

# CRS Issue Brief

## Rehabilitation Act Reauthorization

Updated February 5, 1992

by  
Mary F. Smith  
Education and Public Welfare Division



# **CONTENTS**

SUMMARY

ISSUE DEFINITION

BACKGROUND AND ANALYSIS

Brief Legislative History of the Rehabilitation Act

History of Federal-State VR Program Participation and Expenditures

Related Federal Laws for Persons With Handicaps

Introduction to Issues for Reauthorization

Priority for Persons with Severe Handicaps

Long-term Outcomes of VR Services

Proposals for Major Revision of the Rehabilitation Act

Statement of Purpose

Entitlement and Eligibility

Personal Careers

Community Action

Services for Youth

Sustainable Technology

Reorganization of the Act

## **CONTENTS**

### **SUMMARY**

### **ISSUE DEFINITION**

### **BACKGROUND AND ANALYSIS**

#### **Brief Legislative History of the Rehabilitation Act**

History of Federal-State **VR Program Participation and Expenditures**

#### **Related Federal Laws for Persons With Handicaps**

Introduction to Issues for Reauthorization

Priority for Persons with Severe Handicaps

Long-term Outcomes of VR Services

#### **Proposals for Major Revision of the Rehabilitation Act**

Statement of Purpose

Entitlement and Eligibility

Personal Careers

Community Action

Services for Youth

Sustainable Technology

Reorganization of the Act

## Rehabilitation Act Reauthorization

### SUMMARY

The Rehabilitation Act authorizes vocational rehabilitation and related services to enable individuals with handicaps to become employable and to live independently. The Act is scheduled for reauthorization during FY1992. Major issues under consideration for reauthorization arise from 1) the priority on services to persons with severe handicaps under the Rehabilitation Act; and 2) recent legislation establishing the civil rights of persons with disabilities.

The Rehabilitation Act was originally authorized in 1920 as a means of returning injured workers to their jobs. Amendments in 1973 gave priority to persons with severe handicaps, defined in part as persons who need multiple services over an extended period of time. The emphasis on services to persons with severe handicaps, and the fact that funding did not keep pace with inflation between FY1975 and FY1990, resulted in a 33% decline in the total number of persons successfully rehabilitated over this period. However, the percentage of persons rehabilitated with severe handicaps doubled. In FY1990, total expenditures were just under \$1.9 billion, and approximately 216,000 persons were rehabilitated.

As persons with handicaps have increasingly moved into the social mainstream, they have sought to establish their right of access to all aspects of society. These efforts resulted in the enactment of the Americans with Disabilities Act of 1990 (ADA), that included broad nondiscrimination protection for individuals with disabilities in employment, transportation, and services operated by the public and private sectors.

The Rehabilitation Act is seen by leaders of the disability community as a major program under which persons with handicaps can be prepared to take advantage of the opportunities potentially available to them under the ADA. That is, the Rehabilitation Act authorizes vocational rehabilitation services to make persons eligible for employment, provides training to assist persons with community living, and includes technological devices to assist with mobility and communication. However, these services are limited by appropriations, there is no individual entitlement to services, and the focus is on rehabilitation for employment.

At a reauthorization hearing, a spokesman for the disability community presented a number of recommendations that would substantially revise the statute. Proposals included entitlement to services and expanded, lifelong eligibility. Programs recommended included planning and coordination of services for youths with handicaps and increased availability of technology. In addition, advocacy programs for broad community access for persons with handicaps were suggested.

At the reauthorization hearing, the GAO reported that States were not fully implementing a procedure required to assure priority services to persons with severe handicaps. On the other hand, GAO also reported concern among States regarding the lack of services to eligible persons with handicaps that are not severe. On another issue, GAO data on the long-term outcomes for persons rehabilitated indicated that only half had earnings in each of the four years following rehabilitation.

## **ISSUE DEFINITION**

Congress will consider reauthorization of the Rehabilitation Act in the second session of the 102d Congress. This Act authorizes comprehensive services for vocational rehabilitation and related needs of persons with handicaps. Major issues for reauthorization arise from the priority on services to persons with severe handicaps under the Rehabilitation Act and recent legislation establishing the civil rights of individuals with disabilities.

## **BACKGROUND AND ANALYSIS**

### **Brief Legislative History of the Rehabilitation Act**

Vocational rehabilitation services for civilians with handicaps were first authorized in 1920 following the establishment of a similar program for disabled veterans. The program was expanded in 1943 to help meet the manpower shortage after the entry of the United States into World War II. The initial Federal-State vocational rehabilitation (VR) program was focused on persons with physical impairments who were injured in the workplace. The objective of the program was to return such persons to civilian employment.

By the early 1970s, the Federal-State VR program had been administratively expanded to include persons with deficits associated with low socioeconomic status. Persons whose physical or mental impairments were not viewed as severely handicapping had been eligible since the beginning of the program. To more clearly focus program resources, the statute was amended in 1973 to require that priority for VR services be given to persons with severe handicaps, if such persons were determined to have employment potential.

By the late 1970s, there was concern over the scarcity of resources for persons with severe handicaps who were not accepted in the Federal-State VR program due to lack of employment potential. To address this problem the 1978 amendments added a major new service category, called comprehensive services for independent living, for severely handicapped persons without current employment potential. Three types of independent living services were authorized: State allotments for independent living services, discretionary grants to support centers for independent living, and independent living services for the older blind. In addition, protection and advocacy services were authorized for persons with severe handicaps receiving independent living services.

