

1 **CHAPTER 856. VOCATIONAL REHABILITATION SERVICES**

2
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**
6 **OF STATE.**

7
8 The Texas Workforce Commission (TWC) adopts amendments to the following sections of
9 Chapter 856, relating to Vocational Rehabilitation Services:

- 10 Subchapter A. Vocational Rehabilitation Services: Program and Purpose, §856.1 and
- 11 §856.3
- 12 Subchapter B. Eligibility, §§856.20, 856.40, 856.41, 856.45, 856.50, 856.52, 856.53, and
- 13 856.56
- 14 Subchapter C. Provision of Vocational Rehabilitation Services, §856.57
- 15 Subchapter D. Customer Participation, §856.59
- 16 Subchapter E. Comparable Benefits, §856.71
- 17 Subchapter G. Criss Cole Rehabilitation Center, §856.84

18
19
20 The amendments to §§856.1, 856.3, 856.20, 856.40, 856.41, 856.45, 856.50, 856.56, 856.59,
21 856.71, and 856.84 are adopted *without changes* to the proposed text as published in the
22 September 2, 2022, issue of the *Texas Register* (47 TexReg 5314), and, therefore, the adopted
23 rule text will not be published. The amendments to §§856.52, 856.53, and 856.57 are adopted
24 *with changes* to the proposed text as published and the adopted rule text will be published.

25
26 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

27 On October 17, 2017, TWC adopted rules under 40 TAC Chapter 856 to align with the
28 integration of TWC, Vocational Rehabilitation (VR) Services, and Blind Services. Further
29 amendments to Chapter 856 were adopted on July 31, 2018, to incorporate the Criss Cole
30 Rehabilitation Center.

31
32 The amendments to Chapter 856 are adopted to address stakeholder comments, clarify existing
33 rules, improve consistency with federal regulations, and increase efficiency of program
34 operations.

35
36 Texas Government Code, §2001.039 requires that every four years each state agency review and
37 consider for readoption, revision, or repeal each rule adopted by that agency. TWC conducted a
38 rule review of Chapter 856 and determined that the rules are needed, reflect current legal and
39 policy considerations, and reflect current TWC procedures. The reasons for initially adopting the
40 rules continue to exist and any changes to the rules are described in Part II of this preamble.

41
42 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

43 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
44 therefore, are not discussed in the Explanation of Individual Provisions.)

1 **SUBCHAPTER A. PROGRAM AND PURPOSE**

2 TWC adopts the following amendments to Subchapter A:

3
4 **§856.1. Purpose**

5 Section 856.1 is amended to add additional language to better align with Workforce Innovation
6 and Opportunity Act.

7
8 **§856.3. Definitions**

9 Section 856.3 is amended to add definitions for "academic training" and "vocational
10 rehabilitation counselor."

11
12 **SUBCHAPTER B. ELIGIBILITY AND PROVISION OF SERVICES**

13 TWC adopts the following amendments to Subchapter B:

14
15 The subchapter title is amended from "Eligibility" to "Eligibility and Provision of Services" to
16 better describe the subchapter's content.

17
18 **§856.20. Eligibility**

19 Section 856.20 is amended to include additional language to better align with 34 Code of Federal
20 Regulations (CFR) §361.42.

21
22 **§856.40. Provision of Goods and Services**

23 Section 856.40 is amended to change the section name from "Provision of Services" to
24 "Provision of Goods and Services" to better describe the section's content.

25
26 Section 856.40 is amended to include additional language to better align with 34 CFR §361.45.

27
28 **§856.41. Comprehensive Assessment**

29 Section 856.41 is amended to clarify the criteria used for comprehensive assessments and to
30 clarify that certain types of assessments are not mandatory but are completed as appropriate to
31 identify VR needs and determine the services necessary to meet the customer's employment goal.

32
33 **§856.45. Vocational and Other Training Services**

34 Section 856.45 is amended to clarify that training at a vocational or technical school is not
35 required to occur in Texas, to clarify exceptions for Supplemental Security Income (SSI) or
36 Social Security Disability Insurance (SSDI) recipients, and to remove current §856.45(c)(9) as
37 this was added in the "academic training" definition, as well as §856.45(e), which precludes the
38 Vocational Rehabilitation Division (VRD) from paying tuition and fees to a business, technical,
39 or vocational school above the published fees.

