

use of resources in existence during the period of implementation of the plan.

(2) Supervision and evaluation

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

(3) Conflict of interest

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State entity or any other agency or office of the State, that would create a conflict of interest.

(f) Compensation and expenses

The Council may use available resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (such as personal assistance services), and to pay reasonable compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(Pub. L. 93-112, title VII, §705, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1220; amended Pub. L. 105-277, div. A, §101(f) [title VIII, §402(c)(7)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416; Pub. L. 113-128, title IV, §475, July 22, 2014, 128 Stat. 1687.)

Editorial Notes

PRIOR PROVISIONS

A prior section 796d, Pub. L. 93-112, title VII, §705, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4446; amended Pub. L. 103-73, title I, §114(c), Aug. 11, 1993, 107 Stat. 728, related to Statewide Independent Living Councils, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796d, Pub. L. 93-112, title VII, §705, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 99-506, title I, §103(d)(2)(B), (C), (h)(2), title VIII, §802, title X, §1001(g)(3), Oct. 21, 1986, 100 Stat. 1810, 1811, 1837, 1843; Pub. L. 100-630, title II, §208(d), Nov. 7, 1988, 102 Stat. 3314; Pub. L. 102-119, §26(e), Oct. 7, 1991, 105 Stat. 607, related to State plans for providing comprehensive services for independent living, prior to repeal by Pub. L. 102-569, §701(1).

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-128, §475(1), inserted “and maintain” after “shall establish”.

Subsec. (b)(2)(A). Pub. L. 113-128, §475(2)(A)(i), inserted “among its voting members,” before “at least” and substituted “1” for “one”.

Subsec. (b)(2)(B), (C). Pub. L. 113-128, §475(2)(A)(ii), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

“(B) as ex officio, nonvoting members—

“(i) a representative from the designated State unit; and

“(ii) representatives from other State agencies that provide services for individuals with disabilities; and

“(C) in a State in which one or more projects are carried out under section 741 of this title, at least one representative of the directors of the projects.”

Subsec. (b)(3)(B). Pub. L. 113-128, §475(2)(B)(ii), struck out “parents and guardians of” before “individuals”.

Subsec. (b)(3)(C) to (G). Pub. L. 113-128, §475(2)(B)(i), (iii), added subpar. (C) and redesignated former subpars. (C) to (F) as (D) to (G), respectively.

Subsec. (b)(5)(B). Pub. L. 113-128, §475(2)(C), substituted “paragraph (1)” for “paragraph (3)”.

Subsec. (b)(6)(B). Pub. L. 113-128, §475(2)(D), inserted “; other than a representative described in paragraph (2)(A) if there is only one center for independent living within the State,” after “the Council”.

Subsec. (c). Pub. L. 113-128, §475(3), added subsec. (c) and struck out former subsec. (c) which related to duties of the Council.

Subsec. (e)(1). Pub. L. 113-128, §475(4)(A), substituted “prepare, in conjunction with the designated State entity, a plan” for “prepare, in conjunction with the designated State unit, a plan”.

Subsec. (e)(3). Pub. L. 113-128, §475(4)(B), substituted “State entity” for “State agency”.

Subsec. (f). Pub. L. 113-128, §475(5), substituted “available resources” for “such resources” and “(such as personal assistance services), and to pay reasonable compensation” for “(including child care and personal assistance services), and to pay compensation”.

1998—Subsec. (b)(1). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(A)], in first sentence, substituted “by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity” for “by the Governor” and, in second sentence, substituted “The appointing authority” for “The Governor”.

Subsec. (b)(5)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(B)], substituted “chief executive officer” for “Governor” in heading and “appointing authority described in paragraph (3) shall” for “Governor shall” in text.

Subsec. (b)(6)(A)(ii), (7)(B). Pub. L. 105-277, §101(f) [title VIII, §402(c)(7)(C)], substituted “appointing authority described in paragraph (3)” for “Governor”.

