

# **Office for the Blind and Visually Impaired**

**State of Wisconsin  
Department of Health Services**

**Division of Long Term Care  
Bureau of Aging and Disability Resources**

## **PROGRAM POLICY MANUAL**

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# FOREWORD

## Introduction

The Department of Health Services/Division of Long Term Care/Office for the Blind and Visually Impaired (OBVI) provides Vision Rehabilitation Services for Wisconsin citizens who are blind or visually impaired. This manual covers programs required by Wisconsin Statute 46.293, and includes Independent Living Services for Older Individuals who are Blind per Federal Statute (34 CFR § 367). All facets of services provided by OBVI shall be in strict compliance with all applicable state and federal statutes.

Regulatory guidelines state and federal in whole or in part form the basis for the policies in this manual.

### Wisconsin Statute (Attachment A):

46.293 Specialized programs for the blind and visually impaired.

### Federal Statute (Attachment B):

34 CFR	364.4	State Independent Living Services definitions,
	364.28	State Plan for Independent Living including of Older Blind,
	364.30	Client Assistance Program Notice,
	364.37	Access to records,
	364.38	Methods of evaluation,
	364.56	Protection of personal information,
	367.3	Independent Living Services for Older Individuals who are Blind activities that may be funded,
	367.4	Regulations that apply,
	367.5	Independent Living Services for Older Individuals who are Blind definitions.

## Mission Statement

The Wisconsin Department of Health Services, Office for the Blind and Visually Impaired, is the government agency designated to provide assessment, training and information to adults with vision loss, their families and interested professionals. These services exist to enhance independent living skills and quality of life for persons with vision loss.

## **I. PURPOSE AND SCOPE**

### **Purpose**

The purpose of OBVI Vision Rehabilitation Services, including Independent Living Services for Individuals who are Older Blind (ILOB), is to provide a variety of services designed to enhance the ability of blind and visually impaired citizens of Wisconsin to live as productively and independently as possible.

OBVI staff provides outreach and training for organizations to enhance understanding and knowledge of visual impairment and blindness. They also assist peer support groups and facilitate the development of new groups.

The following policies provide a framework in which services will be delivered in an equitable and consistent statewide manner while at the same time meeting all the applicable federal and state statutes, including all federal regulations and assurances.

These policies will encompass all services provided by OBVI. These include the ILOB, detailed in the current contract between the Wisconsin Department of Workforce Development/Division of Vocational Rehabilitation (DWD/DVR) hereinafter referred to as the Designated State Unit (DSU) and the Wisconsin Department of Health Services/Office for the Blind and Visually Impaired (DHS/OBVI).

The DSU may allocate funds from the formula grants received from the Independent Living Title VII – Chapter 2, Older Individuals who are Blind Program (ILOB). DHS/OBVI will match the ten percent in non-Federal funds as creditable match and any other funds that may be available for the ILOB program.

All ILOB policies and procedures covering fiscal and service delivery must be followed when providing services.

### **Scope**

Services are provided to those consumers throughout the State of Wisconsin who are determined to be eligible. Once eligibility has been

established, services may be provided within the home, through community-based services, or at any other location agreed to by the consumer. Services may be provided individually or in a group setting. A consumer may request or require one or more of the services listed in the section titled: **Services Available to Eligible Consumers.**

## **II. PROGRAM PROCESS**

### **Information and Referral**

Individuals may contact the Office for the Blind and Visually Impaired (OBVI) for inquiries into services related to vision loss. Some individuals may only need information and referral assistance.

Information is provided regarding services available through the OBVI or through other resources, such as Aging and Disability Resource Centers, Independent Living Centers, low vision centers, etc.

### **Intake Process**

#### **Referral**

Referrals are received from a variety of sources such as licensed health care, medical, eye care and social service providers, aging network, senior residence or nursing home staff, other consumers, relatives and friends. Consumers may also contact OBVI directly.

OBVI staff gathers information on the person's visual impairment, functional limitations and reason for referral.

#### **Application**

A consumer is considered to have applied for OBVI services when the consumer has met the following three criteria:

- Completed an OBVI application signed by the consumer and/or parent/guardian, if appropriate, or otherwise requested services.
- Provided the information necessary to initiate an assessment to determine eligibility.
- Is available to complete the assessment process.

