

**WEST VIRGINIA DIVISION OF REHABILITATION SERVICES
RESPONSES TO COMMENTS RECEIVED FROM
PUBLIC MEETING DECEMBER 12, 2012**

The Division of Rehabilitation Services conducted a public meeting to discuss changes to its Client Services Manual. Changes were proposed to the following sections of that manual:

- Section 2504.1 Special Considerations for Eligibility: Substance-Related Disorders

2504.1 Substance-Related Disorders. Substance-related disorders include the abuse of alcohol, drugs, or toxins. Eligibility for the primary impairment of alcohol or drug abuse must be focused on a careful assessment of the impact and chronicity of the impairment. The most important question to be answered is, “Can the applicant benefit in terms of an employment outcome from the provision of vocational rehabilitation services?”

A. Detoxification. The Division will not authorize treatment for any inpatient detoxification program. Requests for administrative exceptions must be submitted through supervisory channels for approval by the Assistant Director, Field Services.

B. Eligibility Requirements: The following indicators are necessary to support a determination that the client is eligible to receive vocational rehabilitation services:

1. The applicant has acknowledge a problem and is willing to quit and maintain abstinence; and,
2. The applicant shows an effort to seek or utilize community resources and is willing to participate in a program to support abstinence; and,
3. If the applicant is receiving substance abuse treatment from a medical or psychological professional, the applicant must allow the Counselor to acquire progress reports toward treatment outcomes from the treating professional throughout the rehabilitation plan.

C. Ineligibility. If the applicant’s actions are not consistent with the above indicators, the Division considers that to be clear and convincing evidence that the applicant would not benefit from vocational rehabilitation services in terms of an employment outcome.

- Section 2504.4 Special Considerations for Eligibility: Complex Diseases

2504.4 Complex Diseases. Complex diseases are those in which the disease process and progression affect the applicant's abilities in a broad spectrum of functional performance areas due to interrelated symptoms characterizing the disease or condition. Examples of these diseases include but are not limited to, cancers, HIV/AIDS, and leukemia. Eligibility for applicants with complex diseases requires a written medical diagnosis with prognosis supporting an expectation of stability sufficient to permit the client to pursue competitive employment opportunities.

- Section 3803.2 Special Considerations for Treatment and Services: Dental Treatment and Orthodontic Services.

A. Dental Treatment and Orthodontic Services

1. Eligibility. Dental or orthodontic disorders are not considered substantial impediments to employment for purposes of determining eligibility. Any request for administrative exception must be submitted through supervisory channels for approval by the Assistant Director, Field Services, prior to determination of eligibility.

2. Intercurrent Illness. Dental or orthodontic services may be provided when the Counselor documents that such services are necessary to address an intercurrent illness which, if not cared for, would complicate or delay the individual's rehabilitation program.

Comments were received regarding Sections 2504.1 and 2504.4. No comments were received regarding Section 3803.2

PUBLIC COMMENT 1

I believe section A-1 and A-2 are too weak because of use of the term "willing to". A-1 -- Suggest changing to "The applicant has acknowledged a problem and has demonstrated a willingness to quit by maintaining abstinence; and,"

A-2 -- Suggest changing to "The applicant is participating in a program to support abstinence; and,"

DRS Response:

This policy addresses only the determination of eligibility. Although necessary for eventual achievement of an employment outcome, it is recognized that an applicant might not have fully attained abstinence prior to an initial determination of eligibility for vocational rehabilitation services.

If the applicant is determined eligible for vocational rehabilitation services, then needs such as participation in support programs and maintaining abstinence will be addressed during a comprehensive assessment of the applicant's unique strengths, resources, priorities, interests, and needs (including the need for supported employment services).

Development of the Individualized Plan for Employment (IPE) is based on the comprehensive assessment. Consistent with the applicant's informed choice, the IPE will include a full range of vocational rehabilitation services and intermediate rehabilitation objectives necessary to support attainment of an appropriate employment outcome.

