

## CHAPTER 268A

## VOCATIONAL REHABILITATION

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**268A.01 DEFINITIONS.**

Subdivision 1. **General.** For the purposes of this chapter, the terms defined in this section shall have the meanings given them.

Subd. 2. **Department.** "Department" means the department of economic security.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of economic security.

Subd. 4. **Vocational rehabilitation services.** "Vocational rehabilitation services" means those services and goods so defined in the federal Rehabilitation Act of 1973, as amended, and section 268A.03, clause (b).

Subd. 5. **Person with a disability.** "Person with a disability" means a person who because of a substantial physical, mental, or emotional disability requires special services in order to enjoy the benefits of society.

Subd. 6. **Rehabilitation facility.** "Rehabilitation facility" means an entity which meets the definition of community rehabilitation program in the federal Rehabilitation Act of 1973, as amended. However, for the purposes of sections 268A.03, paragraph (a), 268A.06, 268A.08, and 268A.15, rehabilitation facility means an entity which is operated for the primary purpose of providing or facilitating employment for persons with a severe disability.

Subd. 7. [Repealed, 1995 c 224 s 126]

Subd. 8. **Center for independent living.** "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 with disabilities.

Subd. 9. **Center-based employment subprogram.** "Center-based employment subprogram" means employment which provides paid work on the premises of a rehabilitation facility and training services or other services necessary for employment on or off the premises of the rehabilitation facility.

Subd. 10. **Extended employment program.** "Extended employment program" means the center-based employment and supported employment subprograms.

Subd. 11. [Repealed, 1995 c 224 s 126]

Subd. 12. [Repealed, 1995 c 224 s 126]

Subd. 13. **Supported employment.** "Supported employment" means employment of a person with a disability so severe that the person needs ongoing training and support to get and keep a job in which:

(1) the person engages in paid work in a position removed from the service vendor's site where individuals without disabilities who do not require public subsidies also may be employed;

(2) public funds are necessary to provide ongoing training and support services throughout the period of the person's employment; and

(3) the person has the opportunity for social interaction with individuals who do not have disabilities and who are not paid caregivers.

**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; 1987 c 369 s 1; 1988 c 689 art 2 s 16-18, 268; 1989 c 106 s 1; 1990 c 363 s 1-3; 1994 c 483 s 1; 1995 c 224 s 80-84

## **268A.02 COMMISSIONER; REHABILITATION ADVISORY COUNCIL, STAFF.**

Subdivision 1. **Commissioner.** The commissioner is the chief executive officer of the department of economic security and is the successor to the powers and duties of the former assistant commissioner of vocational rehabilitation.

Subd. 2. **Rehabilitation advisory council.** The commissioner shall establish a state rehabilitation advisory council consistent with the federal Rehabilitation Act of 1973, Public Law Number 93-112, as amended. Members of the advisory council shall be compensated as provided in section 15.059, subdivision 3. Members of the consumer advisory council appointed prior to July 1, 1993, shall serve on the rehabilitation advisory council until the end of their appointed terms.

**History:** 1976 c 332 s 2; 1977 c 305 s 22; 1Sp1985 c 14 art. 9 s 7; 1986 c 444; 1988 c 689 art 2 s.19; 1993 c 97 s 2; 1994 c 483 s 1; 1995 c 82 s 12,16

## **268A.03 POWERS AND DUTIES.**

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.15;

(b) provide vocational rehabilitation services to persons with disabilities in accordance with the federal Rehabilitation Act of 1973, Public Law Number 93-112, as amended. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

(c) expend funds and provide technical assistance for the establishment, improvement, maintenance, or extension of public and other nonprofit rehabilitation facilities or centers;

(d) maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship, 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 division of rehabilitation services 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 persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

(g) receive and disburse pursuant to law money and gifts available from governmental and private sources including, but not limited to, the federal Department of Education and the Social Security Administration, for the purpose of vocational rehabilitation or independent living;

(h) design all state plans for vocational rehabilitation or independent living 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 or independent living. 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 or independent living 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 or independent living services;

(k) take other actions required by state and federal legislation relating to vocational rehabilitation, independent living, 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 268A.01 to 268A.15 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; 1987 c 369 s 2; 1988 c 689 art 2 s 20; 1991 c 292 art 2 s 69; art 10 s 3; 1995 c 82 s 13; 1995 c 224 s 85

#### 268A.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 268A.03, clause (d), shall be made the subject of any slander, libel or defamation action.

