

§ 26(e), Oct. 7, 1991, 105 Stat. 607, provided for submission of State plans for assistance under former part C of this subchapter, prior to repeal by Pub. L. 102-569, § 621(a).

AMENDMENTS

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

§ 795n. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1999 through 2003.

(Pub. L. 93-112, title VI, § 628, as added Pub. L. 105-220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1217; amended Pub. L. 105-277, div. A, § 101(f) [title VIII, § 402(b)(19)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-414.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 795q of this title prior to the general amendment of this subchapter by Pub. L. 105-220.

Prior sections 795n to 795r were omitted in the general amendment of this subchapter by Pub. L. 105-220.

Section 795n, Pub. L. 93-112, title VI, § 635, as added Pub. L. 102-569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4440, related to State plans. See section 795k of this title.

Another prior section 795n, Pub. L. 93-112, title VI, § 635, as added Pub. L. 99-506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1836; amended Pub. L. 100-630, title II, § 207(g), Nov. 7, 1988, 102 Stat. 3314, related to availability and comparability of services under former part C of this subchapter, prior to repeal by Pub. L. 102-569, § 621(a).

Section 795o, Pub. L. 93-112, title VI, § 636, as added Pub. L. 102-569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442, related to collection of client information. See section 795l of this title.

Another prior section 795o, Pub. L. 93-112, title VI, § 636, as added Pub. L. 99-506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1836, related to collection of client information, prior to repeal by Pub. L. 102-569, § 621(a).

Section 795p, Pub. L. 93-112, title VI, § 637, as added Pub. L. 102-569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442, contained savings provision. See section 795m of this title.

Another prior section 795p, Pub. L. 93-112, title VI, § 637, as added Pub. L. 99-506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1837, contained a savings provision not prohibiting a State from carrying out post-employment services leading to supported employment, prior to repeal by Pub. L. 102-569, § 621(a).

Section 795q, Pub. L. 93-112, title VI, § 638, as added Pub. L. 102-569, title VI, § 621(a), Oct. 29, 1992, 106 Stat. 4442, authorized appropriations.

Another prior section 795q, Pub. L. 93-112, title VI, § 638, as added Pub. L. 99-506, title VII, § 704(a)(1), Oct. 21, 1986, 100 Stat. 1837; amended Pub. L. 100-630, title II, § 207(h), Nov. 7, 1988, 102 Stat. 3314; Pub. L. 102-52, § 7(c), June 6, 1991, 105 Stat. 262, authorized appropriations for fiscal years 1987 to 1992, prior to repeal by Pub. L. 102-569, § 621(a).

Section 795r, Pub. L. 93-112, title VI, § 641, formerly § 622, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2994; amended Pub. L. 99-506, title I, § 103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 100-630, title II, § 207(c), Nov. 7, 1988, 102 Stat. 3313; renumbered § 641 and amended Pub. L. 102-569, title I, § 102(p)(39), title VI, § 612(a)(2), (3), (b), Oct. 29, 1992, 106 Stat. 4361, 4438, related to business opportunities for individuals with disabilities.

AMENDMENTS

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

SUBCHAPTER VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

CODIFICATION

Title VII of the Rehabilitation Act of 1973, comprising this subchapter, was originally added to Pub. L. 93-112 by Pub. L. 102-569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4443, and amended by Pub. L. 103-73, Aug. 11, 1993, 107 Stat. 718. Title VII is shown herein, however, as having been added by Pub. L. 105-220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217, without reference to those intervening amendments because of the extensive revision of title VII by Pub. L. 105-220.

PART A—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

SUBPART 1—GENERAL PROVISIONS

§ 796. Purpose

The purpose of this part is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 796d of this title, State vocational rehabilitation programs receiving assistance under subchapter I of this chapter, State programs of supported employment services receiving assistance under part B of subchapter VI of this chapter, client assistance programs receiving assistance under section 732 of this title, programs funded under other subchapters of this chapter, programs funded under other Federal law, and programs funded through non-Federal sources.