40
41 **§856.50. Post-Employment Services**

42 Section 856.50 is amended to better align with 34 CFR §361.5(c)(41).

43
44 **§856.52. Individualized Plan for Employment**

45 Section 856.52 is amended to increase efficiency in customer notifications.

1 At adoption, §856.52(m) is added to include that VRD provides services in the most integrated
2 setting that is appropriate for the services involved and is consistent with the informed choice of the
3 eligible individual. The subsequent subsections are relettered accordingly.
4

5 **§856.53. Customers Determined to Have Achieved Employment Outcome**

6 Section 856.53(b) is not removed as proposed. At adoption, §856.53(b) is retained and amended
7 to clarify that the customer is informed by VRD of the availability of post-employment services.
8

9 **§856.56. Assistive Technology Devices**

10 Section 856.56 is amended to remove the reference to cost.
11

12 **SUBCHAPTER C. RATES FOR MEDICAL SERVICES**

13 TWC adopts the following amendments to Subchapter C:
14

15 The subchapter title is amended from "Provision of Vocational Rehabilitation Services" to "Rates
16 for Medical Services" to better describe the subchapter's content.
17

18 **§856.57. Alternative Purchasing Methods - Rates for Medical Services**

19 Section 856.57 is amended to increase efficiency in the process of establishing rates for medical
20 services by adding that TWC's executive director or deputy executive director may establish the
21 rates annually based on the standards adopted by TWC's three-member Commission
22 (Commission). Section 856.57 is also amended to include the process for providing the notice of
23 the proposed schedule of rates for public comment.
24

25 At adoption, §856.57(5) is amended to allow exceptions to established Maximum Affordable
26 Payment Schedule (MAPS) rates on a case-by-case basis by VR counselor and exceptions
27 contrary to the Agency's medical director's or optometric consultant's recommendation require
28 approval by the VRD deputy director or VRD director.
29

30 **SUBCHAPTER D. CUSTOMER PARTICIPATION**

31 TWC adopts the following amendments to Subchapter D:
32

33 **§856.59. Purpose of Customer Participation**

34 Section 856.59 is amended to clarify that customers may need to participate in the cost of
35 services based on their financial need unless the customer is a recipient of Social Security
36 benefits, either SSI or SSDI.
37

38 **SUBCHAPTER E. COMPARABLE BENEFITS**

39 TWC adopts the following amendments to Subchapter E:
40

41 **§856.71. Availability of Comparable Services and Benefits**

42 Section 856.71 is amended to include additional language to better align with 34 CFR
43 §361.53(a)(1).
44

45 **SUBCHAPTER G. CRISS COLE REHABILITATION CENTER**

46 TWC adopts the following amendments to Subchapter G:

1
2 **§856.84. Initial Eligibility**

3 Section 856.84 is amended to remove the requirement that a customer is a Texas resident.
4

5 **PART III. PUBLIC COMMENTS**

6 The public comment period closed on October 3, 2022. TWC received comments from Disability Rights
7 Texas (DRTx) and one individual.
8

9 **General Comment**

10
11 **COMMENT:** An individual commented in support of the proposed rule amendments.
12

13 **RESPONSE:** The Commission appreciates the support.
14

15 **§856.45. Vocational and Other Training Services**

16
17 **COMMENT:** DRTx recommended that all customers who are below the basic living
18 requirement be exempt from all training tuition costs and additional fees.
19

20 **RESPONSE:** TWC is in compliance with the applicable federal regulations on financial
21 needs tests. TWC's policy allows for exceptions for customers not receiving SSI or SSDI,
22 who are below the basic living requirement, and who have a financial hardship or other
23 extenuating circumstances.
24

25 No changes were made in response to the comment.
26

27 **§856.52. Individualized Plan for Employment**

28
29 **COMMENT:** DRTx recommended adding the requirements of 34 CFR §361.46(a)(3)
30 and (4) and (b)(4) - (7) for an IPE to §856.52.
31

32 **RESPONSE:** The Commission agrees with including the requirement in 34 CFR
33 §361.46(a)(3) and, at adoption, added §856.52(m) to include that VRD provides services
34 in the most integrated setting that is appropriate for the services involved and is consistent
35 with the informed choice of the eligible individual.
36

37 The requirements in 34 CFR §361.46(a)(4) and (b)(4) - (7) are not included because
38 current §856.52(g) indicates that data used to prepare the IPE must include the
39 information necessary to satisfy federal requirements.
40

41 **§856.53. Customers Determined to Have Achieved Employment Outcome**

42
43 **COMMENT:** DRTx recommended amending proposed §856.53 to state the customer
44 should be informed of post-employment services prior to closing the VR case.
45

46 **RESPONSE:** At adoption the Commission retained §856.53(b) and amended the

1 subsection to clarify that the customer is informed by VRD of available post-employment
2 services.
3

4 **§856.57. Alternative Purchasing Methods - Rates for Medical Services**
5

6 **COMMENT:** DRTx recommended changing the authority to make exceptions to MAPS
7 rates to the VRD director or designated VRD staff, because a medical director or
8 optometric consultant does not have the authority to grant such exceptions.
9