## **Eligibility Criteria**

The following minimum criteria must be met in order for an applicant to receive any services from OBVI, including Title VII, Chapter 2 (ILOB) Independent Living Services for Individuals who are Older Blind, other than Information and Referral:

### **To Qualify for OBVI Services**

In order to determine eligibility for services from OBVI, one of the following must be documented or observed:

- The individual has central visual acuity of 20/70 or less in the better eye, with best correction; or
- The individual's field of vision is constricted to the point that it interferes with daily living activities; or
- The individual has a permanent and/or progressive visual impairment, which impedes independent living.

### **To Qualify for ILOB Services**

To qualify for the ILOB program funding, an applicant must have attained fifty-five years of age or older and have a severe visual impairment that makes competitive employment extremely difficult to obtain but for whom independent living goals are feasible (34 CFR § 367.5).

### **Residency**

In order for a consumer to receive services from the OBVI program, the consumer must be present in the state and able to participate in services. There are no other requirements, duration or otherwise, imposed by Wisconsin law in establishing/maintaining residency.

### **Assessment**

OBVI staff meets with the referral to establish eligibility and begin an assessment to determine the functional level of skills and needs of the

consumer. Decisions about services are based on the assessment and on the consumer's identification of the functional barriers to personal independence as a result of vision loss, goals for independence, level of vision, and the presence of secondary disabilities. The OBVI staff will assist the consumer in identifying appropriate goals for personal independence. The assessment will determine whether equipment and/or training will increase the consumer's functional independence.

No financial needs test will be used to determine eligibility for OBVI services, including ILOB services.

### **Services Available to Eligible Consumers**

Services for eligible consumers to meet their independent living goals may include:

1. Vision Rehabilitation Therapy services constitute the broad array of skills needed to teach individuals who are blind or visually impaired to function independently at home and/or in a work environment, and to participate in community life. These include communication techniques, activities of daily living, personal management, home management, leisure management, medical management, indoor orientation, and community integration.
2. Low Vision Therapy services screen and assess functional visual abilities and visual deficits using specialized evaluation instruments. In collaboration with an ophthalmologist and/or optometrist who manage eye health and treatment, a Low Vision Therapist provides training in the use of low vision equipment, techniques, and environmental modifications for enhanced visual functioning.
3. Orientation and Mobility services are provided in a sequence of instruction to individuals with visual impairment in the use of their remaining senses to determine their position within the environment, and in techniques for safe movement from one location to another.
4. Accessible computer technology service providers, specific to computer accessibility for individuals who are blind, help individuals with visual disabilities acquire and use appropriate accessible



computer technology to assist them in activities of daily living, employment and education.

5. Information and referral about and to community resources, including peer support groups, that will help meet individualized consumer needs.
6. Assisting the consumer in understanding the medical and psychosocial aspects of visual impairments, and provide individual advocacy training.
7. Other independent living services.

Financial assistance from OBVI for the purchase of equipment and training is dependent upon availability of funding, and comparable benefits and resources available to the individual.

### **Exception Policy**

For any services not included in the above list, the OBVI staff may seek an exception by contacting the OBVI supervisor.

## **III. CASE MANAGEMENT**

Case management requires maintaining cases in active status until all planned services have been provided. Cases will be active for varying time periods depending on the individual needs of the consumer. Services are terminated following goal completion and after consultation and agreement between the OBVI staff and the consumer. The case may be closed at that time and the consumer is notified about the Client Assistance Program (CAP)(34 CFR § 364.30). A new episode of service may be initiated if the consumer's circumstances change.

### **Case Documentation**

While cases are in active status, the OBVI staff will provide and collect pertinent information essential for efficient and complete service delivery. The information must be reflected within the OBVI data tracking system.

Case notes must be documented regarding all contacts and consumer progress toward meeting independent living outcomes and referrals to other resources.

Closure of services is documented in the OBVI data tracking system, including a summary of consumer goals and outcomes. A closure letter stating the reason for closure is given or sent to the consumer, along with CAP information. If the consumer wants to appeal case closure, see Section IV.

A new episode of service may be initiated if the consumer's circumstances change.

