

DEPARTMENT HEALTH AND HUMAN SERVICES

MICHIGAN REHABILITATION SERVICES

VOCATIONAL REHABILITATION

By authority conferred upon the director of the department of health and human services by 1964 PA 232 and Executive Reorganization Order Nos.1993-11, 1999-1, 2003-1, 2012-10, and 2015-4, MCL 395.81, 408.40, and 445.2011 and in accord with the Rehabilitation Act Amendments of 1998, P.L. 105-220.

PART 1. ELIGIBILITY FOR REHABILITATION SERVICE

R 395.1 Rescinded.

History: 1954 AC; 1979 AC; 1998-2000 AACS; 2015 AACS.

R 395.2 Rescinded.

History: 1954 AC; Rescinded 1954 ACS 24, Eff. Nov. 12, 1960.

R 395.3 Rescinded.

History: 1954 AC; 1979 AC; 2005 AACS; 2015 AACS.

R 395.4 Rescinded.

History: 1954 AC; 1979 AC; 2005 AACS; 2015 AACS.

R 395.5 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.6 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.7 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.8 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.21 Rescinded.

History: 1954 AC; 1979 AC; 1998-2000 AACS; 2015 AACS.

R 395.22 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.23 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.24 Rescinded.

History: 1979 AC; 2015 AACS.

R 395.31 Rescinded.

History: 1954 AC; 1979 AC; 2005 AACS; 2015 AACS.

R 395.32 Rescinded.

History: 1954 AC; 1979 AC; 2005 AACS; 2015 AACS.

R 395.33 Rescinded.

History: 1954 AC; 1979 AC; 2005 AACS; 2015 AACS.

R 395.34 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACS.

R 395.35 Rescinded.

History: 1954 AC; 1979 AC; 2015 AACCS.

R 395.41 Rescinded.

History: 1979 AC; 2015 AACCS.

R 395.42 Rescinded.

History: 1979 AC. 2015 AACCS.

R 395.51 Definitions.

Rule 1. As used in these rules:

(a) “Clear and convincing evidence” means there is a high degree of certainty that the individual is incapable of benefiting from services in terms of an employment outcome.

(b) “Client Assistance Program” or “CAP” means the mandated program authorized under the rehabilitation act of 1973, 29 U.S.C. 701, which provides individual and systemic advocacy services to all MRS applicants and eligible individuals including additional information, problem resolution assistance, and assistance with an appeal.

(c) “Competitive integrated employment” means work that complies with the following:

(i) Is performed on a full-time or part-time basis, including self-employment, and for which an individual is compensated at a rate that includes all of the following:

(A) Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C. 206(a)(1) or the rate required under the applicable state or local minimum wage law.

(B) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

(C) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.

(D) Is eligible for the level of benefits provided to other employees.

(ii) Is at a location where the employee with a disability interacts for the purpose of performing the duties of the position with other persons, for example, customers and vendors, who are not individuals with disabilities. This requirement does not include supervisory personnel or individuals who are providing services to such employee to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with other persons.

(iii) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(d) “Comparable services and benefits” means services and benefits, not including awards and scholarships based on merit, that are provided or paid for, in whole, or in part, by other federal, state, or local public agencies, by health insurance, or by employee benefits that are available to the individual that the individual would otherwise receive from the designated state vocational rehabilitation agency.

(e) “Cost of attendance” means the total amount it will cost a student to attend school in a year.

(f) “Employment outcome” means entering or retaining full-time employment, or if appropriate, part-time competitive employment in the integrated labor market, supported-employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(g) “Individualized plan for employment” or “IPE” means a written document prepared on a form approved by MRS and developed to afford the individual meaningful opportunity to exercise informed choice in the selection of the following:

(i) Employment goal.

(ii) Specific vocational rehabilitation services required to achieve the employment goal.

(iii) Entities that will provide services.

(iv) Methods of service provision.

(h) “Job in jeopardy” means an individual who is in danger of being terminated from his or her job due to disability-related factors.

(i) “Michigan Rehabilitation Services or “MRS” means the part of a network of vocational rehabilitation programs across the United States authorized by the federal rehabilitation act of 1973, as amended, PL 105-220.

(j) “Part-time employment” means employment that is permanently assigned to an employee that is less than 30 hours of work per week.

(k) “Rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities.

(l) “Seasonal employment” means employment as defined by the United States department of labor to be less than 5 months duration and is linked to seasonal or climatic conditions.

(m) “Substantial impediment to employment” means a physical or mental impairment that materially hinders an individual from preparing for, engaging in, or retaining employment consistent with the individual’s abilities and capabilities.

(n) “Substantial services” means services that are provided in the context of a counseling relationship and the individual’s informed choice, and that make a significant contribution to the individual’s employment outcome. Substantial services may be provided directly, purchased, or arranged.

(o) “Temporary employment” means employment for 180 days or less.