(Pub. L. 93-112, title VII, § 701, as added Pub. L. 105-220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217.)

PRIOR PROVISIONS

A prior section 796, Pub. L. 93-112, title VII, § 701, as added Pub. L. 102-569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4443; amended Pub. L. 103-73, title I, § 114(a), Aug. 11, 1993, 107 Stat. 728, related to purpose of program to provide assistance for independent living for individuals with severe disabilities, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796, Pub. L. 93-112, title VII, § 701, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2995, provided Congressional statement of purpose of former subchapter VII, prior to repeal by Pub. L. 102-569, § 701(1).

§ 796a. Definitions

As used in this part:

(1) Center for independent living

The term “center for independent living” means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

(A) is designed and operated within a local community by individuals with disabilities; and

(B) provides an array of independent living services.

(2) Consumer control

The term “consumer control” means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

(Pub. L. 93-112, title VII, §702, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796a, Pub. L. 93-112, title VII, §702, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4443, defined terms “center for independent living” and “consumer control”, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796a, Pub. L. 93-112, title VII, §702, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2995; amended Pub. L. 99-506, title I, §103(d)(2)(A), (C), title VIII, §801, title X, §§1001(g)(1), 1002(h), Oct. 21, 1986, 100 Stat. 1810, 1837, 1843, 1844; Pub. L. 100-630, title II, §208(a), Nov. 7, 1988, 102 Stat. 3314, provided eligibility requirements and definition of “comprehensive services for independent living”, prior to repeal by Pub. L. 102-569, §701(1).

§ 796b. Eligibility for receipt of services

Services may be provided under this part to any individual with a significant disability, as defined in section 705(21)(B) of this title.

(Pub. L. 93-112, title VII, §703, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796b, Pub. L. 93-112, title VII, §703, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4444, related to eligibility for receipt of services, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796b, Pub. L. 93-112, title VII, §703, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2996; amended Pub. L. 99-506, title X, §1001(g)(2), Oct. 21, 1986, 100 Stat. 1843; Pub. L. 100-630, title II, §208(b), Nov. 7, 1988, 102 Stat. 3314, related to State allotments for comprehensive services for independent living, prior to repeal by Pub. L. 102-569, §701(1).

§ 796c. State plan**(a) In general****(1) Requirement**

To be eligible to receive financial assistance under this part, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

(2) Joint development

The plan under paragraph (1) shall be jointly developed and signed by—

(A) the director of the designated State unit; and

(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

(3) Periodic review and revision

The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

(A) the provision of State independent living services;

(B) the development and support of a statewide network of centers for independent living; and

(C) working relationships between—

(i) programs providing independent living services and independent living centers; and

(ii) the vocational rehabilitation program established under subchapter I of this chapter, and other programs providing services for individuals with disabilities.

(4) Date of submission

The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this part until such time as the State submits such a plan.

(b) Statewide Independent Living Council

The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 796d of this title.

(c) Designation of State unit

The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

(1) receive, account for, and disburse funds received by the State under this part based on the plan;

(2) provide administrative support services for a program under subpart 2, and a program under subpart 3 in a case in which the program is administered by the State under section 796f-2 of this title;

(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

(d) Objectives

The plan shall—

(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

(2) explain how such objectives are consistent with and further the purpose of this part.

(e) Independent living services

The plan shall provide that the State will provide independent living services under this part to individuals with significant disabilities, and will provide the services to such an individual in

accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

(f) Scope and arrangements

The plan shall describe the extent and scope of independent living services to be provided under this part to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

(g) Network

The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 796f-4 of this title.

(h) Centers

In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under subpart 3, as provided in section 796f-2 of this title, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 796f-2 of this title.

(i) Cooperation, coordination, and working relationships among various entities

The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

(j) Coordination of services

The plan shall describe how services funded under this part will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

(k) Coordination between Federal and State sources

The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

(l) Outreach

With respect to services and centers funded under this part, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this subchapter, including minority groups and urban and rural populations.

