Chapter 17 - Self Employment

✓ The Regulations

34 CFR 361.48 Scope of vocational rehabilitation services for individuals with disabilities. (b) Services for individuals who have applied for or been determined eligible for vocational rehabilitation services. As appropriate to the vocational rehabilitation needs of each individual and consistent with each individual's informed choice, the designated State unit must ensure that the following vocational rehabilitation services are available to assist the individual with a disability in preparing for, securing, retaining, advancing in, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice: (19) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.

Introduction

The DVR Business Enterprise Program (BEP) exists to provide support, education, and training for eligible DVR clients who are interested in self-employment. The DVR Small Business Consultant is a resource for the DVR staff and the DVR client. As such the DVR Small Business Consultant can provide pre-start-up services, such as preliminary research and recommendations prior the development of a client's business plan. The DVR Small Business Consultant will be consulted in every small business/ self-employment start up sponsored by DVR, regardless of funding source (SBDF or Case Service funds).

17.1 SELF-EMPLOYMENT PROGRAM CONSIDERATIONS

Self-employment includes all employment in which the individual or the entity owned by the individual is earning income through conducting profitable operations from a trade or business that he or she is operating directly. The individual is responsible for paying for the employer and employee portion of his or her own social security and Medicare taxes, insurance, licenses, and other employee benefits and may be a sole proprietorship, or form another legal Wyoming business entity.

Self-employment is considered viable when clients possess related skills and experience pertinent to the business. However, training within a self-employment plan is determined on a case-by-case basis considering industry standards for the proposed business concept. The following illustrate how a training service may be provided to a client of the self-employment program:

• Brief targeted training and/or educational services specific to business operations, certifications, licensures, etc.
• Education leading to occupational goals for which the industry standard is self-employment.

17.1.1 Parameters

Business ventures shall be for-profit and comply with all relevant state, federal, and local laws and regulations. The BEP excludes businesses that are, in nature: passive activity in which the business owner does not materially or physically participate (as determined by the Internal Revenue Service), highly speculative, illicit, or sexually explicit. BEP shall not support pyramid selling enterprises. A pyramid scheme is a non-sustainable business model that involves promising participants’ payment or services, primarily for enrolling other people into the scheme, rather than supplying any real investment or sale of products or services to the public.

The Division reserves the right to deny approval and funding of a business determined by the DVR Small Business Consultant to be inconsistent with the values and sensibilities of the State.

Only business proposals that show feasibility will be considered for approval. Feasibility may be determined by market research, industry and trend analysis, financial projections, and skills and capabilities of the client. Other considerations may be taken into account as well.

For the purposes of owning and operating a business, DVR does not erect or modify the structure of buildings, including homes, and does not purchase land or buildings. DVR shall not support self-employment within the marijuana industry. DVR does not purchase firearms or ammunition without prior written approval by the DVR Administrator. DVR’s Small Business Development Funds (SBDF) may not be used for the purchase, repair, or modification of a vehicle; this cost is to be covered through the DVR General Rehabilitation- Basic Support grant and only with prior approval of the DVR Administrator. (See page 70 for vehicle purchase.)

Clients involved in bankruptcy or other legal proceedings that directly impact business planning shall have resolution prior to engaging in self-employment. DVR shall not reimburse or pay wages for permanent, full-time or part-time employees for purposes of self-employment.

DVR does not support the establishment of nonprofit businesses as a self-employment goal. Nonprofit businesses by definition do not generate a profit, a board of directors typically oversees these types of organizations, and the organizations are not owned and controlled by the client.

An eligible DVR client can only work on one business proposal. Multiple business ideas, such as having a painting and a lawn care business will not be considered. The client will have to choose which business proposal to pursue. Technical assistance is available to assist the client in making a choice in these instances. A lawn care and snow removal business, would be an exception to this, as both of these are seasonally based, and merge well into one business venture, potentially supporting the client year-round.
17.1.2 Supported Self-Employment

DVR supports persons with disabilities in the area of self-employment that require supported employment and extended supports to perform the functions and operation of their businesses.