10 **RESPONSE:** At adoption, the Commission amended §856.57(5) to allow exceptions to
11 established MAPS rates on a case-by-case basis by a VR counselor and exceptions
12 contrary to TWC's medical director's or optometric consultant's recommendation require
13 approval by the VRD deputy director or VRD director.
14

15 **§856.59. Purpose of Customer Participation**
16

17 **COMMENT:** DRTx recommended that all customers who are below the basic living
18 requirement be exempt from all cost of VR services.
19

20 **RESPONSE:** TWC is in compliance with the applicable federal regulations on financial
21 needs tests. TWC's policy allows for exceptions for customers not receiving SSI or SSDI,
22 who are below the basic living requirement, and who have a financial hardship or other
23 extenuating circumstances.
24

25 No changes were made in response to the comment.
26

27 **PART IV. STATUTORY AUTHORITY**

28 The rules are adopted under Texas Labor Code, Chapter 352 and Texas Human Resources Code,
29 Chapter 111, which provide TWC with the authority to adopt, amend, or repeal such rules as it
30 deems necessary for the effective administration of vocational rehabilitation services.
31

32 The adopted rules affect Texas Human Resources Code, Chapter 111, and Texas Labor Code,
33 Chapter 352.
34

1 CHAPTER 856. VOCATIONAL REHABILITATION SERVICES

2
3 SUBCHAPTER A. ~~VOCATIONAL REHABILITATION SERVICES~~: PROGRAM AND
4 PURPOSE

5
6 §856.1. Purpose.

7
8 The Vocational Rehabilitation Services Program is a joint state- and federal-funded
9 program administered by the ~~Agency's Texas Workforce Commission (TWC)~~, Vocational
10 Rehabilitation Division (VRD) to assess, plan, develop, and provide vocational
11 rehabilitation services for eligible individuals with disabilities, consistent with their
12 unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and
13 informed choice so that these individuals can prepare for and engage in competitive
14 integrated employment and achieve economic self-sufficiency. The Vocational
15 Rehabilitation Services Program seeks to empower individuals with disabilities to
16 maximize employment, economic self-sufficiency, independence, and inclusion in and
17 integration into society. In accordance with the Rehabilitation Act of 1973, as amended,
18 ~~VRD the Vocational Rehabilitation Division~~ is the single designated state unit for the
19 Vocational Rehabilitation Services Program ~~VR program~~.

20
21 §856.3. Definitions.

22
23 In addition to the definitions contained in Texas Labor Code, §352.001 and 34 Code of
24 Federal Regulations ~~CFR~~ §361.5 ~~vocational rehabilitation~~, the following words and terms,
25 when used in this chapter, shall have the following meanings.

26
27 (1) Academic training--A postsecondary program of organized instruction or study
28 that may lead to an academic, professional, or vocational degree, certificate, or
29 other recognized educational credential. Academic training does not include
30 continuing education required for maintaining certification in a field in which
31 the customer is already gainfully employed.

32
33 (2)(+) Applicant--An individual who applies to the Vocational Rehabilitation
34 Division ~~VRD~~ for vocational rehabilitation services.

35
36 (3)(-) Blind--An individual having not more than 20/200 visual acuity in the better
37 eye with correcting lenses or visual acuity greater than 20/200 but with a
38 limitation in the field of vision such that the widest diameter of the visual field
39 subtends an angle no greater than 20 degrees.

40
41 (4)(3) Customer--An individual with a disability who has applied for or is
42 receiving vocational rehabilitation services.

43
44 (5)(4) Visually Impaired--A visual acuity of not more than 20/70 in the better eye
45 with correcting lenses, or visual acuity greater than 20/70 but with a limitation
46 in the field of vision such that the widest diameter of the visual field subtends

1 an angle no greater than 30 degrees.

2
3 (6) Vocational rehabilitation counselor--An Agency employee who is trained to
4 provide vocational guidance and counseling and meets the minimum
5 qualifications designated in a functional job description.
6

