

**ADOPTED REGULATION OF THE BUREAU OF SERVICES TO  
PERSONS WHO ARE BLIND OR VISUALLY IMPAIRED OF THE  
REHABILITATION DIVISION OF THE DEPARTMENT OF  
EMPLOYMENT, TRAINING AND REHABILITATION**

**LCB File No. R085-13**

Effective June 26, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 426.560, 426.670 and 426.675.

A REGULATION relating to the operation of vending facilities on public property by persons who are blind or visually impaired; revising provisions relating to retirement income benefits; revising provisions relating to the reimbursement of health care costs; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest**

Existing law grants a priority of right to operate vending facilities in certain public buildings and on certain public properties to persons who are blind and licensed by the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation. The stated purposes of these provisions are to provide remunerative employment, enlarge economic opportunities and stimulate independent livelihoods. (NRS 426.640)

Existing regulations authorize the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to pay each licensed operator of such a vending facility not more than \$7,000 annually as a retirement income benefit if the payment is approved by a majority of the Nevada Committee of Blind Vendors and the Bureau determines that the money is available in the Business Enterprise Account for Persons Who Are Blind. (NAC 426.383) **Section 1** of this regulation: 1) eliminates the limit on the annual amount of the retirement income benefit; 2) adds a requirement for approval of the payment by a majority of licensed operators; and 3) sets forth factors for consideration by the Bureau in developing policies and procedures relating to the eligibility requirements for those payments and the amount of the payments.

Existing regulations also authorize the Bureau to reimburse each licensed operator of such a vending facility not more than \$12,500 annually for health care costs that are not paid by a third-party insurer if the payments are approved by a majority of the Nevada Committee of Blind Vendors and the Legislature appropriates money for this purpose. (NAC 426.387) **Section 2** of this regulation: 1) eliminates the limit on the annual amount of an operator’s reimbursement for

such health care costs; 2) eliminates the prerequisite of an appropriation by the Legislature; 3) requires the Bureau to determine whether the money to make the reimbursement is available in the Business Enterprise Account for Persons Who Are Blind; and 4) sets forth factors for consideration by the Bureau in developing policies and procedures relating to the eligibility requirements for those reimbursements and the amount of reimbursement.

**Section 1.** NAC 426.383 is hereby amended to read as follows:

426.383 1. The Bureau will pay each licensed operator ~~{not more than \$7,000}~~ annually ~~{as}~~ a retirement income benefit if:

(a) A majority of the Nevada Committee of Blind Vendors approves the payment; ~~{and}~~

(b) *A majority of the licensed operators approves the payment; and*

(c) The Bureau determines that money for the payment is available in the Business Enterprise Account for Persons Who Are Blind.

2. The Bureau, in consultation with the Nevada Committee of Blind Vendors, will develop policies and procedures to determine:

(a) The eligibility of an operator to receive the retirement income benefit pursuant to this section; and

(b) The amount of money to be paid to an operator who is eligible to receive a retirement income benefit pursuant to this section.

*3. In developing policies and procedures pursuant to subsection 2, the Bureau, in consultation with the Nevada Committee of Blind Vendors, will give consideration to all relevant factors, including, without limitation:*

*(a) The amount of money in the Business Enterprise Account for Persons Who Are Blind;*

*(b) The current and projected expenses of the Bureau and other required uses of the money;*

*(c) Any reserves which the Bureau determines it must maintain; and*

*(d) The number of operators who are anticipated to be eligible to receive a retirement income benefit pursuant to this section.*

**Sec. 2.** NAC 426.387 is hereby amended to read as follows:

426.387 1. The Bureau will make available ~~not more than \$12,500~~ *an amount of money* annually for each operator of a vending facility for the purpose of reimbursing each operator for health care costs that are not paid by a third-party insurer if:

(a) A majority of the Nevada Committee of Blind Vendors approves the amount to be made available; and

(b) The ~~Legislature appropriates money for such a purpose.~~ *Bureau determines that the amount of money that is approved annually is available in the Business Enterprise Account for Persons Who Are Blind.*

2. The Bureau, in consultation with the Nevada Committee of Blind Vendors, will establish policies and procedures relating to:

(a) The eligibility of an operator to receive a reimbursement for health care costs pursuant to this section; ~~and~~

(b) The process the Bureau and such an operator will follow for reimbursement of health care costs pursuant to this section ~~;~~ *and*

*(c) The amount of money to be made available annually for each operator as reimbursement of health care costs pursuant to this section.*

*3. In establishing policies and procedures pursuant to subsection 2, the Bureau, in consultation with the Nevada Committee of Blind Vendors, will give consideration to all relevant factors, including, without limitation:*

