

CHAPTER 11
INDEPENDENT LIVING REHABILITATION SERVICES

[Prior to 9/21/88, see Blind, Division for the[423] Ch 11]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

111—11.1(216B) Function. Independent living rehabilitation services assist blind Iowans who are ineligible for traditional vocational rehabilitation services to achieve their maximum level of independence within family and community life.

111—11.2(216B) Services. Independent living rehabilitation services may include, but are not limited to: teaching alternative techniques of blindness; guidance and counseling; orientation and mobility training; referral; recreational activities; provision and instruction in the use of telecommunication, sensory and other technological aids and devices; and provision of technical assistance through consultation with health care providers and other agencies and organizations who serve blind persons.

Joint planning between the eligible individual and the staff will be employed in the development of an independent living rehabilitation plan (ILRP) in order to identify independent living objectives and services that will be most beneficial in achieving an eligible individual's independence. Eligible individuals will be given the option of waiving the right to a formal, detailed ILRP and may choose to simply list their independent living objectives.

[ARC 0461C, IAB 11/28/12, effective 1/2/13]

111—11.3(216B) State plan. The state plan for independent living (SPIL) is developed pursuant to federal regulations and is submitted to the United States Department of Education, rehabilitation services administration. The SPIL delineates expenditure of funds, describes administrative procedures, establishes program goals, and identifies the scope and extent of services. It is developed, implemented, and evaluated jointly by the Iowa department for the blind, the department of education, division of vocational rehabilitation services, and the Iowa statewide independent living council. The SPIL must be reviewed and revised as necessary but not less than once every three years.

111—11.4(216B) Application for independent living services for older individuals who are blind. The application delineates expenditure of funds, establishes program goals, identifies the scope and extent of services, and defines a plan of operation. The application is submitted to the U.S. Department of Education, Rehabilitation Services Administration. The application assures compliance with federal regulations governing the administration of this program, identifies reporting requirements, and ensures that the following activities will be conducted:

1. Needed services that contribute to the maintenance of, or the increased independence of, older individuals who are blind;
2. Capacity-building efforts, including collaboration with other agencies and organizations; and
3. Outreach to promote community awareness, involvement, and assistance.

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111—11.5(216B) Eligibility. To be eligible for independent living rehabilitation services, an individual must meet the following criteria: (1) have a severe visual impairment; (2) either be aged 55 or older, or have a severe mental, cognitive, physical, or other sensory impairment; (3) experience a severe limitation in ability to function independently in the family or community, or to obtain, maintain, or advance in employment; and (4) there must be a reasonable expectation that independent living rehabilitation services will improve the individual's ability to function, continue functioning, or move toward functioning independently in family or community, or to continue in employment.

Eligibility will be determined in compliance with applicable federal and state laws prohibiting discrimination on the basis of age, race, creed, color, sex, national origin, religion or disability. Provision of independent living rehabilitation services is not contingent upon economic need. No duration of residence requirement is imposed that excludes from services any applicant who is present in the state.

11.5(1) and 11.5(2) Rescinded IAB 6/26/02, effective 7/31/02.

111—11.6(216B) Application procedures. Persons desiring independent living rehabilitation services should contact the department office and must complete the Application for Independent Living Rehabilitation Services form.

111—11.7(216B) Consideration of comparable services and benefits.

11.7(1) Full consideration is given to any comparable services and benefits available to a blind person under any program (for example, workers' compensation, supplemental security income, social security disability insurance) to meet in whole or in part the cost of independent living rehabilitation services provided to an individual except assessment for determining eligibility and independent living rehabilitation needs; counseling and guidance; information and referral; and personal and vocational adjustment training and related training supplies.

11.7(2) Full consideration of comparable services and benefits shall not be given when this consideration would delay the provision of services to an individual at extreme medical risk. A determination of extreme medical risk shall be based upon medical evidence provided by an appropriately licensed medical professional.

111—11.8(216B) Termination of services.

11.8(1) A decision to terminate independent living rehabilitation services shall be made only with the full participation of the eligible individual or, as appropriate, the eligible individual's parent, guardian or other representative, unless the eligible individual has refused to participate, the eligible individual is no longer present in the state, or the eligible individual's whereabouts are unknown.

11.8(2) An eligible individual who is dissatisfied with the determination to terminate services may appeal the determination as provided in rule 111—11.9(216B).

