

(4)(A) maintain records that fully disclose—

(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

(n) Evaluation

The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d) of this section, including evaluation of satisfaction by individuals with disabilities.

(Pub. L. 93-112, title VII, §704, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796c, Pub. L. 93-112, title VII, §704, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4444; amended Pub. L. 103-73, title I, §114(b), Aug. 11, 1993, 107 Stat. 728, related to State plans, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796c, Pub. L. 93-112, title VII, §704, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 100-630, title II, §208(c), Nov. 7, 1988, 102 Stat. 3314, related to payments to States from allotments to pay Federal share of expenditures, prior to repeal by Pub. L. 102-569, §701(1).

§ 796d. Statewide Independent Living Council

(a) Establishment

To be eligible to receive financial assistance under this part, each State shall establish a Statewide Independent Living Council (referred to in this section as the “Council”). The Council shall not be established as an entity within a State agency.

(b) Composition and appointment

(1) Appointment

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the

chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(2) Composition

The Council shall include—

(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) as ex officio, nonvoting members—

(i) a representative from the designated State unit; and

(ii) representatives from other State agencies that provide services for individuals with disabilities; and

(C) in a State in which one or more projects are carried out under section 741 of this title, at least one representative of the directors of the projects.

(3) Additional members

The Council may include—

(A) other representatives from centers for independent living;

(B) parents and guardians of individuals with disabilities;

(C) advocates of and for individuals with disabilities;

(D) representatives from private businesses;

(E) representatives from organizations that provide services for individuals with disabilities; and

(F) other appropriate individuals.

(4) Qualifications

(A) In general

The Council shall be composed of members—

(i) who provide statewide representation;

(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

(iii) who are knowledgeable about centers for independent living and independent living services; and

(iv) a majority of whom are persons who are—

(I) individuals with disabilities described in section 705(20)(B) of this title; and

(II) not employed by any State agency or center for independent living.

(B) Voting members

A majority of the voting members of the Council shall be—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by any State agency or center for independent living.

(5) Chairperson

(A) In general

Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

(B) Designation by chief executive officer

In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

(6) Terms of appointment**(A) Length of term**

Each member of the Council shall serve for a term of 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) Number of terms

No member of the Council may serve more than two consecutive full terms.

(7) Vacancies**(A) In general**

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(B) Delegation

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

(c) Duties

The Council shall—

(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 796c of this title;

(2) monitor, review, and evaluate the implementation of the State plan;

(3) coordinate activities with the State Rehabilitation Council established under section 725 of this title, if the State has such a Council, or the commission described in section 721(a)(21)(A) of this title, if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

(d) Hearings and forums

The Council is authorized to hold such hearings and forums as the Council may determine

to be necessary to carry out the duties of the Council.

(e) Plan**(1) In general**

The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this part, and under section 730 of this title (consistent with section 721(a)(18) of this title), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) Supervision and evaluation

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

(3) Conflict of interest

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

(f) Compensation and expenses

The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(Pub. L. 93-112, title VII, §705, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1220; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(c)(7)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416.)

PRIOR PROVISIONS

A prior section 796d, Pub. L. 93-112, title VII, §705, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4446; amended Pub. L. 103-73, title I, §114(c), Aug. 11, 1993, 107 Stat. 728, related to Statewide Independent Living Councils, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796d, Pub. L. 93-112, title VII, §705, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 99-506, title I, §103(d)(2)(B), (C), (h)(2), title VIII, §802, title X, §1001(g)(3), Oct. 21, 1986, 100 Stat. 1810, 1811, 1837, 1843; Pub. L. 100-630, title II, §208(d), Nov. 7, 1988, 102 Stat. 3314; Pub. L. 102-119, §26(e), Oct. 7, 1991, 105 Stat. 607, related to State plans for providing comprehensive services for independent living, prior to repeal by Pub. L. 102-569, §701(1).

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(A)], in first sentence, substituted “by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity

other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity” for “by the Governor” and, in second sentence, substituted “The appointing authority” for “The Governor”.

Subsec. (b)(5)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(B)], substituted “chief executive officer” for “Governor” in heading and “appointing authority described in paragraph (3) shall” for “Governor shall” in text.

Subsec. (b)(6)(A)(ii), (7)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(C)], substituted “appointing authority described in paragraph (3)” for “Governor”.

§ 796d-1. Responsibilities of Commissioner

(a) Approval of State plans

(1) In general

The Commissioner shall approve any State plan submitted under section 796c of this title that the Commissioner determines meets the requirements of section 796c of this title, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

(2) Procedures

(A) In general

Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 727 of this title shall apply to any State plan submitted to the Commissioner under section 796c of this title.

(B) Application

For purposes of the application described in subparagraph (A), all references in such provisions—

- (i) to the Secretary shall be deemed to be references to the Commissioner; and
- (ii) to section 721 of this title shall be deemed to be references to section 796c of this title.

(b) Indicators

Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 796f-4 of this title.

(c) Onsite compliance reviews

(1) Reviews

The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 796f-1 of this title and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 796f-2 of this title, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 796f-2 of this title, centers that receive funding under section 796f-2 of this title in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

(2) Qualifications of employees conducting reviews

The Commissioner shall—

(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

(C) ensure that at least one member of a team conducting such a review shall be an individual who—

- (i) is not a government employee; and
- (ii) has experience in the operation of centers for independent living.

(d) Reports

The Commissioner shall include, in the annual report required under section 710 of this title, information on the extent to which centers for independent living receiving funds under subpart 3 have complied with the standards and assurances set forth in section 796f-4 of this title. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this part.

(Pub. L. 93-112, title VII, §706, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1223.)

PRIOR PROVISIONS

A prior section 796d-1, Pub. L. 93-112, title VII, §706, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4448; amended Pub. L. 103-73, title I, §114(d), Aug. 11, 1993, 107 Stat. 729, related to responsibilities of Commissioner, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796d-1, Pub. L. 93-112, title VII, §706, as added Pub. L. 99-506, title VIII, §803(a), Oct. 21, 1986, 100 Stat. 1837; amended Pub. L. 100-630, title II, §208(e), Nov. 7, 1988, 102 Stat. 3314, provided for a State Independent Living Council, prior to repeal by Pub. L. 102-569, §701(1).

SUBPART 2—INDEPENDENT LIVING SERVICES

§ 796e. Allotments

(a) In general

(1) States

(A) Population basis

Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this subpart, the Commissioner shall make an allotment to each State whose State plan has been approved under section 796d-1 of this title of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

(B) Maintenance of 1992 amounts

Subject to the availability of appropriations to carry out this subpart, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made