(m) Requirements

The plan shall provide satisfactory assurances that all recipients of financial assistance under this part will—

(1) notify all individuals seeking or receiving services under this part about the availability

of the client assistance program under section 732 of this title, the purposes of the services provided under such program, and how to contact such program;

(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 793 of this title;

(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this part;

(4)(A) maintain records that fully disclose—

(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

(n) Evaluation

The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d) of this section, including evaluation of satisfaction by individuals with disabilities.

(Pub. L. 93-112, title VII, §704, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1218.)

PRIOR PROVISIONS

A prior section 796c, Pub. L. 93-112, title VII, §704, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4444; amended Pub. L. 103-73, title I, §114(b), Aug. 11, 1993, 107 Stat. 728, related to State plans, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796c, Pub. L. 93-112, title VII, §704, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 2997; amended Pub. L. 100-630, title II, §208(c), Nov. 7, 1988, 102 Stat. 3314, related to payments to States from allotments to pay Federal share of expenditures, prior to repeal by Pub. L. 102-569, §701(1).

§ 796d. Statewide Independent Living Council

(a) Establishment

To be eligible to receive financial assistance under this part, each State shall establish a

Statewide Independent Living Council (referred to in this section as the "Council"). The Council shall not be established as an entity within a State agency.

(b) Composition and appointment

(1) Appointment

Members of the Council shall be appointed 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. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(2) Composition

The Council shall include—

(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

(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.

(3) Additional members

The Council may include—

(A) other representatives from centers for independent living;

(B) parents and guardians of individuals with disabilities;

(C) advocates of and for individuals with disabilities;

(D) representatives from private businesses;

(E) representatives from organizations that provide services for individuals with disabilities; and

(F) other appropriate individuals.

(4) Qualifications

(A) In general

The Council shall be composed of members—

(i) who provide statewide representation;

(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

(iii) who are knowledgeable about centers for independent living and independent living services; and

(iv) a majority of whom are persons who are—

(I) individuals with disabilities described in section 705(20)(B) of this title; and

(II) not employed by any State agency or center for independent living.

(B) Voting members

A majority of the voting members of the Council shall be—

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by any State agency or center for independent living.

(5) Chairperson

(A) In general

Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

(B) Designation by chief executive officer

In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

(6) Terms of appointment

(A) Length of term

Each member of the Council shall serve for a term of 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) Number of terms

No member of the Council may serve more than two consecutive full terms.

(7) Vacancies

(A) In general

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(B) Delegation

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

(c) Duties

The Council shall—

(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 796c of this title;

(2) monitor, review, and evaluate the implementation of the State plan;

(3) coordinate activities with the State Rehabilitation Council established under section 725 of this title, if the State has such a Council, or the commission described in section

721(a)(21)(A) of this title, if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

(d) Hearings and forums

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(e) Plan

(1) In general

The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this part, and under section 730 of this title (consistent with section 721(a)(18) of this title), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the 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 agency or any other agency or office of the State, that would create a conflict of interest.

(f) Compensation and expenses

The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay 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.)

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

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 Commissioner

(a) Approval of State plans

(1) In general

The Commissioner shall approve any State plan submitted under section 796c of this title that the Commissioner 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 Commissioner 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 Commissioner 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 shall be deemed to be references to the Commissioner; and

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

(b) Indicators

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.

(c) Onsite compliance reviews

(1) Reviews

The Commissioner shall annually conduct onsite compliance reviews of at least 15 per-

cent 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 Commissioner 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. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

(2) Qualifications of employees conducting reviews

The Commissioner shall—

(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

(B) ensure that the employee of the Department 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

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.

(Pub. L. 93-112, title VII, §706, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1223.)

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).

SUBPART 2—INDEPENDENT LIVING SERVICES

§ 796e. Allotments

(a) In general

(1) States

(A) Population basis

Except as provided in subparagraphs (B) and (C), from sums appropriated for each fis-

cal year to carry out this subpart, the Commissioner 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 $\frac{1}{8}$ of 1 percent of the amounts made available for purposes of this subpart 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 Commissioner 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) of this section, to provide minimum allotments to States (as increased under subsection (a)(3) of this section) under subsection (a)(1)(C) of this section, or to provide minimum allotments to States under subsection (a)(2)(B) of this section, the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A) of this section, 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) of this section.

