

CHAPTER 129A

VOCATIONAL REHABILITATION

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129A.01 DEFINITIONS.

For the purposes of this chapter, the following terms shall have the meanings given them:

- (a) "Department" means the department of jobs and training;
- (b) "Commissioner" means the commissioner of jobs and training;
- (c) "Vocational rehabilitation services" means those services and goods so defined in the federal Rehabilitation Act of 1973 and section 129A.03, clause (b);
- (d) "Handicapped person" means a person who because of a substantial physical, mental or emotional disability or dysfunction requires special services in order to enjoy the benefits of society;
- (e) "Long-term sheltered workshop" means a facility where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to those handicapped persons who, as a result of physical or mental disability, are unable to participate in competitive employment. A long-term sheltered workshop shall supply such employment (1) as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or (2) during such time as employment opportunities for them in the competitive labor market do not exist;
- (f) "Work activity program" means a program which utilizes manufacturing activities and other production work for the primary purpose of providing basic vocational skills development for the handicapped;
- (g) "Sheltered employee" means a handicapped person working for pay while participating in a long-term sheltered workshop program.
- (h) "Center for independent living" means a private nonprofit organization incorporated under Minnesota law and operated for the purpose of providing independent living services to persons with disabilities. Boards of directors for the center for independent living are composed of community representatives. Fifty-one percent of the board members must be individuals who are either severely disabled themselves or spouses or parents of severely disabled persons.

History: 1976 c 332 s 1; 1977 c 430 s 9; 1984 c 627 s 1; 1Sp1985 c 9 art 2 s 3; 1Sp1985 c 14 art 9 s 75

129A.02 COMMISSIONER; CONSUMER ADVISORY COUNCIL, STAFF.

Subdivision 1. [Repealed, 1977 c 430 s 26]

Subd. 2. **Commissioner.** The commissioner is the chief executive officer of the department of jobs and training and is the successor to the powers and duties of the former assistant commissioner of vocational rehabilitation.

Subd. 3. **Consumer advisory council.** To assure that consumer concerns are integral parts of the considerations of the department, the commissioner shall establish and appoint a consumer advisory council on vocational rehabilitation which shall be composed of nine members. No fewer than five members of the council shall be

handicapped persons, and there shall be one person appointed to the council to represent each of the following: business, labor, education, medicine and the private rehabilitation industry. The remaining members shall be public members. Under the direction of the commissioner, the council shall organize itself and elect a chair and other officers as it deems appropriate. The council shall meet at the call of the chair or the commissioner as often as necessary. The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 4. [Repealed, 1Sp1985 c 14 art 9 s 78]

History: 1976 c 332 s 2; 1977 c 305 s 22; 1Sp1985 c 14 art 9 s 7; 1986 c 444

NOTE: See also Laws 1977, Chapter 430, Sections 9-12.

129A.03 POWERS AND DUTIES.

The commissioner shall:

(a) develop and administer the long-term sheltered workshops and work activity programs and perform the duties as specified in section 129A.08;

(b) provide vocational rehabilitation services such as: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment, maintenance, books, supplies and training materials; initial stocks and supplies; placement; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs or services rendered by severely disabled persons; establishment, improvement, maintenance or extension of public and other nonprofit rehabilitation facilities, centers, workshops, demonstration projects and research. These services shall be provided for handicapped persons in the state whose capacity to earn a living has in any way been destroyed or impaired through industrial accident or otherwise; these persons are entitled to free choice of vendor for any medical or dental services provided under this paragraph;

(c) formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act. Those plans are effective only if approved by the governor;

(d) maintain a contractual relationship with the United States as authorized by the act of Congress approved September 1, 1954, known as the "Social Security Amendments of 1954," Public Law Number 761, section 221, and the act approved October 30, 1972, known as the Social Security Amendments of 1972, Public Law Number 92-603, and subsequent amendments. Under the contract, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

(e) provide an in-service training program for department employees by paying for its direct costs with state and federal funds;

(f) conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to the handicapped and general public; and provide technical assistance relating to vocational rehabilitation;

(g) receive and disburse pursuant to law money and gifts available from governmental and private sources for the purpose of vocational rehabilitation. Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund;

(h) design all state plans of vocational rehabilitation services required as a condition to the receipt and disbursement of any money available from the federal government;

(i) cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation: Money received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation programs;

(j) enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies or facilities with respect to providing vocational rehabilitation services;

(k) take other actions required by state and federal legislation relating to vocational rehabilitation and disability determination programs;

(l) hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; and

(m) adopt, amend, suspend or repeal rules necessary to implement or make specific programs that the commissioner by sections 129A.01 to 129A.09 is empowered to administer.

