

7, 1974, 88 Stat. 1620; Pub. L. 93-651, title I, §111(e), Nov. 21, 1974, 89 Stat. 2-5; Pub. L. 95-602, title I, §§103, 122(b)(1), Nov. 6, 1978, 92 Stat. 2959, 2987; Pub. L. 98-221, title I, §§104(a)(3), 112, Feb. 22, 1984, 98 Stat. 18, 20; Pub. L. 99-506, title I, §103(d)(2)(A), (B), title II, §203, title X, §1001(b)(5), Oct. 21, 1986, 100 Stat. 1810, 1815, 1842; Pub. L. 100-630, title II, §202(c), Nov. 7, 1988, 102 Stat. 3305; Pub. L. 102-569, title I, §§102(p)(8), 123, Oct. 29, 1992, 106 Stat. 4357, 4375; Pub. L. 103-73, title I, §107(b), Aug. 11, 1993, 107 Stat. 720, related to individualized written rehabilitation program, prior to the general amendment of this subchapter by Pub. L. 105-220.

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-128, §413(a)(1)(C), which directed the insertion “at the end” of “For purposes of an assessment for determining eligibility and vocational rehabilitation needs under this chapter, an individual shall be presumed to have a goal of an employment outcome.”, was executed by inserting text as concluding provisions of par. (1) to reflect the probable intent of Congress.

Subsec. (a)(1)(A). Pub. L. 113-128, §413(a)(1)(A), substituted “has undergone an assessment for determining eligibility and vocational rehabilitation needs and as a result has been determined to be an” for “is an”.

Subsec. (a)(1)(B). Pub. L. 113-128, §413(a)(1)(B), substituted “advance in, or regain employment that is consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice,” for “or regain employment.”

Subsec. (a)(2)(A). Pub. L. 113-128, §413(a)(2)(A), substituted “Applicants” for “Demonstration” in heading and struck out “, unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual” before period at end.

Subsec. (a)(2)(B). Pub. L. 113-128, §413(a)(2)(B), in heading, substituted “Responsibilities” for “Methods” and, in text, substituted “Prior to determining under this subsection that an applicant described in subparagraph (A) is unable to benefit due to the severity of the individual’s disability or that the individual is ineligible for vocational rehabilitation services,” for “In making the demonstration required under subparagraph (A),”, “through the designated State unit,” for “through the designated State unit, except under limited circumstances when an individual cannot take advantage of such experiences.”, and “individual. In providing the trial experiences, the designated State unit shall provide the individual with the opportunity to try different employment experiences, including supported employment, and the opportunity to become employed in competitive integrated employment.” for “individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.”

Subsec. (a)(3)(A)(ii). Pub. L. 113-128, §413(a)(3), substituted “outcome due to the severity of the individual’s disability (as of the date of the determination).” for “outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).”

Subsec. (a)(5). Pub. L. 113-128, §413(a)(4)(B), (C), added subpar. (A) and redesignated former subpars. (A) to (D) as (B) to (E), respectively.

Pub. L. 113-128, §413(a)(4)(A), in introductory provisions, substituted “If, after the designated State unit carries out the activities described in paragraph (2)(B), a review of existing data, and, to the extent necessary, the assessment activities described in section 705(2)(A)(ii) of this title, an individual” for “If an individual” and “subchapter is determined not to be” for “subchapter is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 705(2)(A)(ii) of this title, not to be”.

Subsec. (a)(5)(C)(i). Pub. L. 113-128, §413(a)(4)(D), inserted “, including the clear and convincing evidence that forms the basis for the determination of ineligibility” after “determination”.

Subsec. (b)(1)(A). Pub. L. 113-128, §413(b)(1), struck out “, to the extent determined to be appropriate by the eligible individual,” after “availability of assistance” and inserted “or, as appropriate, a disability advocacy organization” after “counselor”.

Subsec. (b)(2). Pub. L. 113-128, §413(b)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 113-128, §413(b)(2), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(E)(iii). Pub. L. 113-128, §413(b)(4)(A), added cl. (iii).

Subsec. (b)(3)(F). Pub. L. 113-128, §413(b)(4)(B), added subpar. (F).

Subsec. (b)(4). Pub. L. 113-128, §413(b)(2), redesignated par. (3) as (4).

Subsec. (b)(4)(A). Pub. L. 113-128, §413(b)(5)(A), substituted “choice of the eligible individual, consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student, the description may be a description of the student’s projected postsecondary employment outcome);” for “choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;”.