(p) “Underemployment” means employment in which there is a significant discrepancy between the individual's demonstrated abilities and capabilities and the demands of the current job.

(q) “Unsteady employment” means employment that is seasonal, intermittent, temporary, permanently part-time, or subjects the individual to a pattern of layoffs or variations in the availability of work.

(r) “Vocational rehabilitation services” or “VRS” means those services available to assist the individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Services provided shall be published in MRS policy and be made available to the public.

History: 2015 AACCS.

R 395.52 Implementation of processes; policy.

Rule 2. MRS shall publish and make available to the public procedures for the implementation of these rules.

History: 2015 AACCS.

R 395.53 Purpose.

Rule 3. (1) MRS shall assist eligible individuals with physical or mental disabilities to prepare for and achieve an employment outcome.

(2) The MRS process is based upon an Individualized Plan for Employment (IPE) which is oriented to an individual’s achievement of a vocational goal. Services provided must be essential to overcome the vocational impediment and must be provided at the least cost to meet the individual’s rehabilitation needs.

History: 2015 AACCS.

R 395.54 General requirements.

Rule 4. (1) MRS shall not discriminate on the basis of race, religion, age, national origin, color, height, weight, marital status, sex, sexual orientation, gender identity or expression, political beliefs, or disability.

(2) MRS shall not impose duration of residence requirement as part of determining an individual’s eligibility for vocational rehabilitation services or that excludes from services under the IPE any individual who is legally present in this state.

(3) Throughout the individual’s rehabilitation program, every opportunity shall be provided to the individual to make informed choices regarding the rehabilitation process. MRS shall maintain documentation of opportunities for making informed choices the individual’s case record.

(4) MRS shall establish and maintain a case record for each individual and recipient of vocational rehabilitation services, which includes data necessary to comply with MRS and federal rehabilitation services administration requirements.

(5) MRS shall make administrative decisions about the district and office boundaries in which individuals are served. Individuals do not have a right to select the office or district in which they are served or the counselor who will serve them.

(6) Individuals are served in geographic MRS districts and offices according to their residence. Individuals who change their permanent residence may have the option to have their cases transferred, with supervisory approval, to the district or office to which they have moved.

(7) Individuals have the right to appeal the denial of a request to change counselors within an office.

(8) Case service expenditures, whether assessment or IPE services, require written authorization by MRS prior to or simultaneously with the initiation of the service. Retroactive authorizations are prohibited.

(9) Goods and services shall be provided subject to the statewide availability of funds. Goods and services shall be explored by the individual, with assistance from the MRS counselor, and the individual may be involved in the choice of who will provide goods and services.

(10) When appropriate, MRS counselors shall provide the referral necessary to support individuals with disabilities in securing needed services from other agencies and organizations.

(11) The MRS counselor shall inform each individual of the procedure for requesting a review or redetermination of an agency decision with which he or she disagrees, including how the individual may request a hearing and the availability of CAP.

History: 2015 AACCS.

R 395.55 Confidentiality.

Rule 5. (1) MRS shall keep all personal information concerning individuals, including but not limited to, photographs and lists of names, confidential.

(2) MRS may release personal information only to individuals or entities directly connected with the administration of the vocational rehabilitation program and only to the extent permitted under federal regulations governing the vocational rehabilitation program. Information containing identifiable personal information shall not be shared with advisory or other bodies that do not have official responsibility for administration of the program.

(3) MRS shall release personal information only with the informed, written consent of the individual. MRS shall release personal information without informed, written consent of the individual as needed to protect the applicant from physical harm to self or others and in response to any of the following:

(a) Law enforcement, fraud, or abuse investigations.

(b) In response to a judicial order.

(c) When required by federal statute or regulation.

(d) For audit, research, or evaluation purposes as allowed under the federal regulations 34 CFR 361.38(d).

(e) In a suspected case of abuse, neglect, exploitation, or endangerment of the individual.

(4) Information obtained from another agency or organization shall be released only by, or under the conditions established by, the other agency/organization.

(5) When requested in writing by an individual, MRS shall make the information requested accessible to the individual and release the information to the individual or the individual's representative in a timely manner.

(6) Medical, psychological, and other information that may be potentially harmful to the individual shall not be directly released to the individual but shall be released instead to a third party chosen by the individual that may include any of the following:

- (a) A qualified medical or mental health professional.
- (b) Advocate.
- (c) Family member.
- (d) Legal guardian.

(7) MRS may release information to parents or legal guardians of individuals who are minors under the same conditions as it may be released directly to individuals.

(8) Release of information to an individual, agency, or organization other than those specified in these rules shall contain a statement precluding its further release.

(9) MRS counselors shall advise individuals and providers of information of the confidentiality and release restrictions in this rule through appropriate means of communication.

History: 2015 AACCS.

R 395.56 Application for MRS services.

