

# **ACCESSING ASSISTIVE TECHNOLOGY**

## **Chapter 7**

### **Vocational Rehabilitation (Including Loan Programs)**

From a 17-Chapter Manual  
Available by Chapter and in Manual Form

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**Written by:**

**DISABILITY RIGHTS CALIFORNIA**

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# ACCESSING ASSISTIVE TECHNOLOGY

## Chapter 7

### VOCATIONAL REHABILITATION (INCLUDING LOAN PROGRAMS)

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## Chapter 7

### **VOCATIONAL REHABILITATION (INCLUDING LOAN PROGRAMS)**

The federal Rehabilitation Act (Act) provides for vocational and independent living services to people with disabilities. States that choose to participate in the program receive federal money to provide services. In exchange, the states must follow the Act's federal mandate. The California agency responsible for providing vocational rehabilitation services is the Department of Rehabilitation (DR). Under state law, DR also administers the loan guarantee program.

Assistive technology is a vocational rehabilitation service. Eligible people can get the tools they need from DR to achieve their employment goals. In this chapter, we will explain the Act's eligibility criteria for specific categories of service that provide for assistive technology.

Allowing people who get DR services to make informed choices is an important part of the program. DR must help eligible people make informed choices in selecting assessments, employment outcomes, services, service providers, how services will be provided, and where the services will be provided.

#### **GENERAL PROVISIONS**

##### **1. Who is eligible for rehabilitation services?**

You are eligible for rehabilitation services under the Act if:

- You have a physical or mental disability which constitutes or results in a substantial impediment to employment;
- You can benefit in terms of an employment outcome from vocational rehabilitation services. 29 U.S.C. § 705(20)(A), Cal. Welf. & Inst. § 19151; and
- You require vocational rehabilitation services to prepare, secure, retain or regain employment. 29 U.S.C. § 722(a)(1)(B).

You are considered an "individual with a significant disability" (which makes you eligible for independent living services and first priority for services if the state does not have enough money to serve all eligible individuals) if:

- You have a severe physical or mental disability which seriously limits one or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills [29 U.S.C. § 705(21)(A)(i)];
- Your vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time [29 U.S.C. § 705(21)(A)(ii)]; and
- You have one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neuro-logical disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease [29 U.S.C. § 705(21)(A)(iii)]; or
- You have another disability, or combination of disabilities, determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs, which cause comparable substantial functional limitations. 29 U.S.C. § 705(21)(A)(iii).

DR must use the reports and conclusions reached by other agencies, particularly education officials, in establishing eligibility for DR services. 29 U.S.C.

§ 722(a)(4)(A). If you receive SSDI or SSI, you are considered to be a person with significant disabilities; you are presumed eligible for DR services, provided you intend to achieve an employment outcome and you are able to benefit from vocational rehabilitation services in terms of an employment outcome. 29 U.S.C. § 722(A)(3)(i).

## **2. What does “benefit in terms of an employment outcome” mean?**

Employment outcome means entering or keeping full-time or, if appropriate, part-time competitive employment in the integrated labor market. This includes supported employment, self-employment, telecommuting, or business ownership. 29 U.S.C. § 705(11).

The law presumes that you can “benefit in terms of an employment outcome” from vocational rehabilitation services. If DR disagrees, it must show “by clear and convincing evidence” that you cannot “benefit in terms of an employment outcome” due to the severity of your disability. 29 U.S.C. §§ 722(2)(A), 722(3)(A)(ii). DR must explore your abilities, capabilities and capacities to perform in work situations through the use of trial work experiences with appropriate supports. 29 U.S.C. § 722(2)(B).

### **3. If the state has funding limitations, who will be eligible for services?**

Federal law requires that people with the most significant disabilities must be served before other individuals with less significant disabilities any time the state cannot provide services to all eligible persons because of a lack of funding. See question 1 for the definition of an “individual with a significant disability.” 29 U.S.C. § 721(a)(5)(c).