### **Case File Content (electronic and paper)**

Case files consist of the following:

- Documentation of visual impairment, eligibility and functional limitations.
- Signed application.
- OBVI Open and Close Data form (Consumer Profile) for OBVI and ILOB Program in the MiBVI database.
- Acknowledgement that information on Client Assistance Program (CAP) services was discussed and a CAP brochure was provided to the consumer at referral.
- Assessment forms as appropriate.
- Low vision functional assessment forms as appropriate.
- Information supporting the development of consumer independent living goals, services, progress toward meeting independent living goals and outcomes.
- Equipment and training purchase order forms as appropriate.
- Verification that consumer received equipment.
- Reports from other service providers if provided.
- Confidential Information Release Authorization forms as appropriate.
- Information on consumer referral to other agencies and resources.
- Miscellaneous information collected.
- Case notes completed by the assigned OBVI staff on all case activity.
- Information on consumer's request for an appeal and any decision or action resulting from that request.

- Case note documenting case closure and outcomes summary.
- Copy of closure letter including appeal rights and CAP.

## **Consumer Satisfaction Survey**

A consumer survey is conducted upon the completion of services provided by the OBVI staff or sub-contractor. The survey is completed by the OBVI staff or sub-contractor with the consumer or his/her representative in his/her preferred media.

The DSU may also independently obtain customer satisfaction feedback from ILOB consumers on their satisfaction with services received from OBVI staff and its sub-contractors (34 CFR 364.38).

## **Forms**

Forms and the Application for Services with the OBVI are available on the Internet.

- F-22468      Application for Services with the OBVI  
<https://www.dhs.wisconsin.gov/forms1/F2/f22468.docx>
- F-00321      OBVI Initial Interview Assessment  
<https://www.dhs.wisconsin.gov/forms/F0/F00321.docx>
- F-20224      OBVI Assessment / Plan / Evaluation  
<https://www.dhs.wisconsin.gov/forms1/F2/F20224.docx>
- F-22469      Referral for Services from OBVI  
<https://www.dhs.wisconsin.gov/forms1/F2/F22469.docx>
- F-22491      Consumer Report  
<https://www.dhs.wisconsin.gov/forms1/F2/f22491.docx>
- F-82009      Confidential Information Release Authorization  
<https://www.dhs.wisconsin.gov/forms/F8/F82009.docx>

## **IV. GENERAL POLICIES**

### **Civil Rights Provisions**

The OBVI will provide services without regard to race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5) Wis. Stats., marital status, arrest or conviction record, sexual orientation as defined in s. 111.32(13m), national origin or ancestry, or age of the consumer, excepting those restrictive age requirements of the Title VII, Chapter 2 program, Wisconsin Fair Employment Law.

All facilities, sub-contractors, agents, and vendors utilized by OBVI must comply with Title VI of the Civil Rights Act of 1964, and section 504 of the Rehabilitation Act of 1973, as amended.

### **Affirmative Action**

The OBVI follows an Affirmative Action Plan that provides equal employment opportunity and advancement for qualified physically or mentally disabled persons and members of all racial and ethnic minorities.

### **Political Activity**

All employees must comply with the restrictions contained in state and federal laws.

### **Appropriate Modes of Communication**

The OBVI will endeavor to ensure that all consumers are able to fully participate in services offered, regardless of their communication needs.

### **Consumer Appeal Process**

If a consumer is not satisfied with any action taken with regard to the furnishing or denial of OBVI or ILOB services, the consumer may request an informal review with OBVI management.

This process may not be used as a means to delay a more formal review, but may be used if likely to result in a more timely resolution of disagreements. The consumer may choose to have the informal review by

phone or in offices of DHS. The discussion or meeting must take place within ten working days of the consumer's request.

If the consumer is not satisfied at the conclusion of the informal review, an Administrative Review by the Director of OBVI may be requested. The Director will schedule an Administrative Review within thirty days of receiving the request. During the meeting, the Director will consider all information provided by the consumer and/or his/her representatives, as well as the OBVI Field Supervisor. The Director will advise the consumer of his/her conclusions, in writing, within ten days of the Administrative Review. The Director will cite specific written policies and procedures to support his/her decision. The decision of the Director shall be final.

### **Client Assistance Program**

The OBVI staff will advise the consumer of the availability and purpose of the Client Assistance Program (CAP) at the point of application for services and at the time of closure. The OBVI staff will also provide a CAP brochure.

If at any point in the service delivery process a consumer disagrees with any decision regarding the denial or delivery of services, they will again be advised of the CAP, and their right to an informal administrative review and/or a formal administrative review (34 CFR § 364.30).

