Chapter 388-891A WAC
VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS WITH DISABILITIES

(Formerly chapter 388-890 WAC (part) and 388-891 WAC)

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WAC

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PURPOSE

WAC 388-891A-0005 What is the purpose of this chapter? This chapter explains the types of vocational rehabilitation (VR) services available to individuals who are eligible through the department of social and health services (DSHS), division of vocational rehabilitation (DVR).

VR services are offered to assist individuals with disabilities to prepare for, secure, maintain, advance in, or regain employment that is consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

This chapter is consistent with the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014 and codified in 34 C.F.R. Sec. 361, 363, and 397, as well as chapter 74.29 RCW, Rehabilitation Services for Individuals with Disabilities, other relevant state laws, and DSHS requirements.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0005, filed 5/29/18, effective 6/30/18.]

DEFINITIONS

WAC 388-891A-0010 What definitions apply to this chapter? The following definitions apply to this chapter:

(1) **"Comparable services and benefits"** means services and benefits, including accommodations and auxiliary aids and services, that are:

(a) Provided for, in whole or in part, by other federal, state, or local public agencies, health insurance, or employee benefits;

(b) Available to you when you need them to ensure your progress toward achieving the desired employment outcome in your individualized plan for employment (IPE); and

(c) Substantially similar to the services that you would otherwise receive from DVR.

(2) **"Competitive integrated employment"** means:

(a) Part-time or full-time work:

(i) that is performed in an integrated setting;

(ii) for which you are paid at or above the highest applicable minimum wage of those specified in 29 U.S.C. Sec. 206 (a)(1), RCW 49.46.020, or local minimum wage laws; and

(iii) Work for which you earn the same wages and benefits as other employees without disabilities in similar occupations or performing similar tasks, who have similar training, experience, and skills; or

(b) Self-employment that yields income comparable to that received by other individuals without disabilities who are self-employed in a similar occupation or performing similar tasks, who have similar training, experience, and skills.

(3) **"Division of vocational rehabilitation (DVR)"** means the division primarily concerned with the vocational rehabilitation of individuals with disabilities and responsible for the administration of the vocational rehabilitation program of the department of social and health services (DSHS).

(4) **"Employment outcome"** means competitive integrated employment, supported employment, self-employment, telecommuting, business ownership, or any other type of employment compensated at a competitive wage in an integrated setting that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(5) **"Extended employment"** means work in a nonintegrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with section 14(c) of the Fair Labor Standards Act.

(6) **"Extreme medical risk"** means the probability of substantially increasing your functional impairment or death if medical services, including mental health services, are not provided quickly.

(7) **"Family member"** means a person who:

(a) Is your relative or legal guardian; or

(b) Lives in the same household as you and has a substantial interest in your well-being.

(8) **"Individual with a disability"** means an individual:

(a) Who has a physical or mental impairment;

(b) Whose impairment results in a substantial impediment to employment; and

(c) Who can benefit in terms of an employment outcome as a result of receiving VR services.

(9) **"Individual with a most significant disability"** means an individual with a significant disability who has a severe physical or mental impairment resulting in serious functional limitations in four or more areas (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.

(10) **"Individual with a significant disability"** means an individual with a disability:

(a) Who has a severe physical or mental impairment resulting in serious functional limitations in one or more areas (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, intellectual disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

(11) **"Individualized Plan for Employment (IPE)"** means the written plan, approved by your DVR counselor, described in WAC 388-891A-0915 through 388-891A-0951.

(12) **"Integrated setting"** means one of the following:

(a) The setting in which you receive a VR service is integrated if it is a setting commonly found in the community (such as a store, office, or school) where you come into contact with people without disabilities while you are receiving the service. The people without disabilities who you come into contact with are not the same people providing VR services to you.

(b) The setting in which you work is integrated if it is a setting commonly found in the community where both your immediate co-workers and the public with which you interact include people without disabilities. The amount of contact you have with people without disabilities is the same that a person without disabilities in the same type of job would experience.

(13) **"Most recent tax year"** means the most recent calendar year for which you:

(a) Filed or were required to file an income tax return with the United States Internal Revenue Service (IRS); or

(b) Were claimed as a dependent on an income tax return with the United States IRS.

(14) **"Physical or mental impairment"** means:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(b) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(15) **"Representative"** means any person chosen by an applicant or eligible individual, including a parent, family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

(16) **"Student with a disability"** means an individual with a disability who is:

(a) Currently enrolled in a secondary, postsecondary, or other recognized educational program;

(b) Not younger than fourteen years of age and not older than the maximum age established for the receipt of services under part B of the Individuals with Disabilities Education Act (IDEA) in the state of Washington, as described in WAC 392-172A-02000; and

(c) Receiving special education or related services under part B of IDEA or is a student with a disability for the purposes of section 504 of the Rehabilitation Act of 1973, as amended.

(17) **"Substantial impediment to employment"** means the limitations or barriers you experience as a result of a physical or mental impairment that hinder your ability to prepare for, secure, maintain, advance in, or regain employment that matches your abilities and capabilities.

(18) **"Vocational rehabilitation (VR) services"** means those services described in WAC 388-891A-0700 through 388-891A-0890.

(19) **"Youth with a disability"** means an individual with a disability who is not younger than fourteen years of age and not older than twenty-four years of age.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0010, filed 5/29/18, effective 6/30/18.]

PROTECTION AND USE OF CONFIDENTIAL INFORMATION

WAC 388-891A-0100 What personal information about me does DVR keep on file? DVR keeps information regarding your eligibility and the services that you have received as required by federal and state laws and regulations. The kind of information that DVR keeps on file depends on your case status as follows:

(1) For an applicant or individual who has been determined eligible for services, the record of services that you have received from DVR is called the case service record. The case service record includes a narrative as well as information including, but not limited to:

(a) The DVR application form or written request for VR services;

(b) Documentation explaining the need for the trial work experience(s), if conducted, and the written plan for conducting the trial work experience(s), and documentation of progress reviews;

(c) Documentation and records that support the determination of eligibility or ineligibility;

(d) Documentation supporting the severity of disability and priority of service category determination;

(e) Financial statement and supporting documentation as required;

(f) Plan for employment, amendments to the plan, if amended, and information supporting the decisions documented on the plan;

(g) Documentation describing how you used informed choice to make decisions throughout the process, including assessment services, selection of an employment outcome, VR services, service provider, type of setting, and how to get VR services;

(h) If VR services are provided in a setting that is not integrated, documentation of the reason(s) for using a nonintegrated setting;

(i) If you achieve a competitive integrated employment outcome, documentation to show:

(i) Your wages and benefits, including wages and benefits earned up to one year after closure;

(ii) That the job you have is:

(A) Described in your plan for employment;

(B) Consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(C) Paid at a competitive rate in an integrated setting;

(iii) That the services provided to you in your plan for employment helped you achieve the employment outcome identified on your individual plan for employment;

(iv) That you have been employed for at least ninety days and that you no longer need vocational rehabilitation services;

(v) That you and your DVR counselor agree that your employment is satisfactory and that you are performing well; and

(vi) That you have been informed, through appropriate modes of communication about the availability of post-employment services;

(j) If DVR refers you to another state or federal program for services to prepare for, secure, maintain, advance in, or regain employment, documentation of the referral, the reason(s) for the referral, and the name of the program(s) to which you are referred;

(k) Documentation of case closure, including:

(i) Reasons for closing the case service record;

(ii) How you were involved in the decision to close the case; and

(iii) A copy of the closure letter that explains the reason(s) for case closure and your rights if you disagree with the decision;

(l) Documentation of the results of mediation or fair hearings, if held;

(m) Documentation of semi-annual and annual reviews after your case service record is closed as outlined in WAC 388-891A-1330 if:

(i) You choose extended employment in a nonintegrated setting;

(ii) You achieve a supported employment outcome in an integrated setting for which you are paid in accordance with section 14(c) of the Fair Labor Standards Act; or

(iii) DVR determines you are ineligible because you are too severely disabled to benefit from VR services; and

(n) Other documentation that relates to your participation in VR services, including your progress throughout the VR process.

(2) For students with disabilities who are potentially eligible for services, the record:

(a) Includes personal and demographic information about you;

(b) Documents any consent from a parent or guardian required for you to participate in pre-employment transition services;

(c) Documents participation in pre-employment transition services before you apply for VR services; and

(d) May be transferred into your case service record upon application.

(3) For individuals who are either seeking employment in or employed in a job that pays below the federal minimum wage, the record documents the receipt of career counseling and information and referral services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0100, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0102 How long will DVR retain my personal information? DVR keeps a case service record while you are receiving services and for at least six years after closing your case service record. After six years, DVR may destroy the closed case service record.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0102, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0103 May DVR obtain personal information about me? (1) DVR may obtain information about you to help us better understand your disabilities, barriers to employment, abilities, interests, and needs for VR services and to coordinate DVR services with the services you receive from other agencies and programs. With your written consent, DVR may obtain this personal information about you from service providers, cooperating agencies, and others. Examples of information DVR commonly obtains with your written consent include your:

(a) Identity and work status;

(b) Physical and mental health conditions;

(c) Disabilities and functional limitations;

(d) Substance use history and treatment recommendations;

(e) Educational history;

(f) Work history; and

(g) Background check results, including those that are not publicly accessible.

(2) DVR may obtain publicly accessible information about you without your written consent.

(3) DVR may obtain financial and personal information about you from state and federal agencies to verify program participation (including participation in education when appropriate), benefits you receive from other agencies or programs, and earnings and income from employment or self-employment. DVR will only collect such information if the state or federal agencies have legal authority to release it to DVR. This may occur with or without your consent.

(4) If DVR collects information about you from service providers or other agencies, the information will not be released to others without your written consent except under the circumstances identified in WAC 388-891A-0130 (2) and (3).

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0103, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0104 What happens if my personal information is lost, stolen, or released in error? DVR safeguards the information it collects and stores.

(1) DVR notifies you if it becomes aware that your protected information has been lost, stolen, or released in error.

(2) When your information has been released in error, DVR will make maximum efforts to recover your information.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0104, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0110 What happens if DVR receives information that indicates I have a history of violent or predatory acts? If DVR receives information that indicates you have a history of violent or predatory behavior, DVR staff will discuss that history with you. DVR will ask that you consent to release information about this behavioral history to a potential service provider or potential employer prior to referral for services when a risk assessment, as described in WAC 388-891A-0707, indicates a potential risk to individuals you may encounter while receiving services or working.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0110, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0120 May I ask DVR to change incorrect information in my case service record? You may ask DVR to correct information in your case service record that you believe is incorrect.

(1) If DVR agrees with the correction, DVR corrects the information and documents any correction made.

(2) If DVR disagrees that the information is incorrect, DVR will:

(a) Notify you of the decision not to make changes to your case service record, and include instruction with the notice explaining how to provide a written document summarizing the information that you believe is incorrect;

(b) Document the decision not to make changes; and

(c) Place documents you provide to summarize your requested change into your case service record.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0120, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0130 May DVR share personal information in my case service record with others? (1) DVR may share personal information with others if you sign a written consent or authorization giving permission to release or exchange the information, and:

(a) Another organization or program involved in your VR services needs specific information to serve you effectively; or

(b) You select an employment outcome in a field that customarily requires a background check as a condition of employment or licensure.

(2) DVR may release information that it obtained from other organizations or programs only when permitted by the rules or laws governing the release of protected information applicable to those organizations or programs.

(3) DVR may release, obtain, or maintain personal information without your written consent when:

(a) Required by federal or state laws or regulations;

(b) Required by chapter 26.44 RCW to report the suspected abuse or neglect of a child to either DSHS or law enforcement;

(c) Required by chapter 74.34 RCW to report the suspected abuse, neglect, abandonment, or financial exploitation of a vulnerable adult to DSHS or law enforcement;

(d) A law enforcement agency or DSHS requests information as part of an investigation into abuse, neglect, abandonment, or exploitation of a child or vulnerable adult;

(e) A law enforcement agency or DSHS requests information as part of an investigation into an alleged criminal act by any recipient of DVR services, unless prohibited by federal or state law;

(f) Required by an order signed by a judge, magistrate, or authorized court official (a subpoena duces tecum or request by an attorney is not an order signed by a judge, magistrate, or authorized court official for purposes of releasing information);

(g) The DSHS division of child support requests contact information;

(h) You have requested a fair hearing regarding DVR services with the Washington state office of administrative hearings (OAH);

(i) An organization, agency, or person(s) has an agreement with DVR for an audit, evaluation for program purposes, fulfilling reporting requirements, or research;

(j) DVR reasonably believes you are a danger to yourself or others; or

(k) Otherwise required.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0130, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0135 How does DVR protect personal information about substance abuse, HIV/AIDS, and sexually transmitted diseases? (1) DVR uses special protections when you share personal information about substance abuse, HIV/AIDS, or sexually transmitted diseases.

(2) DVR asks for your specific permission to copy information of this nature before sharing it with a service provider or organization that is helping you reach your desired employment outcome.

(3) Information about substance abuse must be handled in accordance with 42 C.F.R., Part 2 and any other applicable federal and state laws and regulations.

(4) Information about HIV/AIDS or other sexually transmitted diseases must be handled in accordance with RCW 70.02.220 and any other applicable federal and state laws and regulations.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0135, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0140 May I review or obtain copies of information in my case service record? (1) You may review or obtain copies of information contained in your case service record by submitting a request to DVR. DVR provides access to or provides copies of records upon request, except in one or more of the following circumstances:

(a) If DVR believes providing the medical, psychological, or other information in your case service record may be harmful to you, DVR only releases the records to a third party that you choose, such as your representative, parent, legal guardian, or a qualified medical professional.

(b) If DVR receives personal information about you from another agency or service provider, DVR may share the records only under the conditions established by the agency or service provider that provided the information.

(c) If a representative has been appointed by a court to represent you, the information must be released to the representative.

(2) DVR provides access or gives you copies of records within five business days of receiving your request. If DVR cannot fulfill your request within five business days, DVR will send you a written notice of the reason(s) the request cannot be met and the date you are granted access or the date the requested information will be provided.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0140, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0150 How does DVR protect personal information that is released for audit, evaluation, reporting, or research? DVR may release personal information for audit, evaluation for program purposes, fulfilling reporting requirements, or research if the results would improve the quality of life or VR services for people with disabilities. When DVR has obtained personal information from another organization or program, it will release that information only when permitted by the rules or laws governing the release of protected information applicable to that organization or program. Before DVR shares any personal information, the organization, agency, or individual must agree to the following conditions:

(1) The information must only be used by people directly involved in the audit, evaluation, reporting, or research;

(2) The information must only be used for the reasons approved by DVR in advance;

(3) The information must be kept secure and confidential;

(4) The information must not be shared with any other parties, including you or your representative; and

(5) The final product or report produced by the organization, agency, or individual must not contain any personal information that would identify you without your written consent.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0150, filed 5/29/18, effective 6/30/18.]

APPEAL RIGHTS

WAC 388-891A-0200 May a guardian or another representative request an exception to a rule, mediation, or fair hearing on my behalf with DVR? Your chosen representative, legal guardian, or court-appointed representative may act on your behalf when you would like to request an exception to a rule, mediation, or fair hearing.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0200, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0205 How do I ask for an exception to a rule in this chapter? (1) You may ask DVR staff to assist you in requesting

an exception to a rule. They will help you to write and submit a request.