7 **SUBCHAPTER B. ELIGIBILITY AND PROVISION OF SERVICES**

8
9 **§856.20. Eligibility.**

- 10
11 (a) The Vocational Rehabilitation Division (VRD) bases eligibility for vocational
12 rehabilitation (VR) services on the following requirements only.
13
14 (b) Within 60 days of application, a VR counselor~~VRD~~ must:
15
16 (1) determine that the applicant has a physical or mental impairment;
17
18 (2) determine that the impairment constitutes or results in a substantial
19 impediment to employment for the applicant;
20
21 (3) establish that the applicant requires VR services to prepare for, secure~~enter,~~
22 ~~engage in, or~~ retain, advance in, or regain~~gainful~~ employment that is consistent
23 with the applicant's unique strengths, resources, priorities, concerns, abilities,
24 capabilities, interests, and informed choice; and
25
26 (4) presume that the applicant is capable of achieving an employment outcome;
27 unless there is a demonstration by clear and convincing evidence in trial work
28 that the applicant is incapable of achieving an employment outcome because of
29 the severity of the applicant's disability.
30
31 (c) Social Security disability recipients and beneficiaries are presumed eligible for VR
32 services; unless there is a demonstration by clear and convincing evidence in trial
33 work that the applicant is incapable of achieving an employment outcome because of
34 the severity of the applicant's disability.
35
36 (d) Eligibility or ineligibility must be determined no later than 60 days after the
37 applicant, or the applicant's representative, as appropriate, has signed and submitted
38 an application for VR services in accordance with the provisions of §856.19 of this
39 subchapter (relating to Application).
40
41 (e) Exceptions to the 60-day time frame for determining eligibility or ineligibility may
42 occur only when:
43
44 (1) VRD notifies the applicant that unforeseen circumstances beyond the control
45 of VRD preclude it from completing the determination in 60 days;
46

- (2) the applicant, or the applicant's representative, as appropriate, agrees to a specific extension of time; or
- (3) VRD requires further time exploring an applicant's abilities, capabilities, and capacity to perform in work situations through trial work.

(f) Eligibility must be determined before applying Subchapter F of this chapter ([relating to Methods of Administration of Vocational Rehabilitation](#)), if appropriate, (~~relating to Methods of Administration of Vocational Rehabilitation~~) and Subchapter D of this chapter (relating to Customer Participation).

§856.40. Provision of [Goods and Services](#).

- (a) ~~The Vocational Rehabilitation Division~~VRD, as appropriate to the vocational rehabilitation needs of each eligible individual, provides goods and services necessary to render a customer employable, subject to certain limitations prescribed in this subchapter and Subchapters D and E of this chapter (relating to Customer Participation; and Comparable Benefits).
- (b) Services are provided only as planned in advance and set forth in the customer's individualized plan for employment (IPE). [The IPE must be designed to achieve a specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.](#)

§856.41. Comprehensive Assessment.

- (a) After a customer has been ~~determined~~found eligible [for vocational rehabilitation services, the Vocational Rehabilitation Division \(VRD\)](#) conducts assessments [using the criteria in subsection \(b\) of this section](#) for vocational rehabilitation needs and, if necessary, rehabilitation technology needs for each customer in order to develop an [individualized plan for employment \(IPE\)](#) that is designed to achieve the customer's employment outcome.
- (b) ~~To~~~~If more information is needed to~~ determine the appropriate employment outcome and services required to achieve it, VRD, as appropriate in each case, [may conduct](#)~~conducts~~ an assessment of the customer's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and needs, including the need for supported employment services, in the most integrated setting possible, consistent with the informed choice of the customer.
- (c) The assessment is limited to information that is necessary to identify the customer's rehabilitation needs and develop the IPE and may, to the extent needed, include:
 - (1) an analysis of medical, psychological, vocational, educational, and other related factors that bear on the customer's impediment to employment

1 and rehabilitation needs. Additional examinations are authorized after
2 services are initiated when conditions arise that jeopardize the customer's
3 IPE;

- 4
- 5 (2) an analysis of the customer's personality, career interests, interpersonal
6 skills, intelligence and related functional capacities, educational
7 achievement, work experience, vocational aptitudes, personal and social
8 adjustments, and employment opportunities;
- 9
- 10 (3) an appraisal of the customer's patterns of work behavior and services
11 needed to acquire occupational skills and to develop work attitudes,
12 work habits, work tolerance, and social and behavioral patterns suitable
13 for successful job performance; and
- 14
- 15 (4) an assessment, through provision of rehabilitation technology services,
16 of the customer's capacities to perform in a work environment, including
17 in an integrated setting, to the maximum extent feasible and consistent
18 with the customer's informed choice.
- 19

- 20 (d) VRD uses, to the maximum extent possible and appropriate and in accordance with
21 confidentiality requirements, existing information, including information that is
22 provided by the customer, the family of the customer, and education agencies.
- 23

