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Sequence
 Number: 01-08-24
 Notice ID(s): 3777
 File Date: 1/11/2024

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Human Services
Division:	Division of Rehabilitation Services
Contact Person:	Kevin Wright, Assistant Commissioner
Address:	505 Deaderick Street, Nashville, TN 37243
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Jeffrey Blackshear
Address:	505 Deaderick Street, Nashville, TN 37243
Phone:	(615) 313-5711
Email:	Jeffrey.Blackshear@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Tennessee Tower, Conference Room D		
Address 2:	312 Rosa L. Parks Ave.		
City:	Nashville		
Zip:	37243		
Hearing Date:	Tuesday, March 5, 2024		
Hearing Time:	9:00 AM; 5:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	One Commerce Square Building, Training Room 1		
Address 2:	40 South Main St.		
City:	Memphis		
Zip:	38103		
Hearing Date:	Tuesday, March 5, 2024		
Hearing Time:	9:00 AM; 5:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Tennessee State Office Building		
Address 2:	2700 Middlebrook Pike, Suite 200		
City:	Knoxville		
Zip:	37921		
Hearing Date:	Tuesday, March 5, 2024		
Hearing Time:	9:00 AM; 5:00 PM	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

Additional Hearing Information:

<p>1. Microsoft Teams: https://teams.microsoft.com/join/19%3ameeting_NmY4ZmRIOWltZGMzYS00ZjU5LTikNGEtOTY3Y2EzNTU5ZmRI%40thread.v2/0?context=%7b%22Tid%22%3a%22f345bebf-0d71-4337-9281-24b941616c36%22%2c%22Oid%22%3a%2245bc8f07-cb2e-40f1-ba7c-bd64bb67a88c%22%7d</p> <p>2. Call In: +1 629-209-4396,,661912114# United States, Nashville</p> <p>Phone Conference ID: 661 912 114#</p> <p>3. Video Conference: stateoftn@m.webex.com</p> <p>Video Conference ID: 118 427 204 8</p>

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1240-08-13	Community Rehabilitation Providers
Rule Number	Rule Title
1240-08-13-.01	Purpose
1240-08-13-.02	Definitions
1240-08-13-.03	CRP Application Process

1240-08-13-.04	CRP Application Disqualifiers
1240-08-13-.05	Responsibilities of Approved CRP
1240-08-13-.06	Notice of Non-Compliance and Corrective Action Plan
1240-08-13-.07	Grounds for Denial, Revocation, or Suspension
1240-08-13-.08	Assistance to Service Recipients when a CPR is Denied, Suspended, or Revoked
1240-08-13-.09	Access to Premises and Information
1240-08-13-.10	Change of Ownership, Takeover, and Cancellation of Services
1240-08-13-.11	Expansion of Services
1240-08-13-.12	Posting of Approved CPR List
1240-08-13-.13	Personnel and Staffing

Chapter 1240-08-13
Community Rehabilitation Providers
New

Rule 1240-08-13-.01 Purpose

The VR Program utilizes Community Rehabilitation Providers (CRPs) to provide employment services for eligible individuals in accordance with VR policies and procedures. These rules govern the operations of those CRPs.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.02 Definitions

(1) "Applicant" means the entity who makes a formal application to become a Community Rehabilitation Provider.

(2) "Community Rehabilitation Provider (CRP)" means an Individual, a For-Profit Corporation, a Non-Profit Corporation, a Special Purpose Corporation or Association, a Partnership, a Joint Venture, a Limited Liability Company, or other entity approved to provide Vocational Rehabilitation (VR) Services.

(3) "Community Rehabilitation Provider Manual" is the written document that describes the operating processes and procedures based on VR Service provision requirements that CRPs must follow when providing and reporting VR services and interacting with VR Customers.

(4) "Department" means the Tennessee Department of Human Services.

(5) "Evaluation Committee" means the VR staff that review, approve, or deny applications of potential CRPs. The Evaluation Committee also meets on a regular basis to review provider performance issues and determine the need and frequency for follow-up.

(6) "IPE" means Individualized Plan for Employment in accordance with 1240-08-04-.03.

(7) "Region" means a designated area of the State of Tennessee in which VR operates.

(8) "VR" means the Vocational Rehabilitation Program" authorized by the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. §§ 720 et seq. that provides employment related services to individuals with disabilities consistent with the individuals' abilities, skills and interest to enable those individuals to maximize their opportunities for competitive, integrated employment.

(9) "VR Customer" means a person who meets the eligibility requirements of 34 CFR § 361.42(a).

(10) "VR Services" means those services which are described in the CRP Manual and are in accordance with VR policies and procedures.

