

VOCATIONAL REHABILITATION HISTORY

The first federal vocational rehabilitation (VR) program known as the Soldier's Rehabilitation Act became law in 1918. Under this act, the Federal Board for Vocational Education was primarily responsible for developing VR programs for and providing VR services to disabled veterans who had a disability (resulting from military service) that presented a handicap to employment. Employment had to be a feasible possibility as a result of the VR training.

The Smith Fess Act passed in 1920 extended VR services and programs to civilian physically disabled. It, too, was administered by the Federal Board of Vocational Education. Because the Rehabilitation Act provided federal funds to states on a 50-50 matching basis, it provided a strong incentive for states to pass similar legislation.

In Chapter 149, the Session Laws of 1921, the Montana Legislature created a vocational rehabilitation program to accept the provisions and benefits of the Act of Congress to promote vocational rehabilitation. Montana's Vocational Rehabilitation program was situated with the Worker's Compensation program under the State Board of Vocational Education until the late 40's. The funds could be used to provide vocational guidance, vocational education, occupational adjustment, and placement services. Provision of placement services as the only service to a client was not within the spirit of the act, which primarily mandated vocational training opportunities for the disabled. Although the act was not oriented toward the provision of physical restoration services, a disabled client could be provided a prosthesis if it could be justified as necessary "supplies" for the successful completion of training.

Although not specified in the act, the Federal Board of Vocational Education set the minimum age of legal employability, 16, as the minimum age for qualifying for services. Because home economics was considered a legitimate training program under the vocational education legislation, the Federal Board considered homemaking as an appropriate occupation for which to provide training to a disabled client. It is still considered as such.

The 1935 passage of the Social Security Act established the federal-state vocational rehabilitation program as a permanent program, meaning the program could only be discontinued by Congressional action.

A prevailing assumption in the 1920's and the early 1930's was that the visually handicapped had little potential for competitive employment; hence, the blind received very little benefit from early legislative developments in rehabilitation.

Blind individuals were maintained in stereotyped occupations and were expected

to work in either sheltered workshops or home industry-type settings.

The Randolph-Sheppard Act of 1936 and the Wagner-O'Day Act of 1938 helped to clear up many misconceptions regarding the abilities of blind individuals. Both acts expanded opportunities for the blind to demonstrate their abilities. Job opportunities made available at a federal level for the blind for the administration of the two acts also created an increased awareness in the Civil Service system of the potential of blind employees.

The Visual Services program in Montana was initially provided through the Department of Public Welfare established by the 1937 Legislature. A Blind Services Bureau was established within that department in 1943.

Also in 1943 the federal Barden-LaFollette Act extended the federal-state VR program to the mentally retarded, mentally ill and blind and expanded the type of physical restoration services that could be provided to disabled persons.

The 1947 Montana Legislature created the Division of Vocational Rehabilitation of the State Board of Education. This legislation made the division responsible for providing rehabilitation services to the state's physically and mentally handicapped, and for performing disability determinations for Social Security disability benefits and supplemental income payments.

Significant growth in vocational rehabilitation activity occurred from 1954 to 1965. During that period, annual funding for the federal-state rehabilitation program more than quadrupled to over \$150 million by 1965.

The 1954 Vocational Rehabilitation Act Amendments of 1954 increased the federal share of funding from 50% to 75%. Another significant provision of the 1954 VR Act Amendments was to expand services to the mentally retarded and mentally ill with research and demonstration grants, extension and improvement grants and the establishment of rehabilitation facilities.

The late fifties and early sixties saw the beginning of the independent living rehabilitation movement with the inclusion of a 6-month and 18-month extended evaluation period for the purposes of determining the employment potential of certain severely disabled individuals. The 1965 amendments to the VR act also expanded the definition of handicapped to include behavior disorders diagnosed by a psychologist or psychiatrist. Other significant provisions of the 1965 Vocational Rehabilitation Act Amendments included:

- ◆ Increased federal-state fund matching ratios to three federal dollars for each state dollar (75%-25%; further increases to 80% federal - 20% state by

legislation in 1968) and doubled the federal appropriation for the federal-state program.

- ◆ Elimination of economic need as a prerequisite for the provision of any vocational rehabilitation services. States could, however, require economic need tests for some services, i.e., training, and physical restoration. In Montana the VR program requires an economic needs test.
- ◆ Provision of federal funds to help construct new rehabilitation centers and workshops (matching funds with the federal share ranging from one-third to two-thirds).
- ◆ Provision of special statewide planning grants to help states develop service delivery systems that would reach all handicapped citizens in the state.