History: 1975 c 359 s 23; 1976 c 332 s 3; 1983 c 312 art 1 s 15; 1Sp1985 c 9 art 2 s 4

129A.04 DISABILITY DETERMINATIONS; PRIVILEGED INFORMATION.

No communication or statement furnished by a physician or other professional person to the department or any other agency of the state for use in connection with an agreement or contractual relationship as contemplated in section 129A.03, clause (d), shall be made the subject of any slander, libel or defamation action.

History: 1976 c 332 s 4

129A.05 REPORTS, DISCLOSURE.

Subdivision 1. The employees of the department specifically authorized by the commissioner shall have the right to receive from any public records the names, addresses and information pertinent to their vocational rehabilitation of persons injured or otherwise disabled. Except as provided in subdivision 2, no information obtained from these reports, nor any copy of the same, nor any of the contents thereof, nor other confidential information as defined by the commissioner shall be open to the public, nor shall be disclosed in any manner by any official or clerk or other employee of the state having access thereto, but the same may be used, except as provided in subdivision 2, solely to enable the department to offer the benefits of vocational rehabilitation to the persons injured or otherwise disabled.

Subd. 2. When the employees of the department have knowledge relating to the nature and extent of an injury or disability or have knowledge of other relevant or material facts with respect to any claim made pursuant to chapter 176 by an injured employee, the commissioner shall first obtain the written consent of the injured employee to the release of the information and shall then report to any party to the claim under the workers' compensation law and to the workers' compensation division or the workers' compensation court of appeals, as the case may be, all of the facts within ten days after the department has received written request for such information from the workers' compensation division or the workers' compensation court of appeals, as the case may be. At a hearing before a compensation judge or the workers' compensation court of appeals on appeal, an employee of the department may, upon the written consent of the injured employee, disclose the facts and conclusions upon which the vocational rehabilitation evaluation of the injured employee was made.

History: 1975 c 359 s 23; 1976 c 134 s 78; 1976 c 332 s 5

129A.06 COMMUNITY LONG-TERM SHELTERED WORKSHOPS AND WORK ACTIVITY PROGRAMS.

Subdivision 1. Any city, town, county, nonprofit corporation, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community long-term sheltered workshop or work activity program. Application for assistance shall be on forms supplied by the commissioner. Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the commissioner.

Subd. 2. In order to provide the necessary funds for a long-term sheltered workshop or work activity program, the governing body of any city, town, or county may expend money which may be available for such purposes in the general fund, and may levy a tax which, except when levied by a county, shall not exceed in any one year the following amounts per capita of the population, based upon the last federal census: Cities of the first class, not to exceed ten cents per capita; cities of other than the first class, and towns, not to exceed 30 cents per capita. A tax levied pursuant to this subdivision is not a special levy as defined in section 275.50, subdivision 5, and shall be subject to the limitation provided in sections 275.51 to 275.56. Any city, town, county, or nonprofit corporation may accept gifts or grants from any source for the long term sheltered workshop or work activity program. Any money appropriated, taxed, or received as a gift or grant may be used to match funds available on a matching basis.

History: 1976 c 332 s 6; 1978 c 522 s 1

129A.061 REQUIREMENTS FOR CERTIFICATION.

Subdivision 1. **Benefits.** A long-term sheltered workshop must, as a condition for receiving program certification, provide employees in a long-term employment program the personnel benefits prescribed in rules adopted by the commissioner of the department of jobs and training.

Subd. 2. **Grievance procedure.** A long-term sheltered workshop must, as a condition for receiving program certification, provide to employees in a long-term employment program a grievance procedure which has as its final step provisions for final and binding arbitration.

History: 1Sp1985 c 9 art 2 s 5; 1Sp1985 c 14 art 9 s 75

129A.07 COMMUNITY LONG-TERM SHELTERED WORKSHOP BOARDS.

Subdivision 1. Every city, town, county, nonprofit corporation, or combination thereof establishing a community long-term sheltered workshop or work activity program shall appoint a long-term sheltered workshop board of no fewer than nine members before becoming eligible for the assistance provided by sections 129A.06 to 129A.08. When any city, town, or county singly establishes such a workshop or work activity program, the board shall be appointed by the chief executive officer of the city or the chair of the governing board of the county or town. When any combination of cities, towns, counties or nonprofit corporations establishes a workshop or work activity program, the chief executive officers of the cities, nonprofit corporations and the chairs of the governing bodies of the counties or towns shall appoint the board. If a nonprofit corporation singly establishes a workshop or work activity program, the corporation shall appoint the board of directors. Membership on a board shall be representative of the community served and shall include a handicapped person. One-third to one-half of the board shall be representative of industry or business. The remaining members should be representative of lay associations for the handicapped, labor, the general public, and education, welfare, medical, and health professions. Nothing in sections 129A.06 to 129A.08 shall be construed to preclude the appointment of elected or appointed public officials or members of the board of directors of the sponsoring nonprofit corporation to the board, so long as representation described above is preserved. If a county establishes a workshop or work activity program and

manages the workshop with county employees, the governing board shall be the county board of commissioners and other provisions of this chapter pertaining to membership on the governing board do not apply.

