to learning or other major life activities
3. The report can be no more than three years old.

*\*\*Note: In Montana, school psychologists summarize the above information into an "Evaluation Report." Likewise, the MVR counselor may consider the "Evaluative Report" as sufficient.*

## **Eligibility Considerations**

A diagnosis of a learning disability alone is not sufficient to establish eligibility for MVR services. The MVR counselor must then determine if the learning disability constitutes a substantial impediment to employment, MVR staff must address the following:

- Does the individual have considerable difficulty with job tasks requiring reading or writing, spelling or math calculations/application? For

example, would the person's reading and/or writing difficulties impede his/her ability to independently complete a job application?

- Does the individual lack transferable work skills that would require the provision of MVR services?
- Would it be difficult or impossible for the individual to achieve a suitable vocational objective—that is, one equal to his/her potential—without one or more vocational rehabilitation services? For example, consider the individual with a high IQ who, without adjustment counseling and significant accommodations, can't complete a college degree.

## **MVR Procedure 1.2 Procedure for Presumed Eligibility**

**Applied Effective Date:** 09/30/06

**Last Edition Date:** New Procedure

At the time of application for services, upon report of eligibility for benefits pursuant to Title II or Title XVI of the Social Security Act, MVR shall acquire verification of the consumer's benefit status. The date upon which the benefit verification is received by MVR is the date of eligibility.

Definitions:

**“Necessary notifications”:** Consumer letter; system input

**“Date of verification”:** date stamp, fax date, or other electronic mark of date