(c) Reallotment

Whenever the Commissioner 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 Commissioner shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Commissioner 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.

(Pub. L. 93-112, title VII, §711, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1224.)

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).

§ 796e-1. Payments to States from allotments

(a) Payments

From the allotment of each State for a fiscal year under section 796e of this title, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 796d-1 of this title. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

(b) Federal share

(1) In general

The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 796d-1 of this title.

(2) Non-Federal share

The non-Federal share of the cost of any project that receives assistance through an allotment under this subpart may be provided in

cash or in kind, fairly evaluated, including plant, equipment, or services.

(Pub. L. 93-112, title VII, §712, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1225.)

PRIOR PROVISIONS

A prior section 796e-1, Pub. L. 93-112, title VII, §712, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4451; amended Pub. L. 103-73, title I, §114(f), Aug. 11, 1993, 107 Stat. 730, related to payments to States from allotments, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796e-2. Authorized uses of funds

The State may use funds received under this subpart to provide the resources described in section 796d(e) of this title, relating to the Statewide Independent Living Council, and may use funds received under this subpart—

(1) to provide independent living services to individuals with significant disabilities;

(2) to demonstrate ways to expand and improve independent living services;

(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 796f-4 of this title;

(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

(7) to provide outreach to populations that are unserved or underserved by programs under this subchapter, including minority groups and urban and rural populations.

(Pub. L. 93-112, title VII, §713, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1226.)

PRIOR PROVISIONS

A prior section 796e-2, Pub. L. 93-112, title VII, §713, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4451; amended Pub. L. 103-73, title I, §114(g), Aug. 11, 1993, 107 Stat. 730, related to authorized uses of funds, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796e-3. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93-112, title VII, §714, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1226.)

PRIOR PROVISIONS

A prior section 796e-3, Pub. L. 93-112, title VII, §714, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992,

106 Stat. 4452, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105-220.

SUBPART 3—CENTERS FOR INDEPENDENT LIVING

§ 796f. Program authorization

(a) In general

From the funds appropriated for fiscal year 1999 and for each subsequent fiscal year to carry out this subpart, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d) of this section.

(b) Training

(1) Grants; contracts; other arrangements

For any fiscal year in which the funds appropriated to carry out this subpart exceed the funds appropriated to carry out this subpart for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this subpart for the fiscal year involved.

(2) Allocation

From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

(3) Funding priorities

The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

(4) Review

To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

(5) Prohibition on combined funds

No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this chapter if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this part

are separately identified in such grant or payment and are used for the purposes of this part.

(c) In general

(1) States

(A) Population basis

After the reservation required by subsection (b) of this section has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this subpart, the Commissioner 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 remainder 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 financial assistance received by centers for independent living in the State for fiscal year 1992 under part B 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), for a fiscal year in which the amounts appropriated to carry out this subpart exceed the amounts appropriated for fiscal year 1992 to carry out part B of this subchapter, as in effect on the day before October 29, 1992—

(i) if such excess is not less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$450,000 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 \$450,000 or $\frac{1}{3}$ of 1 percent of such sums shall be increased to the greater of the 2 amounts;

(ii) if such excess is not less than \$4,000,000 and is less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$400,000 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 \$400,000 or $\frac{1}{3}$ of 1 percent of such sums shall be increased to the greater of the 2 amounts; and

(iii) if such excess is less than \$4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the 2 amounts described in clause (ii).

(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 $\frac{1}{8}$ of 1 percent of the remainder 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 Commissioner 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.

(4) Proportional reduction

To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (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 paragraph (1)(B).

(d) Reallocation

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this subpart, the Commissioner shall make such amount available for carrying out the provisions of this subpart to one or more of the States that the Commissioner 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.