### **Confidentiality and Release of Information**

Consumer information and records are confidential. In general, they can only be released to others with the informed written consent of the consumer, if competent, or the guardian (Sec. 51.30, *Wis. Stats*; 34 CFR § 364.56).

The consumer has the right to refuse to release his/her information. In this event, no information will be released except as required by legal action.

For OBVI to provide information to organizations or persons outside OBVI, the consumer must sign a Confidential Release of Information form that specifies precisely who is to be provided the released information. A copy of this form must be placed in the consumer file. Only completed release of

information forms may be placed in the consumer file. Rules on confidentiality and release of information are HIPAA compliant.

### **Housing of Case Files**

All OBVI files are the permanent property of OBVI. The files will be housed in secure storage facilities. Closed case files (hard copies) of the current year and the three previous calendar years must be maintained. Old files should be maintained and/or destroyed per DHS policy and according to Records Retention/Disposition Authorization (RDA) s. 16.61 Wis.Stats.

### **Order of Priority for Service Delivery**

There will be no order of priority for service delivery for any applicant. Waiting lists may be established based on funding or staff resources.

### **Availability of Policy Manual**

This policy manual is provided to OBVI staff in print and/or preferred media. It is also available on the OBVI web site at:  
<http://www.dhs.wisconsin.gov/blind/>

### **Fiscal Procedures**

All purchased services shall be authorized and case noted in the file prior to the provision of services and according to all legal, state purchasing, DHS and OBVI requirements.

If a contract or fee schedule exists, that will determine the maximum OBVI may contribute to the purchase.

Information supporting purchasing decisions must include:

- Information supporting consumer choice and purchase recommendations.
- Information documenting review and approval by supervisor for training and equipment when appropriate.
- Information documenting that the consumer received the purchased goods and services.

- Information documenting approval for payment of purchased goods and services.

## **MiBVI Database**

This database is an automated MiBVI (Manage Information for Blind and Visual Impairment Services) system that tracks all levels of service provision, information and referral, active and closed cases, and OBVI staff's outreach services. The information is collected and submitted for the 7OB reports.

## **Case Statistics**

Statistical data will be tracked as needed to complete all required federal and state reports relating to all funding sources. The Director or designee of OBVI is responsible for completing the federal fiscal year 7OB annual report for the ILOB program and submitting to the State DSU, as well as the State DSU requested semi-annual report.

## **Quality Assurance File Reviews**

The DHS Office for the Blind and Visually Impaired conducts quality assurance file reviews of case files during the year. Examples may include an electronic review of active and/or closed cases, including:

- Consumer Information Audit to identify:
  - Missing information
  - Number of consumers served per evaluation period
  - Compliance with data needed for federal 7OB reports.

For further information, visit the OBVI website at:  
<http://www.dhs.wisconsin.gov/blind/>

(Rev. 01/2011)

## Attachment A

### Wisconsin Statute Chapter 46 - Program Authority and Funding

#### 46.293

Specialized programs for the Blind and Visually Impaired. The Department shall provide rehabilitation teaching services for persons who are blind or visually impaired including elderly persons and young persons and their parents or guardians, regardless of their eligibility for vocational rehabilitation services. These services may include assessments of each client's service needs, development of an individual service plan, instruction in Braille, training in orientation and movement in the person's home or neighborhood, counseling and guidance to increase the blind or visually impaired person's independence, instruction in the use of low-vision aids, personal and home management training and instruction in leisure activities. In conjunction with the provision of these services the department shall:

- (1) Work with the blind and visually impaired persons, in a setting appropriate to each individual, to form rehabilitation plans for independent living to enable them to increase their self-reliance.
- (2) Assist blind and visually impaired persons in physical orientation and personal adjustment.



## Attachment B

[Code of Federal Regulations]  
[Title 34, Volume 2]  
[Revised as of July 1, 2009]  
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[Page 303-306]

### TITLE 34--EDUCATION

#### CHAPTER III--OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION

#### PART 364\_STATE INDEPENDENT LIVING SERVICES PROGRAM AND CENTERS FOR INDEPENDENT LIVING PROGRAM: GENERAL PROVISIONS--Table of Contents

##### Subpart A\_General

#### Sec. 364.4 What definitions apply?

(a) Definitions in EDGAR. The following terms used in this part and in 34 CFR parts 365, 366, and 367 are defined in 34 CFR 77.1:

Applicant  
Application  
Award  
Department  
EDGAR  
Fiscal year  
Nonprofit  
Private  
Project  
Public  
Secretary

(b) Other definitions. The following definitions also apply to this part and to 34 CFR parts 365, 366, and 367:

Act means the Rehabilitation Act of 1973, as amended.

