

## AMENDMENTS

2014—Subsec. (a)(1)(C). Pub. L. 113–128, § 411(a)(1)(A), substituted “competitive integrated employment” for “integrated”.

Subsec. (a)(1)(D)(iii). Pub. L. 113–128, § 411(a)(1)(B), substituted “Medicare and Medicaid” for “medicare and medicaid”.

Subsec. (a)(1)(F). Pub. L. 113–128, § 411(a)(1)(C), substituted “development” for “investment”.

Subsec. (a)(1)(G). Pub. L. 113–128, § 411(a)(1)(D), substituted “workforce development systems” for “workforce investment systems” and “workforce development activities” for “workforce investment activities”.

Subsec. (a)(2)(A). Pub. L. 113–128, § 411(a)(2)(A), substituted “workforce development system” for “workforce investment system”.

Subsec. (a)(2)(B). Pub. L. 113–128, § 411(a)(2)(B), substituted “informed choice, and economic self-sufficiency,” for “and informed choice.”.

Subsec. (a)(3)(B). Pub. L. 113–128, § 411(a)(3)(A), substituted “competitive integrated employment” for “gainful employment in integrated settings”.

Subsec. (a)(3)(E). Pub. L. 113–128, § 411(a)(3)(B), inserted “should” before “facilitate the accomplishment”.

Subsec. (b)(1). Pub. L. 113–128, § 411(b), substituted “\$3,302,053,000 for each of the fiscal years 2015 through 2020” for “such sums as may be necessary for fiscal years 1999 through 2003”.

**Statutory Notes and Related Subsidiaries**

## 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.

**§ 721. State plans****(a) Plan requirements****(1) In general****(A) Submission**

To be eligible to receive funds under this subchapter for a fiscal year, a State shall submit, and have approved by the Secretary and the Secretary of Labor, a unified State plan in accordance with section 102, or a combined State plan in accordance with section 103, of the Workforce Innovation and Opportunity Act [29 U.S.C. 3112, 3113]. The unified or combined State plan shall include, in the portion of the plan described in section 102(b)(2)(D) of such Act [29 U.S.C. 3112(b)(2)(D)] (referred to in this subsection as the “vocational rehabilitation services portion”), the provisions of a State plan for vocational rehabilitation services, described in this subsection.

**(B) Nonduplication**

The State shall not be required to submit, as part of the vocational rehabilitation services portion of the unified or combined State plan submitted in accordance with subparagraph (A), policies, procedures, or descriptions required under this subchapter that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this subchapter, including any policies, procedures, or descriptions submitted under this subchapter as in effect on the day before the effective date of the Workforce Innovation and Opportunity Act.

**(C) Duration**

The vocational rehabilitation services portion of the unified or combined State plan submitted in accordance with subparagraph (A) shall remain in effect until the State submits and receives approval of a new State plan in accordance with subparagraph (A), or until the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this chapter by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this chapter.

**(2) Designated State agency; designated State unit****(A) Designated State agency**

The State plan for vocational rehabilitation services shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

**(B) Designated State unit**

The State agency designated under subparagraph (A) shall be—

(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

(I) is primarily concerned with vocational rehabilitation, or vocational and

other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

(II) has a full-time director who is responsible for the day-to-day operation of the vocational rehabilitation program;

(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work;

(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency; and

(V) has the sole authority and responsibility within the designated State agency described in subparagraph (A) to expend funds made available under this subchapter in a manner that is consistent with the purposes of this subchapter.

**(C) Responsibility for services for the blind**

If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

**(3) Non-Federal share**

The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

**(4) Statewideness**

The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that—

(A) in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of the vocational rehabilitation services involved is met from funds made available by a local agency (including funds contributed to such agency by a private agency, organization, or individual); and

(B) in a case in which earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State, the ear-

marked funds may be used in such areas if the State notifies the Commissioner that the State cannot provide the full non-Federal share without such funds.

**(5) Order of selection for vocational rehabilitation services**

In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

(B) provide the justification for the order of selection;

(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services;

(D) notwithstanding subparagraph (C), permit the State, in its discretion, to elect to serve eligible individuals (whether or not receiving vocational rehabilitation services) who require specific services or equipment to maintain employment; and

(E) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

**(6) Methods for administration**

**(A) In general**

The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

**(B) Employment of individuals with disabilities**

The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this subchapter shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 793 of this title.

