

Dear Senators LODGE, Broadsword, Bock, and  
Representatives BLOCK, Hartgen, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Office of the Governor - Commission for the Blind and Visually Impaired:

IDAPA 15.02.02 - Rules of the Commission for the Blind and Visually Impaired - Vocational  
Rehabilitation Services (Docket No. 15-0202-1101).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/17/2011. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/14/2011.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address or FAX  
number indicated on the memorandum enclosed.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Commerce & Human Resources Committee  
**FROM:** Legislative Research Analyst - Ryan Bush  
**DATE:** September 27, 2011  
**SUBJECT:** Office of the Governor - Commission for the Blind & Visually Impaired

IDAPA 15.02.02 - Rules of the Commission for the Blind & Visually Impaired - Vocational Rehabilitation Services (Docket No. 15-0202-1101)

The Commission for the Blind and Visually Impaired submits notice of proposed rulemaking at IDAPA 15.02.02 - Rules of the Commission for the Blind & Visually Impaired - Vocational Rehabilitation Services. The Commission states that the proposed rulemaking is required as a result of a review conducted by the federal Rehabilitation Services Administration in 2010. The Commission further states that the proposed rulemaking adds a policy that defines the information and referral process for its vocational rehabilitation program, changes the application for the vocational rehabilitation services to indicate all ways that a client is considered to have applied and removes the policy citing financial participation for clients that received SSA benefits in order to comply with federal policy. Specifically, this rulemaking adds new abbreviations for the Commission and vocational rehabilitation and increases payments for clients related to maintenance. This rulemaking also revises the application process for vocational rehabilitation services as follows:

- (1) Requires more information from applicants;
- (2) Adds a three (3) working day requirement within which Commission staff must contact applicants;
- (3) Provides for which individuals have the right to apply;
- (4) Adds availability, residence, work status and identity documentation requirements;
- (5) Provides that application forms are not required for an appointment with a counselor; and
- (6) Lists conditions for when an individual is considered to have applied.

The Board states that negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes and because the changes are necessary to comply with requirements disclosed in a federal review of the program. There is no negative fiscal impact resulting from this rulemaking.

The proposed rule appears to be within the authority granted to the Commission for the Blind and Visually Impaired in Section 67-5407(e), Idaho Code.

Mike Nugent Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

Don H. Berg, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

cc: Office of the Governor - Commission for the Blind & Visually Impaired  
Angela Jones  
Nanna Hanchett

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

**15.02.02 - VOCATIONAL REHABILITATION SERVICES**

**DOCKET NO. 15-0202-1101**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5407(e), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2011.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A change in the ICBVI's Vocational Rehabilitation policy is required as a result of ICBVI's federal review conducted by the federal Rehabilitation Services Administration in 2010. The policy changes will put ICBVI in compliance with 34 CFR 361.41(a), 34 CFR 361.41(b)(2), and 34 CFR 361.54(b)(3)(ii). ICBVI is adding a policy outlining Information and Referral; changing the Application for VR services to indicate all ways that a client is considered to have applied, and removing the policy citing financial participation for clients that received SSA benefits, as this is not allowed under federal regulations.

Changes to the VR Payment Policy related to maintenance will bring ICBVI into alignment with the provision of services necessary to reasonably allow VR clients to participate in the VR program.

ICBVI is adding a policy that defines what the information and referral process is for ICBVI's VR program. ICBVI is changing the wording related to its policy for VR services to accurately reflect all ways that a client can demonstrate that they have applied and are in compliance with the federal CFRs noted above. The removal of the section citing SSA beneficiaries are required to participate financially makes the policy compliant with federal CFRs governing the VR program.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes, and the fact that changes are necessary to comply with requirements disclosed in a federal review of the program.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nanna Hanchett, Rehab Services Chief, at (208) 639-8364.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 23rd day of August 2011.

