

Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.”

Subsec. (c)(4)(A). Pub. L. 103-73, § 112(c)(3)(A)(i), substituted “paragraph (3)(B)” for “this subsection”.

Subsec. (c)(4)(B). Pub. L. 103-73, § 112(c)(3)(A)(ii), substituted “allotted under paragraph (3)(A)” for “allotted”.

Subsec. (c)(5). Pub. L. 103-73, § 112(c)(3)(B), added par. (5) and struck out heading and text of former par. (5). Text read as follows:

“(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount \$100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

“(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount \$50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.”

Subsec. (d). Pub. L. 103-73, § 112(c)(4), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of \$100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).”

Subsec. (i). Pub. L. 103-73, § 112(c)(6), which directed the amendment of this section “in subsection (i), to read as follows:”, was executed by adding subsec. (i). Former subsec. (i) redesignated (n).

Subsec. (j). Pub. L. 103-73, § 112(c)(7), added subsec. (j) and struck out heading and text of former subsec. (j). Text read as follows: “An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.”

Subsec. (n). Pub. L. 103-73, § 112(c)(5), redesignated subsec. (i) as (n).

#### CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, and also applicable

with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

### § 794f. Establishment of standards for accessible medical diagnostic equipment

#### (a) Standards

Not later than 24 months after March 23, 2010,<sup>1</sup> the Architectural and Transportation Barriers Compliance Board shall, in consultation with the Commissioner of the Food and Drug Administration, promulgate regulatory standards in accordance with the Administrative Procedure Act (2 U.S.C. 551 et seq.)<sup>1</sup> setting forth the minimum technical criteria for medical diagnostic equipment used in (or in conjunction with) physician’s offices, clinics, emergency rooms, hospitals, and other medical settings. The standards shall ensure that such equipment is accessible to, and usable by, individuals with accessibility needs, and shall allow independent entry to, use of, and exit from the equipment by such individuals to the maximum extent possible.

#### (b) Medical diagnostic equipment covered

The standards issued under subsection (a) for medical diagnostic equipment shall apply to equipment that includes examination tables, examination chairs (including chairs used for eye examinations or procedures, and dental examinations or procedures), weight scales, mammography equipment, x-ray machines, and other radiological equipment commonly used for diagnostic purposes by health professionals.

#### (c) Review and amendment

The Architectural and Transportation Barriers Compliance Board, in consultation with the Commissioner of the Food and Drug Administration, shall periodically review and, as appropriate, amend the standards in accordance with the Administrative Procedure Act (2 U.S.C. 551 et seq.)<sup>1</sup>

(Pub. L. 93-112, title V, § 510, as added Pub. L. 111-148, title IV, § 4203, Mar. 23, 2010, 124 Stat. 570.)

#### REFERENCES IN TEXT

March 23, 2010, referred to in subsec. (a), was in the original “the date of enactment of the Affordable Health Choices Act”, which was translated as meaning the date of enactment of the Patient Protection and Affordable Care Act, Pub. L. 111-148, which enacted this section, to reflect the probable intent of Congress.

The Administrative Procedure Act, referred to in subsecs. (a) and (c), is act June 11, 1946, ch. 324, 60 Stat. 237, which was repealed and reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

### § 794g. Limitations on use of subminimum wage

#### (a) In general

No entity, including a contractor or subcontractor of the entity, which holds a special wage certificate as described in section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C.

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

214(c)) may compensate an individual with a disability who is age 24 or younger at a wage (referred to in this section as a “subminimum wage”) that is less than the Federal minimum wage unless 1 of the following conditions is met:

(1) The individual is currently employed, as of the effective date of this section, by an entity that holds a valid certificate pursuant to section 14(c) of the Fair Labor Standards Act of 1938.

(2) The individual, before beginning work that is compensated at a subminimum wage, has completed, and produces documentation indicating completion of, each of the following actions:

(A) The individual has received pre-employment transition services that are available to the individual under section 733 of this title, or transition services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) such as transition services available to the individual under section 614(d) of that Act (20 U.S.C. 1414(d)).

