

**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:

3 months

Name of person filling out RFR:

Christina Rea

E-mail of person filling out RFR:

ReaC@michigan.gov

Phone number of person filling out RFR:

517-247-9553

Address of person filling out RFR:

320 S. Walnut St
Suite 1N

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

The Michigan Rehabilitation Services (MRS) rules are being amended to update definitions to align with federal regulations and provide clarity, including to modify nondiscrimination statement, to update the agency's process for developing a fee schedule for standardized rates of payment, and to bring the rules into conformity with current practice regarding post-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, 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, 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 395.84 as currently written contradicts 34 CFR 361.5(c)(41) and post-WIOA RSA guidance (https://rsa.ed.gov/sites/default/files/subregulatory/RSA-FAQ-22-03_0.pdf) regarding post-employment services. MRS no longer provides post-employment services as currently described in R 395.84.

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, procedures, documentation methods, and requirements.

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

Yes for:

- R 395.51 Definitions
- R 395.53 Purpose
- R 395.54 General requirements
- R 395.76 Rates of payment
- R 395.83 Post-employment services

No for:

- R 395.79 Rehabilitated case closure

The R 395.79 change was prompted by the change to R 395.83 and was discovered during our planning/drafting.

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.

The only rule addressed in this RFR that will, once edited, exceed similar regulations is R 395.76. Current laws and regulations do not dictate how MRS establishes rates of payment. MRS has adopted a method of contracting a third party consulting entity to establish standardized rates of payment for specific VR services.

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.

5/13/2020. 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 395.83, which describes agency activity no longer being conducted due to changes in federal regulations and guidance, is no longer needed.

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.