The consumer rights movement that pervaded American society in the 1960's (e.g., "Naderism") also provided a valuable lesson to persons with disabilities. They learned that they did not have to be passive recipients of rehabilitation services. They became more aware of their rights as a group to participate in the formation of the public policies that could impact on the satisfaction of their needs, as well as of their right to participate in the planning of their own rehabilitation programs.

Severely disabled individuals were losing confidence in the ability and/or desire of rehabilitation professionals to unilaterally "champion" what was best for the severely disabled. They, therefore, lobbied for legislation that would allow them more of a say in the determination of the rehabilitation services that society would provide to meet their rehabilitation needs.

In order to ensure the quality of these services, consumers also wanted a more comprehensive system for evaluating the effectiveness of these programs, and they wanted to play a role in that evaluation (e.g., client satisfaction measures). They also sought greater opportunities to influence the design of rehabilitation programs in regard to type and quality of services provided and to play a direct role in the overseeing process (e.g. serve on advisory boards).

The disability consumer groups also wanted legislation passed that would provide for a comprehensive program of independent living rehabilitation services. Rather than seeing independent living and vocational rehabilitation as being distinct programs with different goals, they saw the two as integrated parts of an optimal program of services for the severely disabled. The validity of the compatibility of independent living and rehabilitation goals can be seen in the fact that advances in medical and rehabilitation technology paired with improvements in the accessibility of buildings and transportation systems to disabled persons tend to make vocational goals feasible for larger and larger

percentages of the total "community of those with severe disabilities." Therefore, it is not surprising to find the rehabilitation legislation of the 1970's emphasizing both rehabilitation research and environmental accessibility as well as the provision of independent living rehabilitation services.

In 1971 Executive Reorganization in Montana renamed the two (2) VR programs the Rehabilitative Services Division (RSD) and the Visual Services Division (VSD), as well as transferred them to the newly organized Department of Social and Rehabilitation Services.

In 1972 Congress passed a stipulation in the Rehab Act known as the Maintenance of Effort which requires each state to maintain their expenditure rate of state dollars for VR as reported in 1972.

The Rehabilitation Act of 1973 was called the "billion dollar program," which it certainly approximated when state matching funds were added to the \$650 million and \$680 million federal appropriation for 1974 and 1975, respectively. It retained the 80%-20% split between federal and state dollars established in 1968. The 1973 legislation continued to reflect a major Congressional commitment to rehabilitation. However, that commitment appeared to be more focused regarding target groups and target services. For example, members of Congress felt that the act should reflect a greater commitment to the traditional meaning of the term handicapped; i.e., clients with severe physical, intellectual, and professionally diagnosed emotional disorders, while removing the 1965 and 1968 Congressional mandate to serve behavioral disorders.

Rehabilitation Act amendments in 1974 and 1976 essentially extended the 1973 authorizations for rehabilitation. The next extensive legislative statement came in 1978 in the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments. These amendments called for a federal allocation of \$808 million for rehabilitation for the fiscal year ending September 30, 1979, and for \$972 million for the fiscal year ending September 30, 1982. The 1978 amendments to the Rehabilitation Act of 1973 further expanded the emphasis on serving the severely disabled. For example, they mandated (with little or no funding) the establishment of an independent living rehabilitation program for those disabled without work potential who would be brought to independent living status through the provisions of rehabilitation services.

In 1981 the state administration of the Visual Service Division was drastically reduced and effectively merged with the administration of the general Rehabilitative Services Divisions.

The 1984 amendments to the Rehab Act mandate a Client Assistance Project (CAP) to advocate for VR clients and authorize (with no appropriation) special

projects to meet the training and employment needs of handicapped youth and adults.

The (1986) amendments to the Rehab Act:

- ◆ Clearly identify supported employment as a service outcome;
- ◆ Require absolute consideration of the client's need for Rehabilitation Agency's services to implement objectives of the IWRP.