(11) "Work Authorization" means a document issued by VR to a CRP authorizing a purchase. Upon delivery to the CRP, a Work Authorization becomes a binding contract on both parties.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 29 U.S.C. 705(4); 34 CFR 361.5(c)(7) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.03 CRP Application Process

- (1) The application to become a CRP is completed on an electronic form made available to the applicant by VR.
- (2) The Applicant's email address provided on the application to become a CRP must be valid and able to accept emails from VR as this is the primary form of communication between VR and the Applicant. It is the responsibility of the Applicant that e-mails from VR are accepted by their email system. During the review process, it is incumbent upon the designated contact person to routinely check for emails because the timeliness of information is critical to the process. All questions must be answered, and the answers must be typed. Handwritten applications will be rejected and will not be processed.
- (3) Required attachments, as described in the application, must be included with the completed application.
- (4) The certification page of the application must be signed and dated by the Executive Director, Chairperson of the Board, Business Owner(s) or another executive manager who is authorized to legally bind the Applicant. This person shall attest to the truthfulness and accuracy of the information submitted. Electronic signatures are acceptable.
- (5) Incomplete applications will not be processed by VR.
- (6) Applicants will have five (5) business days upon notification of the need for additional or clarifying information to provide the requested information. If the requested information is not submitted within the specified deadline the application will be rejected. Applicants that are rejected are required to wait sixty (60) days before repeating the entire application process. To ensure an adequate network of service providers, the wait period may be decreased upon the authority of the Evaluation Committee. The Applicant will be notified in writing via email of the status of their application and whether a shorter waiting period has been authorized.
- (7) Each application to become a CRP must be submitted with all the information requested on the application. The information gathered by the Evaluation Committee on the application is needed to determine the applicant's responsible and reputable character and the applicant's ability to meet and exceed the minimum standards stated in the CRP Manual.
- (8) The information to be supplied to the Evaluation Committee must include, but not be limited to, the following:
 - (a) The name, address, ownership, and other background and identifying information of the Applicant;
 - (b) A description of the location, technique, and type of service to be provided;
 - (c) The name, address, and other background and identifying information of the person or persons responsible for the operation of the CRP or service to be registered including business license, Federal Employer Identification Number, and criminal background check;
 - (e) An attestation with the signature of the Applicant or of the person charged by the applicant for certifying the correctness and completeness of the application and for ensuring compliance with VR rules and CRP Manual; and
 - (f) Any such other information as the Evaluation Committee may require.

(9) The Applicant will receive notice that the application was received within five (5) business days of successful receipt of the application.

(10) Applicants may be approved for select services and/or geographic areas proposed by the Applicant. The Applicant will be issued an approval for each service location at which the Applicant is providing VR Services. The approval letter will indicate which service(s) are approved for the counties within each Region.

(11) If the review indicates that an approval should not be granted, the Applicant will be notified. After sixty (60) calendar days of such notification of denial, the Applicant may reapply provided the reasons for denial are corrected. To ensure an adequate network of service providers, the wait period may be decreased upon the authority of the Evaluation Committee. The Applicant will be notified in writing via email of the status of their application and whether a shorter waiting period has been authorized.

(12) The Evaluation Committee will render a decision to the provider within sixty (60) calendar days from the date the completed application was received.

(13) The decision from the Evaluation Committee is final and may not be appealed.

(14) For approved applications, once the approval letter from the Evaluation Committee has been disbursed to the Applicant, the Applicant's staff who be performing VR Services must attend (if applicable) required prerequisite training and orientation as stated in the CRP Manual. If the appropriate staff do not attend the required training and orientation, the Applicant may be disqualified by VR and CRP status revoked.

(15) The Applicant will be eligible to provide VR Services when the following steps are completed:

(a) Upon approval, the Applicant receives a letter from the Evaluation Committee specifying the services and/or counties within Regions for which the application has been approved.

(b) The applicable certifications for the service(s) has been obtained.

(c) Training and orientation has been completed per the CRP Manual.

(d) All other applicable provisions within the CRP Manual have been met.

(16) The Applicant is responsible for any fees charged by other certifying bodies whose certification is necessary for the issuance of an approval to become a CRP.

(17) No person may act as a CRP under this Chapter without a valid letter of approval from the Evaluation Committee.

(18) VR may require renewal of CRP approved status at any time.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.04 CRP Application Disqualifiers

(1) An Applicant may be immediately disqualified from consideration or reapplication for the following reasons:

(a) The Applicant and any subcontractors, employees, or interns of the Applicant whose duties

will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals has been found guilty of criminal offenses which are prohibited pursuant to Tenn. Comp. R. & Regs.1240-08-03.

(b) The Applicant has been found to have a history of being directly responsible for retaliation against a person receiving service, family member or staff member, for reporting or being involved in a complaint, investigation, or appeal process.

(c) The Applicant has been found to be directly responsible for Medicaid fraud or fraudulent activities against a state or federal agency.