*When working with a client who is in need of supported employment services and also is interested in pursuing self-employment, the following are questions to ask and considerations to keep in mind:*

- **Who makes up the client’s support network (i.e.: family members, mental health programs, host home providers, private employment consultants, etc.)? And how long will this support be in place for the client?**

- **Keep in mind that the client’s support network will most likely be involved from the very beginning, and may need to take an active role in several areas of business operations.**

- **Refer client to the local SSA benefits planner for additional information on PASS (Plan for Achieving Self Sufficiency), IRWE (Impairment Related Work Expenses), and impact of wages on benefits.**

17.2 BUSINESS PLANS

The DVR business plan outline is a skeleton version of a typical business plan. It is not designed to be a document that will provide sufficient information for a potential financial lender or investor. This outline provides the minimum amount of information needed, in order to determine a feasible business proposal. The DVR Small Business Consultant may require additional information from a client depending on the circumstances, scope and complexity of a proposed business. The business plan outline is designed to assist a client in the completion of the minimum requirements for completing an acceptable business plan, that will show that a) the the proposed business is generally and financially feasible; b) the client is able to to operate and maintain a business; and c) that the client has sufficient skills and a supportive network to continue operating the business. A business plan is considered a living document and is subject to change and should be updated as needed. The DVR Small Business Consultant will determine the need for additional information during the client’s business consultations.

17.3 SBDF Funding Eligibility

All DVR clients are eligible to receive technical assistance and consultation from the DVR Small Business Consultant. However, only clients that have been determined significantly disabled (SD) or most significantly disabled (MSD) are eligible for SBDF funding.

17.3.1 FUNDING FOR SELF-EMPLOYMENT (SBDF - Funding Source)

DVR shall provide resources in the form of small business start-up assistance to the extent those resources are authorized. SBDF funding is only available for a six-month
time frame, starting from the first date of the first financial authorization that was created by the DVR Counselor. This six-month funding time frame cannot be extended without prior approval from the DVR Small Business Consultant. Financial assistance for start-up funding, to the extent such assistance is not available from the individual, his or her family, or other sources, may include:

- Occupational licenses, sales tax licenses, business permits as required by any unit of state or local government of the new enterprise. This cost is not to exceed $1,000.00 without managerial approval.
- SBDF can assist with legal fees, such as assisting with setting up complex LLC, or corporations or provide assistance for patent research, and initial patent filing. (A patent requires a life-time financial maintenance, and the maintenance and excessive fees for patent attorneys and patent filings will not be covered by SBDF, and an owner-investment, or an additional loan may be required.)
- Tools and equipment which are essential to the initial operation of the new business enterprise, not to exceed $2,500.00 without managerial approval.
- The repair of equipment and tools a client can bring into the new enterprise.
- Inventory essential to the initial operation of the new business enterprise not to exceed $2,500.00 without managerial approval.
- Initial advertising as needed, to promote the business not to exceed $500.00 without managerial approval.
- Training related to enhancing and increasing technical knowledge
- Vehicles, and vehicle repairs are not being funded through SBDF, but may become part of a client’s business plan. In those cases the DVR regulation about vehicles on page 70 of this policy applies.
- Rent for business properties may be covered only up to three months. The client’s financial projections will have to show that the business’ operations will be able to maintain rent payments. Only rent payments that have been pre-approved in the client’s start-up cost sheet will be considered for payment. The client is to submit a rental agreement draft as an appendix to the business plan prior the approval of any rent payments. Additional rent maintenance will not be considered or covered by SBDF. It is important to ensure that the client will NOT sign any types of agreements, leases, or other binding documents until after the approval of a business plan.
- Insurance and bonding is usually the responsibility of the client. If the client is unable to contribute to insurance and/or bonding costs, the client will need to inform the DVR Small Business Consultant and his or her DVR Counselor, and will be required to provide a written explanation of the circumstances that prohibit the client to contribute to this expense. Insurance or bonding payment, if approved, will be a one-time payment. The client will be responsible to cover the regular payments of this expense, and the financial projections will need to show that the proposed business will be able to cover this expense in the future.
- Only Expenses that have been listed on the Start-Up Expense Sheet of the Financial Projections will be approved.

