

**Draft Order of Selection Sections from the
Vocational Rehabilitation Portion of the WV Combined State Plan
for Program Years 2024-2027**

m. Order of Selection

Describe:

1. Whether the designated State unit will implement and order of selection. If so, describe:

A. The order to be followed in selecting eligible individuals to be provided VR services

The West Virginia Division of Rehabilitation Services (DRS) Director will determine whether resources will be available to provide vocational rehabilitation (VR) services to all eligible individuals throughout the program year. If not, consistent with state and federal laws and regulations, the Director will establish restrictions regarding priority categories for selecting the order in which otherwise eligible individuals may be served. Only the Director may establish an order of selection (OS).

DRS will be operating under an OS with OS Categories 2 and 3 closed due to insufficient fiscal and personnel resources available to provide services to all eligible consumers; OS Category 1 will remain open. Additionally, DRS has elected to serve eligible individuals, regardless of any established OS, who require specific services or equipment to maintain employment.

Description of Priority categories Priority Categories

Following are the OS categories currently applicable to DRS' vocational rehabilitation program:

Category 1: Eligible applicants with the most significant disabilities.

Category 2: Eligible applicants with significant disabilities.

Category 3: Eligible applicants with non-significant disabilities.

The DRS Rehabilitation Counselor will determine the significance of an individual's disability after conducting a diagnostic study that allows for assessing the permanency of the disability, the number of functional capacities limited by the disability, the number of VR services needed, and the time in service required to complete those services. These criteria are used when determining whether the individual's disability is non-significant, significant, or most significant.

Definitions

Individual with a Most Significant Disability (MSD).

An individual who:

1. Has a permanent physical or mental impairment which seriously limits three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerances, or work skills) in terms of an employment outcome; and
2. Will require multiple vocational rehabilitation services over an extended period of time.

Alternatively, any individual who will be receiving services under an individualized supported employment plan for employment will be determined to be MSD.

Individual with Significant Disability (SD).

An individual who:

1. Has a permanent physical or mental impairment which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerances, or work skills) in terms of an employment outcome; and
2. Will require multiple vocational rehabilitation services over an extended period of time.

Individual with Non-Significant Disability.

An individual with a non-significant disability is an individual who:

1. Has a permanent disability that results in a substantial impediment to employment; and
2. Will not require multiple vocational rehabilitation services over an extended period of time.

Time in Service

For the purpose of determining significance of disability, "time in service" is considered to begin upon implementation of the Individualized Plan for Employment (IPE) and end upon entering Status 22 (in employment).

Automatic Classification as an Individual with Significant Disability

An individual who is a Social Security Disability Insurance (SSDI) beneficiary or Supplemental Security Income (SSI) recipient will be coded automatically as SD. However, if the individual meets MSD criteria, that designation will apply.

Recertification

An individual may be recertified from SD to MSD if all MSD criteria are met. In such instances, the DRS Rehabilitation Counselor will note appropriate circumstances in the Action Statement/Details section of the consumer's case record.

DRS Responsibilities when Implementing an Order of Selection

An OS has no impact on the DRS obligation for case finding and referrals. DRS has a continuing responsibility to make the public and referral sources aware of the services it has to offer individuals with disabilities, especially those with the most significant disabilities. Furthermore, DRS shall ensure its funding arrangements for providing services, including third party arrangements and establishment projects, are consistent with the OS. Any funding arrangements that are inconsistent with the OS will be renegotiated.

Priority of categories to receive VR services under the order OS Administration Process

DRS will be operating under an OS with OS Categories 2 and 3 closed due to insufficient fiscal and personnel resources available to provide services to all eligible consumers; OS Category 1 will remain open. Additionally, DRS has elected to serve eligible individuals, regardless of any established OS, who require specific services or equipment to maintain employment.

Services necessary for determination of eligibility and assessment of rehabilitation needs are provided to all DRS applicants. Any individual notified by the DRS Rehabilitation Counselor of classification as a member of an open priority category shall continue to receive services should that category later be closed.

Plan for Implementing the Order of Selection

OS Category 1 will be open and OS Categories 2 and 3 will be closed during Federal Fiscal Year 2025, as long as sufficient fiscal and personnel resources remain available to provide VR services to all eligible applicants with the most significant disabilities.

DRS will strictly adhere to federal regulations in administering its OS. DRS will continue to: (1) implement the order on a statewide basis; (2) notify all eligible persons of their assignment to a particular priority category and their right to appeal this assignment; (3) assure continuity of services to all persons who were receiving services under an IPE prior to the effective date of the closure order; and (4) assure that funding arrangements are consistent with the OS [34 CFR 361.36(e)].

When the OS is implemented, DRS will continue to ensure that an eligible individual who is not assigned to an open OS category has access to services provided under the information and referral system [Section 101(a)(5)(D) of the Act]. Information and referral services include: (1) providing VR information and guidance to assist the individual to achieve employment and (2) appropriately referring the individual to other federal and state programs, including other statewide workforce development programs, that are best suited to meet the individual's specific employment needs [Section 101(a)(20)(A) of the Act].