Administrative support services means assistance to support IL programs and the activities of centers and may include financial and technical assistance in planning, budget development, and evaluation of center activities, and support for financial management (including audits), personnel development, and recordkeeping activities.

(Authority: 29 U.S.C. 796c(c)(2))

Advocacy means pleading an individual's cause or speaking or writing in support of an individual. To the extent permitted by State law or the rules of the agency before which an individual is appearing, a non-lawyer may engage in advocacy on behalf of another individual. Advocacy may--

(1) Involve representing an individual--

(i) Before private entities or organizations, government agencies (whether State, local, or Federal), or in a court of law (whether State or Federal); or

(ii) In negotiations or mediation, in formal or informal administrative proceedings before government agencies (whether State, local, or Federal), or in legal proceedings in a court of law; and

(2) Be on behalf of--

(i) A single individual, in which case it is individual advocacy;

(ii) A group or class of individuals, in which case it is systems (or systemic) advocacy; or

(iii) Oneself, in which case it is self advocacy.

Attendant care means a personal assistance service provided to an individual with significant disabilities in performing a variety of tasks required to meet essential personal needs in areas such as bathing, communicating, cooking, dressing, eating, homemaking, toileting, and transportation.

(Authority: 20 U.S.C. 706(30)(B)(vi))

Center for independent living means a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency that--

(1) Is designed and operated within a local community by individuals with disabilities; and

(2) Provides an array of IL services.

(Authority: 29 U.S.C. 796a(1))

Consumer control means, with respect to a center or eligible agency, that the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of IL services.

(Authority: 29 U.S.C. 796a(2))

Cross-disability means, with respect to a center, that a center provides IL services to individuals representing a range of significant disabilities and does not require the presence of one or more specific significant disabilities before determining that an individual is eligible for IL services.

(Authority: 29 U.S.C. 796a(1))

Designated State agency or State agency means the sole State agency designated to administer (or supervise local administration of) the State plan for VR services. The term includes the

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State agency for individuals who are blind, if that agency has been designated as the sole State agency with respect to that part of the State VR plan relating to the vocational rehabilitation of individuals who are blind.

(Authority: 29 U.S.C. 706(3) and 721(a)(1)(A))

Designated State unit means either--

(1) The State agency or the bureau, division, or other organizational unit within a State agency that is primarily concerned with the vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities and that is responsible for the administration of the VR program of the State agency; or

(2) The independent State commission, board, or other agency that has the vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities as its primary function.

(Authority: 29 U.S.C. 706(3) and 721(a)(2)(A))

Eligible agency means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency.

(Authority: 29 U.S.C. 796f-5)

Independent living core services mean, for purposes of services that are supported under the SILS or CIL programs--

- (1) Information and referral services;
- (2) IL skills training;
- (3) Peer counseling, including cross-disability peer counseling; and
- (4) Individual and systems advocacy.

(Authority: 29 U.S.C. 706(29))

Independent living services includes the independent living core services and--

- (1) Counseling services, including psychological, psychotherapeutic, and related services;
- (2) Services related to securing housing or shelter, including services related to community group living, that are supportive of the purposes of the Act, and adaptive housing services, including appropriate accommodations to and modifications of any space used to serve, or to be occupied by, individuals with significant disabilities;
- (3) Rehabilitation technology;
- (4) Mobility training;
- (5) Services and training for individuals with cognitive and sensory disabilities, including life skills training and interpreter and reader services;
- (6) Personal assistance services, including attendant care and the training of personnel providing these services;
- (7) Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;
- (8) Consumer information programs on rehabilitation and IL services available under the Act, especially for minorities and other individuals with significant disabilities who have traditionally been unserved or underserved by programs under the Act;
- (9) Education and training necessary for living in a community and participating in community activities;
- (10) Supported living;
- (11) Transportation, including referral and assistance for transportation;
- (12) Physical rehabilitation;
- (13) Therapeutic treatment;
- (14) Provision of needed prostheses and other appliances and devices;
- (15) Individual and group social and recreational services;
- (16) Training to develop skills specifically designed for youths who are individuals with significant disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