(B) The individual has applied for vocational rehabilitation services under subchapter I, with the result that—

(i)(I) the individual has been found ineligible for such services pursuant to that subchapter and has documentation consistent with section 722(a)(5)(C) of this title regarding the determination of ineligibility; or

(II)(aa) the individual has been determined to be eligible for vocational rehabilitation services;

(bb) the individual has an individualized plan for employment under section 722 of this title;

(cc) the individual has been working toward an employment outcome specified in such individualized plan for employment, with appropriate supports and services, including supported employment services, for a reasonable period of time without success; and

(dd) the individual’s vocational rehabilitation case is closed; and

(ii)(I) the individual has been provided career counseling, and information and referrals to Federal and State programs and other resources in the individual’s geographic area that offer employment-related services and supports designed to enable the individual to explore, discover, experience, and attain competitive integrated employment; and

(II) such counseling and information and referrals are not for employment compensated at a subminimum wage provided by an entity described in this subsection, and such employment-related services are not compensated at a subminimum wage and do not directly result in employment compensated at a subminimum wage provided by an entity described in this subsection.

## **(b) Construction**

### **(1) Rule**

Nothing in this section shall be construed to—

(A) change the purpose of this chapter described in section 701(b)(2) of this title, to empower individuals with disabilities to maximize opportunities for competitive integrated employment; or

(B) preference employment compensated at a subminimum wage as an acceptable vocational rehabilitation strategy or successful employment outcome, as defined in section 705(11) of this title.

### **(2) Contracts**

A local educational agency (as defined in section 7801 of title 20) or a State educational agency (as defined in such section) may not enter into a contract or other arrangement with an entity described in subsection (a) for the purpose of operating a program for an individual who is age 24 or younger under which work is compensated at a subminimum wage.

### **(3) Voidability**

The provisions in this section shall be construed in a manner consistent with the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), as amended before or after the effective date of this Act.

## **(c) During employment**

### **(1) In general**

The entity described in subsection (a) may not continue to employ an individual, regardless of age, at a subminimum wage unless, after the individual begins work at that wage, at the intervals described in paragraph (2), the individual (with, in an appropriate case, the individual’s parent or guardian)—

(A) is provided by the designated State unit career counseling, and information and referrals described in subsection (a)(2)(B)(ii), delivered in a manner that facilitates independent decisionmaking and informed choice, as the individual makes decisions regarding employment and career advancement; and

(B) is informed by the employer of self-advocacy, self-determination, and peer mentoring training opportunities available in the individual’s geographic area, provided by an entity that does not have any financial interest in the individual’s employment outcome, under applicable Federal and State programs or other sources.

### **(2) Timing**

The actions required under subparagraphs (A) and (B) of paragraph (1) shall be carried out once every 6 months for the first year of the individual’s employment at a subminimum wage, and annually thereafter for the duration of such employment.

### **(3) Small business exception**

In the event that the entity described in subsection (a) is a business with fewer than 15 employees, such entity can satisfy the requirements of subparagraphs (A) and (B) of paragraph (1) by referring the individual, at the intervals described in paragraph (2), to the designated State unit for the counseling, information, and referrals described in paragraph (1)(A) and the information described in paragraph (1)(B).

**(d) Documentation****(1) In general**

The designated State unit, in consultation with the State educational agency, shall develop a new process or utilize an existing process, consistent with guidelines developed by the Secretary, to document the completion of the actions described in subparagraphs (A) and (B) of subsection (a)(2) by a youth with a disability who is an individual with a disability.

**(2) Documentation process**

Such process shall require that—

(A) in the case of a student with a disability, for documentation of actions described in subsection (a)(2)(A)—

(i) if such a student with a disability receives and completes each category of required activities in section 733(b) of this title, such completion of services shall be documented by the designated State unit in a manner consistent with this section;

(ii) if such a student with a disability receives and completes any transition services available for students with disabilities under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], including those provided under section 614(d)(1)(A)(i)(VIII) (20 U.S.C. 1414(d)(1)(A)(i)(VIII)), such completion of services shall be documented by the appropriate school official responsible for the provision of such transition services, in a manner consistent with this section; and

(iii) the designated State unit shall provide the final documentation, in a form and manner consistent with this section, of the completion of pre-employment transition services as described in clause (i), or transition services under the Individuals with Disabilities Education Act as described in clause (ii), to the student with a disability within a reasonable period of time following the completion; and

(B) when an individual has completed the actions described in subsection (a)(2)(B), the designated State unit shall provide the individual a document indicating such completion, in a manner consistent with this section, within a reasonable time period following the completion of the actions described in this subparagraph.