§ 796d-1. Responsibilities of the Administrator

(a) Approval of State plans

(1) In general

The Administrator shall approve any State plan submitted under section 796c of this title that the Administrator determines meets the requirements of section 796c of this title, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Administrator shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

(2) Procedures

(A) In general

Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 727 of this title shall apply to any State plan submitted to the Administrator under section 796c of this title.

(B) Application

For purposes of the application described in subparagraph (A), all references in such provisions—

(i) to the Secretary or the Commissioner shall be deemed to be references to the Administrator;

(ii) to the State agency shall be deemed to be references to the designated State entity; and

(iii) to section 721 of this title shall be deemed to be references to section 796c of this title.

(b) Indicators

Not later than 1 year after July 22, 2014, the Administrator shall develop and publish in the Federal Register indicators of minimum compliance for centers for independent living (consistent with the standards set forth in section 796f-4 of this title), and indicators of minimum compliance for Statewide Independent Living Councils.

(c) Onsite compliance reviews**(1) Reviews**

The Administrator shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 796f-1 of this title and shall periodically conduct such a review of each such center. The Administrator shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 796f-2 of this title, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 796f-2 of this title, centers that receive funding under section 796f-2 of this title in such State.

(2) Qualifications of employees conducting reviews

The Administrator shall—

(A) to the maximum extent practicable, carry out a review described in paragraph (1) by using employees of the Department of Health and Human Services who are knowledgeable about the provision of independent living services;

(B) ensure that the employee of the Department of Health and Human Services with responsibility for supervising such a review shall have such knowledge; and

(C) ensure that at least one member of a team conducting such a review shall be an individual who—

(i) is not a government employee; and

(ii) has experience in the operation of centers for independent living.

(d) Reports**(1) In general**

The Director described in section 796-1 of this title shall provide to the Administrator of the Administration for Community Living and the Administrator shall include, in an annual report, information on the extent to which centers for independent living receiving funds under subpart 3 have complied with the standards and assurances set forth in section 796f-4 of this title. The Director may identify individual centers for independent living in the analysis contained in that information. The Director shall include in the report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under subpart 3.

(2) Public availability

The Director shall ensure that the report described in this subsection is made publicly available in a timely manner, including through electronic means, in order to inform the public about the administration and performance of programs under this chapter.

(Pub. L. 93-112, title VII, § 706, as added Pub. L. 105-220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1223; amended Pub. L. 113-128, title IV, § 475A, July 22, 2014, 128 Stat. 1689.)

Editorial Notes

PRIOR PROVISIONS

A prior section 796d-1, Pub. L. 93-112, title VII, § 706, as added Pub. L. 102-569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4448; amended Pub. L. 103-73, title I, § 114(d), Aug. 11, 1993, 107 Stat. 729, related to responsibilities of Commissioner, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796d-1, Pub. L. 93-112, title VII, § 706, as added Pub. L. 99-506, title VIII, § 803(a), Oct. 21, 1986, 100 Stat. 1837; amended Pub. L. 100-630, title II, § 208(e), Nov. 7, 1988, 102 Stat. 3314, provided for a State Independent Living Council, prior to repeal by Pub. L. 102-569, § 701(1).

AMENDMENTS

2014—Pub. L. 113-128, § 475A(1), substituted “the Administrator” for “Commissioner” in section catchline.

Subsec. (a)(1). Pub. L. 113-128, § 475A(2)(A), substituted “Administrator” for “Commissioner” wherever appearing.

Subsec. (a)(2)(A). Pub. L. 113-128, § 475A(2)(B)(i), substituted “Administrator” for “Commissioner”.

Subsec. (a)(2)(B)(i). Pub. L. 113-128, § 475A(2)(B)(ii)(I), inserted “or the Commissioner” after “to the Secretary” and substituted “to the Administrator;” for “to the Commissioner; and”.

Subsec. (a)(2)(B)(ii), (iii). Pub. L. 113-128, § 475A(2)(B)(ii)(II), (III), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (b). Pub. L. 113-128, § 475A(3), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 796f-4 of this title.”

Subsec. (c)(1). Pub. L. 113-128, § 475A(4)(A), substituted “Administrator” for “Commissioner” wherever appearing and struck out last sentence which read as follows: “The Administrator shall select the centers and State units described in this paragraph for review on a random basis.”