(2) When you make a request for an exception to a rule in this chapter, you must submit it to the DVR director or designee in writing. The request must include:

(a) A description of the exception you are requesting;

(b) The reason you are asking for the exception; and

(c) The duration of the exception, if applicable.

(3) An exception requesting a medical service that DVR does not otherwise provide may only be made when the service is on a limited basis or for a short duration that you specify in the request.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0205, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0206 Are there exceptions to rules in this chapter that DVR will not grant? DVR will not grant an exception to the following rules in this chapter:

(1) Rules requiring compliance with state or federal laws and regulations that DVR does not have the authority to change;

(2) Rules describing the services and activities that DVR must not pay for or support, including WAC 388-891A-1101 and 388-891A-1186; and

(3) WAC 388-891A-1060, under which DVR must not provide extended services for an individual who does not meet the definition of a youth with a most significant disability in WAC 388-891A-0100(19).

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0206, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0210 What happens after I submit a request for an exception to a rule? (1) After receiving your request for an exception to a rule, the DVR director or designee decides whether to approve the request based on:

(a) The impact of the exception on accountability, efficiency, choice, satisfaction, and quality of services;

(b) The degree to which your request varies from the WAC; and

(c) Whether the rule or condition is a federal regulation that must not be waived.

(2) The DVR director or designee responds to the request for an exception within ten working days of receiving the request.

(a) If the request is approved, the DVR director or designee provides a written approval that includes:

(i) The specific WAC for which the exception is approved;

(ii) Any conditions of approval; and

(iii) Duration of the exception.

(b) If the request is denied, the DVR director or designee will provide a written explanation of the reasons for the denial.

(3) The DVR director or designee makes the final decision on all requests for exceptions to a rule, as described in WAC 388-440-0001.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0210, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0211 What does a DVR counselor do when they make a decision to deny my request for VR services, reasonable accommodation, or any other request that affects my participation in VR program services? (1) If a DVR counselor makes a decision to deny your request for a VR service, reasonable accommodation, or any other request that affects your participation in the VR program, including your participation in pre-employment transition services, the DVR counselor responds to you orally and in writing within ten working days of receiving your request.

(2) The written response you receive will provide:

(a) The reason or reasons for the denial and your appeal rights if you disagree with the decision; or

(b) If additional time is needed to gather supplemental information to answer your request, an explanation of the additional time needed and what supplemental information is needed.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0211, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0215 What may I do if a DVR counselor makes a decision about my VR services that I do not agree with? (1) If a DVR counselor makes a decision that affects the VR services provided to you as an applicant or recipient of services with which you do not agree, you may try to resolve the disagreement by any one or more of the following:

(a) Seek assistance from the client assistance program, DVR counselor, VR supervisor, or DVR director or their designee;

(b) Request mediation;

(c) Request a fair hearing.

(2) You may request a fair hearing or mediation while you continue to work with the DVR counselor, DVR supervisor, or DVR director or designee to resolve the disagreement. If you reach an agreement prior to the date of the scheduled mediation or fair hearing, you may withdraw your request.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0215, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0220 What is the client assistance program (CAP)? (1) The client assistance program (CAP) is a program independent of DVR that offers information and advocacy regarding your rights as a DVR customer and offers assistance to help you receive services.

(2) You may ask for help or information from CAP at any time during the rehabilitation process by asking a DVR staff person for information about how to contact CAP, by calling or texting CAP at 206-849-2939, or by accessing the CAP website at http://www.washingtoncap.org.

(3) A CAP representative may represent you with DVR if a disagreement occurs that you cannot resolve on your own. CAP attempts to resolve disagreements informally through discussions with the DVR employee(s) involved as a first step. If informal efforts are not successful, CAP may represent you in mediation and in a fair hearing.

(4) CAP services are available at no cost to you.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R. Parts 361, 363, 397. WSR 21-20-135, § 388-891A-0220, filed 10/6/21, effective 11/6/21; WSR 18-12-035, § 388-891A-0220, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0225 What is mediation? (1) Mediation is a process in which a trained mediator conducts a meeting with you and DVR representative, usually your DVR counselor, to help you settle a disagreement.

(a) The mediator does not work for DVR.

(b) The mediator does not make decisions about your case.

(c) Mediation is voluntary for all parties.

(2) During mediation:

(a) Each party presents information or evidence;

(b) The mediator reviews and explains the laws that apply; and

(c) The mediator helps you and the DVR representative reach an agreement, if possible.

(3) You may ask someone to represent you during the mediation, including a CAP representative, however, you must be present.

(4) Agreements you and DVR reach through mediation are not legally binding.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0225, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0230 When may I ask for mediation? (1) You may ask for mediation any time you disagree with a decision DVR makes that affects the VR services that DVR provides to you.

(2) DVR will not use mediation to deny or delay your right to a fair hearing.

(3) You may request both mediation and a fair hearing at the same time.

(4) If an agreement is reached during mediation, the fair hearing is canceled.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0230, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0235 Who arranges and pays for mediation? (1) DVR will schedule mediation in a timely manner at a location that is convenient to all parties.

(2) DVR will pay for costs related to mediation, except costs related to a representative or attorney you ask to attend.

(3) DVR may pay for the VR services you require to participate in mediation.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0235, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0240 Is information discussed during mediation confidential? (1) Discussions during mediation are confidential and must not be used in a later fair hearing or civil proceeding, if one is held.

(2) Before beginning a mediation session, all parties must sign a statement of confidentiality.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0240, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0245 If the mediation session results in an agreement, do I receive a written statement of the results? If you and the DVR representative reach an agreement during mediation:

(1) The agreement is documented in writing;

(2) You and the DVR representative sign the written agreement; and

(3) DVR provides you with a copy of the agreement.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0245, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0250 What is a fair hearing? (1) A fair hearing is a review process outlined under the Administrative Procedure Act, chapter 34.05 RCW and chapter 388-02 WAC that is conducted by an administrative law judge who works for the office of administrative hearings.

(2) During a fair hearing, both you and DVR may present information, witnesses, and documents to support your position.

(3) You may ask someone to represent you, such as an attorney, friend, relative, representative from the client assistance program, or someone else you choose.

(4) No DSHS employee may represent you in an administrative hearing challenging a DVR decision.

(5) The administrative law judge makes a decision after they hear all of the information presented and review any documents submitted and relevant laws and regulations.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0250, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0255 How do I request a fair hearing? (1) To ask for a fair hearing, send a written request to the office of administrative hearings. You must include the following information in your written request:

(a) Your name, address, and telephone number;

(b) The name of the DSHS program that the fair hearing involves (such as DVR);

(c) A written statement describing the decision and the reasons you disagree; and

(d) Any other information or documents that relate to the matter.

(2) You must submit your request for a fair hearing within forty-five calendar days of the date the DVR counselor issues the decision with which you disagree.

(3) You may ask any DVR employee for instructions or assistance to submit a request for a fair hearing.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0255, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0260 After I submit a request for a fair hearing, when is it held? The office of administrative hearings holds a fair hearing within sixty days of receipt of your written request for a hearing, unless you or DVR ask for a later hearing date and the office of administrative hearings determines there is a reasonable cause for the delay.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0260, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0265 What is a prehearing meeting? After you submit a request for a fair hearing, DVR offers you a prehearing meeting. The prehearing meeting may be conducted in person, by telephone, or by another method agreeable to all parties. The purpose of the prehearing meeting is to:

(1) Clarify the decision with which you disagree;

(2) Exchange copies of laws, rules, or other information to be presented in the fair hearing;

(3) Explain how the fair hearing is conducted; and

(4) Settle the disagreement, if possible.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0265, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0270 Do I receive a written fair hearing decision? The office of administrative hearings sends you a written report of the findings and decision within thirty days of the fair hearing.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0270, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0275 Is the fair hearing decision final? (1) The office of administrative hearings decision is final and DVR must implement the decision.

(2) If you do not agree with the office of administrative hearings decision, you may pursue civil action through superior court to review that decision.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0275, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0295 May DVR suspend, reduce, or terminate my services if I request a fair hearing? DVR must not suspend, reduce, or terminate agreed upon services if you have requested a fair hearing, unless DVR provides evidence that you provided false information or committed fraud or other criminal acts related to your receipt of VR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0295, filed 5/29/18, effective 6/30/18.]

INFORMED CHOICE

WAC 388-891A-0300 What is informed choice? (1) Informed choice is the process by which an individual receiving services from DVR makes decisions about VR goals, VR services, and the service providers necessary to reach those goals. The decision-making process takes into account your culture, values, lifestyle, and characteristics, the availability of resources and alternatives, and general economic conditions. Informed choice involves clear communication to help you understand and use pertinent information in the decision-making process. Informed choice ensures that VR services promote respect for individual dignity, personal responsibility, self-determination, and the pursuit of meaningful careers.

(2) The informed choice decisions that you make are the basis for achieving a successful employment outcome.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0300, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0310 How does DVR support the informed choice process? DVR supports the informed choice process by providing counseling and guidance, information, and support to help you make choices that match your unique strengths, resources, priorities, concerns, abilities, capabilities, and interests, including:

(1) Explaining what choices you can make throughout the rehabilitation process;

(2) Assisting you to identify and get the information you need to explore the options available; and

(3) Helping you understand and evaluate the options.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0310, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0320 What if I do not know how to use the informed choice decision making process? DVR explains how to use informed choice to make decisions about VR goals and services. If it is difficult for you to make informed choices, DVR can help you understand the options available and choose the one that meets your needs.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0320, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0330 What decisions may I make using informed choice? You have the right to make informed choices about VR goals and services, including but not limited to:

(1) The providers you will work with and activities you will participate in related to pre-employment transition services;

(2) The assessment services and service provider(s) you will use to get the information necessary for DVR to determine eligibility and identify your VR needs;

(3) The specific details of your individualized plan for employment (IPE), including:

(a) Type of employment outcome and setting;

(b) VR services you need to achieve the employment outcome;

(c) Service provider(s) that will provide the service and the setting in which you receive the services; and

(d) Method(s) of arranging and paying for services as selected from those available to DVR under state law and agency policy;

(4) Working with DVR staff to request exceptions to rules in this chapter; and

(5) Appealing decisions made by DVR.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0330, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0340 What information and assistance will DVR provide to help me make informed choices about VR services and service providers? To support you in making an informed choice about services and providers, DVR will help you get the following information, to the extent the information is both available and appropriate:

(1) Cost, accessibility, and duration of services;

(2) Consumer satisfaction with those services;

(3) Qualifications of potential service providers;

(4) Type(s) of services offered by each service provider;

(5) Type of setting in which the services are provided, including whether the setting is integrated or nonintegrated; and

(6) Outcomes achieved by others served by the service provider.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0340, filed 5/29/18, effective 6/30/18.]

APPLYING FOR VR SERVICES

WAC 388-891A-0400 Who may apply for vocational rehabilitation services? Any individual who intends to achieve an employment outcome may apply for VR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0400, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0405 May a guardian or another representative act on my behalf with DVR? You may select someone to act as your representative, as appropriate, while participating in the VR program.

(1) If your representative is not a legal guardian or a court-appointed representative, you must sign a consent form allowing the representative to communicate with DVR on your behalf.

(2) If you have a legal guardian or a court-appointed representative, they must act as your representative when required by the court.

(a) A legal guardian or court-appointed representative must provide DVR with documentation that describes the nature and scope of legal representation.

(b) When required by guardianship or legal representation documents you have provided to DVR, your legal guardian or court-appointed representative must sign the application and other documents that require your signature.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0405, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0410 How do I apply for VR services? You have completed the application requirements for VR services when you:

(1) Have provided information needed to begin an assessment of eligibility and priority for services;

(2) Are available to participate in assessment services necessary to determine if you are eligible for VR services; and

(3) Have signed an application form provided by DVR or otherwise provided a written request that includes the following information:

(a) Your name;

(b) Your contact information, including mailing address and phone or email as appropriate;

(c) Your birth date and gender;

(d) Your Social Security number (optional); and

(e) The date on which you signed the written request.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0410, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0420 If I do not speak English, how do I communicate with DVR throughout the VR process, beginning at application? If you do not speak English, or if English is not your primary language, you may request another method of communication to enable you to meet with DVR. DVR arranges and pays for interpreter services as described in WAC 388-891A-0720, translation services as described in WAC

388-891A-0860, or both interpreter and translation services as needed for you to communicate with DVR throughout the VR process.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0420, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0421 What accommodations are available to help me communicate with DVR throughout the VR process, beginning at application? DVR uses equipment, devices, or other services you need to understand and respond to information. Methods DVR may use to communicate with you include, but are not limited to:

(1) Interpreters;
(2) Open and closed captioned videos;
(3) Specialized telecommunications services and audio recordings;
(4) Brailled and large print materials;
(5) Materials in electronic formats;
(6) Augmentative communication devices;
(7) Graphic presentations; and
(8) Simple language materials.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0421, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0425 Does DVR translate written communication for me if I do not speak English? (1) Upon your request, DVR translates the following written communication into your primary language or the primary language of your representative:

(a) Application for VR services;
(b) Notification of eligibility or ineligibility;
(c) Plan for employment;
(d) Notification of case closure;
(e) Notification of annual review, if appropriate; and
(f) Any notice requiring your response or signature to continue receiving services.

(2) DVR translates the Washington Administrative Code (WAC) regarding VR services or service providers into your primary language or the primary language of your representative upon request.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0425, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0430 If I do not live in Washington, may I receive VR services? The state in which you live has the primary responsibility to provide VR services to you. If you do not live in Washington state, you may apply for VR services if you are present in the state and available to participate in required assessment services or VR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0430, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0431 May a case be open at the same time in more than one VR services program? A case may be open at the same time in more than one VR services program as long as services are coordinated and not duplicated.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0431, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0440 May I apply for VR services if I am currently receiving or am eligible to receive VR services from the department of services for the blind? (1) The Washington state department of services for the blind, under an agreement with DVR, is the primary agency responsible for providing vocational rehabilitation services to individuals who are blind or have a visual impairment resulting in an impediment to employment.

(2) You may apply for vocational rehabilitation services from the department of services for the blind, DVR, or both agencies.

(3) The department of services for the blind and DVR may coordinate to provide joint services if you would benefit from such coordination as long as the services are not duplicated.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0440, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0450 May I apply for VR services if I am currently receiving or am eligible to receive VR services from a tribal VR program? (1) If you are eligible for vocational rehabilitation services through a tribe that operates a vocational rehabilitation program, you may apply for VR services from DVR.

(2) The tribal vocational rehabilitation program and DVR may coordinate to provide joint services if you would benefit from such coordination as long as the services are not duplicated.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0450, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0490 Why does DVR offer me the opportunity to register to vote when I apply for services? The department of social and health services (DSHS) is a voter registration assistance agency. As a division of DSHS, DVR offers you the opportunity to register to vote at application. You do not have to register to vote to receive DVR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0490, filed 5/29/18, effective 6/30/18.]

ELIGIBILITY

WAC 388-891A-0500 Who is eligible to receive VR services? (1) You are eligible for VR services if a DVR counselor determines that you meet all of the following criteria:

(a) You have a physical or mental impairment that results in a substantial impediment to your ability to prepare for, secure, maintain, advance in, or regain employment;

(b) You require VR services to prepare for, secure, maintain, advance in, or regain employment that matches your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) DVR presumes that if you meet the eligibility requirements in subsection (1), you can benefit in terms of an employment outcome.

