WEST VIRGINIA CODE CHAPTER 18 ARTICLE 10M

WV Legislature

§18-10M-1. Short title.

This article shall be known and may be cited as the "West Virginia Independent Living Act".

WV Legislature

§18-10M-2. Legislative findings and declarations.

The Legislature hereby finds and declares the following:

(1) The state recognizes the value of independent living services in maximizing the ability of people with disabilities to live more independently in their own homes and communities.

(2) Persons with disabilities have the best capacity to design, develop, manage and implement the programs and services which are intended to assist them.

(3) The federal Rehabilitation Act, as amended, requires this state to develop a state plan for independent living to describe and direct independent living services in West Virginia.

(4) The federal Rehabilitation Act, as amended, further calls for the establishment and operation of a Statewide Independent Living Council to monitor, review and evaluate the implementation of the state's plan for independent living services.

(5) Approximately twenty-three and one-half percent of West Virginia's residents have one or more disabilities, many of whom could benefit directly or indirectly from the provision of independent living services by the Division of Rehabilitation Services and the state's centers for independent living.

(6) A need exists for a coordinated network of consumer-controlled centers for independent living that effectively reaches persons with disabilities in all fifty-five counties of the state.

WV Legislature

§18-10M-3. Purpose.

The purpose of this article is to authorize, facilitate or provide for services and activities that will enable individuals with disabilities to live as independently as possible in their own homes and communities; to promote the philosophy of independent living, including consumer control, peer support, self-help, self-determination, equal access and individual and systems advocacy; to enhance and maximize the leadership abilities, empowerment, independence and productivity of individuals with significant disabilities; and to promote and maximize the integration and full inclusion of individuals with significant disabilities into the mainstream of our society. To this end, services provided pursuant to this article shall be offered in the most integrated settings to the maximum extent possible, within available resources.

WV Legislature

§18-10M-4. Definitions.

Terms used in this article have the same meanings as those provided in the federal Rehabilitation Act, as amended, as follows:

(a) "Consumer control" means circumstances in which individuals with disabilities having decision-making authority.

(b) "Council" means the Statewide Independent Living Council.

(c) "Designated state entity" means the entity designated in the state plan for independent living to receive and administer federal funding as directed by the plan.

(d) "Federal Rehabilitation Act" or "federal act" means the act codified at 29 U. S. C. §701, et. seq.

(e) "Independent living services" means advocacy; independent living skills; training; information and referral; peer counseling; peer support; transition, including services that facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services; provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community; facilitate the transition of youth who are individuals with significant disabilities, who were eligible for individualized education programs pursuant to section 614(d) of the federal Individuals with Disabilities Education Act (20 U. S. C. 1414(d)), and who have completed their secondary education or otherwise left school, to post-secondary life; and any other service directed by the state plan which may include, but is not limited to, the following:

(1) Assistive devices and equipment;

(2) Communication services;

(3) Counseling and related services;

(4) Community awareness programs to enhance the understanding and integration into society of individuals with disabilities;

(5) Environmental modifications;

(6) Family services;

(7) Housing advocacy;

(8) Mobility training;

(9) Personal assistance services;

WV Legislature

(10) Prostheses and other appliances and devices; and

(11) Rehabilitation technology.

(f) "Individual with a significant disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

(g) "State plan" means the state plan for independent living required by the federal Rehabilitation Act of 1973, as amended.

WV Legislature

§18-10M-5. Eligibility for services.

Any individual with a significant disability, as defined in the state plan, is eligible for services that may be made available pursuant to this article.

WV Legislature

§18-10M-6. Statewide Independent Living Council.

(a) The West Virginia Statewide Independent Living Council is continued as a not-for-profit corporation which has been organized to meet the requirements of the federal Rehabilitation Act, as amended. The council may not be established as an entity within any agency or political subdivision of the state. The council shall be governed by a board of directors, consisting of the voting members of the council, as provided in this section. The composition of this board of directors, as well as the composition of the full council's membership, shall include a majority of members who are persons with disabilities, as defined in the federal Rehabilitation Act, as amended, who are not employed by any agency of the state or center for independent living. The council's membership shall reflect balanced geographical representation, diverse backgrounds and a broad range of disabilities, including, but not limited to, physical, mental, cognitive, sensory and multiple.

(b) The council shall function as a partner with the centers for independent living, in compliance with the federal Rehabilitation Act, as amended, in the planning and provision of independent living services in the state. In conjunction with the centers for independent living, the council shall develop, approve and submit to the proper federal authorities the state plan for independent living, as required by the federal act. The council shall monitor, review and evaluate the effectiveness of the implementation of the state plan.

(c) Voting members. — The council shall consist of twenty-four voting members, including one director of an independent living center chosen by the directors of the independent living centers in the state. The Governor shall select appointments from among the nominations submitted by the council after having conducted a statewide solicitation from organizations representing a wide range of individuals with disabilities and other interested groups, as coordinated by the council, by and with the advice and consent of the Senate. These members may include individuals with disabilities, other representatives from centers for independent living, parents and guardians of individuals with disabilities, advocates of individuals with disabilities, representatives from the business and educational sectors, representatives of organizations that provide services for individuals with disabilities and other interested individuals, as appropriate to the purpose of the council.