- (a) The amount of money which the Legislature appropriates for the purpose of reimbursing each operator for health care costs that are not paid by a third-party insurer;*
- (b) The lawful uses of the money appropriated to the Bureau;*
- (c) Any reserves which the Bureau determines it must maintain; and*
- (d) The number of operators who are anticipated to be eligible to receive reimbursement for health care costs pursuant to this section.*

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS  
REQUIRED BY NRS 233B.066**

**LCB FILE  
R085-13**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 426.

**1. A clear and concise explanation of the need for the adopted regulation.**

The amendment to the regulation pertaining to NAC 426, pursuant to Nevada Revised Statute (NRS) 426.560, 426.670 and 426.675 relative to the retirement income benefit 1) eliminates the limit on the annual amount of the retirement income benefit; 2) adds a requirement for approval of the payment by a majority of licensed operators; and 3) sets forth factors for consideration by the Bureau in developing policies and procedures relating to the eligibility requirements for those payments and the amount of the payments. Relative to the health care costs 1) eliminates the limit on the annual amount of an operator's reimbursement for such health care costs; 2) eliminates the prerequisite of an appropriation by the Legislature; 3) requires the Bureau to determine whether the money to make the reimbursement is available in the Business Enterprise Account for Persons Who Are Blind; and 4) sets forth factors for consideration by the Bureau in developing policies and procedures relating to the eligibility requirements for those reimbursements and the amount of reimbursement.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

In compliance with NRS 233B.0603, a Nevada Committee of Blind Vendors meeting was held on September 12, 2014, a Small Business Workshop was held on August 15, 2014 at 3:30 p.m., and a hearing was held on September 3, 2014. The live meetings were held at the Rehabilitation Division Administrative Offices at 1370 S. Curry St., Carson City, Nevada 89703 and 3016 W. Charleston Blvd #215, Las Vegas, Nevada 89102. The purpose of the Nevada Committee of Blind Vendors meeting, workshop, and hearing was to review, discuss, and solicit comment on a proposed regulation pertaining to Nevada Revised Statute (NRS) 426.560, 426.670 and 426.675, in order to provide clarification to the following: relative to the retirement income benefit 1) eliminates the limit on the annual amount of the retirement income benefit; 2) adds a requirement for approval of the payment by a majority of licensed operators; and 3) sets forth factors for consideration by the Bureau in developing policies and procedures relating to the eligibility requirements for those payments and the amount of the payments. Relative to the health care costs 1) eliminates the limit on the annual amount of an operator's reimbursement for such health care costs; 2) eliminates the prerequisite of an appropriation by the Legislature; 3) requires the Bureau to determine whether the money to make the reimbursement is available in the Business Enterprise Account for Persons Who Are Blind; and 4) sets forth factors for consideration by the

Bureau in developing policies and procedures relating to the eligibility requirements for those reimbursements and the amount of reimbursement.

Notice of the Nevada Committee of Blind Vendors Workshop notice was sent on July 24, 2014. Notice was posted at the principal office of the Rehabilitation Division Administrative Office in Carson City, as well as numerous offices of the Department of Employment, Training and Rehabilitation throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, Clark County Library, Carson City County Courthouse, the Spring Valley Library, and the Green Valley Nevada Library.

These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR) [http://www.nvdetr.org/public\\_notices.htm](http://www.nvdetr.org/public_notices.htm) (DETR Public Notices page), <https://notice.nv.gov/> and at the Nevada Legislature website at <http://www.leg.state.nv.us/App/Notice/A/>.

**Posting Locations:**

Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701  
Legislative Building, 401 South Carson Street, Carson City, NV 89701  
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101  
Legislative Counsel Bureau Web Site  
Department of Employment, Training and Rehabilitation Web Site  
Bureau of Services to the Blind and Visually Impaired, 1370 S. Curry St., Carson City, NV 89703  
Bureau of Services to the Blind and Visually Impaired, 3016 W. Charleston Blvd #215, Las Vegas, Nevada 89102  
Nevada Job Connect Office, 1325 Corporate Blvd, Suite B, Reno, NV 89502  
Blasdel Building, 209 E. Musser, Carson City, Nevada  
Carson City County Courthouse, 885 E. Musser, Carson City, Nevada  
Clark County Library, 1404 E. Flamingo Rd., Las Vegas, Nevada  
Spring Valley Library, 4280 S. Jones, Las Vegas, Nevada 89103

A copy of the proposed regulation was posted to the DETR website and provided at the meeting. During the Nevada Committee of Blind Vendors meeting, workshop, and hearing DETR staff members reviewed the Business Enterprise of Nevada retirement income benefit and the health care cost reimbursement regulation. Staff also reviewed the determination of Impact to Small Businesses per NRS 233B.0608 pursuant to Subsection 3. There were no written comments received and there were no public comments during the Nevada Committee of Blind Vendors, workshop, or hearing.