PUBLIC COMMENT 2

I would like to comment on the proposed changes to Section 2504.1. On the whole, I like the changes because they promote a recovery-based approach to rehabilitation, but I think the methodology is based on false assumptions.

I work with people before, after and while they are in detox. At this stage, they are usually committed to recovery and taking necessary steps to progress. Since detoxification can be a coercive process, it is helpful to wait until they have been released to assess their plans, but it is sometimes necessary to do assessments early in order to rehabilitate people while they transition.

Progress against a treatment plan is sometimes a bad way to measure rehabilitation, because treatment goals do not always promote it. There is a bias in the mental health system, including detoxification, that favors increased drug use rather than abstinence. It is simpler and more evidence-based to measure the applicant's

progress against the IHP itself, which DRS already has the expertise to do, rather than attempting to measure recovery by rapidly changing clinical standards.

My experience is that people are already serious about recovery when they ask for help with their job search. They are usually in the third stage of recovery, the planning stage, when they get in touch with DRS.

DRS Response:

If an applicant or client is receiving treatment for substance abuse from a medical or psychological professional, then the applicant or client will be required to allow DRS access to that professional's reports of progress toward treatment outcomes.

Those reports and any recommendations by the treating professional will be reviewed and considered during the comprehensive assessment and throughout development and implementation of the Individualized Plan for Employment.

Please also note that DRS does not provide inpatient detoxification services.

PUBLIC COMMENT 3

The WV Statewide Independent Living Council appreciates the opportunity to review proposed policy changes through the Consultation Group, through public meetings, and on-line. The Council has the following comments on the policy sections currently open for public comment.

Comment 1:

The first sentence of 2504.1 is discriminatory and unnecessary.

Recommendation 1: The SILC recommends that this sentence be deleted.

2504.1 Substance-Related Disorders (Paragraph 2)

~~The client must be able to participate in the assessment process and make decisions. Therefore, the~~ The Division will not authorize treatment for any inpatient detoxification program(s). Requests for exceptions must be approved by the Assistant Director, Field Services submitted through supervisory channels.

DRS Response to Recommendation 1:

The sentence has been deleted.

Comment 2:

The last sentence of 2504.4 sets a standard that is highly unlikely to be achievable. Not many doctors would sign a prognosis that any individual with a complex disease has a “prognosis supporting an expectation of stability”.

Recommendation 2: The SILC recommends that the last sentence be deleted as follows:

2504.4 Complex Diseases (Last sentence)

~~Eligibility for applicants with complex diseases requires a written medical diagnosis with the prognosis supporting an expectation of stability enabling the client to pursue competitive employment opportunities.~~

If such deletion renders the remainder of 2504.4 irrelevant, the entire section should be deleted.

DRS Response to Recommendation 2:

The agency shares the commenter’s concern that treating physicians might be unable or unwilling to document a prognosis assuring the client and/or the agency of a specific period of availability for participation in vocational rehabilitation services or employment.

The agency recognizes that many complex diseases are subject to episodes of exacerbation or remission, and their rates of progression can vary unexpectedly. Often, if not usually, the nature of the condition itself will inherently preclude guarantees.

Nonetheless, the purpose of the vocational rehabilitation program is to enable the client to prepare for, obtain and retain competitive employment. If the treating physician does not support the client’s active participation in a vocational rehabilitation effort toward that goal, consistent with the client’s informed choice, then the agency also recognizes that it would be both imprudent for the client and improper for the agency to proceed without the physician’s support.

After full consideration, the agency continues to believe that it will be appropriate for the case record to include documentation that the treating physician supports the client's vocational rehabilitation effort toward a competitive employment outcome.

However, the policy has been revised to reflect that the physician's support for the vocational rehabilitation effort may be general or conditional rather than specific or definite, as follows: *"...a written medical diagnosis with prognosis supporting an expectation of stability sufficient to permit the client to pursue competitive employment opportunities."*

In this context, the agency deems it appropriate that the operational definition of the word *"sufficient"* should be left to the treating physician's clinical judgment.