### **4. What is the Client Assistance Program (CAP)?**

The Client Assistance Program (CAP) is available to inform and advise all clients and applicants of all available benefits under DR and under the Americans with Disabilities Act (ADA), especially those who have been traditionally underserved by DR programs. Upon request, CAP can assist and advocate for clients or applicants:

- 1) Regarding programs that provide vocational rehabilitation services;
- 2) Regarding other services directly related to employment; and
- 3) In pursuing legal, administrative, or other remedies to protect the rights of individuals and access to services. 29 U.S.C. § 732.

All programs that provide services under the Act, including ILC services, must advise you and, as appropriate, your authorized representative or family, of the availability and purposes of CAP and how to ask for help. 29 U.S.C. § 717. In California, CAP services are generally provided through independent living centers. See Chapter 17 - Resource Guide for a listing of independent living centers in California.

## **VOCATIONAL REHABILITATION SERVICES**

## **5. What are vocational rehabilitation services?**

Vocational rehabilitation services include any service described in an Individualized Plan for Employment (IPE) that you need to help you prepare for, secure, keep or regain an employment outcome that is consistent with your strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. Services can include:

- Assessment to determine eligibility and vocational rehabilitation needs including (if appropriate) an assessment by personnel skilled in rehabilitation technology;
- Counseling and guidance;
- Referral and other services to secure needed services from other agencies if the services are not available through DR;
- Job-related services, including job search and placement, job retention services, follow-up services, and follow-along services;
- Vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials (DR will not pay for training services at an institution of higher education unless you and DR have tried to secure some grant assistance from other sources to pay for it);
- Diagnosis and treatment of physical and mental disabilities, including prosthetic and orthotic devices, eyeglasses and visual services, and special services (including transplant and dialysis), artificial kidneys, and supplies necessary for the treatment of end-stage renal disease if financial support is not readily available from a source other than DR such as your health insurance or comparable services and benefits;
- Corrective surgery under specified conditions, including necessary related hospitalization;
- Additional costs of participating in an assessment to determine eligibility and vocational rehabilitation needs, or while receiving services under an IPE;
- Transportation;

- On-the-job or other related personal assistance services while you are receiving other services;
- Interpreter services if you are deaf or hard of hearing, and reader services if you are blind;
- Rehabilitation teaching services, and orientation and mobility services if you are blind;
- Occupational licenses, tools, equipment, and initial stocks and supplies;
- Technical assistance and other consultation services if you are pursuing self-employment, telecommuting, or establishing a small business as an employment outcome;
- Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
- Transition services for students with disabilities;
- Supported employment services;
- Services that your family needs to help you achieve an employment outcome; and
- Specific post-employment services necessary to assist you to retain, regain or advance in employment. 29 U.S.C. § 723.

## **6. How do I become a DR client?**

To apply for DR services, you complete and sign a request for services form or otherwise request services; provide information necessary to initiate an assessment to determine eligibility and priority for services; and be available to complete the assessment process. 34 C.F.R. 361.41 (b)(2). This can be done at a DR district or branch office. District and branch offices are located throughout the state. They are listed in telephone directories under the State of California, Department of Rehabilitation.

DR must make a determination about your eligibility within 60 days unless:

- 1) There are exceptional and unforeseen circumstances beyond its control and you agree to a specific extension of time; or

- 2) DR is determining eligibility through the use of trial work experiences. 29 U.S.C. § 722(a)(6)(A).

## **7. What is an Individualized Plan for Employment (IPE)?**

An IPE is a written document prepared on forms provided by DR. Your IPE sets out your employment outcome, the specific vocational rehabilitation services DR will provide, and how DR will get these services for you. 29 U.S.C. § 722(b). The IPE must be developed and implemented in a way that gives you the opportunity to exercise informed choice. After your agreement and DR's approval, both you and DR must sign the IPE. DR must give you or your representative a copy of the IPE. If appropriate, it must be in your native language or mode of communication, or that of your representative. You and DR must review your IPE at least once a year. You and DR must amend your IPE if there are substantive changes in your employment outcome, the vocational rehabilitation services provided, or the service providers. The changes will not take effect until both you and DR agree to and sign the amended IPE. 29 U.S.C. 722.