(17) Services for children;

(18) Services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with significant disabilities;

(19) Appropriate preventive services to decrease the need of individuals with significant disabilities assisted under the Act for similar services in the future;

(20) Community awareness programs to enhance the understanding and integration into society of individuals with significant disabilities; and

(21) Any other services that may be necessary to improve the ability of [[Page 305]] an individual with a significant disability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment and that are not inconsistent with any other provisions of the Act.

(Authority: 29 U.S.C. 796e-2(1))

Individual with a disability means an individual who--

(1) Has a physical, mental, cognitive, or sensory impairment that substantially limits one or more of the individual's major life activities;

(2) Has a record of such an impairment; or

(3) Is regarded as having such an impairment.

(Authority: 29 U.S.C. 706(8)(B))

Individual with a significant disability means an individual with a severe physical, mental, cognitive, or sensory impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of IL services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment.

(Authority: 29 U.S.C. 706(15)(B))

Legally authorized advocate or representative means an individual who is authorized under State law to act or advocate on behalf of another individual. Under certain circumstances, State law permits only an attorney, legal guardian, or individual with a power of attorney to act or advocate on behalf of another individual. In other circumstances, State law may permit other individuals to act or advocate on behalf of another individual.

(Authority: 29 U.S.C. 711(c))

Minority group means Alaskan Natives, American Indians, Asian Americans, Blacks (African Americans), Hispanic Americans, Native Hawaiians, and Pacific Islanders.

Nonresidential means, with respect to a center, that the center, as of October 1, 1994, does not operate or manage housing or shelter for individuals as an IL service on either a temporary or long-term basis unless the housing or shelter is--

(1) Incidental to the overall operation of the center;

(2) Necessary so that the individual may receive an IL service; and

(3) Limited to a period not to exceed eight weeks during any six-month period.

(Authority: 29 U.S.C. 796a, 796f-1(f) and 706f-2(f))

Peer relationships mean relationships involving mutual support and assistance among individuals with significant disabilities who are actively pursuing IL goals.

Peer role models means individuals with significant disabilities whose achievements can serve as a positive example for other individuals with significant disabilities.

Personal assistance services means a range of IL services, provided by one or more persons, designed to assist an individual with a significant disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. These IL services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(Authority: 29 U.S.C. 706(11))

Service provider means--

(1) A designated State unit (DSU) that directly provides IL services to individuals with significant disabilities;

(2) A center that receives financial assistance under part B or C of chapter 1 of title VII of the Act; or

(3) Any other entity or individual that meets the requirements of Sec. 364.43(e) and provides IL services under a grant or contract from the DSU pursuant to Sec. 364.43(b).

(Authority: 29 U.S.C. 711(c) and 796(e))

Significant disability means a severe physical, mental, cognitive, or sensory impairment that substantially limits an individual's ability to function independently in the family or community

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or to obtain, maintain, or advance in employment.

State means, except for sections 711(a)(2)(A) and 721(c)(2)(A) and where otherwise specified in the Act, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(Authority: 29 U.S.C. 706(16))

State plan means the State IL plan required under section 704 of title VII of the Act.

Transportation means travel and related expenses that are necessary to enable an individual with a significant disability to benefit from another IL service and travel and related expenses for an attendant or aide if the services of that attendant or aide are necessary to enable an individual with a significant disability to benefit from that IL service.

(Authority: 29 U.S.C. 706(30)(B)(xi) and 711(c))

Unserved and underserved groups or populations, with respect to groups or populations of individuals with significant disabilities in a State, include,

but are not limited to, groups or populations of individuals with significant disabilities who--

- (1) Have cognitive and sensory impairments;
- (2) Are members of racial and ethnic minority groups;
- (3) Live in rural areas; or
- (4) Have been identified by the eligible agency as unserved or underserved within a center's project area.