24 **§856.45. Vocational and Other Training Services.**

25

- 26 (a) [The Vocational Rehabilitation Division \(VRD\)](#) purchases vocational and other
27 training services for customers who require additional knowledge or skills to enter
28 employment consistent with their aptitudes and ability, and compatible with their
29 physical or mental impairments.
- 30
- 31 (b) VRD purchases vocational and other training services through an appropriate
32 facility. These facilities include accredited colleges and universities, certified public
33 or private businesses, technical and vocational schools, on-the-job training,
34 correspondence course training, tutorial training, and community rehabilitation
35 program training.
- 36
- 37 (c) Academic training in institutions of higher education (universities, colleges,
38 community or junior colleges, vocational schools, technical institutes, or hospital
39 schools of nursing) is subject to the following:
- 40
- 41 (1) Academic training in [proprietary](#) vocational schools and technical
42 institutes must be provided only in schools that are [licensed or certified](#)
43 [by the Agency on the Licensed Career Schools and Colleges Directory](#)
44 [website, the Eligible Training Provider System website, or another](#)
45 [regulatory agency, before including the training on the individualized](#)
46 [plan for employment](#)~~certified by the State of Texas.~~

- 1
- 2 (2) No vocational rehabilitation ([VR](#)) funds may be used to pay for
- 3 academic training unless VRD and the customer have made maximum
- 4 efforts to secure grant assistance in whole or in part from other sources
- 5 to pay for the training.
- 6
- 7 (3) The PELL grant, like any other comparable services and benefits, must
- 8 be applied to the educational process before the expenditure of VRD
- 9 funds for services under this section. Services must not be denied
- 10 pending receipt of a PELL grant, but must be contingent upon the
- 11 customer's making application if eligible.
- 12
- 13 (4) Academic training must be provided through public, tax-supported
- 14 colleges and universities in Texas unless:
- 15
- 16 (A) a specific curriculum related to the customer's academic major is
- 17 not available at a Texas public institution;
- 18
- 19 (B) academic training elsewhere is determined to be more economical;
- 20 or
- 21
- 22 (C) academic training elsewhere provides specialized services needed
- 23 by the customer.
- 24
- 25 (5) If the customer chooses to obtain academic training at a private college
- 26 or university in Texas or at a college or university outside Texas and the
- 27 provisions in paragraph (4) of this subsection do not apply, academic
- 28 support must be limited to that which the customer would receive if he
- 29 or she attended a state-supported college or university in Texas, [unless](#)
- 30 [the customer is a recipient of Social Security benefits, either](#)
- 31 [Supplemental Security Income \(SSI\) or Social Security Disability](#)
- 32 [Insurance \(SSDI\).](#)
- 33
- 34 (6) A customer who is blind, does not meet the residency requirements of a
- 35 particular institution, and is not eligible for tuition exemption under
- 36 Texas Education Code, §54.364 may receive VRD tuition assistance
- 37 based on the customer's economic need. [Unless the customer is a](#)
- 38 [recipient of Social Security benefits, either SSI or SSDI, but the](#)
- 39 payments must not exceed the tuition paid for a customer who does meet
- 40 the residency requirements.
- 41
- 42 (7) Tuition and fee exemption is an exemption from payment of tuition
- 43 and/or required fees normally charged by a state-supported college or
- 44 university. Required fees include student services, building use, health
- 45 center use, lab fees, and property deposits not reimbursable to the
- 46 student. Required fees do not include optional fees.

1
2 (8) Any equipment purchased for the customer during academic training
3 must be needed by the customer to help maintain academic success so
4 that the customer can meet the employment outcome.
5

6 ~~(9) Academic training does not include continuing education required for~~
7 ~~maintaining certification in a field in which the customer is already~~
8 ~~gainfully employed.~~
9

10 (9)(10) Once admitted to academic training:

11
12 (A) the customer must maintain and complete a full-time course load as
13 defined by the school or educational institution~~college or university~~.
14 This requirement may be waived if:

15
16 (i) the customer is a graduating senior;

17
18 (ii) the customer is an incoming freshman (first two semesters or
19 quarters);

20
21 (iii) the customer is a returning adult (first academic year only);

22
23 (iv) the customer is in summer school; or

24
25 (v) other extenuating circumstances prevent the customer from
26 participating in a full-time course load; and
27

28 (B) the customer is required to meet with the VR counselor at least once
29 each semester, to submit add or drop slips as changes occur, and to
30 provide grade slips or transcripts to the VR counselor at the end of
31 each semester.
32

33 (d) VRD requires that each customer who is provided with vocational or other training
34 services by VRD apply for financial assistance where reasonably available. This
35 assistance can include federal, state, or local grants-in-aid and private scholarships
36 where applicable. If the customer has not done so before the time of application for
37 vocational rehabilitation services, the VR counselor assists the customer in doing so.
38

39 ~~(e) VRD does not pay tuition and fees to a business, technical, or vocational school in~~
40 ~~excess of the published fees.~~
41

42 §856.50. Post-Employment Services.