When making a referral, DRS will provide the individual with:

- a notice of the referral;
- information about a specific point of contact within the program to which the individual is being referred; and
- information and advice about the most suitable service for assisting the individual to prepare for, secure, retain, or regain employment [Section 101(a)(20)(B)(ii) of the Act and 34 CFR 361.37(b)(2)].

DRS will continue to maintain the individual's service record to include documentation on the nature and scope of the information and referral services it provides to the individual and documentation on the referral itself [34 CFR 361.47(a)(13)].

DRS will open and close priority categories as needed, so long as the order of the categories is maintained and continuity of services to all individuals selected for services is assured.

DRS will use the individual's date of application to rank individuals within a priority category. This equitable and reasonable factor provides a method of selecting individuals from a waiting list when DRS has enough resources to serve some, but not all, individuals in that OS priority category.

B. The justification for the order

The West Virginia Division of Rehabilitation Services (DRS) will be operating under an order of selection (OS) with OS Categories 2 and 3 closed during Federal Fiscal Year 2025 due to insufficient fiscal and personnel resources available to provide services to all eligible consumers; OS Category 1 will remain open to allow the agency to prioritize services to those with the most significant disabilities. Additionally, DRS has elected to serve eligible individuals, regardless of any established OS, who require specific services or equipment to maintain employment.

DRS will continue to monitor caseload size, vacancies, and other related measures to ensure proactive measures are taken, if needed.

C. The service and outcome goals

In FY 2025, DRS plans to serve 15,498 individuals with an expected outcome goal of 1,737 rehabilitants within a service time frame of 8 and 36 months and at a cost of \$28.7 million for all priority categories.

D. Time within which these goals may be achieved for individuals in each priority category within the order; and

In FY 2025, it is projected that:

– 5,011 individuals in OS Category 1 will be served. Approximately 582 individuals in this OS Category will exit with employment after receiving services. Approximately 476 individuals in this OS Category will exit without employment after receiving services. The time within which the goal of employment is to be achieved for individuals in this OS Category is estimated to be 36 months. The cost of services for all individuals in this OS Category is estimated to be \$11,290,736 during FY 2025.

– 8,014 individuals in OS Category 2 will be served. Approximately 714 individuals in this OS Category will exit with employment after receiving services. Approximately 584 individuals in this OS Category will exit without employment after receiving services. The time within which the goal of employment is to be achieved for individuals in this OS Category is estimated to be 32 months. The cost of services for all individuals in this OS Category is estimated to be \$12,816,492 during FY 2025.

– 2,473 individuals in OS Category 3 will be served. Approximately 440 individuals in this OS Category will exit with employment after receiving services. Approximately 36 individuals in this OS Category will exit without employment after receiving services. The time within which the goal of employment is to be achieved for individuals in this OS Category is estimated to be 8 months. The cost of services for all individuals in this OS Category is estimated to be \$4,642,836 during FY 2025.

E. How individuals with the most significant disabilities are selected for services before all other individuals with disabilities

OS Category 1 (individuals with the most significant disabilities) will be open during Federal Fiscal Year 2025.

DRS' Client Services Manual clearly outlines OS Categories to ensure priority services for persons with MSD throughout the state. Priority is given to individuals with the most significant disabilities (OS 1), then to individuals with significant disabilities (OS 2), then to individuals with non-significant disabilities (OS 3). DRS utilizes data and caseload management reports to monitor and ensure services to OS Category 1, persons with MSD, are maintained through the fiscal year.

DRS will open or close OS Categories as needed; these actions will be included in an amendment to the State Plan. DRS will assess its fiscal and personnel resources and ability to maintain continuous VR services prior to opening or closing each OS Category. DRS will ensure that individuals with MSD are being served, with no individuals with MSD on the waitlist prior to opening the next OS Category.

When a closed category is reopened for services, individuals in that category will be notified in writing by DRS that they can now receive services. DRS will ensure all individuals selected for services will continue to receive those services without interruption.

2. If the Designated State Unit has elected to serve eligible individuals, regardless of any established order of selection, who require specific services or equipment to maintain employment

DRS has elected to serve eligible individuals regardless of any established OS, who require specific services or equipment to maintain employment.

f. Annual Estimates

Sections 101(a)(15) and 101(a)(23) of the Rehabilitation Act require all VR agencies to annually conduct a full assessment of their resources and ability to serve all eligible individuals before the start of the Federal fiscal year. In accordance with 34 C.F.R. § 361.29(b), annual estimates must include the following projections:

1. Estimates for next Federal fiscal year—

A. VR Program; and

Priority Category (if applicable)	No. of Individuals Eligible for Services	No. of Eligible Individuals Expected to Receive Services under VR Program	Costs of Services using Title I Funds	No. of Eligible Individuals Not Receiving Services (if applicable)
1	5,011	5,011	\$11,290,736	n/a
2	8,014	8,014	\$12,816,492	1,600
3	2,473	2,473	\$4,642,836	1,200

B. Supported Employment Program.

Priority Category (if applicable)	No. of Individuals Eligible for Services	No. of Eligible Individuals Expected to Receive Services under Supported Employment Program	Costs of Services using Title I and Title VI Funds	No. of Eligible Individuals Not Receiving Services (if applicable)
n/a	357	357	\$447,338	n/a