

The Order of Selection Public Hearings

Questions and Answers

Intake Process

Question 1: In the materials provided, do you give examples of the types of functional limitations to employment that are used to determine the categories?

Answer: *Yes, functional capacity is defined in 781 KAR 1:030(1), explained in the materials provided, and a slide was added to the presentation that further outlines how they become functional limitations.*

Functional capacity means the capacity to perform tasks required in employment such as a) mobility; b) communication; c) self-care; d) self-direction; e) interpersonal skills; f) work tolerance; or g) work skills. Examples of limitations include:

- *Mobility - limitations moving efficiently from place to place*
- *Communication - limitations accurately and efficiently transmitting or receiving information verbally or non-verbally*
- *Self-Care - limitations in skills needed to fulfill basic needs related to health, safety, hygiene and financial management*
- *Self-Direction - limitations in planning, initiating and monitoring behavior with respect to a desired outcome that serves to benefit the individual*
- *Interpersonal Skills - limitations interacting in a socially acceptable, mature manner with colleagues and the public to facilitate the normal flow of work activities*
- *Work Tolerance - limitations carrying out physical and/or cognitive work tasks in an efficient and effective manner over a sustained period of time*
- *Work Skills - limitations in critical skills needed to carry out essential work functions such as functional academics, motor skills, processing speed, memory and communication*

Question 2: If a consumer's case is closed in Priority Category 1 because they are stable, does this open a spot for a Priority Category 2, or do we wait for another Priority Category 1?

Answer: *No, it does not open a spot for Priority Category 2. You would wait for another referral that would be Priority Category 1.*

Question 3: Will applications for services continue to be accepted in March, or will they be on hold until April?

Answer: *Applications for services will continue to be accepted to determine eligibility for OVR services. When Order of Selection (OOS) is implemented, it will neither affect the acceptance of referrals and applicants nor services needed by any eligible individual who has begun to receive services under an individualized plan for employment prior to the effective date of the OOS, irrespective of the severity of an eligible individual's disability.*

Question 4: Will there be less cases for counselors?

Answer: *When OOS is implemented, counselors may have fewer cases. However, the impact of closed categories on caseload may not be fully seen for 8-12 months after OOS implementation. Keep in mind, counselors will continue to accept referrals and applications, and provide assessments to determine eligibility, regardless of OOS.*

Impact on Consumers

Question 5: You covered the effects OOS will have on Pre-Employment Transition Services but what will the effects be on Pre-Vocational Services?

Answer: *If someone is Priority Categories 2, 3 or 4, their services will be impacted.*

Question 6: What is the plan to keep up with consumer demand moving forward?

Answer: *OVR will continue to comprehensively identify risks using various methodologies as a part of short- and long-term planning.*

Question 7: If a person has a significant disability with three or more limitations but only needs services for one limitation, would they still be considered Priority Category 1?

Answer: *Yes, Priority Category 1 is for an eligible individual with a most significant disability that limits three or more functional capacities. The category focuses on the individual's most significant disability and the number of functional capacities limited by the disability rather than which limited functional capacity needs service for a particular job at that time.*

Question 8: How many Kentuckians will not be served as a result of the Order of Selection?

Answer: *The full impact of OOS likely will not be known until 8-12 months after implementation. A projection of how many Kentuckians will be affected by an OOS in categories 2, 3 and 4 will be stated in the final amendment to the state plan, which will be available for public viewing upon approval. However, the largest priority category currently receiving services is Priority Category 1, which serves individuals with a most significant disability and this category will remain open.*

Budget

Question 9: What is the cost of the relatively new policy and procedures layer that they have put in? I think it was like in 2021 or 2022.

Answer: *The policy and procedures layer has always existed. Prior to the merger in 2018 of the former Office for the Blind with OVR general agency the branch had dwindled to a very small group. It is now staffed at a level necessary to provide support to the four divisions that make up close to 500 staff across multiple programs. This group handles rate setting, vendor operations, the case management system (CMS), monitoring, case reviews, contracts, accounting, policies, procedures and forms, the assistive technology loan corporation, website operations and many other tasks associated with the agency.*

Question 10: What was the cost of the rate study that was just done?

Answer: *In 2023, OVR secured a vendor through the state's competitive bid process to conduct a two-year comprehensive rate study of all its service fee rates. This is an ongoing process and is not complete. The cost of the study is no more than \$360,806.*

Question 11: When it says limited resources, are we talking counselors or are we talking CRPs or just out of money?

Answer: *Limited resources can be staffing or fiscal. This is not referring to providers.*

Question 12: I want to be clear on and understand your fiscal year (FY). Is the plan going to be reviewed at the start of the FY provided that things change regarding what we are receiving federally?