**History:** 1976 c 332 s 4

#### 268A.05 REPORTS, DISCLOSURE.

Subdivision 1. **Public records; access.** 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. [Repealed, 1991 c 292 art 10 s 4]

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

#### 268A.06 REHABILITATION FACILITIES.

Subdivision 1. **Application.** Any city, town, county, nonprofit corporation, state regional center, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community rehabilitation facility. Application for assistance shall be on forms prescribed 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. **Funding.** In order to provide the necessary funds for extended employment programs offered by a rehabilitation facility, 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 on the taxable property in the city, town, or county. Any city, town, county, or nonprofit corporation may accept gifts or grants from any source for the rehabilitation facility. Any money appropriated, taxed, or received as a gift or grant may be used to match funds available on a matching basis.

Subd. 3. **Rehabilitation facilities: salary adjustments; grants.** The commissioner shall increase grants; for the fiscal year beginning July 1, 1991, for each rehabilitation facility by a salary adjustment figured by multiplying the total salaries, payroll taxes, and fringe benefits for personnel below top management by three percent. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management. The commissioner shall ensure that all increased revenue produced

by this calculation is used for salary and related costs of personnel in positions below top management.

**History:** 1976 c 332 s 6; 1978 c 522 s 1; 1987 c 369 s 3; 1988 c 689 art 2 s 21,268; 1Sp1989 c 1 art 5 s 5; 1991 c 292 art 3 s 39; 1994 c 505 art 3 s 6; 1995 c 224 s 86

#### 268A.07 REQUIREMENTS FOR CERTIFICATION.

Subdivision 1. **Benefits.** A rehabilitation facility must, as a condition for receiving program certification, provide employees in center-based employment with personnel benefits prescribed in rules adopted by the commissioner of the department of economic security.

Subd. 2. **Grievance procedure.** A rehabilitation facility must, as a condition for receiving program certification, provide to employees in center-based employment subprograms, 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; 1988 c 689 art 2 s 268; 1994 c 483 s 1; 1995 c 224 s 87

#### 268A.08 REHABILITATION FACILITY BOARDS.

Subdivision 1. **Appointment; membership.** Every city, town, county, nonprofit corporation, or combination thereof establishing a rehabilitation facility shall appoint a rehabilitation facility board of no fewer than nine members before becoming eligible for the assistance provided by sections 268A.06 to 268A.15. When any city, town, or county singly establishes such a rehabilitation facility, 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 rehabilitation facility, 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 rehabilitation facility, the corporation shall appoint the board of directors. Membership on a board shall be representative of the community served and shall include a person with a disability. 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 persons with a disability, labor, the general public, and education, welfare, medical, and health professions. Nothing in sections 268A.06 to 268A.15 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 state regional center establishes an extended employment program, the chief executive officer of the state regional center shall perform the functions of the rehabilitation facility board as prescribed in subdivision 2. The regional center is not required to establish a separate governing body as a board. The state regional center shall establish an advisory committee following the membership representation requirements of this subdivision. If a county establishes an extended employment program and manages the program 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. **Duties.** Subject to the provisions of sections 268A.06 to 268A.15 and the rules of the department, each rehabilitation facility board shall:

(a) review and evaluate the need for extended employment programs offered by the rehabilitation facility provided pursuant to sections 268A.06 to 268A.15 and report thereon to the commissioner and, when indicated, the public, together with recommendations for additional extended employment programs;

(b) recruit and promote local financial support for extended employment programs 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 an extended employment program offered by the rehabilitation facility is certified, act as the administrator of the rehabilitation facility and its subprograms for purposes of this chapter.