Rule 6. To apply for MRS services, an individual, or his or her representative as appropriate, shall do all of the following:

Complete and sign an MRS application form or otherwise request services and provide the equivalent information.

Provide information necessary to determine eligibility and priority for services.

Be available to complete the assessment process.

History: 2015 AACCS.

R 395.57 Eligibility criteria.

Rule 7. (1) An individual is eligible for MRS services if, after an assessment has been conducted, MRS determines that the individual meets both of the following:

(a) Has a physical or mental impairment which, for the individual, constitutes or results in a substantial impediment to employment.

(b) Requires MRS to prepare for, secure, retain, advance in, or regain employment consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. For purposes of an assessment for determining eligibility and vocational rehabilitation needs under the act, an individual shall be presumed to have a goal of an employment outcome.

History: 2015 AACCS.

R 395.58 Presumption of benefit.

Rule 8. All individuals who apply for services, including individuals who have been determined to have a disability under social security disability insurance and supplemental security income, are presumed to be able to benefit in terms of an employment outcome from VRS unless found to be ineligible for services due to the severity of the disability by clear and convincing evidence.

History: 2015 AACCS.

R 395.59 Eligibility determination.

Rule 9. The responsibility for making an eligibility determination shall be made by a qualified vocational rehabilitation counselor employed by MRS and shall not be delegated to any other individual or agency.

History: 2015 AACCS.

R 395.60 Time frame for eligibility determination.

Rule 10. (1) MRS shall make an eligibility determination for MRS services no later than 60 days from the date of application unless the individual is notified in writing of either of the following:

(a) That the eligibility period is being extended because exceptional and unforeseen circumstances beyond control of the MRS counselor preclude the MRS counselor from completing the determination within the prescribed time frame, and the individual agrees that a specific extension of time is warranted.

(b) When extended assessment through an extended evaluation plan or trial work experiences are necessary to determine if the individual is capable of benefiting, in terms of an employment outcome, from vocational rehabilitation services.

(2) Extending the eligibility determination period as described in R 395.64 is not applicable to supplemental security income recipients or social security disability insurance beneficiaries seeking MRS services pursuant to the federal requirements under 34 CFR 361.42(a)3(B)(ii). The MRS counselor shall make an eligibility determination for recipients of social security disability benefits no later than 60 days from the date of application.

(3) The only exception to this federal requirement is when the case record is moved to Trial Work Experiences (TWE) or Extended Evaluation (EE) within 60 days of the date of application. Trial work or further evaluation under an extended evaluation plan is only done when the MRS counselor has serious doubt about the individual's ability to benefit from MRS services to achieve an employment outcome.

History: 2015 AACCS.

R 395.61 Extended assessment; extended evaluation plan and trial work experiences.

Rule 11. (1) Before an individual with a significant disability can be determined to be incapable of benefiting from services in terms of an employment outcome, MRS shall provide an extended assessment.

(2) The presumption of employability continues during the extended assessment and may be refuted only if MRS demonstrates by clear and convincing evidence that the individual cannot benefit from services in terms of an employment outcome.

(3) During the extended assessment, MRS shall explore the individual's abilities, capabilities, and capacity to perform in work situations in the most integrated settings through the use of trial work experiences with appropriate supports except under limited circumstances when an individual cannot or is not ready to take advantage of such experiences. These circumstances include individuals who are medically unstable and require treatment to achieve stability and individuals whose disabilities are not treatable, remediable, or who are near death.

(4) Trial work experiences shall be of sufficient variety and over a sufficient period of time, and with appropriate supports, so that a MRS counselor may determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the individual's disability.

(5) A MRS counselor shall develop a written extended assessment plan that includes identification of the services necessary to determine eligibility and the nature and scope of services required to achieve an employment outcome.

(6) An individual, or his or her representative, shall be a full and active participant in the development of his or her extended assessment plan and in the selection of services and service providers and shall sign and be provided a copy of the written document.

(7) A MRS counselor shall regularly and routinely evaluate progress toward achieving the assessment outcomes.

(8) A MRS counselor shall terminate the extended assessment at any time an eligibility determination can be made, or after 12 months, unless substantial need for additional time is documented.

History: 2015 AACCS.

R 395.62 Presumption of eligibility for recipients of social security disability benefits.

Rule 12. (1) All of the following apply to individuals who are recipients of social security disability benefits, based on a disability:

(a) Considered to be an individual with a significant disability.

(b) Presumed to be eligible for vocational rehabilitation services, provided the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, unless the vocational rehabilitation counselor can demonstrate, by clear and convincing evidence, that the individual is incapable of benefiting due to the severity of the disability of the individual.

(c) Once an individual has been informed of the employment nature of the program, the completion of a MRS application for services shall be considered as intent to achieve an employment outcome.