## **8. What must my Individualized Plan for Employment (IPE) contain?**

An IPE must contain:

- A description of your proposed employment outcome which, to the maximum extent appropriate, will result in employment in an integrated setting;
- A description of the specific vocational rehabilitation services that you need to reach your employment outcome, including, as appropriate, assistive technology devices, assistive technology services, and personal assistance services provided in the most integrated setting appropriate for the service involved;
- Timelines for achieving your employment outcome and for beginning the services;
- A description of the vocational rehabilitation services provider and how the provider will deliver services;
- A description of how DR will evaluate your progress toward your employment outcome;

- Any other terms and conditions of the IPE, including, as appropriate, DR's responsibilities and your responsibilities - such as which costs you will pay and your responsibility to apply for and secure comparable benefits; and
- A statement of any expected need for post-employment services.  
29 U.S.C. 722(b)(3).

If you have a significant disability and supported employment is an appropriate employment outcome, the IPE must have information on the extended services you need and the source of those extended services. 29 U.S.C. 722(b)(3)(F). If DR cannot identify the source of the extended services during development of the IPE, there should be a description of how and when the source will become available. 29 U.S.C. § 722(b)(3)(F)(ii).

## **9. What are community rehabilitation services?**

Community rehabilitation services help you get the vocational rehabilitation services you need to have the best chance at gaining employment or career advancement. 29 U.S.C. § 705(5), Cal. Welf. & Inst. § 19152. Services provided under this program may include assistive technology - such as rehabilitation technology. Services could also include testing, fitting, or training in the use of prosthetic and orthotic devices. [See also Cal. Welf. & Inst. § 19152(a)(2)].

## **10. How does the DR determine and document the services I need?**

As soon as DR says you are eligible for vocational rehabilitation services, DR must perform a comprehensive assessment (if needed) of your unique strengths, resources, priorities, interests, and needs. The assessment should consider whether you need supported employment. During this assessment, DR gathers information necessary to determine your rehabilitation needs and develops an IPE. To the extent possible, DR must rely on information that you and your family provide or other existing information. It may include assessment in real work situations. 29 U.S.C. § 705(2).

Comprehensive assessment activities may include:

- Assessment of your personality, interests, interpersonal skills, intelligence and related functional capacities;

- Assessment of your educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities;
- Assessment of the medical, psychiatric, psychological, vocational, educational, cultural, social, recreational, and environmental factors that affect your employment and rehabilitation needs;
- Evaluation of your work behavior and the services you need to acquire occupational skills, develop work attitudes, work habits, and work tolerance;
- Evaluation of social and behavioral patterns necessary for successful job performance;
- Evaluation of your work in real job situations to assess and develop your work skills;
- Referral for rehabilitation technology services necessary to assess and develop your ability to perform in a work environment; and
- Exploration of your abilities, capabilities, and capacity to perform in work situations (which must be assessed during trial work experiences) including experiences in which you have appropriate supports and training. 29 U.S.C. § 705(2).

If DR determines that you are eligible for vocational rehabilitation services, DR must provide information on your options for developing an IPE. This information must be provided in writing and, if necessary, in another appropriate mode of communication. It must include:

- How to get help from a qualified vocational rehabilitation counselor in developing all or part of your IPE;
- The availability of technical assistance in developing all or part of your IPE;
- A description of everything that must be included in an IPE;
- An explanation of the financial commitments DR must make to help you reach the work outcome in your IPE;

- The availability of help in completing DR forms required to develop your IPE;
- A description of the rights and remedies available to you;
- A description of the availability of CAP, and information about how to contact CAP; and
- Any other information you request or DR thinks is necessary.  
29 U.S.C. § 722(b)(1).

**11. What type of assistive technology may be included in my Individualized Plan for Employment (IPE)?**

If you need technology to achieve your employment goals, your IPE must include:

- The specific rehabilitation technology services you need;
- How the technology will be provided to you in the most integrated setting; and
- Who will provide the technology and any services related to its acquisition and use. 29 U.S.C. 722(b)(3)(B)(i)(I).

**12. What type of assistive technology does DR provide as vocational rehabilitation services?**

Assistive technology items and services are available when they are necessary to help you become employable. You may get these items and services under one of the following categories:

- Assessment to determine the technology you need;
- rehabilitation technology services;
- vocational and training services;
- physical and mental restoration services;
- occupational equipment and tools;
- Alternative modes of communication;

- transportation services; and
- Other goods and devices you need, including architectural barrier removal.

