**Policy 51.403**

**Effective Date:  XXXXX**

**TITLE: DOCUMENTATION OF INITIAL EVALUATION ELIGIBILITY ON THE BASIS OF BLINDNESS OR SIGNIFICANT DISABILITY**

1. **PURPOSE.**

This policy prescribes the requirements an individual must meet to be counted towards the direct labor hour (“DLH”) ratio of people who are blind or have significant disabilities in the workforce of a nonprofit agency (“NPA”) in order for the NPA to be qualified to participate in the AbilityOne Program (“Program”). It also sets forth the documentation requirements and record-keeping responsibilities of an NPA; the review and evaluation responsibilities of a Central Nonprofit Agency (CNA); and the oversight responsibilities of the Commission.

1. **APPLICABILITY.**

This policy applies to the Commission, the CNAs, and the NPAs.

1. **AUTHORITY**
2. 41 U.S.C. §§ 8501 – 8506, Javits-Wagner-O’Day (JWOD) Act
3. 41 CFR Chapter 51, Committee for Purchase from People Who Are Blind or Severely Disabled
4. **DEFINITIONS AND ACRONYMS.**

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in Policy 51.102, Definitions. Terms unique to a specific subject matter are defined below.

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| Term | Definition |
| Participating Employee | An employee who is blind and/or has a significant disability, and can be counted towards the DLH ratio mandated by the Javits-Wagner-O’Day Act (“JWOD”). |

1. **RESPONSIBILITIES.**
2. The Commission:
3. Establishes standards for individuals to be participating employees in the Program.
4. Approves the process the CNA will use to monitor, review, and evaluate the NPAs’ determinations of whether individuals are eligible to be participating employees.
5. Oversees the effectiveness of the CNA’s program in monitoring, reviewing, and evaluating an NPA’s determination and documentation of whether individuals are eligible to be participating employees.
6. Conduct inspections as determined necessary.
7. The CNA:
   1. Establishes a process to review and evaluate an NPA’s determination and documentation of whether individuals are eligible to be participating employees.
   2. Provides guidance, training, and technical assistance to NPAs to properly determine and document whether an individual is eligible to be a participating employee.
   3. Provides data to the Commission regarding the NPAs’ determinations and documentation of whether individuals are eligible to be participating employees in an electronic format mutually agreeable to the Commission.
8. The NPA:
   1. Establishes and implements a system for determining and documenting an individual’s eligibility to be a participating employee.
   2. Establishes quality assurance measures that prevent and detect defective determinations or documentations; corrects such defects in a timely manner; and conducts recommended quality audits of records.
   3. Establishes a record-keeping system for all documentation necessary to determine whether individuals are eligible to be participating employees and transmits data to the CNAs in an electronic format agreeable to the Commission.
   4. Participates in all required education and training programs offered by the CNA or the Commission.