(2) For an individual desiring to enter the workforce who are entitled to benefits under title II or XVI of the social security act, 42 U.S.C. 401 et seq, on the basis of a disability or blindness, the designated state unit shall provide to that individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning.

(3) The MRS counselor shall make an eligibility determination for recipients of social security disability benefits no later than 60 days from the date of application unless the individual's ability to benefit is in question and the case is moved to extended assessment.

History: 2015 AACCS.

R 395.63 Use of existing information.

Rule 13. (1) To the maximum extent possible, the MRS counselor shall make an eligibility determination based on existing and current information, including any of the following:

- (a) Information available from other programs and providers.
- (b) Schools.
- (c) Social security administration.
- (d) Information provided by the individual and the family.

(2) To the maximum extent appropriate, the MRS counselor shall rely on information obtained from experiences in integrated employment settings in the community and in other integrated community settings.

History: 2015 AACCS.

R 395.64 Ineligibility.

Rule 14. (1) In all cases where the counselor determines that an individual does not meet the requirements for eligibility, the case record shall include a certification of ineligibility.

(2) The certification shall be signed and dated by the counselor and include documentation of the reasons for the ineligibility determination.

(3) Ineligibility decisions concerning the severity of a disability must be based on clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome due to the severity of the individual's disability as of the date of the determination, and require the counselor to explore the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences. The ineligibility determination shall be both of the following:

(a) An individualized one, based on the available data, and shall not be based on assumptions about broad categories of disabilities.

(b) Made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative.

(4) The individual, or as appropriate, the individual's representative, shall be informed in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including the clear and convincing evidence that forms the basis for the determination of ineligibility, including both of the following:

(a) The reasons for the determination.

(b) A description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer.

History: 2015 AACCS.

R 395.65 Individuals employed at intake.

Rule 15. (1) An individual with a disability who is employed may be eligible for MRS services if, as a result of his or her disability, his or her employment does any of the following:

(a) Endangers the health and safety of the individual or others.

(b) Is in jeopardy.

(c) Is unsteady.

(d) Results in significant underemployment and needed services cannot be obtained from other agencies or resources.

(2) An individual who has access to resources from other agencies, but chooses not to use them, is generally not considered to require MRS services. The individual must meet all eligibility criteria to be determined eligible for MRS services.

(3) A job may be considered in jeopardy if the disability substantially hinders an individual's job retention, or an individual has confirmation of a restructuring of his or her position which, due to his or her disability, he or she would no longer be able to do, and requires VRS to retrain for a new position.

(4) When considering whether an individual requires job retention services, the MRS counselor shall seek objective verification, such as a statement from the current employer, a job analysis, or medical verification of a significant decline in functional capacity related to job function.

(5) Routine maintenance or replacement of personal medical or adaptive supplies and equipment are the responsibility of the employed individual and generally are not sufficient grounds for a finding of eligibility for MRS services.

History: 2015 AACCS.

R 395.66 Comprehensive assessment of rehabilitation needs.

Rule 16. (1) A MRS counselor shall conduct a vocational needs assessment to determine the goals, nature, and scope of rehabilitation services to be included in the IPE.

(2) The assessment described in this rule shall begin simultaneously with the assessment for eligibility and be carried out in integrated settings to the extent appropriate and consistent with the individual's informed choice.

(3) The emphasis in the assessment shall be on using existing and current information to the maximum extent possible, and information provided by the individual and by the individual's family, as appropriate.

(4) When current or existing information is not sufficient to assess vocational rehabilitation needs, a comprehensive assessment shall be provided which shall include all of the following concerning the individual:

- (a) Strengths.
- (b) Resources.
- (c) Priorities.
- (d) Concerns.
- (e) Abilities.
- (f) Capabilities.
- (g) Rehabilitation needs, including the need for supported employment.

(5) The individual shall be an active participant in the choice of assessments and providers.

(6) The comprehensive assessment is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop an IPE. To the degree needed, the comprehensive assessment shall include the following:

(a) An assessment of the individual's personality; career interests; interpersonal skills; intelligence and related functional capacities; educational achievements; work experience; vocational aptitudes; personal and social adjustment; employment opportunities available to the individual; medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual.

(b) An appraisal of the individual's work behavior and services needed to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavioral patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in the work environment.

(c) Where appropriate, the provision of rehabilitation technology services to assess and develop the capacities of the individual to perform in an integrated work environment.

History: 2015 AACCS.

R 395.67 Individualized plan for employment (IPE).

Rule 17 (1) The MRS counselor shall design the IPE to achieve an employment outcome of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice of the individual.

(2) The case record must support the selection of the vocational goal.

(3) The IPE shall be signed by the individual or, as appropriate, the individual's representative and by a qualified MRS rehabilitation counselor. The IPE is not a legal contract between MRS and the individual.

(4) Planning and approval of the IPE shall be conducted within the framework of a counseling relationship.