(3) Before determining that you are unable to benefit from VR services in terms of an employment outcome due to the severity of your disability, DVR must conduct a trial work experience to explore your abilities, capabilities, and capacity to perform in realistic work situations as described in WAC 388-891A-0526 through 388-891A-0535.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0500, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0505 How does DVR determine if I am eligible? (1) A DVR counselor reviews and assesses information and records about the current status of your disability and determines whether you meet the eligibility requirements outlined in WAC 388-891A-0500.

(a) A DVR counselor bases the determination on observations, education records, medical records, information provided by you or your family, and information provided by other agencies or professionals.

(b) If information or records are not current, available, or sufficient for a DVR counselor to determine if you are eligible, DVR provides the assessment services necessary to get the information needed to make a decision.

(c) VR services used to collect additional information and records to determine eligibility may include medical or psychological evaluations, trial work, assistive technology, personal assistant services, or any other support services necessary to determine if you are eligible.

(d) DVR must not use your participation in pre-employment transition services as an assessment to determine your eligibility for VR services.

(2) When additional assessment services are necessary to get the information needed to make a decision about your eligibility, DVR assists you in making informed choices about the services, providers, and supports you need to participate in those assessment services.

(3) If you decline to provide or consent to the release of records or if you decline to participate in VR services necessary to obtain information required to make an eligibility determination, your VR case service record is closed.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0505, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0506 Am I presumed to be eligible for VR services if I receive Social Security disability benefits? (1) If you receive Social Security disability insurance (SSDI) or supplemental security income (SSI) benefits under Title II or XVI of the Social Security Act and you intend to achieve an employment outcome, DVR presumes that you are an eligible individual upon verification of your Social Security disability benefits.

(2) If you cannot provide appropriate evidence of your Social Security benefits, such as an award letter from the Social Security Administration, or other type of verification, DVR may request the verification for you.

(3) DVR makes maximum efforts to obtain verification of your Social Security benefits in a reasonable period of time.

(4) After verification of your Social Security benefits, the DVR counselor determines whether you are eligible for VR services.

(5) Although DVR presumes that you are eligible for VR services if your DVR counselor has verified that you receive SSDI or SSI, if the DVR counselor has reason to believe you are not capable of benefiting in terms of an employment outcome after receiving VR services due to the severity of your disability, the DVR counselor conducts an exploration of your abilities, capabilities, and capacity to perform in realistic work situations as described in WAC 388-891A-0526 and 388-891A-0530.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0506, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0507 Am I required to provide proof of my identity and work status? (1) DVR must verify your identity and work status before paying for VR services.

(2) DVR verifies your identity and work status when you provide the documentation required by the United States Citizenship and Identification Services (USCIS) for USCIS form I-9, "Employment Eligibility Verification."

(3) If you do not provide documentation of your identity and legal work status, DVR may obtain existing records that contain information for use in determining your eligibility.

(4) DVR must not pay for any services other than those described in subsection (3) of this section until you provide proof of your identity and work status.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0507, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0510 After DVR receives my signed application, how long does it take to make an eligibility determination? (1) DVR will make an eligibility determination as soon as enough information is available, but no longer than sixty days after receiving your completed application materials.

(2) If DVR does not have enough information to determine your eligibility within sixty days, you and a DVR counselor must agree to:

(a) Extend the eligibility period to collect additional information or records because exceptional and unforeseen circumstances pre-

vented the collection of information necessary to make an eligibility determination; or

(b) Conduct a trial work experience, if a DVR counselor is not certain whether VR services will enable you to benefit in terms of an employment outcome because of the severity of your disability.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0510, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0515 What if I do not agree to extend the eligibility determination period? If you do not agree to extend the eligibility determination period, DVR must close your case service record.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0515, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0525 What criteria does DVR not consider in its eligibility determination? In making an eligibility determination, DVR does not consider your:

(1) Type of disability;

(2) Age, sex, gender, gender identification, sexual orientation, race, color, creed, religion, national origin, veteran status, military status, or marital status;

(3) Specific rehabilitation needs;

(4) Type of employment outcome you expect to achieve;

(5) Source of referral;

(6) Anticipated cost of services; or

(7) Income.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0525, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0526 May DVR determine that I am ineligible for VR services without additional assessment of the severity of my disability? If a DVR counselor cannot presume that you are eligible for VR services or that VR services will enable you to benefit by achieving an employment outcome because of the severity of your disability, DVR requires a trial work experience to determine eligibility. To develop the trial work experience, DVR will:

(1) Conduct an exploration of your abilities, capabilities, and capacity to perform in realistic work situations. This exploration must include an assessment of existing information to the maximum extent possible;

(2) Develop a trial work plan to assess your abilities, capabilities, and capacity to perform in competitive integrated work situations through the use of trial work experiences; and

(3) Make a determination for eligibility based on the information gathered from trial work experience(s).

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0526, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0527 What is a trial work experience? A trial work experience is an assessment DVR requires when a DVR counselor cannot presume that you are eligible for VR services or that VR services will enable you to benefit by achieving an employment outcome because of the severity of your disability. Through that assessment, DVR gathers information to determine that either:

(1) You can benefit from VR services to achieve an employment outcome and are eligible for VR services; or

(2) There is clear and convincing evidence that due to the severity of your disability, you are incapable of benefiting in terms of an employment outcome after receiving VR services and you are ineligible for VR services.

(a) The clear and convincing standard is the highest standard used in our civil system of law and is applied on a case-by-case basis.

(b) Clear and convincing evidence may include assessments that conclude service providers would be unable to meet the individual's needs due to the severity of the individual's disability.

(c) The demonstration of clear and convincing evidence may include, if appropriate, a functional assessment of skill development activities, with any necessary supports (including assistive technology), in real life settings.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0527, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0530 What is involved in a trial work experience? (1) You and your DVR counselor develop a trial work plan outlining the specific questions to be answered by the trial work experience.

(2) The plan developed by you and your DVR counselor will identify appropriate VR services and supports to accommodate your rehabilitation needs, such as supported employment, on-the-job training, assistive technology or personal assistant services.

(3) DVR will exhaust all opportunities, consistent with your informed choice and rehabilitation needs, for providing trial work experiences through actual work experiences in integrated community environments.

(4) You will participate in one or more trial work experiences that allow you to try different employment experiences.

(5) Your trial work experience(s) will take place over a period of time that you and your DVR counselor agree to in your trial work plan.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0530, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0535 What if I cannot participate in or decline to participate in a trial work experience? If you cannot participate in a trial work experience, DVR has exhausted efforts to arrange a trial work experience, or you decline to participate in a trial work experience, DVR will close your case.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0535, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0540 When may DVR determine that I am not eligible or no longer eligible for DVR services? If you do not or you no longer meet the eligibility criteria in WAC 388-891A-0500, a DVR counselor may determine that you are not eligible or no longer eligible for services:

(1) At any time after application; and

(2) After giving you an opportunity to discuss the reasons for the counselor's determination.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0540, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0545 What happens if DVR determines that I am not eligible or no longer eligible for VR services? (1) Before determining that you are not eligible for VR services or that you are no longer eligible for VR services, a DVR counselor consults with you and gives you an opportunity to discuss the decision.

(2) DVR sends you a notice in writing, or using another method of communication, if needed. The notice includes:

(a) An explanation of the reason(s) you are not eligible or no longer eligible;

(b) Your rights to appeal the decision; and

(c) An explanation of the services available from the client assistance program.

(3) If you are ineligible based on a determination that you cannot achieve employment because of the severity of your disability, DVR reviews the decision within twelve months and annually thereafter at your request.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0545, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0550 If I am not eligible or no longer eligible for VR services, does DVR help me find other programs and service providers to meet my needs? If DVR determines that you are not eligible or no longer eligible for VR services, DVR provides you with information and refers you to other agencies or organizations that may provide services to meet your employment-related needs.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0550, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0555 Does a determination that I am eligible for VR services mean that I am entitled to any service? Eligibility for VR services in general does not mean that you are entitled to receive any specific VR service. The specific VR services that you receive are determined on an individual basis.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0555, filed 5/29/18, effective 6/30/18.]

ORDER OF SELECTION

WAC 388-891A-0600 What happens if DVR cannot serve every eligible person? When it is not possible to serve all eligible persons because there are not enough funds or other resources, DVR must:

(1) Continue services without disruption for eligible individuals who have developed and signed an individualized plan for employment;

(2) Establish a statewide waiting list for services;

(3) Implement a process called order of selection that:

(a) Establishes the order in which DVR selects eligible individuals from the waiting list to begin receiving VR services; and

(b) Ensures that individuals with the most significant disabilities are served as a priority over other groups of eligible individuals; and

(4) Provide you with information and guidance (which may include counseling and referral for job placement) about other federal or state programs that offer services to help you meet your employment needs, if available.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0600, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0610 How are individuals selected for services when DVR is operating under an order of selection? When DVR is operating under an order of selection, individuals are selected for services as follows:

(1) At the time you are determined eligible for VR services, a DVR counselor assigns you to a priority category based on the severity of your disability.

(2) The priority categories are defined in WAC 388-891A-0620 through 388-891A-0660.

(3) As resources become available for DVR to serve additional individuals, DVR selects names from the waiting list in the priority category being served at that time.

(4) Within a priority category, the date you applied for VR services determines the order in which you are selected from the waiting list.

(5) DVR may provide you specific services or equipment without requiring that you wait for services under an order of selection if:

(a) You are at immediate risk of losing your job in a competitive integrated setting for reasons related to your disability; and

(b) You require specific services or equipment in the very near future that will enable you to keep your job.

(6) If you have successfully achieved an employment outcome as described in WAC 388-891A-1310, are currently employed, and require post-employment services, you are not required to wait for services under an order of selection.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0610, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0611 What criteria must DVR not use when assigning you to a priority of service of category? DVR must not use any of the following criteria when assigning you to a priority of service category:

(1) Any duration of residency requirement, provided the individual is present in the state;

(2) Type of disability;

(3) Age, sex, gender, gender identification, sexual orientation, race, color, creed, religion, national origin, veteran status, military status, or marital status;

(4) Source of referral;

(5) Type of expected employment outcome;

(6) The need for specific vocational rehabilitation services, except those services described in WAC 388-891A-0610 (5) and (6);

(7) The anticipated cost of services required by an individual; or

(8) The income level of an individual or an individual's family.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0611, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0615 May I receive pre-employment transition services when DVR has assigned me to a priority of service category with a waiting list for services? If you are a student with a disability who DVR has assigned to a priority of service category with a waiting list for services, you may continue to receive pre-employment transition services while waiting for services as long as you began to receive pre-employment transition services prior to DVR determining you eligible for services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0615, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0620 What are the criteria for priority category one? DVR determines you are in priority category one (an individual with a most significant disability) if you are determined eligible for vocational rehabilitation services and you meet the following criteria:

(1) You require multiple VR services over an extended period of time; and

(2) You experience serious functional limitations in four or more of the following areas in terms of an employment outcome:

(a) Mobility;

(b) Communication;
(c) Self-care;
(d) Cognition and learning (self-direction);
(e) Interpersonal;
(f) Work tolerance; or
(g) Work skills.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0620, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0630 What are the criteria for priority category two? DVR determines you are in priority category two if you are determined eligible for vocational rehabilitation services and you meet the following criteria:

(1) You require multiple VR services over an extended period of time; and

(2) You experience serious functional limitations in three of the following areas in terms of an employment outcome:

(a) Mobility;
(b) Communication;
(c) Self-care;
(d) Cognition and learning (self-direction);
(e) Interpersonal;
(f) Work tolerance; or
(g) Work skills.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0630, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0640 What are the criteria for priority category three? DVR determines you are in priority category three if you are determined eligible for vocational rehabilitation services and you meet the following criteria:

(1) You require multiple VR services over an extended period of time; and

(2) You experience serious functional limitations in two of the following areas in terms of an employment outcome:

(a) Mobility;
(b) Communication;
(c) Self-care;
(d) Cognition and learning (self-direction);
(e) Interpersonal;
(f) Work tolerance; or
(g) Work skills.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0640, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0650 What are the criteria for priority category four? DVR determines you are in priority category four if you are de-

termined eligible for vocational rehabilitation services and you meet the following criteria:

(1) You require multiple VR services over an extended period of time; and

(2) You experience serious functional limitations in one of the following areas in terms of an employment outcome:

(a) Mobility;

(b) Communication;

(c) Self-care;

(d) Cognition and learning (self-direction);

(e) Interpersonal;

(f) Work tolerance; or

(g) Work skills.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0650, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0660 What are the criteria for priority category five? DVR determines you are in priority category five if you are determined eligible for vocational rehabilitation services, but you do not meet the criteria for priority categories one through four.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0660, filed 5/29/18, effective 6/30/18.]

VR SERVICES

WAC 388-891A-0700 What vocational rehabilitation services are available to individuals from DVR? The following VR services are available to individuals from DVR:

(1) Assessment services;

(2) Benefits planning services;

(3) Independent living evaluation and services;

(4) Information and referral services;

(5) Interpreter services;

(6) Job-related services;

(7) Maintenance services;

(8) Occupational licenses;

(9) Personal assistance services;

(10) Physical and mental restoration services;

(11) Pre-employment transition services;

(12) Rehabilitation technology services;

(13) Self-employment services;

(14) Services to family members;

(15) Substantial vocational rehabilitation counseling and guidance services;

(16) Tools, equipment, initial stocks, and supplies;

(17) Training services;

(18) Transition services;

(19) Translation services;

(20) Transportation services;

(21) Other services; and

(22) Post-employment services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0700, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0705 What are assessment services? Assessment services include a review of existing data and the provision of assessment activities, including a trial work experience, that are necessary to determine:

(1) Whether you are eligible for VR services;

(2) Severity of disability and assignment of priority category in the event DVR must utilize an order of selection; and

(3) The employment outcome, including supported employment, your rehabilitation needs, and the VR services to be included in an individualized plan for employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0705, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0706 What are examples of assessments that DVR conducts, obtains, or purchases? (1) Some of the assessments that DVR may use include, but are not limited to:

(a) Assistive technology evaluation;

(b) Background checks, including criminal history background checks;

(c) Community based assessment (CBA);

(d) Driving evaluation;

(e) Substance use disorder assessment;

(f) Educational achievements;

(g) Environmental factors that affect your employment and rehabilitation needs;

(h) Independent living evaluation;

(i) Physical assessment;

(j) Psychological or neuropsychological evaluation;

(k) Psychosexual evaluation or a sexual offender behavior assessment;

(l) Risk or safety assessment to determine whether a risk may exist to you or others;

(m) Self-employment feasibility assessment;

(n) Supported employment assessment of ongoing and extended support needs;

(o) Training as an assessment;

(p) Trial work experience as outlined in WAC 388-891A-0526 through 388-891A-0530 to determine you are eligible, ineligible, or no longer eligible;

(q) Vocational, interest, and aptitude assessment;

(r) Work experience, both paid and unpaid; and

(s) Other assessments.

(2) DVR conducts assessments using information provided by you and your family to the extent that it is available.

(3) DVR will obtain information or purchase assessment services if needed for making the determinations described in WAC

388-891A-0705. Information may be obtained, as described in WAC 388-891A-0103, from other programs and agencies that serve you.

(4) DVR will not utilize information generated through your participation in pre-employment transition services to determine eligibility for any other vocational rehabilitation services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0706, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0707 When may DVR require that I participate in a risk assessment, and how are the results of a risk assessment used by DVR? If a DVR counselor receives information or records that reasonably lead the DVR counselor to believe you have a history of violent or predatory behavior:

(1) A DVR counselor will discuss your history with you to better understand your situation.