111—11.9(216B) Dispute resolution process. This rule defines the procedures under which the dispute resolution process shall be conducted by the department.

11.9(1) *Definitions.*

"Administrative review" means a procedure by which the department may provide an opportunity for an applicant or eligible individual to express and seek remedy for dissatisfaction with a decision regarding the furnishing or denial of services.

"Formal hearing" means a procedure whereby an applicant or eligible individual who is dissatisfied with the findings of an administrative review or mediation concerning the furnishing or denial of services may request a timely review of those determinations before an impartial hearing officer.

While the department encourages the use of the administrative review process to resolve grievances, the administrative review process is not to be used as a means to delay mediation or a formal hearing before an impartial hearing officer unless the parties jointly agree to a delay. An applicant or eligible individual may elect to proceed directly either to mediation or to the formal hearing process. The department will not suspend, reduce, or terminate independent living rehabilitation services to any applicant or eligible individual throughout the administrative review, mediation or formal hearing process before a final agreement or decision is made, unless the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative so requests, or the department has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the applicant or eligible individual.

"Mediation" means an alternative which an applicant or eligible individual may choose if the applicant or eligible individual is dissatisfied with the findings of an administrative review concerning the furnishing or denial of services.

11.9(2) *Administrative review.* An applicant for, or eligible individual of, independent living rehabilitation services may request review of a decision regarding provision or denial of services with which the applicant or eligible individual is dissatisfied by submitting a letter to the program administrator of field operations.

a. The program administrator shall acknowledge receipt of the letter and arrangements shall be made for the administrative review to be held at a mutually convenient date, time and place which shall be within ten days after receipt of the request for review. The applicant or eligible individual shall also be notified of the applicant's or eligible individual's right to obtain assistance through the Iowa client assistance program.

b. The administrative review shall consist of: review of the case file and any other documentation involved in the subject matter of the review; interviews with the service specialist for the blind and any others directly involved with the subject matter of the review; and an interview with the applicant or eligible individual or, as appropriate, a representative of the applicant or eligible individual.

c. The program administrator shall issue a written decision within five days of the review. The decision shall set forth the issue, principle, and relevant facts established during the review; pertinent provisions of law, administrative rule or department policy; and the reasoning upon which the decision is based. The letter transmitting the decision shall advise the applicant or eligible individual that the applicant or eligible individual shall inform the program administrator within seven days that either: (1) the applicant or eligible individual accepts the decision; or (2) the applicant or eligible individual does not accept the decision and wishes to proceed either to mediation or to a formal hearing.

d. A record of the decision and any action resulting from the decision shall be sent to the applicant or eligible individual by mail. The decision and a record of any action resulting from the decision shall be entered into the case file.

11.9(3) Mediation. An applicant or eligible individual who is dissatisfied with the findings of an administrative review or has elected to bypass the administrative review process may request mediation by submitting a letter to the program administrator. This letter must be received within seven days of the date of determination of the administrative review, if an administrative review has been conducted.

a. The program administrator shall acknowledge receipt of the request for mediation and shall make arrangements for mediation to occur within 30 days of the request to initiate the dispute resolution process. The date, time, and place shall be mutually agreeable to all parties. The applicant or eligible individual shall be notified in writing of the right to submit evidence or information to support the applicant's or eligible individual's position and to obtain representation to be present during the mediation sessions. The applicant or eligible individual shall also be notified of the applicant's or eligible individual's right to obtain assistance through the Iowa client assistance program. All mediation sessions shall be held in a timely manner and shall be concluded within 45 days of the date that the applicant or eligible individual initiated the dispute resolution process, unless an extension of this time is agreed upon by all parties. The department will pay costs for the mediator and, when appropriate, transportation, meals and lodging expenses for the applicant or eligible individual which are directly associated with the mediation process. The program administrator will determine who will represent the department during mediation sessions.

b. The department will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation and independent living rehabilitation services.

c. A mediator will be selected at random or by agreement of the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from the list described in paragraph 11.9(3) "b."

d. Discussions which occur during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding.

e. All agreements reached by the parties to the dispute and the mediation process shall be set forth in a written mediation agreement. This agreement shall be prepared by the mediator and mailed within seven days to all parties.

f. Either party to the dispute may request a formal hearing. This request must be in writing and must be submitted to the director within seven days of the date of the written mediation agreement.

