

## **IC 12-12-8**

### **Chapter 8. Centers for Independent Living**

#### **IC 12-12-8-1**

##### **"Center for independent living" defined**

Sec. 1. As used in this chapter, "center for independent living" means a consumer controlled, community based, cross-disability, nonresidential private nonprofit agency that:

- (1) is designed and operated within a local community by individuals with disabilities; and
- (2) provides an array of independent living services.

*As added by P.L.272-1999, SEC.37.*

#### **IC 12-12-8-1.5**

##### **"Commissioner" defined**

Sec. 1.5. As used in this chapter, "commissioner" means the commissioner of the Rehabilitation Services Administration in the United States Department of Education.

*As added by P.L.217-2005, SEC.5.*

#### **IC 12-12-8-2**

##### **"Consumer control" defined**

Sec. 2. As used in this chapter, "consumer control" means, with respect to a center for independent living or an eligible agency:

- (1) that the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of independent living services; and
- (2) that:
  - (A) at least fifty-one percent (51%) of the members of the center's board have significant disabilities; and
  - (B) a majority of the center's staff and employees in decision making positions are individuals with disabilities.

*As added by P.L.272-1999, SEC.37. Amended by P.L.217-2005, SEC.6; P.L.141-2006, SEC.49.*

#### **IC 12-12-8-2.5**

##### **"Council" defined**

Sec. 2.5. As used in this chapter, "council" means the statewide independent living council established by section 6 of this chapter.

*As added by P.L.217-2005, SEC.7.*

#### **IC 12-12-8-3**

##### **"Cross-disability" defined**

Sec. 3. As used in this chapter, "cross-disability" means, with respect to a center for independent living, that a center provides independent living services to individuals representing a range of significant disabilities and does not require the presence of one (1) or more specific significant disabilities before determining that an individual is eligible for independent living services.

*As added by P.L.272-1999, SEC.37.*

### **IC 12-12-8-3.2**

#### **"Federal act" defined**

Sec. 3.2. As used in this chapter, "federal act" refers to the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and amendments to that statute.

*As added by P.L.217-2005, SEC.8.*

### **IC 12-12-8-3.4**

#### **"Individual with a disability" defined**

Sec. 3.4. As used in this chapter, "individual with a disability" means an individual who:

- (1) has a physical or mental impairment that substantially limits a major life activity;
- (2) has a record of an impairment described in subdivision (1);
- or
- (3) is regarded as having an impairment described in subdivision (1).

*As added by P.L.217-2005, SEC.9.*

### **IC 12-12-8-3.6**

#### **"Individual with a significant disability" defined**

Sec. 3.6. As used in this chapter, "individual with a significant disability" means an individual who has a significant physical or mental impairment that substantially limits the individual's ability to:

- (1) function independently in the family or community; or
- (2) obtain, maintain, or advance in employment.

*As added by P.L.217-2005, SEC.10.*

### **IC 12-12-8-3.8**

#### **"State plan" defined**

Sec. 3.8. As used in this chapter, "state plan" means the materials jointly developed and submitted by the council and the division to the commissioner containing the state's proposals for the following:

- (1) The proposal for providing independent living services with federal funds under Title VII, Part B of the federal act.
- (2) The development and support of a statewide network of centers for independent living.
- (3) Working relationships among:
  - (A) programs providing independent living services and independent living centers; and
  - (B) the vocational rehabilitation program administered by the division under the federal act and other programs providing services for individuals with disabilities.

*As added by P.L.217-2005, SEC.11. Amended by P.L.141-2006, SEC.50.*

### **IC 12-12-8-4**

#### **Provisions void that violate federal law; eligibility for funding**

Sec. 4. (a) Any provision of this chapter that violates a federal law or federal regulation is void.

(b) To be eligible to receive state funds, a center for independent living must meet the requirements for federal funding for a center for independent living under:

- (1) 29 U.S.C. 796; and
- (2) 34 CFR Parts 364 through 366;

that are in effect January 1, 1995.

*As added by P.L.272-1999, SEC.37. Amended by P.L.217-2005, SEC.12.*

#### **IC 12-12-8-5**

##### **Designation of division as responsible state unit**

Sec. 5. The division is designated as the state unit under Title VII of the federal act and has the following responsibilities:

- (1) To receive, account for, and disburse funds received by the state under the federal act based on the state plan.
- (2) To provide administrative assistance to support independent living programs and the activities of centers under Title VII, Part B of the federal act.
- (3) To keep records and take actions with respect to the records as required by the commissioner.
- (4) To submit additional information or provide assurances with respect to the independent living programs as required by the commissioner.

*As added by P.L.217-2005, SEC.13. Amended by P.L.141-2006, SEC.51.*

#### **IC 12-12-8-6**

##### **Establishment of statewide independent living council; membership; requirements**

Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

(b) The council consists of at least eleven (11) members appointed by the governor, including the following:

- (1) At least one (1) director of a center for independent living located in Indiana chosen by the directors of the centers for independent living located in Indiana.
- (2) Nonvoting members from state agencies that provide services for individuals with disabilities.
- (3) Other members, who may include the following:
  - (A) Representatives of centers for independent living.
  - (B) Parents and guardians of individuals with disabilities.
  - (C) Advocates for individuals with disabilities.
  - (D) Representatives from private business.
  - (E) Representatives of organizations that provide services for individuals with disabilities.
  - (F) Other appropriate individuals.

(c) The members appointed under subsection (b) must:

- (1) provide statewide representation;
- (2) represent a broad range of individuals with disabilities from diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and

(4) include a majority of members who:

(A) are individuals with disabilities; and

(B) are not employed by a state agency or a center for independent living.