(Pub. L. 93-112, title VII, §721, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1226.)

REFERENCES IN TEXT

Part B of this subchapter, as in effect on the day before October 29, 1992, referred to in subsec. (c)(1)(B), (C), means former part B (§796e) 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 796f, Pub. L. 93-112, title VII, §721, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4452; amended Pub. L. 103-73, title I, §114(h), Aug. 11, 1993, 107 Stat. 730, authorized program to assist centers for independent living, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 796f, Pub. L. 93-112, title VII, §721, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978,

92 Stat. 2999; amended Pub. L. 99-506, title X, §1001(g)(4), Oct. 21, 1986, 100 Stat. 1843; Pub. L. 100-630, title II, §208(g), Nov. 7, 1988, 102 Stat. 3314, related to establishment of independent living service programs for older blind individuals, prior to repeal by Pub. L. 102-569, §701(1).

§ 796f-1. Grants to centers for independent living in States in which Federal funding exceeds State funding

(a) Establishment

(1) In general

Unless the director of a designated State unit awards grants under section 796f-2 of this title to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 796f of this title for such year.

(2) Grants

The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 796f-4 of this title.

(b) Eligible agencies

In any State in which the Commissioner has approved the State plan required by section 796c of this title, the Commissioner may make a grant under this section to any eligible agency that—

(1) has the power and authority to carry out the purpose of this subpart and perform the functions set forth in section 796f-4 of this title within a community and to receive and administer funds under this subpart, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 796f-4 of this title; and

(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(c) Existing eligible agencies

In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this subpart by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 796f-4 of this title.

(d) New centers for independent living

(1) In general

If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the

Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

(2) Selection

In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

(B) shall consider the ability of each such applicant to operate a center for independent living based on—

- (i) evidence of the need for such a center;
- (ii) any past performance of such applicant in providing services comparable to independent living services;
- (iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 796f-4 of this title;
- (iv) the quality of key personnel and the involvement of individuals with significant disabilities;
- (v) budgets and cost-effectiveness;
- (vi) an evaluation plan; and
- (vii) the ability of such applicant to carry out the plans; and

(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 796c of this title regarding establishment of a statewide network of centers for independent living.

(3) Current centers

Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under subpart 2 for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

(e) Order of priorities

The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

(1) The Commissioner shall support existing centers for independent living, as described in subsection (c) of this section, that comply with the standards and assurances set forth in section 796f-4 of this title, at the level of funding for the previous year.

(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

(3) The Commissioner shall fund new centers for independent living, as described in subsection (d) of this section, that comply with the standards and assurances set forth in section 796f-4 of this title.

(f) Nonresidential agencies

A center that provides or manages residential housing after October 1, 1994, shall not be con-

sidered to be an eligible agency under this section.

(g) Review

(1) In general

The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 796f-4 of this title. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 796f-4 of this title, the Commissioner shall immediately notify such center that it is out of compliance.

(2) Enforcement

The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

(Pub. L. 93-112, title VII, § 722, as added Pub. L. 105-220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1229.)

REFERENCES IN TEXT

This subpart, referred to in subsec. (c), means subpart 3 (§ 796f et seq.) of part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105-220, title IV, § 410, Aug. 7, 1998, 112 Stat. 1217.

PRIOR PROVISIONS

A prior section 796f-1, Pub. L. 93-112, title VII, § 722, as added Pub. L. 102-569, title VII, § 701(2), Oct. 29, 1992, 106 Stat. 4456; amended Pub. L. 103-73, title I, § 114(i), Aug. 11, 1993, 107 Stat. 731, related to grants to centers for independent living in States in which Federal funding exceeds State funding, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796f-2. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding

(a) Establishment

(1) In general

(A) Initial year

(i) Determination

The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this subpart equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 796f of this title for such year.

(ii) Grants

The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for inde-

pendent living that comply with the standards and assurances set forth in section 796f-4 of this title.

(iii) Regulation

The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

(B) Subsequent years

For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

(2) Grants by designated State units

In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

(3) Grants by Commissioner

If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 796f-1 of this title.

