

# programs for the handicapped

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## DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT Public Law 91-517

President Nixon signed into law the Developmental Disabilities Services and Facilities Construction Amendments of 1970 on Friday, October 30, 1970. This new legislation significantly expands the scope and purposes of the Mental Retardation Facilities Construction Act of 1963, as amended, and marks a new phase in the Federal Government's efforts to provide a better life for all mentally retarded and other developmentally disabled citizens. It is designed to provide the 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.

Title I of P.L. 91-517 replaces existing authority (Part C, Title I, P.L. 88-164) to aid in the construction of community facilities for the mentally retarded with a combined formula and project grant program covering both construction of facilities and the provision of services to persons with developmental disabilities. The scope of the present program is broadened to include not only the mentally retarded but also persons suffering from other serious developmental disabilities originating in childhood including cerebral palsy, epilepsy and other neurological handicapping conditions. It is estimated that 8.7 million children and adults - or 1/24 of the nation's population - suffer from developmental disabilities. Of this number, approximately six million are mentally retarded, one million are epileptics, 700,000 suffer from cerebral palsy and one million from other neurological handicaps originating in childhood (other than blindness and deafness). In the case of serious developmental disabilities, it is quite common for an individual to be afflicted with two or more overlapping conditions. In general, the more serious the disability, the more likely that the individual will be multiply handicapped.

The new legislation also extends the present authority to construct university-affiliated facilities for the mentally retarded (Part B, Title I, P.L. 88-164) through June 30, 1973, and authorizes a new project grant program to cover the costs of administering and operating demonstration facilities and interdisciplinary training programs in such facilities (Title II, P.L. 91-517).

## MAJOR PROVISIONS

### Grants to the States for Planning, Administration, Services and Construction of Facilities

Existing authority to construct community mental retardation facilities is replaced by a broad new federal-state grant-in-aid program to assist the states in developing and implementing a comprehensive plan for meeting the needs of persons with developmental disabilities. States may use these funds to construct facilities, provide services, support state and local planning, administration and technical assistance, train specialized personnel and develop and demonstrate new service techniques.

\$60 million dollars is authorized to be appropriated for this program in fiscal year 1971, \$105 million in FY 1972, and \$130 million in FY 1973.

### State Allotments

State allotments under the program will be calculated on the basis of population, need for services and financial need of the state. However, each state will receive a minimum of \$100,000 per year.

After FY 1971, the minimum state allotment will be increased when the level of annual appropriations rises above the authorization level for FY 1971. The percentage increase in the minimum allotment will be identical to the percent by which the appropriations in that fiscal year exceeds the FY 1971 authorization level.

In determining a state's need for services the Secretary of HEW is authorized to take into account the scope and extent of services specified in the state plan. Funds allotted to a state which are not used may be reallocated to another state by the Secretary in accordance with a specified formula.

Funds allocated to a state for construction remain available for two fiscal years. However, if a state's plan calls for construction of a particular facility and the federal share of the costs will exceed the state's construction allotment for that fiscal year, the funds may remain available for a total of three fiscal years. This provision will allow a state with low annual construction allotments to pool its allotments for three years in order to obtain funds for a single construction project.

A state may apportion grant funds among two or more state agencies in accordance with each agency's responsibilities for carrying out the state plan. In many states more than one state agency plays a significant role in delivering a comprehensive array of services to the mentally retarded and other developmentally disabled persons. The purpose of this provision is to permit each state to tailor its state plan to most efficiently carry out the purposes of the program.

Title I funds may be combined with other state or federal funds provided the benefits to the developmentally disabled are proportional and the non-duplication clause in Section 140 is observed (see page 6).

The Secretary of HEW is authorized to set aside up to 10 percent of appropriated funds for project grants of special national significance. The federal share of the cost of such projects will be up to 90 percent.