Angela Jones, Administrator  
Idaho Commission for the Blind and Visually Impaired  
341 W. Washington St.  
P. O. Box 83720  
Boise, ID 83720-0012  
Phone: (208) 639-8373  
Fax: (208) 334-2963

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0202-1101

011. ABBREVIATIONS.

- |                |   |                |
|----------------|---|----------------|
| 01.            | ATC. Assessment and Training Center.  | (4-2-08)       |
| 02.            | CFR. Code of Federal Regulations.   | (4-2-08)       |
| <del>03.</del> | <del>ICBVI. The Idaho Commission for the Blind and Visually Impaired.</del> | <del>( )</del> |
| 034.           | IPE. Individual Plan for Employment.  | (4-2-08)       |
| 045.           | SSDI. Social Security Disability Insurance.                                 | (4-2-08)       |
| 056.           | SSI. Supplemental Security Income.  | (4-2-08)       |
| 07.            | VR. Vocational Rehabilitation.  | ( )            |

(BREAK IN CONTINUITY OF SECTIONS)

101. INFORMATION, REFERRAL, AND APPLICATION FOR VR SERVICES.

~~Any blind or visually impaired or functionally blind individual may apply for vocational rehabilitation services. To apply for vocational rehabilitation services, such an individual must:~~ Any agency, organization, individual (including self) or the One-Stop delivery system may refer an individual to ICBVI for services. ~~(4-2-08)( )~~

01. ~~Application. Meet with a vocational rehabilitation counselor and sign the application. An individual is considered to have applied for vocational rehabilitation services with the Commission when that individual has completed the application and acknowledged client rights and responsibilities.~~ Required Information. The referring agent shall provide the local ICBVI office with the following information on the referred individual: ~~(4-2-08)( )~~

- |    |   |     |
|----|---|-----|
| a. | <u>Full name - required.</u>  | ( ) |
| b. | <u>Address and e-mail address, if available.</u>                              | ( ) |
| c. | <u>Telephone numbers where referred individual may be reached - required.</u> | ( ) |
| d. | <u>Social security number, if available.</u>                                  | ( ) |

- e. Date of birth - required. ( )
- f. Contact person's name, phone number and referral source, if available. ( )
- g. Guardian name, telephone number and address, if available. ( )
- 02. ~~Evidence.~~ Assist in providing medical and psychological reports to substantiate disability and functional limitations. If the client is an SSA beneficiary, assist in providing evidence of receipt of SSA benefits. Contact by ICBVI. Each referred individual must be seen or contacted by ICBVI staff within three (3) working days of the referral's receipt by scheduling an initial appointment, or documentation in a case note of telephone contact or email contact. ICBVI staff will inform the referral of application requirements and information necessary to initiate an assessment for determining eligibility. (4-2-08)( )**
- 03. ~~Availability.~~ Be available to complete assessment process. Right to Apply. All individuals have the right to apply for ICBVI VR Services and to have a decision made regarding their eligibility for such services. (4-2-08)( )**
- 04. ~~Partner.~~ Be an active and full partner in the vocational rehabilitation process. Availability and Residence Requirements. Individuals must be available and legally permitted to join the labor market prior to eligibility determination. Residence requirements will not exclude any individual present in the state from vocational rehabilitation services. Individuals must have legal status in the United States and be authorized to work. (4-2-08)( )**
- 05. ~~Intention.~~ Intend to achieve an employment outcome. Work Status and Identity Documentation. Documents that establish work status (employment eligibility) and identity must be consistent with Form I-9, Immigration and Naturalization Services (Form I-9, Employment Eligibility Verification). (4-2-08)( )**
- 06. Application Forms. A referral or application is not required for an appointment with a VR counselor. An application form shall be supplied upon request from any ICBVI office. Application forms shall be available through referral and outreach programs throughout the state, including the One-Stop Centers. ( )**
- 07. Conditions for Applying. An individual is considered to have applied for ICBVI VR Services when the following conditions have been met. The individual, or individual's representative, as appropriate, has: ( )**
- a. Completed and signed an ICBVI VR Application; or ( )**
- b. Signed and dated a request for ICBVI VR Services; or ( )**
- c. Completed a common intake form in a One-Stop Center requesting ICBVI VR Services; or ( )**
- d. Otherwise requested ICBVI VR Services and provides ICBVI the information necessary to initiate an assessment to determine eligibility, is available to complete the assessment process, and intends to achieve an employment outcome. ( )**

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. PAYMENT POLICY.**

**01. Upper Limits.** In order to ensure a reasonable cost to the Commission's vocational rehabilitation program for provision of certain enumerated services, and in accordance with 34 CFR 361.50, the Commission hereby establishes upper limits on dollar amounts it will contribute to clients for certain categories of services provided as part of an implemented IPE pursuant to Section 210 of these rules: (4-2-08)