Subsec. (b)(4)(B)(i). Pub. L. 113-128, §413(b)(5)(B), added subcls. (I) and (II), redesignated former subcl. (II) as (III), and struck out former subcl. (I) which read as follows: “needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and”.

Subsec. (b)(4)(H). Pub. L. 113-128, §413(b)(5)(C)–(E), added subpar. (H).

Subsec. (c)(1). Pub. L. 113-128, §413(c)(1), inserted at end “The procedures shall allow an applicant or an eligible individual the opportunity to request mediation, an impartial due process hearing, or both procedures.”

Subsec. (c)(2)(A)(iv). Pub. L. 113-128, §413(c)(2), added cl. (iv).

Subsec. (c)(5)(A). Pub. L. 113-128, §413(c)(3)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this chapter (including regulations implementing this chapter), and State regulations and policies that are consistent with the Federal requirements specified in this subchapter. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant’s representative or individual’s representative, and to the designated State unit.”

Subsec. (c)(5)(B). Pub. L. 113-128, §413(c)(3)(B), substituted “about Federal laws” for “in laws” in introductory provisions.

1998—Subsec. (c)(5)(F)(iv). Pub. L. 105-277 added cl. (iv).

DEFINITIONS OF TERMS IN PUB. L. 113-128

Except as otherwise provided, terms defined in section 3 of Pub. L. 113-128, which is classified to section 3102 of this title, apply to this section.

§ 723. Vocational rehabilitation services

(a) Vocational rehabilitation services for individuals

Vocational rehabilitation services provided under this subchapter are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, con-

cerns, abilities, capabilities, interests, and informed choice of the individual, including—

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 722(d) of this title;

(3) referral and other services to secure needed services from other agencies through agreements developed under section 721(a)(11) of this title, if such services are not available under this subchapter;

(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this subchapter unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 721(a)(8)(A) of this title), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

(B) necessary hospitalization in connection with surgery or treatment;

(C) prosthetic and orthotic devices;

(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;

(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection

with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

(12) occupational licenses, tools, equipment, and initial stocks and supplies;

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce development system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(15) transition services for students with disabilities, that facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or pre-employment transition services;

(16) supported employment services;

(17) customized employment;

(18) encouraging qualified individuals who are eligible to receive services under this subchapter to pursue advanced training in a science, technology, engineering, or mathematics (including computer science) field, medicine, law, or business;

(19) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

(20) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

(b) Vocational rehabilitation services for groups of individuals

Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

(2) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs

shall be used to provide services described in this section that promote integration into the community and that prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment.

(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

(C) Tactile materials for individuals who are deaf-blind.

(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

(5) Technical assistance to businesses that are seeking to employ individuals with disabilities.

(6) Consultation and technical assistance services to assist State educational agencies and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

(7) Transition services to youth with disabilities and students with disabilities, for which a vocational rehabilitation counselor works in concert with educational agencies, providers of job training programs, providers of services under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), entities designated by the State to provide services for individuals with developmental disabilities, centers for independent living (as defined in section 796a of this title), housing and transportation authorities, workforce development systems, and businesses and employers.

(8) The establishment, development, or improvement of assistive technology demonstration, loan, reutilization, or financing programs in coordination with activities authorized under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) to promote access to assistive technology for individuals with disabilities and employers.

(9) Support (including, as appropriate, tuition) for advanced training in a science, technology, engineering, or mathematics (including computer science) field, medicine, law, or business, provided after an individual eligible to receive services under this subchapter, demonstrates—

(A) such eligibility;

(B) previous completion of a bachelor's degree program at an institution of higher education or scheduled completion of such degree program prior to matriculating in the program for which the individual proposes to use the support; and

(C) acceptance by a program at an institution of higher education in the United States that confers a master's degree in a science, technology, engineering, or mathematics (including computer science) field, a juris doctor degree, a master of business administration degree, or a doctor of medicine degree,

except that the limitations of subsection (a)(5) that apply to training services shall apply to support described in this paragraph, and nothing in this paragraph shall prevent any designated State unit from providing similar support to individuals with disabilities within the State who are eligible to receive support under this subchapter and who are not served under this paragraph.

(Pub. L. 93-112, title I, §103, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1148; amended Pub. L. 113-128, title IV, §414, July 22, 2014, 128 Stat. 1652.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 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.

