CHAPTER 47

VOCATIONAL REHABILITATION; SPECIALIZED PROGRAMS FOR PERSONS WITH DISABILITIES

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47.01 Definitions. In this chapter:

(1) "Blind" means central visual acuity that does not exceed 20/200 in the better eye with correcting lenses or a visual field that subtends an angle no greater than 20 degrees.

(1m) "Department" means the department of workforce development.

(2) "Employability" means that the provision of vocational rehabilitation services is likely to enable an individual to obtain or retain employment consistent with his or her capacities and abilities in the competitive labor market, the practice of a profession, self−employment, homemaking, farm or family work, sheltered employment, home−based employment or other gainful work.

(3) "Person with a disability" means any person who has a physical or mental disability that constitutes or results in a substantial barrier to employment and who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services.

(3g) "Person with a severe disability" means any person with a disability who has a severe disability that seriously limits one or more functional capacities, including mobility, communication, self−care, self−direction, work tolerance, or work skills, in terms of employability, whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time and who has one or more physical or mental disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(3m) "Personal assistance services" has the meaning given in 29 USC 706 (11).

(5) "Visually impaired" means a loss of vision that can reasonably be expected to lead to blindness or a loss of vision that represents a barrier to employment or other major life activities.

(6) "Vocational rehabilitation" means assisting a person with a disability to become capable of competing in the labor market, practicing a profession, being self−employed, raising a family and making a home, participating in sheltered employment or other gainful work.

History: 1983 a. 435; 1991 a. 39; 1993 a. 373; 1995 a. 27 ss. 2408, 9130 (4); 1997 a. 3, 112.

47.02 Vocational rehabilitation. (1) The state agrees to accept the provisions of 29 USC 701 to 796i, the rehabilitation act of 1973 as amended, and the provisions of 34 CFR 300 to 399 to carry out the purposes of the act and to adopt methods of administering the vocational rehabilitation program which will maximize federal participation. The department shall sign agreements with the federal government under 29 USC 701 to 796i to provide vocational rehabilitation services.

(1m) The department may cooperate with the federal government in carrying out federal acts concerning vocational rehabilitation.

(2) This section only applies to persons with disabilities and persons with severe disabilities except that each person has a right to be evaluated by the department to determine whether the person is a person with a disability.

(3m) The department shall:

(a) Make vocational rehabilitation services under this chapter available in every county to all persons with disabilities who are present in the state, regardless of residency.

(b) Provide that persons with severe disabilities will receive priority for services under this chapter.

(c) 1. Advise and assist any person with a disability who applies to the department concerning his or her rehabilitation.

2. Provide full and prompt consultation with, and preliminary diagnostic study for, each person who applies for vocational rehabilitation services to determine if a vocational rehabilitation plan is feasible.

3. Acquaint each person for whom a vocational rehabilitation program is feasible with the vocational rehabilitation services available under this chapter, counsel the person concerning selection of a suitable vocation, assist the person in identifying vocational needs and provide the services necessary for vocational rehabilitation.

4. Register and keep records for each person with a disability who uses the vocational rehabilitation services provided under this chapter.

(d) Provide medical or other evaluations at no cost to the applicant to determine the applicant's eligibility for vocational rehabilitation services under this chapter.

(e) Provide assessment and evaluation services appropriate to each individual, develop an individualized written rehabilitation program with each person with a disability and develop and supervise services that are part of the vocational rehabilitation program of any person with a disability.

(f) Assure that eligibility for vocational rehabilitation services under this chapter is determined without regard to sex, race, age, creed, color, or national origin of the individual applying for services, that no class of individuals is found ineligible solely on the basis of type of disability and that no age limitations for eligibility exist which, by themselves, would result in ineligibility for vocational rehabilitation services.

(g) Aid persons with disabilities in securing the services needed to make them more employable, place persons with disabilities in suitable occupations and provide postemployment services, as defined in the rehabilitation program developed under par. (e) of a person with a disability, necessary to maintain employment.

(h) Consider the views of persons who receive vocational rehabilitation services or their parents, guardians or legal custodians and of vocational rehabilitation professionals and providers of vocational rehabilitation services concerning general policy administration of the department's vocational rehabilitation program.

(i) Provide vocational rehabilitation services to blind and visually impaired persons, appropriate to each individual.

(j) Maintain current records and statistics on all blind and visually impaired persons in the state concerning vocational rehabilitation, rehabilitation teaching and other departmental services provided and the results achieved in order to plan its services to blind and visually impaired persons.