**(C) Facilities**

The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved on August 12, 1968 (commonly known as the "Architectural Barriers Act of 1968") [42 U.S.C. 4151 et seq.], with section 794 of this title, and with the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

**(7) Comprehensive system of personnel development**

The State plan shall—

(A) include a description (consistent with the purposes of this chapter) of a comprehensive system of personnel development, which shall include—

(i) a description of the procedures and activities the designated State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

(I) the number and type of personnel that are employed by the designated State unit in the provision of vocational rehabilitation services, including ratios of qualified vocational rehabilitation counselors to clients; and

(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the vocational rehabilitation field, and other relevant factors;

(ii) where appropriate, a description of the manner in which activities will be undertaken under this section to coordinate the system of personnel development with personnel development activities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the programs of institutions of higher education within the State that are preparing rehabilitation professionals, including—

(I) the numbers of students enrolled in such programs; and

(II) the number of such students who graduated with certification or licensure, or with credentials to qualify for certification or licensure, as a rehabilitation professional during the past year;

(iv) a description of the development, updating, and implementation of a plan that—

(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

(II) provides for the coordination and facilitation of efforts between the designated State unit, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

(v) a description of the procedures and activities the designated State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

(I) a system for the continuing education of rehabilitation professionals

and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with entities carrying out State programs under section 3003 of this title; and

(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to this chapter made by the Workforce Innovation and Opportunity Act;

(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including rehabilitation professionals and paraprofessionals, needed within the designated State unit to carry out this part are appropriately and adequately prepared and trained, including—

(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

(ii) the establishment and maintenance of education and experience requirements, to ensure that the personnel have a 21st century understanding of the evolving labor force and the needs of individuals with disabilities, including requirements for—

(I)(aa) attainment of a baccalaureate degree in a field of study reasonably related to vocational rehabilitation, to indicate a level of competency and skill demonstrating basic preparation in a field of study such as vocational rehabilitation counseling, social work, psychology, disability studies, business administration, human resources, special education, supported employment, customized employment, economics, or another field that reasonably prepares individuals to work with consumers and employers; and

(bb) demonstrated paid or unpaid experience, for not less than 1 year, consisting of—

(AA) direct work with individuals with disabilities in a setting such as an independent living center;

(BB) direct service or advocacy activities that provide such individual with experience and skills in working with individuals with disabilities; or

(CC) direct experience as an employer, as a small business owner or operator, or in self-employment, or other experience in human resources, recruitment, or experience in supervising employees, training, or other activities that provide experience in competitive integrated employment environments; or

(II) attainment of a master's or doctoral degree in a field of study such as vocational rehabilitation counseling, law, social work, psychology, disability studies, business administration, human resources, special education, management, public administration, or another field that reasonably provides competence in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields; and

(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual.

**(8) Comparable services and benefits**

**(A) Determination of availability**

**(i) In general**

The State plan shall include an assurance that, prior to providing an accommodation or auxiliary aid or service or any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(E) and in paragraphs (1) through (4) and (14) of section 723(a) of this title, the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this subchapter) unless such a determination would interrupt or delay—

(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 722(b) of this title;

(II) an immediate job placement; or

(III) the provision of such service to any individual at extreme medical risk.

**(ii) Awards and scholarships**

For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

**(B) Interagency agreement**

The State plan shall include an assurance that the Governor of the State, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including the State entity responsible for administering the State Medicaid program, a public institution of higher education, and a component of the statewide workforce development system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(E), and in paragraphs (1) through (4) and

(14) of section 723(a) of this title), and, if appropriate, accommodations or auxiliary aids and services, that are included in the individualized plan for employment of an eligible individual, including the provision of such vocational rehabilitation services (including, if appropriate, accommodations or auxiliary aids and services) during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

**(i) Agency financial responsibility**

An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating the financial responsibility of such public entity for providing such services.

**(ii) Conditions, terms, and procedures of reimbursement**

Information specifying the conditions, terms, and procedures under which a designated State unit shall be reimbursed by other public entities for providing such services, based on the provisions of such agreement or mechanism.

**(iii) Interagency disputes**

Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism).

**(iv) Coordination of services procedures**

Information specifying policies and procedures for public entities to determine and identify the interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(E) and in paragraphs (1) through (4) and (14) of section 723(a) of this title), and accommodations or auxiliary aids and services.

**(C) Responsibilities of other public entities**

**(i) Responsibilities under other law**

Notwithstanding subparagraph (B), if any public entity other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(E) and in paragraphs (1) through (4) and (14) of section 723(a) of this title), such public entity shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

**(ii) Reimbursement**

If a public entity other than the designated State unit fails to provide or pay for the services described in clause (i) for

an eligible individual, the designated State unit shall provide or pay for such services to the individual. Such designated State unit may claim reimbursement for the services from the public entity that failed to provide or pay for such services. Such public entity shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in this paragraph according to the procedures established in such agreement or mechanism pursuant to subparagraph (B)(ii).

**(D) Methods**

The Governor of a State may meet the requirements of subparagraph (B) through—

- (i) a State statute or regulation;
- (ii) a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity relating to the provision of services; or
- (iii) another appropriate method, as determined by the designated State unit.

**(9) Individualized plan for employment**

**(A) Development and implementation**

The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 722(b) of this title will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this subchapter, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

**(B) Provision of services**

The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized plan for employment.

**(10) Reporting requirements**

**(A) In general**

The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this subchapter.