43
44 (a) The Vocational Rehabilitation Division~~VRD~~ may provide post-employment services
45 to customers ~~who have been determined rehabilitated~~ in order to maintain or
46 strengthen the customer's employment. A customer may be considered for post-

1 employment services if he or she has an employment-related problem that does not
2 entail a complex rehabilitation effort or address a new and distinct substantial
3 impediment to employment.
4

- 5 (b) Post-employment services are services that are necessary for the customer to
6 maintain, regain, or advance in an employment outcome that is consistent with the
7 customer's strengths, resources, priorities, concerns, abilities, capabilities, interests,
8 and informed choice.

9
10 ~~(c) Post-employment services must be related to the previously planned employment~~
11 ~~outcome.~~
12

13 **§856.52. Individualized Plan for Employment.**

- 14
15 (a) [The Vocational Rehabilitation Division \(VRD\)](#) initiates and continuously develops an
16 individualized plan for employment (IPE) for each individual eligible for vocational
17 rehabilitation ([VR](#)) services and for each individual being provided such services in
18 trial work. All IPEs must be written using the form prescribed by VRD for this
19 purpose.
20
- 21 (b) VRD advises the customer or, the customer's parent, guardian, or other
22 representative, as appropriate, of the customer's options and all VRD procedures and
23 requirements affecting the development and review of an IPE, including the
24 availability of special modes of communication.
25
- 26 (c) The VR counselor and customer or, as appropriate, the customer's parent, guardian,
27 or other representative, uses information obtained during the assessment to help the
28 customer make informed choices about ~~VR~~[vocational rehabilitation](#) needs,
29 employment outcome, intermediate rehabilitation objectives, and the nature and
30 scope of ~~VR~~[vocational rehabilitation](#) services and the service providers to be
31 included in the IPE.
32
- 33 (d) The VR counselor must provide the customer or, as appropriate, the customer's
34 representative, with a copy of the IPE and its amendments, in the mode of
35 communication specified by the customer or representative.
36
- 37 (e) All substantive revisions necessary to reflect changes in the customer's employment
38 outcome, specific ~~VR~~[vocational rehabilitation](#) services, service providers, and the
39 methods used to procure services must be incorporated into the customer's IPE.
40
- 41 (f) The customer may develop all or part of the IPE with assistance from the ~~VRD~~-VR
42 counselor, a qualified [vocational rehabilitation](#)~~VR~~ counselor not employed by VRD,
43 or another resource outside VRD. VRD does not pay for non-VRD assistance with
44 IPE development. The IPE is not final until approved by the ~~VRD~~-VR counselor. A
45 copy of the plan and any amendments are provided to the customer or the customer's
46 parent, guardian, or other representative, as appropriate.

- 1
2 (g) The data used to prepare the IPE must include the information necessary to satisfy
3 federal requirements and to adequately document the customer's plan of services.
4 Regardless of the approach selected by the customer to develop the IPE, the IPE
5 must, at a minimum, contain the following mandatory components:
6
7 (1) a description of the customer's specific employment outcome;
8
9 (2) a description of the specific ~~VR~~ ~~vocational rehabilitation~~ services that are
10 needed to achieve the employment outcome, including, as appropriate, the
11 provision of assistive technology devices and assistive technology services;
12 personal assistance services, including training in the management of those
13 services; and timelines for initiating the services and for achieving the
14 employment outcome;
15
16 (3) a description of the entity chosen by the customer or, as appropriate, the
17 customer's representative, that will provide the ~~VR~~ ~~vocational rehabilitation~~
18 services, and the methods used to procure the services;
19
20 (4) a description of criteria to evaluate progress toward achievement of the
21 employment outcome;
22
23 (5) the terms and conditions of the IPE, including, as appropriate, information
24 describing:
25
26 (A) VRD responsibilities; and
27
28 (B) customer responsibilities, including:
29
30 (i) the customer's responsibilities related to his or her employment
31 outcome;
32
33 (ii) if applicable, the customer's participation in paying for the costs of
34 the plan;
35
36 (iii) the customer's responsibility to apply for and secure comparable
37 benefits; and
38
39 (iv) the responsibilities of other entities resulting from arrangements
40 made under comparable services or benefits;
41
42 (6) for a customer with the most significant disabilities for whom an employment
43 outcome in a supported employment setting has been determined to be
44 appropriate, information identifying:
45
46 (A) the extended services that the customer needs; and

1
2 (B) the source of extended services or, if the source of the extended services
3 cannot be identified at the time that the IPE is developed, a description of
4 the basis for a reasonable expectation that a source will become
5 available; and
6