**History:** 1976 c 332 s 7; 1Sp1985 c 9 art 2 s 6; 1986 c 444; 1987 c 369 s 4; 1988 c 689 art 2 s 22,268; 1995 c 224 s 88,89

**268A.09** [Repealed, 1995 c 224 s 126]

#### **268A.10 EXPENDITURE OF FEDERAL FUNDS.**

Any additional federal funds which become available to the state of Minnesota for vocational rehabilitation or independent living purposes 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.

**History:** 1976 c 332 s 11; 1988 c 689 art 2 s 27

#### **268A.11 INDEPENDENT LIVING SERVICES.**

**Subdivision 1. Purposes and services.** The purposes of independent living services and the services that are to be provided are those that are consistent with Code of Federal Regulations, title 34, parts 365 to 367.

**Subd. 2. Administration.** This section shall be administered by the department of economic security through the division of rehabilitation services. 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 rehabilitation services.

The division of rehabilitation services shall review the programs of centers for 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 rehabilitation services 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 rehabilitation services.

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; 1988 c 689 art 2 s 28; 1994 c 483 s 1; 1995 c 82 s 14,15

**268A.12** [Repealed, 1995 c 82 s 17]

#### **268A.13 EMPLOYMENT SUPPORT SERVICES FOR PERSONS WITH MENTAL ILLNESS.**

The commissioner of economic security, in cooperation with the commissioner of human services, shall develop a statewide program of grants to provide services for persons with mental illness in supported employment. Projects funded under this section must: (1) assist persons with mental illness in obtaining and retaining employment; (2) emphasize individual community placements for clients; (3) ensure interagency collaboration at the local level between vocational rehabilitation field offices, county service agencies, community support programs operating under the authority of section 245.4712, and community rehabilitation providers, in assisting clients; and (4) involve clients in the planning, development, oversight, and delivery of support services. Project funds may not be used to provide services in segregated settings such as the center-based employment subprograms as defined in section 268A.01.

The commissioner of economic security, in consultation with the commissioner of human services, shall develop a request for proposals which is consistent with the requirements of this section and which specifies the types of services that must be provided by grantees. Projects shall be funded for state fiscal year 1995 and priority for funding shall be given to organizations with experience in developing innovative employment support services for persons with mental illness. Each applicant for funds under this section shall submit an evaluation protocol as part of the grant application.

**History:** 1994 c 483 s 1; 1994 c 632 art 4 s 71; 1995 c 224 s 90

#### **268A.14 PLAN FOR A STATEWIDE REIMBURSEMENT SYSTEM.**

The commissioner of economic security, in cooperation with the commissioner of human services, shall develop a detailed plan for establishing a statewide system to reimburse providers for employment support services for persons with mental illness. The plan must include the following: (1) protocols for certifying eligible providers; (2) standards for determining client eligibility for the service; (3) a list of reimbursable services with the proposed reimbursement level for each service; and (4) a description of the systems, including necessary computer systems, that will be used by the state agency for payment of reimbursement to eligible providers. The plan must also include projected total biennial costs for the new reimbursement system, recommendations on the nature of appeal rights which shall be provided to clients and providers, and recommendations on the necessity for agency rulemaking prior to implementation of the new reimbursement system.

**History:** 1994 c 483 s 1; 1994 c 632 art 4 s 72

#### **268A.15 EXTENDED EMPLOYMENT PROGRAM.**

Subdivision 1. **Administration.** The department of economic security shall administer this section through the division of rehabilitation services. The department may employ staff as required to administer this section and may accept and receive funds from nonstate sources for the purpose of implementing this section.