**(B) Annual reporting**

In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting of information, on eligible individuals receiving the services, that is necessary to assess the State's performance on the standards and indicators described in section 726(a) of this title that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this subchapter.

**(C) Additional data**

In specifying the information required to be submitted in the reports, the Commis-

sioner shall require additional data, from each State, with regard to applicants and eligible individuals related to—

(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this subchapter, including the number of individuals determined to be ineligible (disaggregated by type of disability and age);

(ii) the number of individuals who received vocational rehabilitation services through the program, including—

(I) the number who received services under paragraph (5)(E), but not assistance under an individualized plan for employment;

(II) of those recipients who are individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 722(b) of this title;

(III) of those recipients who are not individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 722(b) of this title;

(IV) the number of individuals with open cases (disaggregated by those who are receiving training and those who are in postsecondary education), and the type of services the individuals are receiving (including supported employment);

(V) the number of students with disabilities who are receiving pre-employment transition services under this subchapter;<sup>1</sup> and

(VI) the number of individuals referred to State vocational rehabilitation programs by one-stop operators (as defined in section 3 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3102]), and the number of individuals referred to such one-stop operators by State vocational rehabilitation programs;

(iii) of those applicants and eligible recipients who are individuals with significant disabilities—

(I) the number who ended their participation in the program carried out under this subchapter and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act

<sup>1</sup> So in original. The colon probably should be a semicolon.

of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

(bb) the number who received employment benefits from an employer during such employment; and

(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—

(I) the number who ended their participation in the program carried out under this subchapter and the number who achieved employment outcomes after receiving vocational rehabilitation services and, for those who achieved employment outcomes, the average length of time to obtain employment; and

(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

(bb) the number who received employment benefits from an employer during such employment.

#### **(D) Costs and results**

The Commissioner shall also require that the designated State agency include in the reports information on—

(i) the costs under this subchapter of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized plans for employment, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, providing other services to groups, and facilitating use of other programs under this chapter and title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] by eligible individuals; and

(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

#### **(E) Additional information**

The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

(i) information on—

(I) age, gender, race, ethnicity, education, category of impairment, severity of disability, and whether the individuals are students with disabilities;

(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized plan for employment, and termination of participation in the program;

(III) earnings at the time of application for the program and termination of participation in the program;

(IV) work status and occupation;

(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

(VI) types of public or private programs or agencies that furnished services under the program; and

(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

(ii) information necessary to determine the success of the State in meeting the standards and indicators established pursuant to section 726 of this title.

#### **(F) Completeness and confidentiality**

The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

#### **(G) Rules for reporting of data**

The disaggregation of data under this chapter shall not be required within a category if the number of individuals in a category is insufficient to yield statistically reliable information, or if the results would reveal personally identifiable information about an individual.

#### **(H) Comprehensive report**

The State plan shall specify that the Commissioner will provide an annual comprehensive report that includes the reports and data required under this section, as well as a summary of the reports and data, for each fiscal year. The Commissioner shall submit the report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations of the Senate, not later than 90 days after the end of the fiscal year involved.

#### **(11) Cooperation, collaboration, and coordination**

##### **(A) Cooperative agreements with other components of statewide workforce development systems**

The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of

the statewide workforce development system of the State, regarding the system, which agreement may provide for—

(i) provision of intercomponent staff training and technical assistance with regard to—

(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce development activities in the State through the promotion of program accessibility (including programmatic accessibility and physical accessibility), the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

(ii) use of information and financial management systems that link all components of the statewide workforce development system, that link the components to other electronic networks, including non-visual electronic networks, and that relate to such subjects as employment statistics, and information on job vacancies, career planning, and workforce investment activities;

(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

(iv) establishment of cooperative efforts with employers to—

(I) facilitate job placement; and

(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce development system with regard to paying for necessary services (consistent with State law and Federal requirements); and

(vi) specification of procedures for resolving disputes among such components.

**(B) Replication of cooperative agreements**

The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce development system.

**(C) Interagency cooperation with other agencies**

The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including the State programs carried out under section 3003 of this title, programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, noneducational agencies serving

out-of-school youth, and State use contracting programs, to the extent that such Federal, State, and local agencies and programs are not carrying out activities through the statewide workforce development system.

**(D) Coordination with education officials**

The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services, including pre-employment transition services, under this subchapter, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

(i) consultation and technical assistance, which may be provided using alternative means for meeting participation (such as video conferences and conference calls), to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

(ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and implementation of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act [20 U.S.C. 1414(d)];

(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

**(E) Coordination with employers**

The State plan shall describe how the designated State unit will work with employers to identify competitive integrated employment opportunities and career exploration opportunities, in order to facilitate the provision of—

(i) vocational rehabilitation services; and

(ii) transition services for youth with disabilities and students with disabilities, such as pre-employment transition services.