### **13. What is rehabilitation technology?**

The Act defines rehabilitation technology as “the use of technology, engineering, or scientific principles to meet the needs of and address the barriers faced by people with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. Rehabilitation technology is divided into three categories: Rehabilitation Engineering, Assistive Technology Devices, and Assistive Technology Services.” 29 U.S.C. § 705(30).

State regulations limit rehabilitation engineering services to the time a qualified person spends evaluating you and designing, fabricating, or modifying assistive devices. 9 C.C.R. § 7024.4.

### **14. What is an assistive technology device?**

An assistive technology device is any item, piece of equipment, or product system that is used to increase, maintain, or improve your functional capabilities. The item may be purchased from a dealer or store, changed or customized especially for you.

### **15. What is an assistive technology service?**

An assistive technology service is any service that directly helps you select, acquire, or use an assistive technology device. See Chapter 1 for an overview of the Assistive Technology Act of 1998 and a complete definition of assistive technology.

### **16. What are vocational and training services?**

Vocational and training services include:

- Vocational, prevocational, or personal adjustment training that contribute to your rehabilitation;
- Books, supplies, and other training materials you require;

- Training you to use artificial limbs, hearing aids, and other appliances and devices; and
- Any other training you need to meet your rehabilitation needs.  
9 C.C.R. § 7028.5.

**17. What are physical and mental restoration services? What kind of devices are available under this category?**

Physical and mental restoration services are services necessary to correct or substantially modify, within a reasonable period of time, a physical or mental condition that is stable or slowly progressive. They include a wide range of medical services. The type of assistive devices and services available under this category are:

- Prosthetic, orthotic, or other assistive devices essential to obtaining or retaining employment;
- Eyeglasses and visual services;
- Physical therapy;
- Occupational therapy;
- Speech or hearing therapy; and
- Special services to treat individuals suffering from end-stage renal disease, including transplants, dialysis, artificial kidneys, and supplies.  
9 C.C.R. § 7020.

**18. What type of occupational tools and equipment can I get through Department of Rehabilitation (DR)?**

DR defines tools as items customarily required for a worker to perform efficiently on the job. 9 C.C.R. § 7028.4. DR may provide occupational tools, licenses, and equipment when you need these items in the following circumstances:

- To achieve “suitable employment;”

- For training programs, or to enable you to become suitably employed (limited to those items that trainees or employees normally have to provide and special tools you need because of your disability); and,
- To participate in an occupation or when you need such items because of your disability. 9 C.C.R. § 7173.

**19. Does the Department of Rehabilitation (DR) have to help me communicate by providing necessary assistive technology?**

To the extent funds are available, DR must provide for your special language needs if you rely on alternate modes of communication, such as manual, tactile, oral and nonverbal communication devices.

**20. What are transportation services? What kinds of devices can I get under this service?**

Transportation services are supportive services. They can include travel expenses connected to:

- 1) A determination of rehabilitation potential;
- 2) Counseling and placement services;
- 3) Your participation in an approved program of vocational rehabilitation services; and
- 4) Post-employment services. 9 C.C.R. § 7161.

DR may provide a wide range of transportation services such as:

- Public transportation and privately owned transportation;
- Car pools; and
- Payments to coworkers and car rental agencies. 9 C.C.R. 7161(c).

It may include, when necessary, providing you with a private vehicle or modifying your vehicle.

## **21. Am I eligible for any other devices?**

DR may provide other goods and services, including assistive technology, when necessary to the successful outcome of your vocational rehabilitation.

9 C.C.R. § 7174. These may include modifications and repairs to home or apartment. However, they would be limited to removing barriers, constructing partitions, and installing other portable modular components.

In addition, the DR may provide any vocational rehabilitation service to members of your family if the service is necessary to support your vocational adjustment or vocational rehabilitation. 9 C.C.R. § 7175(a). This may include training to use the technological aids DR provides.