(b) Eligible agencies

In any State in which the Commissioner has approved the State plan required by section 796c of this title, the director of the designated State unit may award a grant under this section to any eligible agency that—

(1) has the power and authority to carry out the purpose of this subpart and perform the functions set forth in section 796f-4 of this title within a community and to receive and administer funds under this subpart, funds and contributions from private or public sources that may be used in support of a center for

independent living, and funds from other public and private programs;

(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 796f-4 of this title; and

(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

(c) Existing eligible agencies

In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this subpart by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 796f-4 of this title.

(d) New centers for independent living

(1) In general

If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 796c of this title setting forth the design of the State for establishing a statewide network of centers for independent living.

(2) Selection

In selecting from among eligible agencies in awarding a grant under this subpart for a new center for independent living—

(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 796f-4 of this title and criteria jointly established by such director and such chairperson or individual;

(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

(i) evidence of the need for a center for independent living, consistent with the State plan;

(ii) any past performance of such applicant in providing services comparable to independent living services;

(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 796f-4 of this title;

(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

(v) the budgets and cost-effectiveness of the applicant;

(vi) the evaluation plan of the applicant; and

(vii) the ability of such applicant to carry out the plans; and

(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

(3) Current centers

Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under subpart 2 for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

(e) Order of priorities

Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c) of this section, that comply with the standards and assurances set forth in section 796f-4 of this title, at the level of funding for the previous year.

(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d) of this section, that comply with the standards and assurances set forth in section 796f-4 of this title.

(f) Nonresidential agencies

A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

(g) Review

(1) In general

The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 796f-4 of this title. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 796f-4 of this title, the director of the designated State unit shall immediately notify such center that it is out of compliance.

(2) Enforcement

The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

(A) the date of such notification; or

(B) in the case of a center that requests an appeal under subsection (i) of this section,

the date of any final decision under subsection (i) of this section,

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

(h) Onsite compliance review

The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

(i) Adverse actions

If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

(Pub. L. 93-112, title VII, §723, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1231.)

REFERENCES IN TEXT

This subpart, referred to in subsec. (c), means subpart 3 (§796f et seq.) of part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1217.

PRIOR PROVISIONS

A prior section 796f-2, Pub. L. 93-112, title VII, §723, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4458; amended Pub. L. 103-73, title I, §114(j), Aug. 11, 1993, 107 Stat. 731, related to grants to centers for independent living in States in which State funding equals or exceeds Federal funding, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796f-3. Centers operated by State agencies

A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before August 7, 1998) may continue to receive assistance under this subpart for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

(1) no nonprofit private agency—

(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

(B) obtains approval of the application under section 796f-1 or 796f-2 of this title; or

(2) after funding all applications so submitted and approved, the Commissioner deter-

mines that funds remain available to provide such assistance.

(Pub. L. 93-112, title VII, §724, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1234.)

PRIOR PROVISIONS

A prior section 796f-3, Pub. L. 93-112, title VII, §724, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4461; amended Pub. L. 103-73, title I, §114(k), Aug. 11, 1993, 107 Stat. 731, related to centers operated by State agencies, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796f-4. Standards and assurances for centers for independent living

(a) In general

Each center for independent living that receives assistance under this subpart shall comply with the standards set out in subsection (b) of this section and provide and comply with the assurances set out in subsection (c) of this section in order to ensure that all programs and activities under this subpart are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this part and the objective of providing assistance effectively and efficiently.

(b) Standards

(1) Philosophy

The center shall promote and practice the independent living philosophy of—

(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

(B) self-help and self-advocacy;

(C) development of peer relationships and peer role models; and

(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

(2) Provision of services

The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are underserved or underserved by programs under this subchapter). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

(3) Independent living goals

The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

(4) Community options

The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of

independent living goals by individuals with significant disabilities.

(5) Independent living core services

The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

(6) Activities to increase community capacity

The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

(7) Resource development activities

The center shall conduct resource development activities to obtain funding from sources other than this part.