**(F) Coordination with Statewide Independent Living Councils and independent living centers**

The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 796d of this title, and the independent living centers described in subpart 3 of part A of subchapter VII within the State have developed working relationships and coordinate their activities, as appropriate.

**(G) Cooperative agreement regarding individuals eligible for home and community-based waiver programs**

The State plan shall include an assurance that the designated State unit has entered into a formal cooperative agreement with the State agency responsible for administering the State Medicaid plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the State agency with primary responsibility for providing services and supports for individuals with intellectual disabilities and individuals with developmental disabilities, with respect to the delivery of vocational rehabilitation services, including extended services, for individuals with the most significant disabilities who have been determined to be eligible for home and community-based services under a Medicaid waiver, Medicaid State plan amendment, or other authority related to a State Medicaid program.

**(H) Cooperative agreement with recipients of grants for services to American Indians**

In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized plans for employment;

(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living on or near a reservation or tribal service area are provided vocational rehabilitation services;

(iii) strategies for the provision of transition planning, by personnel of the designated State unit, the State educational agency, and the recipient of funds under part C, that will facilitate the development and approval of the individualized plans for employment under section 722 of this title; and

(iv) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

**(I) Coordination with assistive technology programs**

The State plan shall include an assurance that the designated State unit, and the lead agency and implementing entity (if any) designated by the Governor of the State under section 3003 of this title, have developed working relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities described in that section.

**(J) Coordination with ticket to work and self-sufficiency program**

The State plan shall include an assurance that the designated State unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19).

**(K) Interagency cooperation**

The State plan shall describe how the designated State agency or agencies (if more than 1 agency is designated under paragraph (2)(A)) will collaborate with the State agency responsible for administering the State Medicaid plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), the State agency responsible for providing services for individuals with developmental disabilities, and the State agency responsible for providing mental health services, to develop opportunities for community-based employment in integrated settings, to the greatest extent practicable.

**(12) Residency**

The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

**(13) Services to American Indians**

The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

**(14) Semiannual review of individuals in extended employment or other employment under special certificate provisions of the Fair Labor Standards Act of 1938**

The State plan shall provide for—

(A) a semiannual review and reevaluation of the status of each individual with a disability served under this subchapter who is employed either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the beginning of such employment, and annually thereafter, to determine the interests, priorities, and needs of the individual with respect to competitive integrated employment or training for competitive integrated employment;

(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative;

(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations,

and other necessary support services, to assist individuals described in subparagraph (A) in attaining competitive integrated employment; and

(D) an assurance that the State will report the information generated under subparagraphs (A), (B), and (C), for each of the individuals, to the Administrator of the Wage and Hour Division of the Department of Labor for each fiscal year, not later than 60 days after the end of the fiscal year.

**(15) Annual State goals and reports of progress**  
**(A) Assessments and estimates**

The State plan shall—

(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

(I) individuals with the most significant disabilities, including their need for supported employment services;

(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this subchapter;

(III) individuals with disabilities served through other components of the statewide workforce development system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components; and

(IV) youth with disabilities, and students with disabilities, including their need for pre-employment transition services or other transition services;

(ii) include an assessment of the needs of individuals with disabilities for transition services and pre-employment transition services, and the extent to which such services provided under this chapter are coordinated with transition services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in order to meet the needs of individuals with disabilities.

(iii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

(iv) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

**(B) Annual estimates**

The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

(i) the number of individuals in the State who are eligible for services under this subchapter;

(ii) the number of such individuals who will receive services provided with funds provided under part B and under subchapter VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order;

(iii) the number of individuals who are eligible for services under this subchapter, but are not receiving such services due to an order of selection; and

(iv) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

**(C) Goals and priorities**

**(i) In general**

The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

**(ii) Basis**

The State goals and priorities shall be based on an analysis of—

(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

(II) the performance of the State on the standards and indicators established under section 726 of this title; and

(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 725(c) of this title and the findings and recommendations from monitoring activities conducted under section 727 of this title.

**(iii) Service and outcome goals for categories in order of selection**

If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

**(D) Strategies**

The State plan shall contain a description of the strategies the State will use to ad-

dress the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

(iii) the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to postsecondary life (including the receipt of vocational rehabilitation services under this subchapter, postsecondary education, employment, and pre-employment transition services);

(iv) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

(v) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 726 of this title; and

(vi) strategies for assisting entities carrying out other components of the statewide workforce development system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

**(E) Evaluation and reports of progress**

The State plan shall—

(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

(II) a description of strategies that contributed to achieving the goals;

(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 726 of this title; and

(ii) provide that the designated State unit and the State Rehabilitation Council,

if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

**(16) Public comment**

The State plan shall—

(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 732 of this title, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

(B) provide that the designated State agency (or each designated State agency if two agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

(iii) providers of vocational rehabilitation services to individuals with disabilities;

(iv) the director of the client assistance program; and

(v) the State Rehabilitation Council, if the State has such a Council.

