

CRP BRIEF



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Employment Legislation & Policy

The Reauthorization of the Rehabilitation Act was selected for this CRP Brief because it is currently under review by Congress. As of March 2, the U.S. House of Representatives adopted H.R. 27, the Job Training Improvement Act of 2005, as amended, by a vote of 224 to 200. It is expected that the Senate version of the bill will be sent to the full committee for markup in early April. This edition of the CRP Brief provides an explanation of the current issues relative to the Reauthorization of the Rehabilitation Act.

BACKGROUND

Partial integration of the Vocational Rehabilitation (VR) system into the Workforce system took place as a result of the Workforce Investment Act (WIA) of 1998. That act is up for renewal and is likely to be passed by Congress this spring. Current discussions in Congress are about fully integrating the Vocational Rehabilitation system into the Workforce system as part of the Reauthorization of the WIA.

In 1998 the Rehabilitation service system was incorporated into the Workforce system as a mandatory partner. The Job Training Improvement Act of 2005 (H.R. 27) moves toward a full integration of VR services into the Workforce system. A second proposal called WIA Plus would allow each state's Governor to consolidate VR funding into the Workforce budget.

History

Unlike other social issues, employment for people with disabilities has been closely linked with legislation for nearly 100 years. Originally authorized under the Smith-Fess Act of 1920, the Vocational Rehabilitation system is the oldest cooperative federal-state social program.

While not perfect, VR has maintained a steady focus on employment for citizens with disabilities. Initially the predominant philosophy suggested that individuals with disabilities needed to be *fixed, cured, prevocationally trained or habilitated* before they could have a legitimate work life. Over time, it became obvious that

people with disabilities could work in competitive jobs, given appropriate supports. The expertise of providing those supports now very clearly resides with VR and allied personnel.

Rehabilitation Act of 1973

The foundation of all rehabilitation legislation for the last 30 years was the Rehabilitation Act of 1973. The major significance of this act was that it increased the focus of the vocational rehabilitation program on persons with the most severe disabilities. The act also required non-discrimination in hiring persons with disabilities in the federal government and prohibited discrimination against persons with disabilities by federal contractors, or in any federally supported program or activity, such as hospitals and school districts. This act was the precursor of the Americans with Disabilities (ADA 1990); and, between the two, it became clear that each workplace must be accessible to the individual with a disability. This may take the form of, for example, ramps or alternatives to traditional applications. This accessibility issue remains problematic for some One-Stop Centers according to a 2004 audit by the Government Accountability Office (GAO) which found that some One-Stops were not yet fully accessible.

Rehabilitation Act Amendments of 1986

It was the set of 1986 amendments that officially created "supported employment" - a service delivery system for persons with severe disabilities who had not traditionally been

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placed in competitive employment. It was the logical extension of the 1973 Act priority of serving the most severely disabled.

The 1986 provisions defined supported employment as “regular” work for persons with severe disabilities. That is, integrated (non-segregated), competitive jobs for pay, with support services to be available as necessary to maintain employment. This was a significant change in the delivery of vocational rehabilitation services for persons with significant disabilities. The current proposals would end separate funding for supported employment within the Rehabilitation system. In the future, state VR agencies or Workforce One-Stop Centers would have to fund supported employment out of regular case service funds. This is common practice now for most VR agencies.

Rehabilitation Act Amendments of 1992

The primary result of the 1992 Amendments was what became known as “presumption of eligibility.” That is, individuals with disabilities, *including individuals with the most severe disabilities*, are generally *presumed* to be capable of engaging in gainful employment. And, since supported employment was designed for persons with the most severe disabilities, it became more than an alternative option.

The 1992 Amendments focused attention on issues of consumer choice and control especially as these relate to the written plan for rehabilitation now called the Individualized Plan for Employment (IPE). This plan must reflect consumer involvement; documentation that they have informed choices about their selection of vocational goals; and that these goals reflect the use of integrated settings.

The 1992 Amendments, far more than any other, fully established supported employment as a core rehabilitation service and particularly, of individuals with the most severe disabilities. Perhaps more important, however, is the *value embodied*: that ALL people are employable. Finally, the 1992 Amendments reaffirmed what the 1990 ADA envisioned: “All persons with disabilities should have the same opportunity as their non-disabled peers to experience and enjoy working, leisure time activity, and other

life experiences in our society.”

Workforce Investment Act of 1998

In 1998, the Rehabilitation Act Amendments were reauthorized under the Workforce Investment Act (WIA) of 1998. The concept behind this Act was to combine all the workforce programs, including vocational rehabilitation, into one legislative policy. One of the primary goals of the act was to streamline services into “One-Stop” Centers that would allow for universal access to *all* customers. Therefore, welfare-to-work, youth services, adult and dislocated workers services, migrant and seasonal workers, veteran services, Native American grants, and vocational rehabilitation were all included.