Although some persons with severe handicaps were not able to work independently in the competitive labor market, many of these persons were able to do some competitive work if they were given special on-going supportive services. In 1986, services to persons with severe handicaps were strengthened when the statute was amended to include supported employment services for persons unable to maintain competitive employment without special assistance. Supported employment was added as an acceptable employment objective under the Federal-State VR program, a separate program of State allotments for supported employment was authorized, and discretionary supported employment projects were added. Although VR funds were made available for initial training and support, other resources were required for long-

term support services. There have been no substantive amendments to the Rehabilitation Act since 1986.

Technical amendments were enacted in 1988, and in 1991 the authorizations of appropriations were extended through FY1992, except for the Federal-State VR program which includes an automatic one-year extension through FY1993.

## **History of Federal-State VR Program Participation and Expenditures**

An analysis of expenditures and program participation in the Federal-State VR program over the past 15 years indicates several program trends (see APPENDIX). Expenditures shown in the Appendix represent 1) the Federal appropriation for the Federal-State VR program, 2) State matching amounts, 3) amounts authorized under the Social Security Act and provided to State VR agencies for the rehabilitation of persons receiving social security disability insurance (SSDI) and supplemental security income (SSI), and 4) small amounts from other sources including workers' compensation, private insurance companies, and the Job Training Partnership Act. Expenditures did not keep pace with inflation over this period, and the number of persons served decreased. The sharp decline in buying power in the early 1980s was due to high rates of inflation during this period and to the 1981 repeal of virtually all of the funding provided for VR services under the Social Security Act.

The number of persons served in the Federal-State VR program declined 25% between FY1975 and FY1990, with a dip in the downward curve during the early 1980s that occurred approximately during the time that purchasing power decreased substantially. It is generally understood by Administration officials that the decrease in persons' served was due to two factors: 1) the failure of expenditures to maintain purchasing power, and 2) the priority on services to persons with the most severe handicaps, whose services cost approximately 50% more than VR services to persons whose handicaps are not severe.

While there was a 25% decline in persons served in the Federal-State VR program, there was a 33% decline in the number who completed the program and were rehabilitated between FY1975 and FY1990. "Rehabilitated" means that, after receiving VR services, the individual maintained a suitable rehabilitation objective (usually employment) for at least 60 days. This decline in rehabilitations reflected the excess cost of rehabilitating an increasing number of persons with severe handicaps and a higher failure rate due to severity. Of all those who were rehabilitated, the number of persons with *severe* handicaps increased from 115,746 (36%) in FY1975 to 146,238 (68%) in FY1990. This increase reflected efforts to comply with the statutory mandate to give priority to persons with severe handicaps. Of all those who were rehabilitated, the number of persons with *nonsevere* handicaps decreased from 208,293 (64%) in FY 1975 to 69,871 (32%) in FY1990.

## **Related Federal Laws for Persons With Handicaps**

Over the past 20 years, major legislation has been enacted that broadened the scope of services and established civil rights for persons with handicaps. These

term support services. There have been no substantive amendments to the Rehabilitation Act since 1986.

Technical amendments were enacted in 1988, and in 1991 the authorizations of appropriations were extended through FY1992, except for the Federal-State VR program which includes an automatic one-year extension through FY1993.

## **History of Federal-State VR Program Participation and Expenditures**

An analysis of expenditures and program participation in the Federal-State VR program over the past 15 years indicates several program trends (see APPENDIX). Expenditures shown in the Appendix represent 1) the Federal appropriation for the Federal-State VR program, 2) State matching amounts, 3) amounts authorized under the Social Security Act and provided to State VR agencies for the rehabilitation of persons receiving social security disability insurance (SSDI) and supplemental security income (SSI), and 4) small amounts from other sources including workers' compensation, private insurance companies, and the Job Training Partnership Act. Expenditures did not keep pace with inflation over this period, and the number of persons served decreased. The sharp decline in buying power in the early 1980s was due to high rates of inflation during this period and to the 1981 repeal of virtually all of the funding provided for VR services under the Social Security Act.

The number of persons served in the Federal-State VR program declined 25% between FY1975 and FY1990, with a dip in the downward curve during the early 1980s that occurred approximately during the time that purchasing power decreased substantially. It is generally understood by Administration officials that the decrease in persons served was due to two factors: 1) the failure of expenditures to maintain purchasing power, and 2) the priority on services to persons with the most severe handicaps, whose services cost approximately 50% more than VR services to persons whose handicaps are not severe.

While there was a 25% decline in persons served in the Federal-State VR program, there was a 33% decline in the number who completed the program and were rehabilitated between FY1975 and FY1990. "Rehabilitated" means that, after receiving VR services, the individual maintained a suitable rehabilitation objective (usually employment) for at least 60 days. This decline in rehabilitations reflected the excess cost of rehabilitating an increasing number of persons with severe handicaps and a higher failure rate due to severity. Of all those who were rehabilitated, the number of persons with *severe* handicaps increased from 115,746 (36%) in FY1975 to 146,238 (68%) in FY1990. This increase reflected efforts to comply with the statutory mandate to give priority to persons with severe handicaps. Of all those who were rehabilitated, the number of persons with *nonsevere* handicaps decreased from 208,293 (64%) in FY 1975 to 69,871 (32%) in FY1990.