**(e) Verification****(1) Before employment**

Before an individual covered by subsection (a)(2) begins work for an entity described in subsection (a) at a subminimum wage, the entity shall review such documentation received by the individual under subsection (d), and provided by the individual to the entity, that indicates that the individual has completed the actions described in subparagraphs (A) and (B) of subsection (a)(2) and the entity shall maintain copies of such documentation.

**(2) During employment****(A) In general**

In order to continue to employ an individual at a subminimum wage, the entity de-

scribed in subsection (a) shall verify completion of the requirements of subsection (c), including reviewing any relevant documents provided by the individual, and shall maintain copies of the documentation described in subsection (d).

**(B) Review of documentation**

The entity described in subsection (a) shall be subject to review of individual documentation described in subsection (d) by a representative working directly for the designated State unit or the Department of Labor at such a time and in such a manner as may be necessary to fulfill the intent of this section, consistent with regulations established by the designated State unit or the Secretary of Labor.

**(f) Federal minimum wage**

In this section, the term “Federal minimum wage” means the rate applicable under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(Pub. L. 93-112, title V, §511, as added Pub. L. 113-128, title IV, §458(a), July 22, 2014, 128 Stat. 1676; amended Pub. L. 114-95, title IX, §9215(mmm)(4)(A), Dec. 10, 2015, 129 Stat. 2188.)

## REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(1), means 2 years after July 22, 2014. See Effective Date note below.

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(2)(A) and (d)(2)(A)(ii), (iii), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(3), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

The effective date of this Act, referred to in subsec. (b)(3), may mean the effective date of Pub. L. 93-112 (Sept. 26, 1973), the effective date of Pub. L. 113-128, which added this section (see Effective Date note set out under section 3101 of this title), or the effective date of this section (see Effective Date note below).

## AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

## EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-95, title IX, §9215(mmm)(4)(B), Dec. 10, 2015, 129 Stat. 2188, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on the same date as section 458(a) of the Workforce Innovation and Opportunity Act (Public Law 113-128; 128 Stat. 1676) [enacting this section] takes effect, and as if enacted as part of such section.”

## EFFECTIVE DATE

Pub. L. 113-128, title IV, §458(b), July 22, 2014, 128 Stat. 1679, provided that: “This section [enacting this section] takes effect 2 years after the date of enactment of the Workforce Innovation and Opportunity Act [July 22, 2014].”

SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

CODIFICATION

Pub. L. 113-128, title IV, §461(1), (2), July 22, 2014, 128 Stat. 1679, amended this subchapter by striking out part A, consisting of sections 795 and 795a, and striking out the heading of part B preceding section 795g.

Title VI of the Rehabilitation Act of 1973, comprising this subchapter, was originally added to Pub. L. 93-112 by Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2989, and amended by Pub. L. 98-221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99-506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100-630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102-52, June 6, 1991, 105 Stat. 260; Pub. L. 102-119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102-569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103-73, Aug. 11, 1993, 107 Stat. 718. Title VI is shown herein, however, as having been added by Pub. L. 105-220, title IV, §409, Aug. 7, 1998, 112 Stat. 1210, without reference to those intervening amendments because of the extensive revision of title VI by Pub. L. 105-220.

§§ 795, 795a. Repealed. Pub. L. 113-128, title IV, § 461(1), July 22, 2014, 128 Stat. 1679

Section 795, Pub. L. 93-112, title VI, §611, as added Pub. L. 105-220, title IV, §409, Aug. 7, 1998, 112 Stat. 1210, related to Projects With Industry. Provisions similar to section 795 were contained in section 795g of this title prior to the general amendment of this subchapter by Pub. L. 105-220.

A prior section 795, Pub. L. 93-112, title VI, §611, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2989; amended Pub. L. 99-506, title I, §103(d)(2)(C), title X, §1002(f), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 102-569, title I, §102(p)(36), title VI, §601, Oct. 29, 1992, 106 Stat. 4360, 4434, authorized community service employment pilot programs for individuals with disabilities, prior to the general amendment of this subchapter by Pub. L. 105-220.

Section 795a, Pub. L. 93-112, title VI, §612, as added Pub. L. 105-220, title IV, §409, Aug. 7, 1998, 112 Stat. 1214, related to authorization of appropriations. Provisions similar to section 795a were contained in section 795i of this title prior to the general amendment of this subchapter by Pub. L. 105-220.