(2) You must participate in a risk assessment conducted by a licensed psychiatrist, psychologist, counselor, certified sex offender treatment provider, or other qualified professional prior to developing a plan for employment. The risk assessment is for the purpose of determining the level of risk you present to yourself, members of the community, or others in an employment situation.

(a) DVR must consider the results and recommendations of the risk assessment in developing the plan for employment, including any restrictions relating to employment outcome or employment setting.

(b) If the results of the risk assessment indicate a potential risk to individuals you may encounter while receiving services or working, you must consent to release information about the behavior to a potential service provider or potential employer prior to referral for services.

(3) If the results and recommendations of a current risk assessment are available, the DVR counselor must consider those results and recommendations when developing the plan for employment, including any restrictions relating to employment outcome or setting.

(a) For the purposes of determining a current risk, the DVR counselor must use assessments conducted within the previous two years.

(b) If any information becomes available that would require a reevaluation of a previous assessment, you must participate in a new risk assessment.

(c) If the results of a current risk assessment indicate a potential risk to individuals you may encounter while receiving services or working, you must consent to release information about the behavior to a potential service provider or potential employer prior to referral for services.

(4) If you are currently participating in a treatment plan and you and your provider agree to release reports to DVR that demonstrate your current status, the DVR counselor must consider that information when developing the plan for employment, including any restrictions relating to employment outcome or setting. If the information contained in your provider's reports indicates a potential risk to individuals you may encounter while receiving services or working, you must consent to release information about the behavior to a potential service provider or potential employer prior to referral for services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0707, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0708 What happens if I decline to participate in a risk assessment or release reports of my status in a treatment program? When the conditions described in WAC 388-891A-0707 apply, the DVR counselor closes your case service record if you do not cooperate by declining:

(1) To participate in or consent to providing the results of a risk assessment; or

(2) To report your status in a treatment program.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0708, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0709 What are benefits planning services? Benefits planning services are provided to help you understand how earning income through employment will impact your Social Security disability insurance (SSDI), supplemental security income (SSI), or other government benefits. Benefits planning services also help you understand how to use work incentives or other benefit programs that may enable you to achieve an employment outcome.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0709, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0710 What are independent living services and evaluation? Independent living services and evaluation includes services provided to:

(1) Identify issues that present problems for you in achieving an employment outcome and services you need to address the issues;

(2) Help you manage the services you need to live independently, get information about benefits available to you, and about your rights and responsibilities;

(3) Help you set personal goals, make decisions about life issues and employment, and help your family with issues related to your disability and independence;

(4) Help you learn to manage areas such as budgeting, meal preparation and nutrition, shopping, hygiene, time management, recreation, community resources, and attendant management; and

(5) Find out about housing resources and make decisions about changing to a more independent living arrangement.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0710, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0715 What are information and referral services? Information and referral services include information and assistance

to help you explore and gain access to employment services or benefits available to you from other programs, including other programs within the workforce development system.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0715, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0720 What are interpreter services? Interpreter services are services that help to ensure you are able to communicate effectively while receiving services from DVR. Interpreter services may include real-time captioning services, sign language or oral interpretation services for individuals who are deaf or hard of hearing, and tactile interpretation services for individuals who are deaf-blind.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0720, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0725 What is job search assistance? Job search assistance activities support and assist you in searching for an appropriate job. Job search assistance may include help in resume preparation, identifying appropriate job opportunities, developing interview skills, and making contacts with companies on your behalf.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0725, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0730 What is job placement assistance? Job placement assistance includes a DVR employee or contracted provider working directly with employers to identify and secure competitive integrated employment that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. You and your DVR counselor (as well as the provider, if appropriate) agree upon the job to be secured. Job placement is accomplished when you have officially completed your first day of work.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0730, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0731 What are customized employment services? (1) Customized employment services are services to facilitate a placement in customized employment.

(2) These services are carried out through flexible strategies, which include job exploration by the individual and working with an employer to facilitate placement, including:

(a) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;

(b) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;

(c) Using a professional representative chosen by you, or representing yourself if you choose, to work with an employer to facilitate placement; and

(d) Providing services and supports at the job location.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0731, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0732 What are job retention services? Job retention services are provided after your first day of work and while you remain employed. Job retention services may include any vocational rehabilitation service necessary to help you maintain employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0732, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0735 What are maintenance services? (1) Maintenance services include monetary support for expenses such as food, shelter, or clothing that exceed your usual living expenses and are necessary for you to participate in another VR service. The following are examples of maintenance services, but they may not apply to every situation or substitute for the professional judgment of an individual counselor:

(a) A uniform or other suitable clothing required to look for or get a job;

(b) Short-term lodging and meals required to participate in assessment or training services not within commuting distance of your home; and

(c) Initial one-time costs, such as security deposits or charges to begin utility services at a home in which you will live, when you relocate for a job.

(2) As described in WAC 388-891A-0206 and 388-891A-1101, DVR must not grant any exception to provide for your usual living expenses as a maintenance service.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0735, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0740 What are occupational licenses? Occupational licenses are licenses, permits, or certificates showing that you meet certain standards, have accomplished certain achievements, or otherwise qualify to engage in a business, specific occupation or trade, or other work.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0740, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0745 What are personal assistance services? (1) Personal assistance services include a range of services provided by at least one person to help you perform daily living activities on or off the job that you would perform without assistance if you did not have a disability. Examples include, but are not limited to:

(a) Reader services for individuals who cannot read print because of blindness or other disability. Reader services include both reading aloud and the transcription of printed information into Braille or sound recordings. Reader services are for people who are blind and individuals unable to read because of serious neurological disorders, specific learning disabilities, or other physical or mental impairments.

(b) Personal attendant services are personal services that an attendant performs for an individual with a disability, including, but not limited to, bathing, feeding, dressing, and providing mobility and transportation.

(2) DVR only provides personal assistance services in connection with one or more other VR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0745, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0750 What are physical and mental restoration services? (1) Physical and mental restoration services are used to diagnose and treat physical and mental impairments when you need those services to prepare for, secure, maintain, advance in, or regain employment.

(2) DVR provides physical and mental restoration services only when financial support is not readily available from another source, such as health insurance.

(3) Physical and mental restoration services include:

(a) Corrective surgery or therapy if your disabling condition is stable or slowly progressive and the service is expected to substantially modify, correct, or improve a physical or mental impairment that is a substantial impediment to employment for you within a reasonable period of time;

(b) Diagnosis and treatment of mental or emotional disorders by qualified personnel who meet state licensing requirements;

(c) Dental treatment;

(d) Nursing services;

(e) Necessary hospitalization (in-patient or outpatient) in connection with surgery or treatment and clinic services;

(f) Prescription drugs and supplies;

(g) Prosthetic and orthotic devices;

(h) Eyeglasses and visual services, including visual training and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel who meet state licensing requirements;

(i) Podiatry;

(j) Physical therapy;

(k) Occupational therapy;

(l) Speech or hearing therapy;

(m) Mental health services;

(n) Treatment of acute or chronic medical conditions and emergencies that result from providing physical and mental restoration services or are related to the condition being treated;

(o) Special services for the treatment of end-stage renal disease; and

(p) Other medical or medically related rehabilitation services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0750, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0755 What are the medical treatments DVR does not pay for? DVR does not pay for any of the following medical treatments other than as an exception to policy, as described in WAC 388-891A-0205:

(1) Maintenance of your general health or fitness;

(2) Cosmetic procedures, such as facelifts, liposuction, and cellulite removal;

(3) Maternity care;

(4) Hysterectomies, elective abortions, sterilization, and contraceptive services as independent procedures;

(5) Drugs not approved by the U.S. Food and Drug Administration for general use or by state law;

(6) Life support systems, services, and hospice care;

(7) Transgender services including surgery and medication management;

(8) Homeopathic and herbalist services, Christian Science practitioners, or theological healers;

(9) Treatment that is experimental, obsolete, investigational, or otherwise not established as effective medical treatment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0755, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0760 What are pre-employment transition services? (1) Pre-employment transition services are activities that offer an early start at career exploration.

(2) Pre-employment transition services are provided to you while you are in school and eligible for an individualized educational program (IEP) or otherwise are regarded as an individual with a disability under section 504 of the Rehabilitation Act of 1973, as amended.

(3) Pre-employment transition services are coordinated between schools and DVR to help you prepare for and go to work in the community.

(4) Pre-employment transition services are available to an eligible or potentially eligible student with a disability as defined in WAC 388-891A-0010(16), and as described in WAC 388-891A-0615.

(5) Pre-employment transition services are not available if you have been determined ineligible for services.

(6) Pre-employment transition services include:

(a) Job exploration counseling;

(b) Work-based learning experiences provided in an integrated setting and paid at a competitive rate to the maximum extent possible;

(c) Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

(d) Workplace readiness training to develop social skills and independent living; and

(e) Instruction in self-advocacy that may include peer mentoring.

(7) If you need more individualized services (such as job coaching, orientation and mobility training, travel expenses, uniforms, or assistive technology), you must apply and be determined eligible for vocational rehabilitation services and develop and have an approved individualized plan for employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0760, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0765 What is job exploration counseling? Job exploration counseling activities promote considerations of opportunities and informed decision-making regarding career options to help students with disabilities understand post-school choices and opportunities. Job exploration counseling may include, but is not limited to, discussion of:

(1) Your vocational interest inventory results;

(2) In-demand occupations;

(3) Career pathways; and

(4) Local labor market information.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0765, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0766 What are work-based learning experiences? (1) Work-based learning experiences are in-school or after-school opportunities, or experiences outside the traditional school setting, that use the workplace or real work to provide students with disabilities the knowledge and skills that connect school experiences to real-life work activities and future career opportunities.

(2) Work-based learning experiences in a group setting may include, but are not limited to:

(a) Coordinating a school-based program of job training and informational interviews to research employers;

(b) Worksite tours to learn about necessary job skills;

(c) Job shadowing; and

(d) Mentoring opportunities in the community.

(3) Work-based learning experiences on an individual basis may include, but are not limited to:

(a) Work experiences to explore your area of interest through internships;

(b) Apprenticeships (not including pre-apprenticeships and registered apprenticeships);

(c) Short-term employment; and

(d) On-the-job trainings located in the community.

(4) Work-based learning experiences are provided in an integrated environment in the community to the maximum extent possible.

(5) When paid, work-based learning experiences for students with disabilities must be compensated at a competitive wage to the extent competitive wages are paid to students without disabilities.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0766, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0767 What is counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education? (1) Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education in a group setting to students with disabilities may include, but is not limited to, information on:

(a) Course offerings;

(b) Career options;

(c) The types of academic and occupational training needed to succeed in the workplace; and

(d) Postsecondary opportunities associated with career fields.

(2) This information may also be provided on an individual basis to a student with a disability, and may include, but is not limited to, advising students and parents or representatives on:

(a) Academic curricula;

(b) College application and admissions processes;

(c) Completing the Free Application for Federal Student Aid (FAFSA); and

(d) Resources that may be used to support individual student success in education and training, which may include disability support services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0767, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0768 What is workplace readiness training? Workplace readiness training provides opportunities for students with disabilities to learn about and develop both social skills and independent living. Training may include, but is not limited to:

(1) Workshops on workplace behavior, understanding employer expectations for punctuality and performance, and other soft skills necessary for employment;

(2) Financial literacy;

(3) Orientation and mobility skills; and

(4) Job-seeking skills.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0768, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0769 What is instruction in self-advocacy? (1) Self-advocacy instruction provides opportunities for students with disabilities to learn about rights, responsibilities, and how to request accommodations or services and supports needed during the tran-

sition from secondary to postsecondary education and employment. Self-advocacy instruction teaches students with disabilities to articulate their needs and make informed decisions about the supports necessary to meet those needs.

(2) Self-advocacy instruction may include peer mentoring from individuals with disabilities working in competitive integrated employment. Examples of self-advocacy instruction include but are not limited to workshops or job clubs in areas such as:

(a) Developing goals;

(b) Time management and organization;

(c) Balanced life planning;

(d) Peer support;

(e) Mentoring groups;

(f) Accessing community resources such as health care, recreation, and social opportunities; and

(g) Using assistive technology to manage life skills.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0769, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0770 What is rehabilitation technology? Rehabilitation technology means the use of technologies, engineering methods, or sciences to design, develop, test, evaluate, apply, and distribute technology to address those areas in which you experience functional loss, such as mobility, communication, hearing, vision, and cognition. Rehabilitation technology includes:

(1) Assistive technology devices, equipment, or products used to increase, maintain, or improve the functional capabilities of an individual with a disability including, but not limited to:

(a) Telecommunications devices;

(b) Sensory aids and devices, including hearing aids, telephone amplifiers and other hearing devices, captioned videos, taped text, Brailled and large print materials, electronic formats, graphics, simple language materials, and other special visual aids;

(c) Vehicle modifications; and

(d) Computer and computer-related hardware and software that is provided to address a disability-related limitation.

(2) Services that assist you in the selection, acquisition, or use of an assistive technology device, including services to:

(a) Evaluate your needs in performing activities in your daily environment;

(b) Select, design, fit, customize, adapt, apply, maintain, repair, or replace an assistive technology device, including written policies, plans, guarantees, or warranties (initial or extended);

(c) Coordinate and use other therapies or services with assistive technology devices, such as education and rehabilitation plans and programs; and

(d) Train or give technical assistance to professionals, employers, family members, or others who provide services to you, hire you, or are involved in your major life activities.

(3) Services that apply engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems you face in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated

with employment, independent living, training, and integration into the community.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0770, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0785 What are self-employment services? (1) Self-employment services include consultation, technical assistance, and start-up costs to help you establish a small business to become self-employed.

(2) When you sign your individualized plan for self-employment, you agree to provide information about the income of your small business for up to one year after you successfully close your case.

(3) The conditions that apply for DVR to approve and pay for self-employment services are outlined in WAC 388-891A-0010, 388-891A-1100, 388-891A-1185, 388-891A-1186, 388-891A-1195, and 388-891A-1196.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0785, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0790 What vocational rehabilitation services may DVR provide for my family member(s)? DVR may provide vocational rehabilitation services for a family member if the services are necessary for you to achieve an employment outcome. A family member is anyone who meets the definition of family member outlined in WAC 388-891A-0010(7).

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0790, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0791 What types of nonpermanent structural modifications may be provided at the place where I live or where I work? Nonpermanent structural modifications that make physical changes to the place where you live or your worksite are provided for necessary disability access or to conduct employment. The conditions that apply for DVR to pay for nonpermanent structural modifications are outlined in WAC 388-891A-1194, 388-891A-1195, and 388-891A-1196.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0791, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0800 What is substantial vocational rehabilitation counseling and guidance? Substantial vocational rehabilitation counseling and guidance includes intensive counseling and guidance provided by a DVR counselor throughout the rehabilitation process to help you address medical, family, or social issues and exercise informed choice, including vocational counseling and other counseling and guid-

ance that addresses a wider range of concerns than an employment-focused counseling and guidance relationship.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0800, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0805 What are tools, equipment, initial stocks, and supplies? (1) Tools and equipment are materials and hardware you require to carry out the duties of your job.

(2) Initial stocks and supplies are specific to self-employment and include the goods for inventory required for you to start your small business.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0805, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0810 What are training services? (1) Training services are designed to help you gain knowledge, skills, and abilities needed to achieve an employment outcome. Training services include, but are not limited to:

(a) On-the-job training;
(b) Postsecondary training;
(c) Occupational or vocational training;
(d) Basic education or literacy training;
(e) Apprenticeship training;
(f) Job readiness training;
(g) Disability related skills training; and
(h) Other miscellaneous training.

