



What is this information worth to you?

OLRS staff write and update publications to provide self-advocacy skills and information to people with disabilities and their families.

Please consider making a contribution. Your gift, small or large, will help OLRs achieve its mission of advocating for the rights of individuals with disabilities.

Use your credit card to make a secure online donation. The donation form is hosted on a secure server at <https://vpos.skipjack.com/ps/OhioLegalRights/Donate.aspx>. The information you provide on the form is solely used for the processing of your credit card.

[Donate online](#)

Or mail your donation to OLRs. Make your check payable to Ohio Legal Rights Service and mail to:

Ohio Legal Rights Service
Donations
50 W. Broad Street, Suite 1400
Columbus, Ohio 43215-5923

For more information:

Contact Paula Jones, Ohio Legal Rights Service
Phone: 614-466-7264; 1-800-282-9181 (toll-free in Ohio)
TTY: 614-728-2553; 1-800-858-3542 (toll-free in Ohio)
E-mail: PJones@olrs.state.oh.us

[Proceed to publication →](#)

Vocational Rehabilitation Services &

Motor Vehicles

modifications

replacement

upgrades

A  GUIDE FOR OHIOANS



OHIO
LEGAL
RIGHTS
SERVICE

WE **ENVISION** A SOCIETY IN WHICH PEOPLE WITH DISABILITIES ENJOY THE SAME RIGHTS AND OPPORTUNITIES AS ALL PEOPLE. EVERYONE IS ENTITLED TO MAKE DECISIONS ABOUT WHERE, HOW AND WITH WHOM THEY WILL LIVE AND WORK AS FULL AND EQUAL MEMBERS OF THEIR COMMUNITIES.

OUR **MISSION** IS TO PROTECT AND ADVOCATE THE HUMAN, CIVIL AND LEGAL RIGHTS OF PEOPLE WITH DISABILITIES. WE ACCOMPLISH OUR MISSION BY PROVIDING INFORMATION, REFERRAL AND EDUCATIONAL SERVICES, INDIVIDUAL CASE ADVOCACY, POLICY ANALYSIS, LEGAL REPRESENTATION AND SYSTEMS CHANGE.

OHIO LEGAL RIGHTS SERVICE DOES NOT DISCRIMINATE IN PROVISION OF SERVICES OR EMPLOYMENT BECAUSE OF RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, MILITARY SERVICE, DISABILITY, AGE OR SEXUAL ORIENTATION.

CAROLYN S. KNIGHT, EXECUTIVE DIRECTOR



OHIO LEGAL RIGHTS SERVICE

50 W. Broad St., Suite 1400

Columbus, Ohio 43215-5923

614-466-7264 local / 800-282-9181 in Ohio

614-728-2553 TTY / 800-858-3542 TTY in Ohio

<http://olrs.ohio.gov>

APRIL 2004

Q**A**

Contents

Q 1	What are vocational rehabilitation (VR) services?	5
Q 2	Who provides VR services in Ohio?	6
Q 3	How can I get VR services from BVR or BSVI?	7
Q 4	Do VR services include motor vehicle modifications?	8
Q 5	Will RSC purchase replacement equipment?	9
Q 6	Can I get an upgrade to better equipment?	11
Q 7	Are there exceptions to the RSC rule on upgrades?	12
Q 8	Can I get modifications on a replacement vehicle?	13
Q 9	Are RSC's limitations on replacement vehicles legal?	16
Q 10	Can I get an equipment upgrade before 7 years?	17
Q 11	Would the courts uphold RSC's upgrade rule?	18
Q 12	Will BVR or BSVI buy a vehicle for me?	19
Q 13	Is RSC's rule against vehicle purchase legal?	20
Q 14	Is RSC's rule an appropriately-developed policy?	22

**Q
#**

= Question number #

**A
#**

= Answer to question number #

BSVI = Bureau of Services for the Visually Impaired

BVR = Bureau of Vocational Rehabilitation

CFR = Code of Federal Regulations

IPE = Individualized Plan for Employment

OAC = Ohio Administrative Code

RSC = Rehabilitation Services Commission

VR = Vocational Rehabilitation

VRC = Vocational Rehabilitation Counselor

Federal regulations (CFR) are online:

www.gpo.gov

State regulations (OAC) are online:

<http://onlinedocs.andersonpublishing.com>

Q
1

What are
vocational
rehabilitation
services?

