

section 721 of this title, including expenditures for the administration of the State plan.

(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 730 of this title for such year.

(B) The amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this subchapter for any previous fiscal year are less than the total of such expenditures for the second fiscal year preceding that previous fiscal year.

(C) The Commissioner may waive or modify any requirement or limitation under subparagraph (B) or section 721(a)(17) of this title if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 2910(g) of title 42), in such State.

(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 2910(b)(2) of title 42, the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

(b) Method of computation and payment

The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the Government Accountability Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

(Pub. L. 93-112, title I, §111, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1162; amended Pub. L. 105-277, div. A, §101(f) [title

VIII, §402(b)(8)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-413; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113-128, title IV, §420, July 22, 2014, 128 Stat. 1656.)

Editorial Notes

PRIOR PROVISIONS

A prior section 731, Pub. L. 93-112, title I, §111, Sept. 26, 1973, 87 Stat. 371; Pub. L. 95-602, title I, §122(b)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99-506, title II, §208, title X, §1001(b)(6), Oct. 21, 1986, 100 Stat. 1818, 1842; Pub. L. 100-630, title II, §202(e)(1), (2)(A), (3), Nov. 7, 1988, 102 Stat. 3306; Pub. L. 102-569, title I, §132, Oct. 29, 1992, 106 Stat. 4390; Pub. L. 103-73, title I, §107(f), Aug. 11, 1993, 107 Stat. 723, related to payments to States, prior to the general amendment of this subchapter by Pub. L. 105-220.

AMENDMENTS

2014—Subsec. (a)(2)(B). Pub. L. 113-128 substituted “The” for “For fiscal year 1994 and each fiscal year thereafter, the”, “this subchapter for any previous” for “this subchapter for the previous”, and “year preceding that previous” for “year preceding the previous”.

2004—Subsec. (b)(2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

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

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.

§ 732. Client assistance program

(a) Establishment of grant program

From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this chapter, including under sections 733 and 794g of this title, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this chapter, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this chapter and to facilitate access to the services funded under this chapter through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this chapter and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this subchapter, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

(b) Existence of State program as requisite to receiving payments

No State may receive payments from its allotment under this chapter in any fiscal year unless the State has in effect a client assistance program which—

(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this chapter within the State; and

(2) meets the requirements of designation under subsection (c).

(c) Designation of agency to conduct program

(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this chapter. If there is an agency in the State which has, or had, prior to February 22, 1984, served as a client assistance agency under this section and which received Federal financial assistance under this chapter, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.

(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

(ii) If, after August 7, 1998—

(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of one or more new State agencies or departments or results in the merger of the designated State agency with one or more other State agencies or departments; and

(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.

(2) In carrying out the provisions of this section, the Governor shall consult with the direc-

tor of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

(d) Class action by designated agency prohibited

The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

(e) Allotment and reallocation of funds

(1)(A) After reserving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than \$50,000.

(B) The Secretary shall allot \$30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(C) For the purpose of this paragraph, the term "State" does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed \$7,500,000, the minimum allotment shall be \$100,000 for States and \$45,000 for territories.

(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

(E)(i) The Secretary shall reserve funds appropriated under subsection (h) to make a grant to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section. The amount of such a grant shall be the same amount as is provided to a territory under this subsection.

(ii) In this subparagraph:

(I) The term "American Indian Consortium" has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

(II) The term "protection and advocacy system" means a protection and advocacy system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(F) For any fiscal year for which the amount appropriated under subsection (h) equals or exceeds \$14,000,000, the Secretary may reserve not less than 1.8 percent and not more than 2.2 percent of such amount to provide a grant for training and technical assistance for the programs established under this section. Such training and technical assistance shall be coordinated

with activities provided under section 794e(c)(1)(A) of this title.

(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any such amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

(f) Application by State for grant funds

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

(g) Regulations; minimum requirements

The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this chapter in the State.

(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

(B) In subparagraph (A), the term “alternative means of dispute resolution” means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section—

- (1) \$12,000,000 for fiscal year 2015;
- (2) \$12,927,000 for fiscal year 2016;
- (3) \$13,195,000 for fiscal year 2017;
- (4) \$13,488,000 for fiscal year 2018;
- (5) \$13,805,000 for fiscal year 2019; and
- (6) \$14,098,000 for fiscal year 2020.

(Pub. L. 93-112, title I, §112, as added Pub. L. 105-220, title IV, §404, Aug. 7, 1998, 112 Stat. 1163; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(b)(9)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-413; Pub. L. 113-128, title IV, §421, July 22, 2014, 128 Stat. 1656.)

Editorial Notes

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 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 Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (e)(1)(E)(ii)(II), is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 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 15001 of Title 42 and Tables.

PRIOR PROVISIONS

Prior sections 732 and 740 were omitted in the general amendment of this subchapter by Pub. L. 105-220.