On July 31, 2014, the Division issued an Agenda and a Notice of Intent to Act Upon the Regulation. The Notice and Agenda were posted at the principal office of the Rehabilitation Administrative Office in Carson City, as well as numerous offices of the Rehabilitation Division throughout the state.

In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library, Regional Justice Center, the Spring Valley Library, Green Valley Library, and the

DETR Corporate Vocational Rehabilitation Office. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR), [http://www.nvdetr.org/public\\_notices.htm](http://www.nvdetr.org/public_notices.htm) (DETR Public Notices page), <https://notice.nv.gov/> and at the Nevada Legislature website at <http://www.leg.state.nv.us/App/Notice/A/>.

The final draft of the regulation was drafted by LCB on July 22, 2014. On July 24, 2014, the Division posted the language to the DETR website and posted the revised language to the Nevada Legislature website. A copy of the revised regulation was available to the public at the hearing. During the hearing, DETR staff members reviewed the amended regulation to the Business Enterprise of Nevada retirement benefit and health care cost reimbursement program, and provided an explanation of the regulation.

In compliance with NRS 233B, a hearing for the adoption of the regulation was held on Wednesday, September 3, 2014, the live meeting was held at the Rehabilitation Division Administrative Office at 1370 South Curry Street, Carson City, Nevada, 89703 and teleconferenced to the Rehabilitation Division Administrative Office at 3016 W. Charleston Blvd, Ste #215, Las Vegas, Nevada, 89102. The purpose of the hearing was to receive comments from all interest persons regarding the adoption of the regulation pertaining to Chapter 426 of the Nevada Administrative Code. There were no written or public comments received during the hearing.

A copy of the minutes may be obtained from the Rehabilitation Division Administration Office, 751 Basque Way, Carson City, Nevada 89706, 775 687-6860, or email to [mrmason@nvdetr.org](mailto:mrmason@nvdetr.org).

**3. The number of persons who:**  
**a. Attended at each meeting:**

**Nevada Committee of Blind Vendors**  
September 12, 2014: Carson City: 6; Las Vegas: 12

**Small Business Workshop:**  
August 15, 2014: Carson City: 6; Las Vegas: 11

**Hearing:**  
September 3, 2014: Carson City: 5; Las Vegas: 7

**b. Testified at each meeting:**

**Nevada Committee of Blind Vendors**  
September 12, 2014: Carson City: 0; Las Vegas: 0

**Small Business Workshop:**  
August 15, 2014: Carson City: 0; Las Vegas: 0

**Hearing:**

September 3, 2014: Carson City: 0; Las Vegas: 0

**c. Submitted to the agency written comments:**

**Nevada Committee of Blind Vendors:** No written comments were submitted.

**Small Business Workshop:** No written comments were submitted.

**Hearing:** No written comments were submitted

**4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The retirement benefit and health care cost reimbursement apply to licensed operators in the Business Enterprise of Nevada (BEN) Program. The funding for the BEN Program is generated from the set aside payments made by the licensed operators. In order to be a licensed operator and receive benefit from the BEN Program, individuals must be a person with blindness or visual impairment. Thus the effect of this regulation change does not have an impact on business.

**5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No written or public comments were received.

**6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- a. Both adverse and beneficial effects; and**
- b. Both immediate and long-term effects.**

**Effect on Businesses Affected by Regulation**

The retirement benefit and health care cost reimbursement apply to licensed operators in the Business Enterprise of Nevada (BEN) Program. The funding for the BEN Program is generated from the set aside payments made by the licensed operators. In order to be a licensed operator and receive benefit from the BEN Program, individuals must be a person with blindness or visual impairment. Thus the effect of this regulation change does not have an impact on business.

**Effect on the Public**

The retirement benefit and health care cost reimbursement apply to licensed operators in the Business Enterprise of Nevada (BEN) Program. The funding for the BEN Program is generated from the set aside payments made by the licensed operators. In order to be a



licensed operator and receive benefit from the BEN Program, individuals must be a person with blindness or visual impairment. Thus the effect of this regulation change does not have an impact on business.

**7. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no enforcement regarding this regulation change.

**8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulation is not more stringent than the federal Randolph Sheppard Act.

**9. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The proposed regulation is not required pursuant to federal law, nor is there a federal regulation that regulates the same activity.

**10. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not impose any new fees or change any existing fees.

**11. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The retirement benefit and health care cost reimbursement apply to licensed operators in the Business Enterprise of Nevada (BEN) Program. The funding for the BEN Program is generated from the set aside payments made by the licensed operators. In order to be a licensed operator and receive benefit from the BEN Program, individuals must be a person with blindness or visual impairment. Thus the effect of this regulation change does not have an impact on business.