Answer: *Yes. Under federal law, the minimum requirement is annual review by the state agency to make the decision for the upcoming fiscal year. OOS can be*

implemented at any time a state VR program does not have the resources to serve all individuals statewide. OVR will be closely reviewing funding weekly, monthly and quarterly.

Question 13: We heard that \$67 million in funding comes from the federal government. How much money comes from the state budget to provide services?

Answer: *The \$67 million is what OVR anticipates receiving for the federal fiscal year (FFY) 2025. The federal share is 78.7% of OVR's total budget. The state share is 21.3% for matching for the Vocational Rehabilitation Basic Support grant. The Rehabilitation Services Administration (RSA) website [VR Formula Grant Awards | Rehabilitation Services Administration](#) has information regarding all the states and levels of funding.*

Question 14: Looking at federal funding and the publication, it states there is an adjusted total of \$63 million. What does that mean since that was not the case last year?

Answer: *\$63 million was the amount for FFY 2024.*

Question 15: Generally, when federal funds are issued, if the money is not used and is sent back, would the funding for the next year be reduced? How do we get that back? Is that what happened and is impacting our finances this year? How do we find that information since it should be public record?

Answer: *[It is public information](#), and financial information for all states can be found on the RSA website [VR Formula Grant Awards | Rehabilitation Services Administration](#). The VR grant is a formula grant. All the state federal financial reports are on the RSA website. If states return money, it is done so through the reallocation process. All states can ask for more money if they have the available match. As stated in the presentation, the main reason OVR is considering implementation of an OOS is the increase in referrals, applications and service dollars expended.*

Question 16: Why is the money not available when it was for the last four years?

Answer: *The main reason OVR is considering implementation of an OOS is due to the increase in referrals, applications and service dollars expended. Over the past four years, the amount of consumer services needed and expenditures for those services have steadily increased at an unprecedented pace and continues to do so. If this continues along with inadequate resources, OVR will not be able to serve all eligible individuals. However, OVR must ensure those individuals with the most significant disabilities in Priority Category 1 are served before all other priority categories.*

Question 17: If the fiscal year budget was determined in 2024, why is this only now being deemed necessary after a quarter has passed?

Answer: *OVR has been closely monitoring the budget and anticipated that the implementation of OOS may be needed. OVR took time to review the data, monitor spending and implement additional cost-saving measures before it closed categories of service. OVR looked at the impact and the consequences both externally and internally. Federal law allows an agency to identify the need at any time during the fiscal year.*

Question 18: Is the shortfall of the unanticipated increase of consumers due to the lack of the legislature to fully draw down funds?

Answer: *No*

Question 19: What other funding options are being considered?

Answer: *OVR will closely monitor and consider grant opportunities.*

Question 20: What is the process for increasing the federal funding for vocational rehabilitation (VR) services for the state?

Answer: *Funds are distributed to states, the District of Columbia, and the five U.S. territories based on the statutory formula that takes into account population and per capita income in determining the amount of federal funds made available to each grantee for VR program purposes. Grant funds are administered under the approved VR services portion of the Unified or Combined State Plan in accordance with the Workforce Innovation and Opportunity Act (WIOA) Unified and Combined State Plan Requirements.*

Question 21: How much of Kentucky's money for Vocational Rehabilitation services has been sent back, not drawn down, or reallocated in the years 2020-2024? And how much did those returns reduce Kentucky's Vocational Rehabilitation budget over those years?

Answer: *OVR expended all available funding to the fullest extent to provide the maximum number of services to Kentuckians. Over the last six-year period, OVR has received \$485,601,084.10 through the RSA Vocational Rehabilitation Basic Support grant and has only reallocated \$14,933,918 or 3% of the total funding received. In addition, OVR has almost doubled the number of consumers served since 2022 and has expended approximately \$17 million more per year on those services to Kentuckians.*

OVR has reallocated funds back to the Department of Education RSA in accordance with the governing rules and regulations required. RSA requires a state match of 21.3% of the Vocational Rehabilitation Basic Support grant funds

awarded and a 15% minimum set aside for Pre-Employment Transitional Services of the Vocational Rehabilitation Basic Support grant funds. In addition, RSA has increased the federal grant award four out of the last five years, increasing the match requirements. State match comes from the State General Fund, which is appropriated by the Kentucky General Assembly through the state budget every two years, making it difficult to keep up with the federal award increases. Due to these circumstances, OVR had to reallocate funds to stay in compliance with RSA regulations and remain in good standing with RSA.

Question 22: How much did KY Vocational Rehabilitation spend on the most recent Public Consulting Group Contract? What was the scope of work and what were the goals and objectives? What positive fiscal outcomes were projected as a result?