Requests for funding are considered on a case by case basis, and some requests may require additional funding sources, to include but not limited to, owner investments, PASS Plans, microloans, personal and/or business loans.
Referral to the Wyoming Women’s Business Center

Most approved business plans will be referred to the Wyoming Women’s Business Center by the small business consultant. The client will have to complete a DVR form “Request for Information” and will then be referred for a loan process. The client will have to complete a WWBC loan application, as well as an intake form for the WWBC. The client will not be responsible for any loan fees or interest payments of the DVR approved loan amount. The approved loan amount will be paid for in full by the SBDF budget. Should an approved business plan require additional funding, either through the WWBC or another lending institution, the client will be required to discuss this information with the small business consultant and the DVR counselor, prior to the BEP business plan approval. DVR will not be responsible for any additional loan funds that the client may incur.

The small business consultant and the WWBC loan officer will be in communication about the referred DVR client’s loan process. Any changes to the loan amount that have not previously been discussed with the DVR small business consultant and the DVR counselor will not be considered by SBDF funding. The SBDF funding will cover the agreed amounts of 1% loan origination fee, as well as a $25.00 credit check fee for the approved DVR client.

If a non-DVR client participates in an approved business plan, it will be the responsibility of this individual to pay for his or her own credit reporting fee, as well as any other additional fees and costs associated with the loan that may occur in addition.

In the event that a DVR client with an BEP approved business plan cannot receive a loan through the WWBC, BEP and DVR will provide the approved funding for the start-up expenses for this business and assist the client with the purchase of the approved items. This process also includes business plans that may not benefit by being referred to the WWBC. Examples of such business plans are, very small plans where the start-up funding consists of only one or two vendors, or the start-up amount under $1000.00.

SBDF Funding Restrictions

SBDF is not available for acquiring land or buildings, or construction for the new business enterprise; or construction, renovation, or remodeling of space to be used by the new business enterprise unless the renovation or remodeling is required to make that space accessible to the eligible individual. No funding is available for operating capital (cash to infuse the business to help pay for recurring expenses, such as payroll, or business investments.)

SBDF cannot be used for vehicle down payment, or vehicle purchase, vehicle modification, or vehicle repairs.

SBDF cannot be used for home modifications.

SBDF Service Codes

Appropriate DVR case management system service codes for these expenditures in “010 OTH Small Business” are:
17.3.2 Worker's Compensation Funding for Self Employment

An eligible client having received the Workers' Compensation VR-Option is eligible to work with the DVR BEP program and can receive the same technical assistance as other eligible DVR clients. The business planning process, and funding authorization remains the same as for other DVR clients, only the funding source will change. A client with a WC/VR option will be funded primarily through the VR/WC Matching Funds. A WC stipend for living expenses, may be considered after consultation with the client’s DVR Counselor, DWC Claims Analyst, and the DVR client. Workers Compensation stipend payments will be made available only up to three months, and details of this stipend will be captioned in an additional part to the financial sections of the DVR Small Business Plan, as part of the financial summary. The DVR Counselor will notify the DWC Claims Analyst of the details of this stipend agreement. WC stipends will be paid through the DWC Claims Analyst. The client’s financial projections will have to show that the client will be able to maintain all payments after the stipend period, prior to approval of these payments.

17.4 CLIENT CONTRIBUTIONS

Client contributions are typically liquid, cash resources available to the client; as well as tools, equipment, and other available resources (i.e. being able to work from home, having a workshop, etc.) These contributions are considered an owner investment towards the business by the client.

