

## **CHAPTER 50-06.5 INDEPENDENT LIVING CENTERS AND SERVICES**

### **50-06.5-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency that is designed and operated within a local community by individuals with a disability, which can provide an array of independent living services and complies with the standards and assurances in accordance with section 796f-4 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
2. "Consumer control" means power and authority vested in individuals with a disability and, when applied to a center for independent living, means more than fifty percent of the principal governing board and management staff are individuals with a disability.
3. "Council" means the statewide independent living council.
4. "Designated state entity" means the vocational rehabilitation division of the department of health and human services as defined in the state plan for independent living.
5. "Director" means the director of the designated state entity.
6. "Independent living core services" means information and referral services; independent living skills training; peer counseling, including cross-disability peer counseling; individual and systems advocacy; services that facilitate the transition of an individual with a significant disability from a nursing home and other institutions to a home and community-based residence, with the requisite supports and services; to provide assistance to an individual with a significant disability who is at risk of entering an institution so the individual may remain in the community; and to facilitate the transition of youth who are individuals with a significant disability, who were eligible for an individualized education program and who have completed their postsecondary education or otherwise left school, to postsecondary life or have reached the age of eighteen and are still receiving services in accordance with an individualized education program and have not completed their postsecondary education.
7. "Independent living services" includes independent living core services and other services as described in section 705 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
8. "Individual with a disability" means an individual with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, with a record of impairment, or who is regarded as having such an impairment.
9. "Individual with a significant disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

### **50-06.5-02. Statewide independent living council.**

A council is established. The council shall adopt bylaws governing operations of the council. The council shall meet at least quarterly.

### **50-06.5-03. Requirements of the statewide independent living council.**

1. The council shall meet or exceed the requirements of section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.], including composition and appointment of members.
2. The council may not be established as an entity within a state agency, including a designated state entity. The council must be independent of and autonomous from the designated state entity and all other state agencies.

3. At least fifty percent of the directors of the centers for independent living serving the state, or a designee if unable to meet the residency requirements of the state, must be members.

**50-06.5-04. Duties of the statewide independent living council.**

The council shall fulfill the duties as set forth in section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.] which include developing, monitoring, implementing the state plan for independent living; developing or assisting in the development of required state and federal reports; recordkeeping; coordinating with other state entities that provide similar or complementary services; and preparing, in conjunction with the designated state entity, a plan for the provision of resources needed to carry out the functions of the state plan for independent living and as defined within the federal Rehabilitation Act of 1973, as amended.

**50-06.5-05. State plan.**

Repealed by S.L. 2019, ch. 401, § 9.

**50-06.5-06. Center for independent living.**

1. Under the direction set forth in the state plan for independent living, the director, in cooperation with the council, shall award grants to eligible agencies from funds appropriated for this purpose.
2. In the administration of this section, the designated state entity shall award grants to any eligible agency that is receiving funds for this purpose on June 30, 1992, unless the director finds that the agency involved fails to meet program and fiscal standards and assurances.
3. The minimum annual allocation for each center must be established in response to recommendations of the council. Priority for distribution of these funds is as follows:
  - a. Centers funded through title VII of the Rehabilitation Act of 1973, as amended, but receiving less than the minimum annual allocation.
  - b. Expansion of current centers to serve unserved or underserved areas of the state.

**50-06.5-07. Standards and assurances.**

1. Each center for independent living that receives assistance under this chapter shall comply with the standards and assurances set out in section 796f-4 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.] to ensure that all programs and activities are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter.
2. The applicant shall provide, as the council may require, satisfactory assurance that:
  - a. The applicant is an eligible agency.
  - b. The center will be designed and operated within local communities by individuals with a disability, including an assurance that the center will have a board that is the principal governing body of the center and a majority of that board will be composed of individuals with a significant disability.
  - c. The applicant will comply with the standards and assurances set forth in this section.
  - d. The applicant will establish clear priorities through annual and three-year programs and financial planning objectives for the center, including overall goals or mission for the center, a work plan for achieving the goals or mission, specific objectives, services priorities, and types of services to be provided along with a description that demonstrates how the proposed activities of the applicant are consistent with the most recent three-year state plan for independent living.
  - e. The applicant will use sound organization, personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a significant disability on the same terms and conditions required

with respect to the employment of individuals with a disability under section 796m of the federal Rehabilitation Act of 1973, as amended, and the federal Americans with Disabilities Act.

- f. The applicant will ensure that the majority of its staff, and individuals on its staff in decisionmaking positions, are individuals with a significant disability.
  - g. The applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit or review.
  - h. The applicant will conduct annual self-evaluations, prepare an annual report, and maintain records, adequate to measure performance with respect to the standards containing information regarding, at least:
    - (1) The extent to which the center is in compliance with the standards and assurances.
    - (2) The numbers and types of individuals with a significant disability receiving services through the center.
    - (3) The types of services provided through the center and the number of individuals with a significant disability receiving each type of service.
    - (4) The source and amounts of funding for the operation of the center.
    - (5) The number of individuals with a significant disability who are employed by, and the number who are in management and decisionmaking positions in the center.
    - (6) The comparison, when appropriate, of the activities of the center in prior years, with the activities of the center in the most recent year.
  - i. Individuals with a significant disability who are seeking services from the center will be notified by the center of the existence of the availability of the client assistance program and a way to contact that program.
  - j. Aggressive outreach, regarding services provided through the center, will be conducted in an effort to reach populations of individuals with a disability which are unserved or underserved by programs under this chapter, especially minority groups and urban and rural populations.
  - k. Staff at centers will receive training on how to serve the unserved and underserved populations, including minority groups and urban and rural populations.
    - l. The center will submit to the council a copy of its annual report and the annual audit or review required under subdivision g.
  - m. The center will prepare and submit a report to the designated state entity, at the end of each fiscal year, that contains the information described in subdivision h.
3. Services may be provided under this chapter to an individual with a significant disability regardless of age, to the parents and family of an individual with a significant disability, and to others in the community.

#### **50-06.5-08. Independent living services and programs.**

From sums appropriated in addition to those allocated for centers for independent living, the designated state entity may allocate funds, pursuant to the state plan for independent living to support the operation of centers for independent living.

#### **50-06.5-09. Duties of the designated state entity.**

The designated state entity:

1. Must be responsible for the establishment and maintenance of a council that meets the requirements of section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
2. Shall receive, account for, and disburse funds received, including title 29, United States Code, subchapter VII, part B funding; state matching funds; and other state funds allocated for centers for independent living and maintenance of the council as set forth in the state plan for independent living.
3. Shall ensure the council receives necessary and sufficient resources needed to fulfill the council's statutory duties and authorities under section 796d of the federal

Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.], consistent with the state plan for independent living and in a manner consistent with state and federal regulations.

4. Shall comply with all applicable federal and state laws and regulations.
5. Shall sign the state plan for independent living signifying agreement to execute the responsibilities of the designated state entity identified in section 796c of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
6. Shall assist the council in the development of the plan for the provision of resources, including personnel necessary to carry out the functions of the council.