***Answer:** The total amount awarded for the contract is no more than \$360,806. This contract was competitively bid per the state procurement requirements and details of this contract including scope of work, goals and objectives are available at [Transparency.KY.Gov](https://www.ky.gov/Transparency). The positive fiscal outcome is assurance that agency rates are reasonable, allowable, allocable and necessary as per 2 CFR Part 200. This study is being conducted by an outside objective entity, ensuring that no conflict of interest exists.*

Question 23: At what point did budget deficits become known to the administration of Vocational Rehabilitation, forcing them to make the decision to move to the Order of Selection?

***Answer:** OVR management decided to implement OOS after a year-long assessment. OVR studied both financial and programmatic data weekly throughout the year and in the spring of 2024 confirmed a consistent pattern of increased expenses in consumer services. OVR identified both internal and external risks. Based upon their assessment, management communicated the data to agency leadership and identified the available opportunities to mitigate the effects.*

Question 24: Why did you implement what was said to be an increase in fees in the Service Fee Memo of October 1, 2024, if you knew that your budget was in peril?

***Answer:** As required by federal law, OVR conducted a rate study in 2023-2024 and determined an increase in provider fees for supported employment in 2024 was necessary to ensure quality service delivery to consumers. The process of the rate study and the increases were underway long before budgetary concerns arose.*

General

Question 25: I guess more broadly, I would like to learn about what might be the changes to OVR in general if the Department of Education closes? Then what do we do?

Answer: *OVR cannot speculate about changes that may occur due to decisions made at the federal level.*

Question 26: When will the slides be made available for this presentation?

Answer: *The presentation is available on our website at [Vocational Rehabilitation - Kentucky Career Center](http://kcc.ky.gov/vocational-rehabilitation) (kcc.ky.gov/vocational-rehabilitation).*

Question 27: Potentially, those on the waitlist could remain there forever if there is not an increase in funding. Is that correct?

Answer: *We cannot project the length of time that the OOS will remain in place, but even in OOS there is an embedded process of review to ensure that when funds are available those on the waitlist will be served. In addition, if an individual has a change in their disability there is a process to review the change to determine if their category should be adjusted. OVR will ensure that eligible individuals who do not meet the OOS criteria for the priority categories, shall have access to services provided through the information and referral system in accordance with the Rehabilitation Act of 1973. These services will include referral to other federal and state programs including the statewide workforce investment programs. The process for this is as follows:*

- *The agency will provide the individual with a notice of referral;*
- *The notice will contain a point of contact for the program or service to which an individual is being referred and any relevant information regarding services for the individual relating to preparing, securing, obtaining or retaining of employment; and*
- *Documentation of the nature and scope of information and referral services provided will be included in the individual service record and entered in the Case Management System (CMS).*

Question 28: Will anyone monitor the waitlists and if so, will those on the waitlist be contacted once categories have been opened?

Answer: *Yes. The state plan of services outlines the process for maintaining the waitlist. The waitlist will be maintained by the director of field services and reviewed quarterly by both the director of field services and the regional*

managers. Consumers will be contacted annually to inform them of the status of OOS and their specific priority category. Upon the annual notification, the consumer will have the opportunity to remain on the waitlist. As funds become available the agency may serve consumers from the waitlist prioritized by the date of their application or open a closed category if sufficient funds are available. At the time funds become adequate and a priority category opens, the following sequence of action will occur for those individuals in a closed category: First, Priority Category 2 will be opened; and then, individuals on the waiting list for Priority Category 2 will be served by date of application.

Question 29: Is the change communicated to our representatives for the state?

Answer: Yes.

Question 30: What coordination efforts are being done to inform local employment organizations and local workforce boards for individuals receiving referral services?

Answer: *OVR sent communication to the State Rehabilitation Council (SRC) councilmembers representing over 15 different councils and community partners as well as to the Employment First Council that is represented by many community partners. Notice was placed on the Education and Labor Cabinet website, OVR websites and social media accounts for the public and stakeholders' awareness. It was also posted and distributed at our two state facilities, Carl D. Perkins Center in Thelma, Kentucky and McDowell Center in Louisville, where public hearings were held. Communications were distributed to regional offices by regional program managers making it available to various networks across the state inclusive of all OVR staff. Communications were distributed on list serves by different advocacy groups, and community rehabilitation providers. OVR leadership met with staff of the WIOA partner organizations (Adult Education, the Career Development Office) and made presentations to partner staff. Later in March, OVR will attend the local workforce boards director meeting and will make a short presentation on OOS.*

Question 31: What is the plan if the Community Rehabilitation Provider (CRP) closes because of the OOS?