**a.** Education expenses - public in-state institutions. Education expenses, including fees, tuition, and health insurance costs, for enrollment at public in-state institutions: Ninety percent (90%) of the actual costs for two (2) semesters per federal fiscal year at the institution of enrollment. (5-8-09)

**b.** Education expenses - private in-state institutions. Education expenses, including fees, tuition, and health insurance costs, for enrollment at Idaho private in-state colleges, private in-state vocational technical schools, private in-state universities, and other private in-state education and training institutions and including enrollment in summer school: Ninety percent (90%) of actual costs for two (2) semesters per federal fiscal year up to an amount not to exceed actual costs per federal fiscal year at Boise State University, Idaho State University, or University of Idaho, whichever is higher. If the client receives any grant or scholarship, it shall be applied first for tuition or fees before any expenditure of funds by the Commission. (5-8-09)

**c.** Education expenses - out-of-state institutions. Education expenses, including fees and tuition, for enrollment at out-of-state colleges, universities, vocational technical schools, and other education and training institutions, and including enrollment in summer school: Ninety percent (90%) of actual costs for two (2) semesters per federal fiscal year up to an amount not to exceed actual costs per federal fiscal year at Boise State University, Idaho State University, or University of Idaho, whichever is higher. If the client receives any grant or scholarship, it shall be applied first for tuition or fees before any expenditure of funds by the Commission. (5-8-09)

**i.** If the client must attend an out-of-state institution because the course of study is not offered within the state of Idaho, the Commission, at its discretion may pay the "usual and customary" charges for fees and tuition up to the established limits. (4-2-08)

**ii.** If the course of study is offered in-state, but because of the additional costs caused by the accommodation for disability, it would be more cost effective for the Commission to have the client attend the out-of-state educational institution, the Commission, at its discretion, may pay the usual and customary fees and tuition charges for the out-of-state educational institution up to the established limit. (4-2-08)

**iii.** If the client chooses to attend an out-of-state institution even though the course of study is offered within the state of Idaho, the Commission will only pay an amount equal to the maximum cost for fees and tuition, up to the established limit, at the in-state-institution offering the course of study that is closest geographically to the Commission regional office assisting the client. (4-2-08)

**d.** Books and supplies. Actual costs of required books and supplies, including expenditures for books and supplies required for attendance of summer school. If the client receives any grant or scholarship, it shall be applied first for tuition or fees, books and supplies, in this order, before any expenditure of funds by the Commission. (5-8-09)

**e.** Medical exams including written report. (4-2-08)

**i.** Specialist exam by M.D.: Two hundred dollars (\$200) plus actual cost of related procedures such as x-rays. (4-2-08)

**ii.** Psychological exam by licensed psychologist: Two hundred dollars (\$200) plus actual cost of psychometric tests. (4-2-08)

**iii.** Ophthalmologist/Optomtrist exam: Two hundred dollars (\$200) plus actual cost of visual field exam or other necessary tests. (4-2-08)

(1) Low vision exam: One hundred twenty-five dollars (\$125). (4-2-08)

(2) Follow-up low vision consultation: Fifty-five dollars (\$55). (4-2-08)

(3) Eye report: Twenty-five dollars (\$25). (4-2-08)

