

# Chapter 9

## Comparable Services & Benefits

### 9.1 Authority: 34 CFR 361.53

### 9.2 Policy

Before the Vocational Rehabilitation program (VR) provides **any** paid VR service to an eligible individual or to members of that individual's family, VR **must** determine whether comparable services and benefits are available under any other program and whether they are available to the individual. If comparable services or benefits exist under any other program and are available to the eligible individual at the time needed to achieve the rehabilitation objectives in the individual's IPE, VR shall use those comparable services or benefits to meet in whole or in part, the cost of vocational rehabilitation services. If comparable services or benefits exist under any other program, but are not available to the individual at the time needed to satisfy the rehabilitation objectives in the individual's IPE, the State unit shall provide vocational rehabilitation services until those comparable services and benefits become available.

### 9.3 Exceptions

Federal regulations at 34 CFR 361.53(b) provides some exemptions from the requirement to use comparable benefits. These exemptions include:

- a. Services: The requirements of 9.2 do not apply to the following services:
  - i. Assessment for determining eligibility and vocational rehabilitation needs. Typically those services purchased during the preliminary assessment used to establish the presence of a physical or mental disability.
  - ii. VR counseling, guidance, and referral.
  - iii. Some Job-Related Services including job search and placement assistance, job retention services, follow-up services, and follow-along services.
  - iv. Rehabilitation Technology Services.

Note: While the Act states that a determination of available comparable services and benefits is **not required** prior to the provision of Rehabilitation Technology services, it **doesn't prohibit** the utilization of those benefits that are available.

Rehabilitation Technology including assistive devices and services are still subject to the financial needs test. (See Chapter 8 for financial need exempt services) Utilizing available comparable services and benefits **must not** delay provision of services and the services cannot be made contingent on seeking or using those services and benefits.

- b. Extreme Medical Risk: The requirement of 9.2 above does **not** apply if the determination of the availability of comparable services and benefits under any other program would delay the provision of VR services to any individual with a disability who is at **extreme medical risk**. A determination of extreme medical risk shall be based upon medical evidence provided by an appropriate licensed medical professional. [34 CFR 361.53(b)(3)] Extreme medical risk means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.

**NOTE:** Although these emergency medical services are exempt from determining comparable services and benefits, they are still subject to other pertinent VR policies.

- c. Loss of Immediate Job Placement: The requirement in 9.2 also does not apply if an immediate job placement would be lost due to a delay in the provision of such comparable benefits. [34 CFR 361.53(b)(2)]
- d. Interruption or Delay of Progress- If the determination of the availability of comparable services and benefits would interrupt or delay the progress of an individual toward achieving the employment outcome identified in the IPE, then the search is not required. Therefore, to the greatest extent feasible, the VR Counselor and client should determine the availability of comparable services and benefits during plan development thus reducing the probability of possible interruption or delays later in the rehabilitation process.

#### 9.4 Assurance

Comparable services and benefits **must** be utilized to provide, in whole or in part, vocational rehabilitation services subject to the exceptions listed in 9.3, a, b, c and d above.

#### 9.5 Financial Need & Comparable Services & Benefits

A "Comparable Benefit" search is **not** the same as the "determination of financial need". In determination of financial need, the objective of a state policy is to set the conditions for equitably determining the degree, if any, an individual is expected to participate in the cost of his/her rehabilitation. In the area of comparable benefits, the objective is for the state VR agency

to give **full** consideration to alternative funding sources prior to spending VR funds to purchase specific client services. Comparable benefits may be identified for all VR clients even if they do not meet the financial need criteria for VR services.

## 9.6 Training Grants

No training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or other grant eligible institutions) may be paid for unless **maximum** efforts have been made to secure grant assistance in whole or in part from other sources. All training grant monies shall be encumbered to offset the client's cost of attendance before any vocational rehabilitation funding will be authorized for that purpose.

Although VR Counselors technically have no authority over the expenditure of training grant monies, they must determine what VR can and should pay. Some clients may be receiving a comparable benefit such as Social Security income or other public assistance or benefit as a source of support. Clients who have been using such benefits to pay for living expenses prior to attending school would generally be expected to continue using those benefits for living expenses while in school rather than automatically using training grant monies. In cases where attendance at school results in additional expenses for the client, training grant monies can be used for those expenses. For example, attending training might require that they relocate to be closer to the institution, or might create an increase in transportation or child care costs. If a client's public benefits (such as Social Security) are terminated while the client is in school, and the client does not have other means of support for living expenses, VR Counselors should then evaluate whether it would be appropriate for the client to begin using training grant monies for living expenses.

The VR Counselor needs to carefully evaluate the client's total financial situation as well as the training grant regulations when determining the appropriate utilization of both training grant and VR funding for training programs. If in the VR Counselor's professional judgment, additional VR funds (beyond the amount awarded in the training grant) are necessary to support the VR program due to severe financial hardship of the client, documentation should be in the form of an case note entry. In making this decision, the VR Counselor needs to determine whether to support the client through short-term maintenance (for only additional costs incurred because of participating in VR) or to authorize for school related expenses (books, supplies, tuition, fees, etc.) and allow the client to utilize some of the training grant funding towards other training related expenses. Justification for this decision should also be included in a case note. VR Counselors need to make sure that those expenses which the client says will be covered by the training grants are not also listed as a deduction for the client when determining financial need (unless the training grant is listed as income when determining need), and that such expenses are not eligible to be paid by any other agency. VR Counselors need to document the client's

actual expenses and expected use of the training grant, and then follow up to determine that funds were expended as expected.

