



DISABILITY RIGHTS NEW MEXICO

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Gary Housepian, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

What is the Client Assistance Program?

The Client Assistance Program (CAP) at Disability Rights New Mexico is a federally funded program which advocates for and protects the rights of individuals with disabilities who are seeking or receiving rehabilitation services from the New Mexico Commission for the Blind (CFB) or the New Mexico Division of Vocational Rehabilitation. (NMDVR). CAP provides individual legal representation and non-legal individual and system advocacy, together with information and referral services, outreach, and education. CAP usually works through negotiation, but is authorized to pursue legal, administrative, and other appropriate remedies.

You can contact CAP if:

- You need information about NMDVR or the CFB services:
- You were turned down for vocational rehabilitation services:
- You are not satisfied with the vocational rehabilitation services you are receiving;
- You seek assistance with securing and understanding NMDVR or CFB services.

How you can contact CAP:

- Phone: 1-800-432-4682 or (505) 256-3100 (voice)
- TTY: (609) 633-7106
- Email: info@drnm.org

ELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES

The mission of the public vocational rehabilitation program is to provide the needed vocational rehabilitation services to help you get or keep a job. In order to get vocational rehabilitation services from the public program, you **MUST** meet the following criteria: You must have a physical or mental disability that prevents you from getting or keeping a job

You must be able to benefit by getting and keeping a job during and/or after receiving vocational rehabilitation services. The vocational rehabilitation program can deny you services if the program can prove with clear and convincing evidence that you are not able to benefit from vocational rehabilitation services, in terms of getting and/or keeping a job

You absolutely need vocational rehabilitation services in order to prepare for, enter into, engage in, and/or retain gainful employment consistent with your strengths, priorities, concerns, abilities, capabilities, and informed choices

The decision about your eligibility for the public vocational rehabilitation program will be made without regard to your age, gender, creed, color, financial situation, religious affiliation (or lack of), or your disability. Your vocational rehabilitation counselor will make the decision of eligibility based on the criteria listed above, and the decision will be made within sixty days (60 days). The public vocational rehabilitation counselor is required by law to make this decision within the sixty days, unless you and the counselor **AGREE** to waive the sixty-day requirement. If a decision between you and your counselor is made to waive or extend the sixty days, that decision should be put in writing and signed by both you and the counselor. In addition, the written decision must include a specific time line for how long the period of eligibility determination will be extended.

The law requires the public vocational rehabilitation counselor to make the decision of eligibility within the sixty days, unless you receive social security benefits in the form of SSI or SSDI. If you receive SSI or SSDI, then by law, you are automatically be presumed eligible for vocational rehabilitation services. This eligibility process is known as presumptive eligibility and is designed to speed up the time for making an eligibility decision by the vocational rehabilitation counselor.

Informed Choice

Informed Choice refers to an ongoing process in which the individual with a disability and the vocational rehabilitation counselor collaborate to gather and evaluate information that will be used by the individual to make informed choices about goals and services that will lead to an employment outcome. It is the vocational rehabilitation counselor's responsibility to serve as a facilitator, using their skills and knowledge of the vocational rehabilitation process to contribute to the partnership. The individual requesting services brings their experiences with the implications of the disability and the knowledge of their strengths, abilities, and interests.

As an active participant in the vocational rehabilitation process, you have the following rights: You must be informed, through appropriate modes of communication, about your opportunities to exercise informed choice throughout the vocational rehabilitation process, including the availability of support services for individuals with cognitive impairments or others who require assistance in exercising informed choice

You must be provided with assistance, by the vocational rehabilitation counselor, when exercising informed choice or when making decisions concerning evaluations
You must be provided with assistance, by the vocational rehabilitation counselor, when gathering information that enables you to exercise informed choice when developing your Individualized Plan for Employment (IPE) with respect to choosing the employment outcome, vocational rehabilitation services, service providers, the employment setting, the settings in which services will be provided, and methods for procuring services

Your vocational rehabilitation counselor must work with you to assess the factors related to your strengths, resources, priorities, concerns, abilities, and capabilities. This assessment must evaluate your ability to achieve meaningful employment with transferable skills, training, retraining, or advanced training.

