# PART C, CHAPTER 16.1: PERSONAL SUPPORT SERVICES

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| **Policy Number** | **Authority** | **Scope** | **Effective Date** |
| Part C, Chapter 16.1 | 34 CFR [§361.48(b)(14)](https://www.ecfr.gov/current/title-34/part-361#p-361.48(b)(14)) , [§361.48(b)(9)](https://www.ecfr.gov/current/title-34/part-361#p-361.48(b)(9)), [§361.5(c)(22)](https://www.ecfr.gov/current/title-34/part-361#p-361.5(c)(22)), [§361.5(c)(38)](https://www.ecfr.gov/current/title-34/part-361#p-361.5(c)(38)), and TWC Rule [§856.54](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=20&ch=856&rl=54) | All TWC-VR staff | 9/3/2024 |

## PURPOSE

In accordance with the authority (Federal and State) listed above, this policy is issued by the Texas Workforce Commission Vocational Rehabilitation Division (TWC-VR). Adherence to these rules and regulations issued under the Rehabilitation Act of 1973, as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), supports Texans with disabilities in gaining, maintaining, and advancing in competitive integrated employment (CIE).

Specifically, the purpose of this policy and these procedures is to ensure adherence to the provision of support services including personal assistant services (PAS), family member services, and childcare services.

## DEFINITIONS

Childcare: The provision of supervision, care, and nurturing for children, typically in the absence of their parents or guardians. Childcare services can be offered in various settings, including daycare centers, preschools, nurseries, family childcare homes, or by individual caregivers. Childcare allows parents or guardians to pursue work, education, or other VR related activities.

Family Member: An individual who is either a relative or guardian of the applicant or customer, or who resides in the same household. This individual must have a significant interest in the well-being of the applicant or customer, and their receipt of TWC-VR services must be essential to the applicant or customer's ability to achieve an employment outcome.

Personal Assistant: An individual who provides a range of supportive services to assist the customer in performing daily living activities, both at home, the community, and in employment. These services are tailored to the specific needs of the customer and may include tasks such as personal care, household chores, transportation assistance, medication management, and other forms of support that enable the person to maintain independence and participate fully in daily life activities.

## POLICY

### General Overview

Personal support services encompass a variety of services provided by one or more individuals to assist customers with performing daily activities both on and off the job. These services are aimed at increasing the customer's autonomy and ability to manage daily tasks, ultimately facilitating their integration into employment. They are provided as part of TWC-VR services, including Trial Work Experiences, and may include training in managing, supervising, and directing personal assistant services.

The service is designed to help a customer with on-the-job activities or job-related daily living activities that the customer would perform themselves if they did not have a disability.

Personal support services can be provided under one or more of the following categories:

* Personal Assistant Services (PAS);
* Family member services; and
* Childcare services.

Personal support services are provided to support other TWC-VR career (e.g., employment services) and training services (e.g., postsecondary training services) included in the IPE.

### Customers Hiring Their Own Personal Assistants

TWC-VR may not be the employer of record for a customer's personal assistant. A customer who hires a personal assistant is the employer under applicable employer tax laws and is responsible for the following:

* Hiring and dismissing the assistant;
* Training the assistant in the delivery of services; and
* Supervising the assistant in the delivery of services or arranging for a friend or relative to provide direct supervision of the assistant.

### Family Member Services

TWC-VR services may be extended to family members of an applicant or customer if it is deemed necessary to facilitate the achievement of their employment goals. Such services are arranged, purchased, or provided only when the customer's ability to begin or continue their Individualized Plan for Employment (IPE) would be compromised without them, potentially leading to unnecessary delays in achieving the employment goal. These services are provided solely to family members who meet the defined criteria of a family member and when comparable services or benefits are unavailable through existing community resources or agencies.

### Childcare Services

If a customer has children under the age of 13 and requires childcare to complete planned TWC-VR activities, the VR Counselor may assist in exploring the availability of childcare services. Children aged 13 and older who need supervision due to a disability also qualify for this service. Examples of TWC-VR activities may include diagnostic services, physical restoration, training, and employment services.

### Additional Policy Considerations

* Comparable Services and Benefits: TWC-VR must not expend funds on Personal Assistant services unless the VR counselor and the customer have made maximum efforts to secure comparable services and benefits from other sources to pay for services.
* Customer Participation in the Cost of Services: A customer's eligibility for TWC-VR services does not depend on the customer's income or liquid assets; however, if the customer's net income or liquid assets exceed the Basic Living Requirements (BLR), the customer must participate in the cost of services unless an exception is granted.
* Recipients of Social Security Disability Benefits: Recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), due to the customer’s disability, are exempt from the requirement to participate in the cost of TWC-VR services regardless of income.
* Exceptions to Policy: When necessary to meet the VR needs of a customer, TWC-VR staff members may request exceptions to policies and procedures through their chain of management up to the Deputy Division Director of Field Services Delivery, or designee. However, exceptions to policies and procedures based on Federal and State laws, statutes, and rules or regulations are not allowable.