Other important changes in the Act include the following:

- ◆ A comprehensive statewide assessment of the rehabilitation needs of individuals with severe handicaps is required.
- ◆ A definition of "employability" is added that addresses the range of outcomes appropriate from the provision of vocational rehabilitation services.
- ◆ The definition of "rehabilitation facility" is modified to include programs that provide psychological rehabilitation services for people with chronic mental illness.
- ◆ A provision provides for review of decisions by an impartial hearing officer at the request of the client or his or her parents or guardian.
- ◆ Public meetings are to be used as a source of input in formulation of policies governing the provision of rehabilitation services.
- ◆ The matching rate will change as follows over the next five years.
 - ◆ For 1988 the matching ratio will be 80-20 for the amount of the VR federal grant up to the 1987 appropriated level. Any increase over that level will be subject to a matching ratio of 79-21.
 - ◆ For 1989 the matching ratio will be 80-20 for the amount of the VR federal grant up to the 1987 appropriated level. Any increase over that level will be subject to a matching ratio of 78-22.
 - ◆ This decreasing ratio on the difference will continue until 1992 when the difference will be matched at 75-25.
- ◆ The Maintenance of Effort required in the 1986 amendments has changed from the 1972 mandated level to a continuous average of the last three years of state expenditures. Thus each year the prior three years' average

of state expenditures must be spent or a penalty involving the loss of federal dollars will be enforced.

The Rehabilitation Act Amendments of 1992, (Public Law 102-569) are much more than a status quo reauthorization or continuation of the Federal/State Rehabilitation Program. Substantial adjustments are made in the principles, purpose, process, and outcomes of the Rehabilitation Program to support persons across the full range of type and extent of disability to attain and maintain employment outcomes appropriate to their interests and abilities. The 1992 amendments are guided by the presumption of ability. A person with a disability, regardless of the severity of the disability, can achieve employment and other rehabilitation goals if the appropriate services and supports are made available. These amendments provide for new responsibilities for the vocational rehabilitation system:

- ◆ Assist the individual with a disability to make informed choices about potential employment outcomes that result in integration and inclusion in the community.
- ◆ Develop an individualized rehabilitation program with the **full participation** of the person with the disability.
- ◆ Match the needs and interests reflected in the individualized programs with the appropriate services and supports including rehabilitation technology, supported employment, and others.
- ◆ Proactively foster cooperative working relationships with other agencies and programs including local education authorities to unify and coordinate transition services.
- ◆ Emphasize the quality of services and the accountability that service representatives have to honor the dignity, participation and growth of persons with disabilities as their employment interests develop over time.
- ◆ The Rehabilitation Act Amendments of 1992 put the abilities and choices of persons with a disability first and challenge the service system and the greater communities to support their efforts to work, live and participate in the community.
- ◆ The matching ratio has gone from a two-tiered system back to a single system of 78.7% federal - 21.3% state.
- ◆ The notion of feasibility is removed whereby the burden of proof for accessing the system shifts from the individual to the rehabilitation system.

The rehabilitation counselor must demonstrate that no employment outcome is possible in order to determine a person ineligible.

- ◆ Eligibility determinations must now focus first on the use of existing data particularly on information provided by the individual with a disability, his/her family, or advocates. A decision regarding eligibility must now be made within 60 days. A short extension may be provided if mutually agreed upon between the individual with a disability and the VR counselor.
- ◆ A two part process essentially determines a person's eligibility for Vocational Rehabilitation services. First, does the person have a disability? Second, does he/she require assistance from the Vocational Rehabilitation Agency to achieve an employment outcome? A presumption of disability or the first criteria in the eligibility decision may be made based on existing information.

There is now a consistent set of public legislation through the Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), and the Rehabilitation Act Amendments of 1992 which provides guidance to employers, education authorities, rehabilitation service managers and providers, and others in how to support persons with disabilities. The Rehabilitation Act Amendments of 1992 support the actual service systems through which employers can find assistance and expertise in identifying and completing the reasonable and appropriate job accommodations called for in the ADA. They establish a basis in the adult service system for accomplishing the transition preparation, planning, and implementation activities found in the IDEA. Finally, the Rehabilitation Act Amendments put the abilities and choices of persons with disabilities first and challenge the service system to work toward inclusion in the greater community.

- ◆ Rehabilitation Facilities are now called Community Rehabilitation Programs.
- ◆ The role of the Vocational Rehabilitation Advisory Council and the Independent Living Council has expanded and members are actively involved in helping the VR Agency meet consumer needs.

These and other changes along with the extension of the Act for a full five years, provide a solid basis for program growth and development. This landmark piece of legislation will ultimately facilitate employment outcomes for people with the most severe disabilities. This law and congressional intent forcefully proposes that VR should focus on employment outcomes.