## **Related Federal Laws for Persons With Handicaps**

Over the past 20 years, major legislation has been enacted that broadened the scope of services and established civil rights for persons with handicaps. These

provisions included the prohibition of discrimination against persons with handicaps in federally funded programs; the right to a free public education for children with handicaps; increases in opportunities for community living; and the right of access to a broad range of employment opportunities and services operated by the private sector or administered by State and local governments.

Section 504 of the Rehabilitation Act prohibits discrimination against otherwise eligible persons with handicaps in federally funded programs. This provision, patterned after Federal laws prohibiting discrimination on the basis of race and sex, became the civil rights provision that established access for persons with handicaps to education, employment, transportation, housing, and a variety of social service programs. This was the first major legislation that established the rights of persons with handicaps to become integrated in society while having their special needs addressed. Section 504 was added to the Rehabilitation Act in 1973.

The Education of All Handicapped Children Act of 1975 was designed to assure that all children with handicaps have available to them a free appropriate public education. This legislation established education and related services necessary for parents to keep handicapped children at home, instead of placing them in residential facilities to receive an education. As children with handicaps grew to adulthood, they and their advocates became involved in lobbying for additional services that could allow individuals with handicaps to join the work force, live in integrated community settings, and take advantage of public accommodations and public transportation.

In 1971, Medicaid funds were authorized to reimburse States for part of the cost of residential services to persons with developmental disabilities, i.e., persons with mental retardation or related conditions. As interest and participation in community living increased, some persons with developmental disabilities who had been served in large State institutions began to be served in community settings. In 1981, Medicaid funds were authorized to reimburse States for part of the cost of home and community-based services for persons with developmental disabilities who would otherwise require institutional care. To provide flexibility, the Secretary of Health and Human Services was allowed to waive certain Medicaid restrictions and allow services to be tailored to the specific needs of individuals in certain localities. Under this waiver program, many persons with severe disabilities previously thought to require institutionalization have been able to live and receive services in typical community settings.

In an effort to expand community services to persons with developmental disabilities, the Medicaid program was amended in 1990 to allow eight States to provide community supported living arrangements services on a limited basis through FY 1995. The purpose of this program is to assist these persons in the activities of daily living necessary to permit them to live in a family home or integrated community-based environment. The program is limited to persons with developmental disabilities without regard to whether such individuals are at risk of institutionalization. For additional information, see CRS Report 91-870, *Community Supported Living Arrangements Services for Persons with Developmental Disabilities*, by Mary F. Smith, Dec. 12, 1991.

The most comprehensive civil rights legislation ever enacted for persons with disabilities is the Americans with Disabilities Act of 1990 (ADA). The term disabilities is currently the preferred term to refer to persons with substantial physical or mental

impairments. However, the term handicaps is used under the Rehabilitation Act to refer to these persons. Because this brief addresses issues in the reauthorization of the Rehabilitation Act, the term handicap is generally used. Whereas the nondiscrimination provisions of section 504 of the Rehabilitation Act are limited to agencies receiving Federal funds, the ADA includes entities not receiving such funds. The ADA prohibits discrimination against a qualified individual with a disability in hiring, advancement, compensation, job training and other conditions of employment. Employers are required to provide reasonable accommodation to meet the special needs of persons with disabilities unless such accommodation would pose an undue hardship on the operation of the business. Public services delivered by State and local government are also covered by the ADA, including public transportation. In addition, the ADA covers public accommodations and services operated by the private sector, such as hotels, restaurants, theaters, museums, parks, private schools, day care centers, professional offices of health care providers, and gymnasiums. There are some limitations on the nondiscrimination requirements, and a failure to remove architectural barriers is not a violation unless the removal is "readily achievable," i.e., without much difficulty or expense. For additional information, see CRS Report 90-366, *The Americans With Disabilities Act: An Overview of Major Provisions*, by Nancy Lee Jones, July 31, 1990.

## **Introduction to Issues for Reauthorization**

The Rehabilitation Act is seen by leaders of the disability community and their advocates as the major Federal statute under which persons with handicaps are prepared to take advantage of the opportunities potentially available to them under the ADA. Major issues for the reauthorization of the Rehabilitation Act derive from two statutory mandates: 1) the requirement under the Rehabilitation Act to serve first persons with the most severe handicaps, and 2) the right of persons with handicaps, including persons with severe handicaps, to participate fully in society as envisioned under the ADA.

A hearing on the reauthorization of the Rehabilitation Act was held Sept. 26, 1991, by the Subcommittee on Select Education, House Committee on Education and Labor. Another hearing was held in New Mexico on Nov. 7, 1991. Testimony presented at the November hearing focused on the need for increased VR services in rural areas, increased VR services to American Indians, and expanded availability of technological services and devices. In his opening remarks at the September hearing, Subcommittee Chairman Major Owens stated:

With the advent of the Americans with Disabilities Act, there are many issues pertaining to the delivery of rehabilitation services that require renewed attention. For instance, we are looking at:

- ways to make vocational rehabilitation more of a consumer-driven system;
- the availability of, and access to, services and the eligibility process;
- the order of selection provision and assurances that individuals with the most severe disabilities are given priority for services; and
- the long-term outcome of VR services.