Subd. 2. The term of office of each member of the community long-term sheltered workshop or work activity board shall be for four years, measured from the first day of the year of appointment, except as follows: Of the members first appointed, at least three shall be appointed for a term of two years, at least three for a term of three years and at least three for a term of four years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

Subd. 3. Subject to the provisions of sections 129A.06 to 129A.08 and the rules of the department, each community long-term sheltered workshop or work activity program board shall:

(a) Review and evaluate the need for a long-term sheltered workshop services or work activity program provided pursuant to sections 129A.06 to 129A.08 and report thereon to the commissioner and, when indicated, the public, together with recommendations for additional services and facilities;

(b) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources and promote public support for municipal and county appropriations;

(c) Promote, arrange and implement working agreements with other educational and social service agencies both public and private and any other allied agencies;

(d) Advise the commissioner on the adoption and implementation of policies to stimulate effective community relations;

(e) Review the annual plan and budget and make recommendations thereon;

(f) When so determined by the authority establishing the program, act as the administrator of the program.

History: 1976 c 332 s 7; 1Sp1985 c 9 art 2 s 6; 1986 c 444

129A.08 EVALUATION AND FUNDING OF WORKSHOPS AND WORK ACTIVITY PROGRAMS.

Subdivision 1. **Grants.** The commissioner may make grants to assist cities, towns, counties, nonprofit corporations, or any combination thereof in the establishment, operation and expansion of long-term sheltered workshops or work activity programs. The commissioner may accept federal grants or aids and shall cooperate with federal agencies in any reasonable manner necessary to qualify for federal grants or aids for long-term sheltered workshops or work activity programs.

Subd. 2. **Evaluation; state funding.** At the beginning of each fiscal year, the commissioner shall allocate available funds to long-term sheltered workshops and work activity programs for disbursement during the fiscal year in accordance with approved plans or budgets. The commissioner shall study and recommend to the legislature by March 1, 1985, new allocation formulas which take into consideration effectiveness of the workshop. In its recommendation the commissioner shall calculate the fiscal impact of the various formulas on each workshop and the extent to which a workshop can utilize new allocation formulas. The commissioner shall develop forms to assist the workshops in collecting data necessary to complete the evaluation. Information needed to conduct the evaluations must be submitted by the workshops along with the annual requests for funding. Failure to submit documentation requested by the commissioner shall result in the withdrawal of all state funding for the workshop.

The commissioner shall from time to time during the fiscal year review the budgets and expenditures of the workshops and programs. If funds are not needed for the workshop or program to which they were allocated, the commissioner may, after

reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other workshops or programs. The commissioner may withdraw funds from any workshop or program which is not being administered in accordance with its approved plan and budget unless a modified plan and budget is submitted to and approved by the commissioner, and implemented within a reasonable time.

The commissioner shall also withdraw funds from a workshop or program not being administered according to department rules, or not meeting mandatory standards for certification, unless a plan bringing the workshop or program into compliance with the rules and standards is submitted to and approved by the commissioner and implemented within a reasonable time.

Subd. 3. Operating costs funded. The grant may not exceed an amount equal to 75 percent of the normal operating expenses of the long-term sheltered workshop or work activity program. Wages paid sheltered employees or work activity program participants are to be excluded in determining operating cost. In the event that there are inadequate funds appropriated to meet the foregoing provisions in full, they shall be prorated proportionately.

Subd. 4. Evaluation of workshops. The workshop evaluation must include, but not be limited to, the following considerations:

- (a) Wages and benefits paid to sheltered employees and number of hours worked;
- (b) Rate of placement in competitive employment;
- (c) Opportunities for sheltered employees to participate in decisions affecting their employment;
- (d) Workshop responsiveness to sheltered employees grievances;
- (e) Increases in individual sheltered employee productivity;
- (f) Implementing innovative ways to increase placement and retention of sheltered employees in competitive employment, or in sheltered positions with competitive employers, or innovative ways that increase sheltered employee wages;
- (g) Efficiency of the workshops; and
- (h) Types and levels of disability of the sheltered employees and willingness of the workshop to accept and assist persons with serious behavioral, mental, sensory or physical disabilities.

