**Section 114.2 Determination of Not Employable**

a) Unless determined not employable pursuant to this Section, a client shall be considered employable.

b) A client shall be determined not employable if determined to meet one of the following criteria:

1) Disabled as determined by the Department, using the same criteria as the Social Security Administration (SSA) under the Supplemental Security Income (SSI) program (see 20 CFR 416, Subpart I, April 1, 1994) in accordance with the provisions of this subsection (b)(1).

A) As a condition of eligibility, the individual must have filed an application for SSI and:

i) The application is pending;

ii) The application was denied due to a finding of not blind or not disabled and an appeal of the decision is pending with SSA at the reconsideration or Administrative Law Judge (ALJ) level; or

iii) The application has been approved for temporary SSI benefits.

B) The individual must sign an authorization form for repayment of assistance paid while an SSI application is pending.

C) If the individual has been denied SSI due to a finding of not disabled (either at the ALJ level or above, or at a lower level if that determination is not appealed) the Department shall adopt that finding and the individual shall not be eligible for State Transitional Assistance.

D) An individual who has been denied SSI within the previous 12 months due to a finding of not disabled (either at the ALJ level or above, or at a lower level if that determination is not appealed) cannot be determined disabled by the Department unless the individual shows that there has been a substantial change in medical condition or that there has been a substantial change in other factors, such as age or work experience, which now make the individual disabled.

E) If the individual has been denied SSI due to a finding of not disabled and the client notifies the Department within 10 days after the date of the Department notice of termination that an appeal has been filed, assistance will be continued with no break. If the client notifies the Department within 11 through 65 days after the date of the notice of termination, assistance will be reinstated back to the date of the cancellation. If the client notifies the Department that an appeal has been filed more than 65 days from the date of the notice of termination, assistance will be provided prospectively, unless the client filed the appeal within 65 days after the Department notice, in which case assistance will be reinstated back to the date of the cancellation.

F) If the ALJ finds the individual not disabled, the Department shall accept the finding as final. The individual is no longer eligible for State Transitional Assistance, unless the individual is eligible under one of the other criteria in this subsection (b). The individual may appeal this determination only through an appeal of the ALJ's decision with the SSA's appeal system.

G) If an individual is determined eligible for SSI, eligibility for Aid to the Aged, Blind or Disabled will be determined under 89 Ill. Adm. Code 113. The individual is not eligible for General Assistance.

H) The individual must cooperate with any requirements of the SSI advocacy program. The individual must cooperate by appealing any denial of SSI through the ALJ level.

2) Age 55 or over and has not had gross earnings totaling $2,000 or more in the past year and also has not earned at least $200 a month in seven of the last twelve months;

3) Needed at home to care for another person, as determined by a medical provider;

4) Is homeless due to the occurrence within six months of the date of application of a court-ordered evacuation of a building in which he or she lived, domestic violence, fire or natural disaster. Homeless, for this purpose, is defined as residing in a homeless or domestic violence shelter. An individual can be considered not employable for this reason until the client is no longer homeless or until six months have elapsed from the date of application, whichever is earlier;

5) Under the age of 20 and in full-time school attendance in high school or the equivalent vocational or other training school;

6) Required to take medication to control diabetes, hypertension or seizure disorders; or

7) Temporarily ill or incapacitated. The client is only eligible during the period of medically documented illness or incapacity.

(Source: Amended at 19 Ill. Reg. 15058, effective October 17, 1995)