(c) Assurances

The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

(1) the applicant is an eligible agency;

(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

(3) the applicant will comply with the standards set forth in subsection (b) of this section;

(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 796c of this title;

(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 793 of this title;

(6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;

(7) the applicant will practice sound fiscal management;

(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

(A) the extent to which the center is in compliance with the standards;

(B) the number and types of individuals with significant disabilities receiving services through the center;

(C) the types of services provided through the center and the number of individuals

with significant disabilities receiving each type of service;

(D) the sources and amounts of funding for the operation of the center;

(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this subchapter, especially minority groups and urban and rural populations;

(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b) of this section; and

(14) an independent living plan described in section 796c(e) of this title will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

(Pub. L. 93-112, title VII, §725, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1234; amended Pub. L. 105-332, §5(c), Oct. 31, 1998, 112 Stat. 3127.)

PRIOR PROVISIONS

A prior section 796f-4, Pub. L. 93-112, title VII, §725, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4462; amended Pub. L. 103-73, title I, §114(i), Aug. 11, 1993, 107 Stat. 731, related to standards and assurances for centers for independent living, prior to the general amendment of this subchapter by Pub. L. 105-220.

AMENDMENTS

1998—Subsec. (c)(7). Pub. L. 105-332 substituted “management;” for “management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31;”.

§ 796f-5. “Eligible agency” defined

As used in this subpart, the term “eligible agency” means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

(Pub. L. 93-112, title VII, §726, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1237.)

PRIOR PROVISIONS

A prior section 796f-5, Pub. L. 93-112, title VII, §726, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4464, defined “eligible agency”, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796f-6. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93-112, title VII, §727, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1237.)

PRIOR PROVISIONS

A prior section 796f-6, Pub. L. 93-112, title VII, §727, as added Pub. L. 102-569, title VII, §701(2), Oct. 29, 1992, 106 Stat. 4464, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105-220.

Prior sections 796g to 796i were repealed by Pub. L. 102-569, title VII, §701(1), Oct. 29, 1992, 106 Stat. 4443.

Section 796g, Pub. L. 93-112, title VII, §731, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 3000; amended Pub. L. 99-506, title I, §103(h)(2), Oct. 21, 1986, 100 Stat. 1811; Pub. L. 100-630, title II, §208(h), Nov. 7, 1988, 102 Stat. 3314, provided for grants to States to establish systems to protect and advocate for rights of individuals with severe handicaps.

Section 796h, Pub. L. 93-112, title VII, §732, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 3000; amended Pub. L. 99-506, title I, §103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810, related to affirmative action on part of recipients of assistance to employ and advance in employment qualified individuals with handicaps.

Section 796i, Pub. L. 93-112, title VII, §741, formerly §731, as added Pub. L. 95-602, title III, §301, Nov. 6, 1978, 92 Stat. 3001; renumbered §741 and amended Pub. L. 98-221, title I, §172(a)(1), (b), Feb. 22, 1984, 98 Stat. 32; Pub. L. 99-506, title VIII, §806, Oct. 21, 1986, 100 Stat. 1840; Pub. L. 100-630, title II, §208(i), Nov. 7, 1988, 102 Stat. 3315; Pub. L. 102-52, §8, June 6, 1991, 105 Stat. 262, provided for appropriations.

PART B—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

§ 796j. “Older individual who is blind” defined

For purposes of this part, the term “older individual who is blind” means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

(Pub. L. 93-112, title VII, §751, as added Pub. L. 105-220, title IV, §410, Aug. 7, 1998, 112 Stat. 1237.)

PRIOR PROVISIONS

A prior section 796j, Pub. L. 93-112, title VII, §751, as added Pub. L. 102-569, title VII, §703(a), Oct. 29, 1992, 106 Stat. 4464, defined “older individual who is blind”, prior to the general amendment of this subchapter by Pub. L. 105-220.

§ 796k. Program of grants

(a) In general

(1) Authority for grants

Subject to subsections (b) and (c) of this section, the Commissioner may make grants to