



Arizona's Protection & Advocacy System

## Arizona Rehabilitation Services Administration Eligibility Fact Sheet

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### Eligibility for Vocational Rehabilitation Services: General Information and Applicants' Rights

The state agency designated by the federal Rehabilitation Service Administration (RSA) to determine whether an individual is eligible to receive vocational rehabilitation (VR) services in Arizona is the Arizona Rehabilitation Services Administration (AzRSA).

#### 1. How do I apply for Vocational Rehabilitation Services?

- Fill out a [Referral Form](#) online, also available in [large print](#).
- Go to [Vocational Rehabilitation | Arizona Department of Economic Security \(az.gov\)](#)
- Email it to [azrsa@azdes.gov](mailto:azrsa@azdes.gov) or print the form and mail it or deliver it to an AzRSA office.

-or-

- Go to the closest AzRSA office and ask for assistance in filling out a Referral Form.
- To find the closest office, call 1-800-563-1221 or visit this [webpage](#).
- Call the AzRSA office to find out if it is open and what its COVID related restrictions are.

- After you complete and send the referral form, an AzRSA staff person must contact you for an appointment to complete the application or provide the application to you.

You may apply at any AzRSA office. It is most convenient to apply at the closest office to your home. You may not receive services at the office where you applied. AzRSA has some counselors who specialize in working with clients with specific conditions, such as those who are deaf, hard of hearing, blind, visually impaired, or have a traumatic brain injury.

Everyone has the right to apply for VR services. You can file an appeal if AzRSA does not allow you to apply.

## **2. Who is eligible for VR services?**

To be eligible to receive VR services, you must meet the requirements under the Rehabilitation Act of 1973, as amended. 34 C.F.R. § 361.42(a). AzRSA should find you eligible for services if:

- you have a *physical or mental impairment*, as determined by qualified personnel;
- your physical or mental impairment is or results in a *substantial impediment to employment*, as determined by qualified personnel; and
- you need VR services to prepare for, secure, retain, or regain employment consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, as determined by your VR counselor.

AzRSA must assume that you (and all applicants) can benefit from VR services to become employed in an integrated setting.

If AzRSA believes that you (or any applicant) are not capable of

becoming employed in an integrated setting, AzRSA must show by clear and convincing evidence (a heavy burden) that you cannot become employed before denying you VR services.

### **3. What is a physical or mental impairment?**

A *physical impairment* is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

Here are examples of physical impairments: arthritis, epilepsy, diabetes, spinal cord injury, stroke, Post-Polio Syndrome, mobility impairment, cerebral palsy, muscular dystrophy, multiple sclerosis, deafness, hearing loss, spina bifida, head injury, HIV, blindness or low vision.

A *mental impairment* is any mental or psychological disorder.

Examples of mental impairments include intellectual disability, organic brain syndrome, specific learning disabilities, schizophrenia, major depression, bipolar condition, anxiety disorders, autism, eating disorders, obsessive compulsive disorder, and post-traumatic stress disorder, and panic disorders.

### **4. What is a substantial impediment to employment?**

This means that you have a physical or mental impairment that prevents or makes it difficult for you to prepare for, obtain, or retain employment consistent with your abilities and capabilities. When determining if an impairment is a substantial impediment to employment, AzRSA must look at medical, psychological, vocational, educational, and other related factors. 34 CFR 361.42(d).

Here are two examples to show how impairments can be a substantial

impediment to employment and require VR services:

- A high school graduate living with blindness would like to become a genetics counselor. Genetic counselors typically need a master's degree in genetic counseling and board certification. While living with blindness makes it difficult to complete the education and certification, with VR services she can reach her employment outcome. She may need VR services, such as assistive technology and training, college tuition, and payment of study course for the accreditation testing to succeed.
- An individual with autism wants to become a barber. The social anxiety and limited communication skills related to autism are a significant impediment to employment. He may need tuition to barber school, assistive technology, job coaching and job development, to reach his employment outcome.

## **5. Can AzRSA require me to participate in assessments to determine eligibility?**

To determine eligibility for VR services, AzRSA may conduct assessments. The assessment should include a review of existing information, medical records, education records, information provided by you or your family, and disability determinations made by other agencies. It will also include your VR counselor's observations of an obvious disability.

If existing information does not fully describe your current level of functioning or is unavailable, AzRSA will ask you to participate in a formal assessment to determine your eligibility for services and vocational needs.

Examples of assessment include:

- Psychological tests
- Intelligence tests
- Vision/hearing assessments
- Interest inventories
- Functional capacity tests
- Vocational aptitude tests

- Educational achievement
- Neuro-psych exams
- Psychiatric evaluations
- Psycho-educational tests

## **6. What is clear and convincing evidence?**

Clear and convincing evidence is the legal standard AzRSA must satisfy to prove that an individual is incapable of benefiting from VR services. 29 U.S.C. §722(a)(3)(ii). Clear and convincing evidence is evidence that establishes the truth of a disputed fact by a high probability. Under federal law, AzRSA cannot meet the clear and convincing legal standard without first obtaining multiple assessments, including situational assessments and supported employment assessments by service providers. If the providers of these assessments conclude that they could not meet your needs due to the severity of your disability, the clearing and convincing evidence standard may be met.

## **7. What is a Trial Work Experience (TWE)?**

A trial work experience is an assessment which includes supported employment, on-the-job training, and other experiences using realistic work settings to “explore the individual’s abilities, capabilities and capacity to perform in a work situation.” 34 C.F.R. 361.42(e)(1) and (2)(ii); AzRSA must conduct TWE’s of sufficient variety and over a sufficient period of time under a written plan that includes appropriate supports during the TWE. Appropriate supports include on-the-job supports, assistive technology and necessary accommodations. 34 C.F.R. 361.42(e)(2). AzRSA may not base its decision that an individual is incapable of benefiting from VR services solely on a TWE or any one assessment.