(k) Maintain a cooperative relationship with counties to assist in administering and providing uniform services to blind and visually impaired persons throughout the state, to prevent duplication of effort and to ensure that blind and visually impaired persons receive adequate services.

(L) Promote the establishment of local resources for the vocational rehabilitation of persons with disabilities.

(m) Except as provided in par. (n), determine the financial need of persons with disabilities based upon a uniform fee schedule as provided under s. 46.03 (18) for the provision or purchase of vocational rehabilitation services specified in the rehabilitation program developed under par. (e) of the person with a disability.

(n) Assure that no financial needs test is applied as a condition for the provision of counseling, guidance, referral and job placement services. Those services shall be provided at no cost to persons determined eligible for services under this chapter.

(o) Report to the federal department of education as required in 29 USC 721 (a) (10).

(5) Any person aggrieved by a determination of eligibility or ineligibility for vocational rehabilitation services or by the furnishing or denial of vocational rehabilitation services may commence an appeal as provided under rules promulgated by the department.

(6) The department may:

(a) From the appropriation under s. 20.445 (5) (a), provide financial aid to any person with a disability who is receiving vocational rehabilitation training and who has no other source of aid.

(b) Accept gifts, grants and donations to be used for the purposes of this chapter. The department shall deposit all moneys received under this paragraph in the appropriation under s. 20.445 (5) (i).

(c) Provide personal assistance services to any person with a disability through county departments of human services or social services under s. 46.215, 46.22 or 46.23, aging units as defined in s. 46.82 (1) (a) or other persons.

(7) (a) Except as provided in par. (b), no person may disclose any information concerning any person who applies for or receives vocational rehabilitation services without the consent of the person except when necessary for the administration of this chapter or to carry out a person's rehabilitation plan developed pursuant to this chapter. The department shall promulgate rules to administer this subsection.

(b) 1. Paragraph (a) does not prohibit disclosing information of a summary or statistical nature.

2. Any person who has applied for or received vocational rehabilitation services may obtain access to his or her records under rules promulgated by the department.

(c) Any person who violates this subsection or a rule promulgated under this subsection shall be fined not more than $500 or imprisoned not more than 6 months or both.

History: 1983 a. 435; 1991 a. 178; 1993 a. 373; 1995 a. 27; 1997 a. 112; 1999 a. 82 ss. 4 to 20; 2003 a. 33; 2013 a. 20; 2015 a. 55.

Cross−reference: See also chs. DWD 65, 68, and 75, Wis. adm. code.

47.03 Specialized programs for persons with disabilities. (2) The department may accept gifts, grants and donations to be used for the purposes of this section. The department shall deposit all moneys received as gifts, grants and donations in the appropriation under s. 20.445 (5) (i).

(3) (a) No person may advertise any product as being blind−made or sell or distribute any product that is advertised as being blind−made unless at least 75 percent of the labor involved in creating the product was performed by blind or visually impaired persons. Work involving the preparation, processing, assembling or packing of a product shall be included in calculating the total labor involved in creating the product, while work involving supervision, administration, inspection, shipping or the production of materials from which a finished product is created shall be excluded from the calculation.

(b) The department shall offer to manufacturers and sellers of blind−made products labels which indicate that a product was made by blind persons. The labels shall be sold at a price that defrays the cost of producing or purchasing the labels.

(c) The department shall investigate each complaint concerning a violation of this subsection and shall refer each complaint that it finds justified to the district attorney of the county in which the alleged violation occurred for prosecution.

(d) Any person who violates this subsection shall be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(4) (a) The department shall establish a supervised business enterprise program for blind persons in which the department owns, leases, manages, supervises, provides consultative services to or operates businesses for the benefit of blind persons, with the ultimate objective of enabling blind persons to operate their own businesses. The department shall offer blind persons first right to operate these businesses.

(b) The department may charge a portion of the expenses of its supervised business enterprise program to the net proceeds of each business operating under the program. The department shall establish the procedure for setting these charges by rule, with the participation of a committee of blind vendors established under 20 USC 107b−1. The department shall deposit the moneys from the charges made under this paragraph in the appropriation accounts under s. 20.445 (5) (h) and (he).

(c) The department may sell equipment and stock at a fair value, based on condition and serviceability, to any blind person who operates a business under this subsection if all of the following conditions are met:

1. The person can pay for the purchase.

2. The person has received permission from the building manager to use the building in which the business is located.

3. The person has competently operated the business under departmental supervision for at least one year. The department shall define "competently operated" by rule.