(d) The Applicant has defaulted on monies owed to the State.

(e) The Applicant and any subcontractors, employees, or interns of the Applicant whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals have been listed on the Tennessee Sexual Offender Registry, Department of Health Abuse Registry, Tennessee Felony Offender Registry, Office of Inspector General (OIG) List of Excluded Individuals/Entities, Secretary of State's Business Information Search or any other registry identified by VR as necessary.

(f) The Applicant has been terminated, barred or suspended from participation in any Medicare and/or Medicaid Program in any state within the past five (5) years.

(g) The applicant is unable to give satisfactory assurance of compliance with the requirements of these rules and the CRP Manual.

(h) The Applicant does not meet the staffing and certification requirements specified in the CRP Manual.

(i) Any other indications that the Applicant will not adequately serve VR customers in a manner satisfactory to the Department.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.05 Responsibilities of Approved CRP

(1) Each approved CRP must comply with the following responsibilities:

(a) Monitoring, compliance, and quality assurance for the provision of service;

(b) Verifying that VR Services have been completed pursuant to the VR Customer's IPE and CRP Manual, in accordance with VR policies and procedures.

(c) Preparing all reports which VR may reasonably require in carrying out its responsibilities under this Chapter, including monthly meetings and service reports. These reports may be required to be submitted electronically.

(d) Provide in-person services in Tennessee, as requested by VR, and in accordance with the CRP Manual.

(2) CRP Assessment and Inspection:

- (a) CRPs will be subject to inspections and assessments.
- (b) The assessment shall consist of a complete evaluation of the CRP's adherence to its compliance assurance procedures, internal controls, and capability of providing services of adequate quality in accordance with the CRP Manual.
- (c) The approved CRP must become familiar with every aspect of the CRP Manual, state and federal regulations, and VR policies, procedures, and practices.
- (d) The approved CRP must fully complete an assessment of its operation and adherence to the CRP Manual and applicable state and federal regulations. If the result of the assessment fails to conform to the CRP Manual, the CRP must satisfy any deficiencies within thirty (30) calendar days.
- (e) VR may remove a CRP found to be noncompliant with the CRP Manual and/or these rules.
- (f) The Department or VR may conduct unannounced inspections at the CRP's site to review any aspects of the provision of service.
- (g) Nothing in this paragraph precludes the Department or VR from conducting inspections at a greater frequency than the minimum prescribed herein if, in the Department's or VR's professional judgment, such action is necessary to discharge its responsibilities properly.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.06 Notice of Non-Compliance and Corrective Action Plan

- (1) VR will provide a prepared Notice of Non-Compliance to the CRP when an inspection or assessment of a CRP or provision of service reveals non-compliance with the CRP Manual, Work Authorization(s), Federal and State laws, and rules and regulations.
- (2) The CRP must submit, by the date specified on the Notice of Non-Compliance, a written plan for corrective action in response to the Notice of Non-Compliance.
- (3) The CRP's written plan for corrective action must include a description of the action taken or to be taken in correcting deficiencies, and the date by which each corrective action is completed or to be completed.
- (4) VR will notify the CRP in writing whether the corrective action plan is acceptable and the basis for the decision. When the corrective action plan is not acceptable, VR and CRP may continue to seek agreement. If agreement cannot be reached in a reasonable time, as determined by VR, VR may suspend the CRP or revoke the CRP's approved status.
- (5) Upon inspection or assessment of a CRP or provision of service, VR may allow up to a thirty (30) calendar day period for a CRP to correct deficiencies found by inspection.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.07 Grounds for Denial, Revocation, or Suspension

(1) A CRP's approval or renewal approval is contingent upon evidence of continued compliance with State and Federal laws, ordinances, rules and regulations. Grounds for denying, suspending or revoking an approval may include, but are not limited to, the following:

- (a) The CRP and any subcontractors, employees, or interns of the CRP whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals has been found guilty of criminal offenses which are prohibited pursuant to Tenn. Comp. R. & Regs. 1240-08-03.
- (b) The CRP has been found to have a history of being directly responsible for retaliation against a person receiving service, family member or staff member, for reporting or being involved in a complaint, investigation, or appeal process.
- (c) The CRP has been found to be directly responsible for Medicaid fraud or fraudulent activities against a state or federal agency.
- (d) The CRP has been found to be directly responsible for termination of services due to negligence in performance of duties in a similar position of administrative responsibility.
- (e) A CRP has defaulted on monies owed to the State.
- (f) The CRP's staff providing VR Services have been listed on the Tennessee Sexual Offender Registry, Department of Health Abuse Registry, Tennessee Felony Offender Registry, Office of Inspector General (OIG) List of Excluded Individuals/Entities, Secretary of State's Business Information Search or any other registry identified by VR as necessary.
- (g) The CRP has been terminated, barred or suspended from participation in any Medicare and/or Medicaid Program in any state within the past five (5) years.
- (h) The CRP has declined to work with a VR Customer due to disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law.
- (i) The CRP fails to provide in-person services when requested by VR.
- (j) The CRP does not meet the staffing and certification requirements specified in the CRP Manual or 1240-08-13-.13.
- (k) Violation of state and federal law or rules;
- (l) Permitting, aiding or abetting the commission of any illegal act in a CRP's facility or service;
- (m) Conduct or practice detrimental to the welfare of individuals being served by a CRP;
- (n) The submission of false information to VR;
- (o) Noncompliance with the CRP Manual;
- (p) The use of subterfuge (for instance, filing through a second party after an individual or organization has been denied approval to provide VR services);
- (q) Refusing to accept Customer referrals from VR; or