Prior sections 795a to 795f were omitted in the general amendment of this subchapter by Pub. L. 105-220.

Section 795a, Pub. L. 93-112, title VI, §612, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2991; amended Pub. L. 98-221, title I, §165, Feb. 22, 1984, 98 Stat. 30; Pub. L. 100-630, title II, §207(a), Nov. 7, 1988, 102 Stat. 3313, related to administration of community service employment pilot programs for individuals with disabilities.

Section 795b, Pub. L. 93-112, title VI, §613, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2991; amended Pub. L. 102-569, title VI, §602, Oct. 29, 1992, 106 Stat. 4434, related to employment.

Section 795c, Pub. L. 93-112, title VI, §614, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2992; amended Pub. L. 98-221, title I, §104(b)(5), Feb. 22, 1984, 98 Stat. 18, related to interagency cooperation.

Section 795d, Pub. L. 93-112, title VI, §615, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2992; amended Pub. L. 99-506, title I, §103(d)(2)(C), title VII, §701, Oct. 21, 1986, 100 Stat. 1810, 1831; Pub. L. 102-569, title I, §102(p)(37), Oct. 29, 1992, 106 Stat. 4360, related to award of grants or contracts.

Section 795e, Pub. L. 93-112, title VI, §616, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2993; amended Pub. L. 99-506, title I, §103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 102-569, title I, §102(p)(38), title VI, §603, Oct. 29, 1992, 106 Stat. 4361, 4434, defined terms “community service” and “pilot program”.

Section 795f, Pub. L. 93-112, title VI, §617, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2993; amended Pub. L. 98-221, title I, §161, Feb. 22, 1984, 98

Stat. 29; Pub. L. 99-506, title VII, §702, Oct. 21, 1986, 100 Stat. 1831; Pub. L. 102-52, §7(a), June 6, 1991, 105 Stat. 262; Pub. L. 102-569, title VI, §604, Oct. 29, 1992, 106 Stat. 4434, authorized appropriations.

SHORT TITLE

For short title of this subchapter as the “Employment Opportunities for Individuals With Disabilities Act”, see section 601 of Pub. L. 93-112, as amended, set out as a note under section 701 of this title.

§ 795g. Purpose

It is the purpose of this subchapter to authorize allotments, in addition to grants for vocational rehabilitation services under subchapter I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, to enable such individuals to achieve an employment outcome of supported employment in competitive integrated employment.

(Pub. L. 93-112, title VI, §602, formerly §621, as added Pub. L. 105-220, title IV, §409, Aug. 7, 1998, 112 Stat. 1214; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(b)(12)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-414; renumbered §602 and amended Pub. L. 113-128, title IV, §461(3), (4), July 22, 2014, 128 Stat. 1679.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795j of this title prior to the general amendment of this subchapter by Pub. L. 105-220.

A prior section 795g, Pub. L. 93-112, title VI, §621, as added Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2993; amended Pub. L. 98-221, title I, §§162, 163, Feb. 22, 1984, 98 Stat. 29, 30; Pub. L. 99-506, title I, §103(d)(2)(B), (C), title VII, §703(a)(1)-(3), (b)-(d), Oct. 21, 1986, 100 Stat. 1810, 1831, 1832; Pub. L. 100-630, title II, §207(b), Nov. 7, 1988, 102 Stat. 3313; Pub. L. 102-569, title VI, §611, Oct. 29, 1992, 106 Stat. 4434, related to Projects With Industry, prior to the general amendment of this subchapter by Pub. L. 105-220.

AMENDMENTS

2014—Pub. L. 113-128, §461(4), substituted “this subchapter” for “this part” and “individuals with the most significant disabilities, including youth with the most significant disabilities, to enable such individuals to achieve an employment outcome of supported employment in competitive integrated employment.” for “individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.”

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

§ 795h. Allotments

(a) In general

(1) States

The Secretary shall allot the sums appropriated for each fiscal year to carry out this subchapter among the States on the basis of relative population of each State, except that—

(A) no State shall receive less than \$250,000, or 1/3 of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever amount is greater; and

(B) if the sums appropriated to carry out this subchapter for the fiscal year exceed by