



TITLE: QUALIFYING DIRECT LABOR EMPLOYEE DETERMINATION

1. PURPOSE.

This policy prescribes the Qualifying Direct Labor (QDL) Employee determination and documentation required for a nonprofit agency (NPA) to complete a disability determination of a direct labor-performing employee. This policy further addresses the NPA requirement to determine how to include employees' hours in the direct labor hour (DLH) ratio of individuals who are blind and/or have significant disabilities in the AbilityOne Program (Program). It also sets forth the record-keeping responsibilities of an NPA, the review and evaluation responsibilities of a Central Nonprofit Agency (CNA), and the oversight and quality assurance monitoring responsibilities of the U.S. AbilityOne Commission (Commission).

2. APPLICABILITY.

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

3. AUTHORITY.

- (a) 41 U.S.C. §§ 8501 – 8506, Javits-Wagner-O'Day (JWOD) Act
- (b) 41 CFR Chapter 51, Committee for Purchase from People Who Are Blind or Severely Disabled

REFERENCES.

- (a) Disability Qualification Determination Form, OMB No. 3037-0012
- (b) Participating Employee Information Form, OMB No. 3037-0014

4. DEFINITIONS AND ACRONYMS.

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

Term	Definition
Permanent Disability	A significant physical or mental disability that is not expected to substantially improve during an individual's lifetime.
Qualifying Direct Labor (QDL) Employee	An individual who is blind and/or has a significant disability and is performing work that qualifies to be counted toward the direct labor hour (DLH) ratio, whether or not the products or services are procured under the JWOD Act (per 41 U.S.C. 8501(6)(C) and (7)(C)).



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Significant Job Support	An accommodation or an adaptation that is needed by an individual with a significant physical or mental disability and that may be extensive and ongoing in order for that individual to be successful in the job position.
Technical Assistance	The process of providing targeted support and expertise to an NPA to build capability and capacity, or to resolve performance challenges. Technical assistance may include prescribing corrective action plans and providing training and consulting to identify, select, or design solutions based on research or recognized best practices.

5. RESPONSIBILITIES.

(a) The Commission:

- i. Establishes methods for the NPAs to use in making a “qualifying direct labor (QDL) employee determination.”
- ii. Determines whether the CNA’s activities in monitoring, reviewing, and evaluating an NPA’s QDL determinations and associated supporting documentation conform with the requirements of this policy.
- iii. Determines whether a CNA’s provision of technical assistance to an NPA regarding QDL obligations meet the approved system of quality assurance for the CNA compliance program.
- iv. Conducts inspections of NPAs as determined necessary.

(b) The CNA:

- i. Establishes a process to monitor, review, and evaluate an NPA’s QDL determinations and the supporting documentation.
- ii. Provides technical assistance to NPAs to properly conduct and document QDL determinations.
- iii. Provides data to the Commission regarding the NPAs’ QDL determinations and the supporting documentation. The data must be provided in an electronic format that the Commission can directly and fully access.

(c) The NPA:

- i. Establishes and implements a system for QDL determinations with supporting documentation.
- ii. Establishes quality assurance measures that prevent and detect defective determinations or documentation; corrects such defects in a timely manner; and conducts recommended quality audits of records.
- iii. Establishes a record-keeping system for all documentation necessary to determine whether individuals are eligible to be QDL employees.



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- iv. Transmits requested data in the required format to the CNAs.
- v. Participates in all required education and training programs offered by the CNA or the Commission.

6. POLICY.

(a) In General:

- i. The AbilityOne Program exists to create and enhance employment opportunities for individuals who are blind and/or have significant disabilities. Through sound documentation, the NPAs ensure that the Program continues to be a source of employment opportunity for those individuals who are eligible to participate in the Program.
- ii. Several government agencies have an obligation to determine whether individuals with disabilities are eligible for the financial benefits and/or services 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 documentation from the government agencies designated in this policy to the maximum extent possible.

(b) Documentation from Social Security Administration and Medicaid Programs:

- i. The following documents are sufficient to establish eligibility as a QDL employee:
 - a. Documentation from the Social Security Administration (SSA) that the individual is receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) or is eligible to receive such benefits. The documentation does not require a signature or explicit identification of the individual's disability(ies).
 1. An individual who previously but no longer receives SSDI benefits, due to successfully maintaining AbilityOne employment and exceeding earning limits, may continue to use this eligibility for the AbilityOne Program.
 2. An individual who previously but no longer receives SSDI benefits, due to successfully maintaining non-AbilityOne competitive employment and exceeding earning limits, may use the SSA documentation as medical documentation described in Section 6(c)(iii) below.
 - b. Documentation from the relevant state agency or a state designee that the individual is receiving Medicaid benefits based on disability or is eligible to receive such benefits based on their disability. The documentation does not require a signature or explicit identification of the individual's disability(ies).
 - c. The government documentation listed above must have been issued within seven (7) years of the QDL determination pertaining to the employee, as described in Section 6(d).