(r) Refusal to allow VR the right to inspection of any facility or service.

(2) The denial, revocation, or suspension decision from the Evaluation Committee is final and may not be appealed.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.08 Assistance to Service Recipients when a CPR is Denied, Suspended, or Revoked

When a CRP is to be denied, suspended, or revoked, then VR may amend the IPE to change service providers and issue Work Authorizations to another CRP for the Customer.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.09 Access to Premises and Information

(1) With or without giving notice, representatives of VR shall have the right to enter upon or into the premises of any facility or any part thereof, or review services in order to make inspections and assessments deemed necessary to determine compliance with the CRP Manual, Work Authorization(s), Federal and State laws, and rules and regulations.

(2) The CRP must comply with all reasonable requests of VR and allow it to obtain information from third parties, including, but not limited to, individuals being served by the CRP, and/or to review and obtain copies of all records of the CRP sufficient to determine compliance with the CRP Manual, Work Authorization(s), Federal and State laws, and rules and regulations.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.10 Change of Ownership, Takeover, and Cancellation of Services

(1) A new application must be made, and a new approval issued before services are provided when there is a change in the ownership of a CRP which requires a new FEIN. Approval to provide VR Services is not assignable or transferable except as provided by law.

(2) VR may, at its convenience and without cause, exercise a takeover of any service that the CRP is obligated to perform under a Work Authorization for VR Services or immediately terminate a Work Authorization upon written notice to the CRP. If exercising a takeover, the notice shall specify the areas of service VR will assume and the date VR will be assuming. VR's exercise of a takeover shall not alter the CRP's other duties and responsibilities under a Work Authorization for VR Services.

(3) VR reserves the right to withhold from the CRP any amounts the CRP would have been paid but for VR's exercise of a takeover or Work Authorization termination. The amounts shall be withheld effective as of the date VR exercises its right to a takeover or Work Authorization termination.

(4) VR's exercise of its right to a takeover or Work Authorization termination shall not entitle the CRP to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.11 Expansion of Services

(1) An approved CRP may submit an application to expand services and/or service locations under its existing approval to provide VR services.

(2) The Evaluation Committee will review the CRP's application to expand services. The purpose of the review is to determine the CRP's ability to expand services while maintaining the quality of existing services and ensure the success of persons currently receiving services. As outlined in this part, the Evaluation Committee approves expansion of CRPs who have the required staff training and certification and meet staffing requirements as outline in the CRP Manual.

(3) Only CRPs who are currently approved to provide VR services may submit an expansion application to add other services and change the location of services.

(4) The Evaluation Committee will notify the a CRP requesting an expansion of services in an approved, electronic format within five (5) business days of successful receipt of the expansion application and all required attachments.

(5) If additional information is needed for any expansion application during the review process, the Evaluation Committee will send a request for clarification, in an approved electronic format, to the CRP. The CRP will have five (5) business days to submit the information requested. If the information requested is not provided, the application will be rejected and not processed. The CRP will be eligible to reapply in sixty (60) days from the date of the notification of rejection. To ensure an adequate CRP network the wait period may be decreased by VR. The CRP will be notified in writing via email if a shorter wait period has been authorized.

(6) The Evaluation Committee will render a decision to the CRP within sixty (60) calendar days from the date the completed application was received. A letter of approval or denial will be sent to the CRP by e-mail.

(7) The decision from the Evaluation Committee is final and may not be appealed.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.12 Posting of Approved CPR List

(1) The list of each CRP approved to provide VR Services will be posted for public viewing in a conspicuous place, such as a publicly accessible website, by VR.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

Rule 1240-08-13-.13 Personnel and Staffing

(1) All personnel providing VR services must meet the minimum staff experience and qualification criteria set forth in the CRP Manual.

(2) The CRP must keep record of the following for each staff person providing VR Services:

(a) A job description must be maintained, which includes the employment requirements and the job responsibilities for each staff position.