(Authority: 29 U.S.C. 706, 711(c), and 796f-796f-5)

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## TITLE 34--EDUCATION

### CHAPTER III--OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION

#### PART 364\_STATE INDEPENDENT LIVING SERVICES PROGRAM AND CENTERS FOR INDEPENDENT LIVING PROGRAM: GENERAL PROVISIONS--Table of Contents

##### Subpart C\_What Are the State Plan Requirements?

Sec. 364.28 What requirements relate to IL services for older individuals who are blind?

The State plan must include an assurance that the DSU will seek to incorporate into and describe in the State plan any new methods or approaches for the provision to older individuals who are blind of IL services that are developed under a project funded under chapter 2 of title VII of the Act and that the DSU determines to be effective.

(Approved by the Office of Management and Budget under control number 1820-0527)

(Authority: 29 U.S.C. 711(c), 796c(j), and 796k(h))

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Subpart C\_What Are the State Plan Requirements?

Sec. 364.30 What notice must be given about the Client Assistance Program  
(CAP)?

The State plan must include satisfactory assurances that all service  
providers will use formats that are accessible to notify individuals seeking  
or receiving IL services under chapter 1 of title VII about--

(a) The availability of the CAP authorized by section 112 of the  
Act;

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(b) The purposes of the services provided under the CAP; and  
(c) How to contact the CAP.

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Subpart C\_What Are the State Plan Requirements?

Sec. 364.37 What access to records must be provided?

For the purpose of conducting audits, examinations, and compliance reviews, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 and chapter 2 of title VII of the Act will provide access to the Secretary and the Comptroller General, or any of their duly authorized representatives, to-

- (a) The records maintained under Sec. 364.35;
- (b) Any other books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under chapter 1 of title VII of the Act; and
- (c) All individual case records or files or consumer service records of individuals served under 34 CFR part 365, 366, or 367, including names, addresses, photographs, and records of evaluation included in those individual case records or files or consumer service records.

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Subpart C\_What Are the State Plan Requirements?

Sec. 364.38 What methods of evaluation must the State plan include?

The State plan must establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in Sec. 364.42, including evaluation of satisfaction by individuals with significant disabilities who have participated in the program.

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Subpart D\_What Conditions Must Be Met After an Award?

Sec. 364.56 What are the special requirements pertaining to the protection, use, and release of personal information?

(a) General provisions. The State plan must assure that each service provider will adopt and implement policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names. These policies and procedures must assure that--

- (1) Specific safeguards protect current and stored personal information;
- (2) All applicants for, or recipients of, IL services and, as appropriate, those

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individuals' legally authorized representatives, service providers, cooperating agencies, and interested persons are informed of the confidentiality of personal information and the conditions for gaining access to and releasing this information;

(3) All applicants or their legally authorized representatives are informed about the service provider's need to collect personal information and the policies governing its use, including--

- (i) Identification of the authority under which information is collected;
- (ii) Explanation of the principal purposes for which the service provider intends to use or release the information;
- (iii) Explanation of whether providing requested information to the service provider is mandatory or voluntary and the effects to the individual of not providing requested information;
- (iv) Identification of those situations in which the service provider requires or does not require informed written consent of the individual or his or her legally authorized representative before information may be released; and

(v) Identification of other agencies to which information is routinely released;

(4) Persons who are unable to communicate in English or who rely on alternative modes of communication must be provided an explanation of service provider policies and procedures affecting personal information through methods that can be adequately understood by them;

(5) At least the same protections are provided to individuals with significant disabilities as provided by State laws and regulations; and

(6) Access to records is governed by rules established by the service provider and any fees charged for copies of records are reasonable and cover only extraordinary costs of duplication or making extensive searches.

(b) Service provider use. All personal information in the possession of the service provider may be used only for the purposes directly connected with the provision of IL services and the administration of the IL program under which IL services are provided. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for the provision of IL services or the administration of the IL program under which IL services are provided. In the provision of IL services or the administration of the IL program under which IL services are provided, the service provider may obtain personal information from other service providers and cooperating agencies under assurances that the information may not be further divulged, except as provided under paragraphs (c), (d), and (e) of this section.

(c) Release to recipients of IL services. (1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, if requested in writing by a recipient of IL services, the service provider shall release all information in that individual's record of services to the individual or the individual's legally authorized representative in a timely manner.

(2) Medical, psychological, or other information that the service provider determines may be harmful to the individual may not be released directly to the individual, but must be provided through a qualified medical or psychological professional or the individual's legally authorized representative.