(2) The conditions that apply for DVR to pay for postsecondary training services at an institution of higher education are outlined in WAC 388-891A-1160 through 388-891A-1163.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0810, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0815 What is on-the-job training? On-the-job training is training an employer provides to you once you are placed in a job to help you learn the skills you need. With on-the-job training, you are hired by an employer and DVR pays the employer a training fee to cover the extra costs associated with training you. There is an expectation that employment with the employer will continue when the on-the-job training is completed. The employer must sign an agreement to include at a minimum:

(1) Training to be provided, including skills to be learned and training methods;

(2) Duration or number of hours of training to be provided;

(3) How and when the employer will evaluate and report your progress to DVR;

(4) An agreed-upon fee based on the employer's costs to provide the training; and

(5) Payment criteria.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0815, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0820 What is postsecondary training? Postsecondary training means full-time or part-time academic training above the high school level leading to a degree, academic certificate, or other recognized educational credential. Postsecondary training is provided by a college or university, community college, junior college, or technical college.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0820, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0825 What is occupational or vocational training? Occupational or vocational training is specific job skill training that does not lead to an academic degree, but is provided by a community college or business, vocational, technical, or trade school to prepare for work in a specific occupation.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0825, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0830 What is basic education or literacy training? Basic education or literacy training is training that addresses basic academic skills, such as reading, that are necessary to participate in further training on your IPE or work in competitive integrated employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0830, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0836 What is apprenticeship training? Apprenticeship training is a work-based employment and training program registered with the Washington state department of labor and industries that provides:

(1) A combination of hands-on, on-the-job work experience in a skilled occupation with related classroom instruction;

(2) Structured mentoring;

(3) Wage increases as an apprentice's skills increase; and

(4) An industry recognized certificate of completion at the end of the program.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0836, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0837 What is job readiness training? Job readiness training is training that prepares you for work, including but not limited to training that addresses:

(1) Appropriate clothes and grooming for the job;
(2) Getting to work on time;
(3) Workplace behavior; and
(4) How to increase productivity.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0837, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0838 What is disability-related skills training? Disability-related skills training includes but is not limited to training that addresses:

(1) Orientation and mobility;
(2) The use of low vision aids;
(3) Braille;
(4) Speech reading;
(5) Sign language; and
(6) Cognitive training/retraining.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0838, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0840 What other training does DVR provide? DVR provides other miscellaneous training services that are not identified in another section, such as high school completion and tutoring.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0840, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0855 What are transition services? Transition services are any of the VR services listed under WAC 388-891A-0700 and are a coordinated set of activities for a student or youth with a disability that:

(1) Promote movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Address your individual needs, taking into account preferences and interests;

(3) Include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, functional vocational evaluation and acquisition of daily living skills; and

(4) Promote or facilitate the achievement of the employment outcome identified in your individualized plan for employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0855, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0860 What are translation services? Translation services include oral and written translation into your primary language to access DVR services and communicate with DVR staff.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0860, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0865 What are transportation services? Transportation services include travel and related expenses necessary for you to participate in VR services, such as a bus pass, fuel for a vehicle, services to facilitate your driving, the purchase or repair of a vehicle, or moving expenses. The conditions that apply for DVR to purchase and loan a vehicle to you are outlined in WAC 388-891A-1174, 388-891A-1175, and 388-891A-1176.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0865, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0866 What are transportation services to facilitate my driving? Services to facilitate your driving include, but are not limited to:

(1) Mileage/gasoline allowance;
(2) Driver licenses;
(3) Vehicle license tabs; and
(4) Vehicle repairs.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0866, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0880 What other services does DVR provide? With the exception of the items and services outlined in WAC 388-891A-1101 and 388-891A-1186, DVR provides other services not identified in this chapter when the service is needed for you to achieve an employment outcome as described in WAC 388-891A-0010(4) and the service is both legal and necessary to address a barrier to employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0880, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0890 What are post-employment services? Post-employment services include one or more vocational rehabilitation services provided if:

(1) Your case was closed because you achieved an employment outcome;

(2) Your rehabilitation needs are limited in scope and duration; and

(3) You need post-employment services to maintain, advance in, or regain employment that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0890, filed 5/29/18, effective 6/30/18.]

VOCATIONAL ASSESSMENT AND IPE DEVELOPMENT

WAC 388-891A-0900 What is a vocational assessment? (1) A vocational assessment helps to identify the type of assistance you will need to prepare for, secure, maintain, advance in, or regain employment. Each person determined eligible for VR services completes a vocational assessment to identify their VR needs.

(2) A comprehensive vocational assessment may be completed by each person determined eligible for VR services, and includes more specific information about VR needs than the DVR counselor considered during the eligibility determination.

(3) A comprehensive vocational assessment includes a variety of services, including counseling and guidance, to determine your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(4) The purpose of a comprehensive vocational assessment is to collect and review information you need to select your employment goal, including a thorough exploration of labor market information and job trends, as well as determining the VR services you need to achieve the employment outcome.

(5) A comprehensive vocational assessment is limited to services necessary to select an employment goal and develop a plan for employment.

(6) To the maximum extent possible and appropriate, DVR will use existing information to complete a comprehensive vocational assessment. Existing information may include, but is not limited to, information used to determine eligibility and information provided by you and your family.

(7) A comprehensive vocational assessment may include any one or more of the following as needed:

(a) Assessment(s) of the personality, interests, interpersonal skills, intelligence and related functional abilities, educational abilities, work experience, vocational aptitudes, personal and social adjustments, employment opportunities, and other vocational, educational, cultural, social, recreational, and environmental factors that affect your employment and rehabilitation needs;

(b) Assessment(s) of work, in paid or unpaid settings, as a method of evaluating and developing work behavior and capacities necessary to achieve an employment outcome, including work skills, attitudes, habits, tolerances, and social behavior;

(c) Referral for assistive technology services to assess whether services or devices could increase your ability to perform work;

(d) Benefits planning to recipients of Social Security disability insurance (SSDI) or supplemental security income (SSI) benefits under Title II or Title XVI of the Social Security Act to understand how income may affect those benefits.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0900, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0905 Are there circumstances in which DVR requires me to participate in additional assessment activities? (1) If the DVR counselor becomes aware of a condition or circumstance after you have developed an IPE that may affect your ability to achieve the employment outcome identified in your IPE, the DVR counselor may conduct necessary assessment services to determine whether you are capable of benefiting in terms of the specific employment outcome identified in your IPE.

(2) If you have a documented history of violent or predatory behavior that reasonably leads a DVR counselor to believe you may be a threat to yourself or others, you must participate in assessment services necessary to determine the level of risk.

(3) If a DVR counselor determines, based on an assessment conducted by a qualified professional, that your employment may pose a threat to the safety of you or others because you meet the conditions outlined in WAC 388-891A-0110, an appropriately qualified professional must evaluate the employment outcome and employment setting you choose for risk.

(4) If you decline to authorize the release of information to DVR or participate in VR services necessary to collect pertinent information and your refusal prevents the continued development of an appropriate IPE, the DVR counselor may close your case service record.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0905, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0910 Do I need to tell my DVR counselor about my criminal history or negative actions that may appear in a background check for employment? (1) You must disclose information to DVR before you develop a plan for employment about conditions or circumstances, such as a criminal record, actions against a professional license, identity and work status, that restrict the type of employment you can legally perform.

(2) If you select an employment outcome in a field that customarily requires a background check as a condition of employment, DVR must obtain a background check as described in WAC 388-891A-0103 that verifies you are not excluded from employment in the field or specific job prior to IPE development.

(3) If a DVR counselor receives information or records that reasonably lead the DVR counselor to believe you have a criminal history or history of actions against a professional license, a background check is required to determine the next steps in your IPE development. The DVR counselor may require you to participate in assessment(s) to determine the impact of your criminal history or history of other negative actions on achieving a successful employment outcome.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0910, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0911 What is required for DVR to approve an IPE with a goal in self-employment? (1) A DVR counselor will approve an IPE with an outcome in self-employment if:

(a) You complete assessment services as outlined in WAC 388-891A-0900 to determine VR service needs;

(b) You participate in a feasibility study for your self-employment business and you and your DVR counselor agree that the IPE with an outcome in self-employment is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(c) The feasibility study indicates that the self-employment outcome is:

(i) Feasible;

(ii) Sustainable; and

(iii) Adequate to meet your financial needs.

(2) The costs that DVR may pay to support an IPE with self-employment as the employment outcome are outlined in WAC 388-891A-1185.

(3) The costs that DVR must not pay to support an IPE with self-employment as the employment outcome are outlined in WAC 388-891A-1186.

(4) The projected income you will earn from your business must be at least comparable to the income received by other individuals who are self-employed in similar occupations or performing similar tasks and who have similar training, experience, and skills. DVR does not support activities that do not result in an income-producing self-employment outcome.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0911, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0912 What are the factors that a DVR counselor considers in determining whether to support an employment outcome in self-employment? In addition to WAC 388-891A-0911, 388-891A-1185, 388-891A-1186, 388-891A-1195, and 388-891A-1196, the DVR counselor considers the following when determining whether to support an employment outcome in self-employment:

(1) The results of the feasibility study for your proposed self-employment outcome;

(2) Your ability to maintain and retain a self-employment business, including, but not limited to your:

(a) Disability-related issues or concerns;

(b) Barriers to employment and how self-employment addresses these barriers;

(c) Strengths and interpersonal skills;

(d) Resources, including financial resources;

(e) Money management skills;

(f) Credit history, including bankruptcy;

(g) Overdue child support;

(h) Tax or debt issues;

(i) Other legal proceedings;
(j) Long-term supports, if supported employment is required; and
(k) Income needs.
(3) You must have resolved bankruptcy or other legal proceedings, overdue child support, and overdue taxes prior to the development of an individualized plan for employment (IPE) with self-employment as the employment outcome. DVR does not assist with the payment of court fees, attorney fees, fines, or penalties related to illegal acts that result from any civil or criminal legal proceedings or related matters.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0912, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0913 What conditions apply for DVR to support self-employment as a sole proprietorship or a limited liability company? (1) DVR does not support self-employment in a nonprofit organization because you do not have legal standing with a nonprofit organization.
(2) DVR supports self-employment:
(a) As a sole proprietorship; or
(b) As a partnership or limited liability company (LLC) if you manage and hold controlling interest (fifty-one percent or more).
(3) Any business partners must acknowledge through their signature that any equipment, tools, initial stocks, and supplies purchased by DVR are the property of DVR until transferred to you.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0913, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0915 What is an individualized plan for employment (IPE)? An individualized plan for employment (IPE) is a DVR form that documents important decisions you and a DVR counselor make about vocational rehabilitation services. The contents of the IPE are described in WAC 388-891A-0940 and the IPE becomes effective as described in WAC 388-891A-0945.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0915, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0916 How long does it take to develop an IPE? (1) You develop your IPE within ninety days after the date you are determined eligible for VR services, or when DVR is operating under an order of selection within ninety days after the date DVR releases your case from a waiting list for services.
(2) You and your DVR counselor may agree to extend the IPE development time frame to a specific date by which your IPE will be complete.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0916, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0920 What information does DVR provide to help me develop my IPE? DVR provides the following information to help you develop an IPE:

(1) Information about who may help you with developing an IPE;

(2) Results of assessment activities or other evaluations relevant to developing your IPE;

(3) Information that must be included in the IPE;

(4) Financial conditions or restrictions that apply to an IPE;

(5) Information about how to get help completing forms required by DVR;

(6) Information about your rights if you disagree with a decision a DVR counselor makes relating to the IPE;

(7) Information about the client assistance program (CAP) and how to contact the program; and

(8) Other information you request.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0920, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0925 Who develops an IPE? (1) When DVR is operating under an order of selection each eligible individual whose case DVR has released from the waiting list for services or their representative may develop an IPE.

(2) When DVR is not operating under an order of selection each eligible individual or their representative may develop an IPE.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0925, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0930 Who may help me with developing an IPE? You may develop an IPE on your own or with help from others. If you choose to develop your IPE with help from others, the following conditions apply:

(1) You may develop an IPE with support and assistance from one or more of the following:

(a) A VR counselor employed by DVR;

(b) A VR counselor not employed by DVR, but who meets the minimum qualifications for a VR counselor established by DVR;

(c) Another person you choose, such as a representative, family member, advocate, or other individual;

(d) A disability advocacy organization.

(2) If you choose to develop the IPE with someone other than a DVR counselor, DVR may help you identify individuals that may help you develop your IPE, to the extent resources are available.

(3) DVR does not pay for any related costs or fees charged by other parties to develop an IPE.

(4) The IPE must include signatures that demonstrate that you agree to adhere to the terms, conditions, and other criteria, and your DVR counselor approves the IPE and makes it effective.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0930, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0940 What must be included on the individualized plan for employment? An IPE must include:

(1) An employment outcome that is consistent with the definition of an employment outcome in WAC 388-891A-0010(4), except that in the case of an eligible individual who is a student or youth with a disability, the employment outcome may be a description of the individual's projected post-school employment outcome;

(2) The VR services you need to achieve the employment outcome;

(3) Timelines for each service on your IPE and for achieving the employment outcome;

(4) The name of the person or organization selected to provide each service included on the IPE and how you will obtain the services;

(5) Criteria you will use to evaluate whether you are making the progress agreed upon by you and the DVR counselor toward achieving the employment outcome;

(6) Terms and conditions, including:

(a) A description of what DVR has agreed to do to support your IPE; and

(b) A description of what you have agreed to do to reach your employment outcome, including:

(i) Steps you will take to achieve your desired employment outcome;

(ii) If applicable, services you agree to help pay for and how much you agree to pay; and

(iii) Services you agree to apply for and use that are available to you at no cost from another program;

(7) If you receive assistance from an employment network under the ticket to work and self-sufficiency program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19), a description of how responsibility for service delivery will be divided between the employment network and DVR;

(8) If you receive Social Security disability insurance (SSDI), supplementary security income (SSI), or both, and you have not received benefits planning services prior to developing your IPE, your DVR counselor may include benefits planning services in your IPE at the following times:

(a) Before job search activities begin; and

(b) Before you accept a job offer;

(9) Expected need for post-employment services and service providers necessary to maintain or regain employment prior to closing the case service record and, if appropriate, a statement of how post-employment services are arranged using comparable services and benefits;

(10) An IPE that includes a supported employment outcome must also document:

(a) Time-limited support services to be provided;

(b) Extended services or natural supports that are likely to be needed;

(c) Who will provide and pay for natural supports or extended services or if you and DVR cannot identify who will provide and pay for extended services or natural supports at the time the IPE is developed, the IPE must include a statement explaining the basis for determining that a resource is likely to become available;

(d) A goal for the number of hours per week you are going to work and a plan to monitor your progress toward meeting the goal;

(e) A description of how the services on your IPE are coordinated with other federal or state services you get under an individualized plan;

(f) That any job skills training will be provided on-site;

(g) A supported employment outcome in an integrated setting for the maximum number of hours possible based on your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(11) An IPE for a student with a disability, as defined in WAC 388-891A-0010(16) must also document:

(a) The pre-employment transition services necessary for achieving the individual's employment outcome or projected post-school employment outcome;

(b) The specific transition services and supports needed to achieve the individual's employment outcome or projected post-school employment outcome; and

(c) Coordination, to the extent possible, with an individualized education program, to achieve the goals and objectives and provide the services identified; and

(12) An IPE for a self-employment outcome must also document:

(a) Any approved start-up costs;

(b) Any identified self-employment consultant services;

(c) Specific timeframes for monitoring progress;

(d) The monthly financial reporting requirements such as income and expenses statements;

(e) The agreed upon steps that will be taken if satisfactory progress is not made including the conditions that would result in discontinuing DVR support;

(f) How you and the DVR counselor will handle unforeseen expenses that arise after the IPE is signed; and

(g) The closure criteria, including the agreed upon income level that is consistent with the projections outlined in the business plan.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0940, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0945 When does the IPE become effective? (1) Both an initial IPE and an amended IPE become effective when you and your DVR counselor have signed the IPE form.