**(17) Use of funds for construction of facilities**

The State plan shall provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

(A) the Federal share of the cost of construction for the facilities for a fiscal year will not exceed an amount equal to 10 percent of the State's allotment under section 730 of this title for such year;

(B) the provisions of section 776<sup>2</sup> of this title (as in effect on the day before August 7, 1998) shall be applicable to such construction and such provisions shall be deemed to apply to such construction; and

(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because the plan includes such provisions for construction.

<sup>2</sup> See References in Text note below.

**(18) Innovation and expansion activities**

The State plan shall—

(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 730 of this title—

(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this subchapter, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

(ii) to support the funding of—

(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 725(d)(1) of this title; and

(II) the Statewide Independent Living Council, consistent with the plan prepared under section 796d(e)(1) of this title;

(B) include a description of how the reserved funds will be utilized; and

(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds were utilized during the preceding year.

**(19) Choice**

The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 722(d) of this title.

**(20) Information and referral services****(A) In general**

The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this subchapter), including other components of the statewide workforce development system in the State.

**(B) Referrals**

An appropriate referral made through the system shall—

(i) be to the Federal or State programs, including programs carried out by other components of the statewide workforce development system in the State, best suited to address the specific employment needs of an individual with a disability; and

(ii) include, for each of these programs, provision to the individual of—

(I) a notice of the referral by the designated State agency to the agency carrying out the program;

(II) information identifying a specific point of contact within the agency carrying out the program; and

(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

**(21) State independent consumer-controlled commission; State Rehabilitation Council****(A) Commission or Council**

The State plan shall provide that either—

(i) the designated State agency is an independent commission that—

(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

(II) is consumer-controlled by persons who—

(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

(IV) undertakes the functions set forth in section 725(c)(4) of this title; or

(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 725 of this title and the designated State unit—

(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 725(c)(5) of this title, the review and analysis of consumer satisfaction described in section 725(c)(4) of this title, and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

(IV) transmits to the Council—

(aa) all plans, reports, and other information required under this sub-

chapter to be submitted to the Secretary;

(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this subchapter; and

(cc) copies of due process hearing decisions issued under this subchapter, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

**(B) More than one designated State agency**

In the case of a State that, under subsection (a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the two agencies that does not meet the requirements in subparagraph (A)(i), or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

**(22) Supported employment State plan supplement**

The State plan shall include an assurance that the State has an acceptable plan for carrying out subchapter VI, including the use of funds under that part to supplement funds made available under part B of this subchapter to pay for the cost of services leading to supported employment.

**(23) Annual updates**

The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

**(24) Certain contracts and cooperative agreements**

**(A) Contracts with for-profit organizations**

The State plan shall provide that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of subchapter VI, upon a determination by such agency that such for-profit organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations.

**(B) Cooperative agreements with private nonprofit organizations**

The State plan shall describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established.

**(25) Services for students with disabilities**

The State plan shall provide an assurance that, with respect to students with disabilities, the State—

(A) has developed and will implement—

(i) strategies to address the needs identified in the assessments described in paragraph (15); and

(ii) strategies to achieve the goals and priorities identified by the State, in accordance with paragraph (15), to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis; and

(B) has developed and will implement strategies to provide pre-employment transition services.

**(26) Job growth and development**

The State plan shall provide an assurance describing how the State will utilize initiatives involving in-demand industry sectors or occupations under sections 106(c) and 108 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3121(c), 3123] to increase competitive integrated employment opportunities for individuals with disabilities.

**(b) Submission; approval; modification**

The State plan for vocational rehabilitation services shall be subject to—

(1) subsection (c) of section 102 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3112], in a case in which that plan is a portion of the unified State plan described in that section 102; and

(2) subsection (b), and paragraphs (1), (2), and (3) of subsection (c), of section 103 of such Act [29 U.S.C. 3113] in a case in which that State plan for vocational rehabilitation services is a portion of the combined State plan described in that section 103.

**(c) Construction**

Nothing in this part shall be construed to reduce the obligation under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.

(Pub. L. 93-112, title I, §101, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1119; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(c)(4)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-415; Pub. L. 108-446, title III, §305(h)(1), Dec. 3, 2004, 118 Stat. 2805; Pub. L. 113-128, title IV, §412, July 22, 2014, 128 Stat. 1641.)

**Editorial Notes**

REFERENCES IN TEXT

For the effective date of the Workforce Innovation and Opportunity Act, referred to in subsec. (a)(1)(B),

see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

The Architectural Barriers Act of 1968, referred to in subsec. (a)(6)(C), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, which is classified generally to chapter 51 (§4151 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 4151 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(6)(C), 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.

The Individuals with Disabilities Education Act, referred to in subssecs. (a)(7)(A)(ii), (15)(A)(ii) and (c), 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 Workforce Innovation and Opportunity Act, referred to in subsec. (a)(7)(A)(v)(II), (10)(D)(i), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of this title, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Social Security Act, referred to in subsec. (a)(11)(G), (K), 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.