(5) MRS counselor approval of an IPE verifies that the IPE is consistent with MRS policies and guidelines, is complete, and is expected to lead to an employment outcome. MRS counselors shall provide a copy of the IPE, and any amendments, to the eligible individual.

(6) Vocational rehabilitation goods and services may only be provided in accordance with the IPE.

(7) MRS shall provide individuals with written notification of appeal rights, including the name and address of the person with whom an appeal may be filed, and the availability of the CAP during IPE development, and whenever MRS-authorized services are denied, reduced, suspended, or terminated.

(8) The MRS shall notify individuals in writing 10 working days before the termination, reduction, or suspension of a MRS authorized service.

History: 2015 AACCS.

R 395.68 Standards for development; review.

Rule 18. (1) The IPE shall be completed promptly by both the MRS counselor and the individual, but no more than 90 days following eligibility certification, unless the individual and MRS counselor require more time to arrive at an agreed upon IPE.

(2) The IPE will be reviewed at least annually by a qualified vocational rehabilitation counselor and the individual or, as appropriate, the individual's representative, to assess the individual's progress in achieving the identified employment outcome.

History: 2015 AACCS.

R 395.69 IPE development extension.

Rule 19. (1) If more than 90 days are required to develop the IPE, an IPE development extension shall be requested providing all of the following:

- (a) Reason for extension.
- (b) Activities or services planned to complete the IPE.
- (c) The agreed upon plan extension date.

(2) For students in the K-12 educational system who are eligible for MRS services, the IPE shall be developed and completed before the student leaves the school setting. An agreed upon delay in developing an IPE is not an option for eligible transition students if the delay in development extends beyond the student's exit from school.

History: 2015 AACCS.

R 395.70 Options for developing IPE.

Rule 20. (1) The MRS counselor shall provide the individual, or the individual's representative, information on the individual's options for developing an IPE.

- (2) MRS shall not pay for an agency, or a representative, to develop an IPE.
- (3) The options for developing all or part of the IPE include the following:

(a) With assistance from a MRS vocational rehabilitation counselor, to the extent determined to be appropriate by the individual.

(b) With technical assistance from the MRS program, or other representatives selected by the individual.

(c) The individual alone without assistance.

History: 2015 AACCS.

R 395.71 Required components of IPE.

Rule 21. The IPE shall include the following:

(a) Specific vocational goal, which must be based on the assessment for determining vocational rehabilitation needs, including the individual's career interests, and must be in an integrated setting.

(b) A description of the specific vocational rehabilitation services that meet both of the following:

(i) Needed to achieve the vocational goal, including, as appropriate, the provision of assistive technology services and personal assistance services, including training in the management of such services.

(ii) Provided in the most integrated setting that is appropriate for the service involved, and is consistent with the informed choice of the individual.

(c) Timelines for the achievement of the employment outcome, and for the initiation of the services.

(d) A description of the entity chosen by the individual, or as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure such services.

(e) Description of the criteria to evaluate the progress towards achievement of the employment outcome.

(f) The terms and conditions of the IPE, including, as appropriate, information describing all of the following:

(i) The responsibilities of MRS.

(ii) The responsibilities that the individual will assume in relation to the vocational goal.

(iii) The responsibility of the individual with regard to applying for and securing comparable benefits.

(g) For individuals for whom an employment outcome in a supported-employment setting has been determined to be appropriate, information identifying both of the following:

(i) The extended services needed by the individual after closure.

(ii) The source of extended services, or to the extent that the source of extended services cannot be identified at the time of the development of the IPE, a description of the basis for concluding that there is a reasonable expectation that such source will become available.

(h) As determined to be necessary, a statement of projected need for post-employment services.

(i) An assurance that the individual has been informed of his or her rights and the means by which the individual may express and seek remedy for any dissatisfaction,

including the opportunity for a review of the rehabilitation determination, as described in R 395.83 to R 395.87 and assurance that the individual has been provided a detailed explanation of the availability of the resources within the CAP.

History: 2015 AACCS.

R 395.72 Participation; individuals with disabilities; cost of IPE services.

Rule 22. (1) Individuals shall be encouraged to participate in the cost of the services listed in their IPE to the extent they are able to do so.

(2) Financial participation in the cost of services is not required except in the areas of college and vocational training.

History: 2015 AACCS.

R 395.73 Comparable benefits and services in the IPE.

Rule 23. (1) If comparable services and benefits are available to the individual, the services and benefits must be utilized to meet, in whole or part, the cost of vocational rehabilitation services.

(2) If comparable services or benefits exist under any other program, but are not available to the individual at the time needed to satisfy the rehabilitation objectives in the individual's IPE, MRS shall provide vocational rehabilitation services until those comparable services and benefits become available.

(3) The utilization of comparable services and benefits do not apply in the following situations:

(a) If the determination of the availability could delay or interrupt the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment.