Subd. 1a. **Severe impairment to employment; definition.** For the purpose of this section, "severe impairment to employment" means profound limitations that dramatically restrict an individual's ability to seek, secure, and maintain employment due to an extended history of little or no employment, limited education, training, or job skills, and physical, intellectual, or emotional characteristics seriously impairing future ability to obtain and retain permanent employment.

Subd. 2. **Program purpose.** The extended employment program shall have two categories of clients consisting of those with severe disabilities and those with severe impairment to employment. The purpose of the extended employment program for persons with severe disabilities is to provide the ongoing services necessary to maintain and advance the employment of persons with severe disabilities. The purpose of the extended employment program for persons with severe impairment to employment is to provide the ongoing support services necessary to secure, maintain, and advance in employment. Employment must encompass the broad range of employment choices available to all persons and promote an individual's self-sufficiency and financial independence.

Subd. 3. **Rule authority.** The commissioner shall adopt rules on an individual's eligibility for the extended employment program, the certification of rehabilitation facilities, and the methods, criteria, and units of distribution for the allocation of state grant funds to certified rehabilitation facilities. In determining the allocation, the commissioner must consider the economic conditions of the community and the performance of rehabilitation facilities relative to their impact on the economic status of workers in the extended employment program.

Subd. 3a. **Severe impairment to employment; separate program.** The allocation of funds, eligibility criteria, and funding criteria for extended employment program funds for persons with severe disabilities shall be separate from the allocation of funds, eligibility criteria, and funding criteria for extended employment program funds for persons with severe impairment to employment. Extended employment program services for persons with severe disabilities shall be modified to the extent necessary to provide services to persons with severe impairment to employment.

The county agency must consider placing an individual who is on welfare and who has a severe impairment to employment, as defined in subdivision 1a, into an extended employment program under this section for job skills training or a job, or both, as part of the effort to move people from welfare to work as required under federal welfare reform.

**Subd. 4. Evaluation.** The commissioner of economic security shall evaluate the extended employment program to determine whether the purpose of extended employment as defined in subdivision 2 is being achieved. The evaluation must include an assessment of whether workers in the extended employment program are satisfied with their employment. A written report of this evaluation must be prepared at least every two years and made available to the public.

**Subd. 5. Technical assistance.** The commissioner of economic security shall provide technical assistance within available resources to rehabilitation facilities.

**Subd. 6. Grants.** The commissioner may provide innovation and expansion grants to rehabilitation facilities to encourage the development, demonstration, or dissemination of innovative business practices, training programs, and service delivery methods that:

(1) expand and improve employment opportunities for persons with severe disabilities or severe impairment to employment who are unserved or underserved by the extended employment program; and

(2) increase the ability of persons with severe disabilities or severe impairment to employment to use new and emerging technologies in employment settings, and foster the capacity of rehabilitation facilities and employers to promote the integration of individuals with severe disabilities and severe impairment to employment into the workplace and the mainstream of community life.

The grants must require collaboration at the local level among vocational rehabilitation field offices, county social service and planning agencies, rehabilitation facilities, and employers.

**Subd. 7. Withdrawal of funds.** The commissioner may withdraw funds from a rehabilitation facility that 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 may withdraw funds from a rehabilitation facility not being administered according to department rules, or not meeting mandatory standards for certification, unless a plan bringing the rehabilitation facility into compliance with the rules and standards is submitted to and approved by the commissioner, and implemented within a reasonable time. Funds withdrawn shall, after reasonable notice and opportunity for hearing, be reallocated by the commissioner to other rehabilitation facilities.

**Subd. 8. Funding authority.** State grant funds under this section and section 268A.13 shall be available for 24 months following the end of a fiscal year to allow for the submission of final grant data reports, the completion of audit adjustments of payments to grantees including grantee appeals of final audit adjustments, and the redistribution of remaining balances in grant accounts to other grantees who meet or exceed their contracts with the department for that fiscal year.

**History:** 1995 c 224 s 91; 1997 c 200 art 1 s 66-70