#### State Plan Requirements

In order to qualify for federal assistance under the new formula grant program, a state must submit an acceptable state plan. This plan must include:

- Provision for the establishment of an adequately staffed state planning and advisory council. The council must include representatives of each principal state agency, local agencies and non-governmental organizations concerned with services to the developmentally disabled; at least 1/3 of the council must consist of consumer representatives. The council must review and approve the state plan at least annually and submit necessary modifications to HEW. The Secretary of HEW, however, may waive the requirement for appointment of an advisory council during FY 1971.
- Designation of the state agency or agencies to administer the plan and a single state agency to administer all construction funds. (The Secretary may waive these requirements during fiscal year 1971).
- A description of the current status of statewide facilities and services available to the developmentally disabled including services provided under related federal programs (including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, comprehensive health, and mental health). The plan must indicate how grant funds will be used to complement and reinforce existing programs.
- Assurances that federal funds will not be used to supplant state funds, that a portion of such funds will be made available to local public and non-profit private agencies, and that the state government will participate to a reasonable degree in the cost of carrying out the state plan.
- Provision for services to mentally retarded persons, specification of other categories of disabilities (as approved by the Secretary) to be covered under the plan, and a description of the quality, extent and scope of services to be provided to eligible persons.

- Assurances that all services meet federally-established standards. (The Secretary may waive this requirement during FY 1971).
- Provision for special financial and technical assistance to poverty areas.
- A description of the methods to be used in assessing the effectiveness of efforts under the state plan.
- A construction plan based on a statewide inventory of need including funding priorities for such construction projects.
- Specification of the percentage of the state allotment to be used for construction of facilities. However, in no case may a state use more than 50 percent of its annual allotment for construction. In addition, the Secretary is authorized to limit the percentage of a state's allotment which may be used for this purpose.
- Assurances that other administrative requirements related to the expenditure and control of federal funds, maintenance of records, submission of required reports and provision for an adequate hearing will be met.

#### National Advisory Council

P.L. 91-517 authorizes the establishment of a National Advisory Council on Services and Facilities for the Developmentally Disabled effective July 1, 1971. The purpose of the Council is to advise the Secretary on regulations and to study and evaluate programs conducted under Title I of P.L. 91-517. The Council does not duplicate the functions of the President's Committee on Mental Retardation or the Secretary's Committee on Mental Retardation, neither of which is associated with a specific operating program of the Federal Government.

The Council will consist of twenty members who are not full time employees of the Federal Government. Members must be selected from among leaders in the field of service to the mentally retarded and other persons with developmental disabilities including leaders of state and local government, institutions of higher education, and organizations representing consumers of services. At least five members must represent state or local public or non-profit private agencies responsible for services to developmentally disabled persons. In addition, five members must represent the interests of consumers of such services.

Council members will be appointed by the Secretary of HEW to four-year terms except that five of the initial appointees will serve for three years, five for two years, and five for one year. The Secretary of HEW will designate one member to act as Chairman of the Council.

The Council is authorized to engage necessary technical assistance and the Department of Health, Education, and Welfare is required to furnish secretarial, clerical and other staff assistance to the Council. Members will be reimbursed for days spent on Council business.

#### Payment to States for Planning, Administration and Services

States with an approved plan under Title I will be reimbursed in advance for the federal share of non-construction expenses. These funds may be used to support a full range of planning, direct service, administration, technical assistance, training and demonstration costs associated with serving the developmentally disabled.

The federal matching percentage for expenditures under this new federal-state program is 75 percent during FY 1971 and FY 1972, and 70 percent during FY 1973 except for projects in areas of urban and rural poverty where a state may qualify for 90 percent federal matching during the first two years of the project and 80 percent during the third year.

For purposes of determining the federal share of the cost, expenditures by local jurisdictions and non-profit groups will be regarded as state expenditures. However, as noted above, a state must participate reasonably in the cost of providing services called for under the state plan.

#### Approval of Construction Projects

Existing statutory provisions governing the approval of construction projects are largely unchanged in P.L. 91-517. The maximum federal matching ratio for construction grants remains 90 percent in poverty areas and 66 2/3 percent in other areas.