(3) If personal information has been obtained from another agency or organization, it may be released only by, or under the conditions established by, the other agency or organization.

(d) Release for audit, evaluation, and research. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research activities only for purposes directly connected with the administration of an IL program, or for purposes that would significantly improve the quality of life for individuals with significant disabilities and only if the organization, agency, or individual assures that--

(1) The information will be used only for the purposes for which it is being provided;

(2) The information will be released only to persons officially connected with the audit, evaluation, or research;

(3) The information will not be released to the involved individual;

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(4) The information will be managed in a manner to safeguard confidentiality; and

(5) The final product will not reveal any personally identifying information without the informed written consent of the involved individual or the individual's legally authorized representative.

(e) Release to other programs or authorities. (1) Upon receiving the informed written consent of the individual or, if appropriate, the individual's legally authorized representative, the service provider may release personal information to another agency or organization for the latter's program purposes only to the extent that the information may be released to the involved individual and only to the extent that the other agency or organization demonstrates that the information requested is necessary for the proper administration of its program.

(2) Medical or psychological information may be released pursuant to paragraph (e)(1) of this section if the other agency or organization assures

the service provider that the information will be used only for the purpose for which it is being provided and will not be further released to the individual.

(3) The service provider shall release personal information if required by Federal laws or regulations.

(4) The service provider shall release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to judicial order.

(5) The service provider also may release personal information to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

(Authority: 29 U.S.C. 711(c))

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PART 367\_INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE  
BLIND--Table of Contents

Subpart A\_General

Sec. 367.3 What activities may the Secretary fund?

(a) The DSA may use funds awarded under this part for the activities described in Sec. 367.1 and paragraph (b) of this section.

(b) For purposes of Sec. 367.1(a), IL services for older individuals who are blind include--

- (1) Services to help correct blindness, such as--
  - (i) Outreach services;
  - (ii) Visual screening;
  - (iii) Surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and
  - (iv) Hospitalization related to these services;
- (2) The provision of eyeglasses and other visual aids;
- (3) The provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;
- (4) Mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;
- (5) Guide services, reader services, and transportation;
- (6) Any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;
- (7) IL skills training, information and referral services, peer counseling, and individual advocacy training; and
- (8) Other IL services, as defined in section 7(30) of the Act and as listed in 34 CFR 365.22.

(Authority: 29 U.S.C. 796k (d) and (e))

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Subpart A\_General

Sec. 367.4 What regulations apply?

The following regulations apply to the Independent Living Services for Older Individuals Who Are Blind program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), with respect to subgrants to an entity that is not a State or local government or Indian tribal organization.

(2) 34 CFR part 75 (Direct Grant Programs), with respect to grants under subpart C.

(3) 34 CFR part 76 (State-Administered Programs), with respect to grants under subpart D.

(4) 34 CFR part 77 (Definitions That Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(7) 34 CFR part 81 (General Education Provisions Act--Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(10) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 367.

(c) The following provisions in 34 CFR part 364:

(1) Section 364.4 (What definitions apply?).

(2) Section 364.5 (What is program income and how may it be used?)

(3) Section 364.6 (What requirements apply to the obligation of Federal funds and program income?)

(4) Section 364.30 (What notice must be given about the Client Assistance Program (CAP)?).

(5) Section 364.37 (What access to records must be provided?).

(6) Section 364.56 (What are the special requirements pertaining to the protection, use, and release of personal information?).

(d) The following provisions in 34 CFR part 365:

(1) Section 365.13 (What requirements apply if the State's non-

Federal share is in cash?).

(2) Section 365.14 (What conditions relating to cash or in-kind contributions apply to awards to grantees, subgrantees, or contractors?).

(3) Section 365.15 (What requirements apply if the State's non-Federal share is in kind?).

(4) Section 365.16 (What requirements apply to refunds and rebates?).

(Authority: 29 U.S.C. 711(c) and 796k)

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#### Subpart A\_General

#### Sec. 367.5 What definitions apply?

In addition to the definitions in 34 CFR 364.4, the following definitions also apply to this part:

Independent living services for older individuals who are blind means those services listed in Sec. 367.3(b).

Older individual who is blind means an individual age fifty-five or older whose severe visual impairment makes competitive employment extremely difficult to obtain but for whom IL goals are feasible.

(Authority: 29 U.S.C. 711(c) and 796j)