

§ 361.11

which the State is located, in accordance with section 107(d) of the Act.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 101(a) and (b) and 107(d) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a) and (b) and 727(d); and 20 U.S.C. 1231g(a))

[81 FR 55741, Aug. 19, 2016, as amended at 81 FR 55779, Aug. 19, 2016]

§ 361.11 Withholding of funds.

(a) *Basis for withholding.* The Secretary may withhold or limit payments under section 111 or 603(a) of the Act, as provided by section 107(c) of the Act, if the Secretary determines that—

(1) The vocational rehabilitation services portion of the Unified or Combined State Plan, including the supported employment supplement, has been so changed that it no longer conforms with the requirements of this part or part 363; or

(2) In the administration of the vocational rehabilitation services portion of the Unified or Combined State Plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106 of the Act.

(b) *Informal resolution.* Prior to withholding or limiting payments in accordance with this section, the Secretary attempts to resolve disputed issues informally with State officials.

(c) *Notice.* If, after reasonable effort has been made to resolve the dispute, no resolution has been reached, the Secretary provides notice to the State agency of the intention to withhold or limit payments and of the opportunity for a hearing.

(d) *Withholding hearing.* If the State agency requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of this program, to conduct a hearing in accordance with the provisions of 34 CFR part 81, subpart A.

(e) *Initial decision.* The hearing officer issues an initial decision in accordance with 34 CFR 81.41.

(f) *Petition for review of an initial decision.* The State agency may seek the

34 CFR Ch. III (7–1–18 Edition)

Secretary's review of the initial decision in accordance with 34 CFR 81.42.

(g) *Review by the Secretary.* The Secretary reviews the initial decision in accordance with 34 CFR 81.43.

(h) *Final decision of the Department.* The final decision of the Department is made in accordance with 34 CFR 81.44.

(i) *Judicial review.* A State may appeal the Secretary's decision to withhold or limit payments by filing a petition for review with the United States Court of Appeals for the circuit in which the State is located, in accordance with section 107(d) of the Act.

(Authority: Sections 12(c), 101(b), and 107(c) and (d) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 721(b) and 727(c) and (d))

ADMINISTRATION

§ 361.12 Methods of administration.

The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 12(c) and 101(a)(6) and (a)(10)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 721(a)(6) and (a)(10)(A))

§ 361.13 State agency for administration.

(a) *Designation of State agency.* The vocational rehabilitation services portion of the Unified or Combined State Plan must designate a State agency as the sole State agency to administer the vocational rehabilitation services portion of the Unified or Combined State Plan, or to supervise its administration in a political subdivision of the State by a sole local agency, in accordance with the following requirements:

(1) *General.* Except as provided in paragraphs (a)(2) and (3) of this section, the vocational rehabilitation services