

National Federation of the Blind Rehabilitation Act Reauthorization Recommendations

Introduction:

As a threshold matter, the National Federation of the Blind supports development of separate agencies for the blind. Recent studies analyzing outcome data reported by the Rehabilitation Services Administration (RSA) have found that such agencies are superior to general agencies in helping eligible individuals to achieve high-quality employment outcomes. Also, they are more likely to provide the specific services required by blind persons than are general agencies. After receiving rehabilitation services, blind persons served by separate agencies for the blind are more likely to have income from employment as their primary means of financial support as compared to blind individuals served by general agencies. Therefore, to ensure that blind people have the best chance to develop constructive attitudes and the skills necessary to compete for employment in society, the growth of separate agencies for the blind must be encouraged.

Programs authorized by the Rehabilitation Act are important resources in the employment of blind persons and other persons with disabilities. However, while employment is the primary goal of the Act, the important role of these programs in improving the quality of life for blind persons should also be emphasized. In this respect, the rehabilitation program differs from federally supported job training programs because its participants often need substantial training and services before preparing to seek work. Efforts to redirect vocational rehabilitation into a job service for persons with disabilities, a trend in many states, will result in denying needed services and actually failing to prepare eligible individuals to attain and maintain competitive employment.

Representing the views of blind consumers, the National Federation of the Blind (NFB) is always actively involved whenever reauthorization of the Rehabilitation Act is being considered. Accordingly, the recommendations proposed by the NFB for the 2003 reauthorization are as follows:

1. RECOMMENDATION: Retain the existing definition of employment outcome in section 7(11) of the Act, not to include extended employment in non-integrated settings.

RATIONALE: The existing definition emphasizes competitive employment as the preferred outcome in the vocational rehabilitation program. However, the definition also provides authority for the Secretary to define this term more precisely. Using this authority the Secretary has determined that an employment outcome does not exist unless the employment is in an integrated setting. This interpretation of the Act was chosen to assure that individuals with disabilities receive the services they need in order to achieve competitive, rather than sheltered, employment. Altering the definition to require extended, or sheltered, employment as an accepted outcome would undercut the emphasis on competitive employment and deny many individuals the opportunity to enter the integrated labor force.

2. RECOMMENDATION: Amend section 101(a) of the Act to assure that eligible individuals are not required to pay costs relating to adjustment to blindness or disability or to purchase needed technology or training in its use.

RATIONALE: An inability to receive services for adjustment to blindness or disability or to obtain technology poses significant barriers to employment. Removing these barriers is the principal purpose and responsibility of the vocational rehabilitation program. For this reason, both adjustment and technology services should be given the highest priority and must be provided regardless of an individual's ability to pay.

3. RECOMMENDATION: Exempt individuals who receive benefits under titles II or XVI of the Social Security Act from any limitation on services resulting from an order of selection pursuant to section 101(a)(5) of the Act.

RATIONALE: The 1998 amendments to section 102 of the Act provide a presumption of eligibility for beneficiaries. This was done to acknowledge their need for services in order to obtain employment and leave the rolls. Nonetheless, beneficiaries, while being eligible, may still be denied services if a state vocational rehabilitation agency institutes an order of selection. The exemption would address this inconsistency by assuring that beneficiaries can continue to receive services regardless of the order of selection. This is a rational public policy in view of the continuing expense which results from failing to serve beneficiaries and assist them to achieve employment as soon as practicable.

4. RECOMMENDATION: Amend Section 101(a)(7)(B) of the Act by requiring state vocational rehabilitation agencies to take into account any relevant personnel standards or certification requirements recognized by the Commissioner of the Rehabilitation Services Administration.

RATIONALE: The goal of the Comprehensive System of Personnel Development is to ensure that qualified professionals serve people with disabilities. Toward that end, states are required to establish personnel requirements that are "consistent with any national or State-approved or recognized certification, licensing, registration, or other comparable requirements." This approach provides the state agency with substantial discretion which can lead to the deliberate exclusion of standards that reflect high quality but are not favored by the state. The proposed amendment would not eliminate the state's discretion, but would require that standards recognized by the commissioner be taken into account supporting the goal that highly qualified professionals provide vocational rehabilitation services.

