

Financial Needs Issues and VR: Questions and Answers

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Learning Objectives

1. Describe the process that VR agencies must follow when implementing a Financial Needs Test
2. Describe why the role of SSI/SSDI beneficiaries in this process is distinctly different
3. Apply the principles discussed throughout the presentation to specific case scenarios

Financial Needs Tests

- A state VR agency does not have to impose a financial needs test.
- There is no federal requirement to do so.
- The regulations also refer to the test as the “individual’s participation in the cost of VR services.”

Financial Needs Tests (continued)

[§ 361.54(b)(2)]

- If a state decides to impose a financial needs test, it must:
 - Maintain written policies.
 - Specify those VR services for which the test applies (certain exemptions apply.)
 - Apply the test uniformly to all individuals in similar circumstances within the same geographic region.

Services which may **NOT** be subject to a Financial Needs Test [§ 361.54(b)(3)]

- The following VR services must be provided by VR regardless of the financial need of the individual:
 - Assessment for determining eligibility → **Except those non-assessment services that are provided to individuals during trial work experiences**

Services which may **NOT** be subject to a Financial Needs Test [§ 361.54(b)(3)]

- Counseling and guidance
- Referral and other services
- Job placement and related services

Services which may **NOT** be subject to a Financial Needs Test (continued)

- Personal assistance services
- Auxiliary aids and services (such as interpreter services or reader services) necessary for the VR agency to comply with rights under section 504 of the Rehabilitation Act and the Americans with Disabilities Act

Cost of Services [§ 361.54(b)(3)(iv)]

- The State **must** establish policies for the rates of payment for VR services.
- The State **may** create a fee schedule to ensure reasonable costs but the schedule **may not**:
 - Be so low as to effectively deny a service.
 - Not absolute and allow for **exceptions**.

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Cost of Services [§ 361.50(c)(3)]

- The VR agency **may not** place any **absolute dollar limit** on **specific service** categories.
- The VR agency **may not** place any **absolute dollar limit** on the **total services** provided to an individual.

Cost of Services [§ 361.50(b)]

- The state **may** have a preference for in-state service, but the preference cannot effectively deny a service.
- If individual chooses an out-of-state provider, VR would pay only the in-state rate, with the individual paying the difference.
- The state **may not** establish a policy that effectively denies out-of-state services.

Individuals who are **NOT** be subject to a Financial Needs Test [§ 361.54(3)(ii)]

- Anyone eligible for benefits under Title II or Title XVI of the Social Security Act. This includes:
 - Social Security Disability Insurance (SSDI) Recipients.
 - Supplement Security Income (SSI) Recipients.

Individuals who are **NOT** be subject to a Financial Needs Test [42 U.S.C. § 1382h.]

- It is clear that this definition not only applies to cash beneficiaries of SSI and SSDI but also to former SSI cash beneficiaries who continue to receive Medicaid under section 1619(b).
- Section 1619(b) is located within Title XVI of the Social Security Act and states that for the purposes of Medicaid eligibility, a 1619(b) recipient “shall be considered to be receiving [SSI] benefits under” Title XVI.

Hypothetical #1

- Javier is an 18-year-old high school graduate who happens to be Deaf. His primary mode of communication is American Sign Language (ASL). He has never attended a school in which all of his fellow classmates were not also Deaf. His intended major in college is computer science. Javier receives SSI benefits.
- The local college in Javier's town does not have a computer science major. He wants to attend Gallaudet University in DC because they have his major and also because the campus and the program are set up to meet his communication needs.
- Does Javier have to contribute to the cost of his attendance at Gallaudet University?

Individuals who may **NOT** be subject to a Financial Needs Test [§ 361.54(3)(ii)]

- In other words, if the VR client is a social security recipient, he/she should contribute **NOTHING** to the cost of VR services.
- For these individuals, the fee schedules are completely irrelevant, even if the schedules are reasonable!

Hypothetical #2

- A 17-year-old VR client named Luna just graduated from high school and will be participating in a VR-sponsored summer internship program.
- Luna is a SSI recipient.
- She is being asked to cover her transportation costs to and from the internship.
- Is this appropriate?

Financial Needs Tests and Post- Secondary Education

Financial Needs Test and Post-Secondary Education

- Maximum efforts (34 CFR §361.48(b)(6)): Both VR and the client must make maximum efforts to secure grants.
- Advanced Training (34 CFR §361.48(b)(6)): Advanced training opportunities are services that VR may – and should -- pay for when necessary for the client to achieve his/her employment outcome.
- Based upon the comments to this regulation, this encompasses comprehensive transition and post-secondary programs for students with intellectual disabilities.

Financial Needs Test and Post-Secondary Education

- REVIEW: VR may not apply a financial needs test or require the financial participation of SSI/SSDI recipients as a condition for furnishing VR services [34 CFR § 361.54(b)(3)(ii)].
- But, VR must make use of comparable benefits before providing services to an eligible individual, unless such a determination:
 - would delay progress toward the a) employment goal b) an immediate job placement or c) place the individual at extreme medical risk [34 CFR § 361.53].

Financial Needs Test and Post-Secondary Education

Comparable services & benefits (34 CFR §361.53):

- By definition, a comparable benefit is:
 - a service or benefit provided, in whole or in part, by:
 - another public agency,
 - by health insurance, or
 - as an employee benefit.

Financial Needs Test and Post-Secondary Education

Comparable services & benefits (34 CFR §361.53):

- Grants do meet this definition.
- Student loans do not meet this definition because they are not provided by another public agency, by health insurance or as an employee benefit.
- The federal regulations specifically indicate that merit-based scholarships/awards do not meet this definition. (34 CFR §361.5(c)(8)).

Financial Needs Test and Post-Secondary Education

- The key question becomes whether SSI cash benefits are classified as comparable benefits.
- SSI cash benefits are not comparable benefits.
- The federal regulations do not state this explicitly because it is not necessary to do so. For this purpose, SSI and SSDI benefits are classified as income to the individual.

Hypothetical #3

- Sam, a 42-year-old college student, has a Traumatic Brain Injury (TBI). He has maxed out on Pell grants and, as a result of a prior student loan disability discharge, Sam cannot apply for any additional federal student loans. He does receive a small state grant, but has no other resources to help him pay for college. Sam is a SSDI recipient.
- What is VR's financial responsibility?
- What is Sam's financial responsibility?

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Hypothetical #4

- Simone is a 24-year-old graduate student who has cerebral palsy and other visual disabilities. She is pursuing a Master's Degree in Social Work (MSW). There are no Pell grants available for an MSW degree, Simone does have \$500 grant from another source. She is not a SSI/SSDI recipient.
- What is VR's financial responsibility?
- What is Simone's financial responsibility?

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