The idea behind the legislation was that people with disabilities could receive services at the One-Stop Centers, with only those needing more intensive services being referred to traditional vocational rehabilitation. This further supported the idea that vocational rehabilitation services should focus on those individuals with the most significant disabilities. The result of this Act was partial integration of the VR system into the local employer-focused Workforce system. This generally took the form of locating a VR counselor at the One-Stop Centers at least part-time. Proposals in Congress in 2005 will look at moving toward full integration of VR into the Workforce system.

In addition to including rehabilitation as a mandatory One-Stop partner, the 1998 Amendments further emphasized CHOICE for the consumer of VR services. Meaningful and informed choice is now a cornerstone of each rehabilitation plan. These Amendments clearly showed that Congress wanted the rehabilitation system to focus on a person-centered, self-directed, choice-based approach to employment of people with disabilities. The Workforce system takes primarily a labor market approach to employment services, identifying employer needs and then finding qualified workers. It remains to be seen how the One-Stop system can reconcile a customer-driven choice model with an employer-focused labor market approach.

The Workforce Investment Act requires that

the Workforce system meet performance requirements in the percent of registered job seekers who enter employment, retain employment (typically measured at 6 and 12 months), and increase their earnings.

Currently no adjustments are made by the Department of Labor (DOL) for individuals who are more difficult to serve. This lack of adjustment leads to the finding by the Government Accountability Office (GAO), that individuals who are “perceived” as more difficult or more expensive to serve are “undesirable” clients. The well-intentioned accountability measures used by DOL to improve efficiency and effectiveness may have the unintentional effect of making it difficult for people with disabilities to get services. The DOL is considering a GAO recommendation resulting from the 2004 audit, that a method be developed to adjust performance measures. This would reduce the likelihood that Workforce/One-Stop Centers who assertively serve people with disabilities would be sanctioned as a result of “one size fits all” performance measures.

IMPLICATIONS FOR CONSUMERS

Consumers and advocacy organizations are in a position to monitor and support access to services and maintenance of quality. Theoretically, integration of all employment programs under one roof would increase access to a full range of services for people with disabilities who want to return to work. Combined intake, assessment and case management services could reduce the administrative barriers and the repetition when going from program to program seeking help.

Many advocates believe that preserving the expertise of VR as integration into the Workforce system proceeds is essential for people with disabilities. Local advocacy organizations are ideally positioned to keep the focus of Workforce partner agencies on customer service issues during what will likely be a difficult integration process.

The 2004 GAO audit focused attention on the lack of connection between Workforce One-Stop Centers and community agencies. The Job Training Improvement Act of 2005 (H.R. 27)

includes a provision that allows the Governor of the state to include as optional partners: state agencies relating to mental health, mental retardation, and developmental disabilities, state Medicaid agencies, state independent living councils, and independent living centers. These agencies could add to the disability focus that VR and advocacy groups bring to the table.

RELEVANCE FOR CRP'S

Community Rehabilitation Programs (CRP's) have a long history of contracting services with rehabilitation agencies. Rehabilitation agencies typically refer their most difficult cases, (the most severely disabled), to CRP's for assessment, job matching, job coaching/on-the-job training and support for retention. These services are based on a person-centered model of service. An employer-centered model, as is typical in the Workforce One-Stop system, will require a shift in focus for everyone concerned. CRP's may be eligible providers/vendors under the Workforce Individual Training Account (ITA) system. However, virtually no local funding is currently available through Workforce One-Stop Centers under ITA's for Supported/Customized Employment. H.R. 27 may increase funds available for ITA services such as Customized/Supported employment.

Local Workforce One-Stop Centers should be reaching out to community rehabilitation programs. CRP's should be working with their local Workforce One-Stop centers both as potential employers (given the high turnover rates) and as “training providers”, particularly for “on-the-job” and “customized employment”. Whatever form the Workforce/VR system takes, CRP's should be vital players in serving people with disabilities.

SUMMARY

The Rehabilitation Act is the bedrock of vocational services to people with disabilities. Over the years successive Congresses have refined the Rehabilitation Act through amendments to address the concerns of people with disabilities and their advocates. Access to services, consumer control/choice and equity have been ongoing themes in the Reauthorizations. A consolidated system will face these

Meeting the continuing education needs of community rehabilitation providers

same challenges; a reconfiguration on the scale proposed could be a setback or an opportunity. The pending reauthorization is going to have a tremendous impact on the service delivery system for people with disabilities.

Resources & Websites

- 1 <http://www.apse.org/legislative/legislative.html>
- 2 <http://www.c-c-d.org/wiastatement.htm>
- 3 http://www.doleta.gov/Job_Training_WIA/eta_default.cfm
- 4 <http://www.gao.gov/new.items/d0554.pdf>
- 5 <http://www.nationalrehab.org/website/govt/200314.html>
- 6 http://www.rehabnetwork.org/wia_rehab_act/wia_rehab05.htm
- 7 <http://whitehouse.gov/news/releases/2005/03/20050302-1.html>

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