5. RECOMMENDATION: Amend Section 101(a)(20) of the Act to require state vocational rehabilitation agencies to disseminate to eligible individuals information produced by consumer groups when such information is available and relevant to the individual's disability.

RATIONALE: The responsibility to make an informed choice presupposes the need for

accurate and complete information about disabling conditions and relevant services available. Consistent with the principles expressed in the Rehabilitation Act, consumer groups are a source of firsthand information and should be used whenever possible. Nonetheless, there are notable instances in which state agencies have screened information produced by consumer groups and restricted access to it. This practice is a barrier to informed choice, and the Act must be clarified to prevent it.

6. RECOMMENDATION: Amend Section 102(d) of the Act to require state vocational rehabilitation agencies to establish fee schedules for services of comparable content, quality, and duration based on a representative sample of such services and costs available from private, third-party, providers.

RATIONALE: Section 102(d) of the Act clearly allows individuals to choose among providers of services, but regulations permit agencies to limit the amount they will spend, requiring the individual to pay the difference. Also, the cost comparison is often not based on comparable services. This has the effect of limiting the exercise of informed choice since there is no common basis for determining the state's cost. Therefore, the individual is at the mercy of the state and has no recourse but to pay for the exercise of informed choice. The recommended amendment would address this situation by establishing a more uniform basis for cost of each service based on the amount the state would pay for comparable services from a representative sample of private, third-party, providers.

7. RECOMMENDATION: Amend Section 102(d) of the Act to prohibit state agencies from establishing a preference for in-state services.

RATIONALE: This prohibition is requested in order to strengthen informed choice. Section 361.50 of the vocational rehabilitation regulations permits state agencies to establish a preference for in-state services, but such policies tend to restrict informed choice. This is particularly so for blind people because of comparatively low numbers needing services. For example, many states have only one program to provide orientation and adjustment training to blind people. Therefore a preference for in-state services is a serious and wide-spread impediment to informed choice.

8. RECOMMENDATION: Amend Section 102(d) of the Act to prohibit state vocational rehabilitation agencies from limiting the choice of service providers to agencies recognized by any state or national accreditation standards or by use of approved provider lists.

RATIONALE: The principle of informed choice is a preeminent value in the Act. Nonetheless, states often limit the exercise of informed choice by policies and practices resulting in the pre-selection of service providers. For example, some states restrict the scope of eligible providers to those having received accreditation from either the Commission on Accreditation of Rehabilitation Facilities (CARF) or the National Accreditation Council for Agencies Serving the Blind (NAC). Changes made in the Act in 1998 removed requirements for state standards in an effort to promote informed

choice. Therefore, the amendments should now prohibit the use of any policies which continue to block this objective.

9. RECOMMENDATION: Add "adjustment to blindness services" to be specified in section 103 of the Act, with a stated presumed need for such services for individuals who are blind.

RATIONALE: The services needed go beyond "orientation and mobility," and "reader services for the blind," currently listed in section 103. Adjustment to blindness consists of an integrated body of services which are essential to enable blind people to live and work independently. These services include an instructional program designed to provide the blind person with a constructive and realistic understanding of blindness aimed at building self-confidence and independence. These services also include skills training, such as

- cane travel,
- Braille literacy skills,
- use of computer technology, including specialized access technology, and
- activities of daily living.

Without this kind of positive intervention, loss of sight can result in significant, life-long limitations for each blind person. However, with competence in the specialized techniques used by the blind, positive outcomes, including competitive employment, are readily attainable.

10. RECOMMENDATION: Amend the relevant provisions of titles II and III of the Act to assure that projects funded as discretionary grants include programs designed to meet the specialized needs of individuals with disabilities, including blindness.