Answer: *Given the fact that we will not see the impact until after the implementation of OOS for 8 to 12 months, CRPs will have some lead time for planning. OVR is watching for grant opportunities that are appropriate, and encouraging CRPs to do this as well. OVR will continue to serve individuals in Priority Category 1.*

Question 32: How can you say that we have a Provider Capacity issue when we are reducing the number of referrals going to existing providers?

Answer: *Provider capacity issues still exist in many areas of the state, including in our rural communities. Every service provider in the Commonwealth has the opportunity to become an approved OVR service provider through an application process. OVR does not place any limit on the number of service providers that can become OVR service vendors. Every service provider that meets the established criteria is granted vendor status.*

One of the most vital provisions in the federal law is the Informed Choice law in 34 CFR 361.52. It requires OVR to assure consumers receive information and support services necessary to allow consumers to make an informed choice about what services they receive and the providers from which they receive those services.

Under their right to informed choice, OVR consumers are free to choose from any approved vendor. If OVR pre-authorizes a service, the vendor will be paid for the service once it is rendered. The number of services provided by any single vendor is determined solely by the number of consumers that choose to use that provider.

OVR cannot choose a provider for a consumer and cannot attempt to steer a consumer toward any specific provider. The consumer's right to informed choice requires OVR to work with many service providers throughout the Commonwealth and occasionally in other states as well.

Please see the [Capacity of Kentucky Supported Employment Services](#) that outlines the number of providers across the state and the areas where there are sufficient, marginal and critical coverage needs. The number of referrals a CRP receives depends on whether they are located in an area of sufficient coverage because there are more CRPs in those areas from which a consumer can choose to receive services.

Question 33: How do you think this will impact our 48th ranking and Provider Capacity in Kentucky?

Answer: *While OVR plays a critical role in assisting individuals with disabilities in achieving competitive integrated employment, broader economic, geographic, educational and systemic barriers significantly contribute to employment disparities. Kentucky's high disability prevalence, rural economic challenges, and structural inequities in education, healthcare and transportation create substantial hurdles that no single agency can solve alone. Kentucky's disability employment landscape presents a complex challenge. Kentucky's high disability prevalence creates unique barriers. Employment gaps are driven by structural barriers. The*

gap is especially severe in rural areas where economic conditions further limit opportunities for people with disabilities. Educational disparities limit workforce participation. Economic disincentives, the benefits cliff and poverty further limit employment access. The benefits cliff presents a major barrier to employment for many individuals with disabilities, who risk losing critical supports like Medicaid or SSDI if their earnings surpass strict eligibility thresholds. This forces many Kentuckians with disabilities into an impossible choice: remain in low-wage employment or forgo work altogether to retain access to healthcare, housing and essential services. Without improved policies that allow for gradual benefit reductions instead of abrupt cutoffs, economic disincentives will continue to discourage full workforce participation. Another issue in Kentucky is the limited access to mental health care that exacerbates employment barriers. Overall, Kentucky's disability employment challenges are a reflection of deep-rooted structural and economic barriers. The state's high disability prevalence, rural economic challenges, educational inequities, and workforce access issues all contribute to the employment gap. OVR alone cannot address the broader economic and policy landscape and its effect on Kentucky's disability employment rate.

Please see [Capacity of Kentucky Supported Employment Services](#) that outlines the number of providers across the state and the areas where there is sufficient, marginal and critical coverage needs. The amount of referrals a CRP receives depends on whether they are located in an area of sufficient coverage because there are more CRPs in those areas from which a consumer can choose to receive services.

Question 34: What other solutions were addressed before introducing the Order of Selection? Were these discussed in Employment First, with CRPs, and other agencies in the Commonwealth?

Answer: *The State Rehabilitation Council as set forth in 34 CFR 361.16, is the oversight council for the state unit (OVR) and functions to analyze and advise the agency regarding its performance in the delivery of services. As such, OVR regularly consults with the council regarding the development, implementation and revision of state policies and procedures.*

In compliance with 34 CFR 361.36, OVR leadership met with the council chair and co-chair, executive committee and the full council to inform them of the need to implement an OOS. The work of Employment First is separate and distinct from the work of the Statewide Council for Vocational Rehabilitation as stated in KRS 151B.212. Notice of the public hearings was sent to Employment First Council members.

OVR held four public hearings, all of which had a virtual option for the larger public and community stakeholders to attend and provide input and comment. All active CRPs, as well as other advocacy organizations across the state, received notice of the four public hearings. Notice of the public hearings and public comment period was posted on the OVR website from January 27, 2025, through February 27, 2025, and distributed on social media. At the public hearings, OVR shared with attendees other cost saving solutions that were implemented including a hold on personnel actions and agency sponsored out-of-state travel. All this information can be found in the PowerPoint presented at the public hearings on the OVR website at:

[Vocational Rehabilitation - Kentucky Career Center.](#)