At the September hearing, witnesses discussed a number of issues and proposed a variety of amendments regarding the Rehabilitation Act. These included GAO

impairments. However, the term handicaps is used under the Rehabilitation Act to refer to these persons. Because this brief addresses issues in the reauthorization of the Rehabilitation Act, the term handicap is generally used. Whereas the nondiscrimination provisions of section 504 of the Rehabilitation Act are limited to agencies receiving Federal funds, the ADA includes entities not receiving such funds. The ADA prohibits discrimination against a qualified individual with a disability in hiring, advancement, compensation, job training and other conditions of employment. Employers are required to provide reasonable accommodation to meet the special needs of persons with disabilities unless such accommodation would pose an undue hardship on the operation of the business. Public services delivered by State and local government are also covered by the ADA, including public transportation. In addition, the ADA covers public accommodations and services operated by the private sector, such as hotels, restaurants, theaters, museums, parks, private schools, day care centers, professional offices of health care providers, and gymnasiums. There are some limitations on the nondiscrimination requirements, and a failure to remove architectural barriers is not a violation unless the removal is "readily achievable," i.e., without much difficulty or expense. For additional information, see CRS Report 90-366, *The Americans With Disabilities Act: An Overview of Major Provisions*, by Nancy Lee Jones, July 31, 1990.

## Introduction to Issues for Reauthorization

The Rehabilitation Act is seen by leaders of the disability community and their advocates as the major Federal statute under which persons with handicaps are prepared to take advantage of the opportunities potentially available to them under the ADA. Major issues for the reauthorization of the Rehabilitation Act derive from two statutory mandates: 1) the requirement under the Rehabilitation Act to serve first persons with the most severe handicaps, and 2) the right of persons with handicaps, including persons with severe handicaps, to participate fully in society as envisioned under the ADA.

A hearing on the reauthorization of the Rehabilitation Act was held Sept. 26, 1991, by the Subcommittee on Select Education, House Committee on Education and Labor. Another hearing was held in New Mexico on Nov. 7, 1991. Testimony presented at the November hearing focused on the need for increased VR services in rural areas, increased VR services to American Indians, and expanded availability of technological services and devices. In his opening remarks at the September hearing, Subcommittee Chairman Major Owens stated:

With the advent of the Americans with Disabilities Act, there are many issues pertaining to the delivery of rehabilitation services that require renewed attention. For instance, we are looking at:

ways to make vocational rehabilitation more of a consumer-driven system;  
the availability of, and access to, services and the eligibility process;  
the order of selection provision and assurances that individuals with the most severe disabilities are given priority for services; and  
the long-term outcome of VR services.

At the September hearing, witnesses discussed a number of issues and proposed a variety of amendments regarding the Rehabilitation Act. These included GAO

findings and recommendations addressing services to persons with severe handicaps and constituency group testimony on the need to restructure programs under the Act.

The Council of State Administrators of Vocational Rehabilitation stressed the need to maintain *employment* as the major goal of the VR program and testified that additional funds are needed to serve all eligible persons with handicaps.

The Administration proposed that the Federal-State VR program be amended to increase the State matching ratio and to require evaluation standards and performance indicators based on outcome measures. Amendments to other programs were also proposed.

Another witness presented the findings and recommendations of a group called the National Leadership Summit, comprised of 75 representatives of organizations of persons with handicaps, groups advocating on behalf of persons with handicaps, related professional organizations, representatives of corporate and technology groups, and persons from various governmental levels. This group favors substantial changes to the Rehabilitation Act "in light of the enormous social, economic, technological, and political changes culminating in and accelerated by the breakthrough passage of the Americans With Disabilities Act of 1990." (Testimony of Michael Peluso, Director of the New York State Client Assistance Program, on behalf of the National Leadership Summit, to the House Subcommittee on Select Education, Sept. 26, 1991.)

The following discusses selected issues for reauthorization presented at the hearing.

## **Priority for Persons with Severe Handicaps**

At the Sept. hearing, the GAO presented findings from a new report entitled *Vocational Rehabilitation: Clearer Guidance Could Help Focus on Those With Severe Disabilities*, GAO/HRD-92-12, November 1991. The Chairman of the Subcommittee on Select Education had asked the GAO to investigate the States' use and nonuse of the order of selection, a required system of priorities for eligible persons with handicaps to assure that persons with the most severe handicaps are served first.

States are required to establish an order of selection when they are unable to serve all eligible persons who apply for VR services. The order of selection is authorized under Section 101 (a)(5)(A) of the Rehabilitation Act. Using FY1989 data, the GAO found that funding for the Federal-State VR program was sufficient to serve only about 7% of the persons with handicaps who were potentially eligible.

Although the GAO found that State VR agencies were only able to serve a small number of the persons potentially eligible for the program, the GAO found that less than half the States had ever used an order of selection. The States investigated by the GAO that did not use an order of selection reported that they were in compliance with the law because they were able to serve all eligible applicants. In these States, the GAO found that VR counselors used various techniques to discourage applications, such as eliminating outreach efforts when resources ran low. States that used an order of selection found the procedure an effective way to manage limited resources and generally served a higher proportion of persons with severe handicaps than States that

did not use the prioritization procedure. The GAO recommended that the Administration clarify the appropriate use of the order of selection and enforce the implementation of this provision. It can be assumed that increased use of the order of selection would have the effect of increasing services to persons with severe handicaps and decreasing services to persons with handicaps that are not severe, unless resources were substantially increased.