(b) A personnel record must be maintained which verifies that each employee meets the respective employment and background check requirements for the staff position held.

(c) Training and development activities, which are appropriate in assisting the staff in meeting the needs of the persons supported, must be provided for each staff member. The provision of such activities must be evidenced by documentation in the records.

(3) Training and development activities required by VR must be provided to staff performing VR services by the CRP. The provision of such activities must be evidenced by documentation in the CRP's records.

(4) CRP staff providing VR Services must be persons aged eighteen (18) years of age or older.

(5) The personnel records for each employee must contain the following:

(a) Evidence of a criminal background check, as required by Tenn. Comp. R. & Regs. 1240-08-03-.05 Background Checks for Vocational Rehabilitation Employees, Contractors, and Interns;

(b) Evidence of the staff's status on the Tennessee registry of persons who have abused, neglected, or misappropriated the property of vulnerable individuals ("Abuse Registry") maintained by the Department of Health;


(c) Evidence of the staff's status on the State's sexual offender registry (After January 1, 2016, no individual or volunteer who is listed on the State's Sex Offender Registry may be hired or otherwise permitted to provide services); and

(d) Evidence of the staff's status the Tennessee Felony Offender Information Lookup (FOIL). The information available on this list pertains to Tennessee felony offenders who are or who have been in the custody of the Tennessee Department of Correction or under the Supervision of the Tennessee Board of Probation and Parole. The information is submitted by various jurisdictions within Tennessee. Confirmation and/or elaboration should be obtained from the originating jurisdiction.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 1/11/2024

Signature:  Digitally signed by Kevin R Wright
Date: 2024.01.11 15:59:21 -06'00'

Name of Officer: Kevin R. Wright

Title of Officer: Assistant Commissioner

Department of State Use Only

Filed with the Department of State on: 1/11/2024


Tre Hargett
Secretary of State

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Jan 11 2024, 4:01 pm

Secretary of State
Division of Publications

**HUMAN SERVICES
REHABILITATION SERVICES DIVISION**

**CHAPTER 1240-08-13
COMMUNITY REHABILITATION PROVIDERS**

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1240-08-13-.13 Personnel and Staffing

1240-08-13-.01 PURPOSE.

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- (9) "VR Customer" means a person who meets the eligibility requirements of 34 CFR § 361.42(a).
- (10) "VR Services" means those services which are described in the CRP Manual and are in accordance with VR policies and procedures.
- (11) "Work Authorization" means a document issued by VR to a CRP authorizing a purchase. Upon delivery to the CRP, a Work Authorization becomes a binding contract on both parties.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 29 U.S.C. 705(4); 34 CFR 361.5(c)(7) and 34 CFR 361.49(a)(1).

1240-08-13-.03 CRP APPLICATION PROCESS.

- (1) The application to become a CRP is completed on an electronic form made available to the applicant by VR.
- (2) The Applicant's email address provided on the application to become a CRP must be valid and able to accept emails from VR as this is the primary form of communication between VR and the Applicant. It is the responsibility of the Applicant that e-mails from VR are accepted by their email system. During the review process, it is incumbent upon the designated contact person to routinely check for emails because the timeliness of information is critical to the process. All questions must be answered, and the answers must be typed. Handwritten applications will be rejected and will not be processed.
- (3) Required attachments, as described in the application, must be included with the completed application.
- (4) The certification page of the application must be signed and dated by the Executive Director, Chairperson of the Board, Business Owner(s) or another executive manager who is authorized to legally bind the Applicant. This person shall attest to the truthfulness and accuracy of the information submitted. Electronic signatures are acceptable.
- (5) Incomplete applications will not be processed by VR.