*As added by P.L.217-2005, SEC.14. Amended by P.L.1-2006, SEC.185; P.L.141-2006, SEC.52; P.L.182-2009(ss), SEC.298; P.L.153-2011, SEC.13.*

#### **IC 12-12-8-7**

##### **Salary per diem**

Sec. 7. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

*As added by P.L.217-2005, SEC.15.*

#### **IC 12-12-8-8**

##### **Terms of council members; limitation**

Sec. 8. (a) A member appointed to the council by the governor serves a term of three (3) years, beginning on July 1 after appointment. However, a member appointed to fill a vacancy on the council serves for the remainder of the unexpired term.

(b) A member appointed to the council by the governor may not serve more than two (2) consecutive terms.

*As added by P.L.217-2005, SEC.16.*

#### **IC 12-12-8-9**

##### **Appointment to fill vacancy on council**

Sec. 9. If a vacancy occurs among the voting members of the council, the original appointing authority shall appoint a qualified individual to serve for the unexpired term of the vacating member.

*As added by P.L.217-2005, SEC.17.*

#### **IC 12-12-8-10**

##### **Powers and duties of council; public access to meetings**

Sec. 10. (a) The council has the powers and duties specified in this chapter.

(b) The council may do the following:

(1) Jointly develop and sign the state plan in conjunction with

the designated state unit.

(2) Monitor, review, and evaluate the implementation of the state plan.

(3) Coordinate activities with the state rehabilitation council and other councils that address the needs of specific disability issues.

(4) Submit periodic reports to the funding sources and provide access to the records that are necessary to verify contents of the reports.

(5) Do other things necessary and proper to implement this chapter.

(c) The council shall ensure that all meetings of the council are open to the public and in accessible formats with sufficient advance public notice.

*As added by P.L.217-2005, SEC.18.*

#### **IC 12-12-8-11**

##### **Preparation and submission of state plan**

Sec. 11. The division shall prepare the state plan that must be submitted to the commissioner.

*As added by P.L.217-2005, SEC.19.*

#### **IC 12-12-8-12**

##### **Awarding of grants to eligible centers**

Sec. 12. The division may award grants to any eligible center for independent living with funds that the division receives under Title VII, Part B of the federal act.

*As added by P.L.217-2005, SEC.20.*

#### **IC 12-12-8-13**

##### **Appointment of peer review committee**

Sec. 13. The council and the division shall jointly appoint a peer review committee to make recommendations for grants to new organizations eligible to be centers for independent living.

*As added by P.L.217-2005, SEC.21.*

#### **IC 12-12-8-14**

##### **Eligibility of centers to receive funds**

Sec. 14. A center for independent living is eligible to receive money under this chapter as long as the center complies with the standards and assurances required under Section 725 of the federal act. A center that receives only state or federal funds under Title VII, Part B of the federal act is subject to review by the division. A center that receives federal funds under Title VII, Part C of the federal act is subject to review by the federal government. A finding of noncompliance must be supported by a written report from the peer review committee appointed under section 13 of this chapter.

*As added by P.L.217-2005, SEC.22.*

#### **IC 12-12-8-15**

### **Compliance with state plan and federal law**

Sec. 15. A center for independent living that receives money under this chapter shall comply with the standards and assurances required under the state plan and Section 725 of the federal act. The center for independent living shall provide the required assurances to the division.

*As added by P.L.217-2005, SEC.23.*

### **IC 12-12-8-16**

#### **Conditions for division to award grant for new center; criteria for ranking eligible agencies**

Sec. 16. (a) If:

- (1) there is no center for independent living serving a region of Indiana or a region of Indiana is underserved; and
- (2) the state receives an increase in its federal allotment that is sufficient to support an additional center for independent living in Indiana;

the division may award a grant to an eligible agency for a new center for independent living in the unserved or underserved region. A grant awarded under this section must be consistent with the provisions of the state plan establishing a statewide network of centers for independent living.

(b) The council shall rank eligible agencies applying for a grant under this section using the standards and assurances required under Section 725 of the federal act. The council shall consider the ability of the applicant to operate a center for independent living and shall select an applicant using the following criteria:

- (1) Evidence of the need for a center for independent living in the applicant's region of Indiana that is consistent with the state plan.
- (2) The past performance of the applicant in providing services comparable to independent living services.
- (3) The applicant's plan for complying with, or demonstrated compliance with, the standards and assurances set forth in Section 725 of the federal act.
- (4) The quality of the applicant's key personnel and the involvement of individuals with significant disabilities.

*As added by P.L.217-2005, SEC.24.*

### **IC 12-12-8-17**

#### **Division review of centers**

Sec. 17. (a) The division shall periodically review each new center for independent living that receives:

- (1) money under Title VII, Part B of the federal act; or
- (2) a grant under this chapter;

to determine whether the center is in compliance with the standards and assurances set forth in Section 725 of the federal act.

(b) If the division determines that a center reviewed under subsection (a) is not in compliance with the standards and assurances set forth in Section 725 of the federal act, the division shall

immediately notify the center of the division's determination of noncompliance. A center may appeal the determination by requesting a hearing from the office of the secretary not later than thirty (30) days after receiving notice from the division.

(c) Except as provided in subsection (d), the division shall terminate all funds to a center determined to be in noncompliance under this section not later than ninety (90) days after the date of:

- (1) the division's notification of noncompliance; or
- (2) a final decision by the office of the secretary in the case of a center that appeals the division's determination under subsection (b).

(d) The division may not terminate the funds of a center for independent living that is determined to be noncompliant with the standards and assurances set forth in Section 725 of the federal act if:

- (1) the center submits to the division a plan for achieving compliance within ninety (90) days; and
- (2) the division approves the plan.

A plan required under this subsection must be submitted not later than thirty (30) days after the center receives a notice of noncompliance from the division under subsection (b).

*As added by P.L.217-2005, SEC.25.*