

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Labor and Economic Opportunity

2. Bureau:

Michigan Rehabilitative Services

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Vocational Rehabilitation

5. Rule numbers or rule set range of numbers:

R 395.1 - R 395.88

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The Michigan Rehabilitation Services (MRS) existing rules are being amended to expand the agency's ability to fund post-secondary support and vocational training, update the methodology for determining rates of payment, update agency practices regarding extended evaluations, align MRS rules regarding supported employment with the definitions and requirements of 34 CFR 361.5(c)(53) and 34 CFR 361.5(c)(54), align language in the MRS purpose statement and rates of payment with federal cost principle language, and update the name of the State of Michigan office name for the office responsible for administrative rulemaking.

MRS is promulgating new rules to describe how MRS operationalizes order of selection for services in compliance with 34 CFR 361.36, how MRS vets vendors to ensure high-quality vendor-provided services, and practices for providing customized employment services.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

By authority conferred upon the director of the department of labor and economic opportunity by sections 2a and 2b of the proprietary schools act, 1943 PA 148, MCL 395.102a and 395.102b, and sections 3, 4, and 6 of the rehabilitation act of 1964, 1964 PA 232, MCL 395.83, 395.84, and 395.86; Executive Reorganization Order Nos. 1999-1, 2003-1, 2012-5, and 2019-3, MCL 408.40, 445.2011, 445.2033, 125.1998, and in accord with the Workforce Innovation and Opportunity Act of 2014, P.L. 113-128.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Sections 2a and 2b of the proprietary schools act, 1943 PA 148, MCL 395.102a and 395.102b, and sections 3, 4, and 6 of the rehabilitation act of 1964, 1964 PA 232, MCL 395.83, 395.84, and 395.86; Executive Reorganization Order Nos. 1999-1, 2003-1, 2012-5, and 2019-3, MCL 408.40, 445.2011, 445.2033, 125.1998, and in accord with the Workforce Innovation and Opportunity Act of 2014, P.L. 113-128.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

No.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

R 395.53 has some overlap with 34 CFR 361.1 as both define the purpose of the state VR program.

R 395.75 has minor overlap with the requirements of 34 CFR 361.48(b)(6), but then expands upon the specifications of the federal requirement.

MRS intended rulemaking on order of selection for services will have overlap with and adhere to the federal requirements for order of selection for services described in 34 CFR 361.36.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The MRS Rehabilitation Services Manual (RSM) is a document that comprehensively lists available MRS services, definitions, MRS staff procedures, documentation methods, and requirements.

The MRS Vendor Manual is expected to be effective on May 1, 2025 and provides guidance to vendors providing services to MRS participants.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes for:

- R 395.53 Purpose
- R 395.60 Time frame for eligibility determination
- R 395.61 Extended assessment; extended evaluation plan and trial work experiences
- R 395.71 Required components of IPE
- R 395.81 Rehabilitation case closure; supported employment
- R 395.75 Post-secondary education and vocational training financial needs test
- R 395.76 Rates of payment
- [new rule] Practices for vetting vendors to ensure high-quality vendor-provided services
- [new rule] Customized employment
- [new rule] Order of selection for services

No for:

- R 395.51 Definitions

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

R 395.76 Rates of payment offers additional information on how MRS sets a fee schedule standardized rates of payment for specific services types that go beyond the requirements of federal regulations. 34 CFR 361.50(c) allows state vocational rehabilitation agencies to set a fee schedule, but does not specify the methodology of how standardized rates must be developed. This rulemaking on R 395.76 will provide basic information on the methodology MRS uses to determine standardized rates.

A new rule will describe MRS practices for vetting vendors to ensure they are safe and quality sources of services for MRS participants. Federal and state regulations do not provide guidance on how vendor vetting must be conducted, other than the federal requirement of checking for organization debarment and suspension in the System for Aware Management and the state requirement of registration in Sigma VSS.

A new rule will describe how MRS provides customized employment services to MRS participants. The new MRS rule will comply with the federal definitions of 34 CFR 361.5(c)(11) and program authority to provide customized employment of 34 CFR 361.49(a)(1). Additionally, the new MRS rule will set training requirements for vendors providing customized employment services to MRS customers which go beyond federal and state requirements.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

MRS last conducted administrative rulemaking between 7/2023 and 4/2024. Technology, economic conditions, or other factors have not changed the regulatory activity covered by the rules since the last evaluation.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

R 395.81(1)(c) is no longer needed. The option of closing a MRS participant case in supported employment in work groups of 8 or fewer employees is not contained in state or federal requirements.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.