## PROCEDURES

### Determination of Need

The VR Counselor must clearly document the need for personal support services in the case record. These services must be necessary and reasonable under the circumstances of the customer at the time a decision is made.

Decision-making factors include, but are not limited to, the following—

* Individual rehabilitation needs consistent with the customer's informed choice;
* Best value purchasing,
* Use of comparable benefits, and
* All other established policies and procedures, including policies and procedures for customer participation in cost of services, also known as basic living requirements (BLR).

### Personal Assistant Services

When PAS are required for customers to engage in TWC-VR services, both the customer and VR Counselor have specific responsibilities and shared duties, as listed below:

* Customer: Responsibilities include, but are not limited to, the following:
  + Determines if a personal assistant is qualified to meet personal attendant needs.
  + Ensures prospective personal assistants have orientation and training in providing PAS.
  + Instructs the personal assistant regarding specific needs due to the individualized nature of services.
  + Assumes financial responsibility for PAS if needed after employment.
  + Be involved in determining the type and range of services needed, number of hours, and location of PAS (e.g., home, community, workplace).
  + Contacts PAS resources, interview providers, talk to references, and hire the personal assistant.
* VR Counselor: Responsibilities include, but are not limited to, the following:
  + Shares responsibility with the customer for locating a suitable personal assistant, even though primary responsibility is the customer's.
  + Collaborates with the customer in identifying PAS needs and assessing job performance of the assistant.
  + Provides information on local PAS resources, including Centers for Independent Living Services (CILS), home health agencies, and Department of State Health Services (DSHS) offices.
* Shared: Responsibilities include, but are not limited to, the following:
  + Collaborate on locating a suitable personal assistant.
  + Inform the VR Counselor of the personal assistant's job performance.
  + Utilize local resources such as CILS, CILS Information and Referral coordinators, home health agencies, RNs coordinating PAS, and DSHS offices for information on PAS resources.

Planning: The VR Counselor and the customer must attempt to identify assistive devices and alternative methods to enable the customer to perform tasks independently without a personal assistant. PAS may not be provided as a stand-alone service; they may only be provided to support other TWC-VR services that are included on the IPE, or IPE amendment, such as vocational training, academic training, attending the Criss Cole Rehabilitation Center (CCRC), employment services, supported employment, or job placement.

Fees for PAS are negotiated by the customer, personal assistant, and VR Counselor, with the final determination made by the VR Counselor. Fees vary depending on the needs of the customer, the availability of personal assistants, local prevailing rates for PAS, and other factors.

Any fee previously negotiated between TWC-VR and an organization, when PAS are provided by that organization, must be used. TWC-VR staff must determine if the organization is set up as a vendor in RHW and use established rates, when applicable.

Establishing a Personal Assistant as a Vendor: If the customer chooses a personal assistant who is not currently affiliated with TWC-VR, a designated TWC-VR staff member will initiate the process by emailing VR RHW Provider Services at [vr.rhw.providerservices@twc.texas.gov](mailto:vr.rhw.providerservices@twc.texas.gov). The PAS provider must be registered with TWC-VR and receive direct payment for services.

Employment Services: Providing PAS when Employment Services and VR Counseling and Guidance are the primary services under an IPE, PAS are limited to a maximum of six months. The case record must clearly document ongoing employment services while TWC-VR is paying for PAS.

The VR Counselor may continue providing PAS when the customer achieves an employment outcome consistent with their IPE employment goal up to a maximum of 120 days with documented rationale.

Relocation from a Nursing Home or Institution: PAS may be provided for up to 12 months, if a customer is relocating to a private residence from one of the following:

* Nursing home;
* Community residential or group home; or
* Mental health facility.

### Family Member Services

Services to the family member must follow the policy and procedures for that specific service as outlined in its respective chapter of the VRSM. For example, if a parent needed childcare to participate in Group Skills Training (GST), the VR Counselor follows the childcare procedures in this chapter.

### Childcare Services

Childcare services can be purchased with TWC-VR funds only when they are required for participation in VR services and when they are not available through existing community resources, agencies, comparable services or benefits. The TWC-VR team must also explore resources such as the customer’s family members, neighbors, or community day-care programs to see if they can meet the customer’s childcare needs.