## **22. Do I have to pay for any vocational rehabilitation services?**

DR can sometimes require you to contribute toward the cost of vocational rehabilitation services you need. 9 C.C.R. § 7190. DR will take into account your income and liquid assets, the number of members in your household, and your medical exemptions to compute the amount you should contribute. You would not have any financial participation when:

- You receive SSDI, SSI/SSP, and other public assistance like general relief or general assistance, or AFDC (now called TANF - Temporary Assistance for Needy Families); or
- You receive the following vocational rehabilitation services:
  - Evaluation of rehabilitation potential, including diagnostic and related services;
  - Counseling, guidance, and referral services;
  - Placement;
  - Training, tutoring, books, and other training materials;
  - Tools necessary to perform an occupation;
  - Personal services like attendant care, deaf and language interpreter, note taker, driver, and readers;
  - Transportation costs; and

- Job coaching services.

9 C.C.R. § 7191.

**23. Are there times when the DR can expect me to get services or equipment from another agency?**

DR is the payor of last resort for many services. It will not pay for a service, in many cases, if a comparable service or benefit is available through some other agency or program. 29 U.S.C. § 721(a)(8). The following services are exempt from the comparable benefits requirement:

- Evaluation of rehabilitation potential;
- Counseling, guidance, and referral services;
- Vocational and other training services including personal and vocational adjustment training, books, tools, and other training materials provided by a resource other than an institution of higher education;
- Placement;
- Rehabilitation technology; and
- Job coaching services. 9 C.C.R. § 7196.

You do not have to use comparable benefits if getting those benefits would interrupt or delay progress toward achieving your employment outcome, an immediate job placement, or services if you are at extreme medical risk. 34 C.F.R. 361.53(a).

**24. When may the DR terminate its services?**

DR can stop its services when you successfully complete your IPE. It can also stop services if you are certified as not capable of achieving a vocational goal. That certification makes you ineligible. If DR finds you are no longer eligible, it must consult you or your representative and document why it found you ineligible in an amendment to your IPE. The amendment should set out the reasons for finding you ineligible. You must receive information about your rights and how to appeal DR's decision as well as information about the services available to you from the Client Assistance Program (CAP) and how to contact CAP. If DR finds you ineligible for

services you may request (on a yearly basis) that DR consider whether you have become eligible again. 29 U.S.C. § 722(a)(5).

## **25. What is supported employment?**

Supported employment is competitive work in integrated work settings with the necessary assistance, including assistive technology. Supported employment services include ongoing support services and other appropriate services needed to support and maintain people with the most significant disabilities in employment. It also includes transitional employment for people with significant disabilities due to mental illness. Services are based on the individual needs. Supported employment services are provided to help you enter or maintain integrated, competitive employment.

If you are an individual with a “most significant” disability, DR will provide ongoing support services at least twice a month, to assess your work site or situation to coordinate specific intensive services you need to maintain employment. They include:

- Assessments in addition to the comprehensive one usually performed;
- Any devices or training in the use of devices needed to work; and
- Any other services provided for in the Rehabilitation Act. 29 U.S.C. § 705(27).

## **26. Who is eligible for supported employment?**

Individuals with the most significant disabilities are eligible for supported employment. You would be eligible if you:

- Have not engaged in competitive employment; or
- Have engaged in interrupted or intermittent competitive employment as a result of a significant disability; and
- Because of the nature and severity of your disability, you need intensive supported employment services or extended services in order to perform the work. 29 U.S.C. § 705(35).

## **27. How long can the DR provide supported employment services?**

The federal law states that DR must only provide supported employment services for up to 18 months. Under special circumstances, you and your rehabilitation counselor may jointly agree to extend the time in order to achieve the objectives in your IPE. 29 U.S.C. § 705(36)(c). However, state agencies or other resources may fund extended services beyond 18 months. For example, people with developmental disabilities can get more help under state law through the habilitation program (Cal. Welf. & Inst. Code § 19350). People on SSI could get funding for extended support through a PASS and/or IRWE without affecting their SSI grant or earnings. (See Chapter 8 of this manual regarding Social Security Work Incentives.)

