

NOTE: The governor signed this measure on 3/30/2015.

An Act

HOUSE BILL 15-1188

BY REPRESENTATIVE(S) Ryden and Primavera, Nordberg, Fields, Ginal, Melton, Mitsch Bush, Moreno, Pettersen, Young; also SENATOR(S) Neville T., Guzman, Jahn, Newell.

CONCERNING CLARIFICATIONS TO THE STATE VOCATIONAL REHABILITATION PROGRAM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 26-8-101 as follows:

26-8-101. Rehabilitation programs. In carrying out the provisions of this article, the state department ~~shall be~~ IS charged with coordinating and strengthening the programs of rehabilitation ~~of disabled and nondisabled~~ FOR persons WITH DISABILITIES to the end that they may attain OR MAINTAIN their maximum potential in employment, ~~self-care~~ SELF-SUFFICIENCY, and independent living. NOTHING IN THIS ARTICLE IS TO BE CONSTRUED AS AN ELIGIBILITY-BASED ENTITLEMENT TO A VOCATIONAL REHABILITATION SERVICE PROVIDED BY THE STATE.

SECTION 2. In Colorado Revised Statutes, 26-8-105, **amend** (2), (3) (a), and (4); **repeal** (3) (h); and **add** (5) as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

26-8-105. Rehabilitation of persons with disabilities. (2) For the purposes of this article, "person with a disability" means ~~any one or more of the following:~~ A PERSON WHO HAS A PHYSICAL OR MENTAL IMPAIRMENT THAT CONSTITUTES OR RESULTS IN A SUBSTANTIAL IMPEDIMENT TO EMPLOYMENT, AND WHO CAN BENEFIT IN TERMS OF AN EMPLOYMENT OUTCOME FROM THE PROVISION OF VOCATIONAL REHABILITATION SERVICES.

~~(a) Any individual who has a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting the individual's activities or functioning and which constitutes a substantial disability to employment but which is of such nature that vocational rehabilitation services may reasonably be expected to render the individual fit to engage in a remunerative occupation;~~

~~(b) An individual of not less than employable age who is under such physical or mental disability as to require institutional care or attendance in his household continuously or for a substantial portion of the time, but who can be reasonably expected, as a result of rehabilitation services, to achieve such ability of independent living that he will no longer require such institutional care or such attendance in his household;~~

~~(c) An individual who does not have substantial physical or mental disability who is receiving aid from public funds and who otherwise may be expected to remain a public charge of the county or state; who has a vocational disability because of lack of training, experience, skills, or other factors which, if corrected, would lead to self-support instead of dependency; who is either responsible for the individual's own maintenance or is the responsible head of a household; and who has a potential capacity which would warrant development with a reasonable chance for employment after rehabilitation services.~~

(3) The state department shall:

(a) Cooperate with other departments, agencies, and institutions, both public and private, in providing the services authorized by this article to persons with disabilities, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this article, such programs, facilities, and services as may be necessary; ~~or desirable;~~

(h) ~~Provide for the return to full or partial self-support of nondisabled recipients of public assistance whose capacity to earn a living is impaired.~~

(4) (a) Vocational rehabilitation services, as defined by the federal "Vocational Rehabilitation Act", ~~shall~~ MUST be provided directly or through public or private instrumentalities to or for the benefit of ~~any individual with disabilities~~ AN ELIGIBLE PERSON WITH A DISABILITY who is residing in the state at the time of filing an application ~~therefor~~, and whose rehabilitation the state department determines after full investigation can be satisfactorily achieved, or who is eligible ~~therefor~~ under the terms of an agreement with another state or ~~with~~ the federal government. THE STATE DEPARTMENT SHALL:

(I) COMPLETE A COMPREHENSIVE ASSESSMENT AND WORK WITH THE PERSON WITH A DISABILITY TO DEVELOP AN EMPLOYMENT OUTCOME OR GOAL BASED ON THE PERSON'S STRENGTHS, RESOURCES, PRIORITIES, CONCERNS, ABILITIES, CAPABILITIES, INTERESTS, AND INFORMED CHOICE;

(II) AUTHORIZE THOSE SERVICES THAT ARE APPROPRIATE AND NECESSARY TO ADDRESS THE REHABILITATION NEEDS OF THE PERSON WITH A DISABILITY, BASED ON HIS OR HER DOCUMENTED DISABILITIES AND IMPAIRMENTS, SO THAT HE OR SHE MIGHT ACHIEVE HIS OR HER EMPLOYMENT OUTCOME OR GOAL;

(III) GIVE PREFERENCE TO COST-EFFECTIVE SERVICES PROVIDED IN THE STATE OF COLORADO, BUT THE STATE DEPARTMENT MAY AUTHORIZE PAYMENT FOR OUT-OF-STATE SERVICES ON A CASE-BY-CASE BASIS. THE STATE DEPARTMENT SHALL NOT PAY FOR ANY SERVICES PROVIDED OUTSIDE THE UNITED STATES.