17.5 THE BUSINESS PLAN DEVELOPMENT PROCESS

After an eligible DVR client has expressed his or her desire to be self-employed, and the DVR counselor has determined that the client may be able to function well as a self-employed individual, considering the disability, legal/criminal background, ability to manage finances, the DVR counselor then refers the client to the DVR Small Business Consultant.

This referral should be a two-step process. Initially, the DVR Counselor will contact the DVR Small Business Consultant via phone or email. The purpose here is to inform the
Small Business Consultant of the client’s intention, provide a brief background including any concerns or issues that may hinder or slow-down the business planning process. The client then needs to be referred to the DVR case management system upon the DVR Small Business Consultant’s instruction. A referral in DVR case management system will populate an active BEP client list.

The following explains how to refer a client in the DVR case management system, currently WINRS:

After a client has been referred to BEP, the DVR Small Business Consultant will contact the client and begin working on understanding the business needs, the client’s needs as the business venture is concerned, and begin developing a business plan with the client. A business plan can reasonably be developed over the course of three months. The speed of this process is determined by the client, and the client’s need for assistance and training. This training and planning process will be tailored to the client’s needs and ability to process and produce information. The DVR client should be encouraged to initiate and maintain regular contact with the DVR Small Business Consultant throughout the business planning process.

**Consultations with DVRs Small Business Consultant is required. Consultation need not be face to face if other methods of communication will suffice.**

Depending on the need of the client, business consultation can include but are not limited to

- Business planning
- Market research
- Financial planning
- Self-employment taxes
- Licensing requirements
- Insurance and bonding requirements
- Marketing and Advertising

**Referrals to the Small Business Development Center, Small Business Administration (SBA), the Wyoming Women’s Business Center, and other organizations will be made by the DVR Small Business Consultant.**

The DVR Small Business Consultant and the client will schedule regular meetings (the DVR Counselor is always welcome to participate), and the DVR Small Business Consultant will provide written case notes about the meetings and the client’s progress to DVR case management system.

**17.5.4 Business Plan Approval**

Once the Business Plan has been completed, it shall be reviewed by the DVR Small Business Consultant to determine if all the Business Plan components have been addressed and also to evaluate the continued feasibility of the business. Minimum criteria to be considered include:
The business’s potential profitability as reflected in the business plan’s financial forecast
- Startup costs
- Availability of financial resources
- The client’s ability to effectively manage the business as it is designed

The approved business plan documentation will be attached to the case note in DVR case management system by the DVR Small Business Consultant, and the DVR Counselor will be notified of the approved business plan.

17.5.5 Business Plan Denial

Sometimes, a business plan will have to be officially denied by the DVR Small Business Consultant. In these instances, a detailed case note will be made in DVR case management system and the DVR Small Business Consultant will notify the DVR Counselor.

As the DVR Small Business Consultant works regularly with the client and the client’s DVR Counselor, concerns or objections against approving a business proposal will be discussed during this process. In those cases a recommendation to the DVR Counselor by the DVR Small Business Consultant is sufficient to shift the client’s interest away from self-employment. This recommendation mostly occurs verbally, and is followed by a case note entry to DVR case management system by the DVR Small Business Consultant.

17.5.6 Client Decides Against Operating a Small Business

If, at any time during the business planning process, the client decides against wanting to operate a small business, the DVR Counselor shall notify the DVR Small Business Consultant of this decision via phone and/or email.

17.6 INDIVIDUALIZED PLAN FOR EMPLOYMENT

Following approval of a business plan, an Individualized Plan for Employment (IPE) shall be amended or prepared. Each IPE shall include:

1. A self-employment outcome identified in the business plan.
2. Identification of objectives necessary for the attainment of the planned self-employment outcome, consistent with the assessment of vocational rehabilitation needs and the individual's informed choice.
3. Identification of the specific, necessary vocational rehabilitation goods and services to be provided in order to achieve the planned self-employment outcome.