**6. POLICY**.

1. The AbilityOne Program exists to create and enhance employment opportunities for individuals who are blind or have significant disabilities. Through sound documentation, the NPAs ensure that the Program continues to be a wellspring of opportunity to those individuals who are eligible to participate in the Program.
2. Several fellow government agencies have an obligation to determine whether people with disabilities are eligible for the financial benefits and/or service provided by such government agencies. For purposes of efficiency in government, and as a matter of respect for the work of other government agencies, the Commission will accept certifications from certain government agencies as sufficient documentation of eligibility to be a participating employee. To the maximum extent possible, the Commission will accept certifications from certain other government agencies as sufficient medical documentation of blindness or a disability.
3. An award letter from the Social Security Administration (“SSA”) that the individual is receiving Supplemental Security Income (“SSI”) or Social Security Disability Insurance (“SSDI”) is sufficient to establish eligibility as a participating employee.
   1. To be eligible for SSDI or SSI on the basis of a disability other than blindness, an individual must be unable to engage in any substantial gainful activity because of a medically determinable physical or mental impairment. This is consistent with the definition of “significant disability” under the Program.
   2. To be eligible for SSDI or SSI on the basis of blindness, the individual must meet the same definition of blindness as exists in the Program.
4. A letter from the state indicating the individual is receiving Home and Community-Based Services (“HCBS”) under Medicaid is sufficient to establish eligibility as a participating employee.
   1. For an individual to be eligible to receive Medicaid HCBS, the individual must meet the SSA’s definition of disability or blindness for SSI benefits.
   2. The SSA’s definitions of disability and blindness meet the definitions under the Program.
5. A document from the state indicating the individual is eligible for vocational rehabilitation (“VR”) services is sufficient to establish medical documentation of a disability.
   1. To be eligible for VR services, an individual must have a “physical or mental impairment that . . . constitutes or results in a substantial impediment to employment and who can benefit in terms of an employment outcome from vocational rehabilitation services.”
   2. The document from a VR agency will satisfy the medical documentation requirements of subsection (i) if the document identifies the individual’s disability.
   3. To determine whether the individual eligible for VR services is eligible to be a participating employee, the individual must still satisfy the significant accommodation or job support requirements of subsection (j).
6. A letter from the Department of Veterans Affairs (“VA”) indicating that the individual is receiving benefits under the disability compensation system is sufficient medical documentation to establish that an individual has a disability.
   1. The VA has various levels of disability determinations. Any level of disability determination will satisfy the medical documentation requirements of subsection (i) if the document identifies the individual’s disability.
   2. To determine whether the veteran is eligible to be a participating employee, the veteran must still satisfy the significant accommodation or job support requirements of subsection (j).
7. The government certifications described in subsections (c) through (f) must have been issued within seven (7) years of the eligibility evaluation.
8. If an individual does not have a government certification described in subsections (c) through (f), or has initiated the process of seeking such a certification but has not yet received it, the NPA shall collect and evaluate documentation to determine that the individual is blind or has a significant disability.
9. Documentation from medical professionals that an individual has a disability other than blindness must meet the following requirements:
   1. The document is a physical or digital record.
   2. The document includes a diagnosis of a physical or mental impairment.
   3. The document identifies the qualifications of the licensed professional that made the diagnosis.
   4. The document describes the nature of the impairment (including characteristics such as: physical, cognitive, mental, sensory, developmental, emotional, or a combination of such characteristics).
   5. The document describes the extent (permanent, temporary, partial, or total) of the impairment.
   6. The document includes the legible, full name of the qualified licensed professional; the name and address of the qualified licensed professional’s practice; and contact information (email or phone number) for the qualified licensed professional or practice.
   7. The document is signed with an electronic or ink signature.
   8. The document is dated.
   9. The document is issued within seven (7) years of the eligibility evaluation.
10. To determine whether an individual with the medical documentation described in subsection (i) is eligible to be a participating employee, the individual must require significant accommodations or job supports to overcome barriers to employment.
11. Documentation from a medical professional that an individual is blind must meet the following requirements:
    1. The document is a physical or digital record;
    2. The document includes a diagnosis that the individual has:
       1. A visual acuity with best correction not exceeding 20/200; OR
       2. Measured limit to field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees (also known as visual field test); OR
       3. A qualified licensed professional’s explanation that a visual acuity and visual field test are both impossible and/or impractical (common examples of explanations include, but are not limited to, No light perception (NLP); Presence of prosthesis (PROS), etc.)
    3. The document includes the legible, full name of the qualified licensed professional; the name and address of the qualified licensed professional’s practice; and contact information (email or phone number) for the qualified licensed professional or practice.
    4. The document is signed with an electronic or ink signature.
    5. The document is dated.
    6. The document is issued within seven (7) years of the eligibility evaluation.
12. Record Keeping
    1. An NPA shall complete and maintain records establishing an individual’s eligibility to be a participating employee.
    2. An NPA shall transmit the records to the CNA in an electronic manner that is mutually agreeable to the Commission.
13. Addressing Potential Conflicts of Interest
    1. In the absence of a government certification described in sections (c), (d), (e), and (f) above, the Commission expects that NPAs will receive documentation from independent qualified licensed professionals.
    2. The Commission may approve an NPA’s use of medical assessments provided by qualified licensed professionals associated with the NPA when justified and verified as described in Section 7.

**7.**   **PROCEDURES**

1. If an NPA wishes to use medical documentation provided by medical professionals associated with the NPA (for example, as employees, contractors, or through an association with a related corporation, affiliated health care facility, or the parent company of the NPA), the NPA must provide to its designated CNA its justification for using such professionals, such as (but not limited to) facts demonstrating limited or lack of access to providers of medical or psychological services in the local community.
2. The CNA shall evaluate the justification offered by the NPA and recommend to the Commission whether to approve the NPA’s use of qualified licensed professionals associated with the NPA to provide medical documentations, including recommendations for specific safeguards.
3. The Commission will evaluate the CNA’s recommendation and issue a written determination to accept or reject the NPA’s use of qualified licensed professionals associated with the NPA to provide medical documentations. The Commission may add specific safeguards to the approval of such use.
4. The Commission will annually review its approval of the NPA’s use of qualified licensed professionals associated with the NPA to provide medical documentations.
5. Any Commission approval of an NPA’s use of qualified licensed professionals associated with the NPA to provide medical documentations will be incorporated into the Commission’s Management Internal Controls Program for annual review.

**8. EXCEPTION TO POLICY.**

Any exceptions must be approved in writing by the Executive Director.

**9. SUPERSESSION**.

This Policy supersedes the Commission Compliance Policies 51.407 and 51.408, both dated August 15, 2020.

**APPROVED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Kimberly M. Zeich

Executive Director