## **28. What are extended services?**

Extended services are ongoing services needed to support and maintain people with the most significant disabilities in supported employment. These services:

- Are provided alone or in combination and are organized and made available to help maintain supported employment;
- Are based on a determination of your needs as specified in your IPE; and
- Are provided by a state agency, a nonprofit private organization, an employer, or any other appropriate resource after you have made the transition from DR support. 29 U.S.C. § 705(13).

## **29. What can I do if I disagree with a DR decision?**

If you disagree with any DR decision, you have one year to either ask for an internal administrative review or a fair hearing. You can make your request for an internal review to the district administrator in person, by telephone or in writing. But if you would like to go directly to a fair hearing, you need to send a written request to the Appeals Board Administrator in care of DR. 9 C.C.R. § 7354. The hearing will take place within 45 days of the receipt of your request. 9 C.C.R. 7354(b). See question 32 below for more information on fair hearings. Whichever path you decide to take, in your request, you must state the reason for the appeal and what you think DR should do. 9 C.C.R. §§ 7353(a)(3), 7354(a)(3).

If you ask for an internal review, a district administrator then has 15 days to review the matter with you or your representative present (unless you say that is not

necessary), and send you a written decision by certified mail. The written decision must inform you that, if dissatisfied, you may file a written request for a fair hearing within 30 days of receiving the decision. If you do not wish to appear in person for this review, you need to waive your right to appear in writing and authorize DR to review your case on the existing record. Cal. Welf. & Inst. Code § 19704(b)(2); 9 C.C.R. § 7353.

### **30. How can I appeal an internal administrative review decision?**

If the internal review results in an unfavorable decision, you can challenge the decision through mediation and/or in a due process hearing. DR must notify you in writing of:

- 1) Your right to review DR decisions in an impartial due process hearing;
- 2) Your right to pursue mediation prior to a hearing; and
- 3) The availability of CAP assistance. 29 U.S.C. § 722(c)(2)(A).

DR must give you this notice:

- 1) When you apply for vocational rehabilitation services;
- 2) When your IPE is developed; and
- 3) When DR reduces, suspends, or cuts off your vocational rehabilitation services, including assistive technology. 29 U.S.C. § 722(c)(2)(B).

DR must give you a chance to submit evidence at the mediation or hearing. You have a right to be represented in the mediation session or hearing by a person that you select.

### **31. What do I need to know about mediation?**

Any time you have a right to a due process hearing, you also have a right to use the mediation process to resolve your disputes with DR. Mediation is voluntary. It cannot be used to deny or delay your right to a hearing. It must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques. DR must maintain a list of qualified mediators who are knowledgeable in vocational rehabilitation services laws.

DR must pay for the cost of the mediation process. Mediation sessions must be scheduled in a timely manner and be held in a location that is convenient to both you and DR. Any agreement you reach with DR in mediation must be set forth in a written mediation agreement. Discussions that occur during the mediation process are confidential. No one can use them as evidence in any subsequent due process hearing or civil proceeding. You and other parties to the mediation process may have to sign a confidentiality pledge before the process begins. 29 U.S.C. § 722(c)(4).

### **32. What is a fair hearing and what do I need to know about it?**

A fair hearing is your opportunity to go before a seven-member panel called the Rehabilitation Appeals Board (RAB) and tell them why you think DR has made a wrong decision. The RAB acts as an impartial hearing officer. At least three members of the RAB must be present for the hearing. The RAB meets at a time and place convenient and accessible to you and the Board. If you need transportation to be at the hearing or if you need interpreters and readers for the hearing, DR should provide them. But you must request them in advance.

You may go to the hearing alone, or go with your representative, or have your representative attend the hearing for you. CAP advocates (see question 4) can act as authorized representatives at DR hearings. The DR employee who made the decision, or the employee's supervisor, usually represents DR.

The rules about attendance at the hearing are strict. When the RAB sends out your hearing notice, they will include a "Hearing Confirmation Form" and a self-addressed, stamped envelope. You must complete this form and return it to the RAB at least seven days before the hearing (remember to allow time for it to reach them by mail). Using this form, you must give written notice that you intend to attend the hearing or request that the RAB decide the matter on the written record in your absence. If you do not notify DR in writing, the hearing will be cancelled and the RAB will send you a notice informing you that you have 14 days from the date the notice was mailed to make a written request for a new hearing. The hearing will be rescheduled only if you can show good cause for failing to send written confirmation of your attendance or preference that the matter be decided on the written record. 9 C.C.R. §§ 7355(m); 7356(a).