During the years 1992 to 1998 a substantial amount of work was done by Congress to look at the coordination of some 154 federal manpower training programs. Several efforts were made to block grant all manpower training

programs and send the money directly to the states for distribution and service delivery. These efforts failed. In 1998, the Rehabilitation Act was reauthorized and substantially changed the provision of Vocational Rehabilitation services. With passage of the Workforce Investment Act of 1998, the Rehabilitation Act, which had previously been a stand-alone act, was now incorporated as Title IV of the Workforce Investment Act. This linkage allowed state Vocational Rehabilitation agencies the opportunity to develop linkages with other service providers to develop a series of one-stop delivery systems throughout the country. The Act came with a number of criteria for development of memorandums of understanding and prescribed that services be developed in a "seamless" way and that they developed with input and participation from local boards at the local level.

Although Vocational Rehabilitation became linked by statute with workforce development in the Rehabilitation Act Amendments, there were also some fairly significant changes in the delivery of VR services. Those significant changes included:

- ◆ presumption of benefit for purposes of the 1998 Amendments, an individual is presumed to be an individual that can benefit in terms of an employment outcome from Vocational Rehabilitation services unless the designated state unit involved can demonstrate by **clear and convincing evidence** that such individual is incapable of benefiting in terms of an employment outcome from Vocational Rehabilitation services due to the severity of the disability of the individual. The individual is presumed to be eligible for VR services if the individual is eligible for Title II or Title XVI of the Social Security Act.

The Individualized Written Rehabilitation Program (IWRP) was changed to Individualized Plan for Employment (IPE). Options for developing an IPE:

- ◆ If an individual is determined eligible for VR services the state agency shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an Individualized Plan for Employment which now includes information on the availability of assistance to the extent determined to be appropriate by the eligible individual, from a qualified Vocational Rehabilitation Counselor in developing all or part of the plan for employment and, the availability of technical assistance in developing the plan.
- ◆ A description of the full range of components that shall be included in a plan for employment to include agency guidelines, a description of the rights and remedies available to each individual, and a description of the availability of the Client Assistance Program.

Informed Choice

The 1998 Rehabilitation Act Amendments also provide for an expansion of informed choice. They require that an Individualized Plan for Employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific Vocational Rehabilitation services to be provided under the plan, the entity that will provide the Vocational Rehabilitation services, and the methods used to procure the services. These amendments also allow for the process of mediation in the Vocational Rehabilitation due process. Mediation refers to the identification of an outside third party facilitator who can work with the agency and the individual and/or the individual's representative to solve problems that might otherwise end up at fair hearing.

While the scope of Rehabilitation Services remained fairly in tact, there is a definite requirement that VR develop linkages with partner agencies to create a seamless service delivery system.

The role of the Vocational Rehabilitation Council was enhanced in the 1998 Amendments. The Council, now known as the Vocational Rehabilitation Council takes the place of the former Vocational Rehabilitation Advisory Council. The Council has mandatory membership from certain groups including business and labor, consumers, the Client Assistance Program, and a number of different advocacy groups that serve persons with disabilities. The role of the Council in helping make decisions for the agency was enhanced in this legislation.

There continues to be extensive emphasis on transition services and on providing choice and serving individuals with the most severe disabilities.

Standards and Indicators

The 1998 amendments to the Rehabilitation Act also provide for a series of standards and indicators that will measure a number of factors in the Vocational Rehabilitation system. Those factors include, but are not limited to, things like number of employment outcomes from year to year, wages at placement, benefits at placement, and consumer satisfaction. These standards and indicators will be adopted through the code of federal regulations and should be in place fairly quickly. They will provide VR agencies with a road map to assess how they are doing in these critical areas.

These and other changes, along with the extension of the Act for at least a full five years, provide a number of opportunities for program growth and development and opportunities for persons with disabilities to become ever

more involved in the development of their own rehabilitation plans. This landmark piece of legislation moves Vocational Rehabilitation into the workforce arena as a partner with other agencies including Joe Service, Human Resource Development Councils, Higher Education and other programs who provide job opportunities for disadvantaged individuals, including individuals with disabilities. The law continues to focus on employment outcomes in integrated settings and the success of this program will continually be measured in that arena along with customer satisfaction.

Emphasis on Youth, Employers, Collaboration

The 2014 amendments in the Workforce Innovation and Opportunity Act placed a great emphasis on services to youth. Fifteen percent of the federal grant must now be spent on "Pre-Employment Transitions Services" (Pre-ETS) to high school students with disabilities. In addition, employers are now viewed as a group to be served. Collaboration with other partners, Department of Labor and Adult Basic Education is emphasized, and the state plan now includes all three entities.

Competitive integrated employment is emphasized. Section 511 discourages subminimum wages. For consumers under age 24, subminimum wages are not allowed unless VR services have first been tried.