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**Rules of  
Department of Social Services  
Division 40—Division of Family Services  
Chapter 91—Rehabilitation Services  
for the Blind (RSB)**

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### Title 13—DEPARTMENT OF SOCIAL SERVICES

#### Division 40—Division of Family Services Chapter 91—Rehabilitation Services for the Blind (RSB)

#### 13 CSR 40-91.010 Business Enterprise for the Blind

*PURPOSE: This rule establishes the guidelines for administration of the Business Enterprise Program of the Division of Family Services, Bureau for the Blind, as mandated by the Randolph-Sheppard Act, as amended through 1974, 34 CFR 395, sections 8.051 and 8.700—8.745, RSMo.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.*

(1) Legal Authority. The Business Enterprise Program (BEP) of the Division of Family Services/Rehabilitation Services for the Blind is administered according to the Randolph-Sheppard Act, as amended through 1974, 34 CFR 361.50, 34 CFR 395, sections 8.051 and 8.700—8.745, RSMo. The Division of Family Services/Rehabilitation Services for the Blind administers the Business Enterprise Program according to the terms of this rule.

(2) Definitions. The following definitions are used in this rule:

(A) Administrative fee means an assessment against the operating income from direct sales in vending facilities, including income from manager-serviced vending machines and from commissions that vending companies pay on proceeds from vending machines located in facilities in which there is an on-site manager;

(B) Assigned income means income from commissions that vending companies pay to the nominee on proceeds from vending machines in vending facilities in which there is an on-site manager. The nominee disburses this income to the manager, according to subsection (15)(C);

(C) Blind person is a person whose central visual acuity is no more than twenty-two hundred (20/200) in the better eye with best correction or whose field of vision in the better eye is restricted to a degree that its widest

diameter subtends an angle no greater than twenty degrees (20°);

(D) Rehabilitation Services for the Blind is the unit within the Division of Family Services that administers the Business Enterprise Program. Rehabilitation Services for the Blind is referred to in this rule as RSB;

(E) Business Enterprise Program means the total vending facility program within the Division of Family Services, Rehabilitation Services for the Blind. The Business Enterprise Program is referred to in this rule as the BEP;

(F) Cafeteria means a full-line food service facility in which the food is prepared on-site;

(G) Certificate of Training means the certificate that RSB presents to a blind person who successfully completes vending facility manager training. The certificate indicates the level of the training which a blind person has completed and the level at which the state licensing agency (SLA) may license the blind person, as stated in subsection (2)(T). A copy of the certificate follows this rule;

(H) Change fund loan means an interest-free loan from the nominee to be used for the manager's initial operating funds;

(I) Convenience store means a vending facility that has over-the-counter sales but does not have on-site food preparation that requires the manager to handle unpackaged products, except for hot and cold beverages;

(J) Creditable service means only those periods when a manager is employed as a full-time contracted BEP manager and is current in all reports and payments;

(K) Deputy director, Division of Family Services/Rehabilitation Services for the Blind means the person who directs the administration of all service programs of RSB and who is referred to in this rule as deputy director;

(L) Direct competition means the presence and operation of a vending machine or a vending facility operated by an entity other than a blind manager on the same premises as a vending facility operated by a blind manager. Vending machines or vending facilities operated in areas serving employees, the majority of whom normally do not have direct access, in terms of uninterrupted ease of approach and the amount of time required to patronize the vending facility, to the vending facility operated by a blind manager shall not be considered to be in direct competition with the vending facility that is operated by a blind manager;

(M) Division of Family Services is the state licensing agency that is designated by the Secretary of the United States Department of Education to issue licenses to blind persons for the operation of vending

facilities on federal, state and other property. The Division of Family Services is referred to in this rule as the SLA;

(N) Equipment means occupational fixtures, furnishings, machinery, tools and accessories that are required in the operation of a vending facility. Equipment has a life of at least one (1) year and can be used repeatedly;

(O) Executive committee of blind vendors is the executive body that is elected by the Blind Vendors of Missouri, as discussed in section (6). Blind Vendors of Missouri is referred to in this rule as BVM;

(P) Fair minimum return means the amount RSB establishes as the minimum level of net income that a manager derives from a vending facility;

(Q) Federal property means any building, land or other real property owned, leased or occupied by any department, agency or instrumentality of the United States, including General Services Administration, the Department of Defense, the Department of Energy, and the United States Postal Service, or any other instrumentality wholly owned by the United States;

