

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 46

An Act to amend and reenact §§ 51.5-9.01, 51.5-16 through 51.5-20, and 63.1-70.1 of the Code of Virginia, relating to rehabilitative services.

[S 231]

Approved February 28, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.5-9.01, 51.5-16 through 51.5-20, and 63.1-70.1 of the Code of Virginia are amended and reenacted as follows:

§ 51.5-9.01. State Rehabilitation Council.

The ~~Statewide State Rehabilitation Advisory~~ Council is hereby created to provide advice to the Department of Rehabilitative Services regarding vocational services provided pursuant to Title I and Title VI of the federal Rehabilitation Act. Membership and duties shall be constructed according to federal provisions.

§ 51.5-16. Assessment.

A. When an individual applies for vocational rehabilitation services provided or funded by the Department, in whole or in part, a ~~preliminary diagnostic evaluation~~ *an assessment* shall be made to determine eligibility for benefits according to the standards adopted pursuant to § 51.5-15. If, after a ~~preliminary evaluation~~ *an assessment*, eligibility is established, a ~~thorough comprehensive diagnostic evaluation~~ *assessment* shall be conducted to ascertain the nature and scope of services needed by the applicant. Both ~~evaluations~~ *assessments* shall be carried out with the involvement of the applicant and his parents or guardian *if appropriate*. Both ~~evaluations~~ *assessments* shall include, when appropriate: (i) a comprehensive diagnostic study that assesses the relationship between the applicant's impairment and the vocational rehabilitative services that may enhance the applicant's employability *a review of existing data and to the extent necessary, the provision of appropriate assessment activities to obtain necessary data to determine eligibility and services needed*; (ii) ~~evaluations by qualified personnel of the applicant's potential to benefit from rehabilitation technology services~~ *referral for the provision of rehabilitation technology services to assess and develop the individual's capacities to perform in a work environment*; and (iii) referral to other agencies and organizations for appropriate ~~evaluation~~ *assessment* services.

B. Extended evaluation may be undertaken to determine the vocational rehabilitative potential of applicants for whom additional diagnostic study is necessary to determine eligibility or need for specific services when, after both preliminary and comprehensive evaluation of an applicant, no conclusion fairly can be reached about either the extent of impairment or the potential enhancement to employability that vocational rehabilitation would yield.

§ 51.5-17. Individualized plan for employment.

~~An A written individualized written program plan for employment~~ for each recipient of vocational rehabilitation services provided or funded by the Department, in whole or in part, shall be developed within a reasonable time *and agreed to and signed by the client, his parents or guardian, if appropriate, and a qualified vocational* by a rehabilitation counselor; ~~or other staff member of comparable skills employed by the department.~~ The development and implementation of the program shall involve, to the maximum extent feasible, the client and, when appropriate, the client's parents or guardian. The program plan shall be reviewed at least annually, ~~involving in the review by the client, and, when appropriate, his parents or guardian, if appropriate, and the qualified vocational rehabilitation counselor.~~

§ 51.5-18. Services for individuals.

A. Vocational rehabilitation services provided by the Department shall address comprehensively the individual needs of each client to the maximum extent possible with resources available to the Department, through the following:

1. ~~Evaluation of vocational rehabilitation potential, including diagnostic and related services incidental to the determination of~~ *An assessment for determining eligibility and vocational needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology for rehabilitation services;*

2. Counseling and guidance, *including information and support services to assist an individual in exercising informed choice*, and referral necessary to help applicants or clients to secure needed services from other agencies;

3. ~~Physical Diagnosis and treatment of physical or mental impairments, including restoration services designed to correct or significantly modify a physical or mental condition which is chronic or slowly deteriorative;~~

a. Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical

or mental condition that constitutes a substantial impediment to employment, but that is of such a nature that correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

b. Necessary hospitalization in connection with surgery or treatment;

c. Prosthetic and orthotic devices;

d. Eyeglasses and visual services as prescribed by qualified personnel who meet state licensure laws and who are selected by the client;

e. Special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of clients with end-stage renal disease; and

f. Diagnosis and treatment for mental and emotional disorders by qualified personnel who meet state licensure laws.