11.9(4) Formal hearing. An applicant or eligible individual who is dissatisfied with any determinations made concerning the furnishing or denial of independent living rehabilitation services or the findings of an administrative review or mediation if an administrative review or mediation took place may request a formal hearing by submitting a letter to the director.

a. The director shall acknowledge receipt of the request and make arrangements for a formal hearing to be held within 60 days of the request of the applicant or eligible individual to initiate the dispute resolution process at a date, time and place mutually agreeable to both parties. The applicant or eligible individual shall be notified of the right to have a representative present at the formal hearing and to seek assistance through the Iowa client assistance program. Reasonable time extensions shall be granted for good cause shown at the request of a party or at the request of both parties.

b. The impartial hearing officer shall be an individual who is not an employee of a public agency other than an administrative law judge, hearing examiner, or employee of an institution of higher education. (An individual is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer.) The impartial hearing officer (1) is not a member of the commission for the blind; (2) has not been involved in previous decisions regarding the independent living rehabilitation services of the applicant or eligible individual; (3) has knowledge of the delivery of independent living rehabilitation services, the state plan, and the federal regulations and state rules governing the provision of services; (4) has received training with respect to the performance of official duties; and (5) has no personal, professional, or financial interest that would be in conflict with the hearing officer's objectivity. The director may also request that other designated department personnel be present at the formal hearing. At the request of the applicant or eligible individual, a representative of the applicant or eligible individual and a representative of the Iowa client assistance program may also be present. Any of these persons shall have the opportunity to present relevant evidence.

c. An impartial hearing officer must be selected on a random basis or by agreement between the director and the applicant or eligible individual or, as appropriate, the applicant's or eligible individual's representative from a pool of persons qualified to be an impartial hearing officer.

d. The impartial hearing officer shall inform those present of the confidentiality of matters discussed. The proceedings shall be recorded.

e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the transcript of the hearing upon written request to the director.

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan for independent living, the federal Rehabilitation Act, and state rules and policies.

f. The decision of the impartial hearing officer is final.

11.9(5) Documents provided. Transcripts, notices, responses and other documents which are an integral part of the dispute resolution process shall be provided to involved parties in standard print format. An applicant or eligible individual, or representative of an applicant or eligible individual, or other involved party, may request provision of documents in alternative media. Documents in alternative media shall be provided in a timely manner.

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111—11.10(216B) Applicant's and eligible individual's rights. The service specialist for the blind must inform the applicant or eligible individual of the applicant's or eligible individual's rights as follows:

11.10(1) Written information on the Iowa client assistance program and on the department's policies and practices with regard to administrative review, fair hearing, confidentiality of records and nondiscrimination shall be provided to the applicant as a part of the application process. This information shall also be made available in the applicant's media of choice. Language interpreters will be used as necessary.

11.10(2) When an applicant is determined ineligible to receive independent living rehabilitation services, the applicant shall receive written notification of the right to appeal and information concerning services available through the Iowa client assistance program.

11.10(3) The independent living rehabilitation plan will include information in the eligible individual's media of choice on the department's policies regarding administrative review, fair hearing, confidentiality of records and nondiscrimination. Language interpreters will be used as necessary.

11.10(4) Upon termination of a case due to ineligibility, the individual shall be given information in the individual's media of choice on the right to appeal the termination, including information about services available through the Iowa client assistance program. Language interpreters will be used as necessary.

11.10(5) When disagreement occurs, staff shall verbally inform the applicant or individual of the right to appeal and provide information about services available through the Iowa client assistance program.

111—11.11(216B) Forms. The following forms are used by the independent living rehabilitation services program:

1. Application for Independent Living Rehabilitation Services—used for application for independent living rehabilitation services from the department.

2. Independent Living Rehabilitation Plan (ILRP) used to develop a blind person's program for rehabilitation by providing for mutual development of goals, objectives, a summary of planned services, criteria for review and evaluation and a time frame for completion of services.

3. Waiver of Independent Living Rehabilitation Plan—a signed statement acknowledging the eligible individual's choice to waive an ILRP and instead simply list the eligible individual's independent living objectives.

These rules are intended to implement Iowa Code chapter 216B.

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