Section 776 of this title, referred to in subsec. (a)(17)(B), was in the original a reference to section 306 which was renumbered section 304 of Pub. L. 93-112 by Pub. L. 113-128, title IV, §443(2), July 22, 2014, 128 Stat. 1674.

#### PRIOR PROVISIONS

A prior section 721, Pub. L. 93-112, title I, §101, Sept. 26, 1973, 87 Stat. 363; Pub. L. 93-516, title I, §111(b)-(d), Dec. 7, 1974, 88 Stat. 1619, 1620; Pub. L. 93-651, title I, §111(b)-(d), Nov. 21, 1974, 89 Stat. 2-5; Pub. L. 95-602, title I, §§102, 122(b)(1), Nov. 6, 1978, 92 Stat. 2957, 2987; Pub. L. 98-221, title I, §104(a)(2), Feb. 22, 1984, 98 Stat. 18; Pub. L. 98-524, §4(f), Oct. 19, 1984, 98 Stat. 2489; Pub. L. 99-506, title I, §103(d)(2), title II, §202, title X, §1001(b)(1)-(4), Oct. 21, 1986, 100 Stat. 1810, 1814, 1841, 1842; Pub. L. 100-630, title II, §202(b), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102-54, §13(k)(1)(A), June 13, 1991, 105 Stat. 276; Pub. L. 102-119, §26(e), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102-569, title I, §§102(o), (p)(7), 122, Oct. 29, 1992, 106 Stat. 4355, 4356, 4367; Pub. L. 103-73, title I, §§102(2), 107(a), Aug. 11, 1993, 107 Stat. 718, 719; Pub. L. 104-106, div. D, title XLIII, §4321(i)(7), Feb. 10, 1996, 110 Stat. 676, related to State plans, prior to the general amendment of this subchapter by Pub. L. 105-220.

#### AMENDMENTS

2014—Subsec. (a)(1)(A). Pub. L. 113-128, §412(a)(1)(A), substituted “to receive funds under this subchapter for a fiscal year, a State shall submit, and have approved by the Secretary and the Secretary of Labor, a unified State plan in accordance with section 102, or a combined State plan in accordance with section 103, of the Workforce Innovation and Opportunity Act. The unified or combined State plan shall include, in the portion of the plan described in section 102(b)(2)(D) of such Act (referred to in this subsection as the ‘vocational rehabilitation services portion’), the provisions of a State

plan for vocational rehabilitation services, described in this subsection.” for “to participate in programs under this subchapter, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 112 of the Workforce Investment Act of 1998.”

Subsec. (a)(1)(B). Pub. L. 113-128, §412(a)(1)(B), substituted “as part of the vocational rehabilitation services portion of the unified or combined State plan submitted in accordance with subparagraph (A),” for “in the State plan for vocational rehabilitation services,” and “the effective date of the Workforce Innovation and Opportunity Act” for “the effective date of the Rehabilitation Act Amendments of 1998”, which had been translated as “August 7, 1998”.

Subsec. (a)(1)(C). Pub. L. 113-128, §412(a)(1)(C), substituted “The vocational rehabilitation services portion of the unified or combined State plan submitted in accordance with subparagraph (A) shall remain in effect until the State submits and receives approval of a new State plan in accordance with subparagraph (A), or until the submission of such modifications” for “The State plan shall remain in effect subject to the submission of such modifications” and struck out “, until the State submits and receives approval of a new State plan” before period at end.

Subsec. (a)(2)(A). Pub. L. 113-128, §412(a)(2)(A), substituted “The State plan for vocational rehabilitation services” for “The State plan” in introductory provisions.

Subsec. (a)(2)(B)(ii)(II). Pub. L. 113-128, §412(a)(2)(B)(i), inserted “who is responsible for the day-to-day operation of the vocational rehabilitation program” before semicolon at end.

Subsec. (a)(2)(B)(ii)(V). Pub. L. 113-128, §412(a)(2)(B)(ii)-(iv), added subcl. (V).

Subsec. (a)(5)(D), (E). Pub. L. 113-128, §412(a)(3), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (a)(7)(A)(v)(I). Pub. L. 113-128, §412(a)(4)(A)(i), inserted “, including training implemented in coordination with entities carrying out State programs under section 3003 of this title” after “rehabilitation technology”.

Subsec. (a)(7)(A)(v)(II). Pub. L. 113-128, §412(a)(4)(A)(ii), substituted “Workforce Innovation and Opportunity Act” for “Rehabilitation Act Amendments of 1998”.

Subsec. (a)(7)(B)(ii). Pub. L. 113-128, §412(a)(4)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: “to the extent that such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and”.

Subsec. (a)(8)(A)(i). Pub. L. 113-128, §412(a)(5)(A), in introductory provisions, inserted “an accommodation or auxiliary aid or service or” after “prior to providing” and substituted “(5)(E)” for “(5)(D)”.

