

Legal Residency (Issued August 2009) (Reviewed May 2014)

Purpose:

To provide staff with guidance on how to proceed in a case where we come across information that a consumer may not be able to legally work in the country.

Rationale:

Rehabilitation Act Section 101(a) (12) Residency

The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State. (For further information on presence in the state see [Provision of Services to Non-Wisconsin Residence.](#))

DVR Policy - Citizenship and Residency (Pg. 2)

No duration of residence requirements shall be imposed on any consumer present in the state. Aliens with visas allowing them to work while in the country may be eligible for services.

Guidance:

DVR assumes that a consumer can legally work unless the individual shares information or you come across information that he/she can not work legally or that warrants further investigation (e.g., does not have Social Security Number, they mention they do not have a work permit or that they are here on a student visa, etc.).

When questioning is warranted, request to see documentation prior to eligibility (e.g., green card, work permit, etc.).

- If an individual shares that they are allowed to work on a temporary basis or that something is preventing them from working temporarily, further discussion should occur with the consumer prior to determining eligibility.
 - If something is temporarily preventing them from legally working this should be resolved prior to determining eligibility (e.g., invalid SS #). The consumer should provide DVR with documentation that the issue has been resolved. If appropriate, an extension for the eligibility determination can be requested.

If the individual is only permitted to work in the USA on a temporary basis (i.e., temporary green card, student visa, etc.) further information should be gathered from the consumer regarding his/her length of employability in the country and their ability to complete the provision of anticipated DVR services before the eligibility decision is made. The anticipated services can not exceed his/her time available to work.

- Individuals should be provided with resource and referral information that can assist him/her in gaining permanent residence. ***DVR should not pay for services to assist a consumer in gaining citizenship or the temporary ability to work.***
- If a consumer shares that they cannot legally work in the USA or it is determined that they cannot legally work, they are not eligible for DVR services. Provide full consultation to the consumer prior to closure and written notification of the decision and his/her due process rights.

Staff are encouraged to review all cases related to the above scenarios with supervision to assist with the eligibility determinations. If services have already begun, please consult with your supervisor.

It is important to note that citizenship and related laws are not an area of DVR expertise and that these issues can become complicated. It is important that DVR staff provide individuals with referral resources to help them in resolving these matters and to consult on these cases.

NO PROFILING: It is important that staff not use profiles of individuals as a reason to further investigate whether an individual can or cannot legally work in the USA.

Resources:

U.S. Citizenship and Immigration Service (USCIS)

<http://www.uscis.gov/portal/site/uscis>

Wisconsin Bar

To identify lawyers who practice immigration.

<http://www.wisbar.org/>