

## Changes in Appeals Procedures

Effective June 18, 2012 there are changes to the appeals procedures for the Vocational Rehabilitation (VR) program. Following is a summary of the appeals procedures including the new changes. The changes have been underlined.

Applicants or consumers of the Vocational Rehabilitation program who are dissatisfied with their determination of eligibility or receipt of services can request due process. An individual or their legal guardian who request due process must submit their written request within 30 days of the eligibility determination or denial of services. Requests for due process must be submitted in writing to:

Bernie Grimme, Assistant Director  
Department of Human Services  
Division of Rehabilitation Services  
East Highway 34, c/o 500 East Capitol  
Pierre, SD 57501

The written request for due process should be dated, identify what the dispute is, and signed by the individual requesting due process or their legal guardian. The due process within the Vocational Rehabilitation program has the following three levels for individuals appealing a decision with their VR case: Administrative Review, Mediation and Fair Hearing. Individuals may choose any of these levels at the time of the initial appeal.

### **Administrative Review**

The Administrative Review is the lowest level of due process and we recommend that individuals try to resolve their dispute starting at this level. The Administrative Review will be held at the Vocational Rehabilitation Office closest to the individual. The review will be conducted by a Certified Vocational Rehabilitation Counselor from a different VR Office. Within 10 working days after the review, the individual will receive a written decision of the Administrative Review. The individual will then have 10 days to request in writing if they want to continue their due process with Mediation or Fair Hearing.

### **Mediation**

Mediation utilizes a trained mediator to work with both parties to guide them toward a mutually satisfactory solution on the dispute. The mediator is a neutral third party and, therefore, has no power to make a decision regarding the conflict. Maintaining confidentiality is critical to the integrity of the mediation process. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. At the conclusion of the mediation, the individual will have 10 days to request in writing if they want to continue their due process with the Fair Hearing.

**Fair Hearing**

The Fair Hearing is conducted by a Hearing Officer from the South Dakota Office of Hearing Examiners. The Fair Hearing will be held at the Vocational Rehabilitation Office closest to the individual. The Fair Hearing is a formal procedure where testimony will be given under oath with a record of the testimony. The Fair Hearing will be conducted within 60 days from the date the initial appeal was requested unless an extension is granted.

**Your Rights with Due Process:**

As an applicant or consumer of the Vocational Rehabilitation program, you have the right to discuss a problem or grievance with your Vocational Rehabilitation Counselor or the counselor's supervisor by scheduling an appointment. You also have the right to request due process regarding your Vocational Rehabilitation eligibility or services. Administrative Review and Mediation are voluntarily procedures. You can choose to proceed directly to Mediation or Fair Hearing procedures with your due process.

The Client Assistance Program (CAP) can assist you and/or represent you with your due process. The Client Assistance Program can be contacted at: (605) 224-8294 voice/TTY or 1-800-658-4782 (toll free).

**Your Responsibilities with Due Process:**

You must request your due process within 30 days after your eligibility decision or denial of services. Once the Administrative Review and/or Mediation is complete, it is also your responsibility to inform the Division of Rehabilitation Services in writing within 10 days if you want to proceed to the next level of due process. If you do not notify the Division of Rehabilitation Services within this timeframe, it will be determined that you have accepted the decision of the Administrative Review or Mediation and do not want to continue with the Fair Hearing.

**Additional Resources and Information:**

Administrative Rules on Due Process 46:30:05: <http://legis.state.sd.us/>

Division of Rehabilitation Services: <http://dhs.sd.gov/drs/>

South Dakota Advocacy: <http://www.sdadvocacy.com/>

Office of Hearing Examiners: <http://www.state.sd.us/boa/ohe.htm>

Information about the appeals procedures and due process of the Vocational Rehabilitation program can be made to Bernie Grimme 605-773-3195 or 1-800-265-9684 (toll free).