(R) Individual location, installation or facility means a single building or a self-contained group of buildings. In order for RSB to consider two (2) or more buildings to be a self-contained group of buildings, the buildings must be located in close proximity to each other and a majority of the employees housed in any of the buildings must move regularly from one (1) building to another in the course of official business during normal workdays;

(S) Initial inventory means the marketable merchandise and consumable supplies that RSB determines is necessary for a manager to begin operation of a new or substantially altered vending facility;

(T) License means the written instrument the SLA issues to a blind person and that confirms that person's eligibility to operate a vending facility on federal, state or other property. A Level I license is for the management of vending machine banks in which all income is derived from commissions. A Level II license is for the management of vending machine banks and convenience stores. A manager-serviced vending machine bank requires a Level II license. A Level III license is for the management of vending machine banks, convenience stores and snacks bars. A Level IV license is for the management of vending machine banks, convenience stores, snack bars and cafeterias. The SLA shall issue a license only to those blind persons who are citizens of the United States, whom RSB certifies, as defined in

subsection (2)(G), as qualified to operate a vending facility, who have successfully completed a six (6)-month probationary period as an active facility manager, and who are in need of employment. A copy of the license follows this rule;

(U) Licensee means a blind person to whom the SLA has issued a license to operate a vending facility on federal, state or other property;

(V) Management services means supervision, inspection, quality control, consultation, accounting, regulating, in-service training and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs that pertain to the ongoing operation of an individual vending facility after the initial establishment period;

(W) Manager-serviced vending machines means vending machines for which the manager is responsible for purchase of product, filling and maintenance of the machines. The manager receives all revenue, less administrative fees, from sales and pays all operational expenses except for repair of vending machines;

(X) Net income means operating income plus income from commissions, less administration;

(Y) Nominee means a nonprofit corporation which, through a written agreement with the SLA, acts as the agent of the SLA in providing services to vending facility managers in the BEP;

(Z) Normal working hours means an eight (8)-hour work period between the approximate hours of 6:00 a.m. to 6:00 p.m., Monday through Friday;

(AA) Operating income means income from operations, less operating expenses;

(BB) Other property means property which is not federal property or state property and on which the SLA establishes or operates vending facilities by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on federal or state property;

(CC) Over-the-counter sales, including manager-serviced vending machines, means any transaction in which a customer purchases products which a manager has procured for the purpose of resale within the vending facility;

(DD) Probationary period means the first six (6) months of active facility management by a certified graduate of the BEP training program;

(EE) Property management means a person or instrumentality that grants a permit, contract, or agreement to the SLA for the

operation of a vending facility at a specific location;

(FF) Set-aside funds means funds which accrue to the nominee from all unassigned income from vending machines located on federal property and from the administrative fee that the nominee assesses against the operating income from direct sales in all vending facilities and from the administrative fee that the nominee assesses against commissions paid by vending companies on vending machine proceeds in all vending facilities in which there is a manager on-site;

(GG) Snack bar means a vending facility with limited on-site food preparation and over-the-counter sales;

(HH) State property means all real property, or part of real property, that is owned, leased, rented or otherwise controlled or occupied by any department, agency or body of the state of Missouri, including roadside rest areas, except property of Department of Mental Health. State property does not include a building in which less than one hundred (100) state employees are, or will be, located during normal working hours; a building in which less than fifteen thousand (15,000) square feet of interior floor space is to be used for state government purposes or in which services are to be provided to the public; or a building that state government employees are to occupy for less than three (3) years;

(II) Supplies means items that are expendable, necessary to carry out the day-to-day operation of a vending facility and that are used on the premises;

(JJ) Unassigned income means income that accrues to the nominee from commissions that vending companies pay on proceeds from vending machines on federal, state and other property in which there is no on-site manager. The nominee uses these funds for manager and program benefits according to subsection (15)(D);

(KK) Vending facility means a business that the SLA establishes for the sale of products. It may consist, exclusively or in combination, of automatic vending machines, convenience stores, snack bars or cafeterias. A vending facility may consist of only a portion of a building, it may be comprised of one (1) or more locations within a building and it may encompass more than one (1) building;

(LL) Vending facility manager means a blind person who has been licensed by the SLA and who has a Vending Facility Manager's Agreement. Vending facility manager is referred to in this rule as manager;