The hearing will also be cancelled if you do not appear within 30 minutes of the scheduled time. It will be rescheduled only if you provide a written statement within 14 days of receiving the notice canceling the hearing. This statement must

how “good cause” for your not going to the hearing. “Good cause” means a death in the family, personal illness or injury to you or your representative, or sudden and unexpected emergencies.

If you have already confirmed in writing that you will attend the hearing, and then something suddenly comes up which prevents you from attending, you will again have to send a letter to the RAB asking for a new hearing date and giving good cause as to why you could not attend the hearing. 9 C.C.R. §§ 7356(a) and (b).

The RAB will dismiss your appeal if you:

- 1) Fail to file a timely request for a fair hearing;
- 2) Fail to raise an issue within the jurisdiction of the RAB;
- 3) Fail to show good cause for failing to attend or failing to confirm attendance;  
or
- 4) Fail to request a new hearing within the 14 day deadline.  
9 CCR §7355(n)(1)-(4).

You may withdraw your request for the hearing at any time, but you must do so in writing. The RAB may postpone the hearing for up to 90 days for good cause if your request is made at least five days before the hearing.

The RAB may also postpone a hearing to get more evidence. It may close the hearing and hold the record open for 30 days to get more written evidence. The RAB must make any new evidence available to both sides for a written response. Cal. Welf. & Inst. Code §§ 19705, 19706, 19708; 9 C.C.R. §§ 7350-7357. The RAB will send a final decision to DR, to you, and to your representative within 45 days. 9 CCR § 7358.

### **33. What happens to my services during the appeal process?**

Until the RAB makes its final decision, DR must continue the services you were receiving when the dispute arose. The exception to this rule is when services have been obtained as a result of misrepresentation, fraud, collusion, or criminal conduct. 29 U.S.C. § 722(c)(7).

**34. Is there an appeal from the final Rehabilitation Appeals Board (RAB) decision?**

If you are dissatisfied with the RAB's final decision, you can appeal the decision in Superior Court within six months. Cal. Welf. & Inst. Code § 19709. You have the right to ask CAP for a legal review to help you decide whether to go to court.

**INDEPENDENT LIVING SERVICES**

**35. What are independent living services?**

Independent living services include a wide variety of services which are designed to enhance your ability to live independently in the community or with your family. In some cases, independent living services may help you secure and maintain employment. Typically, you would get independent living services through a local center for independent living (CIL). A CIL is a "consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency that...is designed and operated within a local community by individuals with disabilities." 29 U.S.C. §§ 796a(1), 705(18).

**36. Who is eligible for independent living services?**

Any individual with a significant disability, defined as "...an individual with a severe physical or mental 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 independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment..." is eligible for independent living services. 29 U.S.C. § 705 (21)(B).

**37. What assistive technology is available through independent living services?**

Independent living centers may provide a variety of services, including transportation, rehabilitation technology, equipment maintenance and evaluation, training in independent living skills, mobility assistance, communication assistance, prostheses, and other needed appliances and devices. They may also provide advocacy services and adaptive housing services, including accommodations and modifications. To the extent that you need training and assistance to use assistive technology devices, they are available through

independent living centers.

29 U.S.C. § 705(18); Cal. Welf. & Inst. Code § 19801(d).

**38. What is the appeal process if I don't like a decision regarding independent living services?**

If you disagree with a decision relating to services you have requested from an ILC, you can ask for a review under the policies and procedures established by that ILC. The ILC must provide you with information regarding their particular appeal process in a format that is accessible to you. 34 C.F.R. § 364.58.

**LOAN GUARANTEE PROGRAMS**

**39. What are Loan Guarantee Programs?**

The California State Treasury has a permanent revolving fund called the Rehabilitation Revolving Loan Guarantee Fund. The fund is available to guarantee loans by eligible lenders to eligible persons to buy vans, automobiles, and other special equipment to facilitate transportation of individual's with disabilities. It is also used to assist private employers and employees, and other persons with disabilities, regardless of age, to purchase assistive technology, in order to live more independently or to engage in employment. Cal. Welf. & Inst. Code § 19460.