(b) If the determination of the availability would delay the provision of vocational rehabilitation to any individual who is at extreme medical risk, based on medical evidence provided by an appropriate qualified medical professional.

(c) If an immediate job placement would be lost due to a delay in the provision of comparable benefits.

(4) The following categories of service are exempt from a determination of the availability of comparable services and benefits:

(a) Assessment for determining eligibility, priority for services, and vocational rehabilitation needs.

(b) Vocational rehabilitation counseling, guidance, and referral services.

(c) Vocational and other training services, such as personal and vocational adjustment services, books, tools, and other training material not associated with training in an institute of higher education, that are defined as colleges and universities, community and junior colleges, vocational and technical schools or institutes, and hospital schools of nursing.

(d) Awards and scholarships based on merit.

(e) Rehabilitation technology services, including vehicle modifications.

(f) Placement services.

History: 2015 AACCS.

R 395.74 Services; general.

Rule 24. (1) The services MRS counselors may provide, arrange, or purchase for an individual with a disability include those services related to an IPE necessary to assist the individual in preparing for, securing, retaining, or regaining an employment outcome in an integrated setting that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(2) MRS services provided shall be published in MRS policy and be made available to the public.

History: 2015 AACCS.

R 395.75 Post-secondary education and vocational training financial needs test.

Rule 25. (1) College or vocational training may be provided as an IPE-related service when an individual requires new knowledge and skills to achieve an employment goal consistent with the individual's abilities, capabilities, and informed choice.

(2) Individuals shall make maximum effort to secure grant assistance in whole or in part from other sources to pay for post-secondary training. Counselors shall inform individuals considering post-secondary education that they must make timely annual application for post-secondary financial aid.

(3) MRS shall not provide financial assistance for any item covered in the cost of training attendance if the individual, or individual's family as applicable, fails to make maximum effort to apply for, or refuses to accept, federal, state, institutional, and other grants, need-based scholarships, or tuition waivers for which they may be eligible.

(4) Financial support for college or vocational training shall be consistent with MRS' policy of purchasing the service that meets the individual's vocational rehabilitation needs at least cost to MRS.

(5) MRS shall impose a financial needs test for the student's cost of attendance of training at a post-secondary educational institution. The financial needs test utilized shall be the federally established needs test using the Free Application for Federal Student Aid (FAFSA) or its equivalent, as required by the post-secondary institution, to determine student eligibility for state and federal financial aid.

(6) MRS shall not replace the expected family contribution, as determined by the post-secondary institution's financial aid officer using the federal student aid report, in contributing toward the individual's cost of attendance at a post-secondary institution.

(7) MRS shall not replace insurance benefits received, wholly or in part, as a settlement of liability for vocational rehabilitation services, in contributing toward the individual's cost of attendance at a post-secondary institution.

(8) MRS may provide maximum financial support toward an individual's cost of college or vocational training during the academic year of \$3,500.00 and \$1,200.00 for the summer semester. MRS may consider an exception to the maximum when other forms of student aid are excluded due to disability-related factors. MRS shall

periodically adjust the maximum financial support figures in accordance with increases in the cost of living.

(9) Individuals who are eligible for social security benefits under Title II and Title XVI of the social security act shall be exempted from financial need test requirements.

(10) MRS customers attending Michigan Career and Technical Institute are exempt from financial need test requirements and financial aid limitations for the cost of attendance.

History: 2015 AACCS.

R 395.76 Rates of payment.

Rule 26. (1) The maximum rate of payment for services shall be the usual, customary and reasonable rate charged for the service not to exceed the rate charged by other public agencies.

(2) The service that will meet the individual's vocational rehabilitation need at the least cost to MRS shall be the service purchased.

(3) MRS shall not place an absolute and arbitrary dollar limit on specific service categories or on the total services provided to the individual.

(4) MRS is not responsible for the cost of out-of-state services in excess of the cost of in-state services if either service would meet the individual's vocational rehabilitation needs.

History: 2015 AACCS.

R 395.77 Case closure prior to eligibility.

Rule 27. The MRS counselor shall close an individual's case record under any of the following conditions:

(a) It is determined that the individual does not meet MRS eligibility criteria.

(b) The individual selects an extended sheltered employment outcome after being informed of the integrated employment purpose of the program.

(c) The individual declines to participate in or is unavailable during an extended period to complete an eligibility assessment, and MRS has made a reasonable number of attempts to contact the individual or, as appropriate, the individual's representative to encourage participation.

(d) The individual has chosen to assign his or her Ticket to Work to an alternative third party vocational rehabilitation service with which MRS does not have an Employment Network Agreement.

(e) The individual refuses services, is deceased, or is institutionalized.

History: 2015 AACCS.

R 395.78 Case closure; severity of disability.