(c) Other Medical Documentation Sources:

- i. Department of Veterans Affairs

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- a. Documentation from the Department of Veterans Affairs (VA) indicating that the individual is receiving benefits under the disability compensation system will be sufficient medical documentation of disability, if the document identifies the disability (or combination of disabilities) and is dated within seven (7) years of this policy's Section 6(d) QDL determination. The documentation does not require a signature.
- ii. Vocational Rehabilitation
 - a. Documentation from the state agency designated to provide vocational rehabilitation (VR) services indicating that qualified personnel have determined that the individual has a physical or mental disability will be sufficient medical documentation of a disability if the document identifies the disability and is dated within seven (7) years of this policy's Section 6(d) QDL determination. The documentation does not require a signature.
- iii. Other Federal, State, or Local Disability Certification
 - a. Documentation from other Federal, State, or local governmental agencies indicating that a person licensed to make such an evaluation has determined that the individual has a physical or mental disability will be sufficient medical documentation of a disability if the document identifies the disability and is dated within seven (7) years of this policy's Section 6(d) eligibility determination. The documentation does not require a signature.
- iv. Secondary Education
 - a. Documentation (such as reports, assessments, and/or evaluations prepared or conducted by a licensed professional) in an individualized education program (IEP) or a section 504 plan, or a services plan for a student with a disability enrolled by their parents in a private school, stating that the student has a physical or mental disability will be sufficient medical documentation of a disability if the document identifies the disability, is dated within seven (7) years of the individual's graduation or exit (documented or self-reported) from school and within seven (7) years of the Section 6(d) QDL determination. The documentation does not require a signature.
- v. Documentation from a person licensed to make such an evaluation that an individual has a disability other than blindness must meet the following requirements:
 - a. The document is a physical or digital record.
 - b. The document includes a diagnosis of a physical or mental disability.
 - c. The document identifies the qualifications of the licensed professional that made the diagnosis.
 - d. The document describes the nature of the disability (including characteristics such as: physical, cognitive, mental, sensory, developmental, emotional, or a combination of such characteristics).



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- e. The document describes the extent (such as: permanent, temporary, partial, or total) of the disability.
 - f. 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. If this information is not listed on, or has changed since issuance of the original documentation, the NPA may retrieve the contact information from a website or other source and append it to the record.
 - g. The document is signed with an electronic or ink signature.
 - h. The document is dated within seven (7) years of the Section 6(d) QDL determination made for the employee.
- vi. Documentation from a medical professional that an individual is blind must meet the following requirements:
- a. The document is a physical or digital record.
 - b. The document includes a diagnosis that:
 - 1. The individual has a central visual acuity that does not exceed 20/200 in the better eye with correcting lenses; OR
 - 2. If the individual's visual acuity is better than 20/200, is accompanied by a measured limit to the 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.).
 - c. 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.
 - d. The document is signed with an electronic or ink signature.
 - e. The document is dated within seven (7) years of the Section 6(d) QDL determination.
- (d) QDL Employee Determination
- i. The QDL determination for individuals with Section 6(b) medical documentation is based upon meeting the Section 6(b) requirements only.

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- ii. For each individual who, as a result of blindness, qualifies under Section 6(c) medical documentation, the QDL determination is based upon meeting the Section 6(c) requirements only.
 - iii. For each individual who, as a result of disability other than blindness, qualifies under Section 6(c) medical documentation, the QDL determination is based upon meeting the Section 6(c) requirements for the source of the medical documentation and a determination that the individual requires significant job support(s) to overcome barriers to employment as a result of the individual's disability.
- (e) Timing of QDL Determination
- i. The Section 6(d) QDL determination shall occur prior to the NPA's treatment of the employee as a qualifying direct labor employee.
 - ii. QDL determination based upon permanent disability(ies). If an NPA determines a disability(ies) is permanent, a QDL determination is required only once.
 - iii. QDL determination based upon non-permanent disability(ies). A QDL determination based upon a non-permanent disability(ies) lasts for seven (7) years. On or prior to the seven-year anniversary, the NPA must conduct a new Section 6(d) re-determination for the employee and obtain new medical documentation dated within seven (7) years of the Section 6(d) re-determination.
 - iv. Re-determination based upon disability(ies) material change. If there is a material change in the nature of the disability(ies) that alters the need for significant job supports and/or accommodations, the NPA must conduct a new Section 6(d) re-determination for the employee and obtain new medical documentation dated within seven (7) years of the Section 6(d) re-determination.
 - v. If an employee changes to a different labor position, a new Section 6(d) determination is not required.
- (f) Review
- i. Each Section 6(d) QDL determination, and the supporting medical documentation is subject to CNA and/or Commission review.
 - ii. An NPA shall make its records available to the CNA and/or the Commission for review, in the manner requested by the CNA and/or the Commission.
- (g) Addressing Potential Conflicts of Interest
- i. The Commission expects that the majority of QDL employees will have medical documentation from government agencies and that, in the absence of such documentation, the NPAs will receive documentation from independent qualified licensed professionals.
 - ii. 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.

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7. PROCEDURES.

- (a) When determining the date of the medical documentation, the Commission, CNAs, and NPAs will consider the most recent date stamped, affixed, and/or printed on the medical documentation by the documentation source.
- (b) Evaluation of qualified licensed professionals associated with the NPA:
 - i. 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.
 - ii. 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 to ensure objectivity in such determinations.
 - iii. 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 documentation. The Commission may add specific safeguards to ensure objectivity in such determinations.

8. EXCEPTIONS.

Those QDL employees with permanent disabilities who entered employment with a qualified NPA prior to the effective date of this policy are excepted from the document date requirements (i.e., within seven (7) years of the QDL determination) in Sec. 6(b) and 6(c) but shall meet all other requirements of Sec. 6 of this policy.

9. SUPERSESSION.

This Policy supersedes the version of Commission Policy 51.403 effective August 2, 2024.



APPROVED: _____ Date: _____

Kimberly M. Zeich
Executive Director