A
1

Vocational rehabilitation (VR) services are services offered to *qualified persons with disabilities* that are needed to enable those persons to get or keep a job. Those services might include equipment, such as a computer, or job training, such as truck driving school or college classes.



ELIGIBILITY
for VR services

- 1 You have a physical, mental or emotional impairment which creates or results in a substantial barrier to employment; and
- 2 You can benefit from vocational rehabilitation services in terms of employment outcome; and
- 3 Vocational rehabilitation services must help you get and keep a job.

Q
2

Who provides vocational rehabilitation services in Ohio?

A
2

Ohio residents with disabilities receive vocational rehabilitation services through the Ohio Rehabilitation Services Commission (RSC) and its agencies, the Ohio Bureau of Vocational Rehabilitation (BVR) and the Ohio Bureau of Services for the Visually Impaired (BSVI).



Rehabilitation Services Commission (RSC)
800-282-4536 voice and TTY in Ohio
614-438-1200 voice and TTY
<http://www.rsc.ohio.gov/>



Bureau of Vocational Rehabilitation (BVR)
800-282-4536 x1250 voice and TTY in Ohio
614-438-1250
http://www.rsc.ohio.gov/VR_Services/BVR/bvr.asp



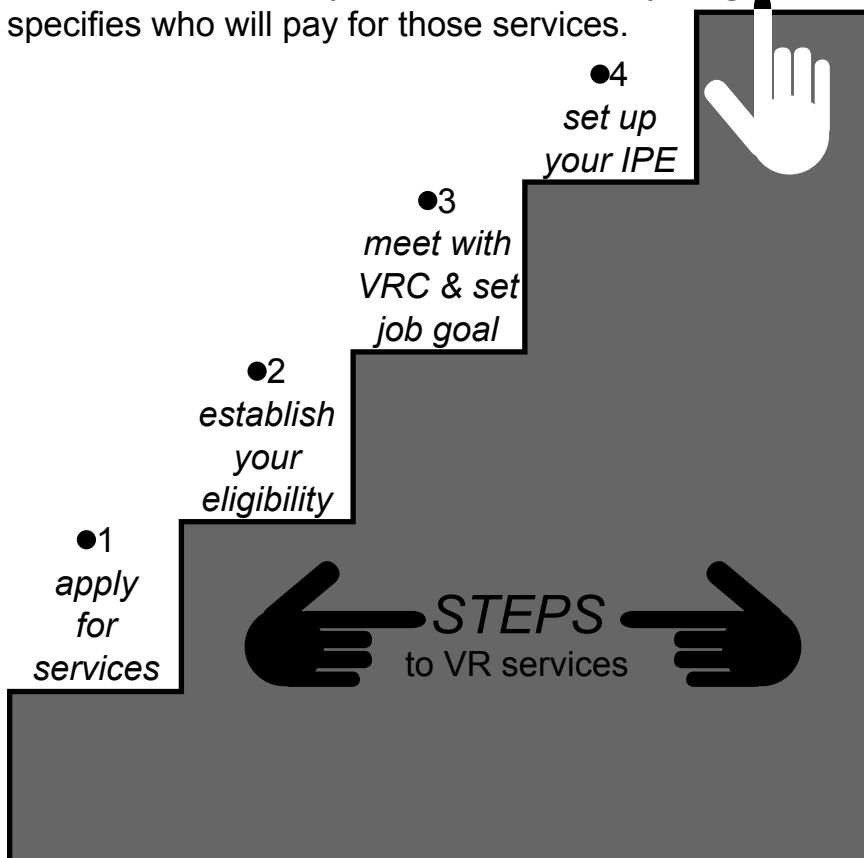
Bureau of Services for the Visually Impaired (BSVI)
800-282-4536, x1255 in Ohio only
614-438-1255
http://www.rsc.ohio.gov/VR_Services/BSVI/bsvi.asp

Q
3

How can I get services from bvr or bsvi?

A
3

You must apply for services and establish your eligibility. Then you must meet with your assigned vocational rehabilitation counselor (VRC) and reach agreement on an employment outcome (your job goal). Then you and the VRC must set up an individualized plan for employment (IPE) which outlines the services you need to achieve your **goal**, and specifies who will pay for those services.



Q 4

Do these services include modifications to a motor vehicle?

A 4

They can. BVR and BSVI can fund vehicle modifications (such as hand controls or a wheelchair handling device) if they are necessary to enable you to reach or maintain your employment outcome as defined in your IPE. RSC's regulations on this subject are found at Ohio Administrative Code (OAC) sections 3304-6-01 and 3304-6-14.

