



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

**Rehabilitation Act Reauthorization Recommendations
As of March 26, 2010**

The State-Federal Public Vocational Rehabilitation (VR) program is the nation's longest serving and largest employment program for people with disabilities. New technology and the aspirations of people with disabilities to higher education have created more opportunities for employment than ever before; however, the VR program is unable to help all who seek these new opportunities because funding for the program hasn't kept pace. According to the Bureau of Labor Statistics only 21.7% percent of all adults with disabilities participated in the labor force compared to 70.5% of people without disabilities.

Recently, injured veterans returning from the conflicts in Iraq in Afghanistan and heightened emphasis on youth with disabilities in transition from secondary school to either employment or higher education has further increased the demand for VR services.

The funding shortfall has resulted in about half of the 80 state VR agencies being forced to implement an "Order of Selection" a condition whereby the state agency must prioritize providing services to consumers based on significance of disability; and those who cannot be served are referred to other agencies for services as appropriate, or assigned to waiting lists. Waiting lists in some state agencies have grown as large as 14,000 individuals.

A significant increase in funding for the VR state grant program, supported employment, transition services, Projects with Industry and other successful rehabilitation programs are needed to address the urgent employment and rehabilitation needs of individuals with disabilities.

Under the Rehabilitation Act of 1973, As Amended, the Title I State Grants, which provide the significant majority of funding for state VR agencies, receive an annual cost of living adjustment (COLA) based on the Consumer Price Index. Originally intended by Congress to be a "floor" below which the annual COLA increases could not fall, overtime, the COLA has become a ceiling - one that is far too low to meet the rising costs of rehabilitation services

Another major barrier for individuals with more significant disabilities is their isolation from the workforce. The lack of funding for long-term employment supports prevents many individuals from jobs in the community through supported employment. Currently,

funding for supported employment is fragile and fragmented and this is not likely to change without federal guidance and leadership. Major weaknesses center around infrastructure development issues and insufficient funds to ensure successful outcomes for individuals with more significant disabilities.

In order to create more employment opportunities for individuals with disabilities the Consortium for Citizens with Disabilities (CCD) Employment Task Force makes the following recommendations.

Draft legislative recommendations –new language in *italics*

Expanding supported employment

1. Revise the definition of supported employment services to increase the time limit from up to 18 months to up to 24 months and to add language clarifying that nothing in the Rehabilitation Act shall be interpreted to allow states to establish, by policy or practice, arbitrary or categorical time limits on supported employment services,

Section 7 Definitions

(36) (B) are *solely* based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment and *cannot be overruled by state policy or practice.*

(C) are provided by the designated State unit for a period of time not to extend beyond ~~18~~*–24*, months unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator involved jointly agree to extend the time in order to achieve the employment outcome identified in the individualized plan for employment.

2. Improve data collection on supported employment programs.

Section 101 State Plans

(10)(C) (iii) NEW PROVISION

(III) the number who ended their participation in the program and who were receiving supported employment services and were employed 6 months and 12 months after securing or regaining employment including

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 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

3. Expand technical assistance given to states on supported employment and to providers on best practices and collect data relating to the existence and

effectiveness of supported employment programs as part of RSA annual review and monitoring of VR programs.

Section 107 (a)(4)(E) (new provision) *Provision of supported employment services to individuals.*

Section 204 (b)(2)(C) new (vii) *research, dissemination and technical assistance on best practices in supported employment and other strategies to promote competitive employment for persons with the most significant disabilities.*

4. Remove (Section 7(35)(B)) “certain transitional employment” from the definition of supported employment.
5. Develop a grant program to provide states agencies with multi-year funding to implement programs to significantly increase competitive employment outcomes for people with developmental disabilities. Applications must be jointly submitted by the state developmental disability agency and the vocational rehabilitation agency. The grant would require the lead state agencies to bring together other relevant state agencies, schools, individuals with intellectual disabilities, their family members, advocacy organizations and service providers to plan and implement the initiatives.

Section 303 (b) (4)
(D) *Systems change projects to increase competitive employment for persons with developmental disabilities*

Assisting community rehabilitation providers in building additional capacity to provide competitive employment

1. Revise the legislative authority for VR services to groups of individuals that permit funding for the establishment, development or improvement of community rehabilitation programs to only permit activities that expand individualized competitive employment strategies.

Section 103(b)(2)(A) The establishment, development or improvement of community rehabilitation programs, including under special circumstances, the construction of a facility. Such programs shall be used to provide services ~~that promote integration and~~ *that result in competitive employment, including supported employment.*

2. Develop a national grant program to provide assistance to individual community rehabilitation programs or groups of CRPs to build their internal capacity to provide individualized services and supports leading to competitive employment.