7 (7) as determined to be necessary, a statement of projected need for post-
8 employment services.
9

10 (h) In developing an IPE for a student with a disability who is receiving special
11 education services, VRD must consider the student's individualized education
12 program.
13

14 (i) The VR counselor must advise the customer of the customer's rights and the means
15 by which the customer may express and seek remedy for dissatisfaction with the
16 plan, including the opportunity for an administrative review of VRD action and a fair
17 hearing in accordance with the Administrative Procedure Act, Texas Government
18 Code, Chapter 2001, and the rules in Chapter 850 of this title (relating to Vocational
19 Rehabilitation Services Administrative Rules and Procedures).
20

21 (j) The VR counselor reviews the IPE as often as necessary, but on at least an annual
22 basis, at which time the customer or the customer's parent, guardian, or other
23 representative, as appropriate, is afforded an opportunity to review the plan and, if
24 necessary, jointly redevelop its terms.
25

26 (k) The IPE is a joint commitment that must be signed by both the VR counselor and the
27 customer.
28

29 (l) VRD may provide only goods and services that are reasonable and necessary to
30 achieve the employment outcome identified in the customer's IPE~~customer IPEs~~.

31
32 (m) VRD provides services in the most integrated setting that is appropriate for the
33 services involved and is consistent with the informed choice of the eligible
34 individual.
35

36 ~~(n)(m)~~ Before suspending, reducing, or terminating any planned service in the IPE, VRD
37 shall ~~provide~~send written notification of intent to the ~~customer~~customer's last known
38 ~~address~~.

39
40 ~~(o)(n)~~ VRD must suspend, reduce, or terminate the customer's planned services no
41 sooner than 10 working days after ~~written~~ notice has been ~~provided~~mailed to the
42 customer.
43

44 **§856.53. Customers Determined to Have Achieved Employment Outcome.**
45

46 (a) The Vocational Rehabilitation Division (VRD) determines a customer to have

1 achieved an employment outcome when the following requirements are met:

- 2
- 3 (1) the provision of services under the customer's individualized plan for
4 employment (IPE) has contributed to the achievement of the employment
5 outcome;
- 6
- 7 (2) the customer has achieved the employment outcome that is described in the
8 customer's IPE and that is consistent with the customer's strengths, resources,
9 priorities, concerns, abilities, capabilities, interests, and informed choice;
- 10
- 11 (3) the employment outcome is in an integrated setting;
- 12
- 13 (4) the customer has maintained the employment outcome for at least 90 days; and
- 14
- 15 (5) the customer and the vocational rehabilitation~~VR~~ counselor consider the
16 employment outcome to be satisfactory and agree that the customer is
17 performing well on the job.
- 18
- 19 (b) After a customer has been determined to have achieved an employment outcome,
20 VRD informs the customer of the availability of~~may provide~~ post-employment
21 services as required to maintain, regain, or advance in employment.
- 22

23 **§856.56. Assistive Technology Devices.**

- 24
- 25 (a) Assistive technology devices are purchased only after evaluation of the customer's
26 need ~~and the cost~~. Simple and less expensive alternatives must be considered first.
- 27
- 28 (b) The customer must return to the Vocational Rehabilitation Division~~VRD~~ any
29 assistive technology device no longer needed for training, employment, or pursuit of
30 employment.
- 31

32 **SUBCHAPTER C. RATES FOR MEDICAL SERVICES**~~PROVISION OF VOCATIONAL~~
33 ~~REHABILITATION SERVICES~~

34

35 **§856.57. Alternative Purchasing Methods - Rates for Medical Services.**

36

37 Under Texas Labor Code, §352.054, this section sets forth the~~rule adopts~~ standards
38 governing the determination of rates paid for medical services provided by the Agency.
39 The rates determined under these standards are reevaluated annually:

40

- 41 (1) Rates shall be established based on Medicare and Medicaid schedules for
42 current procedural terminology. Where Medicare and Medicaid schedules are
43 not applicable, rates that represent best value shall be established based on
44 factors that include reasonable and customary industry standards for each
45 specific service.
- 46

- 1 (2) Rates shall be established at a level adequate to ensure that enough qualified
 2 providers are available to provide assessment and treatment within a
 3 geographic distribution that reflects customer or claimant distribution.
 4
- 5 (3) Notification of the proposed schedule of rates shall be published in the *Texas*
 6 *Register* to allow interested persons to present comments to the Agency before
 7 the rates are established.
 8
- 9 (4) After the reevaluation process is completed in accordance with the
 10 requirements in paragraphs (1) and (2) of this section, the Agency's executive
 11 director or deputy executive director may establish the rates for medical
 12 services.
 13
- 14 (5)(3) Exceptions to established rates may be made on a case-by-case basis by the
 15 Vocational Rehabilitation counselor after consultation with the Agency's
 16 medical director or optometric consultant. Exceptions contrary to the Agency's
 17 medical director's or optometric consultant's recommendation require approval
 18 by the Vocational Rehabilitation Division (VRD) deputy director or VRD
 19 director.
 20

21 SUBCHAPTER D. CUSTOMER PARTICIPATION

22 §856.59. Purpose of Customer Participation.