As shown in the Appendix, the mandate that the Federal-State VR program serve first those eligible persons with the most severe handicaps has resulted in increasing the number and percentage of persons rehabilitated with severe handicaps and of decreasing the number and percentage of persons rehabilitated with nonsevere handicaps. Because the purchasing power of available resources has not kept pace with inflation and because persons with severe handicaps are more costly and more difficult to rehabilitate, the effect of the congressional mandate has been to rehabilitate fewer people at greater cost per person and to significantly reduce VR services to eligible persons with handicaps that are not severe.

Concern regarding the lack of VR services for nonseverely handicapped persons was expressed to GAO investigators by some State VR program directors in States not using an order of selection. (From testimony of Franklin Frazier, Director of Education and Employment Issues, Human Resources Division, GAO, before the Subcommittee on Select Education. Sept. 26, 1991.) One program director stated that it was necessary to demonstrate to the State legislature a return on the investment of State VR dollars by successfully rehabilitating a number of nonsevere clients in order to balance the more costly long-term services to clients with severe handicaps. In response, the GAO representative stated:

These [State] officials' concerns notwithstanding, congressional intent seems clear: individuals with severe handicaps are to receive priority and not be denied services in spite of the higher costs associated with serving them. Although it is not clear if Congress foresaw a program serving almost entirely individuals with severe handicaps, as is the case in a few States now, in most States individuals with severe handicaps comprise well under 90% of the caseload...

## **Long-term Outcomes of VR Services**

A GAO study of persons rehabilitated under the Federal-State VR program in 1980 showed mixed results regarding employment outcomes. The GAO summarized their initial findings as follows. (See GAO/T-PEMD-92-3, *Vocational Rehabilitation Program: Client Characteristics, Services Received, and Employment Outcomes*, Nov. 12, 1991. p. 12-13.)

About 70% of the [rehabilitated] group had wage earnings in the 3 years before entering the program, and this fraction went up to 77% in 1980, the year VR services ended.

However, the proportion with some wage earnings shrank in succeeding years, quickly reaching levels lower than those before program entry.

did not use the prioritization procedure. The GAO recommended that the Administration clarify the appropriate use of the order of selection and enforce the implementation of this provision. It can be assumed that increased use of the order of selection would have the effect of increasing services to persons with severe handicaps and decreasing services to persons with handicaps that are not severe, unless resources were substantially increased.

As shown in the Appendix, the mandate that the Federal-State VR program serve first those eligible persons with the most severe handicaps has resulted in increasing the number and percentage of persons rehabilitated with severe handicaps and of decreasing the number and percentage of persons rehabilitated with nonsevere handicaps. Because the purchasing power of available resources has not kept pace with inflation and because persons with severe handicaps are more costly and more difficult to rehabilitate, the effect of the congressional mandate has been to rehabilitate fewer people at greater cost per person and to significantly reduce VR services to eligible persons with handicaps that are not severe.

Concern regarding the lack of VR services for nonseverely handicapped persons was expressed to GAO investigators by some State VR program directors in States not using an order of selection. (From testimony of Franklin Frazier, Director of Education and Employment Issues, Human Resources Division, GAO, before the Subcommittee on Select Education. Sept. 26, 1991.) One program director stated that it was necessary to demonstrate to the State legislature a return on the investment of State VR dollars by successfully rehabilitating a number of nonsevere clients in order to balance the more costly long-term services to clients with severe handicaps. In response, the GAO representative stated:

These [State] officials' concerns notwithstanding, congressional intent seems clear: individuals with severe handicaps are to receive priority and not be denied services in spite of the higher costs associated with serving them. Although it is not clear if Congress foresaw a program serving almost entirely individuals with severe handicaps, as is the case in a few States now, in most States individuals with severe handicaps comprise well under 90% of the caseload...

## Long-term Outcomes of VR Services

A GAO study of persons rehabilitated under the Federal-State VR program in 1980 showed mixed results regarding employment outcomes. The GAO summarized their initial findings as follows. (See GAO/T-PEMD-92-3, *Vocational Rehabilitation Program: Client Characteristics, Services Received, and Employment Outcomes*, Nov. 12, 1991. p. 12-13.)

- About 70% of the [rehabilitated] group had wage earnings in the 3 years before entering the program, and this fraction went up to 77% in 1980, the year VR services ended.

However, the proportion with some wage earnings shrank in succeeding years, quickly reaching levels lower than those before program entry.

## **Entitlement and Eligibility**

The NLS proposed that entitlement provisions "be established which clearly specify that once eligibility conditions are met an individual is entitled to the full range of services and resources, with no means test, as needed throughout one's lifetime." To establish eligibility, the NLS recommended a range of options, including the use of one definition of eligibility for all Federal programs, the establishment of presumptive eligibility for all persons with disabilities as defined under the ADA and section 504, and self-determination of disability. To facilitate the new approach, the NLS recommended the repeal of provisions that authorize case closure and exclude persons from VR services due to limited employment potential.