Rule 28. (1) A MRS counselor shall not close a case due to the severity of the individual's disability except when on the basis of clear and convincing evidence, and

after a period of extended assessment or rehabilitation services have been provided, MRS determines that an employment outcome cannot be achieved.

(2) The individual, or parent or guardian as appropriate, shall be provided an opportunity to discuss an ineligibility decision before the individual's case is closed due to ineligibility.

(3) A MRS counselor shall prepare a certificate of ineligibility signed and dated by the MRS counselor for case closures due to ineligibility.

(4) Before closing a case non-rehabilitated for reasons of ineligibility due to severity of disability, the MRS counselor shall ensure that as part of the test of clear and convincing evidence, accommodation services and assistive technology would not enable the individual to become employed.

History: 2015 AACCS.

R 395.79 Rehabilitated case closure.

Rule 29. An individual is determined to have achieved an employment outcome only if all the following requirements are met:

(a) The employment outcome is in an integrated setting.

(b) Substantial services under an IPE are provided and have contributed to the employment outcome.

(c) The employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(d) Employment reflects the employment outcome described in the IPE or IPE amendment and has been maintained for at least 90 days.

(e) The individual and MRS counselor consider the employment to be satisfactory and agree the individual is performing well on the job.

(f) At the time of closure there is an assessment of the need for post-employment services.

History: 2015 AACCS.

R 395.80 Individual not rehabilitated; case closure.

Rule 30. (1) The MRS counselor may close the case record of an individual as not rehabilitated.

(2) Reasons for closing a case not rehabilitated other than for ineligibility include any of the following:

(a) Inability to locate the individual or the individual has moved out of state.

(b) Individual working with another employment network.

(c) Death of the individual.

(d) Extended services were not available for the individual.

(e) The individual was placed in a non-integrated setting for a public or nonprofit organization under extended employment.

(f) The individual will be in a facility such as a hospital, nursing home, or treatment center for a considerable period of time.

(g) The individual has been incarcerated in a prison, jail, or other criminal correction facility.

(h) The individual does not require MRS to prepare for, enter into, engage in, or retain gainful employment consistent with his or her strengths, resources, priorities, concerns, abilities, capabilities, and informed choice.

(i) The individual is no longer interested in receiving services or further services, including an individual whose actions or non-actions make it impossible to begin or continue the vocational rehabilitation program.

(j) The individual has transferred to another agency.

(k) Transportation is not possible or available.

(l) The individual has committed an act of violence or threatened violence.

History: 2015 AACCS.

R 395.81 Rehabilitation case closure; supported employment.

Rule 31. (1) The MRS counselor shall close rehabilitated in supported employment under any of the following circumstances:

(a) The employment represents competitive employment in an integrated setting.

(b) The individual is working towards competitive employment and is in an integrated work setting.

(c) The individual is part of a work group of not more than 8 employees with disabilities and regularly interacts with individuals who do not have disabilities, including the general public, while performing job duties.

(2) There shall be confirmation of extended support services after case closure by the third party identified in the IPE before a case is closed in supported employment.

History: 2015 AACCS.

R 395.82 Notice of case closure.

Rule 32. (1) An individual whose case is closed for any reason, except for death or no known address, shall be notified in writing of his or her case closure. The case closure notice shall include all of the following:

(a) The effective date of closure.

(b) A narrative description of the reason or reasons for closure.

(c) The right to appeal, including mediation, the closure decision.

(d) The process for seeking appeal and mediation, including the availability of the CAP to assist with an appeal.

(2) An individual shall be provided an opportunity to discuss case closure prior to the closure decision.

History: 2015 AACCS.

R 395.83 Post-employment services.

Rule 33. (1) The MRS counselor shall conduct an assessment of the need for post-employment services prior to rehabilitated closure. An individual whose case have been closed rehabilitated shall be provided additional services if necessary to maintain, regain, or advance in his or her current employment.

(2) The need for post-employment services may arise either from an unexpected situation or be planned as part of the IPE or at case closure. An individual shall be encouraged to stay in touch with his or her MRS counselor following case closure to seek assistance if problems arise and employment is in jeopardy.

(3) Post-employment services are provided as an amendment to the IPE and generally are provided within approximately 12 months of case closure. In determining whether it is appropriate to provide a needed service in post-employment status, the MRS counselor shall determine whether the service or services are related to the original IPE and, therefore, is an appropriate amendment to it.

(4) Post-employment services shall be used to assist an individual in maintaining employment when a job is in jeopardy, or to regain employment when a new placement is needed due to job loss.

(5) The MRS counselor may provide services in post-employment status to assist an individual in advancing in his or her present career if extended training is not involved, and if the MRS counselor determines that the current job is no longer consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests. Objective, performance-based data shall be obtained to assist the MRS counselor and individual in making this determination.

(6) The MRS counselor shall record in the case record changes in the individual's work situation such as employer name, wages, or hours worked.

History: 2015 AACCS.