(d) Nonvoting members. — The membership of the council shall also include the following, nonvoting, ex officio members or their designees who shall be appointed by the Governor:

(1) A representative of the designated state entity;

(2) A representative of the Division of Intellectual and Developmental Disabilities;

(3) A representative of the West Virginia Housing Development Fund;

(4) A representative of the West Virginia Association of Rehabilitation Facilities;

(5) A representative of the Bureau of Senior Services; and

WV Legislature

(6) A representative of the Office of Special Education Programs and Assurance in the Department of Education.

(e) The nonvoting membership may also include additional representatives of groups represented on the board of directors as identified in the bylaws of the council.

(f) Appointment. — All council members are appointed by the Governor. The Governor shall appoint from among the nominations submitted by organizations representing a wide range of individuals with disabilities and other interested groups, as coordinated by the council.

(g) Terms of appointment. — All council members are appointed to serve for a term of three years, except that 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 the unexpired term. No member of the council may serve more than two consecutive full terms.

(h) Vacancies. — Any vacancy occurring in the appointed membership of the council shall be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.

(i) Delegation. — The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council after initial appointments have been made.

(j) Duties. — The council shall:

(1) In conjunction with the centers for independent living, develop and sign the state plan for independent living;

(2) Monitor, review and evaluate the implementation of the state plan;

(3) Coordinate activities with other bodies that address the needs of specific disability populations and issues under other federal and state law;

(4) Ensure that all regularly scheduled meetings of the council are open to the public and sufficient advance notice is provided;

(5) Submit to the federal funding agency such periodic reports as are required and keep such records and afford access to such records, as may be necessary to verify such reports; and

(6) Ensure that the state plan for independent living sets forth the steps that will be taken to maximize the cooperation, coordination and working relationships among:

(A) The Independent Living Rehabilitation Service Program, the Statewide Independent Living Council and centers for independent living; and

(B) The designated state unit, other state agencies represented on the council, other

WV Legislature

councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the council.

(k) Authorities. — Unless prohibited by state law the council may, consistent with the state plan described in section seven of this article:

(1) Work with centers for independent living to coordinate services with public and private entities to improve services provided to individuals with disabilities;

(2) Conduct resource development activities to support the activities described in this article to support the provision of independent living services by centers for independent living; and

(3) Perform other functions, consistent with the purpose of this article and comparable to other functions described in this subsection, as the council determines to be appropriate.

(l) Staffing and resources. — The council may employ staff as necessary to perform the functions of the council, including an executive director and other staff as may be determined necessary by the council. The council shall supervise and evaluate the executive director. The council shall prepare, in conjunction with the designated state entity, a plan for the use of available resources as may be necessary to carry out the functions and duties of the council pursuant to this article, utilizing eligible federal funds including innovation and expansion funds as directed by the federal Rehabilitation Act, as amended, funds made available under this article and funds from other public and private sources. This resource plan shall, to the maximum extent possible, rely on the use of existing resources during the period of plan implementation.

(m) Compensation and expenses. — The council may use available resources to reimburse members of the council for reasonable and necessary expenses of attending council meetings and performing council duties, such as personal assistance services, and if the member is not employed or must forfeit wages from other employment, to pay compensation to the member for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law.

WVLegislature

§18-10M-7. State plan for independent living.

(a) The state plan shall direct the use of federal funds provided to the state under the federal act and appropriated by the Legislature to the designated state entity in a line item for this purpose, in addition to any state funds that may be appropriated to the designated state entity for the provision of independent living services. The state plan, and each subsequent plan or amendment thereto, shall address the priorities set forth in the federal act for establishing a statewide program of independent living services, including a statewide network of centers for independent living. The council chairperson, as authorized by the voting members of the council, and a majority of the directors of the centers for independent living in the state will sign the state plan indicating agreement with the content. The director of the designated state entity will sign the state plan indicating agreement to serve as the designated state entity, to receive the funding, distribute the funding in accordance to the state plan and to fulfill all responsibilities of the designated state entity as provided in the federal Rehabilitation Act, as amended. The state plan may be amended at any time at the agreement of the council and the centers for independent living.

(b) The state plan, and each subsequent plan and any amendments thereto shall be presented to the Legislative Oversight Commission on Health and Human Resources Accountability, created pursuant to article twenty-nine-e, chapter sixteen of this code, for review and consultation.

WV Legislature

§18-10M-8. Funding and grants.

(a) Funds appropriated to the designated state entity for independent living services shall be administered by the designated state entity and may be used to fund any service or activity included in the state plan for independent living, including funding centers for independent living. In order to qualify for funding, a center for independent living shall meet the definition and comply with the standards and indicators therefor, as established in the federal act.

(b) Subject to availability, the state plan may designate funds for purposes including, but not limited to, the following:

(1) To provide independent living services to eligible 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;

(4) To support activities to increase the capacities of centers for independent living 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 policymakers in order to enhance independent living services for individuals with disabilities;

(6) To train individuals with disabilities and individuals who provide services to them and other persons regarding the independent living philosophy; and

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

As provided in the state plan, funds appropriated for the purposes of this article shall be utilized directly by the designated state entity for the provision of independent living services or through grants or contracts, with the approval of the council, to agencies that meet the definition of and comply with the standards and indicators for centers for independent living set forth in the federal act.

WV Legislature