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An Act To Update the Operations of the Bureau of Rehabilitation Services and To Conform to the Federal Workforce Innovation and Opportunity Act of 2014

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §1411-A, sub-§1, as enacted by PL 1995, c. 560, Pt. F, §13, is repealed and the following enacted in its place:

1. Community rehabilitation program. "Community rehabilitation program" means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize opportunities for employment, including career advancement:

- A. Medical, psychiatric, psychological, social and vocational services under one management;
- B. Testing, fitting or training in the use of prosthetic or orthotic devices;
- C. Recreational therapy;
- D. Physical and occupational therapy;
- E. Speech, language and hearing therapy;
- F. Psychiatric, psychological and social services, including positive behavior management;
- J. Job development, placement and retention services;
- K. Supported employment services and extended services;
- L. Extended employment for people with severe disabilities who cannot readily enter the competitive labor market;
- M. Evaluation or control of specific disabilities;
- N. Rehabilitation technology services;
- O. Assessment for determining program eligibility and vocational rehabilitation needs;
- P. Orientation and mobility services for individuals who are blind or visually impaired;
- Q. Psychosocial rehabilitation services;
- R. Customized employment;

S. Services to family members, if necessary, to enable an applicant or eligible individual to achieve an employment outcome; and

T. Personal assistance services.

Sec. 2. 26 MRSA §1411-A, sub-§1-A is enacted to read:

1-A. Competitive integrated employment. "Competitive integrated employment" means work that is compensated at or above the state or local minimum wage; is not compensated at less than the customary rate and level of benefits paid by the employer for the same or similar work performed by other employees without disabilities who have similar training, experience and skills; takes place in such a way that the employee with the disability interacts with other persons without disabilities to the same extent as employees without disabilities in comparable positions; and presents opportunities for advancement similar to those opportunities available for other employees without disabilities in similar positions.

Sec. 3. 26 MRSA §1411-A, sub-§2, as enacted by PL 1995, c. 560, Pt. F, §13, is repealed.

Sec. 4. 26 MRSA §1411-A, sub-§3, ¶A, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

A. A preliminary diagnostic study to determine that the individual is ~~disadvantaged~~ or has a disability-related barrier to employment and that services are needed;

Sec. 5. 26 MRSA §1411-A, sub-§3, ¶D, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

D. Any other goods or services provided to a ~~disadvantaged~~ an individual with a disability that are determined in accordance with federal regulations to be necessary for, and are provided for the purpose of, ascertaining the nature of the barrier to employment and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services or other services available to ~~disadvantaged individuals with disabilities;~~

Sec. 6. 26 MRSA §1411-A, sub-§4, as amended by PL 2015, c. 141, §5, is repealed.

Sec. 7. 26 MRSA §1411-A, sub-§5, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

5. Person with a disability. "Person with a disability" means an individual who has a physical or mental disability that constitutes a substantial barrier to employment but ~~is of such a nature that~~ who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services may reasonably be expected to render the individual fit to engage in gainful employment that is consistent with the individual's capacities and abilities. "Person with a disability" also means an individual who has a physical or mental disability that constitutes a substantial barrier to employment and for whom vocational rehabilitation services are necessary to determine rehabilitation potential. An "individual who ~~is under~~ has a physical or mental disability" means an individual who has a physical or mental condition that materially limits, contributes to limiting or, if not corrected, results in limiting that individual's activities or functions.

Sec. 8. 26 MRSA §1411-A, sub-§6, as amended by PL 2015, c. 141, §6, is further amended to read:

6. Rehabilitation services. "Rehabilitation services," which may be provided directly or through public or private resources, means goods and services necessary to assist a person with a disability to engage in a ~~gainful occupation~~ competitive integrated employment or to determine the individual's rehabilitation potential, including but not limited to vocational rehabilitation services. Vocational rehabilitation services available to people with disabilities include:

- A. Evaluation, including diagnostic and related services, incidental to the determination of eligibility for and the nature and scope of services to be provided;
- B. Counseling, guidance and placement services for people with disabilities, including follow-up services to assist those individuals to maintain employment;
- C. Training services for people with disabilities, which may include personal and vocational adjustment, on-the-job training ~~and~~ books, tools and other training materials;
- D. Interpreting and other specific services necessary to meet the unique needs of those persons who are deaf or who have impaired hearing. These services must include the aid of qualified personnel and interpreters who can relate to and communicate on an effective and meaningful basis with persons who are deaf or have impaired hearing;
- E. Recruitment and training services for people with disabilities to provide them with suitable employment opportunities;
- F. Physical restoration services, including but not limited to:
 - (1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive and constitutes a substantial barrier to employment but is of such a nature that correction or modification may reasonably be expected to eliminate or substantially reduce the barrier within a reasonable length of time;
 - (2) Necessary hospitalization in connection with surgery or treatment;
 - (3) Prosthetic and orthotic devices; and
 - (4) ~~Eye glasses~~ Eye glasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist;
- G. Maintenance as necessary during rehabilitation, as established by the rules of the department;
- H. Occupational licenses, tools, equipment and initial stocks and supplies;