Exercising informed choice and taking more responsibility in the vocational rehabilitation process makes demands on you and may also make demands on other people in your life. The vocational rehabilitation counselor facilitates the process with knowledge of rehabilitation and the vocational rehabilitation process, an understanding of informed choice, information regarding rehabilitation resources and current labor market trends, and the experience of assisting other individuals through the vocational rehabilitation process.

To be fully engaged in the vocational rehabilitation process, you as the client must gather and use information to the extent possible, participate in planning and problem solving, make and implement decisions and seek or identify needed sources. The vocational rehabilitation counselor works with you to build relationships and to access resources that will enable you to exercise informed choice and work toward your employment outcome. Such activity includes:

Getting a listing of available vendors or providers for particular services
Working with new service providers to become familiar with all available options selecting appropriate vocational rehabilitation goods and services that are available in your community
Utilizing the most flexible and least restrictive methods available when choosing vendors or providers and identifying when another vendor or provider may be more appropriate
Setting timeframes for procuring vocational rehabilitation goods and services in your community
Exhausting all comparable benefits and services available in your specific community or geographic area.

RIGHTS AND APPEALS DURING THE VOCATIONAL REHABILITATION PROCESS

Client Rights:

As a client of the vocational rehabilitation program, you have the following rights throughout your involvement in the vocational rehabilitation process:

The right to be treated with respect

The right to assistive technology

The right to exercise informed choice

The right to receive information through a mode of communication that is appropriate to meet your needs as a person with a disability. For example, a person who is deaf or hard of hearing and who uses sign language as their primary mode of communication has the right to be provided with a sign language interpreter to facilitate meaningful face-to-face communication

The right to be treated in a confidential manner. All information you provide, and all information and documentation collected about you, will be held in the strictest of confidence. A Release of Information form, signed and dated by you or your legal guardian, is always required in order for program staff to obtain or gather information and/or documentation about you from other agencies. Your vocational rehabilitation counselor can only seek to obtain information that is limited to purposes directly connected with the administration of your vocational rehabilitation program.

Appeal Rights:

As an active participant in the vocational rehabilitation process, you have the following due process rights when you are dissatisfied with any decision or action made by your vocational rehabilitation counselor or other staff of the public vocational rehabilitation program regarding your case:

The Informal Appeal Process

The informal appeal process is an incremental process that involves these steps:

Step 1. Discuss with your vocational rehabilitation counselor the reason for your dissatisfaction. Sometimes issues can be resolved between you and your counselor without having to take any additional steps.

Step 2. If the issue(s) cannot be resolved through step 1 above, you may request a meeting with your counselor's supervisor or program manager to discuss your dissatisfaction(s).

Step 3. If you are dissatisfied with the outcome of your meeting with the supervisor or program manager, you may request a meeting with the program administrator or assistant director of the vocational rehabilitation program.

The Formal Appeal Process

At any time that you are dissatisfied with the services you are receiving from the vocational rehabilitation program, you have the right to request a Fair Hearing. A Fair Hearing is a formal proceeding in which both you and the vocational rehabilitation program have the opportunity to present your concerns and argue your case before an impartial hearing officer. The decision of the impartial hearing officer is final and can only be appealed by filing an appeal with the District Court.

A Fair Hearing must be requested in writing. You must send your written request for a Fair Hearing to the director of the public vocational rehabilitation program within forty- five days (45 days) of the incident or situation that caused your dissatisfaction.

You can request a Fair Hearing without using the informal appeal process at all. Alternatively, you can exercise your appeal rights through the informal process and then request a Fair Hearing if the informal process does not bring the result you desired. In most cases, it is a good idea to use the informal process appeals process first.

The Client Assistance Program is available to provide you with information, assistance you with understanding the public vocational rehabilitation program, information about the provision of vocational rehabilitation services, and legal representation related to your vocational rehabilitation pursuit.