Under current law, eligibility for VR services is based on several considerations. An individual must have a mental or physical impairment that constitutes a substantial handicap to employment. In addition, there must be a reasonable expectation that the individual will benefit from VR services in terms of employability. After an individual has been found eligible for services and has received services, he or she is generally rehabilitated into employment. Except for minor post-employment services, the case is closed after 60 days. VR resources are then available to serve other persons. Those wishing to receive VR services again at a later date must reapply. The number of persons accepted for services is limited by Federal appropriations.

Under the NLS proposal, persons with severe handicaps would have lifelong entitlement and ready access to the services needed to facilitate independent living and, where feasible, employment. Services that promote independent living are needed by many persons with severe handicaps to enable them to live in a manner conducive to independence and economic self-sufficiency. Under the NLS proposal, the VR program, originally intended to return injured workers to their jobs, could undergo a shift of emphasis from employment to comprehensive supportive services. The NLS recommendations could limit the number of persons served, unless funding were expanded in response to the need for services.

## **Personal Careers**

The NLS recommended that the concept of personal careers replace the concepts and practices of vocational placement and case closure. The careers concept includes a lifelong process of planning based on the principle of self-determination and allows for job changes and flexibility with no minimum or maximum hours of work. The careers concept also includes access to quality technology to improve learning and performance, involvement in education and continuing education, and access to health care.

Current law provides for VR services to prepare individuals to engage in employment to the extent of their capabilities (Section 100). However, NLS alleged that persons receiving VR services tend to be placed in entry level jobs with no provision for retraining or upward mobility. Because program accomplishment is generally evaluated in terms of the number of persons rehabilitated, VR counselors have traditionally been under pressure to increase the number of cases successfully closed. Medical restoration, technological devices, and education needed for employment can be included as part of VR services, but access to health care following rehabilitation is not included.

Only half the [rehabilitated] group had earnings regularly in each year for 4 years after 1980, and only 37% had earnings in each year for 8 years after 1980.

- For the decreasing number with any earnings, with every year after 1980 the number receiving less than the equivalent of a year's minimum wage declined, and the average annual amount rose (in constant dollars). Nevertheless, by 1988, the annual earnings of 40% of program participants still remained below the annualized minimum wage.

In 1980, when 77% of those rehabilitated showed earnings, only 42% of those with earnings were above an annualized minimum wage, according to this study. By 1988, although those with earnings had decreased to 62% of persons rehabilitated, over 60% of those with earnings were above an annualized minimum wage.

The GAO found that the average 1988 earnings of rehabilitated persons who had earnings varied according to severity of handicap. Persons with severe handicaps had average earnings of \$11,489, and persons with handicaps that were not severe had average earnings of \$12,794.

## **Proposals for Major Revision of the Rehabilitation Act**

### **Statement of Purpose**

The National Leadership Summit (NLS) recommended a preamble for the Rehabilitation Act to "articulate the breakthrough values and philosophy of integrated independent living and careers... reflect the principles of the Americans with Disabilities Act and reinforce the national commitment to the full civil rights of all people with disabilities... [and] set the direction for all programs and services that promote the social and economic independence of people with disabilities." The National Leadership Summit met in Washington, D.C., Jan. 13-15, 1991, to formulate recommendations for the reauthorization of the Rehabilitation Act. The meeting was hosted by the University of Southern California, Washington Public Affairs Center, Washington, D.C. The recommendations discussed in this issue brief are taken from the testimony of Michael Peluso and from a report of the NLS January meeting, entitled *Reauthorization of the Rehabilitation Act: Directions*. The proposed preamble would introduce the concepts of personal empowerment, entitlement to VR services, and lifelong eligibility. To reflect the proposed change of focus, the NLS recommended that the Rehabilitation Act be renamed. Suggestions included Americans with Disabilities Act II, Americans with Disabilities Implementation Act, Americans with Disabilities Community and Career Act, and Services for Individuals with Disabilities Act.

Current law includes a Declaration of Purpose that emphasizes "comprehensive and coordinated programs of vocational rehabilitation and independent living for individuals with handicaps in order to maximize their employability, independence, and integration into the work place and the community." (Section 2).

## **Entitlement and Eligibility**

The NLS proposed that entitlement provisions "be established which clearly specify that once eligibility conditions are met an individual is entitled to the full range of services and resources, with no means test, as needed throughout one's lifetime." To establish eligibility, the NLS recommended a range of options, including the use of one definition of eligibility for all Federal programs, the establishment of presumptive eligibility for all persons with disabilities as defined under the ADA and section 504, and self-determination of disability. To facilitate the new approach, the NLS recommended the repeal of provisions that authorize case closure and exclude persons from VR services due to limited employment potential.

Under current law, eligibility for VR services is based on several considerations. An individual must have a mental or physical impairment that constitutes a substantial handicap to employment. In addition, there must be a reasonable expectation that the individual will benefit from VR services in terms of employability. After an individual has been found eligible for services and has received services, he or she is generally rehabilitated into employment. Except for minor post-employment services, the case is closed after 60 days. VR resources are then available to serve other persons. Those wishing to receive VR services again at a later date must reapply. The number of persons accepted for services is limited by Federal appropriations.