The evaluation must take into account the disability levels of the sheltered employees, the geographic location and size of the workshop and the economic conditions of the surrounding community.

Subd. 5. Rule authority. In addition to the powers already conferred by law, the commissioner shall promulgate rules on:

- (a) state certification of all long-term sheltered workshops and work activity programs;
- (b) eligibility of community long-term sheltered workshops and work activity programs to receive state grants;
- (c) standards for qualification of personnel and quality of professional service and for in-service training and education leave programs for personnel;
- (d) eligibility for service so that no person will be denied service on the basis of race, creed or color;
- (e) regulatory fees for consultation services;
- (f) standards and criteria by which handicapped persons are to be judged eligible for the services;
- (g) evaluation criteria for long-term sheltered workshops; and
- (h) program evaluation criteria for work activity programs in order to determine the extent to which these programs meet the goals and objectives established in state and federal law relating to work activity programs.

The rules on evaluation criteria for long-term sheltered workshops must be in effect

by July 1, 1986. The rules must be used in making allocations for fiscal years beginning after June 30, 1987.

Subd. 6. Technical assistance. The commissioner shall provide technical assistance within available resources to workshops and programs based on the need reflected in an evaluation.

Subd. 7. Grants. The commissioner may use money allocated to the division of vocational rehabilitation for management information systems to provide grants to long-term sheltered workshops to finance and purchase equipment necessary to: (1) provide the information required to comply with the evaluation criteria developed under subdivision 5; (2) increase sheltered worker productivity; and (3) train severely disabled people in computer and other high-technology applications. As a condition of receiving a grant for the purposes of (2) or (3), the commissioner shall require workshops to provide matching money.

History: 1976 c 332 s 8; 1984 c 627 s 2; 1Sp1985 c 9 art 2 s 7; 1986 c 369 s 1; 1986 c 444

129A.09 EXPENDITURE OF FEDERAL FUNDS.

Notwithstanding the provisions of Laws 1975, chapter 433, section 2, subdivision 9, any additional federal funds which become available to the state of Minnesota for vocational rehabilitation purposes after March 1, 1976 and April 1 of each fiscal year thereafter as a result of a reallocation of funds returned by other states or release of additional funds may be carried over and expended in the next fiscal year. The state of Minnesota shall have earned these funds in the year they are received with state expenditures in accordance with the federal-state formula in effect for that year. These funds shall be subject to the provisions of Laws 1976, chapter 332, section 9, subdivision 8.

History: 1976 c 332 s 11

129A.10 INDEPENDENT LIVING SERVICES.

Subdivision 1. Services offered. Independent living services are those services designed to materially improve opportunities for persons with disabilities to live and function more independently in their home, family, and community, and the services include:

- (1) intake counseling to determine the individual's needs for services;
- (2) referral and counseling services with respect to attendant care;
- (3) counseling and advocacy with respect to legal and economic rights and benefits;
- (4) independent living skills, training, and counseling;
- (5) housing and transportation referral and assistance;
- (6) surveys, directories, and other activities to identify appropriate housing and accessible transportation and other support services;
- (7) peer counseling;
- (8) education and training necessary to living in the community and participating in community affairs;
- (9) individual and group social and recreational activities;
- (10) attendant care and training of personnel to provide the care; and
- (11) other necessary services which are not inconsistent with sections 62A.26 and 62E.06, subdivision 1.

Subd. 2. Administration. This section shall be administered by the department of jobs and training through the division of vocational rehabilitation. The department may employ staff as reasonably required to administer this section and may accept and receive funds from nonstate sources for the purpose of effectuating this section.

Subd. 3. Certification. No applicant center for independent living may receive funding under this section unless it has received certification from the division of vocational rehabilitation.

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The division of vocational rehabilitation shall involve disabled consumers and other interested persons to consider performance evaluation criteria in order to formulate rules by which centers will be certified by July 1, 1986.

The division of vocational rehabilitation shall review the programs for centers of independent living receiving funds from this section to determine their adherence to standards adopted by rule and if the standards are substantially met, shall issue appropriate certifications.

Subd. 4. Application of centers for independent living. The division of vocational rehabilitation shall require centers for independent living to complete application forms, expenditure reports, and proposed plans and budgets. These reports must be in the manner and on the form prescribed by the division. When applying, the center for independent living shall agree to provide reports and records, and make available records for audit as may be required by the division of vocational rehabilitation.

The applicant center for independent living shall be notified in writing by the division concerning the approval of budgets and plans.

History: *1Sp1985 c 9 art 2 s 8; 1Sp1985 c 14 art 9 s 75*