**iv.** Eye glasses or contact lenses: Eighty dollars (\$80) for frames and the usual and customary cost for

- lenses and contact lenses. Nine hundred dollars (\$900) for bioptics. (5-8-09)
- v. Audiologist exam: Eighty-five dollars (\$85). (4-2-08)
  - vi. Physical exam (general basic medical): Sixty-five dollars (\$65). (4-2-08)
  - f. Psychotherapy/Counseling sessions: Up to ten (10) hourly sessions at eighty dollars (\$80) per hour. (4-2-08)
  - g. Medication and medical supplies (including diabetic supplies): Three hundred dollars (\$300) per month for up to three (3) months, during which client must apply for reduced cost or free medication programs provided by drug companies or other sources of comparable benefits, including Medicaid, Medicare Part D, or other insurance. (4-2-08)
  - h. Dental work, including but not limited to cleaning, fillings, extractions, crowns, and dentures: Five hundred dollars (\$500) per case. (4-2-08)
  - i. Transportation. (4-2-08)
    - i. Public conveyance (bus, van, airfare): Actual cost. (4-2-08)
    - ii. Transportation costs associated with personal vehicle usage with or without personal driver: Two hundred dollars (\$200) per month within a twenty (20) mile radius (in-town commuting) and three hundred dollars (\$300) per month for commuting from greater than a twenty (20) mile radius (out-of-town commuting). The Commission does not provide funds for a client's purchase of a motor vehicle. (5-8-09)
    - iii. Cab subsidy programs (Scrip) must be used by clients where available. (4-2-08)
  - j. Maintenance: ~~One Three~~ thousand ~~five hundred~~ dollars (~~\$1,500~~~~3,000~~) per federal fiscal year and no more than ~~three five~~ hundred dollars (~~\$3~~~~500~~) per month. There is no limit on the number of months a client can receive maintenance up to the ~~one three~~ thousand ~~five hundred~~ dollar (~~\$1,500~~~~3,000~~) limit per federal fiscal year. These maximums also apply to room and board for post secondary education and to any rent payments. (4-2-08)(    )
    - i. The Commission will not pay maintenance for basic living expenses incurred by a client that are not directly related to the client's participation in an IPE for vocational rehabilitation services. (4-2-08)
    - ii. Maintenance for If a client attendance at is participating in the Assessment and Training Center (ATC) and is not commuting to ATC for training, the maximum per month is Three hundred dollars (\$300) per ATC term for basic living expenses incurred during the ATC term which are directly related to client's ATC attendance and participation for maintenance up to the three thousand dollars (\$3,000) per federal fiscal year. Over three hundred dollars (\$300) a month or three thousand dollars (\$3,000) per fiscal year requires approval from the VR Services Chief. Maintenance will not be paid during the ATC breaks. (4-2-08)(    )
  - k. Copy fees: Fifteen dollars (\$15) for obtaining a copy of any report or other record from an outside agency or entity required by the Commission in order to determine a client's eligibility or otherwise provide vocational rehabilitation services. (4-2-08)
  - l. Tools and equipment: One thousand dollars (\$1,000) per case. Value of tools and equipment provided to client from existing Commission inventory will count towards the one thousand dollar (\$1,000) limit. If there is a change in client's employment outcome, the client shall return the original tools and equipment to the Commission. The Commission will not provide or purchase additional tools or equipment for the client for any new employment outcome until the original tools and equipment have been returned to the Commission. (4-2-08)
  - m. On-the-Job training fees: Three thousand dollars (\$3,000). (4-2-08)
  - n. Computers including hardware and software: One thousand dollars (\$1,000) per case. If the



Commission determines that a change in computers is necessary, the client shall return the original computer to the Commission. The Commission will not provide or purchase a new or different computer for the client until the original computer has been returned. (4-2-08)

**o.** Self-employment plans: Three thousand dollars (\$3,000). (4-2-08)

**p.** Child care: Three hundred dollars (\$300) per child per month. The client shall apply and use Department of Health and Welfare child care funding as a comparable benefit before any expenditure of Commission funds towards IPE related child care. (4-2-08)

**02. Exclusion of Surgery and Organ Transplantation.** (4-2-08)

**a.** The Commission does not provide funds for a client's surgery when the surgery is the only service required for the client to achieve an employment outcome or otherwise return to work. (4-2-08)

**b.** The Commission does not provide funds for a client's organ transplantation. (4-2-08)

**03. Authorization to Purchase.** When purchasing services from a vendor, the Commission requires a written authorization be issued prior to, or on the beginning date of, service. If services are provided without an approved written authorization to purchase, the Commission reserves the right to refuse payment on the vendor's invoice. Verbal authorization for a service may only be given by the rehabilitation services chief or the Commission administrator. If a client fails to show up for an appointment, the client shall be responsible for payment of any charges resulting from the client's failure to show up for the appointment. (4-2-08)

**04. Exception Policy.** Any and all exceptions to the upper limits established by Subsection 300.01 of these rules will be reviewed on an individual case basis, and require approval by the rehabilitation services chief of the Commission. (4-2-08)