(2) Your signatures indicate that you agree to the terms and conditions of the IPE and your DVR counselor approves the IPE content.

(3) DVR gives you a copy of the signed IPE in writing or provides it in an alternate format if needed.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0945, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0950 Is the IPE reviewed and updated? You and a DVR counselor review the IPE at least once a year, or more often, to assess your progress in achieving an employment outcome and to determine if an amendment is necessary under WAC 388-891A-0951.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0950, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0951 When would my IPE require an amendment? You and your DVR counselor will amend your IPE if there are substantial changes in:

(1) Your desired employment outcome, even if the services on your IPE are substantially unchanged;

(2) The VR services required to address your disability-related barriers; or

(3) The service providers for IPE services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0951, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0960 Will DVR support an employment outcome that involves activities that are illegal under federal, state, or local law? DVR is prohibited from supporting employment outcomes that involve or promote activities that are illegal under federal, state, or local law.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0960, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0965 Does DVR support any job I choose? (1) DVR provides services to support you in achieving an employment outcome as defined in WAC 388-891A-0010(4).

(2) The employment outcome you choose must be consistent with the information and results of the assessment of your VR needs described in WAC 388-891A-0900.

(3) There are some jobs that DVR will not support as employment outcomes in an individualized plan for employment, even when the conditions in subsections (1) and (2) of this section have been met. These include, but are not limited to, jobs that are not permitted under WAC 388-891A-0960.

(4) If you choose a job that compensates you at a noncompetitive wage or in a nonintegrated setting, the following conditions apply:

(a) DVR may provide you with information and referrals to other programs and services in your community;

(b) DVR may not provide any services beyond information and referrals to support you in such a job other than as described in WAC 388-891A-1000.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0965, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0966 What if the employment outcome I choose is religious in nature? Article 1, section 11 of the Washington state Constitution prohibits DVR from supporting education or training for an employment outcome that is religious in nature.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0966, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-0970 What happens if I am not making the agreed upon progress in my IPE? (1) If you are not making the progress you agreed upon in your IPE, you and your DVR counselor determine the reason for the lack of progress and take the appropriate steps to address the issues or problems that are keeping you from making progress.

(2) If your actions or nonactions make it impossible to begin or continue VR services, your DVR counselor may close your case in accordance with WAC 388-891A-1300.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0970, filed 5/29/18, effective 6/30/18.]

SUPPORTED EMPLOYMENT

WAC 388-891A-1000 What is supported employment? Supported employment exists to support individuals with the most significant disabilities who need intensive services and supports to achieve an employment outcome. Employment outcomes in supported employment are:

(1) Competitive integrated employment, including customized employment, as described in WAC 388-891A-0010(2); or

(2) Employment that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice in an integrated setting while you work on a short-term basis toward a competitive wage.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1000, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1010 Who is eligible for supported employment? You are eligible for supported employment services if:

(1) You are eligible for vocational rehabilitation services under WAC 388-891A-0500;

(2) You have been determined to be an individual with a most significant disability;

(3) You have not historically worked in competitive integrated employment or your experience in competitive integrated employment has been interrupted or off and on due to the severity of your disability; and

(4) Based on a comprehensive assessment of your needs, including an evaluation of your rehabilitation, career, and job needs, you require intensive time-limited support services from DVR and extended services (long-term supports) to achieve an employment outcome.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1010, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1015 Who determines whether I am eligible for supported employment? DVR determines whether you are eligible for supported employment services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1015, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1030 When is a work setting integrated in supported employment? (1) An integrated work setting in supported employment is a setting commonly found in the community, in which you interact with people without disabilities to the same extent that a person without disabilities in the same type of job interacts with other people.

(2) Interactions at your worksite between you and a supported employment service provider without disabilities do not meet the requirement for an integrated setting.

(3) Your work setting may only be considered integrated if your work unit, which refers to either the group of employees at your job who work together to accomplish tasks or to all employees with the same job category in an organization, includes individuals without disabilities to the same extent as found in the work unit of a person without disabilities performing the same job.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1030, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1040 What are supported employment services? (1) Supported employment services are:

(a) Time-limited support services as described in WAC 388-891A-1045, including customized employment services as described in WAC 388-891A-0731; and

(b) Vocational rehabilitation services listed in WAC 388-891A-0700.

(2) Supported employment services may be provided to you:

(a) As part of your individualized plan for employment;

(b) To support and maintain you in supported employment; and

(c) For a period of time not to exceed twenty-four months following job placement, unless under special circumstances, you and the DVR counselor agree to extend the time frame for providing these time-limited services in order to achieve the employment outcome in your individualized plan for employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1040, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1045 What are time-limited support services? Time-limited support services are a type of supported employment service to help you get and keep a job. Time-limited support services include:

(1) An assessment of your employment situation at least twice a month at your worksite, or, under special circumstances and at your request, an assessment regarding your employment situation that takes place away from your worksite at least twice a month to:

(a) Determine what is needed to maintain job stability; and

(b) Coordinate services or provide specific intensive services that are needed at or away from your worksite to help you maintain job stability.

(2) Intensive job skill training for you at your job site by skilled job trainers;

(3) Job development, job placement, and job retention services;

(4) Social skills training;

(5) Regular observation or supervision;

(6) Follow-up services such as regular contact with your employer, you, your representatives, and other appropriate individuals to help strengthen and stabilize the job placement;

(7) Facilitation of natural supports at the worksite;

(8) Other services similar to services described in subsection (1) through (7) of this section; and

(9) Any other vocational rehabilitation service.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1045, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1050 What are extended services? Extended services are ongoing support services and other services based on your need to help support or maintain your work in supported employment after you have made the transition from DVR time-limited support services. Extended services may be available to you if you have a most significant disability and you are in supported employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1050, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1060 Who provides the extended services I need? (1) Extended services are provided by nonprofit private organizations such as community rehabilitation programs, state and local public agencies, employers, or any other appropriate resources.

(2) DVR may provide you with extended services on a case-by-case basis for up to four years from the date time-limited support services have ended or until you reach age twenty-five, under the following conditions:

(a) You are a youth with a disability as defined in WAC 388-891A-0010(19);

(b) You and your DVR counselor have discussed whether continuing time-limited supported employment services would be appropriate and you both have determined that no further time-limited supported employment services are necessary to support and maintain your supported employment before you transition to extended services; and

(c) No other source of extended services is available for your use.

(3) DVR must not provide extended services for anyone who does not meet the criteria in subsection (2) of this section.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1060, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1065 What are natural supports? Natural supports are the people you ordinarily come into contact with at work or at home to help you with work routines and social interactions at the worksite. Natural supports can help you keep your job after DVR stops providing supported employment services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1065, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1075 What is required for me to change from time-limited support services to extended services? Prior to helping you change from time-limited services to extended services, a DVR counselor must ensure the following:

(1) You have made substantial progress toward meeting the number of work hours per week you want to work as documented on your individualized plan for employment;

(2) You and your DVR counselor agree that the job is satisfactory; and

(3) Your DVR counselor has obtained verification that:

(a) Your job performance is stable and satisfactory to your employer;

(b) You have stabilized in the job; and

(c) You no longer need time-limited support services.

(4) Extended services are readily available and may be provided to you without an interruption in services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1075, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1080 Under what conditions does DVR close my case service record for supported employment? (1) If a DVR counselor determines that you require supported employment and has explored all available options for securing resources for extended services or natural supports and there is no reasonable expectation these services will become available, DVR must close your case service record.

(2) If you have stabilized in your supported employment outcome, DVR must wait at least ninety days after helping you change from supported employment services to extended services or natural supports before closing your case service record as having achieved an employment outcome in supported employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1080, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1090 Under what conditions does DVR provide time-limited support services as post-employment services? DVR provides time-limited support services to you as post-employment services, as described in WAC 388-891A-0890, following the change from supported employment services to extended services if:

(1) Your extended service provider cannot provide the services; and

(2) You need specific services to keep, advance in, or regain your job.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1090, filed 5/29/18, effective 6/30/18.]

PAYING FOR VR SERVICES

WAC 388-891A-1100 When does DVR provide or pay for vocational rehabilitation services to individuals? Except for those services described in WAC 388-891A-1110, DVR provides and pays for VR services when services are not available to you from, or paid for by, any other program administering or providing comparable services or benefits, as described in WAC 388-891A-0010(1), and:

(1) You have completed the application requirements;

(2) You have provided documents that verify your identity and legal work status;

(3) DVR authorizes the services before the services begin; and

(4) You have completed the financial statement, if required, and have agreed upon what portion, if any, you are required to contribute for your VR services, and:

(a) You need the services so that a DVR counselor can determine your eligibility for services; or

(b) You need the services to assist you and your DVR counselor as you:

(i) Identify your vocational rehabilitation needs; or

(ii) Prepare for, secure, maintain, advance in, or regain employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1100, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1101 Are there limits or activities that DVR does not pay for or support? DVR will not pay for or support any of the following:

(1) Court fees, attorney fees, fines, or penalties related to illegal acts that result from any civil or criminal legal proceedings or related matters;

(2) The provision of usual living expenses as a maintenance service or services as described in WAC 388-891A-0735;

(3) Insurance as outlined in WAC 388-891A-1180;

(4) Bonds, including surety or fidelity bonds, that result in liability for DVR;

(5) Construction of or permanent modifications to real property as prohibited by 34 C.F.R. Sec. 76.533;

(6) Education or training for an employment outcome that is religious in nature, as specified in the Washington state Constitution and outlined in WAC 388-891A-0966;

(7) Co-signing of loans;

(8) The costs as listed in WAC 388-891A-1186 for an IPE with self-employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1101, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1102 Am I required to repay DVR funds that were overpaid to me? (1) If you receive DVR funds as an overpayment, you must repay the amount you were overpaid to DVR.

(2) An overpayment occurs when DVR issues a payment directly to you to purchase an approved VR service, you signed a direct pay agreement outlining your responsibilities when receiving a direct payment from DVR, and either:

(a) The approved service costs less than the amount advanced to you for payment; or

(b) You do not provide itemized receipts or other itemized documentation of your purchase and its cost within twenty calendar days of the date of purchase.

(3) DVR will notify you in writing within 90 days of the date of the overpayment requesting that you repay any amount overpaid.

(4) DVR will refer the matter to the DSHS office of financial recovery (OFR) if:

(a) You do not repay the funds within the time allowed in DVR's written notice; and

(b) DVR has notified you in writing of the overpayment requirement in a timely manner.

(5) If you cannot afford to repay the overpayment, you may request that DVR notify OFR of your financial circumstances and ask that the repayment requirement be waived based on your financial circumstances.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1102, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1103 When must DVR make a referral to the DSHS office of fraud and accountability (OFA)? (1) When a DVR staff person suspects that a customer may have intentionally or knowingly misrepresented, concealed, or withheld facts in order to receive DVR funds, services, or equipment, DVR must make a referral to the DSHS office of fraud and accountability (OFA).

(2) Customer fraud has occurred when the customer:

(a) Has knowingly and intentionally not reported or under-reported income or resources that otherwise may affect the provision of VR services;

(b) Does not report assets (such as vehicles, boats, motor homes, etc.) on the financial statement, when required;

(c) Knowingly and intentionally misused DVR funds; or

(d) Is receiving DVR services under a false identity or by providing false information as a basis for their eligibility for VR services.

(3) DVR would not typically refer a customer with a significant mental health diagnosis, intellectual delay, or a significant learning disability that may have interfered with their decision making to the OFA for investigation.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1103, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1105 Does DVR require written authorization to purchase services? (1) DVR must make a written authorization prior to purchasing services, unless exceptional circumstances require an oral authorization.

(2) DVR must issue a written authorization for purchase within five business days of an oral authorization.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1105, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1110 May DVR pay for VR services without determining whether comparable services and benefits are available from another program or organization? DVR may provide and pay for the following services without determining whether a comparable service or benefit, as defined in WAC 388-891A-0010(1), is available to you from, or paid for by, any other program administering or providing services or benefits:

(1) Assessment services to determine your eligibility, VR needs, or both;

(2) Counseling and guidance, including information and support services to assist you in exercising informed choice;

(3) Referral and other services to secure services you need from other agencies;

(4) The job-related services described in WAC 388-891A-0725 through 388-891A-0732;

(5) Rehabilitation technology services;

(6) Post-employment services when providing the services listed in subsection (1) through (5) of this section.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1110, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1120 May DVR authorize or provide VR services before determining whether a comparable service or benefit is available to me to avoid delaying or interrupting my services? (1) To avoid delaying or interrupting needed services, a DVR counselor may authorize or provide VR services before determining whether a comparable service or benefit, as defined in WAC 388-891A-0010(1), is available to you from, or paid for by, any other program administering or providing services or benefits, when:

(a) You are at extreme medical risk based on medical evidence provided by a qualified professional and require VR services;

(b) You will obtain an immediate job placement; or

(c) Your progress toward achieving the employment outcome identified on your individual plan for employment will be delayed or interrupted without VR services.

(2) If you receive VR services before services or benefits are available from another program, you must begin using the services and benefits from the other program when they become available to you.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1120, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1125 If comparable services and benefits are available from another program or organization, and I do not want to use them, who is responsible for the cost of the services? (1) If you choose not to apply for and use comparable services and benefits that are available to you, as defined in WAC 388-891A-0010(1), you are responsible for the cost of the services.

(2) Except for the services and circumstances outlined in WAC 388-891A-1110 and 388-891A-1120, DVR does not pay for services or benefits that can be provided to you or paid for by any other program.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1125, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1130 Do I have to pay a portion of my VR services if I receive assistance or income support from another public program? You are not required to pay any portion of your VR services if you or your DVR counselor provide verification that you currently receive benefits from one of the following programs:

(1) A department of social and health services (DSHS) cash or food assistance program;

(2) Medicaid; or

(3) Supplemental security income (SSI) or social security disability insurance (SSDI).

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1130, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1135 Does DVR require that I pay for part of my VR services using my own financial resources? When the conditions outlined in WAC 388-891A-1130 do not apply to you and the information you provide for the financial statement shows that financial resources are available, DVR requires you to pay a portion of the cost of your VR services other than those outlined in WAC 388-891A-1145.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1135, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1136 When does DVR require that I pay for part of my VR services using my own financial resources? If your annual or monthly income is a percentage of the federal poverty level that is higher than would qualify for children's medicaid in Washington state, as described in WAC 182-505-0100 (6)(b), DVR will require you to pro-

vide a complete financial statement that documents your financial status and calculates the amount available for you to pay for your VR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1136, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1137 How does DVR determine whether I must pay for VR services? (1) DVR collects financial information from you to determine whether you must pay any part of the cost of VR services if neither you nor your DVR counselor can verify that you receive assistance or income support from any of the programs identified in WAC 388-891A-1130.