R 395.84 Review; hearing; costs.

Rule 34. (1) Individuals or, if appropriate, their representatives, have the right to appeal any decision made by MRS personnel that affects the provision of VRS with which they are dissatisfied by requesting a hearing.

(2) Written notification of the right to appeal, including the name and address of the person with whom an appeal may be filed, and the availability of the CAP, shall be provided to individuals at the following stages:

- (a) At application.
- (b) Case closure.
- (c) When assigned an order of selection category.
- (d) When an IPE is developed.
- (e) Whenever an authorized service is reduced, suspended, or terminated.

(3) MRS shall provide any reasonable accommodations needed by an individual to participate in mediation and/or a hearing.

(4) Mediation and/or a hearing are provided at no cost to the individual.

(5) MRS is not responsible for any costs associated with the individual's representation at the mediation session or hearing or with any cost associated with the appearance of witnesses presented by the individual at the mediation session or hearing.

History: 2015 AACCS.

R 395.85 Informal review.

Rule 35. (1) Whenever possible, MRS shall attempt to resolve disagreements informally, prior to mediation or a hearing.

(2) An individual may request a meeting with the MRS counselor, the appropriate supervisor, and/or a CAP representative, if desired, to explore options for resolving disputes. An individual may request a meeting with the MRS counselor, the appropriate supervisor, and/or a CAP or individual's representative, if desired, to explore options for resolving disputes.

(3) An individual may request mediation or a hearing immediately without undergoing the informal review.

(4) The informal review may not be used to deny or delay the individual's right to pursue mediation or the hearing within the specified time period.

History: 2015 AACCS.

R 395.86 Continuation of services pending completion of hearing.

Rule 36. Assessment, plan development, or IPE-related services that have been initiated shall not be suspended, reduced, or terminated pending mediation or the hearing decision unless the applicant or eligible individual or his or her representative so requests or there is evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the applicant, eligible individual, or his or her representative.

History: 2015 AACCS.

R 395.87 Mediation.

Rule 37. (1) Mediation is a voluntary process conducted by a qualified and impartial mediator. At any point during the mediation process, either party, or the mediator, may elect to terminate the mediation.

(2) An individual may request mediation after his or her request for a hearing is received.

(3) MRS shall send the request for mediation to the hearings coordinator. The hearings coordinator will assign, on a random basis, a qualified impartial mediator. The hearings coordinator must schedule mediation in a timely manner.

(4) Mediation will be held in a location that is convenient to the parties in the dispute.

(5) An individual appealing MRS decisions has the right to submit evidence or relevant information and present witnesses to support his or her position at mediation.

(6) An agreement reached in the mediation process shall be set forth in a written mediation agreement and must be signed by both parties.

(7) Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

(8) Either party may enter the written signed mediation agreement as evidence in a subsequent hearing or civil proceeding.

(9) The individual may be represented at the mediation or hearing, including but not limited to, representation by the CAP.

(10) The mediation process may not be used to deny or delay the individual's right to pursue a hearing within the specified time period.

History: 2015 AACCS.

R 395.88 Hearing.

Rule 38. (1) An individual who is dissatisfied with any determination made by MRS concerning the provision of VRS may seek a redetermination of agency action before an impartial hearing officer.

(2) The individual must submit a written appeal within 30 calendar days of the agency notice regarding its determination or decision.

(3) Agency notice regarding the provision or denial of a service is not required to be in writing, unless it is a suspension, reduction, or termination of authorized services in an IPE.

(4) Individuals will be notified in writing 10 working days before the termination, reduction, or suspension of authorized services being provided under an IPE.

(5) If no request for hearing is made within 30 calendar days, the agency decision is considered final.

(6) The request for hearing shall be in writing, and shall describe the decision being appealed. MRS shall accommodate an individual's disability and offer assistance, if appropriate, in the appeal process. The request for hearing shall be sent to the director of MRS who shall immediately forward the request to the hearings coordinator.

(7) The hearings coordinator shall forward the request for hearing to the Michigan Administrative Hearing System (MAHS) to be scheduled for a hearing with a qualified impartial hearing officer.

(8) The hearing shall be held within 60 calendar days of receipt of the request for hearing.

(9) The individual may waive the 60-day time frame to hold the hearing if both parties agree to an extension of time in writing.

(10) A hearing may be dismissed by MAHS if the individual or his or her representative does either of the following:

(a) Withdraws the hearing request in writing.

(b) Fails to appear at the hearing without good cause.

(11) The hearing shall be conducted by MAHS and shall include an opportunity for the individual or the individual's representative to present witnesses and relevant evidence.

(12) The hearing officer shall issue a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing.

(13) The hearing officer's decision is final unless either party commences a civil action.

(14) Any party that disagrees with the final decision of the hearing officer has the right to file a civil action challenging the decision of the hearing officer. The action may be brought in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

History: 2015 AACCS.