These may include:
- Training needed to equip the client with business management and operation skills
- Identification of assistive technology or other accommodations needed for management and operation of the business
- Supportive services to start the business
4. Timelines including the projected dates for the initiation and the anticipated duration of each vocational rehabilitation service and a projected time frame for the achievement of the self-employment outcome.

5. Objective criteria, procedures and schedules to be used for periodic evaluation and monitoring of progress toward self-employment outcome.

6. Identification of provider(s) as described in the business start-up costs and those needed to address disability needs consistent with the individual’s informed choice.

7. A plan to monitor and evaluate the success of the business through monthly reviews and financial reports with attention paid to marketing activities and cash flow (such as Business checkbook register, Profit and Loss Statements, Monthly Balance statements, Quickbooks statements, etc.)

Meet with the client, the DVR Counselor, and the DVR Small Business Consultant on a monthly basis for the first three months after approving the client’s business plan. After this time, the DVR Counselor, the DVR Small Business Consultant and the client determine the need for future meetings.

8. Identification of closure criteria to include an agreed upon income level (net profit/breakeven) consistent with financial projections submitted with the business plan.

9. An Equipment Agreement form will have to be completed and signed by the DVR Counselor and the client. Please see Appendix A Forms for copy.

17.7 INDIVIDUALIZED PLAN FOR SELF-EMPLOYMENT EVALUATION CRITERIA

Evaluation criteria for IPE for self-employment shall measure progress toward and completion of required steps in the business development process and assure adequate business growth. Criteria shall assure the appropriate results are achieved based on the client’s needs:

- That the individual possesses adequate skills to manage his or her own business.
- That the individual has sufficient technical skills to run the business.
- That the individual has developed an effective network of professional advisors and business mentors.
- That the individual has developed and is implementing a sound financial plan to operate the business and sustain long-term viability.
- That all necessary accommodations are in place to address special disability-related needs.
- That the business is generating adequate revenue and planned for income growth to cover all business operating costs and ongoing accommodation costs.

17.8 BUSINESS PLAN MONITORING

The evaluation criteria to measure the financial progress of the business shall be through the completion of the monthly report **Insert Name, link to file**. The information shall be completed from the client’s Profit and Loss statement, and monthly balance statement or monthly accounting statement, such as a business ledger, Excel
spreadsheet, or accounting software, such as Quickbooks. The report is a means by which both the client and the Counselor shall be able to determine adequate business growth. This information will need to be shared with the DVR Small Business Consultant.

The DVR Small Business Consultant will be informed of specific business related problems, which may endanger the successful development of the business and/or the successful closure of the case.

17.9 MOVEMENT INTO EMPLOYED STATUS AND SUCCESSFUL REHABILITATION CASE CLOSURE

Once a business is meeting its operating expenses (break even), the DVR Small Business Consultant shall continue to provide technical assistance and monitoring as the client continues to build monthly revenue necessary to reach the agreed upon income goal. During the monitoring period and until successful case closure, the only services that shall continue are necessary and planned disability-related services.

17.9.1 Self-Employment Considerations for Case Closure

Self-employment requires that the income goal identified in the IPE has been met.
1. Self-employment outcome requires that the business development results identified and agreed upon in the IPE for Self-Employment shall be achieved prior to closure of the client record. Documentation in the client record shall provide evidence that the following closure criteria have been met:
   a. The business is operational and meets all federal, state and local laws governing the operation of the business including maintaining adequate insurance coverage for business requirements.
   b. The business is generating sufficient income to cover all required business expenses, associated impairment-related expenses, if applicable, and meet the agreed upon income goal.
   c. The individual and the DVR Counselor agree that the individual’s technical and managerial skills are adequate for on-going business management without further vocational rehabilitation services.