(d) If the department sells equipment or stock to a blind person under par. (c), the purchaser shall:

1. Keep the property in good repair and replace worn−out or obsolete equipment.

2. Furnish written reports containing all information the department requires at times specified by the department.

3. Operate the business in accordance with this section and with 20 USC 107 to 107f.

(e) If the department sells equipment or stock to a blind person under par. (c), the bill of sale shall give the department the first right to repurchase the business and its assets if the blind person resells the business or dies. The department's repurchase shall be at a fair value, based on condition and serviceability, but the department may only exercise its right to repurchase within 90 days after it receives notice of the blind person's intention to resell the business or of the blind person's death. The bill of sale shall also require the purchaser to resell the business and its assets to the department at a fair value, based on condition and serviceability, if the purchaser fails to operate the business in accordance with the bill of sale, with this section or with 20 USC 107 to 107f. If the department repurchases a business under this paragraph it shall offer the right to operate the business as provided in par. (a).

(5) The department shall establish and maintain businesses under sub. (4) in state buildings if the department finds that a business would be feasible and profitable.

(6) If no blind person is available to operate a business established under sub. (4), the department may operate the business until a blind operator is available.

(7) If the department decides that a business under sub. (4) would not be feasible and profitable in any state building, the department may contract with vending machine operators to install vending machines in the building, giving preference to

blind operators of vending machines. The department may, under the procedures established as required under sub. (4) (b), charge the net proceeds of each business operating under this subsection. The department shall deposit the moneys from the charges made under this subsection in the appropriation account under s. 20.445 (5) (h) and shall disburse the proceeds to provide services to blind persons under sub. (4) in accordance with 20 USC 107 to 107f.

(8) A blind person participating in the supervised business enterprise program who is aggrieved by an act or omission of the department may commence a grievance proceeding under rules promulgated by the department.

(9) The council on blindness shall make recommendations to the department and to any other state agency concerning procedures, policies, services, activities, programs, investigations and research that affect any problem of blind or visually impaired persons. The department shall consult with the council concerning its programs that affect blind or visually impaired persons; the council may initiate consultations with the department. Upon request the department shall provide information to the council relating to matters concerning blind or visually impaired persons, but only information of a summary or statistical nature.

(11) (a) The department shall provide services, including vocational training and a supervised business initiatives program for persons with severe disabilities who are eligible for vocational rehabilitation services. Under this subsection, the department may own, lease, manage, supervise or operate businesses for the benefit of persons with severe disabilities, with the ultimate objective of enabling persons with severe disabilities to operate their own businesses.

(b) The department may charge a portion of the expenses of its supervised business initiatives program to each business operating under the program. The department shall establish by rule the formula for its charges under this paragraph.

History: 1983 a. 435; 1985 a. 29, 266; 1987 a. 27; 1989 a. 31; 1991 a. 39, 178; 1993 a. 16; 1995 a. 27; 1997 a. 27, 36, 112, 283; 2001 a. 109; 2003 a. 33; 2011 a. 32.

Cross−reference: See also ch. DWD 60, Wis. adm. code.

47.035 Fiscal agents for persons with disabilities. **(1)** Except as authorized in sub. (2) if an individual receives direct funding for personal assistance services that are provided to the individual under s. 47.02 (6) (c), and the services are provided through a county department of human services or social services or an aging unit, the county department or aging unit through which the services are provided shall serve directly as a fiscal agent or contract with a fiscal intermediary to serve as a fiscal agent for that individual for the purposes of performing the responsibilities and protecting the interests of the individual under the unemployment insurance law. The fiscal agent under this subsection is responsible for remitting any federal unemployment compensation taxes or state unemployment insurance contributions owed by the individual, including any interest and penalties which are owed by the individual; for serving as the representative of the individual in any investigation, meeting, hearing or appeal involving ch. 108 or the federal unemployment tax act (26 USC 3301 to 3311) in which the individual is a party; and for receiving, reviewing, completing and returning all forms, reports and other documents required under ch. 108 or the federal unemployment tax act on behalf of the individual.

(2) An individual may make an informed, knowing and voluntary election to waive the right to a fiscal agent under sub. (1). The waiver may be as to all or any portion of the fiscal agent's responsibilities. The waiver may be rescinded in whole or in part at any time.

History: 1993 a. 373; 1997 a. 39, 112; 1999 a. 82.

47.04 Contractual services. The department may contract with nongovernmental agencies to provide the agencies vocational rehabilitation services.

History: 1985 a. 29.