Subsec. (a)(8)(B). Pub. L. 113-128, §412(a)(5)(B)(i), in introductory provisions, substituted “Medicaid” for “medicaid”, “workforce development system” for “workforce investment system”, and “(5)(E)” for “(5)(D)”, inserted “and, if appropriate, accommodations or auxiliary aids and services,” before “that are included”, and substituted “provision of such vocational rehabilitation services (including, if appropriate, accommodations or auxiliary aids and services)” for “provision of such vocational rehabilitation services”.

Subsec. (a)(8)(B)(iv). Pub. L. 113-128, §412(a)(5)(B)(ii), substituted “(5)(E)” for “(5)(D)” and inserted “, and accommodations or auxiliary aids and services” before period at end.

Subsec. (a)(8)(C)(i). Pub. L. 113-128, §412(a)(5)(C), substituted “(5)(E)” for “(5)(D)”.

Subsec. (a)(10)(B). Pub. L. 113-128, §412(a)(6)(A), substituted “annual reporting of information, on eligible individuals receiving the services, that is necessary to

assess the State's performance on the standards and indicators described in section 726(a) of this title" for "annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998".

Subsec. (a)(10)(C). Pub. L. 113-128, § 412(a)(6)(B)(i), inserted ", from each State," after "additional data" in introductory provisions.

Subsec. (a)(10)(C)(i). Pub. L. 113-128, § 412(a)(6)(B)(ii), added cl. (i) and struck out former cl. (i) which read as follows: "the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this subchapter, including—

"(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 722(a) of this title; and

"(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;"

Subsec. (a)(10)(C)(ii)(I). Pub. L. 113-128, § 412(a)(6)(B)(iii)(I), substituted "(5)(E)" for "(5)(D)".

Subsec. (a)(10)(C)(ii)(IV) to (VI). Pub. L. 113-128, § 412(a)(6)(B)(iii)(II), (III), added subcls. (IV) to (VI).

Subsec. (a)(10)(C)(iv)(I). Pub. L. 113-128, § 412(a)(6)(B)(iv), inserted "and, for those who achieved employment outcomes, the average length of time to obtain employment" before semicolon.

Subsec. (a)(10)(D)(i). Pub. L. 113-128, § 412(a)(6)(C), substituted "title I of the Workforce Innovation and Opportunity Act" for "title I of the Workforce Investment Act of 1998".

Subsec. (a)(10)(E)(ii). Pub. L. 113-128, § 412(a)(6)(D), substituted "of the State in meeting the standards and indicators established pursuant to section 726 of this title." for "of the State in meeting—

"(I) the State performance measures established under section 136(b) of the Workforce Investment Act of 1998, to the extent the measures are applicable to individuals with disabilities; and

"(II) the standards and indicators established pursuant to section 726 of this title."

Subsec. (a)(10)(G), (H). Pub. L. 113-128, § 412(a)(6)(E), added subpars. (G) and (H).

Subsec. (a)(11)(A). Pub. L. 113-128, § 412(a)(7)(A)(i), (ii), substituted "workforce development systems" for "workforce investment systems" in heading and "workforce development system" for "workforce investment system" in introductory provisions.

Subsec. (a)(11)(A)(i)(II). Pub. L. 113-128, § 412(a)(7)(A)(iii), substituted "development" for "investment" and inserted "(including programmatic accessibility and physical accessibility)" after "program accessibility".

Subsec. (a)(11)(A)(ii). Pub. L. 113-128, § 412(a)(7)(A)(iv), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(11)(A)(v). Pub. L. 113-128, § 412(a)(7)(A)(v), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(11)(B). Pub. L. 113-128, § 412(a)(7)(B), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(11)(C). Pub. L. 113-128, § 412(a)(7)(C), inserted "the State programs carried out under section 3003 of this title," after "including" and ", noneducational agencies serving out-of-school youth," after "Agriculture" and substituted "such Federal, State, and local agencies and programs" for "such agencies and programs" and "workforce development system" for "workforce investment system".

Subsec. (a)(11)(D). Pub. L. 113-128, § 412(a)(7)(D), inserted ", including pre-employment transition services," after "vocational rehabilitation services" in introductory provisions and ", which may be provided using alternative means for meeting participation (such as video conferences and conference calls)," after

"consultation and technical assistance" in cl. (i) and substituted "implementation" for "completion" in cl. (ii).

Subsec. (a)(11)(E). Pub. L. 113-128, § 412(a)(7)(F), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (a)(11)(F). Pub. L. 113-128, § 412(a)(7)(G), made technical amendment to reference in original act which appears in text as reference to subpart 3 of part A of subchapter VII and inserted ", as appropriate" before period at end.

Pub. L. 113-128, § 412(a)(7)(E), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (H).

Subsec. (a)(11)(G). Pub. L. 113-128, § 412(a)(7)(H), added subpar. (G).