The Assistive Technology Act of 1998, referred to in subsec. (b)(8), is Pub. L. 105-394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

PRIOR PROVISIONS

A prior section 723, Pub. L. 93-112, title I, §103, Sept. 26, 1973, 87 Stat. 368; Pub. L. 95-602, title I, §104, Nov. 6, 1978, 92 Stat. 2960; Pub. L. 99-506, title I, §103(d)(2), title II, §204, Oct. 21, 1986, 100 Stat. 1810, 1817; Pub. L. 100-630, title II, §202(d), Nov. 7, 1988, 102 Stat. 3305; Pub. L. 102-569, title I, §§102(p)(9), 124, Oct. 29, 1992, 106 Stat. 4357, 4379; Pub. L. 103-73, title I, §107(c), Aug. 11, 1993, 107 Stat. 721, related to scope of vocational rehabilitation services, prior to the general amendment of this subchapter by Pub. L. 105-220.

AMENDMENTS

2014—Subsec. (a)(13). Pub. L. 113-128, §414(1)(A), substituted “workforce development system” for “workforce investment system”.

Subsec. (a)(15). Pub. L. 113-128, §414(1)(B), added par. (15) and struck out former par. (15) which read as follows: “transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;”.

Subsec. (a)(17) to (20). Pub. L. 113-128, §414(1)(C), (D), added pars. (17) and (18) and redesignated former pars. (17) and (18) as (19) and (20), respectively.

Subsec. (b)(2). Pub. L. 113-128, §414(2)(A), struck out subpar. (A) designation, substituted “Such programs shall be used to provide services described in this section that promote integration into the community and that prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment.” for “Such programs shall be used to provide services that promote integration and competitive employment.”, and struck out subpar. (B) which read as follows: “The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.”

Subsec. (b)(5). Pub. L. 113-128, §414(2)(B), added par. (5) and struck out former par. (5) which read as follows: "Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities."

Subsec. (b)(6) to (9). Pub. L. 113-128, §414(2)(C), added pars. (6) to (9) and struck out former par. (6) which read as follows: "Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment."

DEFINITIONS OF TERMS IN PUB. L. 113-128

Except as otherwise provided, terms defined in section 3 of Pub. L. 113-128, which is classified to section 3102 of this title, apply to this section.

§ 724. Non-Federal share for establishment of program or construction

For the purpose of determining the amount of payments to States for carrying out part B of this subchapter (or to an Indian tribe under part C of this subchapter), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

(Pub. L. 93-112, title I, §104, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1151.)

PRIOR PROVISIONS

A prior section 724, Pub. L. 93-112, title I, §104, Sept. 26, 1973, 87 Stat. 370; Pub. L. 95-602, title I, §122(b)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99-506, title II, §205, Oct. 21, 1986, 100 Stat. 1817; Pub. L. 102-569, title I, §125, Oct. 29, 1992, 106 Stat. 4381, related to non-Federal share for construction, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 725. State Rehabilitation Council

(a) Establishment

(1) In general

Except as provided in section 721(a)(21)(A)(i) of this title, to be eligible to receive financial assistance under this subchapter a State shall establish a State Rehabilitation Council (referred to in this section as the "Council") in accordance with this section.

(2) Separate agency for individuals who are blind

A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 721(a)(2)(A)(i) of this title may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

(b) Composition and appointment

(1) Composition

(A) In general

Except in the case of a separate Council established under subsection (a)(2) of this section, the Council shall be composed of—

(i) at least one representative of the Statewide Independent Living Council established under section 796d of this title, which representative may be the chairperson or other designee of the Council;

(ii) at least one representative of a parent training and information center established pursuant to section 671 of the Individuals with Disabilities Education Act [20 U.S.C. 1471];

(iii) at least one representative of the client assistance program established under section 732 of this title;

(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

(v) at least one representative of community rehabilitation program service providers;

(vi) four representatives of business, industry, and labor;

(vii) representatives of disability advocacy groups representing a cross section of—

(I) individuals with physical, cognitive, sensory, and mental disabilities; and

(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

(ix) in a State in which one or more projects are funded under section 741 of this title, at least one representative of the directors of the projects located in such State;

(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this subchapter and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.]; and

(xi) at least one representative of the State workforce development board.

(B) Separate Council

In the case of a separate Council established under subsection (a)(2) of this section, the Council shall be composed of—

(i) at least one representative described in subparagraph (A)(i);

(ii) at least one representative described in subparagraph (A)(ii);

(iii) at least one representative described in subparagraph (A)(iii);

(iv) at least one vocational rehabilitation counselor described in subparagraph