- (6) Applicants will have five (5) business days upon notification of the need for additional or clarifying information to provide the requested information. If the requested information is not submitted within the specified deadline the application will be rejected. Applicants that are rejected are required to wait sixty (60) days before repeating the entire application process. To ensure an adequate network of service providers, the wait period may be decreased upon the authority of the Evaluation Committee. The Applicant will be notified in writing via email of the status of their application and whether a shorter waiting period has been authorized.
- (7) Each application to become a CRP must be submitted with all the information requested on the application. The information gathered by the Evaluation Committee on the application is needed to determine the applicant's responsible and reputable character and the applicant's ability to meet and exceed the minimum standards stated in the CRP Manual.
- (8) The information to be supplied to the Evaluation Committee must include, but not be limited to, the following:
- (a) The name, address, ownership, and other background and identifying information of the Applicant;
 - (b) A description of the location, technique, and type of service to be provided;
 - (c) The name, address, and other background and identifying information of the person or persons responsible for the operation of the CRP or service to be registered including business license, Federal Employer Identification Number, and criminal background check;
 - (e) An attestation with the signature of the Applicant or of the person charged by the applicant for certifying the correctness and completeness of the application and for ensuring compliance with VR rules and CRP Manual; and
 - (f) Any such other information as the Evaluation Committee may require.
- (9) The Applicant will receive notice that the application was received within five (5) business days of successful receipt of the application.
- (10) Applicants may be approved for select services and/or geographic areas proposed by the Applicant. The Applicant will be issued an approval for each service location at which the Applicant is providing VR Services. The approval letter will indicate which service(s) are approved for the counties within each Region.
- (11) If the review indicates that an approval should not be granted, the Applicant will be notified. After sixty (60) calendar days of such notification of denial, the Applicant may reapply provided the reasons for denial are corrected. To ensure an adequate network of service providers, the wait period may be decreased upon the authority of the Evaluation Committee. The Applicant will be notified in writing via email of the status of their application and whether a shorter waiting period has been authorized.
- (12) The Evaluation Committee will render a decision to the provider within sixty (60) calendar days from the date the completed application was received.
- (13) The decision from the Evaluation Committee is final and may not be appealed.
- (14) For approved applications, once the approval letter from the Evaluation Committee has been disbursed to the Applicant, the Applicant's staff who be performing VR Services must attend (if applicable) required prerequisite training and orientation as stated in the CRP Manual. If the

appropriate staff do not attend the required training and orientation, the Applicant may be disqualified by VR and CRP status revoked.

(15) The Applicant will be eligible to provide VR Services when the following steps are completed:

(a) Upon approval, the Applicant receives a letter from the Evaluation Committee specifying the services and/or counties within Regions for which the application has been approved.

(b) The applicable certifications for the service(s) has been obtained.

(c) Training and orientation has been completed per the CRP Manual.

(d) All other applicable provisions within the CRP Manual have been met.

(16) The Applicant is responsible for any fees charged by other certifying bodies whose certification is necessary for the issuance of an approval to become a CRP.

(17) No person may act as a CRP under this Chapter without a valid letter of approval from the Evaluation Committee.

(18) VR may require renewal of CRP approved status at any time.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.04 CRP APPLICATION DISQUALIFIERS.

(1) An Applicant may be immediately disqualified from consideration or reapplication for the following reasons:

(a) The Applicant and any subcontractors, employees, or interns of the Applicant whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals has been found guilty of criminal offenses which are prohibited pursuant to Tenn. Comp. R. & Regs.1240-08-03.

(b) The Applicant has been found to have a history of being directly responsible for retaliation against a person receiving service, family member or staff member, for reporting or being involved in a complaint, investigation, or appeal process.

(c) The Applicant has been found to be directly responsible for Medicaid fraud or fraudulent activities against a state or federal agency.

(d) The Applicant has defaulted on monies owed to the State.

(e) The Applicant and any subcontractors, employees, or interns of the Applicant whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals have been listed on the Tennessee Sexual Offender Registry, Department of Health Abuse Registry, Tennessee Felony Offender Registry, Office of Inspector General (OIG) List of Excluded Individuals/Entities, Secretary of State's Business Information Search or any other registry identified by VR as necessary.

- (f) The Applicant has been terminated, barred or suspended from participation in any Medicare and/or Medicaid Program in any state within the past five (5) years.
- (g) The applicant is unable to give satisfactory assurance of compliance with the requirements of these rules and the CRP Manual.
- (h) The Applicant does not meet the staffing and certification requirements specified in the CRP Manual.
- (i) Any other indications that the Applicant will not adequately serve VR customers in a manner satisfactory to the Department.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.05 RESPONSIBILITIES OF APPROVED CRP.

(1) Each approved CRP must comply with the following responsibilities:

- (a) Monitoring, compliance, and quality assurance for the provision of service;
- (b) Verifying that VR Services have been completed pursuant to the VR Customer's IPE and CRP Manual, in accordance with VR policies and procedures;
- (c) Preparing all reports which VR may reasonably require in carrying out its responsibilities under this Chapter, including monthly meetings and service reports. These reports may be required to be submitted electronically; and
- (d) Providing in-person services in Tennessee, as requested by VR, and in accordance with the CRP Manual.

(2) CRP Assessment and Inspection:

- (a) CRPs will be subject to inspections and assessments.
- (b) The assessment shall consist of a complete evaluation of the CRP's adherence to its compliance assurance procedures, internal controls, and capability of providing services of adequate quality in accordance with the CRP Manual.
- (c) The approved CRP must become familiar with every aspect of the CRP Manual, state and federal regulations, and VR policies, procedures, and practices.
- (d) The approved CRP must fully complete an assessment of its operation and adherence to the CRP Manual and applicable state and federal regulations. If the result of the assessment fails to conform to the CRP Manual, the CRP must satisfy any deficiencies within thirty (30) calendar days.
- (e) VR may remove a CRP found to be noncompliant with the CRP Manual and/or these rules.
- (f) The Department or VR may conduct unannounced inspections at the CRP's site to review any aspects of the provision of service.

