

to such State under this subchapter (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

(3) Disbursal of withheld funds

The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 721(a) of this title. The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

(d) Review

(1) Petition

Any State that is dissatisfied with a final determination of the Commissioner under section 721(b) of this title or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

(2) Submissions and determinations

If, in an action under this subsection to review a final determination of the Commissioner under section 721(b) of this title or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

(3) Standards of review

(A) In general

Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

(i) to grant appropriate relief as provided in chapter 7 of title 5, except for interim relief with respect to a determination under subsection (c); and

(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5.

(B) Substantial evidence

Section 706 of title 5 shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination 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; amended Pub. L. 113-128, title IV, §417(a), July 22, 2014, 128 Stat. 1654.)

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.

AMENDMENTS

2014—Subsec. (a)(3)(E). Pub. L. 113-128, §417(a)(1)(A), inserted “, including personnel of a client assistance program under section 732 of this title, and past or current recipients of vocational rehabilitation services” before period at end.

Subsec. (a)(4)(A), (B). Pub. L. 113-128, §417(a)(1)(B)(i), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) the eligibility process;

“(B) the provision of services, including, if applicable, the order of selection;”.

Subsec. (a)(4)(D), (E). Pub. L. 113-128, §417(a)(1)(B)(ii)-(iv), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (b)(3). Pub. L. 113-128, §417(a)(2), added par. (3).

DEFINITIONS OF TERMS IN PUB. L. 113-128

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

§ 728. Expenditure of certain amounts

(a) Expenditure

Amounts described in subsection (b) 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 subchapter VI, or under subchapter VII.

(b) Amounts

The amounts referred to in subsection (a) 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;

amended Pub. L. 113-128, title IV, §417(b), July 22, 2014, 128 Stat. 1655.)

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.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-128 substituted “under subchapter VI” for “under part B of subchapter VI”.

DEFINITIONS OF TERMS IN PUB. L. 113-128

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

§ 728a. Training and services for employers

A State may expend payments received under section 731 of this title to educate and provide services to employers who have hired or are interested in hiring individuals with disabilities under programs carried out under this subchapter, including—

(1) providing training and technical assistance to employers regarding the employment of individuals with disabilities, including disability awareness, and the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other employment-related laws;

(2) working with employers to—

(A) provide opportunities for work-based learning experiences (including internships, short-term employment, apprenticeships, and fellowships), and opportunities for pre-employment transition services;

(B) recruit qualified applicants who are individuals with disabilities;

(C) train employees who are individuals with disabilities; and

(D) promote awareness of disability-related obstacles to continued employment;

(3) providing consultation, technical assistance, and support to employers on workplace accommodations, assistive technology, and facilities and workplace access through collaboration with community partners and employers, across States and nationally, to enable the employers to recruit, job match, hire, and retain qualified individuals with disabilities who are recipients of vocational rehabilitation services under this subchapter, or who are applicants for such services; and

(4) assisting employers with utilizing available financial support for hiring or accommodating individuals with disabilities.

(Pub. L. 93-112, title I, §109, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1160; amended Pub. L. 113-128, title IV, §418, July 22, 2014, 128 Stat. 1655.)

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, which is classified principally to chapter 126 (§12101 et seq.) 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.

AMENDMENTS

2014—Pub. L. 113-128 amended section generally. Prior to amendment, text read as follows: “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.”

DEFINITIONS OF TERMS IN PUB. L. 113-128

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

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

§ 730. State allotments**(a) Computation; additional amount; minimum amount; adjustments**

(1) Subject to the provisions of subsections (c) and (d),¹ 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)² 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

¹ So in original.

² See References in Text note below.