OAC is free online

<http://onlinedocs.andersonpublishing.com>

Please note that such vehicle modifications have to be necessary in order for you to reach or keep your job goal. Being merely helpful or convenient for you is not enough. Please note also that the provision for such modifications needs to be expressly written into your IPE. BVR and BSVI will not pay for anything that is not on your IPE.

BVR AND BSVI SHOULD PAY FOR MODIFICATIONS NECESSARY TO REACH YOUR JOB GOAL.

YOU HAVE THE RIGHT TO APPEAL IF DENIED.

Finally, note also that the IPE must specify who will pay for the modifications. Your VRC may allocate certain costs to you as a "consumer contribution." (If you do not agree with the decision to assign a cost to you, you can appeal that decision through the agency's appeal process.)

Q
5

If I get modifications installed by RSC and the devices wear out or break, will RSC purchase replacement equipment?

A
5

Maybe. Your first recourse would be through any existing warranty on the equipment, or any insurance on the equipment. Otherwise, RSC and its agencies have strict criteria about when they will pay to replace equipment. Apparently, you would have to meet all of these three conditions:

- 1 You must have been using the equipment for at least 7 years;
- 2 The equipment must have been in use for at least 70 thousand miles; and
- 3 You must have been involved in your job goal for at least 2 consecutive years.

R
E
P
L
A
C
E
M
E
N
T

IF



Note: The regulation for “replacement modifications,” OAC 3304-6-01, appears to require all of these elements. However, another regulation, OAC 3304-6-14, states that RSC may authorize certain limited modifications on unmodified vehicles and certain limited new modifications on previously modified vehicles where the vehicle is older than seven years or has more than seventy thousand miles on the odometer. RSC has not explained this apparent inconsistency, nor has it stated whether it will interpret OAC 3304-6-01 to require

all of the above conditions to install new equipment in a new vehicle which replaces an older, previously equipped vehicle.

RSC REPLACEMENT RULE

7 + 70 + 2

7 years old, 70 thousand miles, 2 years employed

Q
6

If better equipment is developed and I want an upgrade to the better equipment, can I get it?

A
6

In general, you would be eligible only if you meet the three criteria listed on page 10 (7 years, 70 thousand miles, 2 years in an employment outcome). You must also demonstrate a need for the upgrade.

RSC UPGRADE RULE

7 + 70 + 2 + need

7 years old, 70 thousand miles, 2 years employed
AND demonstrated need of upgrade

Q
7

Are there any exceptions to the RSC upgrade rule?

A
7

Not many. Just two, in fact:

exceptions

- 1 If your disabling condition is progressive

(such as muscular dystrophy, multiple sclerosis, or spinal muscular atrophy) and you can no longer safely drive or be transported with your present adaptive equipment, you can receive an additional modification with upgraded technology to meet your current needs.

- 2 If you experience an additional disabling condition

which renders you no longer able to drive or be transported safely with your current vehicle modifications, you can be given additional modifications to match your changed needs.

Q
8

If I get a vehicle modified through RSC and its agencies, then I replace it with another vehicle, can I get modifications installed on the replacement vehicle?

A
8

Again, *maybe*. RSC and its agencies also have strict criteria about when they will pay to modify a replacement vehicle. You would have to meet one of the following *two situations*:

●1 Transfer of existing equipment

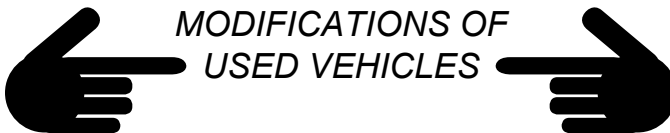
RSC agencies will pay to remove most adaptive equipment (including hand controls and wheelchair handling devices) from the original vehicle and re-install it in the replacement vehicle if the equipment items are visually and functionally inspected by an RSC representative or designee and found to be satisfactory. The items would then be transferred to the replacement vehicle by a retail dealer who is qualified to install the equivalent new equipment. Some items (including structural modifications, electrical modifications, and fuel delivery system modifications) cannot be transferred to a replacement vehicle.

●2 Installation of new equipment

If items cannot be transferred (either because they are found not satisfactory, or because they are of a type not permitted for transfer), then

new equipment would need to be installed onto the replacement vehicle. It is not clear from the regulations whether RSC would impose all of the eligibility criteria for replacement modifications (7 years, 70 thousand miles, 2 years in an employment outcome) in this situation.