4. ~~Career and technical education~~ Vocational and other training services, including services for the provision of personal and vocational-adjustment services, books, tools, and other training materials, except that no training services ~~in provided at~~ institutions of higher education ~~may shall~~ be paid for with funds under this chapter unless maximum efforts have been made to secure funds and grant assistance in whole or part from other funding sources;

5. Maintenance, ~~including payments not exceeding the estimated cost of subsistence, provided from the time vocational rehabilitation services have begun through the time when post-employment services are provided for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;~~

6. Transportation for the purpose of supporting and deriving the full benefit of the other vocational rehabilitation services being provided, including adequate training in the use of public transportation vehicles and systems that is provided in connection with the provision of any other services described in this section and needed by the client to achieve an employment outcome;

7. Services to members of a client's family when such services are necessary to ~~achieve~~ assist the objectives included in the client's rehabilitation program ~~client to achieve an employment outcome;~~

8. Interpreter and note-taking services ~~services provided by qualified personnel for clients who are deaf or hard-of-hearing clients and reader services for clients determined to be blind, after an examination by qualified personnel who meet state licensure laws;~~

9. Rehabilitation technology, including telecommunications, sensory and other technological aids and devices;

10. ~~Placement in suitable employment~~ Job-related services, including job search and assistance, job retention services, follow-up services, and follow-along services;

11. Specific post-employment services ~~when necessary to assist the maintenance of client to retain, regain, or advance in employment;~~

12. Occupational licenses, tools, equipment, and initial stocks and supplies;

13. On-the-job or other related personal assistance services provided while a client is receiving other goods and services, including attendant care, reasonably related to enhancing the employability of persons with disabilities described in this section;

14. Supported employment services which include providing a rehabilitation or other human services agency staff person to assist in job placement, job site training and job follow-through for the disabled employee; and

15. ~~Rehabilitation technology services~~ Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible clients pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome; and

16. Transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the individualized plan for employment.

B. Written standards shall be established by the Commissioner detailing the scope and nature of each vocational rehabilitation service authorized herein, the conditions, criteria and procedures under which each service may be provided, and the use of entitlements and other benefits to access these services, when appropriate.

C. In providing the foregoing services, the Department shall ~~make maximum efforts to utilize those services and entitlements which are or could be provided more economically by other public or private agencies~~ determine whether comparable services and benefits are available under any other program unless such a determination would interrupt or delay the progress of the client toward achieving the employment outcome identified in the individualized plan for employment, an immediate job placement, or the provision of such service to any client at extreme medical risk.

§ 51.5-19. Services for groups.

Vocational rehabilitation services provided by the Department for the benefit of groups shall include, to the maximum extent possible with the resources available to the Department:

1. The establishment of, development, or improvement of community rehabilitation facilities

programs;

2. The provision of other facilities and services, in addition to those provided at rehabilitation facilities, which that promise to contribute significantly to rehabilitation of a group of clients but which that are not directly related to the individualized ~~written program plan~~ *program plan for employment* of any one client; and,

3. The use of ~~existing~~ telecommunications and the use or development of other assistant systems, including telephone, television, satellite, radio, and other similar systems that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;

4. Technical assistance and support services to businesses that are not subject to Title I of the Americans With Disabilities Act of 1990 (42 U.S.C. § 1211 et seq.); and

5. Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

§ 51.5-20. Community Rehabilitation Program

When any part of the ~~written~~ individualized ~~written rehabilitation program~~ *program plan for employment* of a client of the Department includes services in a ~~private, nonprofit workshop~~ *community rehabilitation program (CRP)*, that portion of the ~~program plan~~ shall be developed jointly with the rehabilitation counselor, ~~or qualified designated staff member~~, a qualified staff member of the ~~sheltered workshop~~ *CRP*, and the client and, when appropriate, his parents or guardian. Factors to be considered shall include, but not be limited to, proposed activities, activity schedule, and the impact of the activity on the welfare of the client, the client's family, and his community.

When a case is closed upon a client's placement in extended employment in a ~~sheltered workshop~~ *CRP*, the case shall be reviewed by the Department, with the cooperation of the ~~workshop~~ *CRP*, within twelve months of case closure.

§ 63.1-70.1. State Rehabilitation Council for the Blind and Vision Impaired created.

The ~~Statewide~~ *State* Rehabilitation Advisory Council for the Blind *and Vision Impaired* is hereby created to provide advice to the Department for the Blind and Vision Impaired regarding vocational services provided pursuant to Title I and Title VI of the federal Rehabilitation Act. Membership and duties shall be constructed according to federal provisions.