- 23
- 24
- 25 (a) Establishing customer participation in service costs encourages customer
 26 commitment to an employment outcome, creates a cooperative relationship between
 27 the customer and the Vocational Rehabilitation Division (VRD), and maximizes
 28 VRD's limited funds.
 29
- 30 (b) VRD ~~may require~~requires customers to participate in the cost of services based on
 31 financial need, unless the customer is a recipient of Social Security benefits, either
 32 Supplemental Security Income or Social Security Disability Insurance.
 33

34 SUBCHAPTER E. COMPARABLE BENEFITS

35 §856.71. Availability of Comparable Services and Benefits.

- 36
- 37
- 38 (a) If comparable services or benefits exist under any other program and are available to
 39 the customer at the time needed to achieve the employment outcome in the
 40 customer's individualized plan for employment (IPE), the Vocational Rehabilitation
 41 Division (VRD) must use those comparable services or benefits to meet, in whole or
 42 in part, the cost of vocational rehabilitation (VR) services.
 43
- 44 (b) If comparable services or benefits exist under any other program, but are not
 45 available to the customer at the time necessary to satisfy the employment outcome in
 46 the consumer's IPE, VRD must provide VR services until those comparable services

1 and benefits become available.

2
3 (c) The following services are exempt from determination of the availability of
4 comparable services and benefits:

- 5
6 (1) assessment for determining eligibility and priority for services;
7
8 (2) assessment for determining VR needs;
9
10 (3) VR counseling, guidance, and referral services;
11
12 (4) placement services;
13
14 (5) rehabilitation technology services; and
15
16 (6) post-employment services consisting of the services listed under paragraphs
17 (1) - (5) of this subsection.

18
19 (d) The requirements of subsection (a) of this section also do not apply if such a
20 determination would interrupt or delay:

- 21
22 (1) the progress of the individual toward achieving the employment outcome
23 identified in the IPE;
24
25 (2) an immediate job placement; or
26
27 (3) the provision of VR services to any individual who is determined to be at
28 extreme medical risk, based on medical evidence provided by an appropriate
29 qualified medical professional.

30
31 ~~(d) The requirements of subsection (a) of this section also do not apply if:~~

- 32
33 ~~(1) determining the availability of comparable services and benefits under any~~
34 ~~other program would delay the provision of vocational rehabilitation services~~
35 ~~to any customer whom VRD has determined to be at extreme medical risk,~~
36 ~~based on medical evidence provided by an appropriate qualified medical~~
37 ~~professional; or~~
38
39 ~~(2) an immediate job placement would be lost because of a delay in the provision of~~
40 ~~comparable services and benefits.~~

41
42 **SUBCHAPTER G. CRISS COLE REHABILITATION CENTER**

43
44 **§856.84. Initial Eligibility.**

45
46 (a) To be eligible for vocational rehabilitation (VR) services at the Criss Cole

1 Rehabilitation Center (CCRC), an individual must be:

2
3 (1) at least 18 years of age;

4
5 (2) legally blind or deafblind~~Deafblind~~;

6
7 ~~(3)—a Texas resident;~~

8
9 ~~(3)(4)~~ a current VR customer; and

10
11 ~~(4)(5)~~ referred by a VR counselor for services at CCRC.

12
13 (b) Any individual described in subsection (a) of this section shall be subject to a
14 computerized criminal history (CCH) check, and the results of the CCH will be
15 evaluated as to the individual's eligibility for VR services at CCRC. A risk
16 evaluation must be completed if the CCH check identifies a criminal history. The
17 Agency~~TWC~~ will perform a risk evaluation to include the following factors, but not
18 be limited to the:

19
20 (1) severity of the offense;

21
22 (2) time frame of the offense;

23
24 (3) rehabilitation of the customer; and

25
26 (4) parole and community supervision terms.

27
28 (c) A customer~~Notwithstanding subsection (a)(3) of this section, a non-Texas resident~~
29 who is receiving services from an entity in another state and who otherwise meets
30 the requirements set out in subsections (a) and (b) of this section may be considered
31 for admission and training on a space-available basis, subject to an agreement
32 between the out-of-state entity and the Agency on payment of cost of services
33 provided to the individual.