All of this presumes that the replacement vehicle you have obtained is acceptable to RSC for modification. Any new vehicle, of course, is acceptable. In addition, any used vehicle is acceptable if the only devices to be installed are standard mechanical hand/foot controls.



When purchasing a used vehicle, however, you should be aware of the following *three standards*:

- 1 For vehicles older than one year, RSC may authorize modifications on unmodified vehicles and additional modifications for previously modified vehicles only after receipt of a written inspection report from a certified mechanic verifying that the vehicle is in sound condition or will be after certain repairs are done.

- 2 When a vehicle is older than 7 years or has more than 70 thousand miles on the odometer, RSC may authorize modifications on unmodified vehicles and additional modifications for previously modified vehicles only when the previous and new modifications are relatively minor and the vehicle is in excellent condition, as inspected and reported by a certified mechanic.
- 3 When a vehicle has been previously modified, RSC may authorize additional modifications only if all aspects of both previous and new modifications comply with RSC's standards. Adaptive equipment not in such compliance must be removed and replaced with new adaptive equipment.

SO ...

modification transfers

RSC **may** agree to transfer or install new modifications, **but** the older the replacement vehicle, the **less** likely RSC will agree to transfer modifications.

old car

new car

Q
9

Is it legal for RSC
to use those three narrow
eligibility limitations?

A
9

This question has not yet been decided by a court. In some circumstances, it might be possible to challenge these rules. One thing is certain: RSC and its agencies must comply with federal law. One such law is the federal regulation governing the amount of **consumer contribution**.

“Consumer contribution” is the amount you yourself must pay (and which RSC agencies, therefore, do not pay). If upgraded equipment or modifications to a replacement vehicle are necessary for you to reach or maintain your job goal, but the RSC agency will not pay for them, then the modification costs would have to be considered a form of consumer contribution.

Federal regulation 34 CFR 361.54 governs consumer contribution. That rule states that RSC’s policy in this regard must ensure that the level of an individual’s participation in the cost of vocational rehabilitation services ●A is reasonable, ●B is based on the individual’s financial need, and ●C is not so high as to effectively deny the individual a necessary service.

YOUR
CONTRIBUTION

RSC MUST
CONSIDER ANY
EXPENSES
THAT YOU PAY
RELATED TO
YOUR DISABILITY

For example: see Q10 on the next page.

Q
10

What if I need an upgraded piece of adaptive equipment in my vehicle, but fewer than 7 years have gone by since the current modification was installed?

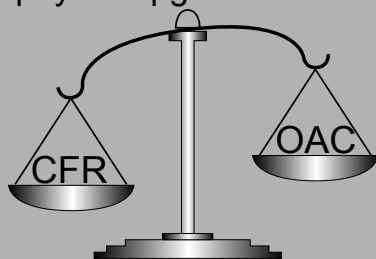
A
10

Under RSC's rule, you must automatically pay for the upgrade yourself. RSC's rule would allow it to avoid examining the appropriateness of forcing you to pay these replacement modification costs.

But the federal rule says that **if** the cost of the replacement modifications would effectively deny you a necessary service (a properly modified vehicle), **then** RSC must pay the cost, rather than shifting the expense to you as a "consumer contribution."

STATE LAW (OAC)

You must pay for upgrades before 7 years.



FEDERAL LAW (CFR)

RSC must not effectively deny you a necessary service.

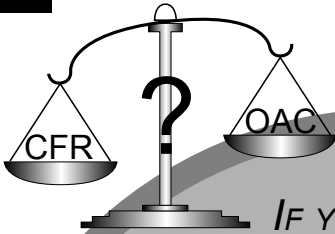
**ONE THING IS CERTAIN: RSC AND ITS AGENCIES
MUST COMPLY WITH FEDERAL LAW.**

Q
11

What would the courts say about RSC's rule that you must automatically pay for upgrades before 7 years?

A
11

An appropriate challenge to the RSC regulation has not yet gotten to the courts. But it is entirely possible that a court would rule that the RSC rule is invalid (for conflict with the federal rule).