(MM) Vending Facility Manager's Agreement means a written document, entered into by the licensee, the SLA and the

nominee, that states the terms and conditions for the licensee to be on-site to operate a vending facility at a specific location. Vending Facility Manager's Agreement, a copy of which follows this rule, is referred to in this rule as manager's agreement;

(NN) Vending machine bank means one (1) or more coin-operated vending machines that dispense articles or services and that are located in one (1) or more locations in one (1) or more buildings that RSB designates as a vending facility. Vending machine bank does not mean those machines that are operated by the United States Postal Services for the sale of postage stamps or other postal products and services, or machines located on federal property that provides services of a recreational nature; and

(OO) Vending machine income means proceeds from vending machine operations on federal, state or other property where the machines are operated, serviced or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, Missouri or other public or private entity. Vending machine income also includes commissions that a commercial vending company pays to the nominee on proceeds from vending machines that the commercial vending company operates, services and maintains on federal, state or other property for, or with the approval of, a department, agency, or instrumentality of the United States, the state of Missouri or other public or private entity.

(3) Nondiscrimination. The SLA and RSB shall administer the BEP without regard to race; color; religion; sex; national origin; veteran, secondary handicap or marital status; age or political beliefs of blind persons who are manager applicants, trainees, licensees or managers. The SLA and RSB shall administer the BEP without regard to race; color; religion; sex; national origin; veteran, handicap or marital status; age or political beliefs of SLA or nominee employees and of contractors that provide goods or services to vending facilities.

(4) Responsibilities of RSB. RSB, as designated by the SLA, shall carry out the following activities in the administration of the BEP:

(A) RSB shall establish vending facilities on federal, state or other property. The Randolph-Sheppard Act, as amended through 1974, authorizes RSB to establish vending facilities on federal property. Sections 8.051 and 8.700—8.745, RSMo authorize RSB to establish vending facilities on state property. RSB establishes vending facilities on other

public or private property at the request of the public or private entity responsible for management of the property;

(B) RSB shall provide to each manager consultation and advice for developing sales techniques, merchandising and general operating of the vending facility, purchasing procedures, managerial methods or procedures to promote financial success, appearance and sanitation of the vending facility and required reporting procedures;

(C) RSB may act as liaison between the manager and property management, suppliers and patrons;

(D) RSB shall provide to each manager a copy of 34 CFR 395, 34 CFR 361.50, sections 8.051 and 8.700--8.745, RSMo and this rule;

(E) RSB shall provide to each manager a written description of the arrangements for providing services and the manager's agreement. If the facility is on federal property, RSB shall provide to the manager a copy of the permit that covers the operation of the vending facility. If the vending facility is not on federal property, RSB shall provide to the manager written documentation of the responsibilities of the manager, the SLA and property management in relation to operation of the vending facility. At the request of a manager, RSB shall arrange a convenient time to explain these documents to each manager;

(F) RSB shall provide to each manager access to all program and financial data of the SLA and the nominee that is relevant to the operation of the BEP. The data shall include monthly and annual financial reports; provided that this disclosure does not violate applicable federal or state laws pertaining to the disclosure of confidential information. To the extent possible, RSB shall provide these data to each manager in the manager's preferred reading medium. At the request of a manager, RSB shall arrange a convenient time to assist in the interpretation of the data;

(G) RSB shall provide the Blind Vendors of Missouri (BVM) executive committee with advance written notice of matters that the executive committee will consider and of meetings that the executive committee or other managers should attend; and

(H) RSB, through the authority designated to it by the SLA, shall have the ultimate responsibility for the administration of the BEP, including the expenditure of all federal and state funds, funds that are paid to the nominee by vending facility managers and funds that accrue to the nominee from commissions that vending companies pay on vending machine proceeds. RSB shall consult with the executive committee regarding pro-

gram issues. If RSB does not adopt the recommendations of the executive committee, RSB shall notify the executive committee in writing of the decision RSB reaches and the reason(s) for the decision.

(5) Responsibilities of the Blind Vendors of Missouri. All active managers in the BEP are members of the Blind Vendors of Missouri, an organization whose membership is limited to managers in the BEP. This organization, which meets at least one (1) time and no more than two (2) times each year, nominates individuals from its membership to serve on the executive committee of blind vendors, which is referred to in this rule as the executive committee. The executive committee, to the extent possible, is representative of all managers in the BEP and functions throughout the year in behalf of all managers.