#### Regulations

As soon as practical the Secretary is required to issue regulations prescribing: (a) the kinds of services which may be provided under a state plan and the categories of persons to whom such services may be offered; (b) standards regarding the scope and quality of services provided under a state plan; (c) the general manner in which a state must determine priorities for services and facilities based on type of services, categories of persons to be served, and type of disability (with special consideration being given to urban and rural poverty areas); and (d) general construction standards.

#### Definitions

The term "development disability" is defined in the Act as "a disability attributable to mental retardation, cerebral palsy, epilepsy

or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals . . . ." In addition, the disability must have originated before the individual reached age eighteen and have continued or be expected to continue indefinitely. Finally, the disability must constitute a substantial handicap to the individual in question.

The term "services for persons with developmental disabilities" means "specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability . . . ." The Act spells out the following services which are included in the definition: diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the disabled individual and his family, protective and other social and socio-legal services, information and referral, follow-along services, and transportation necessary to assure delivery of services to persons with developmental disabilities.

#### Effective Date

Title I of P.L. 91-517 applies to all funds appropriated by Congress after June 30, 1970. However, funds appropriated before that date for construction of community facilities for the mentally retarded remain available for obligation during FY 1971. In addition, funds for continuation of staffing grants awarded prior to June 30, 1970, will not be affected by the new legislation.

#### Nonduplication

As in most federal grant programs, federal funds may not be used for matching purposes in obtaining other federal grants. However, the former prohibition against using public health service construction funds to build retardation facilities while P.L. 88-164 funds are still available has been eliminated.

#### Construction of University Affiliated Facilities

Title II of P.L. 91-517 extends the university affiliated facilities construction program for three additional years. \$20 million is authorized for this purpose in each of fiscal years 1971, 1972, and 1973. The federal share remains unchanged at 75 percent of the eligible costs of the construction project.

The new legislation also expands the purposes of the university affiliated program to include other developmental disabilities beside mental retardation. In addition, the term "clinical training" is



replaced by the term "interdisciplinary training" to emphasize the cross-disciplinary nature of the university affiliated training program.

Since this program was originally authorized in FY 1963 the federal government has assisted in the construction of eighteen university affiliated centers. These centers provide an excellent setting for interdisciplinary training of the wide range of professional specialists needed to diagnose and care for the developmentally disabled. In addition, university affiliated facilities serve as a focal point for testing and demonstrating the latest techniques and concepts in serving the developmentally disabled.

#### Demonstration and Training Grants

Title II adds a new project grant authority to cover the costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to individuals with developmental disabilities. Funds under this new authority are designed to upgrade and improve programs in university affiliated facilities. Authorizations for the program are \$15 million in FY 1971, \$17 million in FY 1972, and \$20 million in FY 1973.

Only colleges, universities and non-profit agencies operating university affiliated facilities are eligible to apply for project grants under this new program. Priority must be given to applicants who have made arrangements for junior college participation in the project. The Federal share of the cost of all projects will be 100 percent of the approved grant.

#### Maintenance of Effort

A new section is added to Part B requiring that all applications for construction, demonstration and training grants be supported by reasonable assurances that the grant will not result in any decrease in the level of state, local and other non-federal support.

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For additional information on this legislation write to the Commissioner, Rehabilitation Services Administration, Social and Rehabilitation Service, U. S. Department of Health, Education, and Welfare, Washington, D. C. 20201.



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AUTHORIZATIONS FOR APPROPRIATIONS, 1971-1973

Public Law 91-517, "Developmental Disabilities Services and Facilities  
Construction Act"

	Millions of Dollars			
	Fiscal Years			Total
	1971	1972	1973	
Title I				
Grants to the States for Planning, Administration, Services and Construction of Facilities	60.0	105.0	130.0	295.0
Title II				
Construction of University Affiliated Facilities	20.0	20.0	20.0	60.0
Demonstration and Training Grants	15.0	17.0	20.0	52.0
Total	95.0	142.0	170.0	407.0