Subsec. (c)(2). Pub. L. 113-128, § 475A(4)(B)(i), substituted “Administrator” for “Commissioner” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 113-128, § 475A(4)(B)(ii), (iii), substituted “a review described in paragraph (1)” for “such a review” and “Department of Health and Human Services” for “Department”.

Subsec. (c)(2)(B). Pub. L. 113-128, § 475A(4)(B)(iii), substituted “Department of Health and Human Services” for “Department”.

Subsec. (d). Pub. L. 113-128, § 475A(5), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “The Commissioner shall include, in the annual report required under section 710 of this title, information on the extent to which centers for independent living receiving funds under subpart 3 have complied with the standards and assurances set forth in section 796f-4 of this title. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this part.”

SUBPART 2—INDEPENDENT LIVING SERVICES

§ 796e. Allotments**(a) In general****(1) States****(A) Population basis**

After the reservation required by section 796e-0 of this title is made, and except as provided in subparagraphs (B) and (C), from the remainder of the sums appropriated for each fiscal year to carry out this subpart, the Administrator shall make an allotment to each State whose State plan has been approved under section 796d-1 of this title of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

(B) Maintenance of 1992 amounts

Subject to the availability of appropriations to carry out this subpart, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this subchapter, as in effect on the day before October 29, 1992.

(C) Minimums

Subject to the availability of appropriations to carry out this subpart, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than \$275,000 or $\frac{1}{3}$ of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$275,000 or $\frac{1}{3}$ of 1 percent of such sums shall be increased to the greater of the two amounts.

(2) Certain territories**(A) In general**

For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) Allotment

Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than $\frac{1}{3}$ of 1 percent of the remainder described in paragraph (1)(A) for the fiscal year for which the allotment is made.

(3) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this subpart exceeds the total amount appropriated to carry out this subpart for the preceding fiscal year, the Administrator shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this subpart between the preceding fiscal year and the fiscal year involved.

(b) Proportional reduction

To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum

allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Administrator shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

(c) Reallocation

Whenever the Administrator determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this subpart, the Administrator shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Administrator determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(d) Administration

Funds allotted or made available to a State under this section shall be administered by the designated State entity, in accordance with the approved State plan.

(Pub. L. 93-112, title VII, §711, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1224; amended Pub. L. 113-128, title IV, §476(a), July 22, 2014, 128 Stat. 1690.)

Editorial Notes

REFERENCES IN TEXT

Part A of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (a)(1)(B), means former part A (§796 et seq.) which was included in the repeal of subchapter VII of this chapter by Pub. L. 102-569, title VII, §701(1), Oct. 29, 1992, 106 Stat. 4443.

PRIOR PROVISIONS

A prior section 796e, Pub. L. 93-112, title VII, §711, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4450; amended Pub. L. 103-73, title I, §114(e), Aug. 11, 1993, 107 Stat. 729, related to allotments to provide independent living services, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796e, Pub. L. 93-112, title VII, §711, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2998; amended Pub. L. 98-221, title I, §171, Feb. 22, 1984, 98 Stat. 30; Pub. L. 99-506, title I, §103(d)(2)(C), title VIII, §§804(a)(1), (b), (c), 805, Oct. 21, 1986, 100 Stat. 1810, 1838, 1839; Pub. L. 100-630, title II, §208(f), Nov. 7, 1988, 102 Stat. 3314, related to establishment and operation of independent living centers, prior to repeal by Pub. L. 102-569, §701(1).

AMENDMENTS

2014—Subsec. (a)(1)(A). Pub. L. 113-128, §476(a)(1)(A), (2), substituted “After the reservation required by section 796e-0 of this title is made, and except” for “Except”, inserted “the remainder of the” before “sums appropriated”, and substituted “Administrator” for “Commissioner”.

Subsec. (a)(2)(B). Pub. L. 113-128, §476(a)(1)(B), substituted “remainder described in paragraph (1)(A)” for “amounts made available for purposes of this subpart”.