RATIONALE: Under the existing law and practice, projects which address the needs of individuals having "the full range of disabilities" are often favored over projects having a more specialized focus. Accordingly, projects to demonstrate improved methods for serving the blind are often excluded from consideration because of their focus on a single disability. This exclusion disregards specialized needs and blocks funding of projects to address them. The proposed amendment would balance the scales by recognizing the value of serving individuals with particular disabilities and using discretionary grants to improve services to them. Even so, the totality of projects taken as a whole could still address the full range of needs while not ignoring specialization.

11. RECOMMENDATION: Amend title III of the Act to establish a program of assistive technology resource and technical assistance centers, including at least one such center specializing in access technology for the blind and visually impaired.

RATIONALE: Effective use of assistive and access technology is essential for persons with disabilities in order to obtain and maintain employment. However, state vocational rehabilitation agencies are often unable to intervene and resolve technology problems as

they arise for persons with disabilities in the workplace in part due to lack of staff and expertise. The proposed amendment would address this situation by establishing resource centers with technology and knowledgeable personnel equipped to respond to specific problems and develop solutions to them. At least one such center would be established as a nationwide resource in access technology for the blind and visually impaired. This center would be available to rehabilitation personnel, consumers, and employers in order to provide state-of-the-art knowledge about access barriers in the use of information technology and how to overcome them on the job.

12. RECOMMENDATION: In part C of chapter 1 of title VII of the Act, remove the criteria specifying that independent living centers must be "cross-disability," and serve individuals with the "full range of disabilities."

RATIONALE: With this amendment, independent living centers could focus on particular disabilities or tailor some services to individuals with particular disabilities. Also, many centers could continue to serve a cross-disability population even if the requirement is removed from the Act. They would have greater freedom to customize services to meet the needs of the local communities and to concentrate on areas where they have expertise. The centers themselves would have the authority to determine whom they serve and how best to serve those individuals.

13. RECOMMENDATION: Provide a series of specific, increasing authorizations of appropriations under chapter 2 of title VII of the Act.

RATIONALE: Under current funding, the majority of older blind persons are unserved and unlikely to be served. Nonetheless they are in need of assistance to live independently in their homes. With the growing population of older blind persons, the gap between those served and those in need of service will continue to increase at an alarming rate. Today it is estimated that more than 5 million people in this country experience severe vision loss. This number is expected to double by the year 2030. Older individuals who are blind are the largest single segment of the blind population and receive the least funding. Accordingly, for fiscal year 2004 Congress should authorize \$35 million to chapter 2 of title VII of the Rehabilitation Act and increase this authorization in \$5 million increments for each year of the reauthorization bill.

14. RECOMMENDATION: Amend Title VII Chapter II of the Act: (1) by striking provisions relating to "contingent competitive grants" in subsection (b) of section 752; (2) by making technical modifications necessary to provide continuing formula grant authority for all states to receive an allotment for this program; and (3) by striking all references to the State Independent Living Plan of Section 704 of the Act.

RATIONALE: The program for older blind individuals was conceived and remains as a separate and distinct program authorized in title VII of the Act. It serves a strictly defined population providing particular services. An application requiring states to provide specific assurances supports program goals. The "contingent competitive grant"

language presently in section 752 was needed when appropriations for this program were less than \$13 million but is now unnecessary due to significant funding above this benchmark. To fund the program, allocations are made on a formula basis, rather than according to a competitive grants process.

The references in chapter II to the state plan for providing independent living services required by Section 704 have no relationship to the quality of services provided under the older blind program and should be deleted. Although coordination between programs may be desirable, statutory requirements for consistency with the state plan for independent living could lead to conflicts over control of the older blind program or disregarding the requirements to avoid conflict.

15. RECOMMENDATION: Amend section 508 of the Act to require recipients of federal financial assistance to comply with the electronic and information technology accessibility standards.

RATIONALE: The implementation of accessibility standards for electronic and information technology pursuant to the 1998 amendments has focused national attention on this concern. Access to information technology is critical throughout our economy. In fact, entities receiving federal grants often employ or serve people with disabilities as an extension of federal programs. Therefore, applying section 508 to these programs and recipients will assure greater participation by persons with disabilities, as well as the opportunity for full integration in the workforce.