(A) Meeting(s) of BVM. A quorum at any meeting of this organization shall consist of one-third (1/3) of the membership; provided, two (2) officers are present. The meeting held annually in June is referred to as the annual meeting of the organization. All meetings of the BVM shall be conducted under *Robert's Rules of Order*.

(B) Nomination of Executive Committee Members. RSB shall provide that, prior to the annual meeting of the BVM, a nomination ballot is sent to each manager that contains the names of all managers in the BEP who are eligible for election to positions on the executive committee that become vacant at the time of the annual meeting. To be eligible a person must be a licensed contract manager in good standing. After receipt of all nomination ballots, RSB shall compile an election ballot that contains for each position the names of the two (2) managers who received the most nominative votes. If there is a three (3)-way tie, a run-off election will be held at the annual meeting, prior to the general election, to establish the top two (2) candidates.

(C) Election of Executive Committee Members. At the annual meeting of the BVM, RSB shall provide for the managers in attendance to elect, by secret ballot, a manager to fill each vacant position on the executive committee. The manager who receives the most votes for each position assumes the elective office at the conclusion of the annual meeting. Each of the five (5) members and one (1) alternate shall serve a term of two (2) years and shall not be eligible for election to the same office for more than two (2) consecutive terms.

(D) Any executive committee member who misses two (2) consecutive executive committee meetings (unless due to a personal or family emergency) will be dropped from the

committee. The alternate board member shall succeed to active board member status until the next annual meeting of the BVM is held. The executive committee will function without an alternate until the annual election. If the exiting member held an officer position, the members of the executive committee shall elect, from the committee, an individual to function in that officer position until the next annual meeting when the general membership will vote for a replacement to fill the unexpired term.

(6) Responsibilities of the Executive Committee of Blind Vendors of Missouri. The committee shall meet as often as is necessary, as determined by RSB and the executive committee, to carry out the following responsibilities:

(A) To participate actively with RSB in major administrative, policy and program decisions that affect the overall administration of the BEP;

(B) To participate actively with RSB in the development and administration of a system for the selection, transfer and promotion of managers;

(C) To participate actively with RSB in developing training and retraining programs for managers;

(D) To receive and transmit grievances from managers to RSB;

(E) To serve as advocates for managers in grievance proceedings;

(F) To sponsor, with the assistance of RSB and the nominee, meetings and instructional conferences for managers;

(G) To designate, as necessary, subcommittees or individual members to carry on the functions of the executive committee between meetings of the entire executive committee;

(H) All meetings of the executive committee shall be conducted under *Robert's Rules of Order*.

(7) Responsibilities of the Nominee. The SLA may enter into a written agreement with a nominee to act as its agent in the administration of the BEP. The responsibilities of the nominee include:

(A) The nominee shall collect from each manager and promptly deposit in a designated bank an administrative fee, as defined in subsection (2)(A);

(B) The nominee shall collect and promptly deposit in designated banks all commissions paid on vending machine proceeds. The nominee shall maintain separate accounts for the restricted and unrestricted fund revenue;

(C) As funds are available, the nominee shall disburse set-aside funds at the direction

of RSB and for the purposes stated in subsection (12)(B);

(D) As funds are available, the nominee shall disburse unassigned income from vending machines located on nonfederal property at the direction of RSB and for the purposes stated in subsection (15)(D); and

(E) The nominee shall maintain records which accurately reflect all transactions of the nominee and shall make available all records that are required for audits that may be conducted by federal or state auditors or private auditors that the nominee retains to conduct annual or special audits.

(8) Vending Facility Manager Training. RSB shall train a vending facility manager through the following procedures:

(A) Application for Training. Any person who is a vocational rehabilitation client of RSB may request a determination of eligibility to enter manager training. RSB shall meet the cost of manager training with vocational rehabilitation case service funds, within the guidelines stated in 13 CSR 40-91.020.

(B) Criteria for Acceptance for Manager Training. A vocational rehabilitation client who is accepted for manager training shall undergo a criminal background check and shall meet the following criteria:

1. Is legally blind; and
2. Is a citizen of the United States;

(C) Responsibilities of the Manager Trainee.

1. Trainees are expected to be punctual, present a clean, well-groomed appearance, be attentive, and conduct themselves in a professional manner.