(2) You must complete and sign a DVR financial statement to document your financial status as follows:

(a) If you reported your income tax status as married filing jointly, married filing separately, or another person identified you as a registered domestic partner or dependent, complete the financial statement based on family resources.

(b) If you reported your income tax status as single and were not claimed as a dependent by another person, complete the financial statement based on your own financial resources.

(c) DVR requires you to provide copies of financial records (such as bank statements, tax returns, or documentation of SSI or SSDI benefits received) to establish your financial status. If you do not have copies of documentation to verify your receipt of benefits from public assistance programs, DVR may be able to assist you in obtaining that documentation at your request.

(3) The DVR financial statement requires you to disclose information from the following sources:

(a) Previous year's income tax return, if you filed taxes for the most recent tax year or you were claimed as a dependent on a family member's tax return;

(b) Previous month's bank statements reflecting all income received;

(c) If your previous year's income meets the conditions described in WAC 388-891A-1136, the financial statement requires the following information about your finances:

(i) Monthly income from all sources, including investments and trusts;

(ii) Real and personal assets, including but not limited to bank accounts; and

(iii) Monthly expenses, including housing, food, child care, transportation, health care, other necessities, credit or loan payments, disability-related expenses, and any other financial obligations.

(4) If the results of your financial statement show that you do not have resources available to help pay for your VR services, DVR provides the services at no cost to you.

(5) If your financial status changes, you must report these changes to your DVR counselor.

(6) If you decline to complete the financial statement or decline to contribute to the cost of VR services, DVR will provide only those services listed under WAC 388-891A-1145.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1137, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1140 How does DVR determine how much I pay for VR services? When the financial statement indicates that you have financial resources to contribute, you and the DVR counselor will agree on how your resources will help pay for VR services. You and the DVR counselor will document the agreed upon contribution to the costs of services on the IPE.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1140, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1145 Which VR program services am I not required to help pay for? You are not required to pay any portion of the following VR services, regardless of your financial status:

(1) Pre-employment transition services;

(2) Assessment services to determine eligibility, priority category, or VR needs;

(3) Any VR services as described in WAC 388-891A-0700 when provided directly by DVR staff;

(4) Information and referral services;

(5) Auxiliary aids, including interpreter and reader services needed to participate in VR services;

(6) Personal assistance services needed to participate in VR services;

(7) Job related services as described in WAC 388-891A-0725 through 388-891A-0732; and

(8) Post-employment services that include any of the services in subsections (1) through (7) of this section.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1145, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1150 May I select the services and service provider of my choice? (1) You may select VR services that you need to achieve an employment outcome that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) You may select the service provider of your choice if the service provider meets the following conditions:

(a) DVR pays for services that meet your needs at the least cost to meet your needs as follows:

(i) If two or more providers of goods and services are adequate and available to meet your needs but differ in cost and you choose the higher cost provider, you are financially responsible for the difference in cost; and

(ii) DVR may pay for goods and services at a higher cost if the costs are reasonably similar;

(b) The service provider has operating capacity to serve you; and

(c) The service provider meets all federal, state, and DVR requirements.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1150, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1155 When does DVR pay for occupational or vocational training? DVR pays for occupational or vocational training if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and the following additional conditions:

(1) You require training services to achieve the employment outcome identified on your IPE;

(2) If the training agency or provider is eligible for federal financial aid, you and your DVR counselor have made maximum efforts to get and use available need-based gift aid, including Pell or state need grants, from other sources to pay for costs related to attendance; and

(3) The training agency or provider that you have chosen is licensed by the workforce training education coordinating board (WTECB) in the state of Washington as follows:

(a) The DVR counselor confirms the licensure status of an occupational or vocational training agency by verifying that status with the WTECB list of private career schools; and

(b) If you require training from an agency or provider that is not included on the WTECB list of private career schools, you may request an exception to subsection (3)(a) of this section as described in WAC 388-891A-0205.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1155, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1156 When does DVR pay for basic education or literacy training? DVR pays for basic education or literacy training if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and the following additional conditions:

(1) You require training services to achieve the employment outcome identified on your IPE;

(2) You have taken the entry test, if required by the school you have chosen, to assess your skills and develop an instructional plan as appropriate; and

(3) DVR does not require you to complete an application for financial aid to participate in basic education or literacy training.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1156, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1160 When does DVR pay for training services at an institution of higher education? DVR pays for training services at an institution of higher education if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and the following additional conditions:

(1) You require training services to achieve your desired employment outcome as identified on your IPE;

(2) You and your DVR counselor have made maximum efforts to get and use available need-based gift aid, including Pell or state need grants, from other sources to pay for costs related to attendance;

(3) You provide the DVR counselor a copy of your student financial aid award or denial form, statement of unmet need and student budget, and other related documentation;

(4) You achieve the academic standards described in WAC 388-891A-1164; and

(5) You utilize all gift aid awarded to you toward the cost of attendance.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1160, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1161 Are there forms of financial assistance that I am required to apply for or access before DVR will assist with the cost of attendance at my institution of higher education? (1) Before DVR may assist with the cost of attendance at an institution of higher education, DVR requires you to:

(a) Complete a free application for federal student aid (FAFSA); and

(b) Use all available need-based gift aid toward your cost of attendance.

(2) DVR does not require you to:

(a) Apply for academic awards and scholarships based on merit as comparable benefits; or

(b) Accept any available student loans.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1161, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1162 When does DVR pay for training at a private school or an out-of-state institution of higher education? If you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and choose training services at a private or out-of-state program when an in-state or public program is available and adequate to meet your needs:

(1) DVR pays for training services up to the amount of the in-state or public program; and

(2) You are responsible for costs that are in excess of the public or in-state program costs.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1162, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1163 May DVR pay for other fees charged by my institution of higher education when those fees are required as a condition of registration? (1) If an academic institution charges a fee to cover the cost of a student health clinic and the fee is required as a

condition of registration, DVR pays this fee when financial aid funds are not adequate.

(2) If an academic institution charges a liability fee to cover the costs of a student to register in high-risk courses, practicums, internships, or externships and the fee is required as a condition of registration, DVR pays this fee.

(3) DVR must not pay for health insurance, as outlined in WAC 388-891A-1180.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1163, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1164 What academic standards does DVR have for education? (1) DVR considers you to have met its minimum academic standards when you have achieved the greater of either:

(a) The minimum progress necessary to maintain good standing in your academic program and to graduate from your course of study; or

(b) The cumulative grade point average that you and your DVR counselor have agreed upon in your IPE, when appropriate.

(2) If your progress is delayed due to a disability-related issue, DVR will take the issue into consideration in evaluating satisfactory progress toward the completion of your academic program.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1164, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1165 When does DVR make a direct payment to me? DVR makes a direct payment to you if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and the following additional conditions:

(1) You sign a DVR direct payment agreement to acknowledge that you understand and accept the terms of the agreement;

(2) You only use direct payment funds to purchase VR services that you and your DVR counselor have agreed upon and that have been approved in advance;

(3) You give your DVR counselor the itemized receipts or other itemized documentation of your purchase and its cost for all purchases within twenty calendar days of the purchase;

(4) If you receive a direct payment in advance that is greater than the actual cost of the purchase, you must repay the difference between the cost of your purchase and the amount provided to you by DVR; and

(5) If you do not provide itemized receipts or other itemized documentation of your purchase and its cost, you must repay any funds directly paid to you as a maintenance service, as described in WAC 388-891A-1102.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1165, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1170 When does DVR pay for my moving expenses? DVR pays to move your household goods so that you can participate in training services identified in your IPE, other approved VR services, or accept an offer of employment if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and the following additional conditions:

(1) The training or other VR service you need to achieve an employment outcome is not within commuting distance or a DVR counselor verifies that you have been offered a job that is:

(a) Contingent upon your relocation;

(b) Specialized in nature that narrows the availability of employment to the degree that relocation is required; or

(c) At a distance from your current residence that is not practical for commuting;

(2) A DVR counselor determines that the relocation is the most appropriate step toward reaching your desired employment outcome; and

(3) A DVR supervisor approves payment for the moving expenses to support your relocation, and if you choose to insure the relocation or moving of your household goods, you are responsible for the cost of your insurance.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1170, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1171 When DVR pays for relocation or moving expenses, may I move my own household belongings in a rental vehicle? DVR only pays for moving services provided by a moving company that is licensed, insured, and bonded. DVR does not pay for a rental vehicle for the purpose of moving your own household belongings.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1171, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1172 When does DVR provide services to facilitate driving a personal vehicle? (1) DVR provides services to facilitate driving a personal vehicle, as described in WAC 388-891A-0866, when the use of a personal vehicle is necessary for participation in VR services or to secure, maintain, advance in, or regain employment.

(2) DVR will not provide services to facilitate you or another driver driving a personal vehicle if:

(a) Either you or the driver is uninsured; or

(b) The DVR counselor has obtained information and documented any fact that raises a question regarding driving safety.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1172, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1173 When may DVR pay for the cost of fueling a personal vehicle as a transportation service? DVR pays for the cost of fueling a personal vehicle as a transportation service if you meet the conditions for DVR to pay for a VR service as outlined in WAC

388-891A-1100, the conditions for DVR to pay for services that facilitate driving a personal vehicle in WAC 388-891A-1172, and the following additional conditions:

(1) When public transportation is not available or does not meet your needs (including your disability and accessibility needs):

(a) You provide DVR with documentation that shows:

(i) The vehicle is currently licensed and insured; and

(ii) Proof you or the driver of the personal vehicle has a valid driver's license;

(b) You provide documentation of point-to-point mileage using an online map service; and

(c) DVR staff calculates the point-to-point fuel allowance by multiplying the number of miles by the Internal Revenue Service (IRS) standard medical mileage rate; or

(2) When public transportation is available that meets your transportation needs (including your disability and accessibility needs), but you choose to use a personal vehicle:

(a) You provide DVR with documentation that shows:

(i) The vehicle is currently licensed and insured; and

(ii) Proof you or the driver of the personal vehicle has a valid driver's license; and

(b) DVR authorizes a fuel allowance up to the amount of the least cost bus pass available to you that meets your transportation needs.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1173, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1174 When does DVR purchase and loan a vehicle to you? (1) DVR only purchases and loans a vehicle to you under exceptional circumstances and when providing a vehicle would be the least cost service to meet your transportation needs. In such exceptional circumstances, no other transportation options are available and it is not feasible for you to relocate or use other transportation options.

(2) You or the driver of your vehicle must participate in an assessment to determine that you, or if you are riding as the passenger in the vehicle, that the driver, can safely operate the vehicle. As part of that assessment, you, or if you are the passenger, the driver, must provide:

(a) A copy of a current, valid driver's license;

(b) A current copy of a driving record disclosing any moving violations and indicating no criminal convictions related to driving a vehicle;

(c) Documentation of your insurability and the anticipated expense of insuring the vehicle to meet DVR's minimum requirements, as outlined in WAC 388-891A-1175; and

(d) Documentation of your ability to maintain insurance coverage.

(3) If the assessment described in subsection (2) of this section reveals any fact that raises a question regarding driving safety, the DVR counselor must require a driving evaluation conducted by a state-certified driver training instructor, or another relevant evaluation, as appropriate.

(4) When the vehicle has been or will be modified for your use, the driving evaluation described in subsection (3) of this section must be conducted by a certified driver rehabilitation specialist.

(5) The DVR director must approve the purchase of the vehicle and the loan to you.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 19-01-012, § 388-891A-1174, filed 12/6/18, effective 1/6/19; WSR 18-12-035, § 388-891A-1174, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1175 What conditions apply for DVR to purchase and loan a vehicle to me? In addition to meeting the circumstances described in WAC 388-891A-1174 and the conditions outlined in WAC 388-891A-1100 and 388-891A-1172, you must satisfy all of the following requirements for DVR to purchase and loan a vehicle to you:

(1) When you are the driver, the DVR counselor determines, based on disability-related documentation that your disability is stable or slowly progressive, and it is not likely to impair your ability to drive in the future.

(2) When the vehicle has been or will be modified for your use, you or the driver complete a driving evaluation with a certified driver rehabilitation specialist to verify driving ability and evaluate your rehabilitation needs.

(3) If you or the driver of your vehicle have a documented history of substance abuse in the past five years, you must provide or participate in a current substance use disorder assessment.

(4) At the time of vehicle purchase, DVR remains the legal owner and you are the registered owner.

(5) You must submit the following documents to DVR and agree to provide ongoing verification upon request of the DVR counselor:

(a) A copy of the current, valid driver's license for each driver;

(b) A current copy of the driving record for each driver that discloses any moving violations and indicates no criminal convictions related to driving a vehicle;

(c) A copy of motor vehicle insurance coverage with the following minimum coverage and conditions while DVR remains the legal owner of the vehicle:

(i) Liability in the amount of at least $50,000/100,000/50,000;

(ii) Uninsured motorist in the amount of at least $50,000/100,000/50,000;

(iii) Personal injury in the amount of at least $100,000;

(iv) Replacement cost of the vehicle, including special equipment and vehicle modifications, if applicable;

(v) If your use of the vehicle is necessary for your specific job duties, including self-employment, sufficient insurance to cover any losses that occur while you are using a vehicle for your specific job duties;

(vi) A clause in your insurance policy provides written notification to DVR if the vehicle insurance lapses, is canceled, or the insured drivers have any driving infractions that raise safety questions;

(vii) DVR is listed as the lien holder on the policy; and

(viii) All drivers who use the vehicle are listed on the policy;

(d) A description of your IPE of how you will pay for vehicle insurance and what you will contribute toward maintenance and repair, as this is a requirement for subsequent ownership of the vehicle; and

(e) A signed agreement to return the vehicle to DVR upon request as long as DVR owns the vehicle.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1175, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1176 When does DVR transfer ownership of a vehicle that DVR purchased and loaned to you? (1) DVR transfers ownership of a vehicle that DVR has purchased and loaned to you when you achieve an employment outcome, as described in WAC 388-891A-1310, and you maintain the employment for at least ninety days.

(2) Once you have maintained the employment for at least ninety days, and before DVR transfers ownership of a vehicle that DVR purchased and loaned to you, you must submit documentation to confirm:

(a) You are the registered owner of the vehicle;

(b) You have a current driver's license; and

(c) You have current insurance to cover the cost of replacement for loss or damage at the time DVR transfers ownership.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1176, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1177 When may DVR pay for vehicle modifications as a rehabilitation technology service? DVR pays for vehicle modifications as a rehabilitation technology service if you meet the requirements for DVR to pay for a VR service as outlined in WAC 388-891A-1100, the conditions for DVR to pay for services that facilitate the driving of a personal vehicle in WAC 388-891A-1172, and the following additional conditions:

(1) The DVR counselor determines based on disability-related documentation that your disability is stable or slowly progressive and not likely to impair your driving ability in the future if you plan to drive the vehicle;

(2) You provide copies of documentation verifying that you or the driver of your vehicle is the legal and registered owner of the vehicle, except when DVR is the legal owner of the vehicle being modified;

(3) DVR obtains documentation of an inspection from a certified or journey-level auto mechanic that verifies the vehicle is in good operating condition and a vendor certified through the National Mobility Equipment Dealers Association (NMEDA) says it is capable of being modified;

(4) If you or the driver of your vehicle has a documented history of substance abuse in the past five years, you or the driver provide or participate in a current substance use disorder assessment;

(5) If you will be a driver of the vehicle, you demonstrate an ability to operate a motor vehicle safely by completing a driving evaluation with a certified driver rehabilitation specialist that verifies your driving ability and evaluates your rehabilitation needs;

(6) The certified driver rehabilitation specialist prescribes needed modifications to the vehicle, except that prescriptions are not required for:

(a) Placement of a wheelchair lift, ramp or scooter lift and tie downs;

(b) Passenger access only; and

(c) Wheelchair carriers;

(7) Provide documentation of vehicle insurance adequate to cover the cost of replacement for loss or damage, including the cost of the modification; and

(8) Demonstrate or provide documentation that verifies you or the driver of your vehicle can safely operate the vehicle as modified.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1177, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1179 When may DVR pay for vehicle repairs? In order for DVR to pay for a vehicle repair you must meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100, the conditions for DVR to pay for services that facilitate your driving in WAC 388-891A-1172, and the following additional conditions:

(1) Your transportation needs are such that the least cost option that is adequate to meet your needs requires the repair of the vehicle.