Section 732, Pub. L. 93-112, title I, §112, Sept. 26, 1973, 87 Stat. 371; Pub. L. 93-516, title I, §§102(b), 111(f), Dec. 7, 1974, 88 Stat. 1618, 1620; Pub. L. 93-651, title I, §§102(b), 111(f), Nov. 21, 1974, 89 Stat. 2-3, 2-5; Pub. L. 94-230, §§2(b), 11(b)(4), Mar. 15, 1976, 90 Stat. 211, 213; Pub. L. 95-602, title I, §§105, 122(b)(1), Nov. 6, 1978, 92 Stat. 2960, 2987; Pub. L. 97-375, title I, §105, Dec. 21, 1982, 96 Stat. 1820; Pub. L. 98-221, title I, §113(a), Feb. 22, 1984, 98 Stat. 20; Pub. L. 99-506, title I, §103(d)(2)(C), title II, §209, title X, §1001(b)(7), Oct. 21, 1986, 100 Stat. 1810, 1818, 1842; Pub. L. 100-630, title II, §202(f), Nov. 7, 1988, 102 Stat. 3306; Pub. L. 102-52, §2(c), June 6, 1991, 105 Stat. 260; Pub. L. 102-569, title I, §§102(p)(10), 133, Oct. 29, 1992, 106 Stat. 4357, 4391; Pub. L. 103-73, title I, §107(g), Aug. 11, 1993, 107 Stat. 723; Pub. L. 104-66, title I, §1041(c), Dec. 21, 1995, 109 Stat. 714, related to client assistance program.

Section 740, Pub. L. 93-112, title I, §120, as added Pub. L. 102-569, title I, §134(a), Oct. 29, 1992, 106 Stat. 4392, related to State eligibility for grants.

Another prior section 740, Pub. L. 93-112, title I, §120, Sept. 26, 1973, 87 Stat. 372; Pub. L. 95-602, title I, §§101(e)(1), 122(b)(1), Nov. 6, 1978, 92 Stat. 2957, 2987; Pub. L. 99-506, title X, §1001(b)(8), Oct. 21, 1986, 100 Stat. 1842; Pub. L. 100-630, title II, §202(g), Nov. 7, 1988, 102 Stat. 3306, provided for State allotments to assist in meeting the cost of vocational rehabilitation services, prior to the general amendment of part C of former subchapter I of this chapter by Pub. L. 102-569.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-128, §421(1), inserted “including under sections 733 and 794g of this title,” after “all available benefits under this chapter.”

Subsec. (b). Pub. L. 113-128, §421(2), struck out “not later than October 1, 1984,” after “has in effect” in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 113-128, §421(3)(A), substituted “After reserving funds under subparagraphs

(E) and (F), the Secretary shall allot the remainder of” for “The Secretary shall allot”.

Subsec. (e)(1)(E), (F). Pub. L. 113-128, § 421(3)(B), added subpars. (E) and (F).

Subsec. (h). Pub. L. 113-128, § 421(4), added subsec. (h) and struck out former subsec. (h) which authorized appropriations for fiscal years 1999 through 2003.

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

§ 733. Provision of pre-employment transition services

(a) In general

From the funds reserved under section 730(d) of this title, and any funds made available from State, local, or private funding sources, each State shall ensure that the designated State unit, in collaboration with the local educational agencies involved, shall provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services under this subchapter.

(b) Required activities

Funds available under subsection (a) shall be used to make available to students with disabilities described in subsection (a)—

- (1) job exploration counseling;
- (2) work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment to the maximum extent possible;
- (3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- (4) workplace readiness training to develop social skills and independent living; and
- (5) instruction in self-advocacy, which may include peer mentoring.

(c) Authorized activities

Funds available under subsection (a) and remaining after the provision of the required activities described in subsection (b) may be used to improve the transition of students with disabilities described in subsection (a) from school to postsecondary education or an employment outcome by—

- (1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;
- (2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;
- (3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;
- (4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;
- (5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(6) applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;

(7) developing model transition demonstration projects;

(8) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and

(9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.

(d) Pre-employment transition coordination

Each local office of a designated State unit shall carry out responsibilities consisting of—

- (1) attending individualized education program meetings for students with disabilities, when invited;
- (2) working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;
- (3) work with schools, including those carrying out activities under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)), to coordinate and ensure the provision of pre-employment transition services under this section; and
- (4) when invited, attend person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(e) National pre-employment transition coordination

The Secretary shall support designated State agencies providing services under this section, highlight best State practices, and consult with other Federal agencies to advance the goals of this section.

(f) Support

In carrying out this section, States shall address the transition needs of all students with disabilities, including such students with physical, sensory, intellectual, and mental health disabilities.

(Pub. L. 93-112, title I, § 113, as added Pub. L. 113-128, title IV, § 422, July 22, 2014, 128 Stat. 1657.)

Editorial Notes

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(5), 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 Social Security Act, referred to in subsec. (d)(4), 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