*IF YOU HAVE A
SITUATION OF THIS TYPE, OR KNOW
OF A SITUATION OF THIS TYPE, PLEASE
CONTACT OHIO LEGAL RIGHTS SERVICE
FOR CONSULTATION.*



OLRS

8 East Long Street, Suite 500
Columbus, Ohio 43215-2999

614-466-7264 local / 800-282-9181 in Ohio
614-728-2553 TTY / 800-858-3542 TTY in Ohio

<http://olrs.ohio.gov>

Q
12

Can I get BVR or BSVI
to purchase a vehicle for me
(including a modified vehicle)?

A
12

RSC's current regulations (OAC Sections 3304-6-01 and 3304-2-59) state that RSC and its agencies do not purchase any vehicles, in whole or in part, for any consumer.



Q
13

Is a blanket prohibition against
vehicle purchases
legal?

A
13

Once again, this has not yet been decided by the courts. It may be possible to challenge this rule, as well.

As we noted before, RSC's rules and policies must not conflict with federal laws on the subject. There are in fact some federal regulations that may apply in this situation.

34 CFR 361.48 lists the following as a required service:

- (h) Transportation in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in Sec. 361.5(b)(57).

34 CFR 361.5 states:

- (b)(57) Transportation means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

- (i) Examples: The following are examples of expenses that would meet the definition of

transportation. The examples are purely illustrative, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment.

...

Ex. 2: The purchase and repair of vehicles, including vans, but not the modification of these vehicles, as modification would be considered a rehabilitation technology service.

The federal rule specifically requires BVR/BSVI to provide transportation services as that term is defined. The examples provided are for illustration and guidance only. A specific form of service must be provided only where:

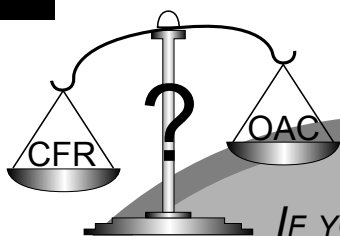
- 1 provision of that form of service is necessary for an individual to participate in a vocational rehabilitation service, and
- 2 provision of that form of service is consistent with “appropriately developed” RSC policies governing the provision of services.

Q
14

Is RSC's blanket exclusion of vehicle purchase an appropriately-developed policy governing the scope of transportation services?

A
14

It is possible that a court would conclude that the purchase of a vehicle cannot be excluded by a blanket rule. Once again, a case has not yet arisen to test the validity of RSC's regulation in court.



*IF YOU HAVE A
SITUATION OF THIS TYPE, OR KNOW
OF A SITUATION OF THIS TYPE, PLEASE
CONTACT OHIO LEGAL RIGHTS SERVICE
FOR CONSULTATION.*



OLRS

8 East Long Street, Suite 500
Columbus, Ohio 43215-2999

614-466-7264 local / 800-282-9181 in Ohio
614-728-2553 TTY / 800-858-3542 TTY in Ohio

<http://olrs.ohio.gov>

Q
?

Do you have
questions of your own?

A
!

Contact the Client Assistance Program (CAP) of Ohio Legal Rights Service for answers.



You must receive transportation services if those services are necessary to achieve or maintain your job goal. However, you are entitled only to a form of transportation that is adequate, not necessarily the form that is best or most preferable to you. For example, BVR/BSVI could insist on taking you to work or school in a taxi rather than assisting you with the purchase of your own car, even if it costs them more.

Ohio Legal Rights Service is funded by,
and prepared the booklet in part through,
grants under the following federal programs:

The Rehabilitation Act of 1973 as amended
administered by the
Office of Special Education and Rehabilitative Services of the
United States Department of Education;

The Developmental Disabilities Assistance and
Bill of Rights Act (DD Act) of 1975
administered by the
Administration for Developmental Disabilities of the
United States Department of Health and Human Services;

The Protection & Advocacy for
Individuals with Mental Illness Act (PAIMI Act) of 1986
administered by the
Center for Mental Health Services of the
United States Department of Health and Human Services;

and with additional funding from
The State of Ohio General Revenue Funds.

Copies of this and other publications are available
at no cost in print and on the internet from
Ohio Legal Rights Service
<http://olrs.ohio.gov>

©2004 Ohio Legal Rights Service
All rights reserved.

This work is protected by copyright under United States law and by international copyright laws and treaty provisions. You may copy and distribute the work, provided you: use the work for personal, noncommercial use; do not add the work to a collection or use it with any other text, photographs, artwork, etc; do not modify or alter the work in any way or delete or modify any copyright; and, do not publish or post all or any part of the work on any Internet site or in or on any other media without obtaining the prior written consent of Ohio Legal Rights Service.