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Final Regulation Agency Background Document

Agency name	Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) citation(s)	22VAC30-20-90
Regulation title(s)	Provision of Vocational Rehabilitation Services
Action title	Amend Order of Selection Categories
Date this document prepared	October 18, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

In the event that the department cannot provide the full range of vocational rehabilitation services to all eligible individuals who apply because of insufficient resources, an order of selection may be implemented to determine those persons to be provided services. The amendment to this regulation will reduce the department's number of categories of eligible individuals from four to three.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

DARS - Department for Aging and Rehabilitative Services
RSA - Rehabilitation Services Administration

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Commissioner of the Department approved the amendments to 22VAC30-20-90 within the Provision of Vocational Rehabilitation Services (22VAC30-20) on October 16, 2018.

Mandate and Impetus

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.

Section 34 CFR § 361.36 requires the department to develop and implement an order of selection if a lack of funds prevents it from providing the full range of vocational rehabilitation services to all eligible individuals.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Section 51.5-131 of the Code of Virginia gives power and duty to the Commissioner of the Department for Aging and Rehabilitative Services to promulgate regulations necessary to carry out the provisions of laws administered by the department.

Section 34 CFR § 361.36 requires the department to develop and implement an order of selection if a lack of funds prevents it from providing the full range of vocational rehabilitation services to all eligible individuals.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The intent of this amendment is to reduce the priority categories for order of selection from four to three. The Rehabilitation Services Administration (RSA), the federal agency that regulates the state-federal vocational rehabilitation program, is requiring that DARS reduce the number of its categories for the order of selection for persons determined to be eligible for services. The reason given is that there is not enough difference between current priority category two and current priority category three. Therefore, RSA is requiring that priority category two and priority category three be combined into one category.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

When DARS does not have enough funds to serve all individuals eligible for the state-federal vocational rehabilitation program, it may elect to go on an order of selection. This requires that DARS establish priority categories by which it will serve eligible individuals. Priority categories are based on the level of significance of the eligible person's disability and the functional limitations imposed by that disability. By combining two previous categories into one, this amendment is reducing the number of priority categories from four to three. Thus, individuals who would have been in priority category three will now be placed into priority category two.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantage to the public and to the Commonwealth is that this amendment will make the regulation simpler and easier to understand. There is no disadvantage.

Requirements More Restrictive than Federal

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, include a specific statement to that effect.

Section 34 CFR § 361.36 requires the department to develop and implement an order of selection if a lack of funds prevents it from providing the full range of vocational rehabilitation services to all eligible individuals. Thus, this restriction is permitted by federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

No state agency is expected to be particularly affected by this amendment.

Localities Particularly Affected

No locality is expected to be particularly affected by this amendment.

Other Entities Particularly Affected

No other entity is expected to be particularly affected by this amendment.

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

No public comments were received regarding the amendments to this regulation.

Detail of Changes Made Since the Previous Stage

*Please list all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Please put an asterisk next to any substantive changes.*

No changes have been made since the previous stage.

Detail of All Changes Proposed in this Regulatory Action

*Please list all changes proposed in this action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Please put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of updated requirements
90		a. Priority I. An individual with a most significant disability in accordance with the definition in 22VAC30-20-10. b. Priority II. An individual with a significant disability that results in serious functional limitations in two functional capacities. c. Priority III. An individual with a significant disability that results in a serious functional limitation in one functional capacity. d. Priority IV. Other persons	Proposed change will combine priority categories II and III into the following one category: b. Priority II. An individual with a significant disability that results in a serious functional limitation in at least one functional capacity. d. the former priority category IV will

		determined to be disabled, in order of eligibility determination.	become Priority III. RSA is requiring that this change be made. The impact of this change will make the implementation of priority categories easier for the public to understand and DARS staff to follow.
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