Under the NLS proposal, persons with severe handicaps would have lifelong entitlement and ready access to the services needed to facilitate independent living and, where feasible, employment. Services that promote independent living are needed by many persons with severe handicaps to enable them to live in a manner conducive to independence and economic self-sufficiency. Under the NLS proposal, the VR program, originally intended to return injured workers to their jobs, could undergo a shift of emphasis -from employment to comprehensive supportive services. The NLS recommendations could limit the number of persons served, unless funding were expanded in response to the need for services.

### **Personal Careers**

The NLS recommended that the concept of personal careers replace the concepts and practices of vocational placement and case closure. The careers concept includes a lifelong process of planning based on the principle of self-determination and allows for job changes and flexibility with no minimum or maximum hours of work. The careers concept also includes access to quality technology to improve learning and performance, involvement in education and continuing education, and access to health care.

Current law provides for VR services to prepare individuals to engage in employment to the extent of their capabilities (Section 100). However, NLS alleged that persons receiving VR services tend to be placed in entry level jobs with no provision for retraining or upward mobility. Because program accomplishment is generally evaluated in terms of the number of persons rehabilitated, VR counselors have traditionally been under pressure to increase the number of cases successfully closed. Medical restoration, technological devices, and education needed for employment can be included as part of VR services, but access to health care following rehabilitation is not included.

The careers concept proposed by the NLS is consistent with their recommendations regarding entitlement to services. The recommendation envisions the availability of a wide array of services and supports needed to facilitate an ongoing career. Many persons with severe handicaps receiving VR services need these ongoing supports to maintain independence and employment, including part time employment. However without increased resources, more intensive services to each individual would result in fewer persons served.

### **Community Action**

The NLS recommended the addition of a community action program to assist individuals with handicaps to be aware of resource options available to all persons in the community. The new program would focus on making such services available to persons with special needs. This advocacy activity would include involvement in creating services needed to support productive careers and full involvement in community life for persons with handicaps. This proposal can be seen as an effort to stimulate and coordinate community activities to help prepare persons to take advantage of opportunities potentially available under the ADA.

Current law authorizes a protection and advocacy program for persons receiving independent living services (Section 731), but does not include a specific program to promote community action as proposed by the NLS. However, advocacy for community integration has become a major activity of the centers for independent living (Section 711).

### **Services for Youth**

The NLS recommended that the Rehabilitation Act be expanded to include youth with handicaps, defined as persons age three through those completing secondary education. The focus of this proposal would be the planning and coordination of integrated community services with education services. Another aspect would be the integration of youth with and without handicaps in all youth services and activities.

Current law, with its emphasis on employment and independent living, does not include coordination of services for youth, except that State VR agencies must have in place policies to assist in the transition from education to employment related activities (Section 101(a)(24)).

This NLS recommendation can be seen as an effort to prepare youth to take advantage of the ADA by helping assure their participation in all community services available to persons without handicaps. This is another recommendation that seeks to broaden the traditional employment focus of the Rehabilitation Act to include lifelong planning and advocacy for full community integration. It can be argued that without this coordination and advocacy function, young persons with handicaps can be excluded from services and not brought into full participation in society, including participation in employment as adults. On the other hand, the recommendation could have the immediate effect of moving resources from employment related training to other endeavors, resulting in fewer persons rehabilitated into employment.

## **Sustainable Technology**

Technology can allow many persons with severe handicaps to live independently and maintain employment, including persons who otherwise would require residential care. Individual needs for technology are ongoing throughout a lifetime, and these needs change as personal needs change. Technology that can sustain self-sufficiency is seen by the NLS as providing the essential tools of access to society. Therefore, the NLS recommended that persons with handicaps be entitled to sustainable technology on a lifelong basis, with regular assessments to assure changing needs are met.

Current law authorizes the use of rehabilitation engineering services as part of VR services needed to enable a persons with handicaps to become employable or to live independently. These services are part of what the NLS envisions, but current law does not entitle all eligible individuals to lifelong reassessment and modification of the technological devices needed.

## **Reorganization of the Act**

The NLS recommended that the seven titles of the Rehabilitation Act be consolidated into three titles. This recommendation would align the Rehabilitation Act with the ADA by setting forth civil and legal rights provisions in an initial title, and integrating all services under the concept of lifelong entitlement in the second title. A final title would establish a system for individual and system advocacy for a broad range of community services. Current law reflects the original statutory focus on VR services leading to employment, with later titles added as subsequent services and protections ere authorized.

## **CONGRESSIONAL HEARINGS. REPORTS. AND DOCUMENTS**

U.S. Congress. House. Subcommittee on Select Education. Reauthorization of the Rehabilitation Act of 1973 (as amended). Hearings, 102d Congress, 1st session. September 26, 1991.

## **FOR ADDITIONAL READING**

U.S. Library of Congress. Congressional Research Service. Vocational Rehabilitation and Related Programs for Persons With Handicaps, by Mary F. Smith  
[Washington] Jan. 21, 1992.  
CRS Report 102-106 EPW

## **Sustainable Technology**

Technology can allow many persons with severe handicaps to live independently and maintain employment, including persons who otherwise would require residential care. Individual needs for technology are ongoing throughout a lifetime, and these needs change as personal needs change. Technology that can sustain self-sufficiency is seen by the NLS as providing the essential tools of access to society. Therefore, the NLS recommended that persons with handicaps be entitled to sustainable technology on a lifelong basis, with regular assessments to assure changing needs are met.

Current law authorizes the use of rehabilitation engineering services as part of VR services needed to enable a persons with handicaps to become employable or to live independently. These services are part of what the NLS envisions, but current law does not entitle all eligible individuals to lifelong reassessment and modification of the technological devices needed.

## **Reorganization of the Act**

The NLS recommended that the seven titles of the Rehabilitation Act be consolidated into three titles. This recommendation would align the Rehabilitation Act with the ADA by setting forth civil and legal rights provisions in an initial title, and integrating all services under the concept of lifelong entitlement in the second title. A final title would establish a system for individual and system advocacy for a broad range of community services. Current law reflects the original statutory focus on VR services leading to employment, with later titles added as subsequent services and protections ere authorized.

## **CONGRESSIONAL HEARINGS. REPORTS. AND DOCUMENTS**

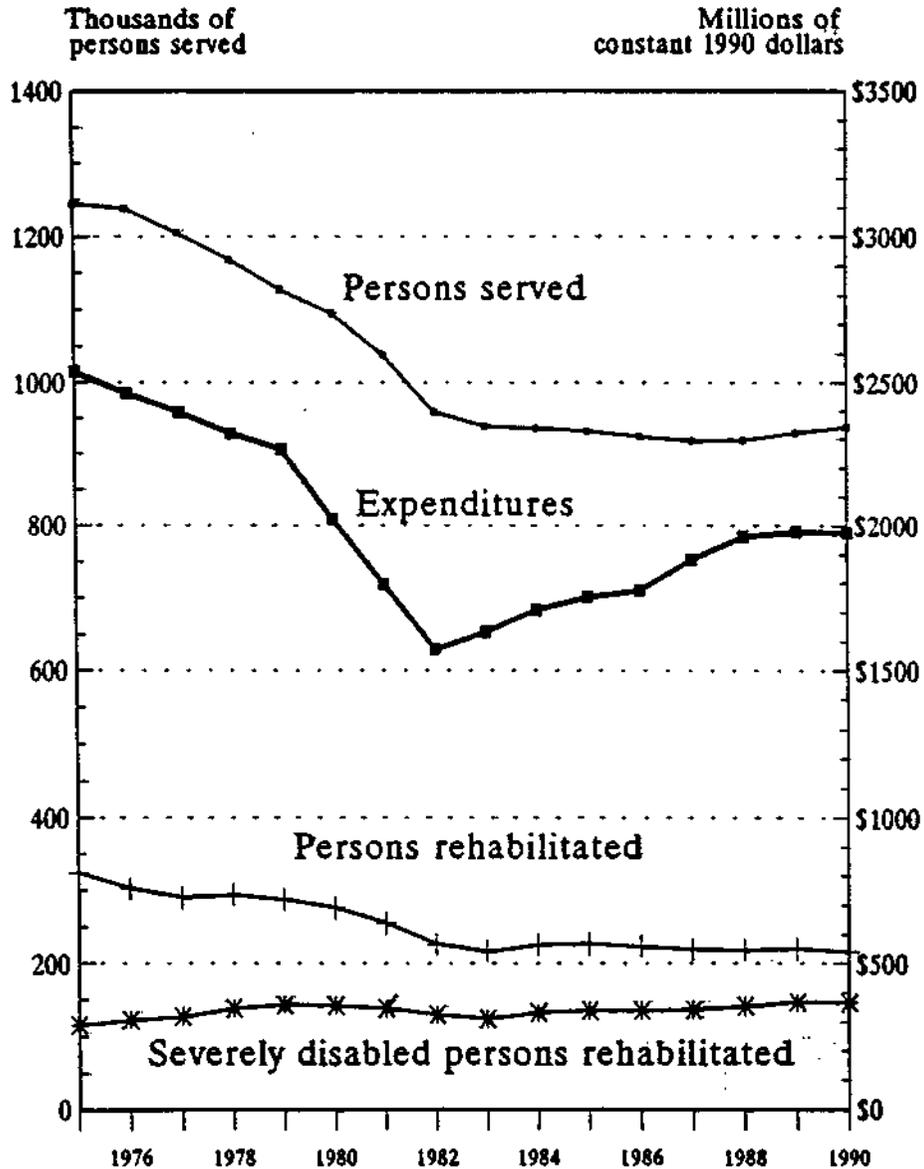
U.S. Congress. House. Subcommittee on Select Education. Reauthorization of the Rehabilitation Act of 1973 (as amended). Hearings, 102d Congress, 1st session. September 26, 1991.

## **FOR ADDITIONAL READING**

U.S. Library of Congress. Congressional Research Service. Vocational Rehabilitation and Related Programs for Persons With Handicaps, by Mary F. Smith [Washington] Jan. 21, 1992.  
CRS Report 102-106 EPW

# Appendix

FIGURE 1. Expenditures and Participation  
in the Federal-State Vocational  
Rehabilitation Program  
FY 1975-FY 1990



Source: Congressional Research Service analysis of data from the U.S. Dept. of Education, Office of Special Education and Rehabilitative Services, Rehabilitative Services Administration. Figure prepared by Molly Forman.