

§ 361.62

34 CFR Ch. III (7–1–18 Edition)

construction of facilities for community rehabilitation program purposes.

(Authority: Section 101(a)(17)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(17)(A))

§ 361.62 Maintenance of effort requirements.

(a) *General requirements.* The Secretary reduces the amount otherwise payable to a State for any fiscal year by the amount by which the total expenditures from non-Federal sources under the vocational rehabilitation services portion of the Unified or Combined State Plan for any previous fiscal year were less than the total of those expenditures for the fiscal year two years prior to that previous fiscal year.

(b) *Specific requirements for construction of facilities.* If the State provides for the construction of a facility for community rehabilitation program purposes, the amount of the State's share of expenditures for vocational rehabilitation services under the plan, other than for the construction of a facility for community rehabilitation program purposes or the establishment of a facility for community rehabilitation purposes, must be at least equal to the expenditures for those services for the second prior fiscal year.

(c) *Separate State agency for vocational rehabilitation services for individuals who are blind.* If there is a separate part of the vocational rehabilitation services portion of the Unified or Combined State Plan administered by a separate State agency to provide vocational rehabilitation services for individuals who are blind—

(1) Satisfaction of the maintenance of effort requirements under paragraphs (a) and (b) of this section is determined based on the total amount of a State's non-Federal expenditures under both parts of the vocational rehabilitation services portion of the Unified or Combined State Plan; and

(2) If a State fails to meet any maintenance of effort requirement, the Secretary reduces the amount otherwise payable to the State for a fiscal year under each part of the plan in direct proportion to the amount by which non-Federal expenditures under each part of the plan in any previous fiscal year were less than they were for that

part of the plan for the fiscal year 2 years prior to that previous fiscal year.

(d) *Waiver or modification.* (1) The Secretary may waive or modify the maintenance of effort requirement in paragraph (a) of this section if the Secretary determines that a waiver or modification is necessary to permit the State to respond to exceptional or uncontrollable circumstances, such as a major natural disaster or a serious economic downturn, that—

(i) Cause significant unanticipated expenditures or reductions in revenue that result in a general reduction of programs within the State; or

(ii) Require the State to make substantial expenditures in the vocational rehabilitation program for long-term purposes due to the one-time costs associated with the construction of a facility for community rehabilitation program purposes, the establishment of a facility for community rehabilitation program purposes, or the acquisition of equipment.

(2) The Secretary may waive or modify the maintenance of effort requirement in paragraph (b) of this section or the 10 percent allotment limitation in § 361.61 if the Secretary determines that a waiver or modification is necessary to permit the State to respond to exceptional or uncontrollable circumstances, such as a major natural disaster, that result in significant destruction of existing facilities and require the State to make substantial expenditures for the construction of a facility for community rehabilitation program purposes or the establishment of a facility for community rehabilitation program purposes in order to provide vocational rehabilitation services.

(3) A written request for waiver or modification, including supporting justification, must be submitted to the Secretary for consideration as soon as the State has determined that it has failed to satisfy its maintenance of effort requirement due to an exceptional or uncontrollable circumstance, as described in paragraphs (d)(1) and (2) of this section.

(Authority: Sections 101(a)(17) and 111(a)(2) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(17) and 731(a)(2))