



AIVRTTAC

PRESUMPTION OF ELIGIBILITY RESOURCE TOOL

Introduction

The Presumption of Eligibility (POE) Resource Tool is intended for use by American Indian Vocational Rehabilitation Services (AIVRS) project staff as a guide to determining an applicant's eligibility for services, as described in the AIVRS **Certificate of Eligibility/Ineligibility Form** (Sec. 102). Presumption of eligibility is accorded to individuals who receive Social Security Income (SSI) or Social Security Disability Insurance (SSDI) and who meet the **AIVRS eligibility criteria**. Extended evaluations are provided to individuals with significant disabilities receiving SSI or SSDI, as well as individuals who applied for VR services but are not receiving Social Security benefits.

Presumption of Eligibility

An individual who applies to receive services from an AIVRS project and is receiving SSI under Title II or SSDI under Title XVI of the Social Security Act is presumed eligible for services. An exception is made when the VR counselor determines, with clear and convincing evidence, that the applicant is incapable of benefiting from VR services (Sec.102(3), Presumption of Eligibility).

Clear and Convincing Evidence:

"Clear and convincing evidence" means that, in order to determine that an individual is unable to benefit from VR services, AIVRS project staff must – with a high degree of accuracy (i.e., unequivocally and free from obscurity or ambiguity) – determine that an individual is unable to achieve an employment outcome in an integrated work situation because of the severity of their disability(ies). To obtain more information, an extended evaluation or a trial work experience period is provided to the applicant while they are in application status. Clear and convincing evidence preventing an applicant from benefiting from VR services may include:

- a. A description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that an applicant would be unable to meet their vocational needs due to the severity of the applicant's disability. In addition, the involvement of the applicant in "in-house" assessments – testing, homework assignments, participation in relevant group activities – may assist in making such a determination.
- b. If appropriate, a functional assessment of skill-development activities with any necessary supports (including assistive technology) in real life settings would also contribute to providing clear and convincing evidence.

The exploration provides information on an applicant's abilities, capabilities, and capacity to achieve an employment outcome in an integrated work situation (CFR 371.6).

Presumption of Eligibility Documentation Process:

VR counselors are responsible for collecting documents to verify applicant's presumption of eligibility. These include:

1. Social Security Administration (SSA) documentation supporting an applicant's request for VR services, such as:
 - a. SSI and/or SSDI eligibility verification form
 - b. copy of an award letter
 - c. ticket to work (<https://choosework.ssa.gov/about/how-it-works/index.html>)
 - i. A ticket to work can be obtained via the following methods:
 1. an applicant or applicant's guardian can provide the appropriate documentation of disability benefits from SSA; or
 2. a signed AIVRS release of information form can be submitted to SSA; or
 3. an applicant or applicant's guardian can log on to <https://www.ssa.gov/myaccount/> to acquire a benefit verification letter.
2. Medical records that support the provision of VR services
 - a. An AIVRS release of information document, written separately for each medical provider, is signed by the applicant or applicant's guardian in order to acquire necessary medical records from Indian Health Services, hospitals, medical specialists, etc.
 - i. Medical records are generally acquired earlier than SSA verification documentation; consequently, the eligibility process for an applicant can be accelerated using medical records (Sec.102).

This documentation is important to the VR process for the following reasons:

- a) In conjunction with other factors, SSA and medical documentation provide the VR counselor with information to determine an applicant's eligibility for VR services.
- b) Taken together, the SSA and medical documents provide the VR counselor with a full assessment of the applicant's disability, abilities, and limitations.
- c) The SSA benefits query confirms the applicant's benefit status.
- d) It also provides information on the benefits the applicant is receiving as well as the amount of the benefits.
- e) The VR counselor uses the SSA benefit information to inform an applicant how employment may affect their SSI/SSDI benefits.
- f) If this documentation is provided, there is no need to wait for additional records or assessments. The applicant who is determined to be eligible can immediately begin developing an IPE with the VR counselor.

Procedure if Eligibility Determination Cannot Be Completed in 60 Days:

In the event of exceptional and unforeseen circumstances beyond the control of the applicant or AIVRS project staff, such as lack of resources or openings at facilities that provide psychological or medical assessments, the following eligibility determination procedure is implemented:

- a) An extension of eligibility determination is processed and completed with the agreement of the applicant and/or applicant's guardian.
- b) The extension of eligibility determination is noted on the Certificate of Eligibility, with the VR counselor specifying the reason for the extension and the estimated date of eligibility determination.
- c) The applicant is presumed employable, unless through clear and convincing evidence the applicant is found unable to benefit from VR services and gain or maintain employment.
- d) The VR counselor will locate work situations in an integrated setting to explore the abilities, capabilities, and capacity of the applicant.
- e) The VR counselor will set up a trial work period in order to assess the applicant's employability.
- f) The VR counselor may also perform an intensive vocational assessment to determine job goals through the extended evaluation process.

Extended Evaluation:

If exceptional and unforeseen circumstances beyond the control of the AIVRS project or the applicant prevent an eligibility determination from being made within 60 days, the applicant and VR counselor will agree in writing to a specific time extension. If an applicant is not capable of participating in a trial work experience, the VR counselor must conduct an extended evaluation. The evaluation must be consistent with the rehabilitation needs of the applicant and must be founded on the informed choice of the applicant. The extended evaluation provides information that will determine whether the applicant is capable of benefiting from vocational rehabilitation services in order to become employed in an integrated setting.

Extended Evaluation Process:

1. An applicant is presumed employable, unless there is clear and convincing evidence that the applicant cannot benefit from vocational rehabilitation services and obtain employment.
2. The VR counselor and the applicant prepare a written plan for the extended evaluation to ensure that the assessment process will obtain information to determine the applicant's eligibility. The assessment is conducted with the applicant's informed choice and rehabilitation needs in mind, and the criteria for evaluating progress are carefully explained to the applicant. The applicant and the VR counselor sign the written plan.
3. A trial work experience is provided to explore the applicant's ability and capacity to perform work duties in a realistic, integrated work setting for the purpose of eligibility determination.
4. A job coach, vocational rehabilitation provider, or site supervisor will provide a written evaluation to describe the applicant's strengths and areas for improvement.
5. The evaluation of the applicant will include:
 - a. ability to follow instructions
 - b. appropriate work attire
 - c. punctuality
 - d. work ethic