[TWC Workforce Solutions Childcare program](https://www.twc.texas.gov/students/child-care-program) offers childcare for low-income individuals who are working or participating in training or educational activities leading to employment. Customers must apply for this resource to meet their childcare needs before TWC-VR funds are authorized. If the customer is not eligible for the TWC Childcare program or if the TWC Childcare program has a waiting list, or if the customer has no other comparable benefits, TWC-VR may purchase childcare services. The customer must select a provider who is licensed, registered, or listed on the [Texas Department of Family and Protective Services (DFPS)](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchDayCare.asp) website.

The selection of a provider is the customer's responsibility as a parent. TWC-VR staff may help the customer access information about how to select appropriate, safe childcare through the DFPS.

* Acceptable Childcare Providers: DFPS licenses, registers, or lists the following categories of providers:
  + Licensed Childcare Center
  + Licensed Childcare Home
  + Registered Childcare Home
  + Listed Family Home

TWC-VR does not pay for services by individuals who are not identified on the DFPS website as providers in one of these categories. No exceptions will be made for this policy.

If a customer wishes to employ someone not recognized by DFPS for childcare, they must contact their local DFPS licensing office to learn how to become licensed, registered, or listed. The procedure for becoming a Listed Family Home requires minimal documentation and may be suitable for a family member or friend interested in providing childcare.

* Establishing a Childcare Provider as a Vendor: If the customer chooses an acceptable childcare provider who is not currently affiliated with TWC-VR, a designated TWC-VR staff member will initiate the process by emailing VR RHW Provider Services at [vr.rhw.providerservices@twc.texas.gov](mailto:vr.rhw.providerservices@twc.texas.gov). The childcare provider must be established as a TWC-VR provider and receive direct payment for services. Exceptions are not allowed.
* Childcare Payment Guidelines: If comparable benefits are unavailable, VR Counselors may cover up to 100% of the customer's childcare expenses during training, not exceeding the maximum rates specified for child care at [TWC Workforce Policy Letters and Guidance](https://www.twc.texas.gov/policy-letters/board-contract-year-2024-child-care-provider-payment-rates). Payments are limited to the duration of training.
* Maximum Full Day Rates for Childcare: Each Local Workforce Development Board (Board) establishes maximum rates for childcare services as outlined in the State's Child Care and Development Fund State Plan. Rates are set for Licensed Child Care Centers, Licensed Child Care Homes, and Registered Child Care Homes. These rates are further categorized based on whether the providers are Texas Rising Star providers (2-, 3-, or 4-star providers).

Age groups for each provider type include the following:

* + Infants: 0 to 17 months
  + Toddlers: 18 to 35 months
  + Preschool age children: 36 to 71 months
  + School age children: 72 months to 13 years
* Fees: Some providers may charge a registration fee in addition to ordinary childcare costs. TWC-VR may pay the registration fee to the facility once per calendar year for each child.

When identifying applicable fees, TWC-VR staff must be aware that activity fees include only the fees that all parents are required to pay and do not include fees for optional activities such as field trips or optional classes.

* Employed Customers: TWC-VR may pay for childcare after a customer has achieved employment for a total of eight weeks at the following percentages:
  + 100% for the first four weeks
  + 80% for the fifth week
  + 60% for the sixth week
  + 40% for the seventh week
  + 20% for the eighth week

### PAS, Family Member, and Childcare Documentation

| Documentation Type | Required Documentation: Customer | Required Documentation: VR Counselor |
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| **PAS** | Must submit monthly written statements to TWC-VR that include—   * Services rendered; * Hours worked; and * Additional pertinent information necessary for payment. | Documentation of justification and case progress must be included in the customer's case record. |
| **Family Member Services** | N/A | Must document the following:   * Name of family member receiving the service(s); * Relationship to the customer; * The TWC-VR services needed; and * How the services are expected to make a substantial contribution to the customer's ability to participate in TWC-VR services. |
| **Childcare Services** | Proof of application to TWC Childcare services and/or comparable benefits | N/A |

## APPROVALS & CONSULTATIONS

TWC-VR staff must follow the following approvals and consultations:

* *VR Supervisor approval is required to continue PAS after six months, and approval is limited to six-month increments.*

**REVIEW**

The Policy Planning and Statewide Initiatives Team, or designee, is responsible for reviewing this policy and these procedures and will update the Document History log if necessary.

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| **Date** | **Type** | **Change Description** |
| 9/3/2024 | New | VRSM Policy and Procedure Rewrite |