

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

to the State for fiscal year 1992 under part A of this subchapter, as in effect on the day before October 29, 1992.

**(C) Minimums**

Subject to the availability of appropriations to carry out this subpart, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than \$275,000 or  $\frac{1}{3}$  of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$275,000 or  $\frac{1}{3}$  of 1 percent of such sums shall be increased to the greater of the two amounts.

**(2) Certain territories**

**(A) In general**

For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

**(B) Allotment**

Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than  $\frac{1}{3}$  of 1 percent of the amounts made available for purposes of this subpart for the fiscal year for which the allotment is made.

**(3) Adjustment for inflation**

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this subpart exceeds the total amount appropriated to carry out this subpart for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this subpart between the preceding fiscal year and the fiscal year involved.

**(b) Proportional reduction**

To provide allotments to States in accordance with subsection (a)(1)(B) of this section, to provide minimum allotments to States (as increased under subsection (a)(3) of this section) under subsection (a)(1)(C) of this section, or to provide minimum allotments to States under subsection (a)(2)(B) of this section, the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A) of this section, with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B) of this section.

**(c) Reallotment**

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this subpart, the Commissioner shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying

out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(Pub. L. 93-112, title VII, §711, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1224.)

REFERENCES IN TEXT

Part A of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (a)(1)(B), means former part A (§796 et seq.) which was included in the repeal of subchapter VII of this chapter by Pub. L. 102-569, title VII, §701(1), Oct. 29, 1992, 106 Stat. 4443.

PRIOR PROVISIONS

A prior section 796e, Pub. L. 93-112, title VII, §711, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4450; amended Pub. L. 103-73, title I, §114(e), Aug. 11, 1993, 107 Stat. 729, related to allotments to provide independent living services, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796e, Pub. L. 93-112, title VII, §711, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2998; amended Pub. L. 98-221, title I, §171, Feb. 22, 1984, 98 Stat. 30; Pub. L. 99-506, title I, §103(d)(2)(C), title VIII, §§804(a)(1), (b), (c), 805, Oct. 21, 1986, 100 Stat. 1810, 1838, 1839; Pub. L. 100-630, title II, §208(f), Nov. 7, 1988, 102 Stat. 3314, related to establishment and operation of independent living centers, prior to repeal by Pub. L. 102-569, §701(1).

**§ 796e-1. Payments to States from allotments**

**(a) Payments**

From the allotment of each State for a fiscal year under section 796e of this title, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 796d-1 of this title. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

**(b) Federal share**

**(1) In general**

The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 796d-1 of this title.

**(2) Non-Federal share**

The non-Federal share of the cost of any project that receives assistance through an allotment under this subpart may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(Pub. L. 93-112, title VII, §712, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1225.)

PRIOR PROVISIONS

A prior section 796e-1, Pub. L. 93-112, title VII, §712, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4451; amended Pub. L. 103-73, title I, §114(f), Aug. 11, 1993, 107 Stat. 730, related to payments to States from allotments, prior to the general amendment of this subchapter by Pub. L. 105-220.

**§ 796e-2. Authorized uses of funds**

The State may use funds received under this subpart to provide the resources described in