2. If the trainee displays any of the following behaviors, training may be suspended immediately, with the recommendation to the training director and vocational rehabilitation counselor for termination to be effected as soon as possible:

- A. Insubordination;
- B. Inability to control temper or emotional outbursts;
- C. Abuse of alcohol or use of illegal drugs;
- D. Embezzlement of training funds or property;
- E. Absenteeism;
- F. Tardiness;
- G. Not completing assignments in a timely manner; and
- H. Lack of personal hygiene (must maintain a clean and well-groomed appearance).

3. If problems arise causing the trainee to fall behind the training schedule, for example, illness, personal problems, previously undetected skill deficiencies, attitude, etc. the

trainee will be given written notice of the areas of unacceptable performance. The trainee will, if requested, be given one (1) week to correct the problem(s). After this week, the training director, with advice of the trainer, will determine if training will continue or be terminated.

4. If training is terminated, the trainee may reapply for training after the reasons for termination have been corrected. This person would then be placed on the training list as of the date of reapplication. If the trainee left the training program due to illness or family problems and re-enters within twelve (12) months from the date training was terminated, the trainee may be credited with training previously completed. Credit will be given if a one (1)-week evaluation conducted prior to resuming training demonstrates an acceptable level of retention of initial instruction; and

(D) Manager Training Requirements. Training for a Level I license consists of orientation to the BEP and on-the-job training. Training for a Level II, Level III or Level IV license consists of orientation to the BEP, academic course work, and on-the-job training. The manager who provides on-the-job training for a trainee shall complete a Trainee Evaluation Report, a copy of which follows this rule.

1. The deputy director, with the concurrence of the executive committee, may waive a portion of training for those persons who have prior education, training or experience in food service operations. Regardless of prior education, training or experience, all Level I trainees shall have a minimum of two (2) weeks BEP training and all Level II, Level III or Level IV trainees shall have a minimum of four (4) weeks BEP training. If the deputy director does not waive a portion of the training, Level I training is a minimum of eight (8) weeks, Level II is a minimum of sixteen (16) weeks, Level III training is a minimum of eighteen (18) weeks, and Level IV training is a minimum of twenty-six (26) weeks.

2. When a trainee successfully completes all training, RSB will award to the trainee a Certificate of Training that certifies the person is qualified to be licensed as a vending facility manager. The Certificate of Training states the level for which the trainee is eligible to be licensed. Level II, Level III, and Level IV trainees must attain a minimum score of seventy-two percent (72%) on the final exam to be eligible for licensure.

3. A certified graduate, upon assuming management of a facility, shall begin a six (6)-month probationary period. During the probationary period, the probationary manager will receive insurance benefits normally

associated with the BEP, but shall not be licensed until the probationary period has been completed. During the probationary period, a bond will be secured through established BEP procedures. If bondability cannot be achieved, the probationary manager will be terminated from the program. When the probationary period has been successfully completed and bond has been secured, the probationary manager will be issued a license. The license shall be retroactive, to include the probationary period and will establish eligibility for full benefits.

4. The deputy director may require an evaluation or additional training, or both, for any active manager whom RSB determines is not performing at a satisfactory level. The deputy director may require the manager to undergo comprehensive assessment of compensatory skills, and, or medical examinations, including visual and psychological, that the deputy director considers necessary in order to determine the manager's ability to continue management of a vending facility.

(9) Licensure of a Manager. The SLA shall issue a license only to a person who is legally blind, is a citizen of the United States, is certified by RSB as qualified to manage a vending facility, and has successfully completed a six (6)-month probationary period as an active facility manager.

(A) The license issued by the SLA shall state the level of facility the licensee is qualified to manage.

(B) If the SLA has licensed a person as a vending facility manager but that person has not actively participated in the BEP through management of a facility or bidding on a facility, for three (3) years or more, the SLA may terminate the manager's license. The SLA, upon the deputy director's recommendation, may grant an extension of licensure beyond the three (3) year period of nonparticipation in the BEP.

(10) Selection and Appointment of a Vending Facility Manager. RSB shall use the following procedures to select and appoint each manager:

(A) RSB shall send written notification of each vending facility management opening to all licensees. In order for RSB to consider an applicant, a written application must be post-marked within twelve (12) calendar days of the date of written notification of the opening. In order for the application of any manager to be considered, the manager must be current in submitting Manager's Weekly Reports, must be current in payment of administrative fees and, if applicable, must be current in all payments due the nominee.