(IV) ESTABLISH A FEE SCHEDULE FOR GOODS AND SERVICES THAT IS DESIGNED TO ENSURE REASONABLE COST TO THE PROGRAM;

(V) LIMIT PAYMENT FOR SERVICES TO COLORADO IN-STATE TUITION OR THE EQUIVALENT FOR ALL EDUCATION AND VOCATIONAL SCHOOLING; EXCEPT THAT IF THE STATE DEPARTMENT FINDS, THROUGH ITS COMPREHENSIVE ASSESSMENT, THAT THE PERSON WITH A DISABILITY NEEDS SPECIALIZED EDUCATION OUTSIDE OF COLORADO TO ADDRESS HIS OR HER BARRIERS TO EMPLOYMENT, THE STATE DEPARTMENT MAY AUTHORIZE

PAYMENT FOR OUT-OF-STATE TUITION ON A CASE-BY-CASE BASIS;

(VI) ESTABLISH REASONABLE TIME FRAMES WITHIN EACH EMPLOYMENT PLAN FOR INDIVIDUALS TO ATTAIN THE ESTABLISHED EMPLOYMENT OUTCOMES OR GOALS;

(VII) CLOSE THE RECORD OF SERVICES IN A TIMELY MANNER AND IN ACCORDANCE WITH FEDERAL GUIDELINES FOR A PERSON WITH A DISABILITY WHO HAS ACHIEVED HIS OR HER EMPLOYMENT OUTCOMES OR GOALS; AND

(VIII) ESTABLISH A REVIEW PROCESS TO ALLOW FOR EXCEPTIONS TO THE REQUIREMENTS OF SUBPARAGRAPHS (I) TO (VII) OF THIS PARAGRAPH (a) IN UNIQUE CASES, IN ACCORDANCE WITH FEDERAL REGULATIONS.

(b) Any goods or services, ~~other than diagnostic, and related services~~ EXCLUDING DIAGNOSTIC AND RELATED ASSESSMENT SERVICES (including transportation), required for the determination of eligibility for service and of the nature and scope of the services to be provided, ~~guidance, training, and placement~~, VOCATIONAL REHABILITATION GUIDANCE, REFERRAL, PERSONAL ASSISTANCE TRAINING, INTERPRETER SERVICES, AND JOB PLACEMENT AND RETENTION, ~~shall~~ MUST be provided at the public cost only to the extent that the ~~individual with disabilities~~ PERSON WITH A DISABILITY is found to require financial assistance in accordance with the rules and regulations of the state department.

(c) (I) THE STATE DEPARTMENT SHALL DETERMINE A PERSON WITH A DISABILITY'S NEED FOR FINANCIAL ASSISTANCE BASED ON THE PERSON'S NEED AND INCOME, OR THE INCOME OF THE PERSON'S LEGALLY AND FINANCIALLY RESPONSIBLE RELATIVE. THE STATE DEPARTMENT SHALL DETERMINE THE NEED FOR FINANCIAL ASSISTANCE FOR A PERSON WITH A DISABILITY, OR FOR THE PERSON'S LEGALLY AND FINANCIALLY RESPONSIBLE RELATIVE, PRIOR TO PROVIDING VOCATIONAL REHABILITATION SERVICES, EXCEPT FOR DIAGNOSTIC, GUIDANCE, JOB PLACEMENT, AND RELATED SERVICES. THE PERSON WITH A DISABILITY, OR THE PERSON'S LEGALLY AND FINANCIALLY RESPONSIBLE RELATIVE, SHALL CONTRIBUTE TOWARD THE COST OF HIS OR HER VOCATIONAL REHABILITATION SERVICES TO THE EXTENT THAT THE STATE DEPARTMENT DETERMINES THAT HE OR SHE IS FINANCIALLY ABLE; EXCEPT THAT, IF THE PERSON WITH A DISABILITY HAS BEEN DETERMINED ELIGIBLE FOR SOCIAL SECURITY BENEFITS UNDER TITLE II OR XVI OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, HE OR

SHE IS NOT REQUIRED TO FURTHER CONTRIBUTE TO THE COSTS OF ANY SERVICES PROVIDED.

(II) AS USED IN THIS PARAGRAPH (c), A "PERSON'S LEGALLY AND FINANCIALLY RESPONSIBLE RELATIVE" MEANS THE RELATIVE WHO IDENTIFIES THE PERSON AS A DEPENDANT FOR FEDERAL INCOME TAX PURPOSES.

(5) TO THE EXTENT THAT THE STATE DEPARTMENT DETERMINES THAT ANY GOODS OR SERVICES RECEIVED BY THE PERSON WITH A DISABILITY WERE ACQUIRED THROUGH MISREPRESENTATION, FRAUD, COLLUSION, OR CRIMINAL CONDUCT, PAYMENT FOR THOSE GOODS AND SERVICES MAY BE RECOVERED BY THE STATE DEPARTMENT FROM THE PERSON WITH A DISABILITY.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO