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ABSTRACT

Summaries are presented of more than 60 key federal laws pertaining to the legal rights and benefits available to persons with disabilities. The laws are organized into general subject areas, including: education, employment, health, housing, income maintenance, nutrition, rights, social services, transportation, and vocational rehabilitation. The provisions of each separate act are described in non-technical language. After providing a brief overview of each law's basic purpose and structure, the major programs authorized under the statute are described. An encapsulated legislative history of the law highlights major milestones in the evolution of the statute. Minor legislation affecting persons with handicaps is summarized in an abridged format, including a brief discussion of the law's importance and its legislative origins. The information provided is restricted to the provisions of the federal laws and does not cover regulatory and administrative policies or judicial decisions. (JDD)

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Summary of Existing Legislation Affecting Persons with Disabilities



EC 211 883

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U.S. DEPARTMENT OF EDUCATION

**Office of Special Education and Rehabilitative Services
Clearinghouse on the Handicapped
Washington, D.C. 20202-2524**

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INTRODUCTION

While the first federal laws designed to assist citizens with disabilities date back to the early years of the Republic, prior to World War II the statute books contained relatively few acts authorizing special benefits for persons with handicaps, other than for war veterans with service connected disabilities. However, in recent years, particularly since the early 1960's, there has been a veritable avalanche of federal legislation that relates directly or indirectly to persons with handicaps.

These statutes have been organized and codified in the U.S. Code for purposes of legal reference. This publication, originally developed in 1980, provides a reliable, comprehensive summary of relevant federal laws for use by consumers, professionals, providers, advocates, family members and others interested in the legal rights and benefits available to persons with disabilities. It offers, under one cover, a summary of over sixty key federal laws.

The various laws are organized into general subject areas. The provisions of each separate act are described in non-technical language, using a common format. After providing a brief overview of the law's basic purpose and structure, the major programs authorized under the statute which affect persons with disabilities are described. We conclude with an encapsulated legislative history of the law, highlighting major milestones in the evolution of the statute as it impacts on persons with disabilities.

Minor legislation affecting persons with handicaps is summarized in an abridged format, including a brief discussion of the law's importance and its legislative origins.

Most statutes are presented under the subject category to which they apply (e.g., the Public Health Service Act appears under the section on Health; and the Education of the Handicapped Act appears under the section on Education). However, the Social Security Act, which authorizes health, income maintenance and social services programs under its various titles, has been divided among the appropriate sections and pertinent titles are treated separately (with cross-references, as indicated). In addition, the section on Rights describes selected provisions of various statutes that enunciate and protect certain basic rights of citizens with handicaps.

Following the descriptions of each major program authorized under a particular act, there is a list of reference documents the reader may wish to consult for further information. The sources cited are: (1) the public

law numbers of the act and/or its pertinent amendments, (2) the United States Code references (abbreviated as U.S.C.); and (3) the *Catalog of Federal Domestic Assistance* (abbreviated as C.F.D.A.) number. These source documents are available in most large public libraries, law school libraries, and certain government offices for individuals desiring to pursue in-depth research.

This publication is not intended to be an exhaustive analysis of all federal statutes affecting persons with handicaps. Nor is the material designed to provide legal interpretations of the relevant statutes. Persons interested in the precise language of the law should refer to the primary source documents cited in the report.

Only those laws containing explicit provisions relating to persons with physical or mental handicaps are summarized in this report. The one major exception relates to laws authorizing benefits for disabled veterans. Since information and material on such statutes are generally available through the Veterans Administration, we decided not to include information on laws aimed exclusively at this population.

Furthermore, readers should be aware of the fact that information contained in this report is restricted to the provisions of the federal laws discussed. Regulatory and other administrative policies as well as related judicial decisions are included only when they are intertwined with the legislative history of a statute.

Additional information on actual program operations is usually available in the *Catalog of Federal Domestic Assistance*. This is one reason for including the appropriate *Catalog* reference number at the end of each program summary. Annotated versions of the United States Code also provide cross references to the *Code of Federal Regulations*, which is the primary source of information on administrative operating policies and procedures.

Each program description includes a FY 1987 appropriations figure. These figures may not be exact, and, therefore, should be viewed only as general indicators of a program's scope. It is important to note that the appropriations figures represent funding for the program as a whole, the portion of expenditures directly benefiting persons with handicaps may be only a fraction of the total dollars appropriated (e.g., funds appropriated for the Social Services Block Grant for FY 1987 totalled \$2.7 billion, but only a small portion of that total was used on behalf of individuals with handicaps).

In addition, the reader should be aware that a summary like this can only provide a "snapshot in time." It includes laws enacted as of the end of the 1st Session of the 100th Congress (i.e., through calendar year 1987). As this book goes to press several bills related to services and benefits for persons with handicaps are in various stages of the legislative pro-

cess. For example, the "School Improvement Act" has been passed by the Senate and the House of Representatives and is currently in conference and the "Medicare Catastrophic Loss Prevention Act" likewise is awaiting action by a House-Senate conference committee.

It is our hope that the information included in this summary report will prove helpful to federal and state policymakers, professional workers, program administrators, consumers with handicaps, students and other individuals with an interest in federal legislation that directly impacts on persons with mental and physical disabilities. Since current plans call for updating this publication periodically, the Office of Special Education and Rehabilitative Services would welcome reader input regarding the types of information which should be added, deleted or revised in future editions of the publication.

Abbreviations used in this text:

C.F.D.A.	<i>Catalog of Federal Domestic Assistance</i>
F.Y.	Fiscal Year
P.L.	Public Law
U.S.C.	United States Code

TABLE OF CONTENTS

	Page
INTRODUCTION	iii
EDUCATION	
Education Consolidation and Improvement Act	1
Education of the Handicapped Act	4
Education of the Deaf Act of 1986	18
Library Services and Construction Act	19
Higher Education Act	21
Vocational Education Act	22
Department of Education Organization Act of 1979	24
Defense Dependents' Education Act of 1978	25
National Library Service for the Blind and Physically Handicapped	25
Impact Aid to Federally Affected Areas	26
EMPLOYMENT	
Job Training Partnership Act	27
Fair Labor Standards Act	30
Small Business Act	32
Wagner-Peyser Act	34
Public Works and Economic Development Act	35
Targeted Jobs Tax Credit	35
Federal Employment for Individuals with Handicaps	36
Handicapped Federal Employees Personal Assistants	36
HEALTH	
Social Security Act	
Maternal and Child Health Services Block Grant	37
Health Insurance for the Elderly and Handicapped (Medicare)	41
Grants to States for Medical Assistance (Medicaid)	45
Public Health Service Act	
Alcohol, Drug Abuse and Mental Health Services Block Grant	54
National Research Institutes	57
Other Health Programs and Services	60
Health Planning, Services and Resources Development	64
Military Medical Benefits Act (CHAMPUS)	68
HOUSING	
United States Housing Act of 1937	71

Housing Act of 1949	75
Housing Act of 1959	77
Housing and Community Development Act of 1974	81
Consolidated Farms and Rural Development Act.....	84
INCOME MAINTENANCE	
Social Security Act	
Federal Old Age, Survivors and Disability Insurance	
Benefits	85
Supplemental Security Income	91
NUTRITION	
National School Lunch Act	99
Child Nutrition Act	102
Food Stamp Act	104
RIGHTS	
Nondiscrimination	109
Education	110
Developmental Disabilities Assistance and Bill of Rights	111
Protection and Advocacy for Mentally Ill Individuals	112
Architectural Barriers Removal	113
Civil Rights of Institutionalized Persons	114
Child Abuse Prevention	114
Other Protections	115
SOCIAL SERVICES	
Social Security Act	
Child Welfare Services	117
Adoption Assistance	119
Social Services Block Grant	120
Developmental Disabilities Assistance and Bill of Rights Act ..	124
Domestic Volunteer Service Act of 1973	131
Head Start Act	133
Child Abuse Prevention and Treatment and Adoption Reform ..	134
Older Americans Act	135
TRANSPORTATION	
Urban Mass Transportation Act	137
Federal-Aid Highway Act	138
Rail Passenger Service Act	139
Federal Aviation Act	139
VOCATIONAL REHABILITATION	
Rehabilitation Act of 1973	141
Helen Keller National Center Act	159
Javits-Wagner-O'Day Act	159
Randolph-Sheppard Act	160

MISCELLANEOUS

Internal Revenue Code	161
Energy Conservation and Production Act	164
National Energy Conservation Policy Act	165
Low Income Home Energy Assistance Act	166
Copyright Act	166

APPENDICES

Appendix A: Legislative History of Key Statutes Relating to Persons with Handicaps	168
Appendix B: Table of Programs	196

EDUCATION

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT

A. Overview

Chapter 1 of the Education Consolidation and Improvement Act is the primary source of federal aid to elementary and secondary schools across the country. Originally enacted in 1965, as Title I of the Elementary and Secondary Education Act, Chapter 1 authorizes funds to assist local school districts in meeting the special educational needs of educationally-deprived children in low income areas. Funding also is made available under Chapter 1 to state educational agencies to provide compensatory educational services for children who are handicapped, neglected or delinquent or from migrant families. Other titles of the Act establish a wide variety of research, training and demonstration authorities, some of which offer tangential benefits to children with handicaps.

The various programs authorized under this omnibus statute touch on practically every aspect of educating children at the elementary and secondary levels. However, the programs most directly related to children with handicapping conditions are contained in Chapter I of the Act.

B. Major Programs Affecting Individuals with Handicaps

1. *State Operated and Supported Schools.* The purpose of this program, as authorized under Chapter 1 of the Act, is to provide federal assistance to help the states educate children with handicapping conditions who are enrolled in state operated and supported programs. Federal funds must be used to pay for services that supplement a child's basic special education program, such as instruction, physical education, mobility training, counseling, prevocational and vocational education, teacher and teacher aide training, construction and the purchase of equipment.

In order to qualify for Chapter 1 funds a state agency must file with the Secretary of Education statutory evidence that it is directly responsible for providing free public education for children with handicapping conditions. It also must submit data on the number of such children in average daily attendance, in accordance with federally-prescribed reporting periods. Eligible schools, in turn, must submit project ap-

plications to the supervising state agency; but the designated state education agency has final authority to approve such applications.

A state agency's Chapter I allocation is determined by multiplying the number of eligible children (21 years of age or under) times 40 percent of the state's average per capita expenditures on behalf of all children enrolled in public elementary and secondary schools. However, no state may use an average per capita expenditure figure which is below 80 percent or above 120 percent of the national average for all states. The population eligible to receive services includes any handicapped child:

- for whom the state is responsible for providing an education; and
- who is participating in a state operated or state supported program for handicapped children or who previously participated in such a program and now is being educated by a local educational agency.

A state agency also must meet certain requirements governing the maintenance of fiscal effort in order to qualify for Chapter I funding. Fiscal Year 1987 appropriations: \$150.2 million.

References: Chapter I of the Education Consolidation and Improvement Act of 1981 (P.L. 97-35) as it amends Subpart 2, Part B, Title I of the Elementary and Secondary Education Act of 1965 (P.L. 89-10). P.L. 89-313, P.L. 90-247, P.L. 91-230, P.L. 93-380, P.L. 95-561. 20 U.S.C. 241c(a)(5). C.F.D.A.: 84.009.

2. *Basic Programs Operated by Local Educational Agencies.* Chapter I of the Education Consolidation and Improvement Act also amended and reauthorized the basic program of federal aid to assist educationally deprived children. Federally funded programs must be targeted on educationally deprived children with the greatest need for special assistance. The law establishes procedures for identifying such children in low income areas. Among the statutory exceptions to these general procedures for identifying and selecting children in need of Chapter I-funded services are youngsters who are receiving services to overcome a handicapping condition, provided they have needs which stem from educational deprivation that is not related solely to their disabilities. Thus, under certain circumstances, children with handicaps are eligible to participate in basic Chapter I-funded services, although dollars are not explicitly earmarked for this purpose. FY 1987 appropriations: \$3.454 billion.

References: Chapter I of the Education Consolidation and Improvement Act (P.L. 97-35) as it amends Title I of the Elementary and Secondary Education Act of 1965 (P.L. 89-10). P.L. 90-247, P.L. 91-230, P.L. 93-380, P.L. 95-561. 20 U.S.C. 2771-2772. C.F.D.A.: 84.010.

C. Legislative History

The Elementary and Secondary Education Act of 1965 (P.L. 89-10) represented the first major federal commitment to the improvement of elementary and secondary education. The core of the Act, Title I, authorized a multibillion dollar program of aid to assist the states and local school districts in educating children from low-income families who were considered "educationally deprived." Local school districts receiving funds were required to provide supplementary services to meet the special needs of these children. In the legislative history of the Act, Congress defined "educationally disadvantaged children" to include handicapped youngsters.

The Act was signed into law by President Johnson in the spring of 1965. That same fall, Title I of the Act was amended (by P.L. 89-313) to authorize aid to state agencies operating and/or supporting schools for handicapped children. Initially, such state agencies were entitled to receive aid calculated on the basis of the number of eligible handicapped children multiplied by the state's average per capita expenditures on behalf of all children enrolled in elementary and secondary schools.

Full funding for state operated and supported schools for handicapped youngsters was mandated under the 1967 amendments to the Act (P.L. 90-247). This same set of amendments directed the U.S. Office of Education to use either the state or the national average per pupil expenditure for elementary education, whichever was higher, in calculating a state agency's Title I allocation for state operated and supported schools.

Amendments in 1969 (P.L. 91-230) authorized advanced appropriations for all ESEA programs. The purpose of this step was to synchronize the federal funding cycle with the school year and allow schools to lay plans, knowing the amount of federal funds they would receive.

The Education Amendments of 1974 (P.L. 93-380) included major revisions in the formula for distributing Title I funds to state operated and supported schools. The per capita support level was reduced from 50 to 40 percent of the average per pupil costs of educating a child within the state (or in the nation, if higher). In addition, henceforth, no state or local school agency would be permitted to receive less than 80 percent or more than 120 percent of the national average per pupil expenditure. This revised formula was intended to equalize per capita federal aid among states and among local school districts, incorporate a fairer poverty standard, and account for population shifts since the 1960 census. In order to avoid cutbacks in aid to state operated and supported schools for handicapped children, which would have been mandated

under the new Title I formula, P.L. 93-380 included language which protected state agencies from receiving less in FY 1975 and subsequent fiscal years than they received in FY 1974.

The 1974 amendments also added a provision which permitted a state agency, for purposes of determining its Title I, ESEA entitlement, to continue to count a handicapped child when responsibility for the child's education was transferred from a state operated or supported facility to a local school district. However, the legislation required that, in such cases, all federal funds received on behalf of a handicapped child had to be forwarded to the local educational agency actually providing services to the child.

Amendments to the Act in 1975 (P.L. 95-561) made several minor changes in the Title I program of aid to state operated and supported schools for children with handicapping conditions. The basic purpose of these amendments was to make the program's statutory authority more consistent with the Education of the Handicapped Act, as amended in 1975.

As part of the Omnibus Budget Reconciliation Act of 1981, Congress enacted the "Education Consolidation and Improvement Act" (Subtitle D, Title V, P.L. 97-35). In addition to reducing the number of categorical elementary and secondary education grant programs and establishing a new block grant authority, ECIA imposed a temporary ceiling on Chapter 1 (formerly Title I) funding for state operated and supported schools. Under the terms of the legislation, the combined funding level of schools serving eligible migrant, handicapped, neglected and delinquent children was limited to 14.6 percent of the total Chapter 1 appropriation during fiscal years 1982, 1983 and 1984. Also added to the law were requirements dealing with maintenance of a state's fiscal effort, using Chapter 1 funds to supplement and not supplant state/local support, and the provision of comparable services to eligible children.

EDUCATION OF THE HANDICAPPED ACT

A. Overview

The Education of the Handicapped Act is the primary source of federal aid to state and local school systems for instructional and support services to handicapped children. The centerpiece of the Act is a state grant-in-aid program, authorized under Part B, which requires participating states to furnish all handicapped children with a free, appropriate public education in the least restrictive setting.

In addition to formula grants to the states, the legislation authorizes an array of discretionary grant programs aimed at stimulating im-

provements in educational services for children with handicaps. Included are grant programs designed to promote the recruitment and training of special education personnel, the conduct of research and demonstration projects, and the development and dissemination of instructional materials.

The Education of the Handicapped Act, as amended, is composed of eight parts. Part A outlines Congressional findings and sets forth the primary aims of the Act:

“to assure that all handicapped children have available to them ...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist states and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.”

Part A also includes: (1) definitions of terms used in the Act; (2) a provision requiring the Secretary of Education to establish within the Office of Special Education and Rehabilitative Services, an Office of Special Education Programs headed by a Deputy Assistant Secretary; (3) provisions governing the acquisition of equipment and the construction of necessary facilities; (4) a requirement that recipients of assistance under the Act “make positive efforts to employ and advance in employment qualified handicapped individuals...”; and (5) authority for grants to remove architectural barriers.

B. Major Programs Affecting Persons with Handicaps

1. *Basic State Grants for Handicapped Education.* As noted above, Part B of the Act authorizes formula grants to the states to cover part of the cost of providing special education and related services to handicapped children. The purpose of this formula grant program is to assist states in providing a “free appropriate public education” to all handicapped children in participating jurisdictions. The educational and related services supported under this program must conform to a federally-approved state plan.

As specified in the Act, a “free appropriate public education” includes: (1) special education, defined as. “specially designed instruction to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions”; and (2) related services, defined as: “transportation, and such developmental, corrective and other supportive services ... as may be required to assist a handicapped child to benefit from special education...,” including speech pathology and audiology, psychological services, physical and occupational therapy,

recreation, medical and counseling services (for evaluation purposes), and early identification and assessment of handicapping conditions in children. Special education and related services are to be provided at no cost to the parents, and in conformity with an individualized education program.

In order to qualify for funding under Part B, a state must demonstrate to the Secretary of Education that it has:

- (1) a policy that assures all handicapped children the right to a free appropriate public education;
- (2) a plan, policies, and procedures for providing special education and related services that conforms to the specifications of the Act;
- (3) established priorities for providing services which give top priority to meeting the needs of unserved handicapped children and second priority to improving services to underserved children with the most severe handicaps;
- (4) required local educational agencies to maintain an individualized education program on each handicapped child;
- (5) established procedural safeguards, procedures for integrating handicapped children into regular classrooms to the maximum extent appropriate, and procedures for racially and culturally nondiscriminatory testing and evaluation;
- (6) assigned to the state educational agency the responsibility for carrying out the provisions of Part B, including general supervision of handicapped education administered by other state or local agencies; and
- (7) consulted with persons concerned with the education of handicapped children and held public hearings to obtain input prior to adopting policies, programs, and procedures.

Part B funds are allocated among the states on the basis of a statutory formula which takes into account the relative number of handicapped children 3 through 21 in any given state who are being furnished a free appropriate public education. The total number of children counted (the state's "child count") is multiplied times the average per pupil expenditure on behalf of all children in public elementary and secondary schools across the nation to determine a state's entitlement.

Part B of the Act stipulates that an individualized educational program (IEP) must be developed for each handicapped child. A child's IEP must include: (a) a statement of the child's current educational performance; (b) annual goals and short-term instructional objectives; (c) a description of the services to be provided and the extent to which the child will be able to participate in regular educational programs; and (d) the projected initiation date and the anticipated duration of services.

The law also requires that each child's individualized education program be reviewed at least annually.

Local educational agencies (and intermediate educational units) are required to apply to the appropriate state educational agency in order to qualify for federal support. The application must: (a) assure that federal funds will be used exclusively to pay the excess costs attributable to the education of handicapped children; (b) provide that all handicapped children within the jurisdiction, regardless of the severity of their handicaps, will be identified, located and evaluated; (c) establish policies to safeguard the confidentiality of personal records; (d) establish a goal of providing full educational opportunities to all handicapped children and a detailed timetable for accomplishing this goal; and (e) describe the kinds and number of facilities, personnel and services necessary to accomplish the goal. The state educational agency is authorized to withhold federal funds if any local agency or intermediate educational unit fails to comply with the above requirements.

All of the procedural safeguards incorporated in the 1974 amendments to the Act (P.L. 93-380) were retained in the 1975 amendments (P.L. 94-142) and several further provisions, designed to protect the interests of a handicapped child and his or her parents, were added. In addition, state or local educational agencies are required to provide an opportunity for impartial due process hearings when a parent or guardian presents a complaint relating to the child's identification, evaluation, educational placement, or program of services. At such hearings the parents have certain rights including the right to be represented by counsel, to present evidence, cross-examine and compel the attendance of witnesses, and receive a statement of factual findings and decisions.

Part B stipulates that the state educational agency is to be responsible for ensuring that the provisions of the state's special education plan are carried out. In addition, the state agency is to assure that all educational programs for handicapped children, including those administered by other state and local agencies, are under their general supervision and meet education agency standards.

All recipients of federal assistance under Part B of the Act are required to take affirmative steps to employ and advance in employment qualified handicapped individuals. The Act also authorizes such sums as may be necessary for the purpose of removing architectural barriers in educational facilities.

State educational agencies are required to pass through to local educational agencies at least 75 percent of their annual allotments of Part B funds. FY 1987 appropriations: \$1.338 billion.

References: Part B. Education of the Handicapped Act. as amended by P.L. 94-142 and P.L. 98-199, 99-457 and others. 20 U.S.C. 1401-1420. C.F.D.A.: 84.027

2. Preschool Grants. Separate allotments are made to states under Part B to encourage the provision of special education and related services to preschool handicapped children, aged 3 through 5. Such funds are awarded to state educational agencies to supplement their basic Part B allotment to the extent that the state is providing a free appropriate public education for handicapped children within this age range.

During FY 1987 and thereafter, states are eligible to receive per capita allowances based on the estimated number of eligible handicapped preschoolers receiving special education and related services. The maximum basic per capita allowance is to increase from \$300 to \$1,000 per year over a four-year period, as indicated below:

<i>Fiscal Year</i>	<i>Annual Maximum Basic Per Capita Allowance</i>
1987	\$ 300
1988	400
1989	500
1990 and thereafter	1,000

In addition, if the annual appropriation exceeds the amount necessary to make such payments to all participating states during these fiscal years (i.e., the annual maximum basic per capita allowance times the estimated total number of children enrolled), the excess amount will be distributed among the states based on their anticipated increase in enrollment compared to the preceding fiscal year; however, the additional amount received by any given state may not exceed \$3,800 per newly enrolled student in any fiscal year between FY 1987 and FY 1989 (and FY 1990 under certain circumstances).

In FY 1990 (or in FY 1991 if certain conditions apply) and succeeding fiscal years, the Secretary of Education may award grants only to states which: (a) meet the eligibility requirements for Part B grants (i.e., basic grants to the states for educating handicapped children 3 through 21 years of age); and (b) have an approved state plan that assures "...the availability under state law and practice... of a free appropriate public education for all handicapped children aged 3 to 5, inclusive." Until the latter provision (Section 619(b)(1)) goes into effect, a state must qualify for basic Part B funding, have an approved early childhood education plan and serve some, but not necessarily all, handicapped youngsters between 3 and 5 years of age. The effective date of Section 619(b)(1) will be delayed until FY 1991 if aggregate federal appropriations under Section 619 of the Act are less than \$656 million during FY 1987 through FY 1989 or the amount appropriated during FY 1990 is less than \$306 million.

During FY 1987 a state is obligated to pass through to local and intermediate school districts at least 70 percent of its preschool allotment. Up to 25 percent of the allotment may be withheld for planning and development grants aimed at establishing a comprehensive preschool delivery system, and 5 percent for administrative expenses. In FY 1988 and thereafter, 75 percent must be passed through to local/intermediate school districts, 20 percent may be reserved for planning and demonstration projects and 5 percent may be used for administration. FY 1987 appropriations: \$180 million.

References: Part B, Education of the Handicapped Act, as amended by P.L. 94-142, P.L. 98-199, P.L. 99-457 and others. 20 U.S.C. 1419. C.F.D.A.: 84.173.

3. *Regional Resource and Federal Centers.* The purpose of this project grant program, authorized under Part C of the Act, is to pay all or part of the cost of establishing and/or operating regional resource centers. These centers provide advice and technical assistance to administrators and educators in an effort to improve instructional services for handicapped children. Institutions of higher education, public agencies, private nonprofit organizations, and state and local educational agencies are eligible to receive grants to establish regional resource centers. FY 1987 appropriations: \$6.7 million.

References: Part C, Education of the Handicapped Act, as amended by P.L. 90-247, P.L. 91-230, P.L. 95-49, P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1421. C.F.D.A.: 84.028.

4. *Services for Deaf-Blind Children and Youth.* The Secretary is authorized to award grants or enter into cooperative agreements or contracts with public or nonprofit private agencies, institutions, or organizations to assist state educational agencies in educating deaf-blind children and youth and helping them to make a successful transition from school to adult life. The grantee/contractor is responsible for providing technical assistance, preservice and inservice training, replication of innovative approaches and facilitation of parental involvement. Grants, cooperative agreements and contracts also are authorized to support regional technical assistance programs and for the development of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth. FY 1987 appropriations: \$15 million.

References: Part C, Education of the Handicapped Act, as amended by P.L. 91-230, P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1422. C.F.D.A.: 84.025.

5. *Early Childhood Education.* Under this project grant program, authorized under Part C of the Act, grants are awarded for demonstration, experimental, outreach, research, training and technical assistance projects which focus on services to handicapped children from birth through eight years of age, with emphasis on children under age six. Parent participation, dissemination of information to professionals and

the general public, and an evaluation of the effectiveness of each project are required. FY 1987 appropriations: \$24.5 million.

References: Part C, Education of the Handicapped Act (P.L. 91-230), as amended by P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1423. C.F.D.A.: 84.024.

6. Innovative Programs for Severely Handicapped Children. The purpose of this project grant program, authorized under Part C of the Act, is to support innovative approaches to: (1) improving educational and training services for severely handicapped children; (2) providing in-service training to educators and other staff working with handicapped youngsters; and (3) disseminating materials and information. Grants, cooperative agreements, and contracts are made to organizations or institutions, as are determined by the Secretary of Education to be appropriate, to address the needs of severely handicapped children and youth. FY 1987 appropriations: \$5.3 million.

References: Part C, Education of the Handicapped Act (P.L. 91-230), as amended by P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1424. C.F.D.A.: 84.086.

7. Postsecondary Education. Under Part C of the Act, the Secretary is authorized to make grants or enter into contracts for the development, operation and dissemination of specially designed or modified programs of vocational, technical, postsecondary, continuing or adult education for persons who are deaf or otherwise handicapped. State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions and other appropriate nonprofit educational agencies are eligible to receive such grants or contracts. In selecting grantees, the Secretary must give priority consideration to four regional centers serving deaf students and to model programs for individuals with handicapping conditions other than deafness. FY 1987 appropriations: \$5.9 million.

References: Part C, Education of the Handicapped Act, P.L. 93-380, as amended by P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1424a. C.F.D.A.: 84.078.

8. Secondary Education and Transitional Services. In accordance with Part C of the Act, the Secretary is empowered to award grants or enter into cooperative agreements to: (a) strengthen and coordinate special education, training and related services for handicapped youth; (b) assist in the transition process to postsecondary education, vocational training, competitive employment, continuing education or adult services; and (c) stimulate the development and improvement of secondary special education programs. FY 1987 appropriations: \$7.3 million.

References: Part C, Education of the Handicapped Act (P.L. 91-230), as amended by P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1425. C.F.D.A.: 84.158.

9. Special Education Personnel Development. Project grants are awarded under Part D of the Act to: (a) address identified shortages of special education teachers and related service personnel; (b) improve the quality

and increase the supply of teachers, supervisors, administrators, and other special education personnel; and (c) assist state education agencies in establishing and maintaining preservice and inservice programs for personnel. Such grants may be awarded to institutions of higher education or other appropriate nonprofit agencies. The Secretary also is authorized to make grants to private nonprofit organizations to provide training and information to parents of handicapped children and persons who work with such parents. FY 1987 appropriations: \$67.7 million.

References: Part D, Education of the Handicapped Act (P.L. 91-230), as amended by P.L. 92-380, P.L. 95-49, P.L. 98-199 and 99-457. 20 U.S.C. 1431, 1432 and 1434. C.F.D.A.: 84.029.

10. *Clearinghouses for the Handicapped.* The Secretary is authorized under Part D of the Act to support a national clearinghouse on education of the handicapped, plus any related projects deemed necessary to disseminate information and provide technical assistance to parents, professionals and other interested parties. The Secretary also is directed to establish (through a grant or contract) a national clearinghouse on postsecondary education for handicapped individuals and a national clearinghouse to encourage students to seek careers in special education and help persons seeking employment in the field. FY 1987 appropriations: \$1.2 million.

References: Part D, Education of the Handicapped Act, P.L. 91-230, as amended by P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1433. C.F.D.A.: 84.030.

11. *Research and Demonstration Projects.* Under Part E of the Act, project grants are awarded to support research and related activities, including the initiation of model programs designed to improve the education of handicapped children. Grants, cooperative agreements, or contracts are made to state or local educational agencies, public and nonprofit private institutions of higher education and other public agencies or nonprofit private organizations. FY 1987 appropriations: \$18.0 million.

References: Part E, Education of the Handicapped Act (P.L. 91-230), as amended by P.L. 95-49, 98-199 and P.L. 99-457. 20 U.S.C. 1441-1442. C.F.D.A.: 84.023.

12. *Instructional Media and Captioned Films.* Project grants or contracts are made under Part F of the Act to public and private agencies and organizations to support the following types of activities: (1) to maintain a free loan service of captioned films for the deaf and instructional material for the educational, cultural and vocational enrichment of handicapped persons; (2) to acquire and distribute educational media materials and equipment; (3) to support research into the use of educational media; and (4) to train teachers, parents and others in educational media utilization. FY 1987 appropriations: \$13.8 million.

References: Part F. Education of the Handicapped Act, as amended. P.L. 89-258, P.L. 90-247, P.L. 91-230, P.L. 95-49, P.L. 98-199 and P.L. 99-457. 20 U.S.C. 1451. C.F.D.A.: 84.026.

13. *Technology, Educational Media and Materials*. Under Part G of the Act, the Secretary is authorized to make grants or enter into contracts or cooperative agreements to institutions of higher education, state and local educational agencies and other appropriate agencies/organizations to advance the use of new technologies, media and materials used in educating handicapped students and providing early intervention services to handicapped infants and toddlers. FY 1987 appropriations: \$4.7 million.

References: Part G. Education of the Handicapped Act, P.L. 99-457. 20 U.S.C. 1461. C.F.D.A.: 84.180.

14. *Handicapped Infants and Toddlers*. Part H of the Education of the Handicapped Act directs the Secretary to make grants to assist states in developing "...a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families." In order to qualify for such grants, a state must have established a State Interagency Coordinating Council and demonstrate that it is making reasonable progress toward establishing a comprehensive early intervention system. During the first two years of participation, the state simply has to apply for such funds and give the Secretary assurances that these monies will be used to plan, develop and implement a statewide service system.

To qualify for continued federal support in years three and four, a state must demonstrate that it has adopted a policy incorporating all of the required components of a statewide system or obtained a waiver from the Secretary. During the fifth and succeeding years of its participation in the Part H program, a state must demonstrate that it has in place all of the required components of a statewide early intervention system for infants, toddlers, and their families.

The statewide early intervention system must encompass the following minimum components:

- a definition of the term "developmentally delayed" for determining the eligibility of infants and toddlers for services under the state's program;
- timetables for ensuring that appropriate early intervention services will be available to all handicapped infants and toddlers in the state before the fifth year of the state's participation in this federal program;
- timely, comprehensive, multidisciplinary evaluations of the service needs of handicapped infants, toddlers and their families;
- an individualized family service plan for each handicapped infant and toddler in the state, including the provision of case management

services in accordance with such plan;

- a comprehensive "child find" system to locate handicapped infants/toddlers in need of services, including timely procedures for making referrals to appropriate service providers;
- a public awareness program focusing on early identification of handicapped infants and toddlers;
- a central directory of early intervention services, resources and expertise as well as research and demonstration projects being conducted within the state;
- a comprehensive personnel development system;
- a designated lead state agency to administer the program and serve as the fixed point of accountability;
- a policy governing contracting or making other arrangements with providers of early intervention services;
- a procedure for securing timely reimbursement of funds used under Part H;
- procedural safeguards with respect to the provision of early intervention services;
- policies governing the establishment and maintenance of personnel standards;
- a data collection and management system for serving handicapped infants, toddlers and their families.

During FY 1987 through FY 1991, Part H funds are to be allotted among the states based on the proportional number of infants and toddlers, ages 0-2 (both handicapped and non-handicapped) in each state, except that no state is to receive less than 0.5 percent of the total annual allotment. \$50 million is authorized for the Part H program in FY 1987, \$75 million in FY 1988 and "such sums as may be necessary" during the succeeding three fiscal years. FY 1987 appropriations: \$50 million.

References: Part H, Education of the Handicapped Act, as added by P.L. 99-457. 20 U.S.C. 1471-1485. C.F.D.A.: 84.181.

C. Legislative History

In 1966, Congressional hearings revealed that only about one-third of the 5.5 million handicapped children in the country were being provided appropriate special education services. According to a Senate Committee report¹ issued at the time, the remaining two-thirds were

¹Subcommittee on the Handicapped, Report on Education of the Handicapped Act, as amended through December 31, 1975, U.S. G.P.O., Washington, DC August 1976, page 126.

either totally excluded from public schools or "sitting idly in regular classrooms awaiting the time when they were old enough to 'drop out'." Federal programs directed at handicapped children, the Senate Committee reported, were "minimal, fractionated, uncoordinated, and frequently given a low priority in the education community."

1. *Basic State Formula Grants.* In response to this situation, Congress passed P.L. 89-750 which added a new Title VI to the Elementary and Secondary Education Act. Under this new authority, a program of grants to the states was established to assist in the education of children with handicaps. The 1966 legislation also created a national Advisory Committee on Handicapped Children and mandated the creation of a Bureau of Education for the Handicapped within the U.S. Office of Education. The Bureau was to be responsible for administering programs and projects relating to the education and training of children and youth with handicaps, including programs and projects for training teachers and for conducting research in the field of special education.

In 1967, amendments to the Elementary and Secondary Education Act (P.L. 90-247) stipulated that no state would receive less than \$100,000 or 3/10 of 1 percent of the annual Congressional appropriation for Part B grants, whichever was greater. This provision was intended to assure that each state received a large enough grant to make the program effective.

The Elementary and Secondary Education Amendments of 1970 (P.L. 91-230) consolidated into one act a number of previously separate federal grant authorities relating to handicapped children, including Title VI of ESEA. This new authority was entitled the "Education of the Handicapped Act."

The Education Amendments of 1974 (P.L. 93-380) authorized a sharp increase in funds to assist in educating handicapped children in the public schools, in order to help states faced with meeting court or legislatively imposed "right to education" mandates. P.L. 93-380 also required the states to establish a goal of providing full educational opportunities for all handicapped children and submit, by August 21, 1974, a detailed plan and timetable for achieving this goal. In addition, the Act provided procedural safeguards for use in identifying, evaluating and placing handicapped children, and mandated that such youngsters be integrated into regular classes whenever possible, and required assurances that testing and evaluation materials would be selected and administered on a nondiscriminatory basis. Finally, P.L. 93-380 elevated the head of the Bureau of Education for the Handicapped to the status of Deputy Commissioner of Education.

In 1975, the Education for All Handicapped Children's Act (P.L. 94-142) expanded the Part B program into a multi-billion dollar federal

commitment to assist state and local educational agencies to provide appropriate educational services for handicapped children. Passage of the legislation marked a significant milestone in the nation's efforts to provide full and appropriate educational services for handicapped children.

P.L. 94-142 established a new allocation formula under which states would be entitled to receive an amount equal to the number of handicapped children, aged 3 through 21, receiving special education and related services, times a specified percentage of the average per pupil expenditure in public elementary and secondary schools in the U.S. The Act called for a gradually increasing percentage of federal aid, beginning with 5 percent in FY 1978, to 10 percent in FY 1979, to 20 percent in FY 1980, 30 percent in FY 1981, and 40 percent in FY 1982 and succeeding fiscal years.

In order to prevent states from including non-handicapped children, P.L. 94-142 initially limited the number of children who could be counted to twelve percent of the total school age population between the ages of 5 and 17. In addition: (a) no more than 1/6 of a state's total count (or 2 percent) could consist of children with specific learning disabilities; and (b) children counted for purposes of determining the state's entitlement under Title I of the Elementary and Secondary Education Act (as amended by P.L. 89-313) could not be counted under the Part B program. The limitation on the number of learning disabled children in a state's "child count" since has been lifted.

2. *Centers and Services.* The Elementary and Secondary Education Amendments of 1967 (P.L. 90-247) authorized the establishment of regional resource centers, aimed at assisting teachers and other school personnel through the evaluation of educational materials and the development and dissemination of specific educational strategies for use with handicapped children. P.L. 90-247 also authorized centers and services for deaf-blind children.

Among the specific statutory responsibilities of these centers were the provision of: (a) comprehensive diagnostic and evaluation services; (b) programs for education, orientation and adjustment of such children; (c) consultative services for parents, teachers and others working with deaf-blind youngsters; and (d) training for teachers and related specialists in research and demonstration activities.

As the range and types of services available to handicapped children through local educational agencies has expanded, the role of these federally funded centers has evolved. For example, in 1983 amendments to the Act Congress broadened the responsibilities of regional resource centers to include the dissemination of information to state agencies, professionals working with disabled youngsters and the

families of such children. In this same set of amendments, the role of deaf-blind centers in providing direct services was de-emphasized in favor of technical assistance, preservice and inservice training and replication activities.

Early education services for handicapped youngsters initially were authorized under the Handicapped Children's Early Education Assistance Act of 1968 (P.L. 90-538). The Act established a project grant program to support experimental preschool and early education programs for handicapped children, including activities and services designed to encourage intellectual, emotional, physical, mental, social and language development. In 1970, this program was extended and folded into Part C of the Education of the Handicapped Act.

In 1983, Congress authorized grants to assist states in planning, developing and implementing "a comprehensive delivery system for the provision of special education and related services to handicapped and other developmentally delayed children from birth through five years of age." Then, in concert with the expansion of services to preschool-aged youngsters and the addition of a new formula grant program for handicapped infants and toddlers, Congress once again rewrote the early childhood grant authority in the 1986 amendments (P.L. 99-457). The authority for planning, development and implementation grants was eliminated and instead, the Secretary was authorized to fund: (a) demonstration and outreach programs as well as experimental projects and training with respect to exemplary early education models and practices; (b) a technical assistance program to aid states and other public and private agencies to expand early educational services for children 0 to 8 years of age; and (c) early childhood research institutes, plus other research activities. In addition, early intervention and preschool services was added as a fundable activity under practically all of the other discretionary training, research and demonstration authorities of the Act.

Congress initially enacted the Captioned Films for the Deaf Act in 1958 (P.L. 85-905). It permitted the Office of Education to purchase, lease or accept films (primarily recreational films), provide captions for them, and distribute them through state schools for the deaf, as well as through other appropriate agencies.

Amendments to the Act in 1962 (P.L. 87-815) authorized the production of captioned films, the training of persons in their use, and the conduct of research to improve the quality and effectiveness of production, and broad utilization of the film medium. In 1965, this authority was broadened to include other forms of instructional materials, such as tapes, transparencies and programmed instructional materials (P.L. 89-258).

The ESEA Amendments of 1967 (P.L. 90-247) expanded the program to provide for the production and distribution of educational media for the use of all types of handicapped persons (not just deaf), their parents, actual or potential employers, and other persons directly involved in work for the handicapped. The amendments also authorized research and training of persons in the use of educational media for teaching handicapped persons. The Education of the Handicapped Amendments of 1977 (P.L. 95-49) continued the program without change.

3. *Preschool Grants.* The Education for All Handicapped Children's Act of 1975 (P.L. 94-142) included a separate authority to encourage states to serve children between the ages of 3 and 5. States were entitled to receive up to \$300 per annum in federal aid for each handicapped child in that age range receiving appropriate educational services. However, per capita grants were to be rateably reduced during any fiscal year in which appropriations were insufficient to cover the states' full entitlements.

In the 1986 amendments to the Act (P.L. 99-457), Congress sharply increased the annual per capita allowance a state is eligible to receive on behalf of each preschool-aged handicapped child (see B-2 above for details). In order to qualify for such additional aid, a state must take steps to assure that all handicapped children between 3 and 5 years of age are receiving appropriate special education services no later than the beginning of FY 1990 or, under certain circumstances, FY 1991.

4. *Training.* Federal assistance in preparing teachers of handicapped children was initially authorized under the National Defense Education Act of 1958 (P.L. 85-926). The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164) expanded the provisions for the training of personnel to all areas of education for the handicapped, at all academic levels — from teacher training to the training of college instructors, research personnel, and administrators and supervisors of teachers of the handicapped. The 1965 amendments to the Act (P.L. 89-105) extended the teacher training authority, while 1967 amendments (P.L. 90-170) added provisions for training physical education and recreation personnel for children with mental retardation and other handicaps.

The Elementary and Secondary Education Act Amendments of 1967 (P.L. 90-247) expanded teacher training to include an information dissemination program. The Education of the Handicapped Amendments of 1977 (P.L. 95-49) continued the authorization for these activities with minor modifications, while under the Education of the Handicapped Amendments of 1983 (P.L. 98-199) the Secretary was authorized to award grants to train parents of handicapped children and youth. Ten percent of the funds appropriated for personnel development under Part D were earmarked for such parent training grants.

5. *Research.* Federal funding for research and demonstration projects related to education of handicapped children was originally authorized under the National Defense Education Act of 1958 (P.L. 85-926). The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164) extended and expanded the special education research and demonstration authority under P.L. 85-926. The 1965 amendments (P.L. 89-105) once again extended the research and demonstration program for handicapped children. The Elementary and Secondary Education Amendments of 1967 (P.L. 90-247) added authority to conduct intramural research and to support extramural research grants to private, as well as public, educational or research institutions or organizations.

Research and model demonstration projects related to specific learning disabilities were originally authorized under the ESEA Amendments of 1969 (P.L. 91-230). In 1977, this authority was transferred to Part E of the Education of the Handicapped Act (P.L. 95-49).

EDUCATION OF THE DEAF ACT OF 1986

In 1986, Congress enacted legislation which consolidated and amended several federal laws affecting services to persons who are deaf. Under Part A, Title I of the "Education of the Deaf Act of 1986" (P.L. 99-371), the statute establishing Gallaudet College was updated. Among the most significant changes that were included in P.L. 99-371 were: (a) the name of the school was changed from "Gallaudet College" to "Gallaudet University"; (b) the statute was placed on a five-year reauthorization cycle; and (c) the school was required to conduct an annual independent audit of its programs and activities.

Part B of Title I extends the statutory authority for Gallaudet University to operate the Kendall Demonstration Elementary School. The purpose of this school, originally established under legislation enacted by Congress in 1970, is to furnish "...day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation..." The school is to serve primarily residents of the National Capital Region.

Gallaudet also is empowered to operate a model secondary school for the deaf under Part C, Title I of the Act. The aims of this school, initially authorized under the "Model Secondary School for the Deaf Act" of 1966, are similar to the Kendall School, except that the focus is on preparing secondary school students for college and other advanced studies. The school is to serve primarily residents of the District of Columbia and nearby states.

Title II of the 1986 Act extends the statutory authority of the National Technical Institute for the Deaf. This Institute, established under a contractual agreement between the Secretary of Education and an institution of higher education (currently Rochester Institute of Technology) provides "...a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment..." The Institute was initially established under the National Technical Institute of the Deaf Act. As in the case of Gallaudet University, the 1986 Act includes amendments requiring the Institute to conduct an annual audit and placing it on a five year reauthorization schedule.

A Commission on Education of the Deaf was established under Title III of P.L. 99-371. The statutory mandate of this 12 member commission was to study the quality of infant and early childhood programs, as well as elementary, secondary, postsecondary, adult, and continuing education programs for deaf individuals. The Commission made recommendations to the President and Congress for improving current programs and practices within 18 months of the enactment of the legislation.

The 1986 Act also authorizes the Secretary of Education and the boards of directors of both Gallaudet University and the National Technical Institute for the Deaf to establish an endowment fund to promote the financial independence of these two federally-supported institutions. Based on amounts appropriated by Congress for this purpose, the Secretary is authorized to make payments to the GU and NTID endowment funds, in an amount equal to the sum of non-federal contributions received by the respective funds.

References: Education of the Deaf Act of 1986, P.L. 99-371. 20 U.S.C. 4301. C.F.D.A.: NA

LIBRARY SERVICES AND CONSTRUCTION ACT

The Library Services and Construction Act is the primary source of federal support for the nation's public libraries. Originally enacted to help local communities develop library services in rural areas, the Act since has been expanded to cover urban libraries as well as library services for patients and inmates of state-supported institutions, physically handicapped persons, and disadvantaged individuals in low income areas.

Federal assistance to public libraries began in 1956, when Congress originally passed the Library Services Act (P.L. 94-597) and provided \$2 million in funding for the development of library services in rural areas. In 1964, the Act was amended (P.L. 88-269) to extend coverage to urban libraries as well as rural projects and to add a new program of library facility construction grants. The Act also was renamed the

Library Services and Construction Act at that time.

The Library Services and Construction Act Amendments of 1966 (P.L. 89-511) added a new Title IV to the Act. Part A of Title IV authorized a program to assist states in providing library services in state institutions for inmates, patients and residents. Services also were authorized for students with physical or mental handicaps who were in residential schools operated or substantially supported by the state. Part B of Title IV made federal funds available to state agencies for library services for individuals who were certified by a responsible authority as unable to read or to use conventional printed materials as a result of physical limitations. Such services could be provided through public or nonprofit library agencies or organizations.

Amendments to the Act in 1970 (P.L. 91-600) consolidated the various categorical grant programs under Title IV, including the authority for library services to residents of institutions, into an expanded basic state formula grant authority for library services, under Title I of the Act. The legislation was later extended in 1973 (P.L. 93-29), in 1977 (P.L. 95-123), in 1981 (P.L. 97-35), and in 1984 (P.L. 98-480).

The Library Services and Construction Act is composed of six titles. Title I authorizes basic grants-in-aid to the states to assist them in expanding and improving library services. Among the purposes for which Title I funds may be used is to provide library services for patients and inmates in state-supported institutions, persons with physical handicaps and disadvantaged persons in low income areas (urban and rural).

To receive specialized library services, an individual with a physical handicap (including a person who is blind or otherwise visually handicapped) must be "...certified by a competent authority as unable to read or to use conventional printed materials as a result of physical limitations." The statutory definition of "state institutional library services" includes "students in residential schools for the physically handicapped (including mentally retarded, hearing impaired, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired or other health impaired persons) who by reason thereof require special education..." Such schools must be operated or substantially supported by the state.

In order to qualify for federal aid under the Act, a state must maintain a long range plan for carrying out the purposes of the statute. This plan must give priority to improving library resources and services for persons with handicapping conditions as well as a number of other special target populations. In addition, a state must prepare an annual library services program plan to qualify for its Title I allotment. Among the elements that must be included in the latter plan are: (a) criteria to be used in allocating funds for state institutional library services and

library services for persons who are physically handicapped; and (b) a description of the manner in which programs for individuals with handicapping conditions will be used to make library services more accessible to such individuals. FY 1987 appropriations (est.): \$80 million (Title I only).

References: Library Services and Construction Act, enacted December 30, 1970 (P.L. 91-600), as amended by P.L. 93-133, P.L. 95-123, P.L. 97-35 and P.L. 98-480. 20 U.S.C. 351-55; 361-65; 371; and 375. C.F.D.A.: 84.034.

HIGHER EDUCATION ACT

Federal support for higher education dates back to the 19th Century, when, under the Morrill Act, Congress established state land-grant universities. Among the more recent higher education statutes were the GI Bill, which authorized educational assistance to ex-servicemen after World War II, and the National Defense Education Act (P.L. 85-864), which provided funds to stimulate the development of university-based programs in the applied sciences (after the Russians launched the Sputnik satellite).

In 1965, several existing federal laws were recodified and expanded into the Higher Education Act (P.L. 89-329). A new system of student grants and guaranteed loans was established under this legislation. In addition, the 1965 Act authorized financial assistance for the procurement of undergraduate instructional equipment, the initiation of community service programs, the support of college libraries and developing institutions, and the creation of the Teacher Corps. The Higher Education Act also established a national policy of increasing accessibility of disadvantaged students to postsecondary education.

Subsequent amendments to the 1965 Act in 1972 (P.L. 92-318), 1976 (P.L. 94-482), 1980 (P.L. 96-374) and 1986 (P.L. 99-498) added a variety of new grant and loan authorities and revised others. In the process, several provisions were included that directly or indirectly benefit persons with handicapping conditions.

Under Part E, Title IV of the Act, the Secretary of Education is authorized to establish and maintain funds at institutions of higher education through which low interest loans may be awarded to needy students. These so-called "Perkins Loans" may be canceled if the student, upon graduation, works in certain public service professions, including as a full time teacher of children with handicapping conditions in a public or other nonprofit elementary or secondary school system. Loans are canceled at the rate of 15 percent for the first or second year of service, 20 percent for the third or fourth year and 30 percent for the fifth year. A similar cancellation authority also applies to loans awarded under the National Defense Student Loan Program. FY 1987 appropriations (est.): \$34.5 million.

Title VII of the Act authorizes construction/renovation grants and loans to institutions of higher education. Among the purposes for which funds under this authority may be used are bringing academic facilities into compliance with the Architectural Barriers Act of 1968 and Section 504 of the Rehabilitation Act of 1973 (i.e., prohibiting discrimination against persons with handicaps in federally-assisted programs). Also plans for undergraduate academic facilities supported under Part A of this title must conform to standards prescribed by the Secretary with regard to accessibility to, and usability by, persons with disabilities. FY 1987 appropriations (est.): \$37.8 million.

References: Loan Cancellations — Part E, Title IV, Higher Education Act of 1965, as amended by P.L. 99-498. 20 U.S.C. 1087 aa-1087 ff; and Title II, National Defense Education Act of 1958 (P.L. 95-864), as amended by P.L. 92-318, P.L. 94-482, P.L. 96-536, P.L. 96-374 and P.L. 97-12. 20 U.S.C. 421-429. C.F.D.A.: 84.037. Construction/Renovation — Title VII, Higher Education Act of 1965 (P.L. 89-329), as amended. 20 U.S.C. 1172. C.F.D.A.: 84.172.

VOCATIONAL EDUCATION ACT

Federal support for vocational education programs dates back to the Smith-Hughes Act of 1917. The Vocational Education Act of 1963 (P.L. 88-210), however, created the first permanent, broadscaled authority for assisting the states in developing vocational training programs for young Americans through the public schools.

In the 1968 amendments to the Vocational Education Act of 1963 (P.L. 90-576), Congress required each participating state to earmark ten percent of its basic vocational education allotment for services to youth with handicapping conditions. This authority was expanded and clarified in the 1976 amendments to the Act (P.L. 94-482) by requiring states to: (a) establish a 50 percent state matching ratio for services to students with handicaps, in order to eliminate the practice of replacing state funds with federal monies; (2) use the set-aside funds to assist such individuals, to the maximum extent possible, to participate in regular vocational education programs and to reduce the number of students with handicaps placed in segregated vocational classes; and (3) establish vocational education plans and policies that were consistent with the state's education of the handicapped plan under P.L. 94-142.

There are two major components of the current Act, as rewritten in 1984 — the basic state grant program authorized under Title II and special programs authorized under Title III. Title II is further subdivided into Part A, the Vocational Education Opportunities program, which receives 57 percent of all state grant funds appropriated by Congress, and Part B, the Vocational Education Program Improvement, Innovation and Expansion grant program, which receives the balance of the funds.

Of the funds allocated for Part A activities, a state must use at least ten percent for vocational education services for individuals with handicapping conditions. In meeting this obligation, a state may only count expenditures for supplemental or additional staff, equipment, materials and services related to the needs of persons with disabilities that are not provided to other individuals enrolled in vocational education programs. In instances where a student with disabilities requires a separate vocational education program, a state may attribute to the ten percent set-aside only those expenditures that are in excess of the average per pupil cost of providing regular vocational education services.

Of the ten percent set-aside for services to persons with handicapping conditions, a state must allocate to eligible recipients 50 percent on the basis of the relative number of economically disadvantaged individuals enrolled in its programs and 50 percent on the basis of the relative number of handicapped students served in vocational education programs during the preceding fiscal year.

In administering federal funds set aside for Part A services to persons with handicapping conditions, the state board of vocational education must provide the Secretary with assurances that individuals with handicaps and social disadvantages will receive:

- equal access in recruitment, enrollment and placement activities;
- equal access to the full range of vocational programs available to non-handicapped and nondisadvantaged persons, including specific occupational courses of study, cooperative education and apprenticeship programs;
- vocational education programs, wherever appropriate, in the least restrictive environment, in accordance with the provisions of the Education of the Handicapped Act, and provided as a component of the affected person's individualized education plan.

Vocational education planning for individuals with handicapping conditions must be coordinated by representatives of the vocational education and special education programs. In addition, at least one year prior to the year in which an affected child becomes eligible to enroll in vocational education programs, the local educational agency receiving set-aside funds under the Act must provide information to all individuals with handicaps or social disadvantages as well as their parents concerning the opportunities available through vocational education programs.

Each student with a handicap who is enrolled in a federally supported vocational education program must receive:

- an assessment of his/her interests, abilities and special needs with respect to the receipt of vocational education services;

- special services, including adapted curriculum, equipment and facilities designed to meet his or her needs;
- guidance counseling and career development activities conducted by professionally trained counselors; and
- counseling services designed to facilitate the transition from school to post-school employment and career opportunities.

A state must pay 50 percent of the costs of supplementary vocational education services for persons who are handicapped or disadvantaged.

Research grants are authorized under Title IV of the Act. One purpose for which such grant funds must be used is to identify "...effective methods for providing quality vocational education..." to a number of special target populations, including individuals with handicapping conditions. In addition, the statutory mission of the National Center for Research in Vocational Education includes the provision of technical assistance to programs serving persons with handicaps and other special populations. The National Institute of Education also must conduct a national assessment of vocational education programs assisted under the Act, including the coordination of vocational education and postsecondary programs for individuals with social disadvantages and handicaps. FY 1987 appropriations (est): \$809.5 million (Title II only).

References: Title II, III and IV of the Carl D. Perkins Vocational Education Act, reenacted October 19, 1984 (P.L. 98-524). 20 U.S.C. 2331-42. C.F.D.A.: 84,048.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

On October 17, 1979, President Carter signed into law a measure authorizing the establishment of a Cabinet-level Department of Education (P.L. 96-88). Most of the education programs formerly operated by the Office of Education in the Department of Health, Education, and Welfare, as well as Overseas Defense Department schools and other federal educational activities, were placed under the jurisdiction of this new federal agency. Child nutrition, veterans education, Head Start, aid to the arts and humanities and educational activities of the National Science Foundation, however, were left in other federal agencies. Under the Act, the Department of Health, Education, and Welfare was renamed the Department of Health and Human Services.

The 1979 law established an Office of Special Education and Rehabilitative Services, headed by an Assistant Secretary, to administer programs authorized under the Education of the Handicapped Act, as well as the Vocational Rehabilitation and Randolph-Sheppard Acts. These programs previously were administered by the Bureau of Education for the Handicapped and by the Rehabilitation Services Administration, respectively. The Developmental Disabilities program, which had been located in the Rehabilitation Services Administration, was not

transferred into the new Department; instead, it was housed in the Administration on Developmental Disabilities, Office of Human Development Services of the Department of Health and Human Services.

DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

This Act directs the Secretary of Defense to establish and operate a "defense dependents' education system" that provides a free public education through secondary schools for dependents of DOD personnel living in overseas areas. In establishing this system, the Secretary is charged with furnishing programs designed to meet the special needs of several unique subpopulations including individuals who are handicapped. FY 1987 appropriations: NA

References: Title XIV, Education Amendments of 1978 (P.L. 95-561). 20 U.S.C. 921. C.F.D.A.: NA

NATIONAL LIBRARY SERVICE FOR THE BLIND AND PHYSICALLY HANDICAPPED

Under legislation initially enacted by Congress in 1904, the Library of Congress makes available free braille and recorded materials to individuals who are blind or otherwise physically handicapped. The program called Books for the Blind and Physically Handicapped, distributes full-length books and magazines in braille and on recorded discs and cassettes through a cooperative network of regional and local libraries. Materials are circulated free of charge to eligible borrowers. Eligibility for this service is extended to anyone who is unable to read or use standard printed materials as a result of temporary or permanent visual or physical limitations.

The original 1904 legislation authorized the mailing of free braille books to blind adults. In 1931, the Pratt-Smoot Act established a centralized national library service for adult blind readers, administered by the Library of Congress. The program was expanded in 1934 to include talking book services, at no cost to adult readers. The national books-for-the-blind program was extended to children in 1952, by an amendment that deleted the word "adult." Music instruction materials, including musical scores in braille, texts and related information were added to the library services by 1962 amendments to the Act (P.L. 87-765).

Amendments in 1966 (P.L. 89-511 and P.L. 89-522) extended the service to "other physically handicapped readers certified by a competent authority as unable to read normal printed materials as a result of physical limitations." FY 1987 appropriations: \$36.2 million.

References: Act to Provide Books for the Blind, as amended, P.L. 89-511 and P.L. 89-522. 2 U.S.C. 135. C.F.D.A.: 42.001.

IMPACT AID TO FEDERALLY AFFECTED AREAS

Legislation authorizing aid to local educational agencies in areas affected by federal activities was originally enacted in 1950 (P.L. 81-874 and P.L. 81-815). P.L. 81-874 was designed to assist local educational agencies whose enrollment or revenue base was adversely affected by federal activities. P.L. 81-815 was intended to provide assistance to school districts in constructing urgently needed facilities in federally impacted areas.

The so-called "impact aid" program was based on the assumption that federal activities, such as military bases and government offices, place a financial burden on school districts by reducing local tax revenues while increasing the number of children to be educated.

A local school district is eligible to receive impact aid if at least three percent of its enrollment, or 400 students, are from federally-connected families, or if more than 10 percent of the assessed valuation of all real property is acquired by the federal government. Such children are divided into two major categories: (1) Part A children are youngsters living on, and having a parent employed on, federal property; and (2) Part B children are youngsters living on, or having a parent employed on federal property, or in the uniformed services. Funds are allocated to local educational agencies through a formula based on the number of children counted as eligible under Part A and Part B.

The Education Amendments of 1974 (P.L. 93-561) extended impact aid reimbursement for children with handicaps to those who are placed by the local educational agency into special private schools or schools outside of the school district. FY 1987 appropriations: (P.L. 81-815): \$22.5 million (est.); (P.L. 81-874): \$695 million.

References: P.L. 81-874, as amended by P.L. 93-380 and P.L. 95-561. 20 U.S.C. 238-244. C.F.D.A.: 84.041. P.L. 81-815, as amended by P.L. 83-246, P.L. 93-380, and P.L. 95-561. 20 U.S.C. 631-647. C.F.D.A.: 84.040.

EMPLOYMENT

JOB TRAINING PARTNERSHIP ACT

A. Overview

The basic aim of the Job Training Partnership Act, originally enacted in 1982 (P.L. 97-300) is to train and place "economically disadvantaged" persons in the work force through joint public-private sector initiatives. The term "economically disadvantaged" may include adults with handicaps who either qualify for federal, state or local welfare payments or meet alternative economic need criteria, as spelled out below. The JTPA program is administered through each state's Governor's office, with active involvement by public service-oriented and private sector individuals and groups.

As under an earlier statutory authority, the Comprehensive Employment and Training Act (CETA, P.L. 93-203), an individual's income is a prerequisite for JTPA eligibility. Specifically, to qualify for federally-subsidized job training under the program, an individual must be:

- receiving cash welfare payments;
- living in a family whose total income does not exceed the poverty level or 70 percent of the "lower living" income standard;
- receiving food stamps; or
- a foster child on behalf of whom state or local payments are made.

In addition, up to ten percent of JTPA service recipients may be individuals who are not economically disadvantaged but have encountered barriers to employment; this group includes persons with handicaps. Under the terms of the Act, a "handicapped individual" is any individual who has a physical or mental disability which constitutes or results in a substantial handicap to employment.

The Job Training Partnership Act, as amended, consists of five titles. Title I establishes the local service delivery structure and planning requirements. Title II sets forth requirements for adult and youth training programs to be administered by the states and carried out through a partnership of state and local government and the private sector. Title III authorizes discretionary and formula grant programs to provide training and related employment services for dislocated workers using

a decentralized system of state and local programs. A variety of research and development programs are established under Title IV to assist in policy and program development related to human resources. Title IV also authorizes a demonstration program and the Job Corps and Veterans' Employment Programs, while miscellaneous provisions related to other federal laws are contained in Title V.

B. Major Programs Affecting Persons with Handicaps

1. *Training Services for the Disadvantaged.* Title II-A of the Act authorizes a formula grant program to support training services for the eligible persons described above. Among the 28 services that may be provided are job search assistance, job counseling, basic skills training, on-the-job training, programs to develop work habits, education-to-work transition activities, job development, follow-up services to individuals placed in unsubsidized employment, coordinated programs with other federal employment activities and customized job training with an agreement to hire upon successful completion of training. FY 1987 appropriations: \$1.8 billion.

References: Title II-A, Job Training Partnership Act of 1982, as amended, P.L. 97-300 and P.L. 99-496. 29 U.S.C. 1501. C.F.D.A.: 17.250.

2. *Pilot and Demonstration Programs.* Title IV of JTPA (Section 451) authorizes grants for pilot and demonstration programs that are administered at the national level and provide, foster, and promote job training and other services to individuals who have particular disadvantages in the labor market, including handicapped persons. Similar single state programs are authorized under Section 453 of the Act. Funds are awarded on a competitive basis. Some projects under this section may be geared toward promotional, demonstration and developmental activities, as determined by the Secretary of Labor. The transition from school to work is one area that may be addressed by projects funded under this authority. During FY 1986 approximately 2,400 individuals with handicaps were placed in jobs through such Targeted Outreach Programs. FY 1987 appropriations: \$31 million.

References: Title IV of the Job Training Partnership Act of 1982, as amended, P.L. 97-300 and P.L. 99-496. 29 U.S.C. 1731 and 1733. C.F.D.A.: 17.249.

3. *Employment and Training Research and Development Projects.* Title IV of the Act (Section 452) also authorizes a research grant program that supports employment and training studies leading to policy and program development. Research and development projects aimed at identifying new approaches to training and placing the "difficult to employ" (including persons with handicaps) also are supported under this section of the Act. Services are provided as part of such demonstration projects; however, the primary thrust is to develop new techniques to address specific training or employment problems. Approx-

imately fifteen projects were initiated or modified under this authority during FY 1987. FY 1987 appropriations: \$10 million.

References. Title IV of the Job Training Partnership Act of 1982, as amended, P.L. 97-300 and P.L. 99-496. 29 U.S.C. 1732. C.F.D.A.: 17.248.

4. *Job Corps*. The Job Corps Program, authorized under Title IV, Part B of the Act, is a national program of residential and non-residential centers in which enrollees participate in education, vocational training and counseling to help them become employable, productive citizens. Generally, participants are between 14 and 22 years of age, but the age requirement may be waived for individuals with handicaps who are older than 22. Trainees receive a monthly allowance and readjustment payments when they leave the program. FY 1987 appropriations: \$656 million.

References. Title IV of the Job Training Partnership Act of 1982, as amended, P.L. 97-300 and P.L. 99-496. 29 U.S.C. 1691. C.F.D.A.: N/A.

C. Legislative History

The Job Training Partnership Act was enacted in 1982 (P.L. 97-300). The legislation revamped the much criticized Comprehensive Employment and Training Act (CETA) by emphasizing training for private sector jobs and eliminating federal aid for public service employment. In contrast to its predecessor, the JTPA program includes:

- greater private sector involvement;
- increased state responsibility for program administration and implementation;
- stricter performance criteria to ensure improved accountability on the part of program participants and administrators;
- specific programs tailored to distinct populations;
- a broader definition of individuals eligible for the program; and
- involvement of community-based organizations.

The two key components of the program, which enable it to work on the state and local levels, are the "State Job Training Coordinating Council" and the "Private Industry Council."

The "State Job Training Coordinating Council" is appointed by the Governor of each state to plan, coordinate and monitor job training services under the Act. The Council designates service delivery areas, approves job training plans and allocates and oversees the use of federal funds. A "Private Industry Council" (PIC) is appointed to govern JTPA-funded activities in each service delivery area, performing functions comparable to the state council on a local level.

The Act states that education and training funds may be appropriated to "any state education agency responsible for education and training services." This agency must enter into cooperative agreements with other appropriate state and local agencies for administration and implementation of the program, as a prerequisite for approval of its plan. Community-based organizations and other interested parties are encouraged to comment on the state's job training plan before it is finalized by the Governor.

The provision for a "prime sponsoring agency" that was so central to the operation of CETA programs, was eliminated under JTPA. However, cities and counties with a population of 200,000 or more are entitled to receive direct allocations under the Job Training Partnership Act. The remainder of a state's allocation under the Act are channeled through the Job Training Coordinating Council, designated by the Governor, to specified services delivery areas.

The Act was amended in 1986 (P.L. 99-496) to include special consideration for persons with handicaps in the awarding of discretionary projects.

The transition from CETA to JTPA-funded activities occurred between October 1982 and September 1983. During that time, states had the option of adopting the new program immediately or continuing under the provisions of CETA until October 1, 1983.

For the most part, JTPA funds benefiting persons with handicaps have been used to place persons with mild and moderate handicaps in community jobs. However, an increasing number of projects are being developed to place persons with severe disabilities into supported employment.

FAIR LABOR STANDARDS ACT

A. Overview

The Fair Labor Standards Act (FLSA) of 1938, as amended, establishes minimum federal requirements for hours of work, equitable wages, overtime pay, recordkeeping, and the conditions under which children may be employed. Over 50 million full and part-time workers in the United States are covered by the provisions of the Act. In addition to its general requirements, the Act includes special provisions governing the employment of persons with physical and mental handicaps in sheltered workshops and similar work settings.

B. Major Provisions Affecting Persons with Handicaps

1. *Certificates for Special Minimum Wages.* Section 14 of the Act establishes requirements governing the employment of learners, ap-

prentices, students and handicapped workers. Section 14(c) authorizes the Secretary of Labor to issue special minimum wage certificates for handicapped workers based on individual productivity. Wages paid to workers with handicaps must be "...commensurate with those paid to non-handicapped workers, employed in the vicinity in which the individuals under the certificate are employed, for essentially the same type, quality and quantity of work." Employers have to give the Secretary assurances that: (a) the hourly wages paid each handicapped worker will be reviewed at least once every six months; and (b) such wages will be adjusted at least annually to reflect changes in wages paid to non-handicapped workers in the area for essentially the same type of work.

Under the terms of the Act, a handicapped worker may petition the Secretary of Labor for a review of the applicable special minimum wage rate. The Secretary must then name an administrative law judge to hold a hearing. The employer bears the burden of proving that the wage rate is "...necessary to prevent the curtailment of opportunities for employment." According to the Act, Section 14(c) is not intended to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for handicapped clients.

When Section 14(c) was added to FLSA in 1966, it required employers to pay at least 50 percent of the federal minimum wage to workers with handicaps, unless the state vocational rehabilitation agency certified that the individual was so disabled that he or she could not produce enough goods or services to justify such earnings. At the time, most sheltered workshop employees had physical disabilities. By the mid-1980's, Department of Labor statistics indicated that 87 percent of all handicapped workers with special certificates had handicaps that were severe enough to exempt them from the 50 percent floor. Therefore, Congress amended Section 14(c) in 1986 (P.L. 99-486) to authorize the Secretary of Labor to issue a single type of certificate, thus reducing the administrative burden on workshop operators.

2. Employees of an Enterprise Engaged in Commerce. Section 3 of the Fair Labor Standards Act specifies the types of employees covered by the provisions of the statute. In 1966, the Act was amended (P.L. 89-601) to revise the statutory definition of a business enterprise to include employees of institutions serving persons with handicaps. The following institutions were included under the new definition: "a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital.

institution or school is public or private or operated for profit or not for profit).”

As the result of a 1976 Supreme Court decision (*National League of Cities, et. al. v. Usery*), federal minimum wage and hour requirements were found to not apply to employees of institutions operated by a state or local government agency. In the *National League of Cities* case, the Court ruled that it is unconstitutional for federal wage and hour standards to be imposed on state and local governments.

In 1985, the Supreme Court overturned the *Usery* decision by holding that the federal standards do apply to employees of state and local governments (*Garcia v. the San Antonio Metropolitan Transit Authority*). In response, state and local officials complained that the *Garcia* decision would cost untold millions of dollars to implement. Subsequently, Congress passed an amendment to the Fair Labor Standards Act (P.L. 99-150), authorizing state and local governments to provide public employees with compensatory time in lieu of monetary compensation for overtime work. Compensatory time (or monetary payments) must be at a rate of one and one half hours for each hour of overtime worked.

In addition, the 1985 amendments added a new paragraph to the Act to clarify that individuals who perform voluntary services for state and local governments need not be regarded as “employees” under the statute. However, if an employee provides a service that is similar to the service he or she performs as a regular job, the state or local government must provide compensation.

3. *Minimum Wage Commission and Study*. The 1977 Fair Labor Standards Amendments (P.L. 95-151) increased the Federal minimum wage and established a Minimum Wage Study Commission to analyze the social, political, and economic ramifications of minimum wage, overtime, and other requirements of the Fair Labor Standards Act of 1938, as amended. Included in the study was to be an assessment of the potential effects on the employment of handicapped and elderly persons of increasing the minimum wage rate and/or providing a different minimum wage rate. The Committee ceased to exist upon submission of the report.

References: Fair Labor Standards Act, as amended. P.L. 89-601, P.L. 95-151, P.L. 99-150 and P.L. 99-486. 29 U.S.C. 203. C.F.D.A.: N/A.

SMALL BUSINESS ACT

A. Overview

The Small Business Act of 1953, as amended, authorizes a series of programs, designed to preserve “...free, competitive enterprise in order

to strengthen the Nation's economy." The Act permits certain businesses operated by persons with handicaps to compete for small business procurement set-asides, and establishes two loan programs specifically aimed at assisting handicapped persons. Under one program, the Small Business Administration is authorized to make direct or guaranteed loans to enable nonprofit sheltered workshops and other similar organizations to produce and provide marketable goods and services. The second loan program is designed to assist individuals with handicaps to establish, acquire or operate their own small businesses. In both cases, loans of up to \$350,000 may be approved for a maximum period of 15 years, although most loans do not exceed \$150,000.

The Act defines the term "handicapped individual" to mean: "a person who has a physical, mental or emotional impairment, defect, ailment, disease or disability of a permanent nature which in any way limits the selection of any type of employment for which the individual would otherwise be qualified or qualifiable."

B. Major Programs Affecting Persons with Handicaps

1. *Workshop Loans.* Handicapped Assistance Loans may be awarded to help nonprofit sheltered workshops or similar organizations (HAL-1) construct facilities or acquire working capital, if such funds are not available from other government sources. Loans may not be used for training, education, housing or other supportive services for employees with handicaps. Nonprofit organizations must be operating in the interests of persons with handicaps and must employ persons with handicaps for at least 75 percent of the work hours required for the direct production of commodities or the provision of services.

References: Small Business Act of 1953, as amended. P.L. 92-595, P.L. 95-89 and P.L. 97-25. 15 U.S.C. 636. C.F.D.A.: 59.021.

2. *Handicapped-Owned Businesses.* Handicapped Assistance Loans to small business concerns (HAL-2) may be used to: (a) construct, expand, or convert facilities; (b) purchase building equipment or materials, and (c) provide working capital. Eligible small business concerns are those that are independently owned and operated, not dominant in their field, meet SBA requirements and are 100 percent-owned by individuals with handicaps whose disabilities are of such a nature as to limit them from engaging in "normal competitive business" without SBA assistance.

FY 1987 appropriations (HAL-1) and HAL-2): \$15 million for direct loans, \$5 million for guaranteed loans.

References: Small Business Act of 1953, as amended. P.L. 92-595, P.L. 95-89 and P.L. 97-35. 15 U.S.C. 636. C.F.D.A.: 59.021.

C. Legislative History

The 1972 amendments to the Small Business Act of 1953 (P.L. 92-595) expanded the authority of the Small Business Administration to provide direct and guaranteed loans for: (1) nonprofit sheltered workshops employing persons with handicapping conditions; (2) individuals with handicaps interested in establishing their own businesses. The 1981 amendments to the Act (P.L. 97-35) raised the maximum amount of individual loans from \$100,000 to \$150,000. [N.B., the Act authorizes up to \$350,000, but \$150,000 is the usual loan amount.] The 1981 amendments also placed the Handicapped Assistance Loan Program administratively within the regular SBA loan system.

In 1977 (P.L. 95-89), Congress permitted small businesses eligible for handicapped assistance loans to compete, on a one-year experimental basis, for federal procurement contracts set aside for small businesses. A total of \$100 million in procurements was authorized. The Small Business Administration also was directed to submit a report to Congress on the impact such small business set asides had on organizations for handicapped individuals. When the report was submitted, it noted that the program was not used by many workshops, probably because workshops were not aware of their potential eligibility. The procurement authority for handicapped businesses was continued for three years, at the annual level of \$100 million by 1980 amendments to the Act (P.L. 96-302). In 1983 this special procurement set-aside program was discontinued.

WAGNER-PEYSER ACT

The Wagner-Peyser Act of 1933, as amended, authorizes the establishment and operation of the federal-state employment security system to help individuals find jobs and assist employers in locating qualified workers. Amendments to the Act in 1954 expanded the program by requiring every local employment services (or job service) office to designate at least one staff member to help individuals with severe handicaps locate training resources and/or suitable employment. Amendments to the Act made by the Job Training and Partnership Act in 1982 required coordination between the state employment service and the local JTPA program. JTPA also added incentives to states to serve special target groups, including persons with handicaps, and support model projects, using Wagner-Peyser funds.

Applicants are considered handicapped if they have physical, mental or emotional impairments that constitute an obstacle to their employment. Alcohol and drug abusers are included. The goals of the Employment Service's program for handicapped persons include: (1) equal opportunity for employment and equal pay in competition with other

applicants; (2) employment at the highest skill level permitted by an individual's occupational qualifications; (3) satisfactory adjustment to his/her chosen occupation and work situation; and (4) employment that will not endanger others or aggravate the individual's own disabilities. The Act also requires state employment services to coordinate their activities with state vocational rehabilitation agencies. FY 1987 appropriations: \$755 million.

References: The Wagner-Peyser Act of 1933, as amended. P.L. 73-30, P.L. 93-203 and P.L. 95-524. Also, amended by Part V of the Job Training and Partnership Act (P.L. 99-300). 29 U.S.C. 49, and 39 U.S.C. 338. C.F.D.A.: 17.207.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT

The Public Works and Economic Development Act of 1965 (P.L. 89-136), as amended, authorizes project grants and loans to assist in the construction of public facilities needed to initiate and encourage long-term economic growth in specified geographic areas. The Act also provides funding for construction projects aimed at furnishing immediate employment in areas of high or sudden unemployment. Although the construction of vocational schools used to be considered an appropriate public works project, such projects are no longer funded.

In 1977, amendments to the Public Works Employment Act (P.L. 95-28) added a new requirement that applicants for public works projects give assurances to the Department of Commerce that their proposed projects comply with standards for accessibility of handicapped persons, as set forth under the Architectural Barriers Act of 1968. The Architectural and Transportation Barriers Compliance Board is authorized to ensure that all new buildings and facilities meet accessibility standards, when that is appropriate.

References: Public Works and Economic Development Act of 1965. P.L. 89-136 as amended by P.L. 94-369, P.L. 94-487. P.L. 95-28 and P.L. 98-166. 42 U.S.C. 3131. C.F.D.A.: 11.300, 11.304 and 11.307.

TARGETED JOBS TAX CREDIT

In 1977, though the Tax Reduction and Simplification Act (P.L. 95-30), Congress authorized a special tax credit to induce businesses to hire certain categories of chronically unemployed workers, disadvantaged youth, welfare recipients and other hard to place persons, including individuals with handicaps. As part of the Tax Reform Act of 1986 (P.L. 99-514), this "targeted jobs tax credit" was extended through December 31, 1988. The amount of the credit is 40 percent of the first \$6,000 in wages; there is no credit after the first year of employment. For an employer to qualify for the credit, a worker must have been employed for at least 90 days or have completed at least 120 hours of work for the employer.

References: Tax Reduction and Simplification Act, P.L. 95-30 and Tax Reform Act of 1986, P.L. 99-514. 26 U.S.C. 1, et. al. C.F.D.A.: N/A.

FEDERAL EMPLOYMENT FOR INDIVIDUALS WITH HANDICAPS

The Rehabilitation Act of 1973, as amended, authorized the establishment of the Selective Placement Program, which enables the federal government to employ persons with physical or mental handicaps in positions for which they qualify. The Selective Placement Program is concerned principally with providing assistance to agencies and developing methodologies related to referral, placement, special appointing authorities and retaining federal employees who become disabled for one position but may qualify for another. Implementation of the program involves coordination with state vocational rehabilitation agencies and other public or private agencies concerned with the rehabilitation of persons with handicaps. FY 1987 appropriations: \$200,000.

References: Rehabilitation Act of 1973, as amended, P.L. 93-112, P.L. 93-508, P.L. 93-516, P.L. 95-454, P.L. 95-602 and P.L. 96-923. 29 U.S.C. 770 C.F.D.A.: 27.005.

HANDICAPPED FEDERAL EMPLOYEES PERSONAL ASSISTANTS

The Federal Advisory Committee Act was amended in 1980 (P.L. 96-523) to permit the employment of personal assistants for federal employees with handicaps both at their regular duty station and while on travel status. The Act uses the Rehabilitation Act definition (Section 501) of handicapped individuals. Personal assistants include readers for blind individuals or interpreters for deaf individuals. Such assistants are employed directly by the federal agency.

References: Federal Advisory Committee Act and Title V of the U.S. Code, as amended by P.L. 96-523. 29 U.S.C. 791 and 5 U.S.C. 5101 C.F.D.A.: N/A

HEALTH

MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

A. Overview

The Social Security Act of 1935 included an entitlement program aimed at improving health care for mothers and young children. Title V of the current Act authorizes block grants to enable states to maintain and strengthen their leadership in planning, promoting, coordinating and evaluating health care for mothers and children who do not have access to adequate health care.

States may use MCH block grant funds for the provision of health services and related activities, including planning, administration, education and evaluation activities that are consistent with the description of intended expenditures and statement of assurances contained in the Act.

In particular, Section 501 authorizes the states to use MCH block grant funds to:

- assure mothers and children — especially those with low income or limited availability to health services — access to quality maternal and child health services;
- reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;
- reduce the need for in-patient and long term care services;
- increase the number of children who are appropriately immunized against disease;
- increase the number of low income children receiving health assessments and follow up diagnostic and treatment services;
- promote the health of mothers and children, especially by providing preventive and primary care services for children and prenatal, delivery and post partum services for low income mothers;
- provide rehabilitation services for individuals under the age of 16 who are blind or disabled and receive Supplemental Security Income benefits;
- provide services for locating services for diagnosis, hospitalization

and aftercare for children who have disabilities or who have conditions that may lead to disabilities;

- provide for Special Projects of Regional and National Significance (SPRANS), research and training for genetic disease testing, counseling and information dissemination; and
- to provide grants relating to hemophilia and sudden infant death syndrome.

Title V funds may not be used by a state for:

- inpatient services other than those provided to children with special health care needs or to high risk pregnant women and infants and other in-patient services approved by the Secretary of HHS;
- cash payments to recipients for health care services;
- purchase and improvement of land, construction or permanent improvement of buildings or purchase or major medical equipment;
- matching other federal grants; or
- providing funds for research or training to any entity other than a public or private nonprofit organization.

B. Programs Affecting Persons with Handicaps

In order to receive its allotment under Title V, each state must submit to the Department of Health and Human Services a report describing the intended uses of its MCH payments, including: (a) a statement of needs in different parts of the state; (b) the goals and objectives to meet those needs; (c) information on the types of services to be provided and the characteristics of the individuals who will be served; and (d) data the state intends to collect on such programs.

Of the base MCH appropriation, 85 percent is allotted to the states and 15 percent is retained by HHS for research, training, Special Projects of Regional and National Significance, genetic services and hemophilia projects. Above that amount, funds are allocated to HHS directly to operate newborn screening projects for sickle-cell anemia and other genetic disorders. In addition, funds are allocated to the states but earmarked for child health demonstration projects. These funds are to be used to develop: (a) primary health services demonstration programs for all children; and (b) community-based service networks and case management services for children with special health care needs. The Secretary of HHS also retains some funding to operate child health demonstration programs.

The state must assure the Secretary that it will use a substantial proportion of its Title V allotment to provide health services to mothers

and children. A state may impose charges for the provision of health services, but not to low-income mothers or children, and only according to a sliding scale based on income and family size.

The state agency that administers the program must coordinate its activities with the state's Early and Periodic Screening Diagnosis and Treatment program, other Medicaid services and other federal grant programs (e.g., nutrition, education, health or developmental disabilities services). States are required to submit annual reports to HHS on their Maternal and Child Health programs. FY 1987 appropriations: \$497 million.

References: Title V, Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 701. C.F.D.A.: 13.994.

C. Legislative History

The Nation's first health services formula grant program, enacted in 1921, was the predecessor of today's Maternal and Child Health block grant program. The Act, which was in force through 1929, was known as the Sheppard-Tower Act or the Maternity and Infant Act.

In 1935, the Sheppard-Tower Act was revitalized and greatly expanded under Title V of the Social Security Act (P.L. 74-271). For the first time, the legislation established a federal-state system of crippled children's services. In addition, a centrally-administered special fund was established to support demonstration projects and the training of personnel.

In 1963, Congress amended Title V (P.L. 88-156) to establish a new project grant program to improve prenatal care for women from low income families where the risk of mental retardation and other birth defects was known to be inordinately high. In addition, authorizations for grants to the states under the Maternal and Child Health and Crippled Children's programs were increased and a research grant program was added to support studies "which show promise of substantial contribution to the advancement" of such services programs. These amendments to Title V were part of a legislative packet submitted to Congress by the Kennedy Administration to implement recommendations contained in the October 1962 report of the President's Panel on Mental Retardation.

The Social Security Act Amendments of 1965 (P.L. 89-97) authorized special project grants for the development of comprehensive maternal and child health care services and grants for multidisciplinary training of specialists to work with children having handicapping conditions. The latter program was intended to provide support for training activities in university affiliated facilities for the mentally retarded (see

Developmental Disabilities Assistance and Bill of Rights Act, page 124).

The 1965 amendments to the Social Security Act also initiated a project grant program to improve health and related services to preschool and school-aged children in low-income neighborhoods. Programs developed under this authority were aimed at demonstrating that early attention to potentially handicapping conditions could improve the ability of such children to live more productive lives.

The Social Security Amendments of 1967 (P.L. 90-248) consolidated maternal and child health and crippled children's services under a single grant authorization, with a funding split of 50 percent for formula grants, 40 percent for project grants and 10 percent for research and training. Effective July 1, 1972 (the effective date was later extended to July 1, 1973 by P.L. 92-345, then to July 1, 1974 by P.L. 93-53), the 40 percent set-aside for special projects was to be added to the states' formula grants, with the result that 90 percent would be allocated directly to the states through the formula grant programs. However, states were required to include in their Title V plans, provisions for conducting activities similar to those previously authorized under these special programs. The ten percent allocated to research and training continued to be awarded by the Department through project grants.

In 1981, the Omnibus Budget Reconciliation Act (P.L. 97-35) consolidated the six programs authorized under Title V of the Social Security Act into a single state block grant authority (i.e., the state grants-in-aid program for maternal and child health and crippled children's services, the SSI Disabled Children's program, and grant support for the prevention of lead-based paint poisoning, sudden infant death syndrome, hemophilia treatment centers, an adolescent pregnancy program and a genetic screening program). In FY 1982, fifteen percent of funds under the Maternal and Child Health Block Grant were set aside for the administration of Special Projects of Regional and National Significance (SPRANS). These monies were designated to support personnel preparation and research activities conducted in a variety of loci, including genetic disease projects, regional hemophilia diagnostic and treatment centers, pediatric pulmonary centers and university affiliated programs serving persons with developmental disabilities (see page 126 for more information on UAPs).

In 1985, Section 9527 of the Consolidated Omnibus Reconciliation Act (P.L. 99-272) eliminated references to "crippled children" in Title V and substituted terminology referring to "children with special health care needs."

The Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) raised the ceiling on appropriations for the MCH program and designated

specific purposes for certain percentages of the funding. The law required the following:

- a designated percentage (7 percent in FY 1987) was to be spent to support projects designed to identify newborns with sickle-cell anemia and other genetic disorders;
- two-thirds of the funds above the base allotments were to be used by the Secretary of HHS to cover general improvements and expansions in MCH services, while one-third would be used for the provision of specialized health care services for children;
- states could use their share of the set-aside funds to provide primary health care to children and to establish community-based service networks and provide case management services for children with special health care needs;
- the Secretary was directed to use the Department's share to support Special Projects of Regional and National Significance (SPRANS) which further such state and local efforts; and
- any new funds would have to be allotted according to the same statutory formula detailed in the law.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) increased funding levels for the MCH program, although not to the levels authorized in the law. P.L. 100-203 required that funds be allocated according to the requirements enacted in P.L. 99-509.

HEALTH INSURANCE FOR THE ELDERLY AND HANDICAPPED (MEDICARE)

A. Overview

Title XVIII of the Social Security Act authorizes health insurance benefits for eligible elderly and disabled persons. Under this so-called Medicare program, direct payments are provided for medical services on behalf of eligible participants. The program is federally-financed and administered by the Health Care Financing Administration within the U.S. Department of Health and Human Services, with local administration carried out by fiscal intermediaries — usually private health insurance companies.

Title XVIII of the Social Security Act is divided into three parts. Part A authorizes hospital insurance benefits, while Part B provides for supplemental medical insurance benefits. Part C of Title XVIII contains miscellaneous provisions, including definitions of terms and coverage parameters for persons suffering from end stage renal disease.

Basic eligibility for Medicare benefits is extended to persons over age 65 who qualify for Social Security benefits. The following categories

of persons with disabilities, however, also are eligible for Medicare coverage after they complete a 24 month waiting period:

- Disabled workers who have met the Social Security FICA contribution requirements prior to the onset of their disability and no longer are capable of engaging in substantial gainful activity;
- Persons severely disabled during childhood who are the dependents of persons eligible for Social Security benefits who have either died, retired or are themselves eligible for disability benefits;
- Disabled widowers aged 50 and older; and
- Any individual suffering from end stage renal (kidney) disease.

B. Major Programs Affecting Persons with Handicaps

1. *Hospital Insurance.* The Part A hospital insurance program reimburses participating and emergency hospitals, skilled nursing facilities, home health agencies and hospice agencies for the reasonable cost of furnishing medically necessary inpatient and (limited) in-home services to eligible aged and disabled Medicare beneficiaries. Inpatient hospital stays are covered for the first 60 days in a benefit period with a deductible paid by the beneficiary. A per diem co-insurance payment also is required for hospital stays from the 61st through the 90th day. A per diem co-insurance payment is required for care provided in a skilled nursing facility after the 20th day of a benefit period. Post-hospital home health care services are reimbursable in full. FY 1987 (est.) appropriations: \$48.2 billion.

References: Part A, Title XVIII, Social Security Amendments of 1965, as amended. P.L. 89-97, P.L. 90-248, P.L. 92-603, P.L. 93-233, P.L. 94-182, P.L. 94-437, P.L. 95-210, P.L. 95-292, P.L. 96-265, P.L. 97-248, P.L. 98-21, P.L. 98-369, P.L. 98-460, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1395. C.F.D.A.: 13.773.

2. *Supplementary Medical Insurance.* The Part B Supplementary Medical Insurance program provides medical insurance protection for covered services to persons age 65 or older and to certain persons with disabilities. Benefits are paid on the basis of reasonable charges and fee schedules for covered services furnished by physicians and other suppliers of medical services. Benefits are determined based on reasonable cost or charges for covered services furnished by providers such as hospitals or home health agencies. All eligible persons may voluntarily enroll for Part B services. The enrollee pays a monthly premium; some states and other third parties may pay the premium on behalf of eligible individuals. FY 1987 (est.) appropriations: \$28.9 billion.

References: Part B, Title XVIII, Social Security Amendments of 1965, as amended. P.L. 89-97, P.L. 90-248, P.L. 92-603, P.L. 93-233, P.L. 94-182, P.L. 94-437, P.L. 95-210,

P.L. 95-292, P.L. 96-265, P.L. 97-248, P.L. 98-21, P.L. 98-369, P.L. 98-460, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1395. C.F.D.A.: 13.774.

3. Renal Disease Program. Under the End Stage Renal (kidney) Disease program, Medicare coverage is provided to individuals under age 65 to cover the cost of services and supplies furnished in connection with the treatment of chronic end stage renal disease. [N.B., Renal disease patients age 65 and over are protected under the regular Medicare program.] Generally, coverage includes inpatient hospital costs associated with dialysis and kidney transplants, the cost of physician services, outpatient hospital services and other out-of-hospital medical services and supplies.

References: Part C, Title XVIII, Social Security Act of 1965, as amended. P.L. 92-603, P.L. 95-292 and P.L. 98-369. 42 U.S.C. 1395.

C. Legislative History

The Social Security Amendments of 1965 (P.L. 89-97) established the Medicare program under a new Title XVIII of the Act. In 1967, amendments to the Act (P.L. 90-248) directed the Secretary of Health, Education, and Welfare to establish an advisory council to study the question of providing health insurance for disabled Social Security beneficiaries. The Advisory Council was to report its findings and recommendations to the Secretary by January 1, 1969.

Under the Social Security Amendments of 1972 (P.L. 92-603), Medicare coverage was authorized for disabled Social Security beneficiaries after they fulfilled a 24 month waiting period. The 1972 amendments also extended Medicare reimbursement to persons with renal disease. In 1978, the Title XVIII renal disease program was revised (P.L. 95-292) to authorize cost-saving incentives and allow more flexibility in utilizing different modes of treatment for renal disease, kidney dialysis and transplantation.

In 1980, Title XVIII was amended to permit Medicare, Part B reimbursement for "comprehensive outpatient rehabilitation facilities" (P.L. 96-499). The Act defines such a facility as one which: (a) is primarily engaged in providing diagnostic, therapeutic or restorative services, by or under the direction of physicians, to "injured, disabled or sick persons"; (b) provides, at a minimum, physician services, physical therapy and social or psychological services; (c) maintains clinical records and written policies; (d) requires every recipient to be under the care of a physician; and (e) meets state and local licensing laws and other conditions of participation established by HHS. [N.B., The program did not become operational until regulations were published in late 1982.]

The Social Security Amendments of 1983 (P.L. 98-21) authorized states

to put in place a prospective payment system for Part B benefits under Medicare, based on diagnostic related groups (DRGs). The new payment system also was required to take into account capital-related costs. P.L. 98-21 explicitly limited the system to hospitals other than: (a) psychiatric hospitals; (b) rehabilitation hospitals; (c) hospitals whose inpatients are predominantly under the age of eighteen; and (d) hospitals with an average inpatient length of stay that is greater than 25 days.

The Deficit Reduction Act of 1984 (P.L. 98-369) made several amendments to the Medicare program including technical amendments to the DRG system, a mandate for a study of Part B payments to eliminate inequities in the system and increase physician participation in Medicare, and a limitation on payments to skilled nursing facilities. In addition, P.L. 98-369 regulated payments for "durable medical equipment" (including respirators and wheelchairs) furnished as a home health benefit and authorized coverage of Hepatitis B vaccines for individuals at high or intermediate risk of contracting the disease.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) amended the Medicare program to allow physical therapists to supervise home health programs, added further incentives to encourage physician participation in the program, and authorized a four-year, five-site demonstration program to reduce disability and dependency through the provision of preventive services to Medicare beneficiaries.

The Medicare and Medicaid Patient and Program Protection Act of 1987 (P.L. 100-93) established a program to protect beneficiaries under Titles XI, XVIII and XIX of the Social Security Act from unfit health care practitioners and to improve antifraud provisions related to those programs.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) made the following amendments to the Medicare program as it related to persons with disabilities:

- the Act authorized OASDI beneficiaries to re-establish eligibility for Medicare coverage immediately after being off the rolls for five years (seven years for disabled widows/widowers and people disabled since childhood);
- the Act increased the maximum annual limit on Part B mental health benefits from \$50 to \$1100 and added "partial hospitalization" as a Part B mental health benefit;
- P.L. 100-203 authorized direct payment for the services of psychologists in community mental health centers; and
- the Act specified that the Secretary of HHS may not require com-

prehensive outpatient rehabilitation facilities to limit their services to a single location in order to qualify for Medicare reimbursement, as long as services are furnished as an integral part of a beneficiary's rehabilitation plan.

GRANTS TO STATES FOR MEDICAL ASSISTANCE (MEDICAID)

A. Overview

Title XIX of the Social Security Act contains the statutory authority for the federal-state Medical Assistance program, or, as it is better known, the Medicaid program. Initially authorized under the Social Security Act of 1965, the original statutory goal of the program was to improve the accessibility and quality of medical care for all low-income Americans.

Although the 1965 legislation contained no special provisions related to handicapped persons, in recent years Medicaid has emerged as a primary source of funding for services to individuals with severe disabilities, both because the incidence of disability is higher among low-income groups and due to subsequent amendments to the Act which have added specialized benefits for institutionalized persons with mentally illness and mental retardation.

Eligibility for medical assistance is based on financial need. Individuals with handicaps may be eligible, if they meet the following general criteria for participation.

- *Categorically needy.* States must cover: (a) all persons receiving cash benefits under Title IV-A of the Social Security Act (Aid to Families with Dependent Children); and (b) either all persons receiving cash benefits under Title XVI of the Act (Supplemental Security Income) or, at least, those who meet additional, more restrictive Medicaid-eligibility conditions set by the particular state.
- *Medically needy.* In addition to categorically needy persons, states may elect to cover, under their Medicaid plans, certain groups of individuals whose incomes are higher than the SSI or AFDC maximums, but who cannot afford needed medical treatment and care. A separate income level is established for these "medically needy" groups.
- *Qualified severely impaired.* Certain individuals under age 65 who receive federal SSI (or state supplemental) payments on the basis of blindness or disability and are able to be gainfully employed, but do not have sufficient earnings to maintain a reasonable standard of living and also pay for health care coverage are eligible for Medicaid benefits, in conformance with Section 1619(a) and (b) of the Social Security Act (see page 94 for more information on Sections 1619(a) and (b)).

Federal grant-in-aid funding is available to match state expenditures for medical care on behalf of eligible clients, as specified under an HHS-approved state plan. The Federal share of reimbursable costs range from 50 percent to 83 percent, according to a formula which takes into account the state's relative per capita income and medical assistance expenditures.

States are mandated under Title XIX to provide the following services to categorically-needy Medicaid recipients without charge: (a) inpatient hospital services (except services in an institution for mental diseases); (b) outpatient hospital services; (c) laboratory and X-ray services; (d) skilled nursing facility (other than in an institution for mental diseases) and home health services for individuals over 21 years of age; (e) physician services; (f) early periodic screening, diagnosis and treatment (EPSDT) services for individuals under age 21; (g) family planning services; and (h) certain rural health clinic services.

States may limit the amount, duration and scope of such mandated services (i.e., limits on the number of days in a hospital or visits by a home health aide), as long as adequate care is provided. In addition, states are required to: (a) make arrangements to assure that recipients can get to and from needed medical services; (b) allow recipient the freedom to choose among qualified providers of care; and (c) give recipients access to health services on a statewide basis.

States are permitted to offer the following types of optional services, provided they are specified in the state plan: (a) private duty nursing services; (b) clinic services; (not necessarily under the supervision of a physician); (c) dental services; (d) physical therapy, occupational therapy and treatment for speech, hearing and language disorders; (e) prescribed drugs, dentures, prosthetic devices and eyeglasses; (f) other diagnostic, screening and rehabilitative services; (g) inpatient hospital services, and skilled nursing facility services; (h) intermediate care facility services (including specialized ICF services for the mentally retarded); (i) inpatient psychiatric services for individuals over age 65 and under age 21; (j) case management services targeted to one or more specific groups of Title XIX-eligible persons; and (k) any other type of medical or remedial care recognized under state law and approved by the Secretary of Health and Human Services. In addition, the Secretary is authorized to grant waivers to allow a state, upon its request, to offer Medicaid-reimbursable home and community based services (other than room and board) to individuals who, but for the provision of these services, would require the services of a skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded.

B. Major Programs Affecting Persons with Handicaps

Medicaid provides each participating state with broad flexibility to design a medical assistance program which meets the needs of its citizenry; as a result, Medicaid programs differ markedly from state to state. The estimated appropriation for the Medicaid program in FY 1987 was \$26.7 billion.

1. *Intermediate Care Facilities for the Mentally Retarded.* Under Section 1905(d) of the Act, states are permitted to cover as an optional service under their Medicaid plans intermediate care facility services for persons with mental retardation (ICF/MR). The primary purpose of the ICF/MR program is to provide health or rehabilitative services for individuals with mental retardation who require "active treatment services provided in a comprehensive facility-based setting." To qualify for ICF/MR services, an individual must be either mentally retarded or have a related condition and need "active treatment" services. To be reimbursed for ICF/MR services provided on behalf of such individuals, a facility must ensure that it is providing "active treatment in accordance with an individual habilitation plan developed for each resident." In addition to funding large, comprehensive public and private institution services, the ICF/MR program also is a source of funding for certain community residential facilities, including facilities with fifteen or fewer residents (but no less than four). All ICF/MRs must be in compliance with standards promulgated by the Secretary of HHS. Compliance with these standards is monitored by a designated state agency, called the state survey agency, which operates under a contractual agreement with the single state Medicaid agency. Survey and certification decisions made by the state, however, are subject to review by the Secretary through direct validation surveys (often referred to as "look behind" reviews).

References: Title XIX of the Social Security Act, as amended. P.L. 92-223, P.L. 92-603, P.L. 93-66, P.L. 93-233, P.L. 96-499, P.L. 97-35, P.L. 97-248, P.L. 98-369, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1396 et. seq. C.F.D.A.: 13.714.

2. *Home and Community-Based Services.* Under Section 1915(c) of the Social Security Act, the Secretary of HHS is authorized to waive certain federal requirements in order to enable states to offer personal care and other services (excluding room and board costs) for individuals who, in the absence of such services, would require institutional care in a Title XIX-certified long term care facility. In order to qualify for such a waiver, a state must: (a) determine that eligible individuals would otherwise require care in a Title XIX-certified facility; (b) establish that it is reasonable to furnish eligible individuals with alternative services; (c) provide for the development of individual habilitation plans for each service recipient; and (d) determine that the alternative services provided to such individuals do not result in per capita expen-

ditures that would be greater than those incurred if the person were institutionalized. The following services may be included under a home and community-based (HCB) service waiver: case management, habilitation (including, for former institutional residents only, certain educational, prevocational training and supported employment services), homemaker/home health care services, personal care services, adult day health services, respite care, and other services requested by the state and approved by the Secretary.

Traditional health and medical services may also be furnished as part of a Section 1915(c) waiver program, such as nursing care, medical supplies, physical, occupational and speech therapy and audiology. A state is permitted, under a waiver, to limit the amount, scope and duration of services provided to eligible individuals. In addition a state may provide waiver services on less than a statewide basis. Initial waivers are granted for a period of three years; waivers may be renewed for periods of up to five years at a time. The Secretary of HHS must approve a waiver within 90 days of a state submitting it, unless the Secretary needs more information.

References: Title XIX of the Social Security Act, as amended. P.L. 93-66, P.L. 93-233, P.L. 96-499, P.L. 97-35, P.L. 97-248, P.L. 98-369, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1396. C.F.D.A.: N/A.

3. *Psychiatric Services for Children.* Medicaid reimbursement is available to states to cover inpatient psychiatric hospital services for individuals under 21 years of age. To qualify for such coverage under a state's Medicaid program, such inpatient facilities must provide children with active treatment services, as defined by the Secretary, and must furnish all services in accordance with specifications developed by a team of physicians and other qualified mental health personnel. The team must determine that inpatient services are necessary and can reasonably be expected to improve the child's condition. All service providers must be accredited by the Joint Commission on Accreditation of Hospitals.

References: Title XIX of the Social Security Act, as amended. P.L. 93-66, P.L. 93-233, P.L. 96-499, P.L. 97-35, P.L. 97-248, P.L. 98-369, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1396. C.F.D.A.: N/A.

4. *Psychiatric Services for Older Individuals.* States may elect to include in their Medicaid plans services to individuals, 65 years of age or older, who are patients in institutions for mental diseases. Each IMD resident must be served in accordance with an individual plan and the state must assure HHS that there will be a periodic determination of each individual's need for continued treatment in the institution. If a state plan includes this optional service, the state must also demonstrate that it is making satisfactory progress toward developing and implementing a comprehensive mental health program, including utilization of

community mental health centers, nursing facilities and other alternatives to care in public IMDs.

References: Title XIX of the Social Security Act, as amended. P.L. 89-97, P.L. 90-248, P.L. 91-56, P.L. 92-223, P.L. 92-603, P.L. 93-66, P.L. 93-233, P.L. 94-182, P.L. 95-142, P.L. 95-210, P.L. 96-499, P.L. 97-35, P.L. 97-248, P.L. 98-369, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1396. C.F.D.A.: N/A.

C. Legislative History

The 1965 amendments to the Social Security Act (P.L. 89-97) added a new Title XIX to the Act, authorizing grants-in-aid to states for the establishment of medical assistance programs. Now known as Medicaid, this program expanded the previous "Kerr-Mills" program of medical aid for needy aged, blind, and disabled persons and dependent children. Medicaid was aimed at individuals receiving public assistance, but also permitted states to extend coverage to certain groups with income above the qualifying level for welfare payments, or the "medically" needy. The initial statutory goal of the program was to initiate, in all participating states, a program of comprehensive health care for needy persons. The 1985 amendments included statutory authority for federal assistance to needy aged persons residing in mental institutions, which could be provided at the state's option.

In the context of P.L. 89-97, the provisions establishing the Medicaid program were devised as a complement to Title XVIII, the statutory authority for the Medicare program (see discussion on page 41). Medicaid (Title XIX), however, differed from Medicare (Title XVIII) in the following fundamental ways: (1) Medicare was a social insurance program, under which recipients were to be eligible only if they had contributed to Social Security; Medicaid, on the other hand, was intended as a program for individuals receiving federal cash assistance or other financially needy persons; (2) Medicare was to be administered and funded entirely by the federal government; Medicaid was to be administered by the states and funded jointly by federal and state contributions; and (3) states were to have the option of covering a broader range of medical services under Medicaid than was the case under Medicare.

In an effort to curb the Medicaid program's rapidly escalating costs, Title XIX was amended in 1967 (P.L. 90-248) by adding provisions which: (1) restricted the conditions under which the federal government would participate in the cost of services to medically needy recipients; (2) specified required and optional services; (3) permitted recipients freedom of choice among qualified providers; (4) required standards of care in skilled nursing facilities; (5) mandated reviews of the utilization of medical services under Title XIX; and (6) required participating states to offer early and periodic screening, diagnosis and treatment services to all Medicaid-eligible children.

In 1971, amendments to Title XIX (P.L. 92-223) authorized Medicaid reimbursement for intermediate care facility services. Prior to 1971, ICF services were reimbursed under Title XI of the Act. ICF services were statutorily defined as services designed to meet the needs of individuals "...who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities..."

P.L. 92-223 also amended the Act to authorize public institutions for the mentally retarded to be certified as intermediate care facilities, under the following conditions: (1) the primary purpose of the institution, or distinct part thereof, was the provision of health and rehabilitative services to the mentally retarded; (2) institutional residents participating in the program were receiving "active treatment"; (3) the facility was in compliance with standards prescribed by the Secretary of HHS; and (4) the states were maintaining their prior level of state-local fiscal support for facilities certified as ICF/MR's. [N.B. Regulatory standards subsequently issued by HHS permitted states to certify both publicly and privately operated ICF/MR facilities, including qualified "small" (fifteen beds or fewer) residences.] P.L. 92-223 also required the states to conduct independent professional reviews of the quality and appropriateness of services provided to residents in ICF facilities.

In 1972, Medicaid reimbursement was extended to inpatient care for otherwise eligible mentally ill children, under 21 years of age, in public and private psychiatric facilities. In order to qualify, the facility had to be: (a) providing active treatment programs for all eligible children; and (b) be accredited by the Joint Commission on the Accreditation of Hospitals. In addition, participating states were required to maintain at least their prior level of expenditures on behalf of such children.

In 1981, the Omnibus Budget Reconciliation Act (P.L. 97-35) authorized the Secretary of HHS to waive federal requirements to enable states to request to furnish personal care and other services (excluding the costs of room and board) for individuals who, without such services, would require institutional care in a Title XIX-certified facility.

The so-called home and community-based waiver program, as authorized under Section 1915(c) of the Social Security Act, may be used by states to serve individuals who previously resided in ICF/MRs, SNFs or ICFs or those who are at-risk of institutionalization. The average per diem cost for services provided under the waiver may not exceed the cost of providing institutional care to the same individuals.

P.L. 97-35 also permitted states, as part of a HCB waiver program, to obtain waivers of the requirements that all Medicaid services be

equally available throughout a state or for all similarly situated groups of Medicaid recipients, in order to enable states to demonstrate the feasibility and cost-effectiveness of providing a particular service(s) in one area of a state (the so-called waiver of "statewideness") or to a targeted group of recipients (the so-called waiver of "comparability").

P.L. 97-35 also authorized temporary Medicaid payment reductions, decreasing federal matching payments to states by 3, 4 and 4.5 percent in fiscal years 1982, 1983 and 1984 respectively, as part of a general plan to curb federal social spending. These payment limitations were not continued under the Deficit Reduction Act of 1984 (P.L. 98-369). The 1984 legislation also expanded Medicaid coverage for pregnant women and young children to certain groups of low income individuals who do not meet AFDC income and resource requirements.

The Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) permitted states to offer, under their Medicaid plans, coverage for home care services to certain children with disabilities, even though the family's income and resources exceed the state's normal financial eligibility standards. Under the terms of the legislation, such children would have to otherwise require institutionalization and be eligible for SSI benefits.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) authorized states to cover, under their Medicaid plans, case management services on less than a statewide or comparable basis to targeted groups of Title XIX recipients, without obtaining Secretarial approval of a waiver. To do so, however, a state would still have to offer recipients the freedom to choose among available providers of case management services.

P.L. 99-272 also contained numerous modifications in the home and community-based services program, including:

- an expanded definition of "habilitation services" for waiver recipients with developmental disabilities, to include certain pre-vocational, educational and supported employment services on behalf of waiver recipients who were discharged from a hospital, SNF, ICF or ICF/MR;
- authority to cover ventilator-dependent clients under a waiver program if they would otherwise require continued inpatient hospital care;
- a restriction on Secretarial disapproval of waivers on the grounds that they must cost significantly less than 100 percent of comparable institutional services;
- a prohibition against disallowing federal financial participation in any waiver costs in excess of a state's original waiver expenditure estimates;

- authority for states to compare institutional cost for physically disabled individuals who are potentially eligible for waiver services to similarly situated ICF residents, rather than all ICF residents statewide;
- authority for state Medicaid agencies to enter into cooperative arrangements with state maternal and child health agencies when waiver services are provided to children;
- permission for states to establish higher maintenance income standards for individuals receiving waiver services in the community;
- authority for the Secretary to automatically renew HCB waivers expiring between September 30, 1985 and September 30, 1986 for one year upon request from a state; and
- extension of the waiver renewal period from three to five years.

P.L. 99-272 also contained provisions that clarified HHS's authority to oversee the operation of ICF/MRs; the legislation:

- required the Secretary to issue proposed revisions in 1974 federal standards governing the provision of services in ICF/MRs;
- directed the Secretary to adopt the 1985 edition of the Life Safety Code as it applies to ICF/MRs (thus providing more flexible standards in small ICF/MRs); and
- permitted states to reduce the population of noncomplying ICF/MRs as part of HCFA approved correction plans [N.B., This provision was designed to last three years.]

The Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) contained a number of Medicaid amendments relevant to persons with disabilities. Among them were the following:

- states were given the option of extending Medicaid coverage to poor pregnant women and young children with incomes between the AFDC payment level and the federal poverty line;
- a new optional category of medically needy persons was established, consisting of aged and disabled individuals with incomes up to the federal poverty level;
- a new mandatory category of Medicaid coverage was created for non-elderly persons with severe disabilities who are capable of substantial gainful activity but have insufficient income to maintain a reasonable standard of living and also pay for health care coverage (see the discussion on Section 1619(a) and (b) under Income Maintenance, page 94);
- states were authorized to offer respiratory care services to certain individuals under their Medicaid programs,

- inpatient hospital care was added as a category which a state could use for cost comparisons for the waiver program;
- the optional targeted case management program authorized under P.L. 99-272 was extended to include persons with AIDS and persons with chronic mental illness;
- persons with chronic mental illness were made eligible for home and community-based waiver services.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) included a number of technical amendments to Medicaid law. These provisions:

- restored the Secretary's authority to allow a state to disregard normal income deeming rules in determining the eligibility of persons to participate in the HCB waiver program;
- increased from 50 to 200 the number of persons who could participate in a "model waiver" program. [N.B., The "model waiver" program, although never statutorily authorized, was established by HCFA in 1982 to enable states to serve up to 50 disabled children and/or adults who otherwise would be ineligible for Medicaid because of SSI deeming rules.];
- granted states the option of disregarding parental income and resources in determining the Medicaid eligibility of individuals aged 18 or younger, who are OASDI recipients, at-risk of institutionalization, but living with their families;
- permitted states to limit the number and types of case management providers serving persons who are mentally ill or developmentally disabled, under a targeted case management state plan amendment;
- permitted states to offer prevocational, educational and supported employment services to individuals who were deinstitutionalized at any time prior to participating in the waiver program;
- granted states the authority to use the average per capita costs of ICF/MR services in calculating the cost-effectiveness of home and community based services for any mentally retarded resident of a skilled nursing or intermediate care facility who is determined to need the level of services provided in an ICF/MR; and
- mandated the immediate promulgation of final regulations implementing the phase-down provisions of P.L. 99-272.

P.L. 100-203 also established a pre-admission screening program to prevent inappropriate admissions of persons with developmental disabilities or chronic mental illness to Medicare and Medicaid-certified nursing facilities and required states to transfer inappropriately placed

nursing home residents with developmental disabilities or chronic mental illness to alternative residential settings.

Numerous other major and minor amendments to Title XIX have been approved by Congress since 1965; however, the above-mentioned changes constitute the ones most directly relevant to services and benefits for persons with disabilities.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

A. Overview

The Alcohol, Drug Abuse and Mental Health Services (ADMS) Block Grant program provides financial assistance to states and territories to support projects for the development of more effective prevention, treatment and rehabilitation programs and activities to deal with mental illness, alcoholism and drug abuse. More specifically, ADMS block grant funds may be used to support community mental health centers and the provision of services to individuals with chronic mental illness, severely mentally disturbed children and adolescents, mentally ill elderly individuals and other identifiable populations which are underserved. The coordination of mental health and health care services provided within health care settings is also a goal of the legislation. States may use their discretion in spending their funds under the block grant program, within federally established parameters.

B. Major Programs Affecting Persons with Handicaps

Each state receives ADMS formula grant funds based on population and relative per capita income to provide alcohol, drug abuse and mental health services to eligible individuals in the state. Funds may be used at the discretion of the state, except that the amount allotted for mental health must be used to support community mental health centers previously authorized under the Community Mental Health Centers Act (P.L. 88-164). In addition, of the amount allotted for substance abuse, not less than 35 percent must be used for alcohol activities, not less than 35 percent for drug abuse activities and not less than 20 percent for prevention and early intervention activities. Funds under the ADMS block grant may not be used for inpatient services, cash payments to recipients of health services, purchase of land or buildings, as non-federal match or to assist profit-making entities. Not more than ten percent of the allotment can be used to administer block grant funds. Each participating state or territory is required to submit an annual report on program activities. FY 1987 estimated appropriations: \$508 million.

C. Legislative History

The Community Mental Health Centers Act originally was authorized under Title II of the Mental Retardation Facilities and Community Mental Health Centers Act of 1963 (P.L. 88-164). The 1963 Act authorized grants to assist states in the construction of public or nonprofit community mental health centers. The facilities were to house services and programs aimed at the prevention or diagnosis of mental illness, care and treatment of mentally ill persons, and rehabilitation of persons recovering from mental illness. Allotments of funds to the state were based on a formula that took into account the state's relative population, need for mental health services and financial need.

In 1965, amendments to the Act (P.L. 89-105) authorized a program of grants to cover the costs of staffing community mental health centers with technical and professional personnel, during the first 51 months of operations. The 1967 amendments (P.L. 90-31) extended the authority for construction and initial staffing grants through fiscal 1970, and permitted funds to be used for the acquisition and/or renovation of existing buildings to serve as centers.

The Community Mental Health Centers Amendments of 1970 (P.L. 91-211) provided for a three year extension of construction and staffing grants. P.L. 91-211 also contained a new project grant program to allow centers to provide mental health services to children. The federal share of funding for construction was raised to 67 percent in non-poverty areas and 90 percent in poverty areas. The maximum duration of staffing grants was extended to eight years, with a declining level of federal aid ranging from 80 percent funding in the first two years to 30 percent in the sixth through the eighth years.

Title III of the Special Health Revenue Sharing Act of 1975 (P.L. 94-63) significantly revised and expanded the Community Mental Health Centers Act. Applicants for grants under the Act were required to plan for and provide a comprehensive range of mental health services. P.L. 94-63 restructured the financing of centers by expanding grant programs for construction and staffing to the following six types of grants: (a) grants to help public and nonprofit agencies plan for the development of community mental health centers; (b) initial operation grants to assist public or nonprofit centers in meeting the start-up costs associated with running a center, for a maximum period of eight years (with a declining federal share over the period); (c) consultation and education grants to centers; (d) conversion grants to provide federal assistance to existing centers for expanding their services to meet the comprehensive services mandate; (e) financial distress grants for centers

in danger of having to reduce the types or quality of services provided due to the termination of staffing and operating grants; and (f) facilities grants to states for purchasing, renovating, leasing and equipping community mental health centers and for the construction of centers serving poverty areas.

In 1978, amendments to the Mental Health Centers Act (P.L. 95-622) eased the requirements governing the provision of comprehensive services, by allowing centers to develop their programs in two stages. To open, centers were required to provide: (a) inpatient, outpatient and emergency services; (b) assistance in determining the need to institutionalize an individual; (c) follow-up care for deinstitutionalized mental patients; and (d) consultation and education services. After three years of operation, centers had to be prepared to provide a comprehensive array of community mental health services.

Amendments to the Act in 1980 (P.L. 96-398) expanded the requirements for state mental health service plans, provided state mental health agencies with an option for greater control over the awarding of federal grants to state and local entities and authorized a series of new federal funding programs emphasizing community-based services to groups needing special mental health care. The new grants were categorized as follows: (a) grants for comprehensive community mental health centers; (b) services for chronically mentally ill persons; (c) services for mentally disturbed children and adolescents; (d) mental health services for elderly persons and other priority populations; (e) non-revenue producing services, including consultation and education, follow-up services, certain administrative and staffing costs, and other non-revenue producing services described by the Department of Health and Human Services; (f) mental health services in health care centers; (g) innovative projects; and (h) prevention of mental illness/promotion of mental health.

In 1981, the Omnibus Budget Reconciliation Act (P.L. 97-35) collapsed three separate grant-in-aid programs (services in drug abuse, alcohol abuse and mental health) into a single block grant program. Programs authorized under the Community Mental Health Centers Act, the Mental Health Systems Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act and the Drug Abuse Prevention and Treatment Act were combined and authorized under Title XIX, Part B, of the Public Health Service Act.

Through the combined grant program, states could provide the following services:

- services to chronically mentally ill individuals, including identification and assistance in obtaining essential services through the assignment of case managers;

- identification and assessment of mentally ill children, adolescents and elderly individuals and the provision of services to them;
- services for identifiable, underserved populations; and
- coordination of mental health and health care services provided within health care centers.

In 1984, the block grant program was amended and extended by the Alcohol Abuse, Drug Abuse and Mental Health Amendments (P.L. 98-509). These amendments created a hold harmless provision in the allotment formula to protect smaller states. The 1984 law also established two set-asides in the block grant program: (a) a ten percent set-aside in the mental health portion of a state's allotment to serve underserved populations, with particular emphasis on children and adolescents; and (b) a five percent set-aside for women under state substance abuse programs.

The Comprehensive State Mental Health Planning Act of 1986 (P.L. 99-660) set out specific parameters for the development of comprehensive state plans to serve persons with chronic mental illness. If states do not abide by these statutory parameters, they may not receive funds allotted for administrative services under the ADMS block grant programs.

NATIONAL RESEARCH INSTITUTES

A. Overview

Title IV of the Public Health Service Act authorizes a broad array of biomedical research activities, many of which directly or indirectly relate to the diagnosis, treatment and prevention of various types of disabling conditions. Generally, the national research institutes, established under Title IV, provide:

- (1) for the conduct of intramural research in federal government laboratories;
- (2) support for extramural research conducted in universities, hospitals and research institutions across the United States and abroad;
- (3) assistance to nonprofit institutions to build and equip biomedical research facilities;
- (4) support for training of career research scientists; and
- (5) ways to communicate biomedical information to scientists, health practitioners and the general public.

Currently there are twelve institutes that are part of the National Institute of Health. Several of these institutes carry out and/or support

research, training and dissemination activities that impact on persons with handicapping conditions.

B. Major Programs Affecting Persons with Handicaps

1. *Diabetes, Digestive and Kidney Disease Research.* The National Institute of Diabetes and Digestive and Kidney Diseases is established under Part A of Title IV of the Act. The general purpose of this institute is to conduct and support research, training, health information dissemination and other programs with respect to diabetes mellitus, endocrine and metabolic diseases, digestive diseases and nutritional disorders and kidney, urologic and hematologic diseases. FY 1987 appropriations: \$511 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 89-692, P.L. 92-305, P.L. 93-354, P.L. 93-640, P.L. 94-562, P.L. 95-83 and P.L. 99-158. 42 U.S.C. 285c. C.F.D.A.: 13.847, 13.848, 13.849.

2. *Arthritis, Musculoskeletal and Skin Diseases.* The National Institute of Arthritis and Musculoskeletal and Skin Diseases is authorized under Part A of Title IV of the Act. The general purpose of this institute is to conduct and support research and training, disseminate information and conduct other programs with respect to arthritis, musculoskeletal diseases and skin diseases, including sports-related disorders. FY 1987 appropriations: \$92 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 89-692, P.L. 92-305, P.L. 93-354, P.L. 93-640, P.L. 94-562, P.L. 95-83 and P.L. 99-158. 42 U.S.C. 285d. C.F.D.A.: 13.846.

3. *Child Health and Human Development.* The National Institute of Child Health and Human Development is authorized under Part A of Title IV of the Act. The general purpose of the institute is to conduct and support research, training, health information dissemination and other programs with respect to maternal health, child health, mental retardation, human growth and development, including prenatal development, population research and special health problems and requirements of mothers and children. Specific research into sudden infant death syndrome and the causes, prevention and treatment of mental retardation is mandated in the statute. In addition, the law requires the institute to have an Associate Director for the Prevention of Health Problems of Mothers and Children. FY 1987 appropriations: \$366 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 87-838, P.L. 91-572, P.L. 93-270, P.L. 94-278, P.L. 95-83 and P.L. 99-158. 42 U.S.C. 285g. C.F.D.A.: 13.864 and 13.865.

4. *Neurological and Communicative Disorders and Stroke.* The National Institute of Neurological and Communicative Disorders and Stroke is authorized under Part A of Title IV of the Act. The Institute

conducts and funds research, training, health information dissemination and other programs with respect to neurological disease and disorder, stroke and disorders of human communication. Among the disability areas covered by this Institute are spinal cord injury, head trauma, Tourette's Syndrome, convulsive and developmental disorders, and speech, hearing and language disorders. Spinal cord regeneration and the use of electrical stimulation to overcome paralysis are two areas of research mandated under this Institute. FY 1987 appropriations: \$490 million.

References: Part A, Title IV, Public Health Services Act, as amended. P.L. 89-692, P.L. 92-305, P.L. 93-354, P.L. 93-640, P.L. 94-562, P.L. 95-83 and P.L. 99-158. 42 U.S.C. 285j. C.F.D.A.: 13.853 and 13.854.

5. National Eye Institute. The National Eye Institute, authorized under Part A of Title IV of the Act, conducts and supports research, training and information dissemination into blinding eye diseases, visual disorders, mechanisms of visual function, preservation of sight and the special health problems and requirements of persons who are blind. FY 1987 appropriations: \$217 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 90-489, P.L. 94-278, P.L. 95-83 and P.L. 99-158. 42 U.S.C. 285j. C.F.D.A.: 13.867, 13.868, 13.869, 13.870 and 13.871.

C. Legislative History

The Public Health Service Act of 1944 (P.L. 78-410) provided an initial structure for research into a number of diseases and health problems confronting the nation. Title IV of the Act established several national research institutes. In 1948, the National Heart Act (P.L. 80-655) amended the Public Health Service Act to support specific research and training into diseases of the heart and circulatory system.

In 1950, the PHS Act amendments (P.L. 81-962) provided for research and training into questions relating to arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy and other diseases. The National Institute of Child Health and Human Development and the National Institute for General Medical Sciences were established under 1962 amendments to the Act (P.L. 87-383).

More recent amendments to the Public Health Service Act related to research activities have included: (1) the National Diabetes Mellitus Research and Education Act of 1974 (P.L. 93-354); (2) the National Arthritis Act of 1974 (P.L. 93-640); (3) the National Research and Health Services Amendments of 1976 (P.L. 94-278); (4) the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976 (P.L. 94-562); and (5) the Health Services Programs Extension Act of 1977 (P.L. 95-83).

The Health Research Extension Act of 1985 (P.L. 99-158) recodified

and updated Title IV of the Act. P.L. 99-158 modified the basic statutory authority for the National Institute of Child Health and Human Development to mandate research into mental retardation and to establish the position of Associate Director for Prevention. P.L. 99-158 also amended the law to define the circumstances under which research could be conducted on human fetuses and established an independent Congressional Biomedical Ethics Board to study and report to Congress on ethical issues related to health care and biomedical research. Finally, the Act established two interagency committees, one on spinal cord injury and the other on learning disabilities.

OTHER HEALTH PROGRAMS AND SERVICES

A. Overview

The Public Health Service Act is a major, long-standing source of federal support for basic health care services. Citizens with handicaps benefit from both the Act's support of general preventive health services, and the specialized programs targeted at ameliorating diseases and conditions which may lead to illness or disability.

B. Major Programs Affecting Persons with Handicaps

1. *Prevention.* Prevention activities authorized under the Public Health Service Act which relate most directly to handicapping conditions include: (a) control of communicable diseases that lead to disability, (b) investigations and technical assistance into controlling disease; (c) screening and counseling for genetic diseases that may result in disability at birth; and (d) a national vaccine program.

a. *Control of Communicable Diseases.* Section 317 and 318 of the Act authorize project grants to state health authorities to help control, through immunization and other activities, diseases or conditions amenable to reduction. Targeted diseases or conditions include: rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, sexually transmitted diseases (e.g., AIDS), and other communicable diseases, as well as arthritis, diabetes, hypertension, pulmonary diseases, cardiovascular diseases and RH disease. FY 1987 appropriations: \$75 million.

References. Title III, Public Health Service Act, as amended. P.L. 92-449, P.L. 94-317 and P.L. 95-626. 42 U.S.C. 247b-c. C.F.D.A.: 13.268.

b. *Investigations and Technical Assistance.* Title III of the Act authorizes grants to state and local health authorities to assist in controlling communicable diseases, chronic diseases and other preventable health conditions. Investigations and evaluation of all methods of controlling or preventing disease are carried out by providing epidemic, surveillance, technical assistance, consultation and leader-

ship and coordination of preventive efforts. The program focuses on tuberculosis, childhood immunization and sexually transmitted diseases. FY 1987 appropriations: \$210 million.

References: Title III, Public Health Service Act, as amended by P.L. 99-158 and P.L. 97-35. 42 U.S.C. 243. C.F.D.A.: 13.283.

c. *Genetic Diseases Research, Testing and Counseling Services.* Title XI, Part A of the PHS Act authorizes grants and contracts to support basic research into understanding, diagnosing, treating and controlling genetic diseases. Funds are awarded to universities, hospitals, laboratories, other institutions, state and local government agencies, or certain individual researchers. Activities may include education, training and public awareness concerning genetic diseases, as well as the development of model testing and counseling programs. Priority may be given to applications for research into sickle cell anemia or Cooley's anemia. FY 1987 appropriations: \$169 million.

References: Part A, Title XI, Public Health Service Act, as amended. P.L. 92-414, P.L. 92-294, P.L. 94-278, P.L. 97-35 and P.L. 99-158. 42 U.S.C. 300b. C.F.D.A.: 13.862.

2. *Mental Health Programs.* Title III of the Public Health Service Act authorizes mental health research and training programs. Under Section 303 of the Act the following types of research/training activities may be supported: (1) mental health research grants; (2) mental health research scientist awards; (3) mental health clinical or service related training grants; and (4) mental health national research service awards. FY 1987 appropriations (est.): \$207 million.

References: Title III, Public Health Service Act, as amended. P.L. 88-164, P.L. 89-109, P.L. 91-211, P.L. 91-515, P.L. 94-63, P.L. 95-622 and P.L. 99-158. 42 U.S.C. 242. C.F.D.A.: 13.242, 13.244, 13.281 and 13.282.

3. *Ethical Considerations.* Title XVIII of the Act establishes the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. Among the statutory aims of the Commission is the study of issues concerning handicapped persons, covering: (a) voluntary testing, counseling, information and education programs regarding genetic diseases and conditions; (b) the protection of human subjects in research; (c) the requirements for informed consent; and (d) the protection of privacy. Other issues to be studied by the Commission include: (a) defining "death"; (b) voluntary genetic testing and counseling; (c) differences in the availability of health services in regard to a person's income or location; and (d) confidentiality of records.

References: Title XVIII, Public Health Service Act. P.L. 93-348, P.L. 95-622 and P.L. 99-158. 42 U.S.C. 300v. C.F.D.A.: N/A

C. Legislative History

1. *Prevention.* Title III of the Public Health Service Act of 1944 (P.L. 78-410) established the general powers and duties of the federal Public Health Service, including a number of prevention activities. The following amendments to the Act further enhanced the prevention functions of the Service:

a. In 1962, the Vaccination Assistance Act (P.L. 87-868) authorized aid to state and community health agencies to carry out intensive vaccination programs against polio, diphtheria, whooping cough and tetanus, particularly for preschool aged children. The Act was later extended by the Communicable Disease Control Amendments of 1970 (P.L. 91-464), 1972 (P.L. 92-449), 1976 (P.L. 94-317) and 1985 (P.L. 99-158);

b. In 1970, the Lead-based Paint Poisoning Prevention Act (P.L. 91-695) was enacted to provide federal assistance to protect children from the debilitating effects of lead in their environment. The Act was later amended and extended in 1974 (P.L. 93-151), 1976 (P.L. 94-317) and 1978 (P.L. 95-626). The program was consolidated into the Maternal and Child Health Block Grant by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

c. Research into the genetic or hereditary causes of Cooley's anemia and sickle cell anemia, and testing, counseling and treatment of these diseases were authorized in 1972 under the National Cooley's Anemia Control Act (P.L. 92-414) and the National Sickle Cell Anemia Control Act (P.L. 92-294);

d. The Health Research and Health Services Amendments of 1976 (P.L. 94-278) replaced the sickle cell anemia and Cooley's anemia programs with an expanded authority applicable to all genetic diseases, with priority retained for anemia projects. Amendments to the Act in 1978 (P.L. 95-626) expanded the description of genetic conditions covered under the law to include mental retardation and other genetically-caused mental disorders; and

e. P.L. 94-278 and P.L. 95-626 also provided for the establishment of hemophilia research and treatment centers. Federal support for the hemophilia centers was consolidated into the Maternal and Child Health Block Grant under the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

2. *Mental Health Programs.* Mental health research, training and statewide planning and services were originally authorized under Title III of the Public Health Service Act, as amended in 1946. The National Mental Health Act of 1946 (P.L. 79-487) provided for research relating to psychiatric disorders, and aid in the development of more

effective methods of prevention, diagnosis and treatment of such disorders. The 1956 amendments to the Act (P.L. 84-911) authorized federal support for training of mental health personnel.

Aid for state level mental health planning and services was added to Section 314(d) of the PHS Act under the Comprehensive Health Planning and Public Health Services Amendments of 1966 (P.L. 89-749). The legislation stipulated that fifteen percent of the funds appropriated for comprehensive health services under Section 314(d) were to be set aside for state mental health programs.

In 1965, amendments to Title III (P.L. 94-63) required state mental health authorities to submit deinstitutionalization plans and to perform other functions including standard-setting, screening clients before commitment to a mental institution, and follow-up services for discharged patients. The Community Mental Health Centers Amendments of 1978 (P.L. 95-622) pulled state mental health planning and services out of Section 314(d) and established it as a separate authority under Section 314(g), with a separate funding authorization. The planning functions of state mental health authorities were expanded by provisions coordinating the mental health plan with the state health plan developed under Title XV of the PHS Act.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) placed authority for mental health planning and services into the Alcohol, Drug Abuse and Mental Health Block Grant authorized under Title XIX of the Public Health Service Act (see page 56). The State Comprehensive Mental Health Services Plan Act of 1986 (P.L. 99-660) expanded the requirements for state mental health plans.

3. *Ethical Issues.* Reflecting the growing national concern over the adequacy of procedures for reviewing and monitoring research projects involving human subjects, especially mentally incompetent, institutionalized individuals, Congress, in 1974, established the President's Commission on Protection of Human Subjects of Biomedical and Behavioral Research. Authority for the Commission was contained in the National Research Act of that year (P.L. 93-348). The Commission was reauthorized and its mandate broadened under the Public Health Service Act Amendments of 1978 (P.L. 95-622). At that time the Commission was renamed the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research and its authority placed in a new Title XVIII of the PHS Act.

The Health Research Extension Act of 1985 (P.L. 99-158) established an independent Congressional Biomedical Ethics Board, patterned after the Office of Technology Assessment. The Board studies and reports to Congress on ethical issues arising from the delivery of health care

and biomedical research, including the protection of human subjects of such research and new developments in genetic engineering.

In addition, P.L. 99-158 included provisions defining the circumstances under which research may be conducted on living human fetuses. The Secretary may support only research projects that: (a) may enhance the well-being or meet the health needs of the fetus; (b) enhance the probability of the fetus' survival to viability; or (c) develop important biomedical knowledge that cannot be obtained through other means and that will pose no added risk of suffering, injury or death to the fetus.

4. *Vaccine Injury Compensation Program.* The National Childhood Vaccine Injury Act (P.L. 99-660) created a system to compensate children for injuries received from routine pediatric immunizations and reduce the liability of manufacturers in order to hold down vaccine price increases. The Act established the basic structure of the program under Title XXI of the Public Health Service Act, but funding was not provided to implement the program until 1987. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) created a Vaccine Injury Compensation Trust Fund, financed by excise taxes on specified childhood vaccine. The law, which sets up improved mechanisms for vaccine research, testing, development, licensing and recordkeeping, as well as modified procedures for determination of liability, will be in effect from October 1988 until September 1992.

HEALTH PLANNING, SERVICES AND RESOURCES DEVELOPMENT

A. Overview

The Public Health Service Act authorizes several programs to stimulate improved health planning and resource development and provide primary and supplemental health care and preventive services. The Preventive Health and Health Services Block Grant provides states with resources for comprehensive preventive health services. Community health centers offer primary and supplemental health services as well as environmental health services to medically underserved populations.

Title XVI of the Act establishes a national program of loans and grants to construct and modernize medical facilities, replace obsolete facilities and reduce excess hospital capacity. One of the goals of this program is to renovate and modernize medical facilities, particularly to prevent or eliminate safety hazards and avoid noncompliance with licensure or accreditation standards.

B. Major Programs Affecting Persons with Handicaps

1. *Community Health Centers.* Under Section 330 of the Public Health Service Act public or non-profit agencies, institutions, organizations

and a limited number of state and local governments may obtain project grants to support the development and operation of community health centers, which provide primary health services, supplemental health services (including hospital care health services to medically underserved populations). Priorities are focused on funding existing centers which have demonstrated sound fiscal and management capabilities, developed and implemented procedures to improve quality of care and maximized third-party reimbursement levels. FY 1987 appropriations: \$40 million.

References: Section 330, Public Health Service Act, as amended by P.L. 99-280. 42 U.S.C. 254c. C.F.D.A.: 13.224.

2. *Preventive Health and Health Services Block Grant.* Title XIX of the Public Health Services Act provides block grants to states (according to a formula based on 1981 allocations) to provide comprehensive health services, including home health services, emergency medical services, health incentive activities, hypertension programs, rodent control, foundation programs, health education and risk reduction, and services for rape victims. Federal block grant funds may not be used for the direct provision of home health services, but rather to demonstrate the establishment of such services in areas where home health agencies are not available. To obtain the formula grant, each state must submit an application that complies with the legislative requirements; each state must also submit an annual report on its program activities. FY 1987 appropriations: \$89 million.

References: Title XIX, Public Health Service Act as amended by P.L. 97-35 and P.L. 98-555. 42 U.S.C. 300W-4. C.F.D.A.: 17.991.

3. *Outpatient Medical Facility Improvement.* The Outpatient Medical Facility Improvement program, authorized under Part A of Title XVI, establishes a loan program to assist communities to renovate, expand, repair, equip or modernize migrant health centers or community health centers funded under Title III of the Act. To be eligible for such grant funds, facilities must provide health services to medically underserved populations, including low-income, minority or migrant populations. FY 1987 appropriations: \$5 million.

References: Part C, Title XVI, Public Health Service Act, as amended P.L. 93-641, P.L. 99-500 and P.L. 99-591. 42 U.S.C. 360r. C.F.D.A.: 13.887.

4. *Medical Facilities Construction.* Project grants are authorized under Title XVI, Part D, of the PHS Act for construction and modernization of medical facilities and to assist in the prevention or elimination of safety hazards in publicly-owned or operated medical facilities. Grants also may be made to help facilities come into compliance with licensure or accreditation standards. Awards are made to public or quasi-

public agencies, or organizations owning or operating medical facilities. This program was not funded in FY 1987.

References: Part B, Title XVI, Public Health Service Act, as amended. P.L. 93-641, P.L. 99-500 and P.L. 99-591. 42 U.S.C. 300r. C.F.D.A.: N/A.

C. Legislative History

Resource development and planning have been important activities under the Public Health Service Act since 1946. The Hospital Survey and Construction Act of 1946 (P.L. 79-725) provided assistance to help the states both determine the need for new hospitals and develop a hospital construction program. States which applied for funds were required to establish a state advisory council to consult with the state agency responsible for surveying and building hospitals.

The Comprehensive Health Planning and Public Health Service Amendments of 1966 (P.L. 89-749) significantly expanded the national focus on comprehensive health planning activities. P.L. 89-749 authorized grants to the states for comprehensive planning, with allotments based on population and per capita income. The 1966 amendments also provided for project grants to support: (1) area-wide health planning; (2) health services development; (3) training studies; and (4) demonstration projects.

This comprehensive health planning authority was revised and extended by amendments to the Public Health Service Act in 1967 (P.L. 90-147), 1968 (P.L. 90-574), 1970 (P.L. 91-515) and 1973 (P.L. 93-45).

The National Health Planning and Resource Development Act of 1974 (P.L. 93-641) consolidated the former comprehensive health planning and regional medical programs under a new Title XV of the Public Health Service Act. Health planning agencies, for the first time, were given authority to enforce their plans through a regulatory mechanism called "certificate of need." Under the 1974 Act, all proposed new construction of health facilities or addition of services was to be subject to prior review and approval by state and local health planning agencies. These planning agencies also were given a role in approving federal health and mental health grants, contracts, loans, and loan guarantees made under the Public Health Services Act and the Community Mental Health Centers Act.

In addition, P.L. 93-641: (1) established a nationwide network of public and nonprofit agencies, called Health Systems Agencies (HSA), to be responsible for health and mental health planning and resource development in specified geographic areas; (2) required the states to create State Health Planning and Development Agencies to perform health planning and development functions. These agencies, in turn, were to receive advice from State Health Coordinating Councils; (3) established

a National Health Planning and Information Center; (4) created a National Advisory Council on Health Planning and Development to advise the Secretary of HHS; and (5) authorized federal aid to the states for health planning and development.

Federal involvement in the construction of health facilities also began with the passage of the Hospital Survey and Construction Act of 1946 (P.L. 79-725), the "Hill-Burton" Act. The Act authorized grants to assist states in the construction of public and nonprofit hospitals. In 1964, the Hill-Harris Hospital and Medical Facilities Amendments (P.L. 88-443) consolidated and revised the 1946 amendments, and also authorized grants to state agencies for the construction of public or nonprofit facilities for long term care, diagnostic or treatment centers, and rehabilitation facilities.

The Medical Facilities Construction and Modernization Amendments of 1970 (P.L. 91-296) authorized grants, loan guarantees and direct loans for the construction and modernization of hospitals and other medical facilities. The amendments also permitted grant funds to be used to construct or modernize emergency rooms in general hospitals and for the evaluation of health programs.

The Health Planning and Resource Development Act of 1974 (P.L. 93-641) once again revised health facilities construction and modernization programs and authorized funding for developing new health resources. These programs were reorganized under a new Title XVI of the Public Health Service Act. Under the 1974 legislation, the statutory requirements of Title XVI were coordinated with the health planning provisions of Title XV.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) consolidated eight categorical grant programs authorized under the Public Health Services Act into a single health prevention and services block grant program. The component authorities included grants for: home health services; rodent control; school-based fluoridation, health education and risk reduction; health incentives; hypertension control, rape crisis centers; and emergency medical services.

P.L. 97-35 significantly cut the funding for these programs while offering states increased flexibility in the utilization of federal funds.

The Preventive Health Amendments of 1984 (P.L. 98-555) included authorization for the Secretary of HHS to make grants to states to assist them to: (1) develop long range health plans, (2) identify particular health needs in the states and provide services to meet those needs, and (3) determine the state's progress in meeting the identified goals and priorities.

The Primary Care Amendments of 1985 (P.L. 99-280) extended the

community health center program and authorized the Secretary of HHS to enter into memoranda of agreement with states to permit them, where appropriate, to: (1) analyze the need for health care services for medically underserved populations; (2) assist in the planning and development of new community health centers; (3) review and comment on health center plans and budgets; and (4) provide technical assistance and information and the development and operation of community health centers.

Title VII of the Public Health Services Act Amendments of 1986 (P.L. 99-660) repealed Title XV of the Public Health Service Act. Planning functions under the Act are now located in Title III and Title XIX.

MILITARY MEDICAL BENEFITS ACT (CHAMPUS)

The Military Medical Benefits Act Amendments of 1966 (P.L. 89-614) expanded health care benefits for dependents of active duty members of the uniformed services (the Army, Navy, Marine Corps, Air Force, Coast Guard and the Commissioned Corps of the Public Health Service). Among the expanded benefits of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) was coverage for certain services to military dependents with handicapping conditions.

Under the CHAMPUS Program for the Handicapped, the spouse or child of an active duty member is eligible for services if he or she has a serious physical handicap or is moderately to severely mentally retarded. The dependent's condition, however, must: (1) be expected to result in death; have lasted for 12 months; and be expected to last for at least another 12 months; and (2) keep the individual from engaging in substantially productive activity of daily living expected of unimpaired individuals in the same age group.

The Program for the Handicapped covers the following health and education-related costs: (1) diagnosis; (2) inpatient, outpatient, and home treatment; (3) training, rehabilitation and special education; (4) institutional care in public and private nonprofit institutions and facilities, and transportation to and from such facilities when necessary; (5) payment for nutrient solutions for patients requiring special feeding at home; and (6) the purchase and maintenance of durable equipment.

The law provides for a sliding scale of monthly deductibles payable by the active duty member, based upon his or her pay grade. Those in the lowest enlisted pay grade are required to pay the first \$25 each month of expenses incurred by their dependents. Four star generals and admirals are similarly required to pay the first \$250 each month. All other active duty members with participating dependents pay amounts in between these statutory limits, as determined by the Secretary of Defense. The Government pays an amount above the

deductible, not to exceed \$1000 per month. However, CHAMPUS will not pay benefits under the Program for the Handicapped when public resources are available to the dependent with handicaps in the same manner and to the same extent as any other citizen of the local community or state.

The Program for the Handicapped was established because of the recognition that payment for the special needs of military dependents with mental retardation or physical handicaps is frequently such a drain on the financial resources of the service member that it prevents him or her from maintaining an acceptable standard of living. In addition, handicapped dependents of service members on active duty may not qualify for public programs because they do not meet residency requirements.

In 1971, amendments to the Act (P.L. 92-58) extended benefits under the Program for the Handicapped to an unmarried child, under age 21, of a deceased service member who died while eligible for hostile fire pay or from a disease or injury incurred while eligible for such pay.

In 1980 amendments to the Act, the maximum CHAMPUS benefit was increased from \$350 to \$1000 per month. The Department of Defense Authorization Act (P.L. 96-342) also expanded CHAMPUS coverage to provide payments for nutrient solutions for patients requiring special feeding at home.

References. Military Medical Benefits Act, as amended. P.L. 89-614, P.L. 92-58 and P.L. 96-342. 10 U.S.C. 55. C.F.D.A.: N/A.

HOUSING

UNITED STATES HOUSING ACT OF 1937

A. Overview

The Housing Act of 1937, as amended, authorizes two programs that may be used to assist persons with handicaps and elderly persons to obtain suitable living accommodations. Section 8 of the Act authorizes funding for a program of direct housing assistance payments, or rent subsidies, on behalf of low-income families. The basic statutory aim of the so-called Lower Income Housing Assistance program is to help economically disadvantaged families obtain "a decent place to live" and to promote "economically mixed housing."

Title IV of the Act authorizes congregate housing services for persons who are elderly or handicapped. Congregate housing services are defined as a combination of residential shelter and social services, such as meals, housekeeping assistance, and help with grooming and personal hygiene.

B. Major Program Affecting Persons with Handicaps

1. *Rent Subsidies:* The Lower Income Housing Assistance program authorizes direct payments to participating private home owners and public housing agencies in return for furnishing decent, safe and sanitary housing for certain low income families. Housing assistance payments are used to make up the difference between the maximum approved "fair market" rent for the dwelling unit and the occupant family's net income. Assisted families are required, by law, to contribute up to 30 percent of their adjusted family income toward rent. As defined in the Act, the term "lower income family" includes single persons with handicaps. The term "handicapped" refers to persons who have an impairment which: (1) is expected to be of longcontinued and indefinite duration; (2) substantially impedes the person's ability to live independently; and (3) is of such a nature that the person's abilities could be expected to be improved by more suitable housing conditions.

The Section 8 program is aimed not only at the need to increase the rent-paying capacity of low-income families, but also to stimulate the production and rehabilitation of low-income housing, although in recent years the program has been used primarily to support existing housing units. Section 8 assistance is available in the following types of

housing; (1) existing housing; (2) privately developed new or substantially rehabilitated housing; (3) publicly developed new or substantially rehabilitated housing; and (4) new state agency-sponsored housing developments, for which Section 8 set-asides are allocated. FY 1987 appropriations: \$5.6 billion.

References: Housing Act of 1937, as amended. P.L. 93-383, P.L. 94-375, P.L. 95-557, P.L. 96-153, P.L. 96-399, P.L. 97-35, P.L. 98-181 and P.L. 100-142. 42 U.S.C. 1437f. C.F.D.A.: 14.156.

2. Housing Vouchers. The Housing Voucher program provides Section 8 housing assistance payments to participating owners on behalf of eligible tenants to provide safe and sanitary housing for very low income tenants, including persons with handicaps at rents they can afford. The amount of the housing assistance payment is the difference between the local payment standard (i.e., a measure of prevailing rents for comparable housing in the particular area) and 30 percent of the family's adjusted income. The voucher system is also referred to as "the modified Section 8 existing housing certificate." A major difference between the standard Section 8 program and the voucher program is that rents are negotiated between tenants and landlords, and not held to the maximum fair market rates. Thus, if a tenant finds a unit that costs less than the Department of Housing and Urban Development's (HUD) rent standards, the tenant may keep some of the subsidy; conversely, if the unit costs more than 30 percent of the individual's income, the individual must make up the difference. Another difference is that assistance under the voucher program is limited to 5 years, while Section 8 existing housing contracts cover a 15 year period. FY 1987 appropriations: \$1.03 billion.

References: Section 8(o) of the Housing Act of 1937, as amended by the Housing and Urban-Rural Recovery Act of 1983, P.L. 98-181 and the Housing and Community Development Act of 1987, P.L. 100-142. 42 U.S.C. 1437(o). C.F.D.A.: 14.177.

3. Congregate Housing. The Section 7 congregate housing services program is aimed at enabling functionally impaired persons to remain substantially independent, within their own residences, and thus avoid unnecessary institutionalization. The program provides for 3-to-5 year contracts with local public housing authorities or Section 202 elderly/handicapped housing sponsors. Contractors are responsible for furnishing otherwise unavailable social services to frail elderly and handicapped tenants. A full service food program (at least two meals per day, seven days per week) is the minimum service which a contractor must provide; however, the sponsor is given flexibility in developing other social services designed to meet the needs of tenants with impairments. The other services provided may include transportation, personal care or housekeeping assistance.

Applicants serving nonelderly persons with handicaps are obliged to

consult with agencies responsible for serving persons with handicaps, including vocational rehabilitation agencies, developmental disabilities councils, and state mental health/mental retardation agencies. FY 1977 appropriations: \$5.9 million.

References: Housing Act of 1937, as amended. P.L. 91-609, P.L. 93-383, P.L. 96-153, P.L. 96-399, P.L. 97-35, P.L. 98-181 and P.L. 100-142. 42 U.S.C. 14001. C.F.D.A.: 14.170.

C. Legislative History

The first attempt to federally subsidize families in privately owned and managed housing came under Section 23 of the Housing Act of 1965 (P.L. 89-117), the so-called Leased Housing program. This program allowed local housing authorities to lease apartment units available in the private housing market. Eligible low-income families were placed in these units and the federal government paid the difference between the monthly rent and 25 percent of the family's adjusted income.

The Housing and Community Development Amendments of 1974 (P.L. 93-383) expanded the Section 23 program into a new Lower Income Assistance program, established under Section 8 of the Housing Act of 1937 (P.L. 75-412). The 1974 amendments defined "low-income families," for purposes of Section 8, to include families consisting of single persons who were disabled as defined in Section 223 of the Social Security Act, or Section 102 of the Developmental Disabilities Act. Families were also defined to include two or more elderly, disabled or handicapped individuals living together, or one or more person living with another person determined to be essential to their care and well-being.

The Housing Authorization Act of 1976 (P.L. 94-375) prohibited rent subsidy payments under Section 8 from being counted as income in determining whether an aged or handicapped person would be eligible for Supplemental Security Income benefits. This provision was intended to prevent certain needy elderly and handicapped persons from suffering a reduction in their SSI benefits when they move into a federally-assisted housing project.

The Housing and Community Development Amendments of 1978 (P.L. 95-557) authorized funds for "moderate rehabilitation" projects in Section 8-subsidized existing housing units. The new provisions scaled Fair Market Rents in rehabilitated units to the amount of the owner's investment in the project. The 1978 law further revised Section 7 of the Act to temporarily authorize direct federal support for the provision of congregate services to elderly and non elderly disabled persons. Under the new language, HUD was permitted to enter into contracts with Section 202 housing sponsors and local public housing authorities for the provision of congregate housing services to such persons. These

contractors were obligated to furnish otherwise unavailable social services, including meal services, to frail elderly and nonelderly disabled persons.

The Housing and Community Development Act of 1980 (P.L. 96-399) established a loan limit for rehabilitating congregate housing units, to include renovation of individual units as well as congregate areas, such as kitchens, dining rooms and living rooms. P.L. 96-399 also permitted HUD to use up to \$20 million in Section 8 subsidies to assist elderly applicants or applicants with handicaps who reside in multi-family rental housing supported through Section 236 of the U.S. Housing Act of 1937, when such individuals are spending more than 50 percent of their income on rental payments. The 1980 Act also required the Secretary of HUD to develop and submit to Congress a report examining existing data sources to determine: (1) the housing needs and conditions of persons with handicaps; (2) the gaps in available housing sources; (3) alternative ways to fill these information gaps; and (4) methods of locally assessing the housing needs of persons with handicaps.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) made significant funding cuts in the Section 8 program. P.L. 97-35 also: (1) gradually increased the portion of rent paid by tenants in subsidized housing from 25 to 30 percent of their net income; and (2) required the Secretary of HUD to maintain a 45 to 55 percent balance between the number of existing housing units allocated in FY 1982 and newly constructed/substantially rehabilitated units.

In addition, P.L. 97-35 included language which: (1) restricted the discretion of the Secretary of HUD to allow persons making more than 80 percent of the median income to reside in subsidized housing; (2) required that, on a national basis, no more than 10 percent of the occupants of federally-assisted housing may have incomes between 50 and 80 percent of the median; and (3) limited to 5 percent, in newly subsidized units, the number of occupants with incomes between 50 and 80 percent of the median. The law also limited future rent increases in subsidized housing to ten percent.

The Housing and Urban-Rural Recovery Act of 1983 (P.L. 98-181) continued the existing Section 8 certificate program, but also established a demonstration voucher program. Use of the original 15,000 vouchers authorized under this legislation was limited primarily to HUD's new rental rehabilitation program; however, 5,000 units were allocated to a "free-standing" program to provide an opportunity to compare the existing certificate program with the voucher program. Continuing resolutions for HUD programs in subsequent years increased the appropriations for the voucher program. The program was made a permanent feature of Section 8 by the Housing and Community Development Act of 1987 (P.L. 100-142).

In enacting the Housing and Community Development Act of 1987 Congress asserted that the Section 8 program did not adequately address the needs of persons with developmental disabilities, physical handicaps or chronic mental illness. Therefore, with respect to nonelderly persons with handicaps, P.L. 100-142 required that instead of Section 8 housing assistance payments, the Section 202 program (for details on this program see discussion below) would provide an operating subsidy based on the difference between costs and maximum allowable tenant rents. The subsidy level would be based on HUD's determination of the amount it would cost to build and operate specific projects after applying the Department's cost containment policies and taking into account design considerations which recognize the special needs of persons with handicaps. However, no appropriation was made for the new program in FY 1988, so projects for persons with handicaps remained subject to the Section 8 program.

P.L. 100-142 also made the Congregate Housing Services program a permanent statutory authority and required the Secretary to submit to Congress a report on the number of elderly persons living in federally-assisted housing who are at-risk of institutionalization and recommend alternative uses of the Congregate Housing Services program to serve such individuals.

HOUSING ACT OF 1949

A. Overview

Title V of the Housing Act of 1949, as amended, authorizes direct and insured loans for the development and rehabilitation of rural housing. Persons with handicaps were made eligible to participate in such rural housing programs under the Housing and Community Development Amendments of 1977 (P.L. 95-128).

Among several housing assistance programs authorized under Title V, the Rural Housing Loan program and the Rural Rental Assistance Payments program offer the greatest potential benefits to persons with handicaps.

For purposes of Title V programs, a person is considered handicapped if he or she is determined to have an impairment which: (1) is expected to be of long-continued and indefinite duration, (2) substantially impedes his or her ability to live independently; and (3) is of such a nature that such ability could be improved by more suitable housing conditions. A person is also considered to be handicapped if he or she has a developmental disability, as defined in the Developmental Disabilities Services and Facilities Construction Act of 1970.

B. Major Programs Affecting Persons with Handicaps

1. *Rural Housing for Persons Who are Elderly or Have Handicaps.* Section 515 of the Act authorizes guaranteed/insured loans to assist in the purchase, construction, improvement or repair of rental or cooperative housing for tenants who are elderly or have handicaps and live in rural areas. Loans may be made to individuals, cooperatives, nonprofit organizations, trusts or partnerships. Applicants must be able to answer the obligations of the loan, furnish adequate security and have sufficient income for repayment. The proceeds of such loans may be used to finance: (a) the construction, purchase, improvement or repair of congregate housing; (b) certain specially designed equipment required by persons with handicaps, such as ramps, adjustable work surfaces and grab bars; and (c) certain related services or recreational facilities. Funds may not be used for nursing, special care or institutional-type homes. FY 1987 appropriations: \$669 million.

References: Title V, Housing Act of 1949, as amended. P.L. 89-117, P.L. 89-754, P.L. 93-383, and P.L. 95-128. 42 U.S.C. 1485. C.F.D.A.: 10.415.

2. *Rural Rental Assistance Payments.* Section 521 of the Act authorizes a program of direct subsidies to reduce the effective rents paid by low-income families, including elderly and handicapped families or individuals, residing in rural rental housing, rural cooperative housing or farm labor housing projects. The Section 521 rent subsidy program is patterned after the Section 8 housing assistance payments program (see page 72). Contracts are made with the housing project sponsor to subsidize the rents of eligible tenants, when 30 percent of their adjusted net income will not cover the rental cost of decent housing. FY 1987 appropriations: \$160 million.

References: Title V, Housing Act of 1949, as amended. P.L. 90-448, P.L. 93-128, P.L. 93-383 and P.L. 95-128. 42 U.S.C. 1490a. C.F.D.A.: 10.427.

C. Legislative History

The Housing Act of 1949 was amended by the Senior Citizens Housing Act of 1962 (P.L. 87-723). At that time, a new Section 515 was added to the Act to authorize rural rental loans for housing designed to meet the needs of elderly persons. Authority for a rural rental assistance program was included in the Act under the Housing and Urban Development Act of 1968 (P.L. 90-448). Title V was expanded to cover persons with handicaps by the Housing and Community Development Amendments of 1977 (P.L. 95-128). The 1977 amendments also extended the Section 515 loan program to cover congregate housing for elderly and disabled persons. Congregate housing was defined in P.L. 95-128 as facilities for elderly persons or persons with handicaps who require some supervision and centralized services, but

who otherwise are capable of caring for themselves. Such housing was permitted to be used in conjunction with education and training facilities.

HOUSING ACT OF 1959

A. Overview

Section 202 of the Housing Act of 1959 authorizes direct loans for the construction or rehabilitation and management of rental (or cooperative) housing for elderly persons and persons with handicaps. Under the Act a "handicapped person" is defined as a person having an impairment which: (1) is expected to be of long continued and indefinite duration; (2) substantially impedes his or her ability to live independently; and (3) is of such a nature that such ability could be improved by more suitable housing conditions. The definition also specifically includes persons with developmental disabilities.

Elderly or handicapped "families" eligible to live in Section 202 projects may include: (1) two or more elderly persons or persons with handicaps living together; and (2) one or more elderly persons or persons with handicaps living with another person who is determined to be essential to his or her care or well-being. In addition to building or renovating the basic housing units, Section 202 direct loans may be used for certain related structures, designed to meet the specialized needs of elderly persons and persons with handicaps, including, "...cafeterias or dining halls, community rooms or buildings, workshops or infirmaries or other inpatient or outpatient health facilities, or other essential service facilities."

B. Major Programs Affecting Persons with Handicaps

1. *Section 202 Direct Loans.* Section 202 authorizes long-term (up to 40 years) direct federal loans to private nonprofit corporations and consumer cooperatives to provide housing and related facilities (such as central dining rooms) for elderly persons and persons with handicaps. The loans are made at below market interest rates. Such loans may be used to finance the construction or rehabilitation of detached, semi-detached, row, walk-up or elevator-type structures. Households of one or more persons, the head of which is at least 62 years old or has a handicap, are eligible to live in such structures. Housing for persons with handicaps must be located in residential areas. Section 8 payments (see page 71) are used to assist residents of housing constructed under the Section 202 program.

In approving Section 202 loans, the Secretary of HUD must ensure that: (1) funds are used to support a variety of types of housing for individuals with handicaps, ranging from small group homes to independent living complexes; and (2) that assisted housing projects provide

residents with an "assured range of services" and "opportunities for optimal independent living and participation in normal daily activities..." by facilitating access to the community-at-large and suitable employment opportunities.

In 1987, funding reservations for Section 202 loans totaled \$557 million, and financed 12,689 rental housing units. Of this total, 2,930 units (or 19 percent) were for persons with handicaps.

References: Title II, Housing Act of 1959, as amended. P.L. 88-560, P.L. 93-383, P.L. 94-375, P.L. 95-128, P.L. 95-557, P.L. 96-153, P.L. 96-399, P.L. 97-35, P.L. 98-181 and P.L. 100-142. 12 U.S.C. 1710q. C.F.D.A.: 14.157.

2. *Supportive Housing Demonstration Program.* The Supportive Housing Demonstration program consists of a transitional housing program and a permanent housing program for homeless persons with handicaps. Transitional housing is defined as an assisted project that provides housing and supportive services to homeless persons with the goal of moving them to permanent housing within 18 months. Services may include: assistance in obtaining housing, medical and psychological services, nutrition counseling, assistance in obtaining other public assistance, child care, transportation, job training or other services.

The permanent housing for handicapped homeless persons program provides community-based, long-term housing and supportive services for not more than eight homeless persons who are handicapped, using the Section 202 definition. A "handicapped homeless person" is a person who is handicapped and: (1) homeless; (2) not currently homeless but at risk of becoming homeless; or (3) a resident of a transitional project.

Assistance under both programs includes: (1) advances to cover the acquisition and/or substantial rehabilitation of existing structures; (2) grants for moderate rehabilitation; (3) funding of operating costs (for transitional programs only); and (4) technical assistance through HUD field offices. Existing Section 202 projects may not be supported under this program. FY 1987 appropriations: \$80 million.

References: Subtitle C, Title IV of the Stewart B. McKinney Homeless Assistance Act, P.L. 100-77. 42 U.S.C. 11381. C.F.D.A.: N/A.

3. *Mortgage Insurance.* Section 232 of the Housing Act of 1959 authorizes federal mortgage insurance to facilitate the financing or rehabilitation of skilled nursing, intermediate care or board and care facilities. Section 232 also provides loan insurance to install fire safety equipment. Insured mortgage funds may be used to finance construction or renovation of facilities to accommodate 20 or more individuals requiring skilled nursing care and related medical services, or those who, while not in need of nursing home care, are in need of minimum but continuous care provided by licensed or trained personnel. Board

and care homes are also eligible but must have a minimum of five accommodations or units. Nursing homes, intermediate care services and board and care homes may be combined in the same facility or be in separate facilities. Major equipment for operation may be included in the mortgage. FY 1987 appropriations: \$323 million.

References: Housing Act of 1959, P.L. 86-372 and Urban Development Act of 1969, as amended. P.L. 91-152, P.L. 95-128, P.L. 96-153 and P.L. 98-181. 12 U.S.C. 1752. C.F.D.A.: 14.129.

C. Legislative History

Section 202 of the Housing Act of 1959 (P.L. 86-372) originated as a program of direct loans to aid local, nonprofit agencies in furnishing appropriate housing for elderly individuals. The Housing Act of 1964 (P.L. 88-560) amended Section 202 to extend housing loans to projects for persons with physical handicaps as well. The Housing and Community Development Act of 1974 (P.L. 93-383) further revised the Section 202 loan program to provide a substantially improved subsidy mechanism and a broader target population, encompassing both persons with physical and mental handicaps. Individuals with developmental disabilities were explicitly included in the amended statutory definition of eligible "low income families."

The Housing Authorization Amendments of 1976 (P.L. 94-375) eliminated several additional barriers to participation by nonelderly persons with handicaps. Changes made by the 1976 amendments included: (1) increased authorization levels for the program; (2) modification of the definition of "elderly or handicapped families" to permit certain additional groupings of such persons to qualify; and (3) provisions designed to lower the effective interest rates on Section 202 loans.

The Housing and Community Development Act of 1977 (P.L. 95-128) eliminated one further barrier to financing appropriate housing projects under Section 202, by eliminating the requirement that Section 202 project costs be tied to mortgage insurance program limits, established under Section 231. The 1977 amendments also mandated coordination and joint processing of applications for Section 202 loans and Section 8 rental assistance payments, in order to reduce the time required to process Section 202 projects.

The Housing and Community Development Amendments of 1978 (P.L. 95-557) mandated that a minimum of \$50 million in FY '79 Section 202 loan funds be set aside for the construction and rehabilitation of housing for nonelderly persons with handicaps. These earmarked funds were to be used to "serve the unique needs of handicapped individuals between the ages of 18 and 62 or families with a handicapped member or members of any age." The statutory purpose of these set-aside funds was to: (1) support innovative methods of meeting the needs of per-

sons with handicaps by providing a variety of housing options ranging from small group homes to independent living complexes, (2) provide occupants with handicaps with an assured range of services and opportunities for optimal independent living and participation in normal daily activities; and (3) facilitate the access of persons with handicaps to general community activities and to suitable employment within the community.

P.L. 95-557 also authorized the inclusion of expenses for movable furnishings in the development costs of a Section 202 project. Such costs could be covered by the loan, the legislation provided, if they were necessary to the basic operation of the project.

The Housing and Community Development Amendments of 1980 (P.L. 96-399) expanded the Section 202 program to include the purchase and moderate rehabilitation of existing housing designed primarily to serve nonelderly persons with handicaps. Previously, such loans could only be used for construction or substantial renovation.

The Housing and Community Development Act of 1987 (P.L. 100-142) required the Secretary of HUD to earmark at least 15 percent of Section 202 loan authority for use in developing housing for nonelderly persons with handicaps. [This requirement conflicted with HUD's appropriation bill, authorized as part of the Omnibus Continuing Resolution of 1987 (P.L. 100-202), which required 25 percent of the Section 202 loan authority to be earmarked for persons with handicaps. As of this writing, this statutory conflict has not been resolved.]

P.L. 100-142 also directs the Secretary of HUD to adopt distinct standards and procedures which take into account the differences between the housing needs of persons with handicaps and elderly persons. In carrying out his responsibilities under the bill, the Secretary is permitted on a demonstration basis, to test the feasibility and desirability of limiting the design of projects for nonelderly persons with handicaps to a small number of prototypical configurations. The purpose of the demonstration is to determine whether the use of preapproved designs would reduce processing time and costs.

In addition, under P.L. 100-142, the Section 8 rental subsidy used to support Section 202 loans will be replaced, for projects serving nonelderly persons with handicaps only, by a 20 year contract covering all actual, necessary and reasonable costs not covered by other sources of project income. The new mechanism, authorized under Section 162 of the Act was not funded in FY 1988.

When Section 162 is implemented, each applicant for a Section 202 "nonelderly handicapped loan" will be required to submit a supportive services plan describing: (1) the category of persons with handicaps to be served; (2) the range of necessary supportive services; (3) the

manner in which such services will be provided; and (4) the extent of state and local funds available to assist in the provision of such services.

The Stewart B. McKinney Homeless Assistance Act (P.L. 100-77), designed to provide housing, health, food and employment assistance to millions of homeless Americans, included authorization for a demonstration program to provide housing and supportive services for homeless individuals and families with special needs. Subtitle C of Title IV authorizes the Supportive Housing Demonstration program. In passing the law, Congress authorized \$80 million for grants to the states in FY 1987, of which no less than \$20 million must be set aside for transitional housing projects that serve homeless families with children and no less than \$15 million must be earmarked for permanent housing serving homeless persons who have handicaps.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

A. Overview

The Housing and Community Development Act of 1974 established the Community Development Block Grant (CDBG) program, a major source of federal aid for urban areas. These block grants may be used to support a number of projects benefiting persons with handicaps, including architectural barrier removal and construction of special public facilities. The needs of persons with handicaps must be reflected in each locality's Housing Assistance Plan, a blueprint for developing appropriate housing for low income families and individuals in the community.

B. Major Programs Affecting Persons with Handicaps

1. *Entitlement Grants.* Title I of the Act authorizes formula grants to cities and urban counties that agree to perform a variety of housing and community development functions. Allocations are based on a statutory formula which uses several objective measures of community need, including poverty, population, housing overcrowding and housing activities. Among the wide range of purposes for which a local jurisdiction may use Title I dollars are the following activities which may benefit handicapped persons: (a) the acquisition, construction, reconstruction or rehabilitation of public facilities, including centers for persons with handicaps; (b) special projects to remove architectural barriers; and (c) the provision of public services under certain restricted circumstances. In general, Title I funds may not be used to: (a) construct general government buildings, schools, hospitals, nursing homes and residential housing; (o) purchase equipment or transportation facilities; (c) cover operating and maintenance expenses (except for eligible public services); and (d) make income maintenance payments.

The basic CDBG application must include: (1) an identification of community development and housing needs, including both short term and long range objectives; (2) a list of the activities to be undertaken; (3) an estimate of costs; (4) the general locations of all activities; (5) a description of other resources that will be utilized; (6) maps indicating any concentrations of minority groups or lower income families; and (7) a Housing Assistance Plan which includes a survey of the housing stock in the local jurisdiction, an estimate of the housing assistance needs of lower income families, both one year and three year housing assistance goals, and the locations proposed for new construction or rehabilitation activities. FY 1987 appropriations: \$3 billion.

References: Title I, Housing and Community Development Act of 1974, as amended. P.L. 93-383, P.L. 95-128, P.L. 95-557, P.L. 96-399 and P.L. 97-35. 42 U.S.C. 5301. C.F.D.A.: 14.218.

2. Non-Entitlement Grants. Title I also authorizes project grants to help develop viable urban communities by providing decent housing, a suitable living environment and expanding economic opportunities. The program provides grants to carry out a wide range of community development activities, including acquisition, rehabilitation or construction of certain public works facilities and improvements, clearance, housing rehabilitation, code enforcement, relocation payments and assistance, administrative expenses, economic development, urban renewal projects and certain public services.

Each state has the option of administering block grant funds provided for its non-entitlement areas. If this option is exercised, the block grant funds are provided to states which distribute them as grants to eligible units of government. If the option is not exercised, HUD continues to administer and award grant funds on a competitive basis, using selection criteria established by the Department. Of the annual CDBG appropriation, 30 percent is reserved for non-entitlement areas. FY 1987 appropriations: \$900 million.

References: Title I, Housing and Community Development Act of 1974, as amended. P.L. 93-383, P.L. 95-128, P.L. 95-557, P.L. 96-399 and P.L. 97-35. 42 U.S.C. 5301. C.F.D.A.: 14.219.

C. Legislative History

The federal government's involvement in community development assistance began with the passage of Title I of the Housing Act of 1949 (P.L. 81-171). Title I authorized urban renewal assistance to stimulate improvements in urban areas, slum clearance, and new construction. Various housing and urban development acts in the 1950's and 1960's created additional urban assistance programs, including model cities aid, water and sewer facilities loans, open spaces and neighborhood improvement grants, housing rehabilitation, and public facilities loans.

Title I of the Housing and Community Development Act of 1974 (P.L. 93-383) consolidated these various categorical urban aid programs into a single formula grant program, called the Community Development Block Grant program.

The program was designed to "provide assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning." Authority and responsibility for initiating and implementing community development plans were assigned to local elected officials. HUD was to participate as a review agency, with limited power to disapprove the award of block grant funds.

The primary objective of the CDBG program was the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities — principally for persons with low and moderate incomes. Two general types of funds were made available under the Community Development Block Grant program: (1) Entitlement Funds and (2) Discretionary Funds. Cities with populations of 50,000 or more, urban counties with 200,000 or more, and central cities in metropolitan regions (Standard Metropolitan Statistical Areas, or SMSA's) were to be eligible for entitlement funds.

Under the original 1974 Act, the funding level for a particular community was based upon a formula which took into account population, overcrowded housing, and poverty (the latter factor was double-weighted). However, the Housing and Community Development Act of 1977 (P.L. 95-128) added an alternative formula. Under the new approach, communities were permitted to receive either the amount computed under the old formula or under a new formula, whichever was greater. The new formula was calculated by multiplying growth lag (20 percent) times poverty (30 percent) times age of housing (50 percent).

The 1977 amendments also added a general requirement that the CDBG program description of community facilities and public improvements ensure full opportunity for participation by, and benefits to, handicapped persons.

The Housing and Community Development Amendments of 1976 (P.L. 94-375) added "Centers for the Handicapped" to the statutory list of purposes for which CDBG funds could be used.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) gave state and local jurisdictions increased discretion in the use of CDBG funds. The control of the non-entitlement funds were loosened. In addition, P.L. 97-35 streamlined the CDBG application and citizen participation processes.

CONSOLIDATED FARMS AND RURAL DEVELOPMENT ACT

Section 306 of the Consolidated Farms and Rural Development Act of 1972 authorizes a program of loans for rural community facilities. Loans may be used to construct, enlarge, extend or otherwise improve public facilities providing essential services to rural residents. Eligible applicants include state and local government agencies and other non-profit organizations or associations. A number of local communities have used the proceeds from such loans to build group homes and sheltered workshops for persons with developmental disabilities. FY 1987 appropriations: \$95 million.

References: Consolidated Farms and Rural Development Act of 1972, P.L. 92-419. 7 U.S.C. 1926. C.F.D.A.: 10.423.

INCOME MAINTENANCE

FEDERAL OLD AGE, SURVIVORS AND DISABILITY INSURANCE BENEFITS

A. Overview

Title II of the Social Security Act authorizes a program of Federal disability insurance benefits for workers who have contributed to the Social Security trust funds and become disabled or blind before retirement age. Disabled spouses and dependent children of fully insured workers (often referred to as the primary beneficiary) also are eligible for disability benefits upon the retirement, disability or death of the primary beneficiary.

Under the definition of disability in the Social Security Act, disability benefits (except those paid to widows, widowers and surviving divorced spouses) are provided to a person who is unable to engage in any "substantial gainful activity" by reason of a medically determinable physical or mental impairment that has lasted or is expected to last at least 12 months, or result in death. Applicants must furnish medical and other evidence as specified by the Social Security Administration to prove the existence of a disability.

Family members of disabled workers are eligible for benefits if they are: (1) unmarried children under 18 years of age or, if a student, under age 19; (2) unmarried adult offspring of any age if disabled before age 22; (3) wife or husband at any age if a child in his or her care is receiving benefits on the worker's Social Security record and is under age 16 or disabled; or (4) a spouse age 62 or over.

Individuals who have been entitled to disability benefits for 24 consecutive months are eligible to receive health insurance benefits under Title XVIII of the Social Security Act (Medicare). (For details on Medicare, see page 41.) In addition, the law requires that OASDI recipients be referred to the state's vocational rehabilitation agency in an effort to maximize the number of individuals with disabilities returned to productive activity.

B. Major Programs Affecting Persons with Handicaps

1. *Disability Insurance Benefits.* Title II authorizes a program of monthly cash benefits paid directly to eligible persons with disabilities and their eligible dependents throughout a period of disability. There are

no restrictions on the use of payments received by Social Security beneficiaries. The amount of the payment is based on the age at which the worker became disabled, his or her earnings and length of employment. Benefits may be reduced if other federal, state and local benefits are received. After applying for benefits individuals are required to wait five months before qualifying for Social Security Disability Income (SSDI) benefits. No new waiting period is required if a disabled worker returns to the disability rolls within five years of leaving the rolls.

To qualify for monthly payments, an individual must: (a) have paid Social Security taxes for enough years (i.e., roughly half the years since the person was 21 years of age); (b) not be working, or working but earning less than the "substantial gainful activity" level; and (c) be medically disabled, as determined by the state Disability Determination Service (or by an appeals process, involving an administrative law judge or district court) or during a "continuing disability review."

A continuing disability review may be conducted for any number of reasons, including: (a) when the original disabling condition is expected to improve over time; (b) when the case is scheduled for medical review (after three years if improvement is anticipated; seven years if it is not); or (c) when the Social Security Administration receives information that the individual's condition appears to have improved. If the individual is found to be no longer disabled, benefits are terminated, unless he or she is participating in an approved state vocational rehabilitation plan.

A new beneficiary must wait 24 months (in addition to the five month waiting period) to qualify for Medicare coverage. If a person's disability ended, but then he or she became re-eligible for benefits, it would not be necessary to wait for another 24 months to obtain Medicare coverage. FY 1987 appropriations (est.): \$19.9 billion.

References: Title II, Social Security Act of 1935, as amended. P.L. 89-97, P.L. 90-248, P.L. 92-603, P.L. 93-233, P.L. 95-216, P.L. 96-265, P.L. 97-35, P.L. 98-21 P.L. 98-369, P.L. 99-509 and P.L. 99-514. 42 U.S.C. 420-425. C.F.D.A.: 13.802.

2. Adult Disabled Child Program. Section 202(d) of the Act authorizes disability insurance payments to surviving children of retired, deceased or disabled workers (who were eligible to receive Social Security benefits), if the children possess permanent disabilities originating before age 22. The child's benefit payment is one-half the primary insurance amount of the eligible parent while the parent is living and receiving Social Security retirement or disability benefits, and three-fourths of the primary insurance amount after the eligible parent is deceased. FY 1987 appropriations: included in the total for the Disability Insurance program (see above).

References: Title II, Social Security Act of 1935, as amended by P.L. 90-248, P.L. 92-603, P.L. 93-66, P.L. 95-216, P.L. 96-473, P.L. 98-369, P.L. 99-509, P.L. 99-524 and P.L. 100-203. 42 U.S.C. 401. C.F.D.A: 13.802.

3. *Rehabilitation Services.* Section 222 of the Act requires the Social Security Administration to refer all applicants and recipients of OASDI disability insurance benefits to the state vocational rehabilitation agency. In addition, this section of the statute authorizes the transfer of funds from the Disability Insurance Trust Fund to state vocational rehabilitation agencies in order to reimburse such agencies for the provision of certain rehabilitation services provided to Title II applicants and beneficiaries. The VR agency is reimbursed for its services only after the recipient has been substantially gainfully employed for nine months. The goal of such services is to reduce the dependency of disabled beneficiaries on income assistance payments and, whenever possible, return them to remunerative employment.

Section 222 also authorizes a "trial work period," which is intended to help beneficiaries to test their ability to work without losing OASDI benefits. Under this provision, the beneficiary can work for nine months (not necessarily consecutive); each month that he or she earns more than \$75 is a countable month. At the end of a "trial work period," a beneficiary may qualify for an "extended period of eligibility," during which cash payments are continued if the individual's disability remains (i.e., he/she does not "medically recover") and the person does not perform "substantial gainful activity."

"Substantial gainful activity" is defined as the performance of significant physical and mental work activities for remuneration or profit. It is usually determined to be countable earnings in excess of \$300 per month. [N.B., the limit for blind individuals increases annually and is, therefore, considerably higher — i.e., \$680 in 1987]. Certain "impairment related work expenses" are deducted from a person's earnings in determining whether he/she is engaging in "substantial gainful activity."

The "extended period of eligibility," which may begin the month after the "trial work period" ends may last up to 31 months. If an individual never performs substantial gainful activity after this period, eligibility continues indefinitely and payment of benefits continues if all other eligibility factors are met. If the person performs substantial gainful activity for some of the months, he or she receives benefits only for the months of nonsubstantial gainful activity.

In FY 1987, approximately \$28 million was transferred from the Disability Insurance Trust Fund to pay for vocational rehabilitation services under the "Beneficiary Rehabilitation" program.

References. Title II. Social Security Act of 1935, as amended. P.L. 89-97, P.L. 92-603, P.L. 93-66, P.L. 93-233, P.L. 95-116, P.L. 96-265, P.L. 98-369, P.L. 98-460, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 422. C.F.D.A.: 13.802.

4. *Experimental and Demonstration Projects.* Section 702 of the Social Security Act authorizes the Secretary of the Department of Health and Human Services to make grants available for research studies concerning the nature of disability and its effect on an individual's ability to function in society, as well as methods of determining where a disability exists. Among other areas of research grantees may conduct are projects which determine the relative advantages and disadvantages of: (a) various alternative methods of treating the work activity of disabled OASDI beneficiaries, including ways to assist them in returning to work; and (b) modifying other limitations and conditions related to disabled beneficiaries, such as the trial work period, the 24 month waiting period for Medicare benefits, earlier referral to VR and greater use of employers to further the objectives or improve the administration of Title II. FY 1987 appropriations: \$10 million.

References: Section 702, and Section 1110 of the Social Security Act of 1935, as amended by P.L. 96-265 and Section 505 of P.L. 96-265, as amended by P.L. 99-272. 42 U.S.C. 401-433, 902, 1310, and 1381-1399. C.F.D.A.: 13.812.

C. Legislative History

The Social Security Disability Insurance program originated in 1954, when amendments to the Social Security Act (P.L. 83-761) included a provision for a disability "freeze" which would allow disabled workers to protect their ultimate retirement benefits against the effects of nonearning years.

In 1956, amendments to the Act (P.L. 84-880) established the Disability Insurance Trust Fund under Title II, and provided for the payment of benefits to disabled workers, but not to their dependents. Under the 1956 legislation, benefits were to begin after a six month waiting period and were limited to workers aged 50 or over who had recently and substantially paid Social Security taxes. The disability had to be severe enough to prevent the individual from engaging in any substantial employment and be of "long-continued and indefinite duration." The 1956 amendments also made "adult disabled children," who were dependents of retired or deceased workers, eligible for Social Security benefits, provided the dependent's disability began prior to age 18.

Amendments to the Act in 1958 (P.L. 85-840) and 1960 (P.L. 86-778) authorized the extension of benefits to dependent spouses and children of disabled workers and relaxed statutory requirements related to the worker's prior (covered) work history and contributions to the Social Security fund. Also in 1960, the limitation on benefits to workers over age 50 was eliminated, and beneficiaries were encouraged to return to work by the addition of provisions: (1) authorizing a nine month

trial work period during which the recipient could have earnings without imperiling benefit payments; and (2) eliminating the six month waiting period for benefits if a worker applied for disability a second time after failing in an attempt to return to work.

The 1965 amendments to the Act (P.L. 89-97) revised the definition of disability from "long-continued and indefinite duration" to disabilities expected to last at least 12 months or result in death. The definition of disability in regard to blindness also was liberalized to exempt legally blind individuals, between 55 and 65 years of age, from the substantial gainful activity test. An alternate insured status also was provided for persons who were disabled with blindness before age 31.

In addition, P.L. 89-97 authorized reimbursement from the Disability Insurance Trust Fund to state vocational rehabilitation agencies for the cost of rehabilitation services furnished to selected disabled OASDI beneficiaries. Such reimbursements, however, were limited to one percent of the previous year's expenditures for disability insurance payments.

Amendments to the Act in 1967 (P.L. 90-248) emphasized the role of medical factors in the determination of disability and provided more specific guidelines for considering vocational factors. The 1967 amendments stipulated that individuals could be determined disabled only if their impairments were so severe that they were not able to do their previous work and could not, considering age, education and work experience, engage in any other kind of substantial gainful work which existed in the national economy.

The Social Security Amendments of 1972 (P.L. 92-603) reduced the waiting period for disability benefits from six to five months and increased the limit on reimbursements to state vocational rehabilitation agencies for services to disability insurance recipients from one percent to one and a half percent of the previous year's disability payments.

In 1973, Social Security Act amendments (P.L. 93-66) tied increases in benefit levels under the disability insurance program to the Consumer Price Index, thus authorizing automatic annual cost of living adjustments in benefit payments.

The Social Security Act Amendments of 1977 (P.L. 95-216) increased the Social Security tax rate and modified other provisions in order to restore the financial solvency of the Social Security trust funds. In addition, P.L. 95-216 stipulated that a blind beneficiary would not be considered to have engaged in substantial gainful activity unless his or her monthly income exceeded the retirement test under Title II. However, the substantial gainful activity test would continue to be applied to non-blind, disabled recipients.

The Disability Amendments of 1980 (P.L. 96-265) allowed disabled beneficiaries to have their benefits reinstated if their earnings fell below the SGA test level during any month subsequent to the termination of benefits at the end of a trial work period. This change, in effect, extended the trial work period to 24 months, although the beneficiary was not entitled to cash benefits during the second 12 months if he or she had earnings that exceeded the SGA level. P.L. 96-265 also limited SSDI family benefits to 85 percent of a disabled worker's Average Indexed Monthly Earning (AIME) or 150 percent of the worker's Primary Insurance Amount, whichever was less. However, in no case would benefits be less than 100 percent of the worker's primary benefit. This limitation was to apply only to individuals who became eligible for benefits after July 1, 1980. The 1980 amendments also eliminated a second waiting period for Medicare eligibility for individuals returning to the rolls. For an individual whose disability had not been determined to be permanent, P.L. 96-265 mandated a review of continued SSDI eligibility every three years. Finally, the 1980 amendments required that beneficiaries engage in SGA for nine months before the VR agency could be reimbursed.

The Social Security Reform Act of 1983 (P.L. 98-21) extended OASDI coverage to: (a) all new federal employees hired on or after the effective date of the legislation, (b) all legislative branch employees not participating in the Civil Service Retirement System as of December 31, 1983; (c) all employees of nonprofit organizations not presently covered by Social Security; and (d) all Members of Congress, the President, the Vice President, all federal judges and other executive level federal political appointees.

The 1983 amendments also mandated that one-half of Social Security benefits be treated as taxable income for individuals with an annual income of \$25,000 or more (\$32,000 for couples).

The Social Security Disability Benefits Reform Act of 1984 (P.L. 98-460) authorized disability benefits to be terminated only under the following conditions: (a) there is evidence of medical improvement in the individual's impairment *and* the individual is now able to engage in SGA; (b) although there is no medical improvement, the person has benefited from advances in medical or vocational therapy/technology *and*, therefore, is able to perform SGA; (c) although there is no medical improvement, the person has benefited from vocational therapy and, therefore, is able to perform SGA, (d) based on new diagnostic techniques, the impairment(s) is found to be not as disabling as it was believed to have been at the time of the prior determination and, consequently, the individual is able to perform SGA, (e) the prior determination was in error or fraudulently obtained, or (f) if the individual is engaging

in SGA, and fails, without good cause, to cooperate in the review, follow the prescribed treatment or cannot be located.

P.L. 98-460 also authorized benefit payments to be continued during appeal for all beneficiaries involved in continuing disability reviews through the decision of the Administrative Law Judge. Benefits have to be repaid if the ALJ decides in favor of the government. The provision as it applied to SSDI recipients was only authorized through December 1987. However, it was subsequently extended through December 1988 under the provisions of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

The Employment Opportunities for Disabled Americans Act of 1986 (P.L. 99-643) permitted Social Security adult-childhood disability beneficiaries to receive continued Medicaid coverage when they lost their SSI eligibility solely due to the receipt of Title II (SSDI) benefits or an increase in Title II benefits. This amendment was designed to protect Social Security "adult disabled child" beneficiaries from the precipitous loss of medical coverage due to receipt of (or increases in) cash benefits.

P.L. 100-203, also extended the disability re-entitlement period from 15 to 36 months, effective January 1, 1988. This law also extended to 36 months the period of continued Medicare eligibility based on entitlement to disability benefits.

SUPPLEMENTAL SECURITY INCOME

A. Overview

Title XVI of the Social Security Act authorizes the Supplemental Security Income (SSI) program, a federally-administered cash assistance program designed to provide needy aged, blind and disabled persons with a minimum income. Unlike Social Security Disability Insurance benefits (see page 85), SSI cash payments are available only to aged, blind and disabled persons who meet a statutory test of financial need. Another principal difference between the two income maintenance programs is that SSI benefits are paid from general revenues appropriated by Congress, while SSDI benefits are derived from a special trust fund financed through Social Security taxes paid by over 100 million covered workers and their employers. The SSI program includes special provisions to encourage recipients to work, while continuing their eligibility for benefits.

B. Major Programs Affecting Persons with Handicaps

1. *Basic Supplemental Security Income Program.* Title XVI authorizes federal financial benefits for needy disabled, blind and aged (age 65 or older) individuals (and couples) who qualify for direct cash payments.

Monthly payment rates for individuals and couples are indexed to the Consumer Price Index and increased by the same percentage as Social Security benefits. Effective January 1988, eligible individuals receive \$354 a month, while eligible couples get \$532 per month. The Social Security Administration is authorized to make emergency advance payments at the full SSI monthly benefit rate to individuals who are presumptively eligible for SSI benefits and who face a financial crisis.

Eligibility for SSI benefits is based on the individual's (or couple's) age or disability status, combined with evidence of financial need. The definition of disability and blindness used under the SSI program parallels the language of Title II (Social Security) of the Act (see page 85). The one exception is that Title XVI requires childhood SSI recipients (18 years of age or younger) to have a medically determinable physical or mental impairment of comparable severity to the adult criteria. [N.B., Since, under Title XVI, children are entitled to SSI benefits on their own behalf, it is necessary for the law (and implementing regulations/administrative policies) to apply a standard other than "ability to engage in substantial gainful activity" to determine the severity of a childhood disability.]

In calculating an individual's eligibility, the Social Security Administration — the federal agency responsible for administering the SSI program — is directed to disregard the first \$20 of monthly income an individual receives from any source and up to \$65 in any additional earned income. Any additional unearned income an applicant/recipient receives each month results in a dollar-for-dollar reduction in his or her SSI benefits. Earned income above the original disregard level (\$65 a month, or up to \$85, if the individual has no unearned income) causes a one dollar reduction in the benefit payment for every two dollars of additional earnings. In-kind support and maintenance provided by a non-profit agency are disregarded if they are provided on the basis of need.

In addition to meeting the above income test, an individual cannot have personal resources which exceed certain statutory limits. For example, an individual with savings exceeding \$1,900 (\$2,700 for a couple) is not eligible to receive SSI benefits. However, ownership of a car or a modest-priced home are not taken into account in calculating an individual's (or couple's) eligibility for SSI benefits; nor is up to \$1500 for burial funds and life insurance premiums.

If an eligible individual is living in another person's household and receiving support and maintenance from that person, the individual's basic monthly payment is reduced by one-third. Furthermore, if an eligible individual is living in a public, nonmedical institution, he is ineligible for benefits. If, on the other hand, he resides in a public

medical institution or a private health care facility which receives substantial payments on his or her behalf under Medicaid, Federal SSI benefits are reduced to a personal needs allowance of \$30 per month (effective July 1, 1988). Any individual who is admitted to an institution to receive medical or psychiatric care and is expected to be discharged within three months may continue to receive full SSI benefits (effective July 1, 1988), if he or she must maintain a home in the interim.

States may elect to supplement the basic Federal SSI payment. Such supplemental payments may either be administered directly by the states or through a contractual arrangement with the Social Security Administration. If a state elects federal administration of its supplemental payments, all associated administrative costs are borne by the Federal government. As of 1987, 26 states supplemented the regular federal SSI benefit standard. FY 1987 appropriations (est.): \$9.7 billion.

References. Title XVI, Social Security Act, as amended. P.L. 92-603. P.L. 93-66. P.L. 93-233. P.L. 94-566. P.L. 94-569. P.L. 95-216. P.L. 96-265. P.L. 97-35. P.L. 98-21. P.L. 94-569. P.L. 99-272. P.L. 99-643 and P.L. 100-203. 42 U.S.C. 1381. C.F.D.A. 13.807.

2. Rehabilitation, Treatment, Referral and Counseling Services. Under Section 1615 of the Act, adults under 65 years of age, who are receiving SSI benefits, must be referred to the state vocational rehabilitation agency to be evaluated to determine whether they are eligible to receive services under Title I of the Rehabilitation Act (see page 141 for a full discussion of the provisions of the Rehabilitation Act, as amended). On the other hand, childhood recipients, under age 16, must be referred to the designated state agency serving disabled children. Similar to the requirement under the Title II disability insurance program (see page 85), SSI recipients may not refuse, without good cause, rehabilitation services. Services provided to selected SSI recipients through state vocational rehabilitation agencies may be reimbursed by the federal government out of a special appropriation set aside for this purpose after an individual has been substantially gainfully employed for nine months. The aim of this program is to assist disabled and blind SSI recipients to enter or re-enter the work force, whenever possible.

Children who are blind and/or disabled must be referred to the state agency which administers the state Maternal and Child Health Block Grant Program, as authorized under Title V of the Social Security Act (see page 37) or another agency designated by the Governor. One purpose of the Title V program is to provide rehabilitation services to blind and disabled children under age 16 who are recipients of SSI benefits. Under this block grant program, states have a great deal of flexibility in planning, promoting, coordinating and implementing health care programs.

References: Title XVI, Social Security Act of 1935, as amended, P.L. 92-603, P.L. 94-566, P.L. 95-216, P.L. 96-265, P.L. 97-35, P.L. 98-369 and P.L. 99-643. 42 U.S.C. 1381. C.F.D.A.: 13.807.

3. *Work Incentives.* Section 1619(a) and (b) of the Social Security Act authorizes special SSI benefits and continued Medicaid coverage for individuals who are able to work, despite the fact that they have not recovered from their disabilities. Under certain circumstances, such individuals may earn an amount higher than SGA, yet continue to receive benefits under SSI and Medicaid. These continued benefits are intended to encourage qualified recipients to work.

To qualify for continued SSI cash payments, an individual must have the original disabling impairment under which eligibility for SSI was initially determined and must meet all other eligibility rules including the income and resource tests. The amount of cash assistance an individual receives equals the amount the individual would have received under the regular SSI program if the SGA eligibility cutoff were ignored. Cash assistance is terminated when the recipient's countable income exceeds the amount which would cause the federal SSI payment to be reduced to zero (known as the "break-even point"). An individual receiving special Section 1619(a) cash benefits also remains eligible for Medicaid coverage.

After an individual is no longer eligible for Section 1619(a) benefits due to excess earning, he or she, nonetheless, may qualify for continued Medicaid coverage. Section 1619(b) of the Act extends Medicaid coverage to disabled and blind individuals who lose SSI or Section 1619(a) benefits because of their income, but still are unable to afford health care coverage equivalent to that offered under the Medicaid program.

If an SSI recipient who is eligible for benefits under Section 1619 enters a public institution or Medicaid certified facility, the individual remains eligible for full SSI benefits for two months, to enable him or her to meet expenses outside the institution. The facility must agree to allow the individual to continue to receive his or her benefits.

SSI recipients who demonstrate a capacity to work are automatically moved to the special benefit status of Section 1619(a) or (b). In recognition of the fact that severely disabled persons often face setbacks in their attempts to engage in gainful employment, the legislation allows recipients to move back and forth between SSI, Section 1619(a) and Section 1619(b) status without reestablishing eligibility. In addition, a disabled person who becomes ineligible for SSI or Section 1619 benefits for less than 12 months, may be reinstated without having his or her disability status redetermined.

References: Title XVI, Social Security Act of 1935, as amended, P.L. 96-265, P.L. 98-460 and P.L. 99-643. 42 U.S.C. 1382h, C.F.D.A.: N/A.

C. Legislative History

The Social Security Act, as originally enacted in 1935, did not authorize cash benefits for low income individuals, with disabilities, although there were limited provisions for assisting blind persons. In 1950, a public assistance program for the "totally and permanently disabled" was added to the Social Security Act. Basic eligibility standards and assistance levels were determined by each state, according to broad standards set forth in the statute. This "Aid to the Permanently and Totally Disabled" program was administered by the states with financial assistance from the federal government. Over the next two decades, numerous changes were made in the statutory authority for the program; but, the essentially state-run, federally-assisted character of the program remained unaltered.

Under the Social Security Amendments of 1972 (P.L. 92-603), however, Congress repealed existing public assistance programs for the elderly, blind and disabled and added a new Title XVI to the Act. This new title authorized a consolidated, federally-administered program of cash benefits for needy adults, called the Supplemental Security Income program. Under the program, a basic federal income support level was established for aged, blind and disabled individuals and couples. Eligibility was to be determined and benefits paid by the federal government, acting through the Social Security Administration. States were permitted to supplement the basic federal income support levels on behalf of selected classes of recipients.

The definitions of disability and blindness used in Title XVI generally followed the provisions of Title II of the Act. In addition, for the first time, disabled and blind children under 18 years of age were made eligible for benefits, provided their disabilities were of comparable severity to adult recipients. However, while P.L. 92-603 relieved parents of financial liability for support of their adult disabled offspring, the law continued to hold parents liable for the care of disabled minors as long as they were living at home.

In 1973, two sets of amendments to the Social Security Act (P.L. 93-66 and P.L. 93-233) modified Title XVI to assure elderly and disabled individuals an adequate income and to protect certain recipients against loss of benefits. Included in the amendments were provisions which.

- extended SSI benefits to so-called "essential persons" — i.e., persons needed to care for SSI recipients — under certain conditions (P.L. 93-66);
- required states to supplement federal SSI payments to current aged, blind and disabled recipients who otherwise would have had their payments reduced when the new "federalized" program went into effect (P.L. 93-66); and

- protected certain groups of SSI recipients against loss of Medicaid eligibility after SSI went into effect including: (1) essential persons; (2) disabled individuals who did not meet the Federal definition of disability and yet were eligible for Medicaid as a medically needy person, and (3) individuals who were inpatients in medical institutions and whose special needs made them eligible for assistance (P.L. 93-66).

In 1976, a series of Social Security Act amendments were enacted under the Unemployment Compensation Amendments of 1976 (P.L. 94-566), which contained the following provisions relating to the Supplemental Security Income program:

- The Social Security Administration was required to refer all SSI eligible children, under 16 years of age, to the state crippled children's agency or another agency designated by the Governor. This agency was obligated to develop a plan which included provision for: (a) administration of the program; (b) coordination with other agencies serving disabled children, and (c) establishment of a unit which would be responsible for counseling, referring and serving blind and disabled youngsters who were eligible for SSI benefits. The state plan requirement was repealed in 1981 by P.L. 97-35, which converted the Maternal and Child Health Program to a block grant (see page 40);
- Section 505 of P.L. 94-566, modified the definition of a public institution to exclude publicly-operated community residences serving 16 or fewer individuals. The purpose of this amendment was to eliminate a major disincentive to the development of group homes for persons with mental retardation under public auspices;
- Section 505 also stipulated that assistance furnished on the basis of need to, or on behalf of, an SSI applicant by a state or local government, would not be counted as unearned income for purposes of determining eligibility or the amount of an individual's SSI payment. Under the previous law, only certain types of public payments were disregarded (e.g., formal state supplemental payments and payments for medical care and social services);
- Section 1616(e) of the Act was repealed by P.L. 94-566. This controversial provision called for a dollar-for-dollar reduction in the federal SSI payment when a state made a supplemental payment on behalf of any eligible resident in a facility providing services which could have been financed under the state's Medicaid program. In its place, the 1976 amendments substituted a provision requiring the states to establish and enforce standards governing care in nonmedical facilities housing a significant number of SSI recipients; and
- P.L. 94-566 directed the Social Security Administration to publish

criteria for making childhood disability determinations within 120 days after enactment of the legislation.

Presumptive disability, a procedure for initiating payments to certain severely handicapped individuals prior to completion of a formal disability determination, was extended to blind persons in 1976 (P.L. 94-569). Prior to the enactment of this legislation, only disabled applicants could be declared presumptively eligible.

In 1980, the Social Security Act was amended (P.L. 96-265) to authorize special cash payments (Section 1619(a)) and continued Medicaid eligibility (Section 1619(b)) for individuals who receive SSI benefits but engage in substantial gainful activity. The provisions of this law were effective for three years, until January 1984. At the conclusion of the pilot period the Secretary of HHS was directed to evaluate the program and report his findings to Congress.

P.L. 96-265 also established a three year pilot program to assist the states in furnishing medical and social services to certain workers with severe handicaps. Under this program (Section 1620 of the Act) states are authorized to provide medical and social services to individuals who are severely handicapped, have earnings above the SGA level, and are not receiving federal SSI payments or Section 1619(a) or (b) benefits.

P.L. 96-265 also directed the Social Security Administration to treat all remuneration received by clients in sheltered workshops and work activity centers as earned income for purposes of determining SSI eligibility and benefits, thus qualifying such individuals for the SSI earned income disregard and preserving their benefits.

Prior to 1980, parental income was "deemed" available to children under age 18 living at home or under age 21 attending a school or training program. P.L. 96-265 also limited the deeming of parental income.

The Omnibus Budget Reconciliation Bill of 1981 (P.L. 97-35) eliminated the minimum benefit for newly eligible recipients. P.L. 97-35 also altered the procedures for reimbursement by SSA for vocational rehabilitation services, authorizing payments only after the recipient had engaged in nine months of SGA.

P.L. 97-35 also deleted from Section 1615 the provision requiring mandatory referral of blind and disabled children to the SSI Crippled Children's program, and instead specified that children be referred to the state agency that administers the Maternal and Child Health Block Grant Program.

Finally, P.L. 97-35 authorized the Secretary of HHS to waive eligibility restrictions and payment reductions applicable to otherwise eligible persons residing in institutions for up to two months.

The Social Security Amendments of 1983 (P.L. 98-21) indexed SSI benefits to the lesser of the Consumer Price Index or the person's yearly wage increase, and changed the annual benefit adjustment date to January instead of July.

The Social Security Disability Benefits Reform Act of 1984 (P.L. 98-460) extended the Section 1619 program (originally established in 1980) for another three years. The 1984 amendments also: (a) mandated the Secretary of HHS to publish uniform standards for SSI and SSDI disability determinations; (b) imposed a moratorium on reviews of all disability cases involving mental impairment until the Social Security Administration's revised "Listing of Impairments" was published; (c) directed that the next quadrennial Advisory Council on Social Security study the medical and vocational aspects of disability, (d) empowered the Secretary of HHS to promulgate regulations establishing standards for determining the frequency of continuing eligibility reviews, and (e) directed the Secretary to establish a system to monitor the accountability of representative payees.

The Employment Opportunities for Disabled Americans Act (P.L. 99-643) made the Section 1619(a) and (b) work incentives a permanent feature of the Social Security Act. P.L. 99-643 repealed the "trial work period" and the "extended period of eligibility" for SSI recipients. Instead, new provisions were added to the Act to enable individuals to move back and forth among regular SSI, Section 1619(a) and Section 1619(b) eligibility status. P.L. 99-643 explicitly required two levels of review of an individual's medical condition when he or she moved between eligibility categories.

P.L. 100-203, the Omnibus Budget Reconciliation Bill of 1987, included provisions which: (a) authorized a permanent disregard of in-kind assistance to SSI recipients furnished by nonprofit organizations; (b) increased SSI emergency advance payments to the full monthly benefit rate for presumptively eligible persons who face a financial crisis; (c) required SSA to give blind SSI recipients the option of receiving notices by telephone, registered letter or other means, (d) continued SSI benefits to blind recipients whose blindness *has ceased* if they are participating in an approved vocational rehabilitation program, (e) allowed recipients to continue to receive full SSI benefits when they are temporarily residing in medical institutions (for up to three months) to enable them to maintain a home, and (f) increased the personal needs allowance of SSI recipients who are residing in a Medicaid-certified facilities from \$25 to \$30 per month (from \$50 to \$60 for couples).

NUTRITION

NATIONAL SCHOOL LUNCH ACT

A. Overview

The National School Lunch Act of 1946, as amended, authorizes several cash assistance and commodity donations programs to assist public and private schools, child care centers and other institutions to provide nutritious meals to eligible students. Schools, day care programs, summer camps for children with handicaps, and residential facilities serving children with mental retardation or mental illness are eligible to participate in the various meal programs authorized under the Act.

B. Major Programs Affecting Persons with Handicaps

1. *School Lunch Program.* Section 4 of the Act authorizes financial assistance and food donations to participating public and private schools and child care facilities, as well as residential child care institutions (including schools or institutions for children with handicaps) to help them furnish, to eligible children, lunches which meet nutritional requirements prescribed by the Department of Agriculture.

Participating schools are reimbursed at rates prescribed by the states, which are adjusted on a semiannual basis to reflect changes in the Consumer Price Index. Schools must agree to supply free and reduced price lunches to eligible children in order to participate. Eligibility is based on the family's income and the number of participating children. FY 1987 appropriations: \$2.8 billion.

References. National School Lunch Act of 1946, as amended. P.L. 90-302, P.L. 91-248, P.L. 92-153, P.L. 92-433, P.L. 93-150, P.L. 93-326, P.L. 94-105, P.L. 95-166, P.L. 95-627, P.L. 99-591 and P.L. 100-71. 42 U.S.C. 1751. C.F.R. 10.555.

2. *Commodity Distribution Program.* Section 6 of the Act authorizes the donation of food to qualified households, individuals, child feeding programs, schools, charitable institutions, nutrition programs for the elderly, and nonprofit summer camps for children. Formula grants are awarded to state agencies that administer the distribution program. Commodities are purchased by the federal government under agriculture surplus removal or price support programs and then made available to the states for distribution. In FY 1987 the value of food donated under this program totaled \$2.2 billion.

References. National School Lunch Act of 1946, as amended. P.L. 91-248. P.L. 92-153. P.L. 92-433. P.L. 93-150. P.L. 93-288. P.L. 93-326. P.L. 94-105. P.L. 95-166. P.L. 95-627. P.L. 99-591 and P.L. 100-71. 7 U.S.C. 612 and 42 U.S.C. 1755. C.F.D.A.: 10.550.

3. *Summer Food Service Program.* Section 13 of the Act authorizes formula grants to the states for the initiation, maintenance and expansion of nonprofit food service programs for children in institutions and summer camps (including schools and institutions for persons with handicaps) during the summer months. Program funds are earned by states and institutions on a per meal basis adjusted annually according to the Consumer Price Index. Meals must meet minimum nutritional requirements established by the Department of Agriculture. Funds also are made available for certain state administrative expenses. FY 1987 appropriations: \$128 million.

References: National School Lunch Act of 1946, as amended. P.L. 90-302. P.L. 94-105. P.L. 95-166. P.L. 95-627. P.L. 96-499. P.L. 97-35 and P.L. 97-370. 42 U.S.C. 1761. C.F.D.A.: 10.559.

4. *Child Care Food Program.* Section 17 of the Act provides grants-in-aid to the states for the establishment and operation of nonprofit food service programs for children age twelve and under (except there is no age restriction for children with handicaps) in nonresidential day care facilities. States disburse such funds to eligible public and nonprofit private organizations, including day care centers, recreation centers, family and group day care programs, Head Start centers, and other institutions providing day care services for children with handicaps. Disbursements are made on the basis of the number of lunches, suppers, breakfasts and snacks served to eligible children, using federally-established reimbursement rates, however, no single program can provide more than two meals and one snack per day. Meals must meet minimum nutritional requirements set by the Agriculture Department. FY 1987 appropriations: \$537 million.

References. National School Lunch Act of 1946, as amended. P.L. 90-302. P.L. 94-105. P.L. 95-166. P.L. 95-627. P.L. 97-35 and P.L. 99-591. 42 U.S.C. 1766. C.F.D.A.: 10.558.

C. Legislative History

Prior to the enactment of the National School Lunch Program, some schools received federal loans and agricultural surpluses for their lunch programs. In 1935, the U.S. Department of Agriculture initiated a direct purchase and distribution program, under which donated farm surpluses were distributed to schools in an effort to dispose of such commodities and aid schools in providing nutritious, low-cost meals to their students. In 1946, the School Lunch Program was permanently authorized under the National School Lunch Act (P.L. 79-396). The Act established a grant program to enable states to aid nonprofit school lunch programs in public and private schools. Payments to the states were to be made

on a matching basis, according to a formula that took into account the degree of need in each state. In addition, the Agriculture Department was authorized to continue providing federally donated food commodities to supplement cash assistance.

In 1962, amendments to the Act (P.L. 87-823) changed the formula by which federal funds were allocated, in order to account for differing rates of participation in the program and need for assistance. The 1962 amendments also authorized a special assistance program to aid schools in providing free and reduced-price lunches to needy children.

The Child Care Food Program was first established in 1968 (P.L. 90-302). It was the year-round component of the Special Food Service Program for Children, a three-year pilot program that included both the Child Care Food Program and the forerunner to the Summer Food Service Program. The child care component was aimed at providing federal assistance for meals served in institutions providing nonresidential day care for children. The facilities eligible to participate included day care centers, settlement houses, recreation centers and institutions providing day care for youngsters with handicaps.

The 1975 amendments to the Act (P.L. 94-105) streamlined and improved existing federal programs by expanding eligibility for reduced-cost meals, expanding the summer feeding and school breakfast programs and extending child nutrition benefits to children in residential institutions. The definition of a "school" under the National School Lunch Act and Child Nutrition Act Amendments of 1966 was broadened to include "any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded)..." This amendment made public and nonprofit residential institutions serving persons with mental retardation eligible for assistance under the School Lunch and School Breakfast program. Previously, such facilities were only entitled to receive surplus commodities.

In addition, a broader Child Care Food Program was authorized to replace the former Special Food Service Program for Children. Nonresidential child care institutions serving needy youngsters, including facilities "providing day care services for handicapped children," were declared eligible for such aid.

The 1975 amendments also:

- extended the Special Supplemental Food Program for Women, Infants, and Children through September 30, 1977 and expanded program authorizations;
- broadened the Summer Food Program and extended its authorization through September 30, 1977;

- increased eligibility for reduced price lunches by raising the family income ceiling to 95 percent above the poverty income guidelines. Previously, maximum family income was fixed at 75 percent above the poverty level.

In 1977 amendments to the Act (P.L. 95-166), eligibility for the Summer Food Service Program was extended to allow individuals over age 18 to receive benefits if they were mentally or physically handicapped and participating in a public school program established to meet their needs. The Act was amended again in 1978 (P.L. 95-627) to extend eligibility under the Child Care Food program to mentally or physically handicapped persons over 18 years of age who were enrolled in a program serving a majority of persons 18 years of age or under.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) trimmed outlays under the National School Lunch Act by: (a) limiting family income eligibility and requiring, for the first time, documentation of application data; (b) reducing per-meal reimbursements and writing rates directly into the statute; and (c) excluding private schools with "average" tuitions over \$1500 per year from participation in the meal programs. Congress noted in its report that it did not intend to exclude from reimbursement certain private schools which "receive funds from public authorities for the cost of educating handicapped and other special needs children." Furthermore, Congress instructed the Department of Agriculture to define "tuition" so that the term did not include "any moneys paid for educating handicapped or special needs children by state, county or local authorities to private schools, when such schools are operated principally for the purpose of educating handicapped or other children for whose education the state or local government is primarily or solely responsible."

P.L. 97-35 also limited the Child Care Food Program to children up to age twelve, except children with handicaps, for whom no new limit was set. In addition, family and group day care meal reimbursements were lowered by ten percent and the definition of "average tuition" was raised to \$2,000 per year.

CHILD NUTRITION ACT

A. Overview

The Child Nutrition Act of 1966, as amended, authorizes federal assistance in the establishment and operation of school meal programs. Programs established under this Act complement the basic nutrition programs authorized under the National School Lunch Act (see page 99). Residential and daytime schools for children with handicaps and other child care programs are eligible to participate in the School

Breakfast, the School Milk, and Nutrition Education and Training Programs authorized under the Act.

B. Major Programs Affecting Persons with Handicaps

1. *School Milk Program.* Section 3 of the Act authorizes formula grants to the states to encourage the consumption of milk by school-aged children. Reimbursements are made to eligible nonprofit schools and child care institutions. Nonprofit elementary and secondary schools, nursery schools, child care centers, summer camps and similar institutions devoted to the care and training of children are eligible to participate in the program provided they do not participate in a meal service program authorized under the National School Lunch Act or the Child Nutrition Act. Disbursements are made on the basis of the number of half pints of milk served within limits specified by law and Department of Agriculture regulations. Milk served free to eligible children is reimbursed at cost. FY 1987 appropriations: \$15 million.

References: Child Nutrition Act of 1966, as amended. P.L. 91-295, P.L. 93-150, P.L. 93-347, P.L. 94-105, P.L. 95-166 and P.L. 97-35. 42 U.S.C. 1722. C.F.D.A.: 10.556.

2. *School Breakfast Program.* Section 4 of the Act authorizes formula grants to the states for the purpose of reimbursing participating public and nonprofit private schools, including schools for children with handicaps, for breakfasts served to eligible children; such meals must meet the Department of Agriculture's nutritional requirements. Reimbursement is based on the number of breakfasts served, with rates adjusted annually according to the Consumer Price Index. FY 1987 appropriations: \$452 million.

References: Child Nutrition Act of 1966, as amended. P.L. 89-642, P.L. 90-302, P.L. 91-248, P.L. 92-32, P.L. 92-433, P.L. 94-105, P.L. 96-499 and P.L. 97-35. 42 U.S.C. 1775. C.F.D.A.: 10.553.

3. *Nutrition Education and Training.* Section 19 of the Act authorizes grants to state educational agencies to stimulate improved nutritional training of educational and food service personnel, training in food service management and the conduct of nutrition education activities in schools and child care institutions. FY 1987 appropriations: \$5 million.

References: Child Nutrition Act of 1966, as amended. P.L. 95-166 P.L. 97-370 and P.L. 99-591. 41 U.S.C. 1788. C.F.D.A.: 10.564.

C. Legislative History

The Child Nutrition Act of 1966 (P.L. 89-642) extended the federal government's involvement in furnishing meals to school-aged children by: (1) establishing the School Breakfast Program; (2) expanding the Special Milk and Nonfood (equipment) Assistance Programs, and (3) providing assistance in feeding preschool children.

As established under the 1966 Act, the School Breakfast Program was limited to schools located in poverty areas, which had a substantial number of children who had to ride long distances to school. In 1971, the Act was amended (P.L. 92-32) to remove the limitation on the types of schools eligible for the program and authorize a federal share of up to 100 percent of the full operating costs of breakfast programs in needy schools. In 1975, amendments to the Act (P.L. 94-105) provided a permanent, open-ended authorization of funds for the School Breakfast Program.

The 1975 amendments also extended the definition of "school," under the 1966 Act, to include: "any public or licensed nonprofit, private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded)." This change allowed public and nonprofit residential institutions to participate in the School Breakfast, Milk, and Equipment Assistance Programs for the first time.

The 1978 amendments to the Act (P.L. 95-627) provided for: (a) the expansion of the breakfast program by permitting combined recordkeeping, equipment assistance, and funds for schools in especially needy areas; (b) the authority for children who qualify for free lunches to be eligible for free milk at the option of the school or local educational agency; and (c) a requirement that each state educational agency establish eligibility standards for providing additional assistance to schools in severe need, including those schools required to serve breakfast under state law.

The 1981 Omnibus Budget Reconciliation Act (P.L. 97-35) streamlined program requirements and restricted the availability of federal assistance by: (a) limiting family income eligibility and requiring, for the first time, documentation of application data; (b) reducing per meal reimbursement rates, and writing them into the statute; (c) excluding private schools with above "average" tuition rates from participation in the program; (d) allowing only those schools or institutions not participating in the school lunch or breakfast programs to receive milk program assistance; (e) drastically reducing funding for the Nutrition Education Training Program; and (f) terminating the Equipment Assistance Program.

FOOD STAMP ACT

A. Overview

The Food Stamp Act of 1977, as amended, provides direct assistance, in the form of coupons, to individuals and families who otherwise would be unable to purchase adequate quantities of food at local retail stores to meet their minimum nutritional needs. Coupons are used to offset part of the cost of purchasing food, and thus, assist low-income in-

dividuals and families to stretch their food budgets. Handicapped individuals and households who meet income eligibility criteria are eligible to participate. In addition, certain persons with disabilities living in community living arrangements, which house less than 16 persons, also may be eligible for food stamps.

B. Major Programs Affecting Persons with Handicaps

Under the Food Stamp Act, eligible households receive a free coupon allotment, the amount of which varies according to household size and net income. The coupons may be used in participating retail stores to buy food. In addition, food coupons may be used by certain elderly and handicapped persons and their spouses who cannot prepare their own meals to have meals delivered to them in their homes by authorized meal delivery services. Food coupons also may be used to purchase food or meals on behalf of blind or disabled recipients of Social Security Disability Insurance or Supplemental Security Income benefits who reside in certain small, community-based group living arrangements, housing no more than 16 persons.

References. Food Stamp Act of 1977, as amended. P.L. 95-113, P.L. 96-58, P.L. 97-35, P.L. 98-369, P.L. 99-570 and P.L. 100-77. 7 U.S.C. 2012. C.F.D.A.: 10.551.

C. Legislative History

The first federal Food Stamp Program was established as an experiment in 1939, for the dual purpose of stabilizing food prices by removing surplus agricultural commodities from the market and feeding poor families. The program ended with World War II, but was revived in 1961 by President Kennedy, as a pilot project in a few scattered needy areas of the country. This pilot project was expanded and refined by the passage of the Food Stamp Act of 1964. Amendments to the Act in 1971 changed the basis of the coupon values. In 1973, Congress mandated that all areas of the country offer food stamps and convert from other federal food distribution programs.

The Food Stamp Act of 1977 (P.L. 95-113) was one of the most comprehensive revisions of the program's statutory authority since its inception. P.L. 95-113 authorized the issuance of stamps at no cost to eligible individuals or families, and the establishment of uniform national eligibility standards. The Act also provided for a limited exception to the prohibition against providing food stamps to institutionalized persons, in the case of individuals participating in alcohol or drug abuse treatment centers or residing in federally-subsidized housing for the elderly.

In addition, P.L. 95-113 permitted certain public assistance offices to determine client eligibility for food stamps. Specifically, a single interview could be conducted to determine both eligibility for food stamps

and eligibility for Aid to Families with Dependent Children; or households composed entirely of Supplemental Security Income recipients could apply for Food Stamps at Social Security Administration offices and be certified as eligible, based on information in their SSI files.

The Act authorized the Agriculture Department to conduct pilot projects, including a test of "cashing-out" food stamps (i.e., paying the value of food stamps in cash rather than in coupons) for households composed entirely of members who were either age 65 or over or SSI recipients. P.L. 95-113 also required the state agency administering the Food Stamp Program to notify SSI recipients about the availability and benefits of the Food Stamp Program, as well as eligibility requirements.

The Food Stamp Amendments of 1979 (P.L. 96-58), was an emergency measure aimed primarily at increasing the program's statutory spending ceiling and relaxing certain restrictions on shelter and medical expense deductions under the 1977 Act. P.L. 96-58 also, for the first time, authorized food stamps for residents of community living arrangements for blind and disabled persons, by redefining "eligible households" to include:

Disabled or blind recipients of benefits under Title II or Title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate state agency or agencies under regulations issued under Section 1616(e) of the Social Security Act, which serves no more than 16 residents.

Each otherwise eligible blind or disabled person is to be treated as an individual household for purposes of determining his/her eligibility and monthly coupon allotment. In addition to amending the statutory definition of the term "household," the 1979 amendments also redefine the term "food" to mean meals served in small group living arrangements, and the term "retail food store" to include group living arrangements. This allows some flexibility in the method of administering food stamp benefits.

Prior to the enactment of P.L. 96-58, group homes which provided meals to their residents were considered "institutions" and, therefore, residents were considered ineligible for food stamps.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) liberalized the medical deduction for elderly and disabled individuals in determining eligibility for food stamps.

The SSI cashing-out projects were extended through 1985, by the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98).

The Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) contained a provision that allowed individuals over age 60 with disabilities who live with others to be considered as separate households under certain circumstances for purposes of food stamp eligibility. P.L. 99-114, the 1985 Amendments to the Food Stamp Act, further extended the elderly/SSI demonstration projects.

The Food Security Act of 1985 (P.L. 99-198) once again extended the "cashing-out" projects. In addition, P.L. 99-198:

- expanded the definition of "disabled" to include SSI recipients and those receiving other government disability benefits;
- extended SSI-Food Stamps joint processing provisions to households in which all members are SSI applicants or participants;
- expanded SSI-Food Stamp joint processing to include information about the availability of benefits and assistance in applying; and
- required the Departments of HHS and Agriculture to revise their joint processing memorandum of understanding.

P.L. 99-470, the Omnibus Drug Enforcement Education and Control Act of 1986 amended the Social Security Act to require the Secretaries of the Departments of Health and Human Services and Agriculture to develop a procedure whereby individuals can apply for Food Stamps and Supplemental Security Income (SSI) benefits on a single application prior to their release from a public institution.

110

RIGHTS

A. Overview

Throughout the 1970's and 1980's, Congress enacted several pieces of legislation aimed at protecting persons with handicaps against discrimination and other forms of unjust treatment. Among the types of statutory safeguards extended to individuals with handicaps were: (1) protection against discrimination in federally assisted and federally conducted programs; (2) accessibility to facilities and programs supported or operated by the federal government; (3) the right to a free, appropriate education; (4) an entitlement to constitutional rights to protection from harm in institutions; (5) access to protection and advocacy services for developmentally disabled and mentally ill persons; and, (6) the right of infants born with handicaps to medically indicated treatment.

B. Major Legislation Affecting Persons with Handicaps

1. *Rehabilitation Act of 1973, as amended.* (See also page 141 for other provisions of this Act.) Title V of the Rehabilitation Act of 1973, as amended, contains a number of provisions designed to safeguard the rights of handicapped persons. Section 504 of the Act affords handicapped persons protection against discrimination in all Federally-assisted programs and activities. The Act states that:

"No otherwise qualified handicapped individual in the United States, as defined in Section 7(7), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Section 7(7) defines the term "handicapped individual" to mean: "any person who: (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment." Federal agencies are required to promulgate regulations to carry out their activities in a nondiscriminatory manner.

Sections 501 and 503 of the Act protect handicapped persons from employment discrimination by federal agencies or federal contractors.

Each federal agency is required under Section 501 to develop an affirmative action plan for hiring, placing, and advancing individuals with handicaps within the agency. An Interagency Committee on Handicapped Employees also is established under Section 501 to monitor implementation of this requirement.

Under Section 503 of the Act, any contractor entering into a contractual agreement in excess of \$2,500 with any federal department or agency for the procurement of personal property or a non-personal service is required to take affirmative action to employ and advance in employment persons with handicaps. The statutory definition of a "handicapped individual" for employment purposes "does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individuals from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others." The Secretary of Labor is responsible for promulgating regulations and enforcing the provisions of Section 503.

Part D of Title VII of the Rehabilitation Act of 1973, as amended, authorizes grants to states to establish systems, independent of service delivery agencies, for the protection and advocacy of the individual rights of handicapped persons. Such systems may pursue legal, administrative and other appropriate remedies in cases where the rights of disabled persons are being violated. This section of the Act has never been funded.

Finally, the Rehabilitation Act, as amended in 1986 includes a provision specifying that states will not be considered immune due to the provisions of the Eleventh Amendment of the U.S. Constitution if they violate Section 504 of the Rehabilitation Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, or the provisions of any other federal statute prohibiting discrimination by recipients of federal financial assistance.

References: Title V, Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 95-602 and P.L. 99-506. 29 U.S.C. 701. C.F.D.A.: N/A.

2. *Education of the Handicapped.* (Other provisions of this Act are described on pages 4-18.) The Education of the Handicapped Act, as amended, expressed Congressional intent that all handicapped children have a right to a free appropriate public education. Section 3(c) of the Act states:

"It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in Section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their uni-

que needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist states and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children."

In order for a state to qualify for formula grant funding under Part B of the Education of the Handicapped Act, it must assure the Secretary of Education that, among other things: (1) it has a policy that assures all handicapped children the right to a free appropriate public education; and (2) it has established procedural safeguards, procedures for integrating handicapped children into regular classrooms to the maximum extent appropriate and procedures for non-discriminatory (racially and culturally) testing and evaluation policies.

The Act contains administrative procedures for resolving disputes between school systems and parents concerning the most appropriate educational program for a particular child and it explicitly authorizes parents to recover attorneys' fees when they prevail in court cases filed under the Act or under other anti-discrimination statutes (such as Section 504 of the Rehabilitation Act).

References: Education of the Handicapped Act, as amended. P.L. 94-142, P.L. 98-199, P.L. 99-372 and P.L. 99-457. U.S. Code: 20 U.S.C. 1401-1418. C.F.D.A.: N/A.

3. *Developmental Disabilities Assistance and Bill of Rights Act*. (Other provisions of this Act are described on page 124). Section 110 of the Developmental Disabilities Assistance and Bill of Rights Act, as amended, sets forth the following Congressional findings respecting the rights of persons with developmental disabilities:

(1) that persons with developmental disabilities have a right to appropriate treatment, services, and habilitation, in least restrictive settings, which are designed to maximize their developmental potential;

(2) that the federal government and the states both have an obligation to assure that public funds are not provided to any institutional or other residential program which: (a) does not provide treatment, services and habilitation appropriate to the needs of persons with developmental disabilities they serve; or (b) fails to meet the following minimum standards:

- provision of a nourishing, well-balanced daily diet;
- provision of appropriate and sufficient medical and dental services,
- maintenance and enforcement of policies prohibiting the use of physical restraint, unless absolutely necessary, and not as a form of punishment;

- maintenance and enforcement of policy prohibiting the excessive use of chemical restraints;
- policies granting permission for close relatives to visit residents at reasonable hours without prior notice; and
- compliance with adequate fire and safety standards.

In addition to the general and specific rights outlined above, Section 110 expresses the intent of Congress that all residential and non-residential programs serving persons with developmental disabilities provide appropriate care and services and comply with all relevant standards. In particular, residential facilities providing comprehensive health-related, habilitative or rehabilitative services, should meet standards "at least equivalent" to federal Medicaid standards governing intermediate care facilities for the mentally retarded.

Section 113 of the Act authorizes formula grants to states for the establishment of a system to protect the rights of persons with developmental disabilities. The basic mission of a state protection and advocacy system is to pursue legal, administrative and other appropriate remedies to ensure that persons with developmental disabilities receive appropriate care and treatment. The protection and advocacy agency must be an autonomous unit, independent of any agency that provides services to persons with developmental disabilities including the state's developmental disabilities council. Each protection and advocacy agency is responsible for reporting on its activities to the Secretary of Health and Human Services. FY 1987 appropriations: \$15.5 million.

References: Developmental Disabilities Assistance and Bill of Rights Act, P.L. 88-164, P.L. 91-517, as amended by P.L. 94-103, P.L. 95-602, P.L. 97-35, P.L. 98-527 and P.L. 100-146, 42 U.S.C. 6012. C.F.D.A.: 13.630.

4. *Protection and Advocacy for Mentally Ill Individuals.* The Protection and Advocacy for Mentally Ill Individuals Act of 1986 (P.L. 99-139) is a separate authority that establishes a formula grant program for statewide mental health advocacy services, either operated directly by or contracted through the existing DD protection and advocacy system. The mental health protection and advocacy system in a state protects and advocates for the rights of persons with mental illness and investigates incidences of abuse and neglect involving mentally ill individuals if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred. Each mental health protection and advocacy agency is required to submit an annual report on its activities to the Secretary of Health and Human Services. The Protection and Advocacy for Mentally Ill Individuals Act includes a bill of rights for mental health patients. FY 1987 appropriations: \$7 million.

References: Protection and Advocacy for Mentally Ill Individuals Act of 1986, P.L. 99-139, 42 U.S.C. 10801. C.F.D.A.: 13.138.

5. *Architectural Barriers Removal.* Congress, in 1968, passed the Architectural Barriers Act (P.L. 90-480), requiring most buildings and facilities designed, constructed or altered with federal funds after 1969 to be accessible to persons with physical handicaps. The General Services Administration issued minimum accessibility guidelines in September 1969.

In 1970, the Act was amended (P.L. 91-205) to include a requirement that facilities constructed as part of the Washington, DC metropolitan subway system be accessible to persons with handicaps.

Under Title II of the Public Building Cooperative Use Act of 1976 (P.L. 94-541) the Architectural Barriers Act was amended to impose a clear statutory mandate that public buildings be accessible to persons with physical handicaps. Coverage of the Act also was extended to government-leased buildings intended for public use or in which persons with physical handicaps might be employed, including buildings leased for public housing or for use by the U.S. Postal Service.

In addition, the 1976 legislation required designated agencies (HHS, GSA, DOD and HUD) to establish a system of continuous surveys in order to ensure compliance with the Architectural Barriers Act. The Administrator of the General Services Administration was directed to report annually to Congress on the status of activities related to the Architectural Barriers Act.

Section 502 of the Rehabilitation Act of 1973 (P.L. 93-112) established the Architectural and Transportation Barriers Compliance Board to: (1) ensure compliance with the standards issued under the Architectural Barriers Act of 1968; (2) investigate and examine alternative approaches to the architectural, transportation, communication and attitudinal barriers confronting individuals with handicaps, and (3) determine measures being taken by federal, state and local governments, and other public or non-profit agencies, to eliminate such barriers.

Originally, the Board was composed of the heads or representatives from the following federal departments and agencies. Health, Education, and Welfare, Transportation, Housing and Urban Development, Labor; Interior; General Services Administration; Veterans' Administration; Defense; and United States Postal Service. The 1978 amendments to the Rehabilitation Act (P.L. 95-602) added eleven public members, appointed by the President, and one more federal agency (Justice). P.L. 95-602 also expanded A&TBCB's enforcement authority by granting it power to: (1) bring civil action in any appropriate U.S. district court to enforce any final order of the Board, and (2) intervene, appear and participate (either directly or as *amicus curiae*) in any U.S.

or state court in civil actions related to the Board's activities or the Architectural Barriers Act of 1968.

Congress also required the A&TBCB to determine within one year the costs to state and local governments of providing persons with handicaps with full access to all programs and activities receiving federal assistance (i.e., the cost of complying with Section 504, non-discrimination regulations). The cost study was never conducted because the Board lacked the resources. Finally, the Board was authorized to set minimum guidelines for standards issued under the 1968 Act and to provide technical assistance to agencies and individuals affected by regulations mandating the removal of architectural, transportation, and communications barriers.

References: Rehabilitation Act of 1973, as amended. P.L. 93-112 and P.L. 99-506 and the Architectural Barriers Act of 1968. P.L. 90-480 and P.L. 94-541. 29 U.S.C. 792 and 42 U.S.C. 4151. C.F.D.A.: 88.001.

6. *Civil Rights of Institutionalized Persons*. In 1980, Congress passed the Civil Rights of Institutionalized Persons Act (P.L. 96-247), granting the U.S. Department of Justice statutory authority to sue states for alleged violations of the rights of institutionalized persons. The law allows the Justice Department to file suit against state or local authorities who subject institutionalized persons to "egregious or flagrant conditions... which deprive them of rights, privileges or immunities" protected under the U.S. Constitution. Such conditions must exist as a "pattern or practice" within a particular public institution. Institutions, under the scope of this law include prisons, mental hospitals or facilities for persons with mental retardation. The Justice Department may seek equitable relief in terms of the "minimal corrective measures necessary to ensure the full enjoyment of rights" of persons residing in the institution in question. The U.S. Attorney General must furnish prior written notification to the Governor, state attorney general and director of the institution before a suit is filed. The U.S. Attorney General must submit an annual report to Congress on the number, variety and outcomes of activities pursuant to this Act. FY 1987 appropriations: \$2.4 million.

References. Civil Rights of Institutionalized Persons Act, P.L. 96-247. 42 U.S.C. 1997. C.F.D.A.: 16.105.

7. *Child Abuse Prevention*. In 1984, when Congress passed P.L. 98-457, it extended the provisions of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and included a provision designed to prevent the withholding of medically indicated treatment from infants born with mental or physical impairments. The law required state child protection agencies to establish procedures and/or programs for "...responding to reports that handicapped newborns are being denied medically indicated treatment." Treatment is required

unless: (a) the infant is chronically and irreversibly comatose; (b) the provision of such treatment would merely prolong the process of dying or not be effective in ameliorating all the infant's life threatening conditions; or, (c) provision of the treatment would be futile in terms of the survival of the infant.

References: Child Abuse Prevention and Treatment Act, as amended. P.L. 93-247 and P.L. 98-457. 42 U.S.C. 5101, et. seq. C.F.D.A.: N/A.

8. *Other Protections for Handicapped Persons.* The Civil Rights Commission Act Amendments of 1978 (P.L. 95-444) expanded the jurisdiction of the Civil Rights Commission to include protection against discrimination on the basis of handicap. The Act itself did not define the term "handicap," but referred instead to the definition contained in the Rehabilitation Act of 1973, as amended.

The Civil Rights Commission generally carries out factfinding activities, investigates allegations of discrimination and maintains an information clearinghouse. However, it has no direct enforcement authority.

The Legal Services Corporation Act Amendments of 1977 (P.L. 95-222) added persons with handicaps to the list of clients eligible for services. Legal service corporations are local organizations that provide an array of legal counseling and referral services, as well as representation, for needy individuals. P.L. 95-222 also required legal service corporations to adopt procedures for determining and implementing legal assistance priorities, taking into account the relative needs of eligible clients. The statute specified that special priority should be given to serving particularly needy clients, including handicapped and elderly persons who have special difficulties in accessing legal services or have special legal problems. When Congress reauthorized the Legal Services Corporation in 1981, it placed several limitations on the activities of legal services clinics, including a prohibition on entering into any class action suit against federal, state or local governments.

The Civil Service Reform Act of 1978 (P.L. 95-454) mandated sweeping reforms in the employment practices of the federal government. Included in the Act was authority for agency heads to employ reading assistants for blind employees and interpreting assistants for deaf employees, when such services are necessary to enable disabled employees to perform their work. Interpreters or reading assistants not assigned by the agency are permitted to receive pay for their services, either from the blind or deaf employee or from a non-profit organization.

SOCIAL SERVICES

CHILD WELFARE SERVICES

A. Overview

Title IV-B of the Social Security Act authorizes grants to the states to expand and improve child welfare services.

Section 425 of the Act defines the term "child welfare services" to mean:

"public social services which are directed toward the accomplishment of the following purposes: (a) protecting and promoting the welfare of all children including handicapped, homeless, dependent, or neglected children; (b) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (c) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (d) restoring to their families children who have been removed, by the provision of services to the child and the families; (e) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (f) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption."

B. Major Programs Affecting Persons with Handicaps

1. *State Grants for Child Welfare Services.* Title IV-B authorizes a program of formula grants to designated state agencies for the provision of child welfare services. Each state receives a base amount, plus an allotment based on a variable formula which takes into account its relative population under 21 years of age and per capita income. The matching ratio is 75 percent federal funds. Title IV-B grant funds may be used to cover the cost of: (a) personnel to provide protective services to children; (b) licensing of and standard-setting for private child care agencies and institutions; and (c) providing homemaker services, return of runaway children and prevention and reunification services. However, funds for foster care, day care and adoption assistance are limited under this program.

Each state receives \$70,000 for child welfare services. Then, the first \$141 million in Title IV-B appropriations is allotted to states based on relative per capita income and the population under 21 years of age. Amounts in excess of \$141 million are incentive funds, allocated according to the same formula but only to states satisfying the statutory requirements for specified child welfare mechanisms. In order to receive funds, a state is required to: (a) conduct an inventory of children who have been in foster care for over 6 months; (b) implement a statewide information system on children in foster care; (c) initiate a case review system that includes each child in foster care, including a 6-month review and 18-month dispositional hearing for each child; (d) establish a case review system designed to achieve placement in the least restrictive setting and in close proximity to the child's home and to provide procedural safeguards for children, parents and foster care providers; and (e) implement a services program designed to assist children, where possible, to return to their homes. FY 1987 appropriations: \$222 million.

References: Title IV-B, Social Security Act, as amended. P.L. 90-248, P.L. 92-603 and P.L. 96-272. 42 U.S.C. 620. C.F.D.A.: 13.645.

2. Research and Demonstration Projects. Title IV-B authorizes financial support for research and demonstration projects in the area of child and family development and welfare. State and local governments, institutions of higher learning and other non-profit agencies or organizations engaged in research or child welfare activities are eligible for these grants. Grants may be used for: (a) special research and demonstration projects in the field of child welfare, which are of regional or national significance; (b) special projects to demonstrate new methods that show promise of substantial contribution to the advancement of child welfare; and, (c) projects to demonstrate the use of research in the field of child welfare. Grantees are required to provide at least 5 percent of total direct costs. Among the many accomplishments of this program is that it has conducted projects that have developed coordinated approaches between child welfare, developmental disabilities and mental retardation agencies to make maximum use of available state and local resources. FY 1987 appropriations: \$4.8 million.

References: Title IV-B, Social Security Act, as amended. P.L. 90-248 and P.L. 96-248. 42 U.S.C. 626. C.F.D.A.: 13.608.

3. Child Welfare Services Training Grants. Title IV-B also authorizes training grants to develop and maintain an adequate supply of qualified and trained personnel for the field of services to children and their families, and to improve educational programs and resources for preparing child welfare personnel. Grants are made to accredited public or other nonprofit institutions of higher learning for special child welfare

training projects. There are no statutory formula or matching requirements. FY 1987 appropriations: \$3.8 million.

References: Title IV-B, Social Security Act, as amended. P.L. 90-248 and P.L. 92-603. 42 U.S.C. 626 (a)(1)(c). C.F.D.A.: 13.648.

C. Legislative History

Grants for child welfare services have been awarded under the Social Security Act since its inception in 1935. The 1935 Act included provisions to support services for children in predominantly rural areas and other areas of special need. Amendments to the Act in 1972 (P.L. 92-603) authorized a major increase in federal funding, aimed at expanding foster care and preventing the removal of children from their families, thus avoiding the need for foster care. The increased funds also were to be used by the states for adoption services, including activities to increase adoptions of hard-to-place children. The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) revised the allotment base for Title IV-B grants, as well as the specifications necessary to qualify for federal support. The main aim of these amendments was to minimize the need for foster care placements. P.L. 96-272 also added a new Title IV-E to the Act, authorizing federal support for adoption subsidies (see the following section for details on this program).

ADOPTION ASSISTANCE

A. Overview

Title IV-E of the Social Security Act authorizes federal grants to states to assist in meeting adoption subsidy costs for children with special needs, including children with handicapping conditions.

B. Major Programs Affecting Persons with Handicaps

Beneficiaries of Title IV-E funds include children who: (1) are AFDC, AFDC-FC or SSI recipients or are eligible for any of these three programs; or (2) have special needs, such as a handicap, which make it reasonable to conclude that they cannot be adopted without adoption assistance. Funds are available from the time of final adoption until the child reaches age 18 (or 21 if the state finds that the effects of the disability are such that aid should continue). No means test is applied to adoptive parents, but the amount of aid is negotiated and readjusted periodically, if necessary, by the agency in collaboration with the parents. In 1986, this program assisted over 27,000 children. FY 1987 appropriations: \$97 million.

References: Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272. 42 U.S.C. 170. C.F.D.A.: 13.659.

C. Legislative History

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) established a new Title IV-E of the Social Security Act to assist states in promoting/facilitating the adoption of children with special needs. According to the Act a child with special needs is one for whom there exists "a specific factor or condition (such as ethnic background, age, membership in a minority or sibling group, or the presence of medical conditions, such as physical, mental or emotional handicaps) that make it reasonable to conclude that the child could not be placed in an adoptive family without financial assistance.

Key provisions of the Act included:

- the amount of the adoption assistance payment may not exceed the state foster care payment rate; and
- children receiving federal adoption assistance payments also are eligible for Medicaid benefits.

Effective in October 1983, all states were required to continue adoption assistance payments and any additional services covered in a state adoption assistance agreement, regardless of whether the adoptive parents were, or remained, residents of the state.

SOCIAL SERVICES BLOCK GRANT

A. Overview

Title XX of the Social Security Act authorizes the Social Services Block Grant program, the objective of which is to enable each state to furnish social services best suited to the needs of its residents. Some states use a portion of their Title XX allotments to provide special services to persons with handicaps.

B. Programs Affecting Persons with Handicaps

Funds from the Title XX Block Grant program may be used to: (1) prevent, reduce or eliminate dependency; (2) achieve or maintain self-sufficiency; (3) prevent neglect, abuse or exploitation of children and adults; (4) prevent or reduce inappropriate institutional care, and (5) secure admission or referral for institutional care when other types of care are not appropriate.

Federal funds may be used for the proper and efficient operation of social service programs. Services may include, but are not limited to, "child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, employment services, information, referral and

counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, elderly persons and those with mental retardation, blind, emotional disturbances, physical handicaps, or alcohol or drug dependency.

States have broad discretion to define the social services supportable under their block grant programs, provided such services are directed at the five goals listed above. However, the use of federal funds to support the following activities is prohibited:

- the purchase or improvement of land, or the purchase, construction, or permanent improvement of any building or other facility;
- the provision of cash payments for costs of subsistence or the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary shelter provided as a protective service);
- the payment of wages to any individual as a social service (other than payment of wages of welfare recipients employed in the provision of child day care services);
- the provision of medical care (other than family planning services, rehabilitation services or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used;
- social services provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution (except service to an alcoholic or drug dependent individual or rehabilitation services);
- the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income;
- any child day care service unless such service meets applicable standards of state and local law; or
- the provision of cash payments as a service.

A state may transfer up to ten percent of its allotment for any fiscal year to other federal block grant programs, including block grants for preventive health and health services, alcohol and drug abuse, mental health services, maternal and child health services, and low-income home energy assistance.

Each state determines the services that it will provide under the Title XX block grant program and the individuals that will be eligible to

receive such services. State allotments are determined according to specifications set out in Title XX. There is no matching requirement. Allotments are proportional to the size of the state's population.

All states and territories receive Title XX block grant funds if they submit a pre-expenditure report that meets federal requirements. FY 1987 appropriations: \$2.7 billion.

References: Title XX, Social Security Act, as enacted by the Omnibus Budget Reconciliation Act, P.L. 97-35 as amended by P.L. 98-8 and P.L. 98-473. 42 U.S.C. 1397-1397(e). C.F.D.A.: 13.667.

C. Legislative History

In 1956, Congress amended the Social Security Act to authorize support for services to federally-assisted welfare recipients, provided such services were furnished by the staff of the designated state welfare agency. The federal matching ratio for such services was set at 50 percent. Prior to the enactment of this authority, federal assistance to needy families and adult recipients under the Act was limited to cash benefits.

The federal matching ratio for social services was increased to 75 percent in 1962. In addition, state welfare agencies were permitted to purchase services from other public agencies on behalf of both current welfare recipients and persons likely to become recipients. The intent of Congress in extending services to potential welfare recipients was to prevent needy individuals and families from becoming dependent on welfare.

In 1967, federal financial participation was expanded to include a wide range of mandatory and optional social services available to needy individuals and families. In addition, for the first time, federal matching was authorized for services purchased by welfare agencies from private service vendors.

Due to growing Congressional concern over the rapidly escalating costs of social services to needy recipients, in 1972 a rider was added to the General Revenue Sharing Act (P.L. 92-512) which placed a \$2.5 billion ceiling on federal funding for this purpose and required the states to expend at least 90 percent of their outlays on applicants for, or recipients of, federally-assisted welfare payments. The following types of services were exempted from the 90 percent requirement. (a) child care services related to employment or training of a family member or the death, incapacity or continued absence of the parent/guardian, (b) services to mentally retarded persons, (c) family planning services, (d) services to drug addicts and alcoholics undergoing treatment, and (e) services to children in foster care.

The Social Services Amendments of 1974 (P.L. 93-647) consolidated social service grants to the states under a new Title XX of the Act.

P.L. 93-647 established statutory social services goals, revised eligibility criteria, specified program planning requirements and, generally, clarified procedures governing the expenditure of federal social services funds. The spending ceiling under P.L. 93-647 remained at \$2.5 billion.

The Social Services Amendments of 1976 (P.L. 94-401) made the following modifications in Title XX:

- permitted the states to waive individual eligibility determination procedures for certain groups when there was reason to believe that a substantial portion of the group had incomes below 90 percent of the state's median income; and
- temporarily increased authorized Title XX expenditures (the \$2.5 billion ceiling) by \$200 million annually to support child day care services, and, for this special allotment only, eliminated the state matching requirement.

Subsequent amendments to the Act (P.L. 95-171 and P.L. 95-600): (a) continued the special earmarked funds for child day care services; and (b) temporarily (for FY 1979 only) increased the basic expenditure ceiling to \$2.7 billion. In 1980, the Title XX program was significantly revised, under P.L. 96-272. Among the major changes were: (1) permanent funding authorization increases over a six year period, culminating in a FY 1985 ceiling of \$3.3 billion; (2) restrictions on the amount of funds available for Title XX training activities; (3) a multi-year planning authority; and (4) a separate funding authority for Puerto Rico and the territories.

In 1981, as part of the Omnibus Budget Reconciliation Act (P.L. 97-35), the existing program was converted to the Social Services Block Grant program, with spending authority reduced by twenty percent below the FY 1981 spending level. Among the significant features of the revised program were:

- states would no longer be required to provide a 25 percent match to qualify for Title XX allotments;
- states would be allowed to transfer up to ten percent of their Title XX dollars to other health and energy block grants;
- there no longer would be a mandate to designate a state agency to administer the program;
- states would receive no training allotments, or be required to spend any specified percentage of their Title XX allotments on training;
- states would no longer be required to spend 50 percent of their

allotments on welfare recipients and persons with incomes below 115 percent of the state's median income; and

- child care programs funded under Title XX would have to meet state and local laws, rather than a long-delayed set of federal standards.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

A. Overview

The Developmental Disabilities Assistance and Bill of Rights Act, as amended, authorizes grant support for planning, coordinating and delivering specialized services to persons with developmental disabilities. In addition to basic grants-in-aid to assist states in supporting such planning, coordinating and service activities, the Act authorizes: (a) a formula grant program to support the establishment and operation of state protection and advocacy systems; (b) a project grant program to support university-affiliated programs for persons with developmental disabilities; and (c) national significance grants to support projects aimed at increasing the independence, productivity and community integration of persons with developmental disabilities. Also, the Act mandates the establishment and operation of a federal inter-agency committee to plan for and coordinate activities related to persons with developmental disabilities.

The term "developmental disability," as defined in the Act, means:

"a severe, chronic disability of a person which: (a) is attributable to a mental or physical impairment or combination of mental or physical impairments; (b) is manifested before the person attains age twenty-two; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic sufficiency; and (e) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

All services provided under the Act must be aimed at providing opportunities and assistance for persons with developmental disabilities to enable them to "achieve their maximum potential through increased independence, productivity and integration into the community."

B. Major Programs Affecting Persons with Handicaps

1. *Basic Grants to States for Planning and Services.* Formula grants to states are authorized under Part B of the Act. To receive its Part

B allotment, a state or territory is required to establish a state Developmental Disabilities Planning Council. This council, working in tandem with the designated state administering agency, is responsible for developing and submitting a state plan which identifies existing gaps in services and specifies one or more priority service areas in which the state will focus its attention. By law, the state council must be composed of representatives of the state agencies primarily responsible for serving developmentally disabled persons and providers and consumers of such services. The designated state administering agency must either be the state DD council or a state agency that does not pay for or provide direct services to persons with developmental disabilities. [N.B., However, if an agency that provides or pays for services was the administering agency prior to June 1, 1988, the Governor of a state has the option of allowing this arrangement to continue.]

State DD plans must address, at a minimum, the priority area of employment; at the state's discretion, one or more of the following federal priority areas also may be chosen by the council: community living; child development activities; case management; and/or family support services. In addition, a DD council may identify one or more other "state priority areas" which it considers essential.

A state is required to expend at least 65 percent of its Part B allotment for activities related to priority service areas. Allotments to the states are determined based on state population, relative per capita income and Social Security childhood disabilities beneficiary data. The minimum state allotment, as of 1987, is \$350,000.

State DD Councils may use their funds to:

- enhance system coordination and conduct activities to increase the capability of the service system to respond to the needs of persons with developmental disabilities;
- conduct studies or analyses, gather information, develop model policies and procedures and present the findings and conclusions of such studies to state policymakers;
- demonstrate new ways to enhance the independence, productivity and integration of persons with developmental disabilities;
- conduct outreach activities for such persons to enable them to access services;
- train persons with developmental disabilities, their family members, volunteers, professionals and students to access or provide services, and
- conduct activities to prevent disabilities from occurring and to expand services throughout the state.

Each state DD council must submit an annual report to the Secretary of HHS which summarizes its activities, identifies barriers to serving persons with physical or mental impairments, and describes actions taken by the state with respect to ICF/MR survey reports and plans of correction prepared in response to federal validation surveys. FY 1987 appropriations: \$56 million.

References: Developmental Disabilities Assistance and Bill of Rights Act, as amended. P.L. 88-164, P.L. 91-517, P.L. 94-103, P.L. 95-602, P.L. 97-35, P.L. 98-527 and P.L. 100-146. 42 U.S.C. 6000. C.F.D.A.: 13.630.

2. Grants to Protection and Advocacy Systems. Part C of the Act authorizes formula grants to states for the establishment of a system to protect the rights of persons with developmental disabilities (see also page 112 for information on the P and A program). The basic mission of a state protection and advocacy system is to pursue legal, administrative and other appropriate remedies to ensure that persons with developmental disabilities receive appropriate care and treatment. The P and A agency must be allowed access to the records of residents of facilities for persons with developmental disabilities. In addition, the P and A has the authority to investigate incidents of abuse and neglect involving persons with developmental disabilities if there is possible cause to believe such incidents occurred. Administrative authority for carrying out protection and advocacy services must be lodged with an autonomous unit, independent of any agency responsible for rendering services to persons with developmental disabilities, including the state DD council. Each P and A agency is responsible for submitting an annual report on its activities to the Secretary of Health and Human Services. The minimum allotment for a state P and A system is \$200,000, as of 1987. FY 1987 appropriations: \$15.5 million.

References. Developmental Disabilities Assistance and Bill of Rights Act, as amended. P.L. 88-164, P.L. 91-517, P.L. 94-103, P.L. 95-602, P.L. 97-35, P.L. 98-527 and P.L. 100-146. 42 U.S.C. 6000. C.F.D.A.: 13.630.

3. Grants to University Affiliated Programs. Part D of the Act authorizes grants to support the administration and operation of university affiliated programs (UAPs). Grant funds may be used to defray the cost of programs that: (a) provide interdisciplinary training for personnel concerned with persons with developmental disabilities, in areas of emerging national significance (especially early intervention, aging persons with developmental disabilities and community services); (b) demonstrate services for persons with developmental disabilities, (c) provide technical assistance for generic and specialized agencies, (d) disseminate findings related to the provision of services to researchers and government agencies; and (e) generate information on the need for further service-related research.

Applicants for UAP awards must have previously received an award or conducted a feasibility study to develop a UAP. The minimum allotment for a university affiliated program, in 1987, was \$200,000 per year, with an allotment of \$150,000 for each satellite program. FY 1987 appropriations: \$9.1 million.

References: Developmental Disabilities Assistance and Bill of Rights Act, as amended. P.L. 88-164, P.L. 91-517, P.L. 94-103, P.L. 95-602, P.L. 99-35, P.L. 98-527 and P.L. 100-146. 42 U.S.C. 6061. C.F.D.A.: 13.632.

4. *Grants for Projects of National Significance.* Part E of the Act provides financial support for projects that train policymakers, develop ongoing data collection systems, determine the feasibility and desirability of developing a nationwide information and referral system, pursue interagency initiatives and conduct other projects of significant size and scope that hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities. Projects must have direct national impact, be replicable, and be conducted in a number of sites across the country as part of a unified program. FY 1987 appropriations: \$2.5 million.

References. Developmental Disabilities Assistance and Bill of Rights Act, as amended. P.L. 88-164, P.L. 91-517, P.L. 94-103, P.L. 95-602, P.L. 97-35, P.L. 98-527 and P.L. 100-146. 42 U.S.C. 6081. C.F.D.A.: 13.631.

C. Legislative History

The Developmental Disabilities Assistance and Bill of Rights Act evolved from the Mental Retardation Facilities Construction Act of 1963 (Title I, P.L. 88-164). The 1963 Act authorized federal support for the construction of mental retardation research centers, university-affiliated training facilities, and community service facilities for children and adults with mental retardation. The Mental Retardation Amendments of 1967 (P.L. 90-170) extended and expanded this legislation by authorizing federal funds to assist in the costs of initiating services in community mental retardation facilities.

The Developmental Disabilities Services and Facilities Construction Amendments of 1970 (P.L. 91-517) significantly expanded the scope and purpose of the Mental Retardation Facilities Construction Act of 1963. The 1970 legislation was designed to provide states with broad responsibility for planning and implementing a comprehensive program of services and to offer local communities a strong voice in determining needs, establishing priorities, and developing a system for delivering services. The focal point of such statewide planning and coordination activities was to be a council, made up of representatives of public and private agencies and consumers of the services they provided to persons with severe disabilities originating in childhood.

Aid for the construction of community facilities for persons with retardation was replaced by a combined formula and project grant program covering both construction of facilities and provision of services. In addition, the scope of the program was broadened to include not only persons with mental retardation but also persons with other serious developmental disabilities originating in childhood.

The term developmental disability was defined in the 1970 Act to mean "a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition found by the Secretary of Health, Education, and Welfare to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals..." In addition, the disability was required to be substantial in nature and have originated before the individual reached age eighteen and have continued or be expected to continue indefinitely.

Title I allotments to the states were to be calculated on the basis of population, need for services, and the financial need of the state. However, each state was to receive a minimum of \$100,000 per year.

The Developmental Disabilities Assistance and Bill of Rights Act of 1975 (P.L. 94-103) authorized a three-year extension of state formula grants to assist in planning and implementing programs on behalf of children and adults with developmental disabilities. It also continued support for university affiliated facilities. In addition, P.L. 94-103 made several significant changes in the original statutory authority for the Developmental Disabilities program. Among these changes were:

- The term "developmental disability" was broadened to include autism and dyslexia; however, only dyslexic children and adults who also had mental retardation, cerebral palsy, epilepsy, or autism were to be eligible for services.
- A new funding authority was added to assist in renovating and modernizing university affiliated facilities. In addition, a portion of any increased UAF grant funding was to be set aside for feasibility studies and operating support for satellite centers in states without UAF programs.
- A new special project authority was included in the legislation. The purpose of this program was to assist public agencies and nonprofit organizations to demonstrate new and improved service delivery techniques and to disseminate information. Twenty-five percent of appropriated funds had to be set aside for national significance grants.
- Numerous changes were made in state plan requirements, including:
 - (a) a reduction in the maximum percentage of a state's allotment which could be obligated for construction purposes (from 50 to 10 percent),
 - (b) a requirement that the state plan incorporate a deinstitutionaliza-

tion and institutional reform plan; (c) provision for the state planning council to review and comment on all state plans affecting persons with developmental disabilities, to the maximum extent feasible; and (d) provisions for protecting the interests of employees in any deinstitutionalization plans.

- A requirement that all grantees under the Act take affirmative action to employ and advance qualified individuals with handicaps was added to the Act.
- P.L. 94-103 directed the Secretary of HEW to develop a comprehensive performance based system for evaluating services provided to persons with developmental disabilities within two years after the enactment of the legislation. States, in turn, were required to implement the system within two years after its promulgation by the Secretary.
- The composition of the National Advisory Council on Services and Facilities for the Developmentally Disabled was revised to include nine ex-officio members and sixteen members appointed by the Secretary of HEW. In addition, the duties of the Council were expanded to include: (a) advising the Secretary on grants made under the Act; and (b) submitting an annual report to Congress on the administration of the program.

In addition to changes in the existing Developmental Disabilities program, P.L. 94-103 added a new title (Title II) designed to protect the rights of individuals with developmental disabilities (for details on the rights of persons with developmental disabilities, see page 126).

Title III of P.L. 94-103 directed the Secretary to forward to Congress, within six months after enactment of the legislation (and annually thereafter), his recommendations on conditions which should be included in the term "developmental disabilities." The Secretary also was required to commission an independent contractual study of the appropriateness of the current definition, recommendations for revisions in the definition, and the adequacy of services to excluded groups of individuals with disabilities.

In 1978, the Developmental Disabilities Act was further revised by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments (P.L. 95-602). Changes in the DD program included. (a) a revised definition of the eligible population, (b) a shift of emphasis from planning to priority service areas, (c) a clarification in the role and changes in the composition of state planning councils, (d) a clearer statutory delineation of the mission of university affiliated facilities, (e) increased authorization levels for state protection and advocacy systems, and (f) discontinuation of the National Advisory Council.

Under P.L. 95-602, Congress adopted a new definition of the term "developmental disability" which shifted the emphasis from etiological disability categories to the severity of functional impairments. The new definition eliminated the previous references to specific disability categories (e.g., mental retardation, cerebral palsy, epilepsy and autism) and substituted language that underscored the early severity and chronicity of the functional impairments among the target population of the program.

P.L. 95-602 required the states to focus an increased share of their federal-state grant funds on a limited number of priority service areas. The Act also specified that the council and the administering agency were to "jointly" develop the state developmental disabilities plan.

The composition of the state planning council was modified to allow at least one-half, instead of one-third, of its members to be consumer representatives. The remaining half was to be made up of provider and state agency representatives.

P.L. 95-602 clarified the functions of UAFs and satellite centers. The statute also mandated the establishment of UAF standards within six months of enactment of P.L. 95-602. In addition, P.L. 95-602 provided for a minimum allotment of \$150,000 to university affiliated facilities and \$75,000 to existing satellite centers.

The 1978 Amendments made one substantive change in the provisions governing state protection and advocacy systems — i.e., it established a minimum state allotment of \$50,000.

In 1981, the Developmental Disabilities Act was extended for three years, as part of the Omnibus Budget Reconciliation Act (P.L. 97-35). The extension included only minor changes in the Act. Section 110 of the Act, which required states to develop a comprehensive, client based evaluation system, was repealed. In addition, the focus of the DD discretionary grants was shifted to activities with a nationwide impact.

The overall purpose of the DD Act was expanded by the 1984 amendments to the Act (P.L. 98-527) to include assisting persons with developmental disabilities to achieve their maximum potential through increased independence, productivity and integration into the community. Definitions of these key terms were added to the Act, as well as definitions of "employment related activities" and "supported employment."

P.L. 98-527 also: (a) revised the priority service areas (shifting the emphasis to employment-related services), (b) added new council and Secretarial reporting requirements; (c) mandated the establishment of an interagency coordinating council; (d) specified that each person

receiving services under the Act must have an individual habilitation plan; (e) required states to assess personnel training needs; and (f) increased minimum state allotments to \$250,000 for basic state grants; \$150,000 for P & A grants to the states; and \$175,000 for UAF grants.

The 1987 amendments to the DD Act (P.L. 100-146) extended programs authorized under the Act for another three years. The priority service areas, once again were revised, with one additional area ("family support service") added. P.L. 100-146 also gave the state DD councils greater statutory latitude to pursue priority area activities.

The 1987 reauthorization also modified provisions of the Act dealing with the designation of the state administering agency, requiring it to be either: (a) the state planning council (if it is so designated in state laws); or (b) a state agency that does not provide or pay for services to persons with developmental disabilities. However, an agency that pays for or provides services and was the designated agency at the time of enactment could continue to serve in this capacity if the Governor so specified prior to June, 1988.

In addition, in its annual report to the Secretary, each state DD council is required under the provisions of P.L. 100-146 to identify the fiscal and policy barriers to addressing the needs of unserved or underserved persons with developmental disabilities.

Minimum allotments for the basic state grant program were raised to \$350,000 under the 1987 amendments. In addition, minimum allotments for P and A systems were raised to \$200,000 and these agencies were given authority to investigate suspected incidents of abuse and neglect involving persons with developmental disabilities.

University Affiliated Facilities were redesignated University Affiliated Programs under P.L. 100-146, and the Secretary of HHS was directed to make training grants to assist UAPs to address the needs of persons with developmental disabilities in areas of emerging national significance, especially early intervention, services for elderly developmentally disabled persons and the provision of community-based services. Minimum UAP allotments also were increased to \$200,000.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

The Domestic Volunteer Service Act of 1973, as amended, authorizes several federal assistance programs aimed at harnessing the resources of volunteers to help underprivileged people. Among the programs authorized under the Act are the Foster Grandparent program and the "Helping Hand" program.

The Foster Grandparent program provides grants to public and non-profit private agencies and organizations to cover up to 90 percent of

the costs of developing and operating projects designed to give low-income persons, age 60 and older, opportunities to receive modest financial compensation while serving children with exceptional needs in health, education, welfare and related settings. Persons age 60 and older, who have income that exceeds program eligibility standards, may serve as non-stipend volunteers. The majority of all foster grandparents currently involved in the program are working with youngsters with mental retardation in institutional and community settings. One goal of the program is to place foster grandparents in settings where their presence and activities can facilitate orderly deinstitutionalization of children.

The Foster Grandparent program originally was authorized under the Economic Opportunity Act of 1964, as part of President Johnson's "War on Poverty." In 1967, however, legislative authority for the program was transferred to the Older Americans Act (P.L. 91-69).

In 1973, Congress consolidated a variety of existing federal voluntary service programs under a single statutory authority, called the Domestic Volunteer Service Act (P.L. 93-133). The 1973 legislation also: (a) created, by law, the ACTION agency, an independent federal agency responsible for administering volunteer service programs; and (b) established the Senior Companion program to permit low-income, elderly volunteers to aid adults with exceptional needs. The Senior Companion program was intended to provide a parallel authority to the Foster Grandparent program, focused on dependent adults, especially frail elderly persons.

The Older Americans Act Amendments of 1975 (P.L. 94-135) extended the authorizations for the Foster Grandparent and Senior Companion programs, while the 1976 amendments (P.L. 94-293) to the Domestic Volunteer Service Act directed the ACTION agency to allow individuals with mental retardation who were participating in Foster Grandparent programs to continue receiving services, under certain circumstances, after they reached 21 years of age. P.L. 94-293 also gave private non-profit agencies operating Foster Grandparent programs broad discretion to determine: (a) which children should receive services, and (b) the length of time a child may participate in the program. However, the primary focus of a Foster Grandparent grant program still was to be on services to children under 21 years of age.

The Comprehensive Older Americans Act of 1978 (P.L. 95-478), once again, extended the Foster Grandparent program for three years, consolidating its authorizations with the Senior Companion program. The legislation also raised the stipend that participants could receive from \$1.60 to \$2.00 per hour (if overall appropriations for the program are high enough to fund at least the current number of slots). The legislation also redefined the term "low income" to mean persons with an-

nual income of 125 percent (rather than 100 percent) of the government's poverty index.

The Domestic Volunteer Service Amendments of 1979 (P.L. 96-143) established a new demonstration program aimed at reducing the need for institutionalization among handicapped and elderly persons. The so-called "Helping Hand" program was designed to utilize person-to-person services, involving both younger and older volunteers, in an effort to increase the ability of elderly and handicapped persons to remain in the community and to reduce their isolation. The program is to be coordinated with the state's Developmental Disabilities Protection and Advocacy System.

The Domestic Volunteer Service Act Amendments of 1984 (P.L. 98-288) amended the program to permit replacement of foster grandparents working with adults who are mentally retarded. Under former law, a foster grandparent could continue to serve a person with mental retardation who turned 22, but that foster grandparent could not be replaced by another individual.

P.L. 99-551, the 1986 Amendments to the Act, authorized non-low income individuals to participate in volunteer service programs under the Act without receiving any stipend except reimbursement for meals, transportation or out-of-pocket expenses. FY 1987 appropriations: \$56 million (Foster Grandparent program).

References. Domestic Volunteer Service Act of 1973, as amended. P.L. 91-69, P.L. 93-113, P.L. 94-135, P.L. 94-293, P.L. 95-478, P.L. 96-143, P.L. 98-288 and P.L. 99-551. 42 U.S.C. 5011. C.F.D.A.: 72.008.

HEAD START ACT

The Head Start program, initially part of President Johnson's "War on Poverty," provides comprehensive health, education, nutrition, social and other services to economically disadvantaged preschool children and involves parents in activities with children so that each participating child has an opportunity to attain overall social competence. Project grants are made to local governments or private non-profit agencies which, in turn, may sub-contract with other child service agencies to provide Head Start services.

Originally authorized under the Economic Opportunity Act of 1964, the statutory authority for the program was amended in 1972 (P.L. 92-424) to stipulate that not less than ten percent of the total number of children enrolled in Head Start programs nationwide may be youngsters with handicaps. The Community Services Act of 1974 (P.L. 93-644) reauthorized Head Start and certain other programs originally included in the Economic Opportunity Act of 1964. P.L. 93-644 also

established the Community Services Administration, an independent federal agency, to replace the Office of Economic Opportunity.

The requirement for involving children with handicaps in Head Start programs also was added under the 1974 Act, by stipulating that each state must assure that at least ten percent of enrollees are children with handicaps. In their reports on the 1974 legislation, both the House Education and Labor Committee and the Senate Labor and Public Welfare Committee expressed deep concern about the manner in which many Head Start agencies were implementing the ten percent mandate. They noted that many youngsters with mild speech impediments and other minor disorders were being classified as children with handicaps in contravention of the stated intent of Congress. The Department and Head Start grantees were directed to take the necessary steps to assure that only children with disabilities severe enough to require special education and related services be classified and counted as handicapped children.

The Head Start Act of 1981, a component of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) continued the program and again mandated that states establish and maintain procedures to ensure that at least ten percent of Head Start enrollees are handicapped according to the definition contained in the Education for All Handicapped Children Act. P.L. 97-35 also eliminated the Community Services Administration's status as an independent agency, reduced funding for the program significantly and made it a component of the Department of Health and Human Services.

References: Community Services Act of 1974, as amended. P.L. 92-424 and P.L. 93-644. Omnibus Budget Reconciliation Act of 1981, P.L. 97-35 and P.L. 98-558. 42 U.S.C. 2921. C.F.D.A. 13.600.

CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (P.L. 95-266) extended child abuse prevention and treatment programs through fiscal year 1981 and authorized adoption programs aimed at children, including children with handicaps in institutions and foster care homes for whom adoption was the best alternative to assure their healthy development. P.L. 95-266 established: (a) a national adoption information and exchange system; (b) a national adoption and foster care data gathering and analysis system; (c) technical assistance, education and training materials for adoption and adoption assistance programs; and (d) development of model adoption legislation and procedures. (See also page 119 for information on adoption assistance grants to states to facilitate the adoption of children with handicaps).

The 1984 amendments to the Act (P.L. 98-457) authorized the Secretary of HHS to make project grants to provide information and training for professionals and parents in the provision of services to infants with disabilities or life-threatening conditions (see page 114 for further discussion of the child abuse provisions of P.L. 98-457). Grants were also authorized for programs to assist in obtaining or coordinating necessary services for the families of such infants. In addition, P.L. 98-457 amended the Act to require that information and services be provided to facilitate the adoption of children with special needs. FY 1987 appropriations: \$5 million.

OLDER AMERICANS ACT

The Older Americans Act of 1965 (P.L. 89-73) created the Administration on Aging as a unit within the federal government to develop new or improved programs to help older people. Other provisions of the Act authorize grants for state and community programs on aging, research and development and training, as well as an advisory committee on older Americans. Under the Act, each state maintains a state unit on aging to plan and implement statewide aging programs.

The Act was extended in 1967 (P.L. 90-42) and the personnel training program was expanded. Amendments to the Act in 1969 (P.L. 91-69) strengthened the planning and leadership capacities of the state units. The Nutrition Programs for the Elderly Act was passed in 1972 (P.L. 93-351), to provide nutritious meals, nutrition education and other related services to eligible older individuals. The law provided that meals could either be served in a congregate setting or delivered to individuals at home.

The 1973 amendments to the Act (P.L. 94-135) placed an emphasis on statewide planning and coordination of services, using all available and potential resources. The 1973 amendments also made permanent the Older Americans Community Service Employment program (see page 132 for a partial discussion of this program).

Priority services were mandated under the 1975 amendments to the Act (P.L. 94-135), the four designated priorities were housing, continuing education, pre-retirement education and services to older persons with handicaps. The ability of state and area agencies to serve as brokers or coordinators of services was significantly expanded by the 1978 amendments (P.L. 95-478). In addition, a discretionary projects authority was added that year and the statutory priorities were streamlined to include: access to services, in-home services and legal services.

The 1981 amendments encouraged the Secretary of HHS to give priority to discretionary grant applications that focused on providing mental

and supportive health services to older persons (P.L. 97-115). P.L. 98-459, the Older Americans Act of 1984 clarified the roles of Area Agencies on Aging.

In 1987, the Act was amended (P.L. 100-175) to include several provisions related to older persons with developmental and other disabilities and/or mental health needs. Among the provisions of P.L. 100-175 are requirements that:

- planning linkages be established between the HHS Commissioners of Aging, Developmental Disabilities and Alcohol, Drug Abuse and Mental Health;
- the Commissioner of Aging consult and cooperate with the Commissioner of the Rehabilitation Services Administration in planning OAA programs; and
- in evaluating OAA programs the Commissioner on Aging consult with DD organizations whenever possible.

P.L. 100-175 also includes definitions of the terms "disability" (reflecting the federal definition of a developmental disability) and "severe disability." Area Agencies on Aging are required to take into account older individuals with disabilities when developing their plans. In addition, the state ombudsman programs on long term care, as authorized under the Older Americans Act, were required to coordinate their activities with state protection and advocacy programs authorized under the Developmental Disabilities Assistance and Bill of Rights Act.

References: Older Americans Act of 1965, as amended. P.L. 89-73, P.L. 90-42, P.L. 91-69, P.L. 93-29, P.L. 93-351, P.L. 94-135, P.L. 95-65, P.L. 95-478, P.L. 97-115, P.L. 98-459, and P.L. 100-175. 42 U.S.C. 3022 et. seq. C.F.D.A.: 13.633, 13.635, 72.001.

TRANSPORTATION

URBAN MASS TRANSPORTATION ACT

Section 16(b) of the Urban Mass Transportation Act of 1964 was amended in 1970 to require eligible local jurisdictions to plan and design mass transportation facilities and services so that they would be available to and usable by elderly and handicapped persons (P.L. 91-453). A special program of grants and loans also was authorized under the Act to help state and local public agencies provide mass transportation services which are "planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons." Such agencies were permitted to use federal funds to purchase special buses or vans for transporting persons with severe mobility limitations. Changes made by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100-17) authorize a federal share of 95 percent of the costs for certain capital improvement projects that enhance the accessibility of public transportation services for elderly and handicapped persons. Projects that are required under federal law are not eligible for such funding.

The Federal-Aid Highway Act of 1973 (P.L. 93-87) extended eligibility for Section 16(b) grants and loans to private nonprofit corporations. In addition, the 1982 amendments permitted the Secretary of Transportation to earmark up to 3.5 percent of the Urban Mass Transportation Fund for special transportation services benefiting elderly and handicapped individuals.

The Urban Mass Transportation Act contains three additional programs that affect persons with handicaps. The Mass Transportation Technology Research and Demonstration program provides funding for projects addressing national priorities, including transportation accessibility for elderly and handicapped persons. The design for the "Transbus," a specially designed vehicle for transporting physically handicapped persons, was financed through this authority.

The Urban Mass Transportation Technical Studies program provides grants to assist in planning, engineering and designing mass transit projects, including special planning efforts for transporting elderly and handicapped persons. In addition, the Urban Mass Transportation Demonstration Grants program supports demonstration projects using innovative techniques and methods "in an operational environment"

that will improve mass transit service, including special services for elderly and handicapped riders.

The Urban Mass Transportation formula grant program was amended by the National Mass Transportation Assistance Act of 1974 (P.L. 93-503) to require project applicants to assure that the fares charged elderly and handicapped persons during nonpeak hours do not exceed one-half of the generally applicable rate for other persons during peak hours. In addition, localities were permitted under P.L. 93-503 to transport elderly and handicapped persons free of charge and still be eligible for federal formula grant aid.

The Surface Transportation Assistance Act of 1978 (P.L. 95-599) continued prior statutory authorizations for programs serving handicapped persons and emphasized the need to consider handicapped persons under all transportation assistance authorities. The 1978 Act also created a new grant program for national or local programs that address human resource needs, as they apply to public transportation activities.

The Surface Transportation and Uniform Relocation Assistance Act of 1987 contained a requirement that the Secretary of Transportation conduct a study of the feasibility of developing standards for UMTA-funded programs related to the use of tactile mobility aids to ease access to transportation facilities and equipment for persons with blindness or severe visual impairments.

Finally, the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) established a demonstration project under which UMTA funds will be used to develop model techniques for identifying persons with disabilities in the community, developing outreach strategies and providing training programs for transit operators and persons with disabilities. The overall aim of these activities is to solve critical barriers to transportation and accessibility for persons with disabilities. The three year project will be operated through the National Easter Seal Society.

References: Urban Mass Transportation Act of 1964, as amended. P.L. 91-453, P.L. 93-503, P.L. 93-87, P.L. 95-599, P.L. 100-17, and P.L. 100-203. 49 U.S.C. 1601. C.F.D.A., 20.500, 20.505, and 20.509.

FEDERAL-AID HIGHWAY ACT

The Federal-Aid Highway Act of 1973 (P.L. 93-87) included authority for the use of funds under the highway improvement program "to provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons... across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the states." Highway improvement funds also may be used for providing accessible rest stop facilities.

The Act was amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100-17) to require the Secretary of Transportation to conduct a study to determine: (a) any problems encountered by persons with handicaps in parking motor vehicles; and (b) whether or not each state should establish parking privileges for persons with handicaps and grant to nonresidents of the state the same parking privileges granted to residents. The study, which was submitted to Congress in 1987, recommended that a model state statute be developed and that Congress consider developing a federal statute related to accessible parking for persons with handicaps.

References: Federal-Aid Highway Act of 1973, as amended, P.L. 93-87, P.L. 93-643, P.L. 94-280, P.L. 95-599 and P.L. 100-17. 23 U.S.C. 402. C.F.D.A.: 20.205.

RAIL PASSENGER SERVICE ACT

The Amtrak Improvement Act of 1973 (P.L. 93-146) amended the Rail Passenger Service Act to establish the National Railroad Passenger Corporation. This new Corporation was directed to "take all steps necessary to ensure that no elderly or handicapped individual is denied intercity transportation on any passenger train operated by or on behalf of the Corporation." Such steps may include: (1) acquiring special equipment and devices and conducting special training for employees; (2) designing and acquiring new equipment and facilities and eliminating architectural and other barriers in existing equipment and facilities; and (3) providing special assistance to elderly and handicapped persons while boarding and alighting and within terminal areas.

References: Rail Passenger Service Act, as amended. P.L. 93-146. 45 U.S.C. 502. C.F.D.A.: N/A.

FEDERAL AVIATION ACT

The Federal Aviation Act of 1958 was amended by the Air Carrier Access Act of 1986 (P.L. 99-435) to prohibit discrimination against "any otherwise qualified handicapped individual" in the provision of air transportation. The Act mandated the promulgation of regulations by the Department of Transportation to ensure non-discriminatory treatment of persons with handicaps, "consistent with the safe carriage of all passengers on air carriers." As of early 1988, regulations had not yet been promulgated.

The Civil Aeronautics Board Sunset Act of 1984 (P.L. 98-443) also amended the Federal Aviation Act, adding a requirement that prior to amending any regulations or procedures related to air carrier access for persons with handicaps, the Civil Aeronautics Board and/or the Secretary of Transportation must consult with the Architectural and

Transportation Barriers Compliance Board (see page 113 for more information on the ATBCB).

References: Federal Aviation Act of 1958, as amended by P.L. 98-443 and P.L. 99-435.
49 U.S.C. 1301. C.F.D.A.: N/A.

VOCATIONAL REHABILITATION

REHABILITATION ACT OF 1973

A. Overview

The Rehabilitation Act of 1973, as amended, authorizes close to \$1.5 billion in Federal support for training and placing persons with mental and physical handicaps into full-time, part-time or supported employment in the competitive labor market. To assist in accomplishing this goal, a wide variety of service, demonstration, training and research grant programs are established under the Act, including a major federal-state grant-in-aid program.

The origins of the federal-state vocational rehabilitation program can be traced back to 1920 when Congress enacted the first civilian program for assisting persons with disabilities to regain work skills. Since that time, the Act has been gradually expanded to include services to persons with a wide array of handicapping conditions and, in recent years, to focus increased attention on the needs of individuals with severe handicaps.

In general, the Act defines the term "individual with severe handicaps" as a person:

"(i) who has a severe physical or mental disability which seriously limits one or more functional capacities (such as mobility, communication, self-care, self direction, interpersonal skills, work tolerance, or work skills) in terms of employability;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitational services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation."

B. Major Programs Affecting the Handicapped

1. *Basic Federal-State Vocational Grants.* Title I of the Act authorizes formula grants to designated state vocational rehabilitation agencies to provide basic services related to rehabilitating persons with handicaps. Funds may be used for the following purposes:

- diagnosis and evaluation of rehabilitation potential and related services by rehabilitation engineering technology specialists, psychologists and/or physicians;
- counseling, guidance, referral and placement services, including follow-up, follow-along and specific post-employment services necessary to assist qualified individuals to maintain or regain employment;
- vocational and other training services, including personal and vocational adjustment services, books and other training materials, and family adjustment services;
- physical and mental restoration services, including corrective surgery or therapeutic treatment and related hospitalization, prosthetic and orthotic devices, eye glasses, special services, and diagnosis and treatment for mental and emotional disorders;
- income maintenance not exceeding the estimated cost of subsistence, during rehabilitation;
- interpreter and reader services, rehabilitation teaching services, orientation and mobility services for the blind;
- transportation to rehabilitation services, and occupational licenses, tools, equipment, and initial stocks and supplies;
- recruitment and training services to provide persons with severe handicaps with new employment opportunities in the fields of rehabilitation, health, welfare, public safety and law enforcement;
- telecommunications, sensory and other technological aids and devices; and
- rehabilitation engineering services.

In order to receive funds under the Act, states must submit a plan to the Commissioner of the Rehabilitation Services Administration which includes the following provisions: (a) designation of a single state vocational rehabilitation agency to administer or supervise the administration of grant funds by a local agency; (b) identification of the plans, policies and methods to be followed in carrying out the state plan and a description of the methods to be used in expanding services to individuals with the most severe handicaps [N.B., States must specify and justify their policies related to order of selection of clients]; (c)

a description of the results of a comprehensive statewide assessment of the rehabilitation needs of individuals with severe handicaps; (d) a description of how rehabilitation engineering services will be provided to assist an increasing number of individuals with handicaps; (e) assurances that each person with handicaps will receive rehabilitation services consistent with an individualized written rehabilitation plan; (f) agreement to cooperate with other agencies serving persons with handicaps, particularly in coordinating services under the Rehabilitation Act, the Education of the Handicapped Act and the Vocational Education Act; (g) agreement to conduct periodic reevaluation of individuals placed in extended employment to determine their feasibility for competitive employment; (h) agreement to conduct public meetings to assist in the development of rehabilitation policies; (i) an outline of plans, policies and methods to be used in assisting in the transition from education to employment-related activities; and (j) assurances that the state has an acceptable plan for providing supported employment services in accordance with Part C of Title VI of the Act (see 11d, below).

Funds are allotted to states according to a formula based on relative population and per capita income. FY 1987 appropriations: \$1.2 billion.

References: Title I, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 701. C.F.D.A.: 84.126.

2. *Client Assistance Program.* Title I of the Act also authorizes grants to the states to establish and carry out client assistance programs (CAP). The purpose of such programs is to inform and advise rehabilitation clients and other persons with handicaps to access all available benefits under the Act, and upon their request, to assist such clients/applicants in their relationships with projects funded under the Act, including assistance in pursuing legal, administrative or other remedies to ensure the protection of the individual's rights under the Act. In order for a state to receive funding under this section of the Act, its Governor must designate a public or private agency to serve as the CAP which is independent of any agency which provides treatment, services or rehabilitation.

Funds appropriated for CAP activities are allotted among the states based on the relative population of each state, with a minimum allotment of \$75,000 for states and \$45,000 for territories. FY 1987 appropriations: \$7.1 million.

References: Title I, Rehabilitation Act of 1973, as amended, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 732. C.F.D.A.: 84.161.

3. *Innovation and Expansion Grants.* Part C of Title I authorizes grants to state vocational rehabilitation agencies to plan, develop, initiate and expand special services to persons with the most severe handicaps.

Funds also may be used to: (a) develop special programs for groups of handicapped individuals, such as poor clients, who have difficult or unusual problems in accessing rehabilitation services; or (b) maximize the use of technological innovations in meeting the employment/training needs of youth and adults with handicaps. (This program was not funded in FY 1987.)

References: Part C, Title I, Rehabilitation Act of 1973, P.L. 93-112, as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 740. C.F.D.A.: 84.130.

4. *American Indian Vocational Rehabilitation Services.* Part D of Title I authorizes grants to Indian tribal bodies to cover up to 90 percent of the costs of vocational rehabilitation services furnished to their members. A state must continue to provide services to Indians if it includes any Indians in its population count used to determine the state's basic federal vocational rehabilitation allotment. This section does not authorize a separate service delivery system for American Indians who reside in non-reservation areas of a state. FY 1987 appropriations: \$3.2 million.

References: Part D, Title I, Rehabilitation Act of 1973, as amended. P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 750. C.F.D.A.: 84.128

5. *Research and Training.* Title II of the Act establishes the National Institute on Disability and Rehabilitation Research (formerly the National Institute of Handicapped Research) and authorizes grants for research, demonstration and related activities designed to develop methods, procedures and devices to assist in the provision of vocational rehabilitation services under the Act, especially for persons with the most severe handicaps.

Such projects may include: (1) studies and analyses of industrial, vocational, social, psychiatric, psychological, economic, and other factors affecting rehabilitation of handicapped individuals, including studies of supported employment programs, (2) special problems of homebound and institutionalized individuals; (3) studies, analyses and demonstrations of architectural and engineering designs adapted to meet the special needs of handicapped individuals, including those with the most severe handicaps.

In addition, NIDRR may award grants to support specialized research through its network of Rehabilitation Research and Training Centers. These centers train rehabilitation personnel, explore new ways to apply rehabilitation engineering services and study spinal cord injuries and end-stage renal disease; they also conduct research concerning the applicability of telecommunication systems to vocational rehabilitation, develop innovative methods of providing pre-school services to children with handicaps, and identify new ways of evaluating and developing the employment potential of persons with handicaps.

The National Institute on Disability and Rehabilitation Research is responsible for: (1) administering the research projects mentioned above; (2) establishing a network of research centers; (3) disseminating research findings and other related information; (4) disseminating educational materials to elementary and secondary schools, institutions of higher education, and the general public, including information relating to family care and self care; (5) conducting conferences, seminars, workshops, and in-service training programs concerning research and engineering advances in rehabilitation; and (6) developing statistical reports and studies regarding employment, health, income and other demographic characteristics of handicapped individuals.

The director of NIDRR is appointed by the President (and confirmed by the Senate) and is directly responsible to the Assistant Secretary for Special Education and Rehabilitative Services in the Department of Education. FY 1987 appropriations: \$49 million.

References: Title II, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P. L. 99-506. 29 U.S.C. 760. C.F.D.A.: 84.133.

6. Construction Grants and Loans for Rehabilitation Facilities. Part A of Title III authorizes grants and loan guarantees to cover the cost of constructing rehabilitation facilities. Grants may be made to state agencies, public or nonprofit organizations for the construction, staffing and planning of rehabilitation facilities. Staffing costs may cover the cost of professional or technical personnel from the opening of the facility through the fourth year of operation, with a gradually decreasing percentage of federal support over that period. The federal share of construction costs is limited to a percentage established by the Commissioner.

Federal funding also is available to guarantee payment of the principal and interest on loans made to nonprofit, private entities by nonfederal lenders and by the Federal Financing Bank for the construction and equipping of rehabilitation facilities. (This program was not funded in FY 1987.)

References: Title III, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 771. C.F.D.A.: 84.128.

7. Vocational Training Services for Individuals with Handicaps. Title III also authorizes the Commissioner to make grants to public and nonprofit organizations to cover 90 percent of the cost of projects for providing vocational training services to individuals with handicaps. Vocational training services may include training for career advancement, training in occupational skills, related services, work testing and the provision of work tools and equipment. This section also authorizes

weekly payments for up to two years to individuals receiving such training and related services. Such payments may range between \$30 and \$70 weekly. The purpose of these services is to prepare trainees for suitable, gainful employment, including supported employment. (This program was not funded in FY 1987.)

References: Title III, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 772. C.F.D.A.: 84.129.

8. *Training.* Title III of the Act also authorizes grants to state agencies and other public or nonprofit organizations, (including institutions of higher education) to support training projects, traineeships, and related activities designed to assist in increasing the numbers of qualified personnel available to provide vocational, medical, social and psychological components of rehabilitation services to persons with handicaps. Recipients of these grants must attempt to include persons with handicaps as trainees in their programs.

Training also may be provided for personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, recreation for ill and handicapped individuals, and other areas of training contributing to the rehabilitation of persons with handicaps, including persons who are homebound, institutionalized or have limited English-speaking abilities. FY 1987 appropriations: \$24.9 million.

References: Title III, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 763. C.F.D.A. 84.129.

9. *Special Projects and Supplementary Services.* Title III of the Rehabilitation Act also authorizes a series of supplementary services and special projects to assist in the rehabilitation of certain groups of persons with handicaps. Among these grant authorities are:

a. *Rehabilitation Centers.* Section 305 (under Part A of Title III) authorizes the establishment and operation of Comprehensive Rehabilitation Centers. Grants are made to state vocational rehabilitation agencies to set up centers serving as a community's focal point for the development and delivery of services to individuals with handicaps, including the provision of information and referral, counseling, job placement, health, educational, social and recreational services.

b. *Severely Disabled Projects.* Section 311(a) (under Part B of Title III) authorizes grants to states and public or nonprofit agencies or organizations to pay part or all of the costs of special projects and demonstrations (including research and evaluation) for: (1) establishing programs, and, where appropriate, constructing facilities

for providing vocational rehabilitation services which hold promise of expanding rehabilitation services to persons with the most severe handicaps; (2) applying new types or patterns of services or devices for individuals with handicaps; and (3) operating programs, and, where appropriate, renovating and constructing facilities to demonstrate methods of making recreational activities fully accessible to persons with handicaps.

c. *Spinal Cord Injury Projects.* Section 311(b) authorizes grants to states and other public and non-profit organizations for special demonstration projects relating to serving persons with handicaps, especially persons with spinal cord injuries and deaf and blind individuals, regardless of their rehabilitation potential. This program is administered by the National Institute on Disability and Rehabilitation Research.

d. *Handicapped Youth Job Training.* Section 311(c) authorizes grants to states and other public and non-profit organizations for special projects and demonstrations for handicapped youth to prepare them for entry into the labor force. These projects must be collaborations between educational agencies, vocational rehabilitation agencies, business and industry groups, and labor and local economic development organizations. Services may include job search assistance, on-the-job training, job development, information dissemination to business and industry, and follow-up services for persons placed in employment.

e. *Supported Employment Special Demonstrations:* Section 311(d) allows the Commissioner of the Rehabilitation Services Administration to make grants to states and public and private organizations for the development and demonstration of supported employment projects. At least one such grant must be nationwide in scope. It must: (1) identify community-based models that can be replicated; (2) identify impediments to the development of supported employment programs; and (3) develop a mechanism to explore the use of existing community-based rehabilitation facilities as well as other community-based programs for the provision of supported employment services. In addition, Section 311(d) authorizes grants to cover the cost of providing technical assistance to states in implementing Part C of Title VI of the Act, which provides grants to state and local governments to operate supported employment programs (see page 150).

f. *Transitional Employment Special Demonstrations.* Section 311(e) of the Act authorizes grants for developing, expanding and disseminating model statewide transitional planning services for youth with severe handicaps. One grant under Section 311(e) was mandated to be made to a public agency in a predominantly urban

New England state for an existing model state-wide transitional planning services program. Under this project, the grantee was required to: (1) assure that there would be a single state agency with responsibility for managing the referral process; (2) assure that the schools involved initiate referral at least two years prior to the anticipated date of completion of participants; (3) assure that the schools and adult service providers involved would jointly develop individual transition plans for each participant; and (4) assure that case management and tracking of participants would be included in the project. The Act requires similar grants to be made to a public agency in a predominantly rural western state and a public or nonprofit private agency in a predominantly rural southwestern state.

g. *Migratory Workers*. Section 312, (also under Part B) authorizes grants to state or local agencies to cover the costs of vocational rehabilitation services to migratory workers. Applicants for these grants must assure that activities and assistance will be coordinated with other programs serving migratory workers.

h. *Reader and Interpreter Services*. Sections 314 and 315 (under Part B) authorize grants to state agencies and other public or nonprofit organizations for the establishment of reader services for blind persons and interpreter services for deaf individuals.

i. *Recreation*. Section 316 (under Part B) authorizes grants to state agencies and public and nonprofit organizations for the development of programs to provide handicapped persons with recreational activities to aid in their mobility and socialization.

Special Projects and Supplementary Services, FY 1987 appropriations: \$46 million.

References: Title III, Rehabilitation Act of 1973, as amended. P.L. 93-112. P.L. 93-516, P.L. 94-230, P.L. 95-602. P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 701. C.F.D.A.: 84.128.

10. *National Council on the Handicapped*. Title IV of the Rehabilitation Act of 1973, as amended, authorizes the establishment of an independent National Council on the Handicapped within the federal government. The Council is composed of fifteen members, appointed by the President with the advice and consent of the Senate. Council members represent persons with handicaps, service providers, advocates, researchers, and individuals drawn from the business and labor sectors. The Council and its staff are charged with reviewing all federal statutes related to persons with handicaps, assessing the extent to which these statutes offer persons with handicaps opportunities for independence and community integration, and recommending legislative proposals to the President and the Congress.

References: Title IV, Rehabilitation Act of 1973, as amended. P.L. 98-221, as amended by P.L. 99-506. 29 U.S.C. 780. C.F.D.A.: N/A.

11. *Employment Opportunities.* Title VI of the Act establishes programs aimed at enhancing employment opportunities for handicapped persons, including:

a. *Community Service Employment.* Section 611 authorizes the Community Service Employment Pilot Program, administered by the U.S. Department of Labor. The main aim of the program is to provide full or part-time community employment for persons with handicaps referred by state vocational rehabilitation agencies. The Labor Department is authorized to enter into agreements with public and private nonprofit agencies, including national organizations and state and local governments, to conduct such pilot projects. The federal government will pay up to 90 percent of the costs of carrying out such projects.

The pilot projects offers: (1) training and subsistence payments during the training period; (2) payment for any reasonable work-related expenses, transportation and attendant care; and (3) placement services for employees in unsubsidized jobs when federal assistance for the project terminates. (This program was not funded in FY 1987.)

b. *Projects with Industry.* Section 621 of the Act authorizes the "Projects with Industry" program. Under this authority the federal government may enter into contracts with individual employers, designated state units and others to promote opportunities for competitive employment by individuals with handicaps.

The program also provides appropriate placement resources and engages the talent and leadership of private industry as partners in the rehabilitation process to identify settings and furnish training and job opportunities to prepare people with handicaps for competitive employment. PWI projects: (1) create and expand job opportunities for persons with handicaps; (2) provide them with training in a realistic work setting; (3) provide such individuals with the necessary support services to permit them to engage in employment; (4) develop job modifications, distribute special aids and modify facilities as needed; and (5) establish business advisory councils to identify jobs and training needs. FY 1987 appropriations: \$17 million.

c. *Business Opportunities.* Section 622 establishes a program to expand small business opportunities for persons with handicaps. Grants and contracts are authorized to enable such individuals to start up and operate commercial enterprises and to assist in the development

or marketing of their services/products. (This program was not funded in FY 1987.)

d. *Supported Employment.* Part C of Title VI of the Act authorizes supplementary grants to assist states in developing collaborative public/private ventures to offer training and time-limited post-employment services leading to supported employment for persons with severe handicaps. Supported employment, as defined in this section, means:

"competitive work in integrated settings — (1) for individuals with severe handicaps for whom competitive employment has not traditionally occurred; or (2) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who, because of their handicap, need ongoing support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness."

Under the terms of the Act, supported employment may be considered an acceptable employability outcome. To be eligible for supported employment grant funds a state must submit a supplement to its basic state rehabilitation plan, showing how the state will provide services leading to supported employment for persons with severe handicaps. Extended supported employment services must be provided by other public agencies (not the rehabilitation agency) and private organizations. Allotments under this program are based on the population of a state, with a minimum allotment of \$250,000 or one-third of one percent of the funds made available in any given year. FY 1987 appropriations: \$25 million.

References: Title VI, Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 701 and 29 U.S.C. 795 j;q. C.F.D.A.: 84.128 and 84.187 (the latter is supported employment only).

12. *Comprehensive Services for Independent Living.* Part A of Title VII authorizes formula grants to state vocational rehabilitation agencies (or another agency specifically designated by the Governor and approved by the Secretary) for the provision of comprehensive independent living services. Such services must be designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for employment but may benefit from vocational rehabilitation services which will enable them to live and function independently. Priority must be given to persons who have disabilities and are not currently served by other programs under the Rehabilitation or Developmental Disabilities Acts.

Independent living services may include: (1) counseling, including psychological, psychotherapeutic and related services; (2) housing, including appropriate accommodations and modifications of any space to serve persons with handicaps; (3) appropriate job placement services; (4) transportation; (5) attendant care; (6) physical rehabilitation; (7) therapeutic treatment; (8) needed prostheses and other appliances and devices; (9) health maintenance; (10) recreation services; (11) services to children of pre-school age, including physical therapy, development of language and communication skills, and child development services; and (12) appropriate preventive services to decrease the needs of individuals served under this program for future independent living services.

Allotments to the states under the comprehensive independent living services program will be distributed according to relative population, with a minimum of \$200,000 per state, or one-third of one percent of the funds appropriated in any given year (whichever is greater). The state vocational rehabilitation agency is designated as the administering agency for the program, with authority to contract with other agencies and organizations for the provision of services. To receive funds under Part A, a state must submit a three-year plan for comprehensive independent living services to RSA. The plan must include:

- a description of the quality, scope and extent of services and the state's goals and plans for distributing funds to independent living programs;
- assurances that service delivery facilities will be accessible to persons with handicaps;
- assurances that special efforts will be made to provide technical assistance to poverty areas;
- stipulations that up to 20 percent of the state's allotment for comprehensive services will be passed along to local public agencies or private not profit organizations [N.B., the Commissioner of the Rehabilitation Services Administration has the authority to waive this requirement.]

To receive funding under this section, a state must maintain a state Independent Living Council, to provide guidance for planning, developing and expanding independent living programs and concepts. FY 1987 appropriations: \$11.8 million.

References. Part A, Title VII, Rehabilitation Act of 1973, as amended. P.L. 95-602 as amended by P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 796. C.F.D.A.: §4.169.

13. *Centers for Independent Living.* In states having approved independent living plans, RSA may make grants to vocational rehabilitation

agencies to establish and operate centers for independent living. Each center must have a board which consists primarily of persons with handicaps who are substantially involved in the policy development and management of such centers. The centers may provide the following services: intake counseling and evaluation of client needs; referral and counseling for attendant care; advocacy regarding legal and economic rights; skills training, housing and transportation referral and assistance; health programs; community group living arrangements; individual/group social and recreational activities; and attendant care and training of personnel to provide such care. FY 1987 appropriations: \$24.3 million.

References: Part B, Title VII, Rehabilitation Act of 1973, as amended. P.L. 95-602, as amended by P.L. 96-374, P.L. 98-221, and P.L. 99-506. 29 U.S.C. 796. C.F.D.A.: 84.132.

14. *Services for Older Blind Individuals.* This special program provides independent living services for persons over age 55 whose visual impairment is severe enough to make gainful employment extremely difficult, but for whom independent living goals are feasible. Authorized services under Part C include: outreach; treatment; provision of eyeglasses and other aids; mobility training; and guide and reader services. Funding for this part may not exceed 10 percent of the amount appropriated for Title VII. FY 1987 appropriations: \$5.3 million.

References: Part C, Title VII, Rehabilitation Act of 1973, as amended. P.L. 95-602 as amended by P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 796. C.F.D.A.: 84.177.

C. Legislative History

The federal-state vocational rehabilitation program can trace its origins to the National Vocational Rehabilitation Act of 1920, which established a system of state vocational rehabilitation agencies. Major revisions to the program were adopted in 1954, when the Act became known as the Vocational Rehabilitation Act. The Act was completely rewritten once again in 1973 (P.L. 93-112) to place a stronger focus on rehabilitation services to clients with severe handicaps. This emphasis was significantly expanded under the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (P.L. 95-602), through the addition of grant authority for comprehensive independent living services to persons with severe handicaps. The 1978 Amendments also significantly revamped the Act's research authority, including the establishment of a National Institute on Disability and Rehabilitation Research.

The Client Assistance Program was established under the 1984 amendments; that year's reauthorization legislation also made the National Council on the Handicapped an independent agency of the federal government. The 1986 amendments represented another attempt by Congress to emphasize services to individuals with severe handicaps.

In that year's reauthorization legislation, the definition of severe handicap was strengthened and a new supported employment formula grant program was added, in recognition of the fact that full-time competitive employment is not the only viable outcome of rehabilitation services.

1. *Basic State Grant Program.* The 1965 Vocational Rehabilitation Amendments (P.L. 89-333) gave the states increased flexibility in financing and administering state vocational rehabilitation services. Provisions were added to authorize federal matching of local public funds made available to the states. P.L. 89-333 also permitted federal funds to be used to support extended evaluation periods of up to 18 months in the case of mentally retarded persons and other persons with disabilities as designated by the Secretary.

Rehabilitation Act amendments adopted by Congress in 1967 (P.L. 90-99) required the states to eliminate residency requirements which excluded from vocational rehabilitation services otherwise eligible handicapped persons who were residing in the state. In 1968, P.L. 90-391 made a number of modifications in state plan requirements and increased the federal share of vocational rehabilitation funding to 80 percent.

The Rehabilitation Act of 1973 (P.L. 93-112) recodified and revised the former Vocational Rehabilitation Act, placing a new emphasis on expanding services to clients with more severe handicaps. For the first time, state vocational rehabilitation agencies were directed to give priority to serving "those individuals with the most severe handicaps" through their basic state programs. In addition, state agencies were required to describe "the method to be used to expand and improve services" to this target population. Similar provisions granting priority to individuals with the most severe handicaps were included in the statutory authority for other programs under the Act.

The Rehabilitation Act of 1973 also required state VR agencies to develop an "individualized written rehabilitation program" on each client served. This program, which was to be jointly developed by the rehabilitation counselor and the handicapped individual (or, in appropriate cases, his parents or guardian), was to spell out the terms, conditions, rights and remedies under which services were to be provided to the individual; it was to establish the long range and intermediate goals to be attained. The Act required that each individual's program be reviewed at least annually and safeguards be included to assure that every individual capable of achieving a vocational goal had an opportunity to do so.

P.L. 93-112, for the first time, also established, by statute, a Rehabilitation Services Administration within the Department of Health, Education, and Welfare and delegated to the RSA Commissioner responsibility for administering all aspects of the rehabilitation program

authorized under the Act. [N.B., The Rehabilitation Services Administration was later transferred to the Department of Education under the terms of the Department of Education Organization Act (P.L. 96-87); see page 24.]

The 1974 amendments to the Act (P.L. 93-516) clarified a number of the provisions of the Rehabilitation Act of 1973. One modification was the addition of a broader definition of "handicapped individual," applicable to Title IV and Title V of the Act (see discussion on page 141). P.L. 93-516 also revised the requirement for developing an individualized written rehabilitation plan on each client. Emphasis was placed on reporting and analyzing the reasons for determinations of ineligibility and reevaluating individuals who were refused services to ascertain whether they had any potential for achieving vocational goals. The legislation specified that clients must be given an opportunity to participate in any determination of service ineligibility and be advised of their rights and the remedies available to them.

The Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (P.L. 95-602) revised the formula for determining state allotments under the basic federal-state vocational rehabilitation grant-in-aid program and linked future funding increases for the program to the national Consumer Price Index. The 1978 amendments also provided for the establishment of a number of programs and the expansion of existing rehabilitation-related services to persons with handicaps and severe handicaps under the Rehabilitation Act of 1973.

Under the Rehabilitation Amendments of 1984 (P.L. 98-221) the Client Assistance Program, which was a small discretionary program until 1984, was established as a formula grant program to assist clients and applicants in understanding the projects, programs and facilities providing services under the Act. The agency implementing this program was to be designated by the Governor of each state and had to be independent of any agency which provided rehabilitation services under the Act (see discussion on page 143).

The Rehabilitation Act Amendments of 1986 (P.L. 99-506) made changes that promise to have a potentially profound impact on the delivery of services to individuals with *severe* handicaps. The definition of a "severe handicap" was amended to include functional as well as categorical criteria. In addition, a definition of "employability" was inserted in the Act for the first time, to clarify that part-time work is a viable outcome of rehabilitation services. Prior to 1986, each state rehabilitation agency used its own discretion in determining whether a person was employable, and thus qualified to receive rehabilitation services.

In addition, the 1986 amendments required the states to not only give evidence that they had policies governing the order in which clients were selected for services but also to justify these policies. The state plan requirements also were changed in the 1986 law, requiring states to: (a) plan for individuals who are making the transition from school-to-work; and (b) reflect how the state would implement the new supported employment program authorized under Title VI-C of the Act.

2. *Innovation and Expansion Grants.* Innovation and expansion grants were authorized under Section 3 of the Vocational Rehabilitation Act of 1954. These grants were to be used to expand and improve rehabilitation services, particularly services to severely disabled and other hard-to-rehabilitate clients. In 1965, amendments to the Act (P.L. 89-333) increased the federal share of the cost of such grants to 90 percent in the first three years of funding and 75 percent during the next two years. The Rehabilitation Act of 1973 (P.L. 93-112) recodified the authority governing such grants.

The 1984 amendments added a focus on individuals with the most severe handicaps to the innovation and expansion grants authority and authorized funds to be used to expand services to groups of individuals who have unusual or difficult problems related to their rehabilitation and to study applications of technology that would assist in the rehabilitation process.

3. *Research.* Research programs under the early versions of the Act were significantly expanded under the 1978 amendments to the Rehabilitation Act (P.L. 95-602). The 1978 amendments established a National Institute of Handicapped Research, (later renamed the National Institute on Disability and Rehabilitation Research) with broad responsibilities for an expanded research program. Among the key features of the statutory provisions authorizing the new Institute were the following:

- The Institute was created as a separate administrative entity within the Department, independent of the Rehabilitation Services Administration, with a director appointed by the President;
- A network of research and training centers, developed in conjunction with institutions of higher education, was to be established to train rehabilitation professionals and researchers and to coordinate and conduct advanced research. The twenty existing federally-funded Rehabilitation Research and Training Centers were to form the basis of this network;
- A Federal Interagency Committee was established to identify and coordinate all federal rehabilitation research activities; and

- A long range plan for rehabilitation research was to be developed to identify research needs, funding priorities, and the goals of the Institute.

Rehabilitation Research and Training Centers were set up to conduct research and establish model programs demonstrating innovative methods of providing services to preschool-aged handicapped children. Such service-related research was to include. (a) early intervention, parent counseling, infant stimulation, and early identification, (b) diagnosis and evaluation of children with severe handicaps, (c) physical therapy, language development, and pediatric, nursing and psychiatric services; and (d) appropriate services for parents.

The 1986 amendments to the Act changed the name of the Institute to the National Institute on Disability and Rehabilitation Research. Furthermore, the NIDRR was charged with submitting policy recommendations to Congress regarding the establishment of an agency designed to ensure. (a) the development and cost-effective production of technological devices, and (b) the efficient distribution of such devices.

The 1986 amendments also added under NIDRR authority provisions mandating:

- a study of health insurance practices and policies affecting persons with handicaps, to be submitted to Congress by February 1, 1990, and
- the establishment of two rehabilitation engineering centers, one each in South Carolina and Connecticut.

4. *Rehabilitation Facilities.* Authorization for construction of rehabilitation facilities was included in 1964 amendments to the Hill-Burton Medical Facilities Construction Act (P.L. 88-443), under Title VI of Public Health Service Act.¹ The 1965 amendments to the Vocational Rehabilitation Act (P.L. 89-333) authorized a five-year program of federal assistance to help plan, build, equip, and initially staff rehabilitation facilities and workshops.

The 1967 amendments to the Act (P.L. 90-391) permitted funds under the basic vocational rehabilitation program to be used for new construction as well as expansion and/or alteration in existing buildings. A state was permitted to use no more than ten percent of its basic allotment for such construction activities. In addition, states were required to provide assurances that other vocational rehabilitation services would not be diminished due to the use of funds for construction.

¹The Hill Burton program has since become part of the Health Resources Development Program, authorized under Title XVI of the Public Health Service Act, see page 67. However, this portion of the Hill Burton Act was phased out in the mid 1970s, thus, such funds are no longer available under this program.

The Rehabilitation Act of 1973 (P.L. 93-112) established a program of mortgage insurance for rehabilitation facilities. P.L. 93-112 authorized mortgage insurance to guarantee up to 100 percent of a loan for the construction of a public or nonprofit rehabilitation facility. Initial capital was authorized for the insurance fund and a \$200 million restriction was placed on the total amount of outstanding mortgages.

5. Special Projects. Authority for special projects and supplementary services has been contained in various amendments to the Vocational Rehabilitation Act. The 1967 amendments (P.L. 90-99) authorized funds for the establishment of a National Center for Deaf-Blind Youth and Adults. This federally-constructed center was intended to provide an intensive program of specialized services to prepare deaf blind individuals for adult responsibilities, including employment wherever possible. The Center also was to be responsible for conducting an extensive program of research, professional training, family orientation and education, and for organizing informational services. It was named the "Helen Keller National Center for Deaf-Blind Youth and Adults" under 1976 amendments to the Act (P.L. 94-288). The 1984 amendments to Act (P.L. 98-221) repealed Section 313 which authorized the Center and created a separate statutory authority for it, the Helen Keller National Center Act.

The 1967 amendments (P.L. 90-99) also authorized special project grants to state vocational rehabilitation agencies to pay up to 90 percent of the cost of furnishing vocational rehabilitation services to migratory farm workers. These services were to be provided in coordination with other agencies supplying services to migrant workers.

The 1968 amendments to the Act (P.L. 90-391) expanded the authority for special projects to include. (a) rehabilitation services for mentally retarded persons, (b) projects with industry, and (c) training grants for personnel in agencies serving persons with handicaps. The Rehabilitation Act of 1973 (P.L. 93-112) revised the authority for special projects by deleting provisions for special grants to serve mentally retarded persons, and instead targeting such funds on clients with the most severe handicaps.

Amendments to the Act in 1974 (P.L. 93-516) authorized the convening of a White House Conference on Handicapped Individuals. The purpose of this conference was to explore the problems faced by Americans with disabilities and develop administrative and legislative recommendations for addressing these problems. The Conference was held in 1977.

The 1984 amendments to the Act (P.L. 98-211) authorized the Commissioner of RSA to make grants to public or private organizations for two additional purposes. (a) special projects and demonstrations

related to spinal cord injuries; and (b) research and evaluation projects related to the preparation of youth with handicaps for the labor force (see discussion on page 147). These latter projects were to be conducted collaboratively by education agencies, business and industry, labor and vocational rehabilitation agencies.

The 1986 amendments (P.L. 99-506) authorized the development of a model statewide transitional planning services program in a New England state, under which referrals would be made two years prior to a student's completion of school. The project then would develop a transitional plan and provide case management services to track each client.

6. *National Council on the Handicapped.* The Rehabilitation Act Amendments of 1978 (P.L. 95-602) established a 15-member National Council on the Handicapped. Council members were to be appointed by the President to represent consumers, national organizations, service providers and administrators, researchers, and business and labor groups. The Act required that the Council membership include at least five handicapped persons, their parents or guardians. The 1984 amendments (P.L. 98-221) removed the Council from the Department of Education and established it as an independent agency within the federal government. The 1986 amendments (P.L. 99-506) required the Council to report annually to Congress regarding the progress that had been made in the implementation of the recommendations made in its initial report, *Toward Independence*, which was released in early 1986.

7. *Supported Employment.* The Rehabilitation Act Amendments of 1986 (P.L. 99-506) added a new supplementary formula grant program under which the states were authorized to conduct interagency collaborative projects to provide supported employment services to persons with severe handicaps. Services under this new program were to include, but not be limited to, evaluation of rehabilitation potential, the provision of skilled job trainers, intensive training, job development, follow-up services, regular observation of the person at the job site, and other services needed to support the person in employment. These services were to be complementary to those offered under Title I of the Act (i.e., the basic state grant program) and were not to rule out the provision of supported employment services under that title as well.

8. *Comprehensive Independent Living Services.* The 1978 amendments (P.L. 95-602) revised the Rehabilitation Act of 1973 by adding a new Title VII, entitled "Comprehensive Services for Independent Living." This new title authorized: (1) grants to states for comprehensive services (Part A), (2) discretionary grants to support centers for independent living (Part B), and (3) grants for services to older blind persons (Part C). Also included in the new Title VII was authority to establish

protection and advocacy systems for severely disabled persons (Part D — see also page 112 for details on this provision).

HELEN KELLER NATIONAL CENTER ACT

The Helen Keller National Center for Deaf-Blind Youth and Adults, authorized by the Helen Keller National Center Act, is responsible for: (1) demonstrating methods of providing intensive, specialized services needed to rehabilitate deaf-blind individuals and training professional and allied personnel to deliver such services; (2) conducting research into the problems of rehabilitating deaf-blind individuals, and (3) supporting related activities to expand or improve public understanding of deaf-blind individuals.

Until 1984, the Helen Keller National Center was authorized by Section 313 of the Rehabilitation Act. When the Act was amended in 1984 (P.L. 98-221), Section 313 was repealed and enacted as a free-standing statute. According to the new authorization, the Secretary of Education was instructed to continue to administer the program in the same manner it was administered under Section 313 of the Rehabilitation Act. Among the reasons cited for establishing a separate authority for the Center were: (1) deaf-blindness is among the most severe forms of disability; (2) due to the rubella epidemic of the 1960s and recent medical advances, the lives of many deaf-blind individuals who might not otherwise have survived, have been sustained; and (3) there is a dearth of trained personnel and adequate facilities to meet the needs of this population. FY 1987 appropriations: \$4.6 million.

References. Helen Keller National Center A P.L. 98-221, as amended by P.L. 99-506. 29 U.S.C. 1901. C.F.D.A.: N/A

JAVITS-WAGNER-O'DAY ACT

The Wagner-O'Day Act of 1938, as amended, establishes a program under which federal agencies may procure selected commodities and services from qualified workshops serving individuals with blindness and other severe handicaps. The program's objective is to increase employment opportunities for such individuals. Procurement is directed by the 15-member Committee for Purchase from the Blind and Other Severely Handicapped. The Committee is responsible for: (1) determining which commodities and services are suitable for procurement from qualified nonprofit agencies, (2) publishing a list of such goods and services, (3) determining the fair market price for items/services on the procurement list and revising prices as market conditions change, and (4) promulgating necessary rules and regulations to implement the Act.

The Wagner-O'Day Act of 1938 originally authorized purchase from workshops for the blind. Amendments to the Act in 1971 (P.L. 92-28, the Javits-Wagner-O'Day Act) extended the authority to workshops for other persons with severe handicaps. P.L. 92-28 defined the term "severely handicapped" to mean: "an individual or class of individuals under a physical or mental disability, other than blindness, which ...constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment." The 1971 Act, however, specified that preference would be given to purchases from workshops for the blind through December 31, 1976.

Under the 1971 legislation, the Committee was to be composed of 14 persons — 11 representatives of designated Federal agencies and 3 representative of the general public. The 1974 amendments to the Act added a fifteenth member to the Committee. The Act specified that the additional member was to be a private citizen "conversant with the problems incident to the employment of other severely handicapped individuals."

References. Wagner-O'Day Act of 1938, as amended. P.L. 92-28, as amended by P.L. 93-76, and P.L. 93-358. 41 U.S.C. 46.48c. C.F.D.A.: N/A.

RANDOLPH-SHEPPARD ACT

The Randolph-Sheppard Act authorizes a program designed to provide gainful employment for blind individuals operating vending facilities on federal property. The program was established in 1938 (P.L. 74-732). Authority for blind-operated vending facilities later was expanded under the Vocational Rehabilitation Act of 1954 (P.L. 83-565) and the Randolph-Sheppard Act Amendments of 1974 (P.L. 93-516).

The 1974 amendments. (1) extended the scope of the Act's coverage to federal property operated by any federal department, agency or instrumentality, (2) established guidelines for the operation of the program by state licensing agencies, (3) required coordination among the agencies responsible for implementing the program, (4) established administrative and judicial procedures to assure fair treatment of blind vendors, state licensing agencies and the federal government, (5) required stronger federal administration and oversight by the Rehabilitation Services Administration, and (6) permitted income from vending machines in direct competition with blind vendors to accrue to the blind vendor, or to the state licensing agency for the purpose of establishing a fund for sick leave, vacation and retirement benefits for blind vendors.

References. Randolph-Sheppard Act of 1938. P.L. 83-565 and P.L. 93-516. 20 U.S.C. 107. C.F.D.A.: N/A.

MISCELLANEOUS

INTERNAL REVENUE CODE

The Internal Revenue Code provides certain special tax credits and deductions relating to the needs of persons with handicapping conditions. Enactment of the Tax Reform Act of 1986 (P.L. 99-514) marked the first comprehensive overhaul of the U.S. Tax Code in more than thirty years. In general, the 1986 Act significantly lowered individual and corporate tax rates in exchange for the elimination or reduction of numerous special tax deductions, credits and preferences that had been authorized over the years.

For citizens with handicapping conditions, P.L. 99-514 contained both favorable and unfavorable provisions. Some special exemptions were either eliminated or scaled back, while others were expanded.

