

tion is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

(Pub. L. 93-112, title I, §107, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1157.)

#### PRIOR PROVISIONS

A prior section 727, Pub. L. 93-112, title I, §107, as added Pub. L. 102-569, title I, §128(a), Oct. 29, 1992, 106 Stat. 4386, related to monitoring and review, prior to the general amendment of this subchapter by Pub. L. 105-220.

### § 728. Expenditure of certain amounts

#### (a) Expenditure

Amounts described in subsection (b) of this section may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this subchapter, under part B of subchapter VI of this chapter, or under subchapter VII of this chapter.

#### (b) Amounts

The amounts referred to in subsection (a) of this section are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 730 of this title.

(Pub. L. 93-112, title I, §108, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1160.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### PRIOR PROVISIONS

A prior section 728, Pub. L. 93-112, title I, §108, as added Pub. L. 102-569, title I, §129(a), Oct. 29, 1992, 106 Stat. 4389, related to expenditure of certain amounts, prior to the general amendment of this subchapter by Pub. L. 105-220.

### § 728a. Training of employers with respect to Americans with Disabilities Act of 1990

A State may expend payments received under section 731 of this title—

- (1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and
- (2) to inform employers of the existence of the program and the availability of the services of the program.

(Pub. L. 93-112, title I, §109, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1160.)

#### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (1), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete

classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### PRIOR PROVISIONS

A prior section 728a, Pub. L. 93-112, title I, §109, as added Pub. L. 102-569, title I, §130(a), Oct. 29, 1992, 106 Stat. 4389, related to training of employers with respect to Americans with Disabilities Act of 1990, prior to the general amendment of this subchapter by Pub. L. 105-220.

### PART B—BASIC VOCATIONAL REHABILITATION SERVICES

### § 730. State allotments

#### (a) Computation; additional amount; minimum amount; adjustments

(1) Subject to the provisions of subsection (c) of this section, for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 720(b)(1) of this title for allotment under this section as the product of—

- (A) the population of the State; and
- (B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 720(b)(1) of this title for allotment under this section in excess of the amount appropriated under section 720(b)(1)(A)<sup>1</sup> of this title for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

- (i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and
- (ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than  $\frac{1}{3}$  of 1 percent of the amount appropriated under section 720(b)(1) of this title, or \$3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments

<sup>1</sup> See References in Text note below.

made under this subsection to any such remaining State from being thereby reduced to less than that amount.

**(b) Unused funds; redistribution; increase in amount**

(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this subchapter, that any payment of an allotment to a State under section 731(a) of this title for any fiscal year will not be utilized by such State in carrying out the purposes of this subchapter.

(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this subchapter to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

**(c) Funds for American Indian vocational rehabilitation services**

(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 720(b)(1) of this title for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C of this subchapter.

(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1999; and

(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 2000 through 2003.

(Pub. L. 93-112, title I, §110, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1160; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(b)(7)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-413.)

REFERENCES IN TEXT

Section 720(b)(1)(A) of this title, referred to in subsec. (a)(2)(B), means section 720(b)(1)(A) prior to the general amendment of section 720(b) by Pub. L. 102-569, title I, §121(b)(1), Oct. 29, 1992, 106 Stat. 4367, which restated subsec. (b)(1) without a subpar. (A). Section 720 was subsequently omitted, and a new section 720 added, in the general amendment of this subchapter by Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1116.

PRIOR PROVISIONS

A prior section 730, Pub. L. 93-112, title I, §110, Sept. 26, 1973, 87 Stat. 370; Pub. L. 95-602, title I, §§101(c), (d), 122(b)(1), Nov. 6, 1978, 92 Stat. 2956, 2957, 2987; Pub. L. 98-221, title I, §111(e), Feb. 22, 1984, 98 Stat. 20; Pub. L. 99-506, title I, §103(c)(2), title II, §§206, 207, Oct. 21, 1986, 100 Stat. 1810, 1817, 1818; Pub. L. 102-569, title I, §131, Oct. 29, 1992, 106 Stat. 4389; Pub. L. 103-73, title I, §107(e), Aug. 11, 1993, 107 Stat. 723, related to State allotments, prior to the general amendment of this subchapter by Pub. L. 105-220.

AMENDMENTS

1998—Pub. L. 105-277 made technical amendment to section designation and catchline in original.

**§ 731. Payments to States**

**(a) Amount**

(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 721 of this title, including expenditures for the administration of the State plan.

(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 730 of this title for such year.

(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this subchapter for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

(C) The Commissioner may waive or modify any requirement or limitation under subparagraph (B) or section 721(a)(17) of this title if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 2910(g) of title 42), in such State.

(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 2910(b)(2) of title 42, the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

**(b) Method of computation and payment**

The method of computing and paying amounts pursuant to subsection (a) of this section shall be as follows:

(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the