(g) Nothing in this paragraph precludes the Department or VR from conducting inspections at a greater frequency than the minimum prescribed herein if, in the Department's or VR's professional judgment, such action is necessary to discharge its responsibilities properly.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.06 NOTICE OF NON-COMPLIANCE AND CORRECTIVE ACTION PLAN .

- (1) VR will provide a prepared Notice of Non-Compliance to the CRP when an inspection or assessment of a CRP or provision of service reveals non-compliance with the CRP Manual, Work Authorization(s), Federal and State laws, and rules and regulations.
- (2) The CRP must submit, by the date specified on the Notice of Non-Compliance, a written plan for corrective action in response to the Notice of Non-Compliance.
- (3) The CRP's written plan for corrective action must include a description of the action taken or to be taken in correcting deficiencies, and the date by which each corrective action is completed or to be completed.
- (4) VR will notify the CRP in writing whether the corrective action plan is acceptable and the basis for the decision. When the corrective action plan is not acceptable, VR and CRP may continue to seek agreement. If agreement cannot be reached in a reasonable time, as determined by VR, VR may suspend the CRP or revoke the CRP's approved status.
- (5) Upon inspection or assessment of a CRP or provision of service, VR may allow up to a thirty (30) calendar day period for a CRP to correct deficiencies found by inspection.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c); 34 CFR 361.49(a)(1).

1240-08-13-.07 GROUNDS FOR DENIAL, REVOCATION, OR SUSPENSION.

- (1) A CRP's approval or renewal approval is contingent upon evidence of continued compliance with State and Federal laws, ordinances, rules and regulations. Grounds for denying, suspending or revoking an approval may include, but are not limited to, the following:
 - (a) The CRP and any subcontractors, employees, or interns of the CRP whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals has been found guilty of criminal offenses which are prohibited pursuant to Tenn. Comp. R. & Regs. 1240-08-03;
 - (b) The CRP has been found to have a history of being directly responsible for retaliation against a person receiving service, family member or staff member, for reporting or being involved in a complaint, investigation, or appeal process;
 - (c) The CRP has been found to be directly responsible for Medicaid fraud or fraudulent activities against a state or federal agency;
 - (d) The CRP has been found to be directly responsible for termination of services due to negligence in performance of duties in a similar position of administrative responsibility;

- (e) The CRP has defaulted on monies owed to the State;
 - (f) The CRP's staff providing VR Services have been listed on the Tennessee Sexual Offender Registry, Department of Health Abuse Registry, Tennessee Felony Offender Registry, Office of Inspector General (OIG) List of Excluded Individuals/Entities, Secretary of State's Business Information Search or any other registry identified by VR as necessary;
 - (g) The CRP has been terminated, barred or suspended from participation in any Medicare and/or Medicaid Program in any state within the past five (5) years.
 - (h) The CRP has declined to work with a VR Customer due to disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law;
 - (i) The CRP fails to provide in-person services when requested by VR;
 - (j) The CRP does not meet the staffing and certification requirements specified in the CRP Manual or 1240-08-13-.13;
 - (k) Violation of state and federal law or rules;
 - (l) Permitting, aiding or abetting the commission of any illegal act in a CRP's facility or service;
 - (m) Conduct or practice detrimental to the welfare of individuals being served by a CRP;
 - (n) The submission of false information to VR;
 - (o) Noncompliance with the CRP Manual;
 - (p) The use of subterfuge (for instance, filing through a second party after an individual or organization has been denied approval to provide VR services);
 - (q) Refusing to accept Customer referrals from VR; or
 - (r) Refusal to allow VR the right to inspection of any facility or service.
- (2) The denial, revocation, or suspension decision from the Evaluation Committee is final and may not be appealed.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.08 ASSISTANCE TO SERVICE RECIPIENTS WHEN A CPR IS DENIED, SUSPENDED, OR REVOKED.

When a CRP is to be denied, suspended, or revoked, then VR may amend the IPE to change service providers and issue Work Authorizations to another CRP for the Customer.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.09 ACCESS TO PREMISES AND INFORMATION.

- (1) With or without giving notice, representatives of VR shall have the right to enter upon or into the premises of any facility or any part thereof, or review services in order to make inspections and assessments deemed necessary to determine compliance with the CRP Manual, Work Authorization(s), Federal and State laws, and rules and regulations.
- (2) The CRP must comply with all reasonable requests of VR and allow it to obtain information from third parties, including, but not limited to, individuals being served by the CRP, and/or to review and obtain copies of all records of the CRP sufficient to determine compliance with the CRP Manual, Work Authorization(s), Federal and State laws, and rules and regulations.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.10 CHANGE OF OWNERSHIP, TAKEOVER, AND CANCELLATION OF SERVICES.