The following is a brief rundown on provisions of the 1986 law which have a differential impact on physically and mentally disabled individuals:

- *Personal Exemption for Elderly and Blind Individuals.* P.L. 99-514 repealed the additional personal exemption for elderly and blind persons and replaced it with an extra standard deduction. The intent was to ensure that elderly and blind taxpayers who do not itemize their deductions, pay no more taxes than they would have under prior law. In addition to the new standard deduction for non-itemizers: (\$5,000 on joint returns, \$3,000 for single taxpayers and \$4,400 for single heads of households), blind and elderly taxpayers who fall into this category receive an additional deduction of \$750 in the case of a single person or a head of household, and an additional \$600 in the case of a married taxpayer (whether filing jointly or separately). A person who is both elderly and blind is entitled to have his special standard deduction doubled (i.e., either \$1,200 or \$2,500 depending on the individual's marital status).
- *Attendant Care.* Under the revised code, a severely handicapped employee may deduct the cost of on-the-job attendant care and other services necessary to permit him/her to work. This is a new deduction, not previously authorized under the tax code.
- *Charitable Deductions.* The maximum charitable deduction under prior law for a taxpayer who did not itemize deductions was \$25 in

1982 and 1983, and \$75 in 1984; in 1985, such taxpayers were permitted to deduct 50 percent of the full amount contributed, without a specified ceiling. In 1986, taxpayers were authorized to deduct the full amount, subject only to generally applicable tax rules. In 1987 and thereafter, under the terms of P.L. 99-514, no deductions (beyond the standard deduction) are allowable for non-itemizers. The new law also did not extend the prior statutory authorization for charitable deductions by non-itemizers and, thus, it expired at the end of 1986.

Charitable contributions remain fully deductible, however, for taxpayers who itemize their deductions.

- *Medical Expense Deductions.* Under prior law, a taxpayer who itemized deductions could write off unreimbursed medical expenses to the extent that such expenses exceeded five percent of his/her adjusted gross income. P.L. 99-514 raised the threshold of deductibility from 5 to 7.5 percent of a taxpayer's adjusted gross income, thus reducing the medical expenses a taxpayer (including a disabled taxpayer) could write off.

Capital expenditures could be deducted under prior law as medical expenses to the extent they were part of necessary medical care and exceeded the increased value added to the taxpayer's property. These expenses could include costs incurred in modifying an automobile to accommodate a wheelchair or to complete renovations necessary to eliminate barriers in the residence of a handicapped individual. The conference report on the 1986 tax bill made it clear that Congress wanted the Internal Revenue Service to continue treating capital costs of accommodations for handicapped individuals as deductible medical expenses.

- *Removal of Architectural and Transportation Barriers.* Prior law temporarily allowed taxpayers to deduct up to \$35,000 of qualifying expenses in places of business for the removal of architectural and transportation barriers to handicapped and elderly persons. This provision, however, was due to expire after tax year 1985. P.L. 99-514 made this provision a permanent part of the tax code.

- *Adoption Expenses.* Under prior law, an itemized deduction of up to \$1,500 was allowed for fees and other expenses incurred in adopting a child with special needs (i.e., a handicapped child or another youngster eligible for adoption assistance payments under Section 222 of the Social Security Act). P.L. 99-514 repealed deductions for itemized adoption expenses. Instead, the authority for adoption assistance under Title IV-E of the Social Security Act was expanded. These changes became effective in 1987.

- *Low Income Housing.* A new tax credit was added under P.L. 99-514 for owners of rental housing projects occupied by individuals and

families with low incomes. This exception to the general policy of eliminating real estate tax shelters was intended to offer private developers an inducement to invest in low income housing projects, including specialized and integrated housing units for poor disabled individuals.

At least 20 percent of the units in a project must be occupied by persons with incomes below 50 percent of the median income for the area, or 40 percent of the occupants must have incomes below 60 percent of the median area income, before a developer/owner may qualify for this special tax credit. Both income levels are to be adjusted to take into account family size.

The credit is 9 percent of the annual value of units occupied by low income tenants who are not benefitting from other federal housing subsidies. It is available for 10 years, with annual inflationary adjustments. For buildings benefitting from other types of federal subsidies, the credit is 4 percent. If such units are converted to alternative uses within a period of 15 years, the credit must be paid back, with penalties.

With some exceptions, the low income housing credit applies only to buildings initially occupied before January 1, 1990. Newly constructed, acquired and rehabilitated buildings are eligible for this credit. In addition, exceptions to the "passive loss" restrictions contained in the tax shelter provisions of P.L. 99-514 are made for low income housing units qualifying for such tax credits.

• *Targeted Jobs Tax Credit.* (See discussion under "Employment," page 35).

• *Foster Care Payments.* Under prior law, a foster parent was permitted to exclude from his/her gross income certain expenses associated with caring for a foster child under age 19 who had been placed by a government agency or a state-licensed, tax-exempt child placement agency. The exclusion also applied to certain "difficulty-of-care" payments made on behalf of handicapped children in foster homes, provided the child was cared for in a home serving no more than ten children during the tax year. To qualify for this exclusion, foster parents had to account for all expenses incurred for each foster child under their care. These provisions were initially added to the Code as a rider to the Periodic Payments Settlement Act of 1982 (P.L. 97-472).

P.L. 99-514 expanded the 1982 provision by deleting the age restriction on exclusion of care expenses from a foster parent's gross income, provided such payments, including "difficulty-of-care" payments, were made on behalf of recipients in homes caring for five or fewer adults. The purpose of this provision is to assure equal tax treatment of foster families serving children and adults. It should be particularly beneficial

to foster care providers serving mentally ill, mentally retarded and other developmentally disabled adults.

The joint conference committee on the legislation made it clear that the exclusion applies only to individuals providing care in their own homes to adults who are placed by a responsible state, county or municipal agency. It does not apply to operators of board and care homes.

P.L. 99-514 also eliminated the requirement that foster parents maintain detailed expenditure records as a condition of obtaining the exclusion. The effective date of the foster care provisions was January 1, 1986.

Lobbying by Public Charities. Under the provisions of the Tax Reform Act of 1976 (P.L. 94-455), a more precise delineation of the restrictions on lobbying by tax exempt organizations was spelled out in the federal tax code. Under prior law, charitable organizations, exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code, were not permitted to devote any "substantial part" of their activities to "propaganda" or other attempts to influence legislation. This statutory test, however, was so vague that IRS was widely criticized for capricious and inequitable enforcement.

Effective January 1, 1977, P.L. 94-455 permitted charitable organizations to either elect to remain under the "substantial part" test or be covered under a new expenditures test. Under the new provisions, a sliding scale limitation on overall lobbying activity was established — ranging from 20 percent of the annual expenditures of organizations with budgets of under \$500,000 to \$225,000 plus ten percent of all outlays over \$1.5 million for organizations with annual budgets exceeding \$1.5 million. Organizations electing this new procedure were required to disclose their annual lobbying expenditures.

In addition, instead of having the withdrawal of tax exempt status as the only penalty, the 1976 law included authority to impose an excise tax for minor violations. Loss of exemption was reserved for sustained and excessive violations. What constitutes lobbying activities by tax exempt organizations also was spelled out in the Act.

References. Internal Revenue Code, as amended by P.L. 94-455, P.L. 95-30, P.L. 95-600, P.L. 97-248, P.L. 97-473 and P.L. 99-514.

ENERGY CONSERVATION AND PRODUCTION ACT

The Energy Conservation and Production Act of 1976 (P.L. 94-385) authorized a program to assist low income persons, particularly elderly and handicapped persons, to weatherize their dwellings. Up to \$400 per dwelling was made available to insulate homes. To the maximum

extent feasible, volunteers and trainees under Comprehensive Employment and Training Act programs, and other public services employees, were to be used to install the insulation.

Average expenditures for materials, program support and labor costs were subsequently increased to \$1,600, with no more than 10 percent earmarked for administrative expenses. A low income household is defined as one where the combined income level is at or below 125 percent or 150 percent of the federal poverty level, depending on the option selected by the state.

A "handicapped individual" was defined in P.L. 94-385 as any person eligible to receive benefits under the Rehabilitation Act of 1973, the Developmental Disabilities Act, and Titles II and XVI of the Social Security Act. Individuals eligible for cash assistance programs and those whose income falls below the poverty level, as determined by the Office of Management and Budget, were to be considered eligible low income persons.

References: Energy Conservation and Production Act, as amended by P.L. 94-385, P.L. 95-91, P.L. 95-619, P.L. 96-294 and P.L. 98-558. 42 U.S.C. 6851. C.F.D.A.: 81 042.

NATIONAL ENERGY CONSERVATION POLICY ACT

The National Energy Conservation Policy Act (P.L. 95-619) authorized a program to assist schools, hospitals and public care institutions to plan and institute energy-saving measures. The program is divided into two phases. (1) conducting energy "audits" to assess the conditions or needs of an institution's buildings, and (2) technical assistance and financial aid for planning and installing energy conservation systems. Buildings constructed after April 20, 1977 are not eligible to participate in the program. Generally, the federal government matches administrative costs on a 50/50 basis.

The program for public and nonprofit schools and hospitals authorizes a full range of activities including, initial audits, identification and implementation of energy-saving, maintenance and operating procedures; and evaluation, acquisition and installation of energy-saving devices or systems. The program for public care institutions (including residential facilities for mentally retarded and mentally ill persons) is limited to: energy conservation audits, assistance in developing facility maintenance and operating procedures to reduce energy costs; and technical assistance to determine what energy saving systems or devices should be installed. Both programs are voluntary and are approved, funded and monitored by state energy offices.

References: National Energy Conservation Policy Act. P.L. 95-619 42 U.S.C. 6371. C.F.D.A.: 81 052.

LOW INCOME HOME ENERGY ASSISTANCE ACT

The Home Heating Assistance Act of 1979 (P.L. 96-126) authorized an emergency program of federal payments to states and individuals to offset the impact of sharply increasing home heating costs on low-income persons, including recipients of public assistance and Supplemental Security Income benefits. The program was made permanent under the Crude Oil Windfall Profits Tax Act of 1980 (P.L. 96-223). Title III of the Windfall Profits Tax Act authorized the Low Income Energy Assistance Program, providing tax credits and direct payments to low-income individuals for the purpose of assisting them in meeting increased home heating costs. Other energy needs, such as the increased cost of transportation due to rising gasoline costs, were not covered by this legislation.

In 1981, Congress converted the authority into a state block grant program under the "Low Income Home Energy Assistance Act," which was included in the Omnibus Budget Reconciliation Act of that year (P.L. 97-35). Households with income not exceeding the greater of 150 percent of the federal poverty level or 60 percent of the state's median income were declared eligible to participate in the program, along with households made up of individuals receiving AFDC, SSI, Food Stamps or certain income-tested veterans benefits. FY 1987 appropriations: \$1.822 billion.

References. Home Heating Assistance Act of 1979, as amended. P.L. 96-126 and P.L. 96-223. Low Income Home Energy Assistance Act of 1981, P.L. 97-35, as amended by P.L. 98-558 and P.L. 99-425. 42 U.S.C. 8621. C.F.D.A.: 13.789.

COPYRIGHT ACT

The first comprehensive revision in the Federal copyright law since 1909 was enacted in 1976 (P.L. 94-553).

In addition to extending copyright privileges, allowing increased royalties for songwriters and affording authors and artists greater protection, the 1976 amendments contained the following provisions affecting blind and deaf individuals:

- Broadcasting performances of nondramatic literary works, directed primarily at blind or deaf audiences, are not considered an infringement of copyright, provided: (a) the transmission is made without any purpose of commercial advantage, (b) the broadcasting facilities are operated by a governmental body, a noncommercial educational station, a radio subcarrier or a cable system;
- Broadcasting a single performance of a dramatic literary work, published at least ten years before the performance date and directed primarily at blind individuals, is not considered an infringement of copyright, provided: (a) the transmission is made without any purpose

of commercial advantage, (b) the broadcast is made through the facilities of a radio subcarrier; and (c) no more than one performance of the same work is completed by the same performers or under the auspices of the same organization.

- Under specified circumstances, up to ten copies or phonorecords of copyrighted materials for broadcast by radio information service carriers may be made by a nonprofit organization for transmittal to blind and deaf persons;
- Braille copies are exempted from the statutory restriction against the importation of nondramatic, English language works not produced in the United States or Canada;
- The Register of Copyrights is required to develop forms and procedures to obtain clearance to reproduce nondramatic literary works in braille or recorded form. This amendment is intended to expedite the production and distribution of books in braille and recorded form by the Division of the Blind and Physically Handicapped in the Library of Congress.

References: Copyright Act of 1976, P.L. 94-553.

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
EDUCATION											
Elementary & Secondary Education Act ESEA Amendments of 1965	H.R. 2362	89-143	89-146	3/26/65	4/9/65	4/11/65	89-10	EL	LHR	Office of Elementary & Secondary Educ. Dept. of Education	1
Education Amendments of 1972	S. 659 H.R. 7248	92-1085	92-604	11/5/71	3/1/72	6/23/72	92-318				
General Education Amendments	H.R. 12253	—	93-674	1/28/74	2/5/74	4/18/74	93-269				
Education Amendments of 1976	S. 2657 H.R. 12835	94-1085	94-882	8/31/76	8/27/76	9/12/76	94-482				
Education Amendments of 1978	S. 1753 H.R. 15	95-1137	95-856	7/13/78	8/24/78	11/1/78	95-561				

Education of the Handicapped Act								EL	LHR	Office of Special Education & Rehabilitative Services, Department of Education	4
Captioned Films for the Deaf Act	S. 2232	89-1034	89-649	10/5/65	8/31/65	10/19/65	89-258				
Elementary & Secondary Education Act Amendments of 1966	S. 3046 H.R. 13161	89-1814	89-1674	10/6/66	10/7/66	11/3/66	89-750				
ESEA Amendments of 1967	H.R. 7819	90-188	90-726	5/25/67	12/11/67	1/2/68	90-247				
ESEA Amendments of 1970	H.R. 514	91-114	91-634	4/23/69	2/19/70	4/13/70	91-230				
Education Amendments of 1974	S. 1539 H.R. 69	93-805	93-763	3/27/73	5/20/73	8/21/73	93-380				
Handicapped Children's Early Education Assistance Act	H.R. 18763	90-1793	90-1386	9/16/68	9/30/68	90-536					
Education for All Handicapped Children Act of 1975	S. 6 H.R. 7217	94-332	94-168	7/29/75	6/18/75	11/29/75	94-142				
Authorizing Education Programs for Handicapped Persons through FY 1982	S. 725 H.R. 6692	95-268	95-124	5/9/77	5/23/77	6/17/77	95-49				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Education of the Handicapped Amendments of 1983	S. 1341 H.R. 3435	98-410	98-191	6/27/83	11/17/83	12/2/83	98-199				
Education of the Handicapped Amendments of 1986	S. 2294 H.R. 5220	99-860	99-315	9/22/86	6/6/86	10/8/86	99-457				
Education of the Deaf Act of 1986	S. 1874	—	99-290	6/26/86	5/6/86	8/4/86	99-371				
Higher Education Act							85-464				
Higher Education Act Amendments of 1986	S. 1965 H.R. 3700	99-383	99-296	6/17/86	6/3/86	10/17/86	99-498				
Vocational Education Act	H.R. 4955	88-393	88-553	12/12/63	12/13/63	12/18/63	88-210				
Carl D. Perkins Vocational Education Act	H.R. 4164	98-612	—	10/4/84	10/3/84	10/19/84	98-524				

EMPLOYMENT											
Job Training Partnership Act	S. 2036	97-469	—	10/1/82	9/30/82	10/13/82	97-300	EL	LHR	Employment and Training Administration, Department of Labor	27
Job Training Partnership Act Amendments of 1986	S. 2069 H.R. 5185	99-754	99-317	8/11/86	8/11/86	9/6/86	99-496				
Fair Labor Standards Act of 1938											
Fair Labor Standards Act Amendments of 1966	H.R. 13712	89-1366	89-1487	9/11/66	9/14/66	9/23/66	89-601				
Fair Labor Standards Act Amendments of 1986	S. 2884 H.R. 5614	—	—	10/1/86	9/27/86	10/16/86	99-486				
Tax Reform Act of 1986	H.R. 3838	99-426	99-313	12/18/86	6/24/86	10/22/86	99-514				
HEALTH											
Social Security Act								IFC, WM	FIN	Social Security Adm./Department of Health and Human Services	37
Social Security Act Amendments of 1963	H.R. 7544	88-637	88-551	8/27/63	10/12/63	10/24/63	88-156				
Social Security Amend. of 1964	H.R. 10473	88-1301	88-1517	5/27/64	8/31/64	10/13/64	88-641				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report i.o.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Social Security Amend. of 1964	H.R. 9393	88-1279	88-1516	4/30/64	8/31/64	10/13/64	88-650				
Social Security Amend. of 1965	H.R. 6675	89-213	89-404	4/8/65	7/9/65	7/30/65	89-97				
Social Security Amend. of 1967	H.R. 12080	90-544	90-744	8/17/66	11/22/66	1/2/67	90-248				
Social Security Amend. of 1972	H.R. 1	92-231	92-1230	10/17/72	10/5/72	10/30/72	92-603				
Intermediate Care Amend. of 1971	H.R. 10604	92-590	92-552	11/17/71	12/4/71	12/28/71	92-223				
Social Security Benefit Increase	H.R. 15390	92-1128	92-1215	6/27/72	6/30/72	7/1/72	92-336				
Maternal & Child Health Amendments	H.R. 9410	92-1143	—	6/30/72	6/30/72	7/10/72	92-345				

179

Social Security Amend. of 1973	H.R. 11333	93-627	—	11/15/73	12/21/73	12/31/73	93-233			
Maternal & Child Health Amendments	H.R. 8410	93-267	93-249	6/13/73	6/27/73	6/1/73	93-53			
Social Security Amend. of 1973	H.R. 1404	95-80	95-298	7/21/73	6/28/73	6/30/73	95-59			
To provide for reimburse- ment for rural health clinic services under the Medicare & Medicaid programs	H.R. 8422	95-548	—	10/17/73	10/19/73	12/13/73	95-210			
Social Security Financing Amend. of 1977	H.R. 9346	95-702	—	10/27/77	11/4/77	12/20/77	95-216			
Medicare End Stage Renal Disease Pro- gram Amend.	H.R. 8423	95-549	95-714	9/12/77	4/10/77	6/13/77	95-292			
Social Security Amend- ments of 1983	H.R. 1900	98-25	98-23	3/9/83	3/23/83	4/20/83	98-21			
Community Mental Health Centers Act								IFC	LHR	National Institute of Mental Health, Dept. of Health & Human Services

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Mental Retardation Facilities & Community Mental Health Centers Construction Act of 1963	S. 1576	88-694	88-694	9/10/63	5/27/63	10/31/63	88-164				
Mental Retardation Facilities & Community Mental Health Centers Construction Act of 1965	H.R. 2985	89-278	89-366	5/4/65	6/28/65	8/4/65	89-105				
Mental Health Amend. of 1967	H.R. 6431	90-212	90-294	5/17/67	6/8/67	6/24/67	90-31				
To provide grants for construction of community mental health centers	S. 2523 H.R. 14086	91-735	91-583	12/16/69	12/11/69	3/13/70	91-211				
Special Health Revenue Sharing Act	S. 66 H.R. 4925	94-192	94-29	6/5/75	4/10/75	7/29/75	94-63				

Community Mental Health Centers & Biomedical Research Amendments	S. 2450	—	95-838	10/15/78	6/26/78	11/8/78	95-622			
Community Mental Health Centers Act Amendments of 1980	S. 1177	96-977	96-712	8/22/80	7/24/80	10/7/80	96-398			
Alcohol, Drug Abuse and Mental Health Amendments of 1984	S. 2303	98-1123	98-381	10/4/84	10/4/84	10/19/84	98-509			
Comprehensive State Mental Health Planning Act of 1986	S. 1744	—	99-380	10/17/86	8/12/86	11/14/86	99-660			
Public Health Service Act								IFC	LHR	Public Health Service, Dept. of Health & Human Services
Hospital & Medical Facilities Amendments of 1964	H.R. 10041	88-1340	85-1274	5/25/64	8/1/64	8/18/64	88-443			
Community Health Service Extension Amendments of 1965	S. 510 H.R. 2986	89-249	89-117	5/3/65	3/11/65	8/5/65	89-109			

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Heart Disease, Cancer & Stroke Amend. of 1965	S. 596 H.R. 2986	89-963	89-368	9/24/65	6/28/65	10/6/65	89-239				
Comprehensive Health Planning & Public Health Services Amend. of 1966, "Partnership for Health"	S. 3008 H.R. 18231	89-2271	89-1665	10/17/66	10/3/66	11/3/66	89-749				
Partnership for Health Amendments of 1967	H.R. 6418	90-538	90-724	9/20/67	11/6/67	12/5/67	90-174				
Establishment of National Eye Institute	H.R. 12843	90-1644	—	8/1/68	8/2/68	8/16/68	90-489				
Health Services & Facilities Amend. of 1968	H.R. 15758	90-1752	90-1454	7/22/68	7/27/68	10/15/68	90-574				
To provide assistance in developing & administering lead-based paint elimination programs	H.R. 19172	91-1463	91-1432	10/5/68	12/17/68	1/13/69	91-695				

National Advisory Commission on Multiple Sclerosis Act

H.R. 15475 92-1185 92-1604 8/1/72 9/27/72 10/25/72 92-563

Health Programs Extension Act of 1973

S. 1136 93-227 93-87 5/31/73 3/27/73 6/18/73 93-45

Lead Based Paint Poisoning Prevention Amend.

S. 607 93-373 93-130 9/5/73 5/9/73 11/9/73 93-151

National Research Act

H.R. 7724 93-224 93-381 5/31/73 9/11/73 7/12/73 93-348

National Health Planning & Resources Development Act of 1974

S. 2994
H.R. 16204 93-1382 93-1285 12/13/74 11/25/74 1/4/75 93-641

National Arthritis Act of 1974

S. 2854 — 93-1251 12/18/73 10/11/74 1/4/75 93-640

Special Health Revenue Sharing Act

S. 66
H.R. 4925 94-192 94-29 6/5/75 4/10/75 7/29/75 94-63

Health Research & Health Services Amend. of 1976

S. 982
H.R. 7988 94-498 94-509 10/20/75 12/11/75 4/22/76 94-278

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
National Health Promotion & Disease Prevention Act of 1976	S. 1466 H.R. 12678	94-1007	94-330	4/7/75	7/30/75	6/23/76	94-317				
Biomedical Research & Related Programs, FY 1978	H.R. 4975	95-117	95-102	3/31/78	5/4/78	8/1/78	95-83				
Health Services Research Statistics & Technology Act of 1978	S. 2466 H.R. 12584	95-1190	95-839	9/25/78	8/9/78	11/9/78	95-623				
Health Services & Centers Amendments of 1978	S. 2474 H.R. 12370	95-1191	95-860	10/13/78	9/29/78	11/10/78	95-626				
Preventive Health Amendments of 1984	S. 2301	98-1063	98-393	10/1/84	9/28/84	10/30/84	98-555				
Health Research Extension Act of 1985	H.R. 2409	99-158	99-108	6/17/85	7/19/85	11/20/85	99-158				

Primary Care Amend- ments of 1985	S. 1282	99-157	99-104	3/5/86	7/19/85	4/24/86	99-280				
<i>HOUSING</i>											
Housing & Urban Development Act of 1970	H.R. 19436	91-1556	91-1216	12/3/70	12/8/70	12/31/70	91-609	BFUA	BHUA	Department of Housing and Urban Development	71
Housing and Community Development Act of 1974	S. 3066 H.R. 15361	93-1114	93-693	6/20/74	3/11/74	8/22/74	93-383				
Housing Authorization Act of 1976	S. 3295 H.R. 12945	94-1091	94-749	5/26/76	4/27/76	8/3/76	94-375				
Housing Authorizations	H.R. 6655	95-236	95-175	5/11/77	6/7/77	10/12/77	95-128				
Housing & Community Development Amend- ments of 1978	S. 3084 H.R. 12433	95-1161	95-871	7/24/78	7/20/78	10/31/78	95-557				
Housing & Community Development Amend- ments of 1980	S. 2719	96-979	96-716	8/22/80	6/21/80	10/8/80	96-399				

APPENDIX A
LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued

Category/Law	Bill No.	Report No.		Date of Passag		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Housing and Urban- Rural Recovery Act of 1983	H.R. 3959	98-375	98-275	11/16/83	11/17/83	11/30/83	98-181				
Housing and Community Development Act of 1987	H.R. 234	—	—	10/20/87	10/15/87	1/25/88	100-142				
INCOME MAINTENANCE											
Social Security Amend. of 1972	H.R. 1	92-231	92-1230	10/17/72	10/5/72	10/30/72	92-603	WM	FIN	Social Security Administra ⁿ , Dept. of Health & Human Services	85
Social Security Amend. of 1973	H.R. 11333	93-627	—	11/15/73	12/21/73	12/31/73	93-233				
Supplemental Security Income Benefits	H.R. 13025	98-871	93-735	3/5/74	3/13/74	3/28/74	93-256				
Extend Food Stamp Eligibility to SSI Recipients	H.R. 15124	93-1081	—	6/18/74	6/20/74	7/8/74	93-335				

Supplementary Security Income Amendments	H.R. 14434	94-1296	—	6/28/76	6/30/76	7/14/76	94-365				
Supplementary Security Income Amendments	H.R. 10210	94-755	94-1265	7/20/76	9/29/76	10/20/76	94-566				
Supplementary Security Income Amendments	H.R. 13500	94-1210	94-1345	6/8/76	10/1/76	10/21/76	94-585				
Social Security Disability Amendments of 1980	H.R. 3236	96-100	96-408	9/6/79	1/30/80	7/9/80	96-265				
Social Security Amend- ments of 1983	H.R. 1900	98-25	98-23	3/9/83	3/23/83	4/20/83	98-21				
Social Security Disability Benefits Reform Act of 1984	H.R. 3755	98-618	98-466	3/27/84	5/22/84	10/9/84	98-460				
Employment Oppor- tunities for Disabled Americans Act	H.R. 5595	99-893	99-466	9/30/86	10/8/86	11/10/86	99-643				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
<i>NUTRITION</i>											
Extend Food Stamp Eligibility to SSI Recipients	H.R. 15124	93-1081	—	6/18/84	6/20/74	7/8/74/	93-335	AGR	AGR	Food & Nutrition Service, Department of Agriculture	99
National School Lunch & Child Nutrition Act of 1974	S. 3459 H.R. 14354	93-1022	93-830	5/7/74	5/21/74	6/30/74/	93-326				
National School Lunch Act & Child Nutrition Act Amendments of 1975	H.R. 4222	94-68	94-259	4/28/75	7/10/75	10/7/75	94-105				
National School Lunch & Child Nutrition Act Amendments of 1977	S. 1420 H.R. 1139	95-281	95-277	5/18/77	6/30/77	1/10/77	95-166				
Special Supplemental & Child Care Food Programs Extension	S. 3085 H.R. 12411	95-1153	95-1020 95-884	10/15/78	7/21/78	11/10/78	95-627				

189

Commodity Distribution Amendments of 1981	S. 884	97-106	97-126	10/22/81	9/18/81	12/22/81	97-98				
1987 Amendments of the Food Stamp Act	H.R. 3454	—	—	9/19/85	9/23/85	10/4/85	99-114				
Food Security Act of 1985	S. 2036	—	—	2/4/86	1/30/86	2/28/86	99-198				
Omnibus Drug Enforcement Education and Control Act	H.R. 4588	99-603	—	5/19/86	9/29/86	10/14/86	99-470				
RIGHTS											
Elimination of Architectural Barriers to Physically Handicapped	S. 222 H.R. 6589	90-1523	90-538	6/17/68	8/25/67	8/12/68	90-480				109
To ensure that certain federally constructed facilities be constructed so as to be accessible to persons with physical handicaps	H.R. 14464	91-750	91-658	12/15/69	2/10/70	3/5/70	91-205				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Rights of the Blind & Other Physically Handicapped in D.C.	H.R. 11032	92-1005	92-1238	4/24/72	9/30/72	10/21/72	92-515				
Rehabilitation Amendments of 1973	H.R. 8070	93-244	93-318	6/5/73	7/18/73	9/26/73	93-112				
Rehabilitation Amendments of 1974	S. 4194 H.R. 17503	—	93-1297	11/26/74	11/26/74	12/7/74	93-516				
Developmentally Disabled Assistance & Bill of Rights Act	S. 462 H.R. 4005	94-58	94-160	4/10/75	6/2/75	10/4/75	94-103				
Education for All Handicapped Children Act of 1975	S. 6 H.R. 7217	94-332	94-168	7/29/75	6/18/75	11/29/75	94-142				
Public Building Cooperative Use Act of 1976	S. 685 H.R. 15134	94-1584	95-349	9/29/75	8/1/75	10/18/76	94-541				

Legal Services Corpora- tion Act Amendments of 1977	S. 1303 H.R. 6666	95-310	95-172	6/27/77	10/12/77	12/29/77	95-222				
To extend for three years the Commission on Civil Rights	S. 3067 H.R. 12432	95-1140	—	9/6/78	6/27/78	10/10/78	95-444				
Civil Service Reform Act of 1978	S. 2640 H.R. 11280	95-1403	95-969	9/13/78	8/24/78	10/13/78	95-454				
Rehabilitation, Com- prehensive Services & DD Amendments	H.R. 12467	95-1149	—	5/16/78	9/21/78	11/6/78	95-602				
Child Abuse Prevention and Treatment and Adoption Reform Act of 1984	H.R. 1094	98-159	98-246	2/2/84	7/26/84	10/9/84	98-457				
Protection and Advocacy for Mentally Ill In- dividuals Act of 1986	S. 1726	99-39	99-34	10/17/85	10/10/85	10/30/85	99-139				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Education of the Handicapped Amendments of 1986	S. 2294	99-860	99-315	9/22/86	6/6/86	10/3/86	99-457				
Rehabilitation Act Amendments of 1986	H.R. 4021	99-571	99-388	5/7/86	9/8/86	10/21/86	99-506				
Developmental Disabilities and Blindness Amendments of 1987	S. 1417	—	100-113	8/4/87	7/21/87	10/29/87	100-146				
SOCIAL SERVICES											
Child Welfare Services								WM	FIN	Office of Human Development Services, Department of Health and Human Services	117
Social Security Amendments of 1967	H.R. 12080	90-554	90-744	7/17/67	11/22/67	1/2/67	90-248				
Social Security Amendments of 1972	H.R. 1	92-231	92-1230	10/17/72	10/5/72	10/30/72	92-603				

Adoption Assistance and Child Welfare Act of 1980	H.R. 3434	96-136	96-336	8/2/79	10/29/79	6/17/80	96-272				
Social Services Block Grant (Title XX)								WM	FIN	Office of Human Development Services, Department of Health and Human Services	120
Social Services Amend- ments of 1974	H.R. 17045	93-1490	93-1356	12/9/74	12/17/74	1/4/75	93-647				
Social Services Amendments	H.R. 12455	94-903	94-857	3/16/76	3/20/76	1/76	94-401				
Child Care and Employ- ment of Welfare Reci- pients Extension	H.R. 3387 (H.R. 2850)	95-439	95-456	6/18/78	10/17/78	11/12/78	95-171				
Revenue Act of 1978	H.R. 13511	95-1445	95-1263	8/10/78	10/10/78	11/6/78	95-600				
Developmental Disabilities								IFC	LHR	Administration on Developmen- tal Disabilities, Department of Health and Human Services	124
Mental Retardation Facilities & Community Mental Health Centers Construction Act of 1963	S 1576	88-694	88-694	9/10/63	5/27/63	10/31/63	88-164				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Mental Retardation Facilities & Community Mental Health Centers Construction Act of 1965	H.R. 2985	89-278	89-366	5/4/65	6/28/65	8/4/65	89-105				
Mental Retardation Amendments of 1967	H.R. 6430	90-562	90-725	9/21/67	11/6/67	12/4/67	90-170				
Authorizing funds for in- creased facilities for mental retardation programs	S. 2846 H.R. 14237	91-1277	91-757	7/30/69	4/13/69	10/30/69	91-517				
Developmentally Disabl- ed Assistance & Bill of Rights Act	S. 452 H.R. 4005	94-58	94-160	4/10/75	6/2/75	10/4/75	94-103				
Rehabilitation, Com- prehensive Services & DD Amendments	H.R. 12407	95-1149	—	5/16/78	9/21/78	11/6/78	95-602				

Developmental Disabilities Act Amend- ments of 1984	H.R. 5603	98-826	—	6/11/84	6/28/84	10/19/84	98-527			
Developmental Disabilities Act Amend- ments of 1987	S. 1417	—	100-113	8/4/87	7/21/87	10/29/87	100-146			
Domestic Volunteer Service Act								EL	LHR	ACTION
Older Americans Act Amendments of 1969	H.R. 11235	91-285	91-340	6/16/69	8/13/69	9/17/69	91-69			
Domestic Volunteer Ser- vices Act of 1973	S. 1148	93-405	93-311	9/17/73	7/18/73	10/1/73	93-113			
Older Americans Amend- ments of 1975	S. 1425 H.R. 3922	94-67	94-255	4/8/75	6/26/75	11/28/75	94-135			
Domestic Volunteer Ser- vice Amendments of 1976	H.R. 12216	—	—	5/4/76	5/13/76	5/27/76	94-293			

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Older Americans Act Amendments of 1979	S. 2850 H.R. 12255	95-110	95-855	5/15/78	7/24/78	10/18/78	95-478				
Domestic Volunteer Service Amendments of 1984	S. 1129	98-161	98-182	10/17/83	9/14/83	5/21/84	98-288				
Domestic Volunteer Service Amendments of 1986	H.R. 4116	99-588	99-332	6/17/86	7/14/86	10/27/86	99-551				
Older Americans Act Amendments of 1987	H.R. 1451	100-97	100-136	5/28/87	8/6/87	11/29/87	100-175				
Head Start Act								EL	LHR	Office of Human Development Services Department of Health and Human Services	
Economic Opportunity Amendments of 1972	S. 3010 H.R. 12350	92-815	92-987	2/17/72	6/29/72	9/19/72	92-424				
Community Services Act of 1974	H.R. 14449	93-1043	93-1291	5/29/74	12/13/74	1/4/75	93-644				
Head Start Act of 1981	H.R. 3982	97-158	—	6/26/81	7/13/81	8/13/81	97-35				

TRANSPORTATION											
Urban Mass Transportation Act of 1964											
To provide long-term financing for expanded urban mass transportation programs	S. 3154							PWT	CST	Urban Mass Transportation Administration, Department of Transportation	137
	H.R. 1818	59-1126	49-1633	9.29/69	2/3/69	*9/15/69	91-453				
Federal Aid Highways Act of 1973	S. 502	93-118	93-61	4/19/73	3/15/73	8/13/73	93-87				
National Mass Transportation Assistance Act of 1974	S. 386 H.R. 6452	—	93-361	10/3/73	9/10/73	11/26/73	93-503				
Surface Transportation Assistance Act of 1978	H.R. 11733	95-1485	—	9/28/78	10/3/78	11/6/78	95-599				
Air Carrier Access Act of 1986	S. 2703	—	99-400	9/18/86	8/15/86	10/2/86	99-435				

APPENDIX A **LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued**

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Surface Transportation and Uniform Relocation Assistance Act of 1987	H.R. 2	100-27	—	1/21/87	2/4/87	4/2/87	100-17				
VOCATIONAL REHABILITATION								EL	LHR	Rehabilitation Services Administration, Department of Education	141
Vocational Rehabilitation Act Amendments of 1966	H.R. 3810	89-432	89-806	7/29/66	10/1/66	11/8/66	89-333				
Vocational Rehabilitation Amendments of 1967	H.R. 12257	90-563	90-565	8/21/67	9/20/67	10/3/67	90-99				
Vocational Rehabilitation Amendments of 1968	S. 3213 H.R. 16189	90-1346	90-1309	5/16/68	6/24/68	7/7/67	90-391				
To extend for 1 year the authorization for various programs under the Vocational Rehabilitation Act	H.R. 19401	91-1660	91-1433	12/7/70	12/1/70	1/31/77	91-610				

Rehabilitation Amend- ments of 1973	H.R. 8070	93-244	93-318	6/5/73	7/18/73	9/26/73	93-112				
Rehabilitation Act Amendments of 1974	S. 4194 H.R. 17503	—	93-1927	11/26/74	11/26/74	12/7/74	93-516				
Rehabilitation Amend- ments of 1976	H.R. 11045	94-721	—	12/15/75	12/19/75	3/15/76	94-230				
Rehabilitation, Com- prehensive Services and DD Amendments	H.R. 12467	95-1149	—	5/16/78	9/21/78	11/6/78	95-602				
Rehabilitation Amend- ments of 1984	S. 1340	98-298	98-168	9/12/83	7/26/83	2/22/84	98-221				
Rehabilitation Act Amendments of 1986	H.R. 4021	99-571	99-388	5/7/86	9/8/86	10/21/86	99-506				
BUDGET LAWS											
Omnibus Budget Recon- ciliation Act of 1981	H.R. 3982	97-182	97-139	6/25/81	7/13/81	8/13/81	97-35				161

APPENDIX A
LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH HANDICAPS—Continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency	Page
		House	Senate	House	Senate	Date Signed	No.	House	Senate		
Omnibus Budget Reconciliation Act of 1982	H.R. 6955	97-750	97-759	8/18/82	8/18/82	9/8/82	97-253				
Deficit Reduction Act of 1984	H.R. 4170	98-432	98-312	4/11/84	5/17/84	7/18/84	98-369				
Consolidated Omnibus Budget Reconciliation Act of 1985	H.R. 3128	99-241	99-146	10/31/85	11/14/85	4/7/86	99-272				
Omnibus Budget Reconciliation Act of 1986	H.R. 5300	99-727	99-348	9/24/86	9/25/86	10/21/86	99-509				
Omnibus Budget Reconciliation Act of 1987	H.R. 3454	100-391	—	2/2/87	2/22/87	12/22/87	100-203				

COMMITTEE ABBREVIATIONS

House		Senate	
EL	Education and Labor	LHR	Labor and Human Resources
IFC	Interstate and Foreign Commerce	FIN	Finance
WM	Ways and Means	BHUA	Banking, Housing and Urban Affairs
BFUA	Banking, Finance and Urban Affairs	AGR	Agriculture
PWT	Public Works and Transportation	CST	Commerce, Science and Transportation

APPENDIX B TABLE OF PROGRAMS

<i>Category/Program</i>	<i>C.F.D.A. #</i>	<i>Page</i>
EDUCATION		
Basic Programs Operated by Local Education Agencies	84.010.....	2
Basic State Grants for Handicapped Education	84.027.....	5
Clearinghouses for the Handicapped	84.030.....	10
Construction, Reconstruction and Renovation of Academic Facilities	84.172.....	21
Early Childhood Education	84.024.....	9
Handicapped Infants and Toddlers	84.181.....	12
Innovative Programs for Severely Handicapped Children	84.086.....	10
Instructional Media and Captioned Films	84.026.....	11
Library Services for the Blind and Other Physically Handicapped	42.001.....	25
Perkins Loans	84.038.....	21
Postsecondary Education	84.078.....	10
Preschool Grants	84.173.....	8
Regional Resource and Federal Centers	84.028.....	9
Research and Demonstration Projects	84.023.....	11
School Assistance in Federally Affected Areas—Construction	84.040.....	26
School Assistance in Federally Affected Areas—Maintenance and Operation	84.041.....	26
Secondary Education and Transitional Services	84.158.....	10
Services for Deaf-Blind Children and Youth	84.025.....	9
Special Education Personnel Development	84.029.....	10
State Operated and Supported Schools	84.009.....	1
Technology, Educational Media and Materials	84.180.....	12
Vocational Education—Basic Grants to States	84.048.....	22
EMPLOYMENT		
Employment Security	17.207.....	34
Employment Training Research and Development Programs	17.248.....	28
Federal Employment for Individuals with Handicaps	27.005.....	36
Handicapped Assistance Loans	59.021.....	33
Job Corps	—.....	29
Pilot and Demonstration Programs	17.249.....	28
Public Works	11.300.....	35
	11.304.....	35
	11.307.....	35
Training Services for the Disadvantaged	17.250.....	28

<i>Category/Program</i>	<i>C.F.D.A. #</i>	<i>Page</i>
HEALTH		
Alcohol, Drug Abuse and Mental Health Services Block Grant	13.992.....	54
Arthritis, Musculoskeletal and Skin Diseases	13.846.....	58
Centers for Disease Control—Investigations and Technical Assistance	13.283.....	60
Child Health and Human Development	13.864.....	58
Childhood Immunization Grants	13.268.....	60
	13.865.....	58
Community Health Centers	13.224.....	64
Diabetes, Digestive Diseases and Kidney Research	13.847.....	58
	13.848.....	58
	13.849.....	58
Genetics Research	13.862.....	61
Intermediate Care Facilities for the Mentally Retarded	13.714.....	47
Maternal and Child Health Services Block Grant	13.994.....	37
Medicare	13.774.....	43
Medical Facilities Construction	—.....	65
Mental Health	13.242.....	61
	13.244.....	61
	13.281.....	61
	13.282.....	61
Military Medical Benefits (CHAMPUS)	—.....	68
National Eye Institute	13.867.....	59
	13.868.....	59
	13.869.....	59
	13.870.....	59
	13.871.....	59
Neurological and Communicative Disorders and Stroke	13.853.....	58
	13.854.....	58
Outpatient Medical Facility Improvement	13.887.....	65
Preventive Health and Health Services Block Grant	13.991.....	65
Psychiatric Services for Children	—.....	48
Psychiatric Services for Older Individuals	—.....	48
HOUSING		
Community Development Block Grants	14.218.....	81
	14.219.....	82
Community Facilities Loans	10.423.....	84
Congregate Housing Services	14.170.....	72
Housing Vouchers	14.177.....	72
Mortgage Insurance	14.129.....	78
Rent Subsidies	14.156.....	72

<i>Category/Program</i>	<i>C.F.D.A. #</i>	<i>Page</i>
Rural Rental Housing Loans	10.415.....	76
Rural Rental Assistance Payments	10.427.....	76
Section 202 Direct Loans	14.157.....	77
Supportive Housing Demonstration Program	—.....	78
INCOME MAINTENANCE		
Adult Disabled Child Program	13.802.....	86
Basic Supplemental Security Income Program	13.807.....	91
Disability Insurance Benefits	13.802.....	85
Experimental and Demonstration Projects	13.812.....	88
Rehabilitation Services	13.802.....	87
Rehabilitation, Treatment, Referral and Counseling Services	13.807.....	93
Work Incentives	—.....	94
NUTRITION		
Child Care Food Program	10.558.....	100
Commodity Distribution	10.550.....	99
Food Stamps	10.551.....	104
Nutrition Education and Training	10.564.....	103
School Breakfast	10.553.....	103
School Lunch	10.555.....	99
School Milk	10.556.....	103
Summer Food Service	10.559.....	100
SOCIAL SERVICES		
Adoption Assistance	13.659.....	119
Basic State Grants		
for Child Welfare Services	13.645.....	117
for Developmental Disabilities	13.630.....	124
for Social Services (Title XX)	13.667.....	120
Child Welfare Services Training	13.648.....	118
Grants for Projects of National Significance	13.631.....	127
Head Start	13.600.....	133
Older Americans Act Programs	13.633.....	135
	13.635.....	135
	72.001.....	135
Protection and Advocacy Systems	13.630.....	126
Research and Demonstration Projects (Child Welfare)	13.608.....	118
Senior Companion Program	72.008.....	131
University Affiliated Programs Grants	13.632.....	126
TRANSPORTATION		
Federal-Aid Highway Programs	20.205.....	138
Urban Mass Transportation Programs	20.500.....	137
	20.505.....	137
	20.508.....	137

<i>Category/Program</i>	<i>C.F.D.A.#</i>	<i>Page</i>
VOCATIONAL REHABILITATION		
American Indian VR Services	84.128.....	144
Basic State Grants for VR Services	84.126.....	142
Centers for Independent Living	84.132.....	151
Client Assistance Program	84.161.....	143
Committee for Purchase from Blind and Other Severely Handicapped	—.....	159
Comprehensive Services for Independent Living	84.169.....	150
Construction Grants and Loans for Rehabilita- tion Facilities	84.128.....	145
Employment Opportunities	84.128.....	149
	84.187.....	150
Innovation and Expansion Grants	84.130.....	143
Research and Training	84.133.....	144
Services for Older Blind Individuals	84.177.....	152
Special Programs and Supplementary Services	84.128.....	146
Training	82.129.....	145
Vending Facilities for the Blind	—.....	160

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206

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