Section 303(b)(5) NEW (iv) *projects that assist individual community rehabilitation programs or groups of programs to build their internal capacity to provide individualized services and supports leading to competitive employment.*

Supporting strategies that work

1. CCD recommends the follow improvements to the Projects With Industry (Section 611 (a)).

Title VI Part A Sec. 611 (a)(2)(A)(ii)

“(A) provide for the establishment of business advisory councils, that shall—

“(i) be comprised of...

“(ii) identify job and career availability within the community *service delivery area*, consistent with the current and projected local employment opportunities identified by the *state or local* workforce investment board for the service delivery area under section 118(b)(1)(B) of the Workforce Investment Act of 1998;

Title VI Part A Sec. 611 (e) (1)(A)

“(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

Title VI Part A Sec. 611 (e)(2)

“(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, *multi-states*, or *nationally*, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

2. Entrepreneurship -- *Reinstate Sec. 641 [a]*

Expand VR support for business ownership for individuals with disabilities by creating a grant program in Title VI. This provision first appeared in the 1978 amendments but was taken out in the 1998 amendments because Congress never funded it. Adding this section would more forcefully support entrepreneurship for people with disabilities.

Business Opportunities for Individuals with Disabilities - Reinstate Sec. 641 [a] - "The Commissioner, in consultation with the Secretary of Labor, Administrator of the Small Business Administration and Secretary of

Commerce may make grants to, or enter into contracts with, individuals with disabilities to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated state units, of individuals eligible to participate in any program under this section. [b] There are authorized to be appropriated to carry out this section such sums as may be necessary

3. Expand opportunities for engaging business as a partner in the vocational rehabilitation program.

Title I, Section 109. Providing Training and Support Services to Employers.

A state may expend payments received under section 111 to educate and provide services to employers who have or are interested in hiring individuals with disabilities, this includes --

- (1) providing training and technical assistance to employers regarding the employment of people with disabilities, including disability awareness, the Americans with Disabilities Act and other employment related laws;*
- (2) working with employers to provide pre-employment training, recruit qualified applicants with disabilities, train employees with disabilities, and to retain employees who are at risk of losing a job due to disability related barriers;*
- (3) providing consultation, technical assistance and support to employers in areas such as workplace accommodations, assistive technology, facilities and workplace access; and*
- (4) assisting employers with access to financial supports, including tax credits and deductions available for hiring or accommodating individuals with disabilities.*

4. Authorize RSA to fund special demonstration projects that support the development of working relationships between VR agencies, their community partners and employers on a multi-state and national level. These VR networks work collaboratively to promote the development of careers and employment outcomes for individuals with disabilities by referring qualified VR applicants and providing support services to employer partners, including those that do business on a multi-state and regional level.

Title III, Section 301(a)(1)(B)(6)

Support the development of working relationships between VR agencies, their community partners and employers on a multi-state and national level. These VR networks work collaboratively to promote the development of careers and employment outcomes for individuals with

disabilities by referring qualified VR applicants and providing support services to employer partners, including those that do business on a national, multi-state and regional level."

Promoting economic security

1. Consistent with our recommendations to the Workforce Investment Act, add to Section 7 the following new definitions:

Asset development is a strategy to help low-income workers and job seekers, including individuals with disabilities, move toward economic security and greater financial self-sufficiency through income preservation, effective money and credit management, the pursuit of post-secondary education, the purchase of a home, business startup and growth, and the setting aside of resources for longer term needs and retirement.

Asset Development Services are a blend of services and supports that help advance economic self-sufficiency for low-income jobseekers, including individuals with disabilities including financial education, tax filing assistance and access to beneficial tax credits and other provisions, use of social security work incentives and individual development accounts (IDAs) and coordination with other savings programs including family self-sufficiency programs, college savings accounts, and home and small business ownership assistance.

2. Add a new option to Vocational Rehabilitation Services to Individuals Section 103 (a)(19) *Asset development services*

Improving the administration and outcomes of the VR Act

1. Amend Section 12(a) Administration of the Act to add a section which reads:
In carrying out the provision of this Act, the Commissioner shall take necessary action to ensure that funds appropriated pursuant to the Act are expended by states only for the programs, personnel and administration of programs authorized by the Act.
2. Amend Section 12(b) Reports to add new sentence
To ensure funds appropriated pursuant to the Act are being used solely in accordance with the purposes of the Act.
3. Direct RSA and NIDRR to convene stakeholders to examine the case closure system and the standards and indicators used to evaluate VR to assess whether they have a negative impact on the provision of services to people with the most significant disabilities and develop strategies and incentives to address any issues they identify.