## **8. Do I have to participate in a TWE?**

If you refuse or do not actively participate in completing a TWE or other assessments that are needed to determine your eligibility, AzRSA may close your case without an eligibility determination. If you

appeal the case closure, AzRSA would only need to show a preponderance of evidence that you did not actively participate, which is an easier legal standard for AzRSA than clear and convincing evidence. A preponderance of the evidence simply means that one side has more evidence in its favor than the other, even by the smallest degree. Clear and convincing evidence is evidence that establishes the truth of a disputed fact by a high probability.

## **9. Is anyone automatically eligible for VR services?**

Yes. Social Security beneficiaries are automatically eligible.

SSDI/SSI - Beneficiaries of Social Security Disability Insurance (SSDI) and recipients of Supplemental Security Income (SSI) are presumed eligible to receive VR services. 29 U.S.C. § 722(a)(3)(A)(i)-(ii); 34 C.F.R. § 361.42(a)(3)(i)(A)-(B). If you receive or are eligible to receive SSI or SSDI, you should bring proof, such as your benefit award letter, with you when you first meet with a VR counselor. If you do not provide proof of eligibility, the VR counselor is responsible for checking with SSA to make sure you do receive benefits. Once there is proof of your eligibility for SSDI/SSI, AzRSA must find you eligible for services. You may still need an evaluation about the specific services and amount of each service AzRSA should provide.

Keep in mind AzRSA may find individuals who are in this group to be ineligible if, after doing assessments, such as a TWE, or providing services, they cannot benefit from VR services due to the severity of their disability. But AzRSA may only do so after showing clear and convincing evidence that the individual is too disabled to work.

## **10. Are there any factors AzRSA may not consider in determining if I am eligible for VR services?**

Yes. AzRSA must not consider the following factors in determining if

you are eligible for services:

- how long you have lived in Arizona,
- type of disability,
- age,
- gender,
- race,
- color,
- national origin,
- type of expected employment outcome,
- referral source for VR services,
- your employment history and current status,
- your education status or credentials,
- service needs or anticipated cost of services, and
- income level of an applicant or applicant's family.

34 C.F.R. § 361.42(c).

## **11. When will I know if I am eligible for VR services?**

AzRSA must determine eligibility within a reasonable time, but not more than 60 days from the date you applied for VR services. The 60-day deadline may be extended to complete a TWE, which is an *exceptional and unforeseen circumstance beyond AzRSA's control*. AzRSA may take longer if there are other *exceptional* circumstances, such as waiting for medical records or the results of an evaluation, beyond their control that delays the decision. If this is the case, your VR counselor must discuss the delay with you and get your permission to take longer than 60 days. AzRSA and you must agree on how long the deadline may be extended. You may appeal AzRSA's failure to make an eligibility determination within 60 days or, if you agreed to an extension, within the agreed upon date. 29 U.S.C. § 722(a)(6); 34 C.F.R. § 361.41(b)(1).

## **12. What if I am found ineligible?**

If AzRSA finds that you are ineligible for VR services, they must meet with you and fully explain why they found you ineligible. They must

also inform you in writing, or if necessary, by other means of communication, about the decision.

AzRSA must provide the following information in the written notice:

- their decision;
- the reason for their determination;
- your right to appeal their decision;
- an explanation about your appeal options, which are an administrative review, mediation or fair hearing; and
- information about the services available throughout the Client Assistance Program (CAP).

AzRSA must refer you to other training or employment-related programs that are part of the One-Stop service delivery system; and

AzRSA must review any decision within 12 months and then annually, that was based on a finding that you were incapable of achieving an employment outcome. 34 C.F.R. § 361.43(e). If you want RSA to review the decision, you should calendar the date and request they do so in writing.

## **10 Self-Advocacy Tips for the VR Eligibility Process**

1. Fill out the Referral Form as completely as possible.
2. Be able to prove that you delivered the Referral Form. If you mail it, use certified mail. If you deliver it, ask for a receipt or copy with a date stamp. If you email it, save the email. If you use the on-line form, keep the email confirming receipt.
3. Call the VR Ombudsman and complain if you don't receive an

appointment or an application within five days of delivering the Referral Form. Completing a referral form is not the same as completing the application. AzRSA's 60-day deadline to determine eligibility doesn't start until you apply.

4. If you need an auxiliary aid or service (e.g. ASL interpreter, or large print or Braille documents) or a reasonable modification to participate in the application process, fill out the section on the Referral Form about accommodations.
5. If you are eligible for SSI or SSDI, bring a copy of the Social Security Administration's determination letter or a recent benefit check to speed up the eligibility process.
6. If you are not eligible for SSI or SSDI, bring healthcare documentation of your physical or mental impairment to your initial interview. Examples include:
  - medical records,
  - counselor observations,
  - special education records,
  - information about your condition provided by you or your family, and
  - any determinations made by officials of other agencies (i.e. workers compensation records of permanent injury, long term disability records).
7. If you do not have copies of your healthcare documentation, bring the name, address and phone number of your treating healthcare professional (e.g. physician, specialist, such as neurologist, psychiatrist or psychologist). This information will be used to fill out releases of information forms so AzRSA can request selected medical records.

- 8.** Bring identification, such as a driver's license, a state identification card issued by the Arizona Department of Motor Vehicles, Social Security card, or other identification.
- 9.** Do your homework before you go to your meeting. Go online and review information on AzRSA's website about services. Be prepared to tell VR what your employment goal is and what services you believe you need to reach that goal.
- 10.** Ask questions if you do not understand the information you are being told or provided.