Under this program, the state will guarantee 100% of the principal and interest of any loan it approves. Cal. Welf. & Inst. Code § 19462. The maximum amount of a loan per individual is \$50,000. Cal. Welf. & Inst. Code § 19469. The state will only grant loans up to the amount contained in the Fund. Cal. Welf. & Inst. Code § 19464.

**40. Who are eligible lenders for DR loan guarantees?**

An eligible lender is a financial institution that is organized, chartered, or has a license or authorization certificate under a law of California or the United States to make loans or extend credit. The lender must be subject to supervision by an official or agency of California or the United States. Cal. Welf. & Inst. Code § 19461(c); 9 C.C.R. § 7263(a)(3).

#### **41. What are the general eligibility requirements for loan guarantees?**

You must have income that does not exceed the level prescribed for moderate-income families. (Income limits are posted in the Housing Resource Section of the California Housing and Community Development website: [www.hcd.ca.gov/hpd](http://www.hcd.ca.gov/hpd) or at California Code of Regulations Title 25, Section 6932); and

You must be a parent of a child with a disability who has been certified by a physician or the department as having a disability, who lives at home and who requires a modified vehicle for mobility or requires assistive technology, including evaluation and training in the use of an assistive technology device, which is necessary for independent living; or

You must be a person with a disability who has been certified by a physician or the department as having a disability, and who requires a modified vehicle for mobility or requires assistive technology, including evaluation and training in the use of an assistive technology device, which is necessary for independent living. Cal. Welf. & Inst. Code § 19461(1)(2)(3) and (4).

#### **42. What is the approval process for loan guarantees through DR?**

To apply for loan guarantees, you must provide DR with:

- The name, address, and telephone number of the person who will use the item, documentation of monthly household income and expenses, and proof of steady employment or income for a minimum of one year prior to the loan request;
- A physician's verification of the need for the assistive technology for mobility, employment purposes, or to live more independently. A written description from a knowledgeable individual of your functional capabilities and the type of device needed;
- The actual or estimated amount of the loan request;
- For transportation loans, the approximate mileage that you will put on the vehicle each month; and
- Any other information DR says is necessary to determine eligibility.  
9 C.C.R. § 7263.5.

Any costs associated with the approval process are your responsibility, but you may include them in the loan amount. 9 C.C.R. § 7263.5(b).

You can apply at any district or branch DR office. You can also download an application at the AT Network website: [www.atnet.org](http://www.atnet.org). Within five days of receiving the necessary information, DR will make a preliminary eligibility determination based on non-financial criteria. If you meet that test, a Program Administrator will make a preliminary eligibility determination based on financial criteria within five days. The Program Administrator will consider if there is enough money to cover the loan guarantee, your income, your employment status, and your credit record.

The Program Administrator may deny the loan guarantee request if:

- There are insufficient funds in the appropriate account to cover the amount of the loan request;
- You do not meet the financial eligibility criteria; or
- You refuse to cooperate with any phase of the preliminary eligibility determination. 9 C.C.R. § 7264.6.

If the Program Administrator approves the loan guarantee, he will contact an eligible lender. The lender will send you a loan application to complete. The administrator, working with the lender, will determine an affordable monthly payment and interest rate, and will execute a loan agreement with the lender. You will make monthly payments directly to the lender. If the lender denies the request, the Program Administrator will tell you.

#### **43. What is the appeal process for the Loan Guarantee Programs?**

If your loan guarantee request is denied at any stage, a notice must be sent to you in writing. It must contain the specific reasons why you are not eligible and the legal support for them. The appeal process is the same as for vocational rehabilitation services, as described in questions 29 through 34. 9 C.C.R. § 7265.

**44. When can Department of Rehabilitation (DR) terminate a loan guarantee?**

DR can terminate a loan guarantee agreement either when you have repaid the loan or when the borrower fails to meet the conditions of the loan guarantee agreement. 9 C.C.R. § 7266.