Section 204 (a) (2) (A) In no less than 3 months after enactment the Director shall convene stakeholders to examine the case closure system and the standards and indicators used to evaluate VR to assess whether they have a negative impact on the provision of services to people with the most significant disabilities and develop strategies and incentives to address any issues they identify. In no less than 6 months after the stakeholder process is complete, a report will be provided to the RSA Commissioner.

Section 106 (a)(1)(A) The Commissioner shall, not later than 1 year after receiving the report required by Section 204 (a)(2)(A), will revise and update evaluation standards and performance indicator for the vocational rehabilitation program consistent with stakeholder recommendations.

4. Support the ability of grant and discretionary programs to carry over funds into the next fiscal year.

Section 19 of the Rehabilitation Act of 1973 (29 23 U.S.C. 716) is amended—

(1) in subsection (a) (1)

(A) by inserting “(except for the client assistance program funded under section 112)” after “any grant program under part B of title I”;

(B) by striking “, section 509 (except as provided in section 509(b))”;

(C) by striking “or C”; and

(D) by striking “752(b)” and inserting “753(b)”; and

(2) by adding at the end the following:

“(c) CLIENT ASSISTANCE PROGRAM; PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—

“(1) APPROPRIATED AMOUNTS.— Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out a grant program under section 112 or 509 (except as provided in section 509(b)), including any funds reallocated under such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

“(2) PROGRAM INCOME. — Notwithstanding any other provision of law, any amount of program income received by a recipient under a grant program under section 112 or 509 in a fiscal year that is not obligated and expended by the recipient prior to the beginning of the succeeding fiscal year, shall remain available for the 4 fiscal years following the fiscal year in which the recipient receives the amount”.

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e) is amended—

(1) in subsection (c)(1)(A), by inserting “a grant for” after “to provide”;
 (2) in subsection (g)(2), by striking “was paid” and inserting “was paid, except that program income generated from the amount paid to an eligible system for a fiscal year shall remain available to such system for the 4 following fiscal years”;

5. Establish a 90 day deadline on the formulation and completion of the Individual Plan for Employment unless an extension is agreed upon by both the VR representative and the individual.

Section 102 (b) (2) Mandatory Procedures

(A) Written Document – An Individualized Plan for Employment shall be a written document prepared on forms by the Designated State Unit *within 90 days unless an extension is agreed upon by both the VR representative and the individual.*

Native American programs

1. Authorize a Client Assistance Program for the Native American Consortium so that they can access important advocacy services, including under the Section 121 Native American VR program. CCD was very supportive of the language in the Senate draft legislation from last Congress that would fund a CAP for the P&A system serving the Native American Consortium. In addition, CCD is very supportive of the provision precluding funds for these new services until overall CAP appropriations reach or exceed \$13 million. This trigger will ensure that the creation of this new CAP will not divert funds from the existing CAPs until enough appropriations exist to maintain a level of support for all the CAPs.

Section 112 of the Rehabilitation Act of 1973 (29 13 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) by striking “(a)” and inserting “(a)(1)”;

(B) in the first sentence, by striking “States” and inserting “agencies designated under subsection (c)”;

(C) in the second sentence, by striking “State” and inserting “State in which the program is located”;

(2) in subsection (b), by striking “the State has in effect not later than October 1, 1984, a client assistance program which” and inserting “the State has designated under subsection (c) an agency that”;

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “The Secretary” and all that follows through the period and inserting the following: “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 agencies designated under subsection (c) within the States (referred to individually in this subsection as a ‘designated agency’) on the basis of relative population of each State, except that no such agency shall receive less than \$50,000.”;

(ii) in subparagraph (B), by inserting “the designated agencies located in” after “each to”;

(iii) in subparagraph (D)(i)—

(I) by inserting “the designated agencies located in” after “\$100,000 for”; and

(II) by inserting “the designated agencies located in” after “\$45,000 for”; and

(iv) by adding at the end the following:

“(E)(i) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds \$13,000,000, the Secretary shall reserve funds appropriated under this section to make a grant to the protection and advocacy system serving the American Indian Consortium to provide client assistance services in accordance with this section. The amount of such a grant shall be the same amount as is provided to a territory under subparagraph (B), as increased under clauses (i) and (ii) of subparagraph (D).

“(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.).

2. Allow the 121 Program to pursue cost reimbursement from SSA for the rehabilitation of SSI and SSDI beneficiaries.
3. Permanently fund 121 programs rather than force them to compete every three years. Experience and expertise is lost as is momentum for the clients who suddenly can no longer receive services from the Native American Program which loses it’s funding.

The CCD Employment Task Force appreciates your consideration of our recommendations. For more information please contact the co-chairs

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