Subsec. (a)(11)(H). Pub. L. 113-128, § 412(a)(7)(E), redesignated subpar. (F) as (H).

Subsec. (a)(11)(H)(ii) to (iv). Pub. L. 113-128, § 412(a)(7)(I), inserted "on or" before "near" and struck out "and" after semicolon in cl. (ii), added cl. (iii), and redesignated former cl. (iii) as (iv).

Subsec. (a)(11)(I) to (K). Pub. L. 113-128, § 412(a)(7)(J), added subpars. (I) to (K).

Subsec. (a)(14). Pub. L. 113-128, § 412(a)(8)(A), substituted "Semiannual" for "Annual" in heading.

Subsec. (a)(14)(A). Pub. L. 113-128, § 412(a)(8)(B), substituted "a semiannual" for "an annual", "is employed" for "has achieved an employment outcome", "beginning of such employment, and annually thereafter" for "achievement of the outcome (and thereafter if requested by the individual or, if appropriate, the individual's representative)", and "to competitive integrated employment or training for competitive integrated employment;" for "to competitive employment or training for competitive employment;"

Subsec. (a)(14)(C), (D). Pub. L. 113-128, § 412(a)(8)(C)–(E), substituted "individuals described in subparagraph (A) in attaining competitive integrated employment; and" for "the individuals described in subparagraph (A) in engaging in competitive employment," in subpar. (C) and added subpar. (D).

Subsec. (a)(15)(A)(i)(III). Pub. L. 113-128, § 412(a)(9)(A)(i)(II)(aa), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(15)(A)(i)(IV). Pub. L. 113-128, § 412(a)(9)(A)(i)(D), (II)(bb), (III), added subcl. (IV).

Subsec. (a)(15)(A)(ii) to (iv). Pub. L. 113-128, § 412(a)(9)(A)(ii), (iii), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively.

Subsec. (a)(15)(B)(ii). Pub. L. 113-128, § 412(a)(9)(B)(i), substituted "subchapter VI" for "part B of subchapter VI".

Subsec. (a)(15)(B)(iii), (iv). Pub. L. 113-128, § 412(a)(9)(B)(ii), (iii), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (a)(15)(D)(iii) to (vi). Pub. L. 113-128, § 412(a)(9)(C), added cl. (iii), redesignated former cls. (iii) to (v) as (iv) to (vi), respectively, and, in cl. (vi), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(20)(A), (B)(i). Pub. L. 113-128, § 412(a)(10), substituted "workforce development system" for "workforce investment system".

Subsec. (a)(22). Pub. L. 113-128, § 412(a)(11), substituted "subchapter VI" for "part B of subchapter VI".

Subsec. (a)(25), (26). Pub. L. 113-128, § 412(a)(12), added pars. (25) and (26).

Subsec. (b). Pub. L. 113-128, § 412(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to approval and disapproval of State plans.

Subsec. (c). Pub. L. 113-128, § 412(c), added subsec. (c). 2004—Subsec. (a)(11)(D)(ii). Pub. L. 108-446 struck out "(as added by section 101 of Public Law 105-17)" before semicolon at end.

1998—Subsec. (a)(18)(C). Pub. L. 105-277, § 101(f) [title VIII, § 402(c)(4)(A)], substituted "were utilized during the preceding year" for "will be utilized".

Subsec. (a)(21)(A)(i)(II)(bb). Pub. L. 105-277, § 101(f) [title VIII, § 402(c)(4)(B)], substituted "commission" for "Commission".

**Statutory Notes and Related Subsidiaries**

## 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.

**§ 722. Eligibility and individualized plan for employment****(a) Eligibility****(1) Criterion for eligibility**

An individual is eligible for assistance under this subchapter if the individual—

(A) has undergone an assessment for determining eligibility and vocational rehabilitation needs and as a result has been determined to be an individual with a disability under section 705(20)(A) of this title; and

(B) requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

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.

**(2) Presumption of benefit****(A) Applicants**

For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 705(20)(A) of this title.

**(B) Responsibilities**

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, the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 705(2)(D) of this title, with appropriate supports provided through the designated State unit. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the 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.

**(3) Presumption of eligibility****(A) In general**

For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

(i) considered to be an individual with a significant disability under section 705(21)(A) of this title; and

(ii) presumed to be eligible for vocational rehabilitation services under this subchapter (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) 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 due to the severity of the individual's disability (as of the date of the determination).

**(B) Construction**

Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

**(4) Use of existing information****(A) In general**

To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this subchapter and developing the individualized plan for employment described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

**(B) Determinations by officials of other agencies**

Determinations made by officials of other agencies, particularly education officials described in section 721(a)(11)(D) of this title, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 705(20)(A) of this title or an individual with a significant disability under section 705(21)(A) of this title shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

**(C) Basis**

The determination of eligibility for vocational rehabilitation services shall be based on—

(i) the review of existing data described in section 705(2)(A)(i) of this title; and

(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 705(2)(A)(ii) of this title.