- (1) A new application must be made, and a new approval issued before services are provided when there is a change in the ownership of a CRP which requires a new FEIN. Approval to provide VR Services is not assignable or transferable except as provided by law.
- (2) VR may, at its convenience and without cause, exercise a takeover of any service that the CRP is obligated to perform under a Work Authorization for VR Services or immediately terminate a Work Authorization upon written notice to the CRP. If exercising a takeover, the notice shall specify the areas of service VR will assume and the date VR will be assuming. VR's exercise of a takeover shall not alter the CRP's other duties and responsibilities under a Work Authorization for VR Services.
- (3) VR reserves the right to withhold from the CRP any amounts the CRP would have been paid but for VR's exercise of a takeover or Work Authorization termination. The amounts shall be withheld effective as of the date VR exercises its right to a takeover or Work Authorization termination.
- (4) VR's exercise of its right to a takeover or Work Authorization termination shall not entitle the CRP to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.11 EXPANSION OF SERVICES.

An approved CRP may submit an application to expand services and/or service locations under its existing approval to provide VR services.

- (2) The Evaluation Committee will review the CRP's application to expand services. The purpose of the review is to determine the CRP's ability to expand services while maintaining the quality of existing services and ensure the success of persons currently receiving services. As outlined in this part, the Evaluation Committee approves expansion of CRPs who have the required staff training and certification and meet staffing requirements as outline in the CRP Manual.
- (3) Only CRPs who are currently approved to provide VR services may submit an expansion application to add other services and change the location of services.

- (4) The Evaluation Committee will notify the a CRP requesting an expansion of services in an approved, electronic format within five (5) business days of successful receipt of the expansion application and all required attachments.
- (5) If additional information is needed for any expansion application during the review process, the Evaluation Committee will send a request for clarification, in an approved electronic format, to the CRP. The CRP will have five (5) business days to submit the information requested. If the information requested is not provided, the application will be rejected and not processed. The CRP will be eligible to reapply in sixty (60) days from the date of the notification of rejection. To ensure an adequate CRP network the wait period may be decreased by VR. The CRP will be notified in writing via email if a shorter wait period has been authorized.
- (6) The Evaluation Committee will render a decision to the CRP within sixty (60) calendar days from the date the completed application was received. A letter of approval or denial will be sent to the CRP by e-mail.
- (7) The decision from the Evaluation Committee is final and may not be appealed.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.12 POSTING OF APPROVED CPR LIST.

- (1) The list of each CRP approved to provide VR Services will be posted for public viewing in a conspicuous place, such as a publicly accessible website, by VR.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).

1240-08-13-.13 PERSONNEL AND STAFFING.

- (1) All personnel providing VR services must meet the minimum staff experience and qualification criteria set forth in the CRP Manual.
- (2) The CRP must keep record of the following for each staff person providing VR Services:
 - (a) A job description must be maintained, which includes the employment requirements and the job responsibilities for each staff position.
 - (b) A personnel record must be maintained which verifies that each employee meets the respective employment and background check requirements for the staff position held.
 - (c) Training and development activities, which are appropriate in assisting the staff in meeting the needs of the persons supported, must be provided for each staff member. The provision of such activities must be evidenced by documentation in the records.
- (3) Training and development activities required by VR must be provided to staff performing VR services by the CRP. The provision of such activities must be evidenced by documentation in the CRP's records.
- (4) CRP staff providing VR Services must be persons aged eighteen (18) years of age or older.
- (5) The personnel records for each employee must contain the following:

- (a) Evidence of a criminal background check, as required by Tenn. Comp. R. & Regs. 1240-08-03-.05 Background Checks for Vocational Rehabilitation Employees, Contractors, and Interns;
- (b) Evidence of the staff's status on the Tennessee registry of persons who have abused, neglected, or misappropriated the property of vulnerable individuals ("Abuse Registry") maintained by the Department of Health;
- (c) Evidence of the staff's status on the State's sexual offender registry (After January 1, 2016, no individual or volunteer who is listed on the State's Sex Offender Registry may be hired or otherwise permitted to provide services); and
- (d) Evidence of the staff's status the Tennessee Felony Offender Information Lookup (FOIL). The information available on this list pertains to Tennessee felony offenders who are or who have been in the custody of the Tennessee Department of Correction or under the Supervision of the Tennessee Board of Probation and Parole. The information is submitted by various jurisdictions within Tennessee. Confirmation and/or elaboration should be obtained from the originating jurisdiction.

Authority: T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 CFR 361.24(c) and 34 CFR 361.49(a)(1).