(2) You must provide DVR with documentation that shows you are the registered owner of the vehicle, with current vehicle insurance, and a valid driver's license. You and your DVR counselor may request an exception to this requirement under WAC 388-891A-0205 if:

(a) You ride as a passenger in a vehicle owned by a family member, as described in WAC 388-891A-0010(7), and the family member who owns and drives the vehicle has current vehicle insurance and a valid driver's license; or

(b) You are the driver of a vehicle owned by a family member, as described in WAC 388-891A-0010(7), and the following additional conditions:

(i) You and the owner of the vehicle are named on the vehicle insurance policy;

(ii) You have a valid driver's license; and

(iii) You provide DVR with written consent for the repair from the owner.

(3) The DVR counselor must not authorize repairs if:

(a) The counselor has obtained information and documented that the vehicle is unsafe or beyond repair; or

(b) A vehicle repair business without automotive service excellence (ASE) certification or other certified mechanics performs the repairs.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1179, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1180 What types of insurance does DVR pay for? (1) If you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100, DVR pays to insure assistive technology devices, equipment, and products.

(2) DVR must not pay for any other types of insurance. Prohibited types of insurance include, but are not limited to, health, vehicle, home, and life insurance.

(3) DVR must not pay for bonds or guarantees that result in liability for DVR.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1180, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1181 What types of assistive technology insurance may DVR pay for? DVR pays for insurance for assistive technology devices, equipment, and products to cover the cost of repairs or replacement if they are lost or damaged, if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and the following additional conditions:

(1) The individual with a disability is the holder of the device, equipment, or product;

(2) The individual with a disability is the named insured under the policy; and

(3) A third-party insurer pays for replacement or repair directly to the manufacturer or service provider.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1181, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1182 What types of assistive technology warranties may DVR pay for? (1) At the time of purchase, DVR pays for an initial warranty for an assistive technology device, piece of equipment, or product if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100, and the warranty:

(a) Is available from the manufacturer or service provider at the time of purchase;

(b) Offers a guarantee for a specified period of time following the date of purchase; and

(c) Guarantees repair or replacement of parts, or if necessary, the entire device, equipment, or product when the parts or workmanship are faulty.

(2) DVR pays for a warranty that extends beyond the period of coverage of an initial warranty for an assistive technology device, piece of equipment, or product if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and:

(a) The individual with a disability is the holder of the device, equipment, or product;

(b) The manufacturer or service provider provides a written guarantee for the materials and workmanship of the device, equipment, or product;

(c) The manufacturer or service provider replaces or repairs faulty parts and workmanship, replaces the device, equipment, or product in whole; and

(d) If the manufacturer or service provider does not directly perform repairs or replacement, the manufacturer or service provider must directly pay a third-party service provider to repair or replace parts and workmanship, or to repair or replace the device, equipment, or product in whole.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1182, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1185 What are the costs that DVR may pay to support my IPE with an employment outcome in self-employment? DVR only pays for self-employment services that are required for you to achieve an employment outcome when you meet the conditions outlined in WAC 388-891A-1100, and:

(1) Start-up costs for your self-employment must only include those costs related to operating the business;

(2) Start-up costs must be specified in your feasibility study or business plan, depending on the complexity of your small business; and

(3) Start-up costs that DVR may support may include, but are not limited to:

(a) Licenses;

(b) Stocks of goods for inventory, not to exceed the first sixty days;

(c) Marketing costs;

(d) Financial record-keeping systems, software, or services;

(e) Security deposits or utility hook-ups at the location of your self-employment; and

(f) Consultations with a self-employment business consultant who DVR approves.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1185, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1186 What are the costs that DVR must not pay for to support an IPE with an employment outcome in self-employment? DVR must not pay for the following costs related to self-employment:

(1) Salaries, wages, or cash for you, your business partners, or your employees;

(2) Leases, purchase of real property, insurance, or bonds, including surety or fidelity bonds, that result in liability for DVR;

(3) Construction, including modification, improvement, replacement, demolition, or removal of permanent structures or buildings;

(4) Installation of any item, piece of equipment, or product system as a permanent fixture on real property;

(5) Services related to a self-employment outcome when the outcome would establish an entity that is religious in nature, as specified in Article 1, section 11, of the Washington state Constitution and including those services outlined in WAC 388-891A-0966;

(6) Refinancing an existing business or personal debt; and

(7) Costs related to bankruptcies.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1186, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1190 When may DVR pay for child-care services? DVR only pays for child-care services if you meet the conditions for DVR to pay for a VR service as outlined in WAC 388-891A-1100 and you meet the following additional conditions:

(1) DVR only pays for child-care services to a child-care provider who is:

(a) Licensed or certified by the appropriate state agency responsible for the licensure of child-care providers; and

(b) A DVR vendor;

(2) DVR only pays for child-care services directly to the child-care provider; and

(3) DVR pays a child-care provider the provider's usual and customary fee.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1190, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1194 When may DVR pay for nonpermanent structural modifications at my worksite? If you meet the conditions outlined in WAC 388-891A-1100 and your employment is at risk, DVR pays for nonpermanent worksite modifications that an employer has refused to provide under the Americans with Disabilities Act (ADA) or section 504 of the Rehabilitation Act of 1973, as amended.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1194, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1195 When may DVR pay for nonpermanent modifications where I live or at my place of self-employment? DVR pays for nonpermanent modifications where you live or at the place of your self-employment if:

(1) You meet the conditions outlined in WAC 388-891A-1100;

(2) The DVR counselor determines that the modifications are the most effective solution for accessibility where you live or at your place of self-employment, or for the operation of your self-employment business;

(3) Nonpermanent modifications to the property contribute to participating in your individualized plan for employment to achieve an employment outcome or to maintain or advance in employment;

(4) You provide proof of current property ownership with up-to-date mortgage payments and property insurance, or if you are not the legal owner of the property, you and the DVR counselor determine whether the property owner is able and willing to pay for the modification(s) and:

(a) If the property owner is willing and able to pay for modification(s), DVR does not pay for them.

(b) If the property owner is not willing or able to pay for the modification(s), but agrees to the property modification, you provide DVR with the following from the property owner:

(i) Written consent for the modification(s);

(ii) Proof of current property insurance; and

(iii) If you are renting, a statement to verify that you have a lease or rental agreement and there is no reason to believe that it will be terminated prematurely; and

(5) All nonpermanent modifications must be completed by a licensed, insured, and bonded professional.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1195, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1196 Are there purchases related to nonpermanent modification(s) of my home or place of self-employment that DVR does not pay for? DVR does not purchase land, pay to build a permanent structure, or pay for any construction that would result in a permanent modification to the real property of your home or place of self-employment.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1196, filed 5/29/18, effective 6/30/18.]

LOANING EQUIPMENT

WAC 388-891A-1200 Under what conditions does DVR loan equipment, devices, or other items to me? (1) If you need a device, tool, piece of equipment, or other item to participate in VR services or to prepare for, secure, maintain, advance in, or regain employment, DVR will loan a new or used item to you until you achieve an employment outcome as described in WAC 388-891A-0010(4). Before purchasing new items, DVR will loan an item from the existing DVR resources if available at the time needed and DVR determines it is adequate to meet your needs.

(2) Before DVR loans an item to you, you must sign an agreement with DVR to comply with the following conditions:

(a) Immediately return the item upon request or pay for the item if you cannot return it to DVR; and

(b) Maintain the item according to DVR instructions and manufacturer's guidelines, if applicable, and keep it secure from damage, loss, or theft.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1200, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1205 Are there instances in which DVR would issue equipment, devices, or other items directly to me without a loan agreement? (1) When necessary for participation in VR services or directly related to an employment outcome, DVR may issue certain equipment, devices, or other items directly to you without a loan agreement.

(2) Items issued without a loan agreement are those that cannot, for practical, legal, or hygienic reasons, be reissued to another customer.

(3) If the DVR counselor determines an item could not be used by another individual if it were returned to DVR, the DVR counselor may issue the item directly to you without a loan agreement and the item is owned by you at the time of issue.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1205, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1210 Does DVR provide items that require customization for my own personal needs? (1) When you and your DVR counselor

agree that you will require customized equipment, devices, or other items to address your disability-related personal needs, your DVR counselor will determine whether it is appropriate to loan those items to you or whether it is appropriate to issue those items directly to you.

(2) If another individual is unlikely to be able to reuse the item because of its disability-related customization, your DVR counselor will issue that equipment, device, or other item directly to you rather than requiring a loan agreement.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1210, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1230 What happens if I fail to return a device, tool, piece of equipment, or other item if requested by DVR? If DVR directs you to return an item loaned to you and you do not immediately return it, DVR will report the loss to the DSHS office of financial recovery (OFR). The OFR will attempt to recover the item or payment for the item from you. If the OFR cannot recover the item or payment for the item from you, the OFR may report the loss to the local county prosecutor for legal action.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1230, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1240 What happens to a device, tool, piece of equipment, or other item that has been loaned to me by DVR if I will still need it after my case service record is closed? (1) If you have achieved the employment outcome on your IPE and the DVR counselor agrees you will continue to need the device, tool, piece of equipment, or other item to keep your job, DVR may transfer ownership to you at the time a DVR counselor closes your case service record.

(2) If you have not achieved an employment outcome at the time a DVR counselor closes your case service record and requests the return of the loaned equipment, you may request an exception to WAC 388-891A-1200 as outlined in WAC 388-891A-0205 to retain the device, tool, piece of equipment, or other item that DVR loaned to you.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1240, filed 5/29/18, effective 6/30/18.]

CASE CLOSURE

WAC 388-891A-1300 Why does DVR close a case service record? A DVR counselor will close your case service record for any one or more of the following reasons:

(1) You achieve an employment outcome as described in WAC 388-891A-1310;

(2) DVR determines that you do not meet the eligibility criteria described in WAC 388-891A-0500 and you are not eligible or no longer eligible because:

(a) You accepted extended employment as defined in WAC 388-891A-0010(5);

(b) You are not capable of benefiting in terms of an employment outcome based on clear and convincing evidence found through trial work experiences, as described in WAC 388-891A-0527;

(c) You are not capable of benefiting in terms of an employment outcome because DVR cannot verify that you are legally authorized to work, as described in WAC 388-891A-0507;

(3) You are no longer available to participate in services, for reasons including, but not limited to one or more of the following:

(a) You have begun medical treatment that is expected to last longer than ninety days and prevents your continued participation;

(b) You entered and will reside in a medical institution for an indefinite or considerable period of time;

(c) You entered a correctional institution (such as a prison, jail, reformatory, work farm, or detention center) or other institution designed for confinement or rehabilitation of criminal offenders for an indefinite or considerable period of time; or

(d) You are a member of the reserve forces of the military and you have been called into active military service for a period to exceed 90 days;

(4) You ask DVR to close your case because you are no longer interested in receiving VR services;

(5) You cannot be located or you have not responded to repeated attempts to contact you using the contact information that you provided;

(6) You have been transferred to another agency that better meets your needs;

(7) You decline to participate in required or agreed upon conditions or services at any point after signing an application, including prior to the determination of eligibility;

(8) Your actions or nonactions make it impossible to begin or continue DVR services;

(9) You require supported employment services, have explored all available options for securing resources for extended services or natural supports with your DVR counselor, and there is no reasonable expectation these services will become available.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1300, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1310 How does DVR determine that I have achieved an employment outcome? DVR determines that you have achieved an employment outcome and no longer need VR services if:

(1) You received services under an IPE that helped you achieve the employment outcome on your IPE;

(2) Your job matches your unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice;

(3) You have been working at the same job for at least ninety days to ensure the stability of your employment;

(4) If you are in supported employment, you have been working for at least ninety days after you have stabilized in your employment and have transitioned to extended services (including natural supports) provided by a source other than DVR; and

(5) You and a DVR counselor agree the job is satisfactory, that you are performing the job well, and that you no longer require VR services.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1310, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1311 When may DVR determine that I have achieved an employment outcome in self-employment? DVR may determine that you have achieved an employment outcome in self-employment if you meet the conditions outlined in WAC 388-891A-1310 and the following:

(1) The business (or entity) has been operating independently of DVR funding (except self-employment consulting for monitoring and follow-up) for at least ninety days after start-up;

(2) Your income is at or above the agreed upon income level established in your IPE and is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or performing similar tasks and who have similar training, experience, and skills;

(3) You have provided financial statements to DVR that document the business is self-sustaining; and

(4) You and your DVR counselor have discussed closure, agree that you meet the requirements in subsections (1), (2), and (3) of this section, and you have the skills needed to operate the business.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1311, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1312 What does DVR do if it determines I have not achieved a self-employment outcome when my employment outcome is in self-employment? When you are working towards a self-employment outcome as outlined in WAC 388-891A-1311, DVR will close your case if:

(1) Strategies determined necessary for the business to be successful have not worked or you decline to or are unable to try them;

(2) You are unwilling to consider other types of competitive integrated employment options; and

(3) Your business is not successful based on the criteria agreed to in your IPE.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1312, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1320 Am I involved in the decision to close my case? (1) Before closing your case, you will have an opportunity to discuss the decision with a DVR counselor. DVR notifies you in writing, or another method of communication as appropriate, about the reason DVR has made the decision to close your case.

(2) DVR will provide information about your rights to appeal DVR's decision and the client assistance program (CAP) so that you may seek assistance from CAP if you are dissatisfied with the determination.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1320, filed 5/29/18, effective 6/30/18.]

WAC 388-891A-1330 When does DVR contact me after my case is closed? (1) DVR contacts you to determine your interests, priorities, and needs with respect to competitive integrated employment or training for competitive integrated employment every six months for the first two years after your case service record is closed and annually after that when:

(a) You achieve a supported employment outcome and earn wages below the federal minimum wage according to section 14(c) of the Fair Labor Standards Act while working toward competitive integrated employment; or

(b) You choose extended employment as defined in WAC 388-891A-0010(5).

(2) DVR will review your case within twelve months and annually thereafter at your request if you received supported employment services from DVR and your case was closed because you and your DVR counselor were unable to find a source for extended services.

(3) If DVR closes your case after determining you are ineligible due to the severity of your disability, DVR will conduct a review of your ineligibility determination within twelve months.

(a) If you request, DVR will contact you annually to discuss your situation after the first twelve months.

(b) DVR will no longer conduct these requested annual reviews in situations in which you have declined such reviews, you are no longer present in the state, your whereabouts are unknown, or your medical condition is rapidly progressive or terminal.

(4) DVR may contact you periodically to request information about your participation in VR services for program improvement purposes.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-1330, filed 5/29/18, effective 6/30/18.]