I. In the case of a small business operated by people with severesignificant disabilities, the operation of which can be improved by management services and supervision provided by the department, the provision of those services and that supervision, alone or together with the acquisition by the department of vending stands or other equipment and initial stocks and supplies;

J. The construction or establishment, in accordance with federal regulations, of public or other nonprofit community rehabilitation programs and the provision of other facilities and services that may contribute substantially to the rehabilitation of a group of individuals but are not related directly to the rehabilitation plan of any one person with a disability;

K. Transportation in connection with the rendering of any other rehabilitation service;

L. Any other goods and services necessary to render a person with a disability employable; ~~and~~

M. Services to the families of people with disabilities when the services will contribute substantially to the rehabilitation of the individuals.;

N. Services for students and youth with disabilities to facilitate transition from school to postsecondary life, such as achievement of a competitive integrated employment outcome;

O. Preemployment transition services to students with disabilities in a secondary, postsecondary or other recognized education program, including job exploration counseling; work-based learning experiences; counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs; workplace readiness training; and self-advocacy instruction;

P. Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind or visually impaired; and

Q. Rehabilitation technology services to systematically apply technologies, engineering methodologies or scientific principles to address barriers confronted by individuals with disabilities.

Sec. 9. 26 MRSA §1411-D, as amended by PL 2015, c. 141, §§8 and 9, is further amended to read:

§ 1411-D.Powers and duties of department

In carrying out this article, the commissioner:

1. Cooperates with other departments. Shall cooperate with other departments, agencies and institutions, both public and private, in providing for the rehabilitation of people with disabilities ~~and the evaluation and vocational services of disadvantaged individuals~~, in studying the problems involved and in establishing, developing and providing, in conformity with the purposes of this article, programs, facilities and services necessary or desirable;

2. Reciprocal agreements with other states. May enter into reciprocal agreements with other states to provide for the rehabilitation of people with disabilities ~~and disadvantaged individuals~~ who are residents of the states concerned;

3. Community rehabilitation programs. May establish, construct and operate community rehabilitation programs and make grants to public or other nonprofit organizations for those purposes;

4. Vending stands and other businesses. May supervise the operation of vending stands and other small businesses established pursuant to this article to be conducted by people with ~~severe~~significant disabilities;

5. Research fellowships and traineeships. May make studies, investigations, demonstrations and reports and provide training and instruction, including the establishment and maintenance of research fellowships and traineeships, with stipends and allowances as determined necessary, in matters relating to rehabilitation;

6. Joint project. May share funding and administrative responsibility with another state agency in order to carry out a joint project to provide services to people with disabilities;

7. Joint undertakings. May enter into joint undertakings with public and private agencies to further the effectiveness of services for ~~disadvantaged individuals~~people with disabilities;

8. Eligibility and priority. Through the Bureau of Rehabilitation Services, Division of Vocational Rehabilitation and Division for the Blind and Visually Impaired, which are the designated state units under the federal Rehabilitation Act of 1973 and the federal Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, shall determine the eligibility of individuals for rehabilitation services or evaluation and vocational services and the priority for those services in accordance with rules established by the department; and

9. Transitional services coordination. Through the Bureau of Rehabilitation Services, Division of Vocational Rehabilitation and Division for the Blind and Visually Impaired, which are the designated state units under the federal Rehabilitation Act of 1973 and the federal Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, shall participate with school administrative units in transition planning for each student receiving special education services who is 16 years of age or older, or 14 years of age if determined appropriate by the student's individualized education program team, and shall assign appropriate staff as a transition contact person and as a member of the transition planning team for each student.

Sec. 10. 26 MRSA §1412-B, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

§ 1412-B. Reporting and evaluation of rehabilitation needs

The department shall ~~make continuing study of~~evaluate the needs of people with disabilities and ~~disadvantaged individuals~~ in the State and how these needs may be met most effectively. ~~The study and planning must include appraisal~~As required by the federal Rehabilitation Act of 1973 and the federal Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, the department shall conduct a comprehensive statewide assessment every 3 years to describe the rehabilitation needs of individuals with disabilities residing in the State, including a review of community rehabilitation programs in the State and their effectiveness and adequacy in meeting the overall needs of people with disabilities and disadvantaged. The continuing study and recommendations must be reflected in the biennial reports of

~~the commissioner.~~The commissioner shall use the results of these reviews to advise the Governor and the Legislature of any need to change the State's rehabilitation programs. The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over labor matters the program outcomes as part of the reports authorized under section 2004-A, subsection 3 and required under section 3101.

Sec. 11. 26 MRSA §1414, sub-§1, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

1. Independent living services. "Independent living services" means services that promote or train people with ~~severe~~significant disabilities in managing their personal affairs, participating in day-to-day life in the community, fulfilling a range of social roles and making decisions that lead to self-determination and the minimization of physical or psychological dependence on others.

Sec. 12. 26 MRSA c. 19, sub-c. 2, art. 4, as amended, is repealed.

SUMMARY

The purpose of this bill is to amend the definitions and service descriptions of the Department of Labor, Bureau of Rehabilitation Services in order to conform with the reauthorization of the federal Rehabilitation Services Administration through the Workforce Innovation and Opportunity Act of 2014. It eliminates the use of the term "disadvantaged individuals" and repeals provisions of law regarding personal care services because such services are not provided by the bureau.