See also Chapter 19 for information about grant application requirements, default loan status and guidance for scholarships.

### 9.7 Comparable Benefits Procedures for Restoration Services for Clients not under Extreme Medical Risk

VR Counselors shall address comparable services and benefits which may be available to the client to off-set the costs of restorative services. Examples of these comparable benefits include, but are not limited to:

- a. Individual or Group Health Insurance,
- b. Health Maintenance Organizations,
- c. Medicaid,
- d. Medicare,
- e. Workers Compensation Insurance,
- f. Community Mental Health,
- g. Liability or Accident Insurance, automobile or other,
- h. Veteran's Administration, and
- i. Other State Health Programs.

### 9.8 Other Comparable Services and Benefits

The availability of other comparable services and benefits will depend upon the circumstances surrounding each client. Examples of other comparable services and benefits include but are not necessarily limited to:

- a. Training Services
  - i. Veteran's benefits,
  - ii. Scholarships, not based on merit,
  - iii. WIOA adult, youth and dislocated worker programs,
  - iv. Private rehabilitation programs funded through employee benefits or insurance,
  - v. Insurance/lawsuit settlements,
- b. Subsistence and Disability Benefits
  - i. General Assistance (GA),
  - ii. Temporary Aid to Needy Families (TANF),
  - iii. Worker's Compensation,
  - iv. Survivor's Insurance,
  - v. Social Security Disability Insurance (SSDI),
  - vi. Supplemental Security Income (SSI),
  - vii. Insurance/lawsuit settlements.

## 9.9 Authorization Procedure

When comparable services do not meet in full the fee approved by VR they may be supplemented up to the acceptable fee limit by VR authorization. The VR authorization will show the amount being paid through insurance or other comparable services as well as the amount to be paid by VR. In cases where VR has negotiated a fee for a service, a vendor may not charge above that negotiated fee even if the additional cost is charged to another resource. For example, clients may not be required to pay additional costs above a negotiated fee. This procedure will also be utilized with authorizations to all institutions of Higher education that are training grant eligible.

## 9.10 Documentation

- a. IPE: the VR Counselor must document the use of comparable benefits with the corresponding service on the Individual Plan for Employment. This includes entering the dollar amount of comparable benefits that are anticipated as well as those that have been secured in the Total Costs section of the IPE. Additional information and details about the comparable benefit and its use to offset costs should be detailed in the Note section titled "Describe the participant responsibilities towards the cost of the plan and securing comparable benefits."
- b. Comprehensive Assessment of Rehabilitation Needs: The Comprehensive Assessment of Rehabilitation Needs should include a description and pertinent information about comparable benefits that are in use, pending, or available to the client to offset the costs of VR services.
- c. Special Program Page: The Special Program page in AWARE should be used to record client use of comparable benefits provided by partner programs found on the Special Programs page. See CSM 16.7 for more information.
- d. Receipt of Service: If the service is provided entirely by comparable benefit the receipt of service must be recorded in the Actual Services data page within AWARE. The start date should correspond to the date the comparable benefit service begins. This information is reported to RSA on a quarterly basis and has the potential to impact Common Performance Measures. Therefore, accurate report of the comparable benefit service is important. If the services is funded by comparable benefit and VR the comparable benefit can be documented on the authorization. If VR is not contributing to the service and/or no authorization is generated to capture the comparable benefit, the VR Counselor will document receipt of the comparable benefit service as an Actual Service in AWARE.

## 9.11 Reconsideration of Available Comparable Services and Benefits

- a. Available comparable services and benefits will be re-evaluated at least annually; PLUS
- b. Whenever circumstance regarding comparable benefits change significantly; AND
- c. Whenever significant change occurs and an amendment to the IPE is necessary because a different or additional paid service is involved.

### 9.12 Comparable Benefits offered by WIOA core and required partners

VR Counselors are encouraged to coordinate services with programs that are authorized under the Workforce Innovation and Opportunities Act (WIOA). These programs are available across the state of Utah. WIOA programs include:

- a. WIOA Youth
- b. WIOA Adult
- c. Dislocated Worker Program
- d. Adult Education
- e. Wagner Peyser Program
- f. Vocational Rehabilitation
- g. Job Corp
- h. Indian and Native American Programs (WIOA Title I)
- i. National Farmworkers Job Program (WIOA Title I)
- j. Youthbuild (WIOA Title I)
- k. Senior Community Service Employment Program
- l. Trade Adjustment Assistance
- m. Jobs for Veterans State Grants
- n. Community Service Block Grants
- o. Unemployment Insurance (DWS Program)
- p. Temporary Assistance for Needy Families (TANF) (DWS Program)
- q. Career and Technical Education (CTE)

Each of these services can also be accessed through an American Job Center, also known as a comprehensive one-stop. The goal of the American Job Centers is to align WIOA programs that provide services to individuals with barriers to employment, preparing them to meet the needs of employers. The American Job Center achieves its goal by providing seamless service delivery to clients among programs. American Job Centers have a formal process for making referrals from one program to another and encourages integration of teams by function rather than by program. For instance, a WIOA Youth Counselor and a VR transition counselor may meet together with a mutual client to plan and coordinate services. The VR program is a core partner in the American Job Center and has a presence to facilitate referrals to and from partner programs that provide comparable benefits.