

NATIONAL REHABILITATION ASSOCIATION'S 2007 Issue Statements

**Approved by the
National Rehabilitation Association's
Board of Directors March 10, 2007**



"The National Rehabilitation Association (NRA) is a member organization whose mission is to promote ethical and excellent practice in rehabilitation."



NATIONAL REHABILITATION ASSOCIATION 2007 LEGISLATIVE ISSUE STATEMENTS

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MAINTAINING FULL FUNDING FOR TITLE I OF THE REHABILITATION ACT OF 1973, AS AMENDED

STATEMENT OF ISSUE

The President's 2008 budget proposes to change the funding of Title I of the Rehabilitation Act of 1973, as amended, from a mandatory-funded program to a discretionary-funded program, which will ELIMINATE the Cost of Living Adjustment (COLA) (also known as the Consumer Price Index adjusted for Urban areas or CPIU) from Title I of the Rehabilitation Act. This potential loss of MILLIONS OF DOLLARS will hurt individuals with disabilities --many of whom are individuals with significant disabilities -- seeking to have a career and to live as independently as they choose in the community.

The President's 2008 budget also proposes, once again, to ELIMINATE funding for Projects With Industry (PWIs), Supported Employment, Migrants and Seasonal Farm Workers and Recreation, programs funded under Title VI and other Titles of the Rehab Act, by consolidating (eliminating) these programs into Title I of the Rehab Act.

If we allow these enormous, serious funding cuts to occur, we are facing a potential funding cut in Title I of approximately \$100 MILLION DOLLARS ANNUALLY.

Title I of the Rehab Act provides the funding for the training by qualified rehabilitation counselors and employment to eligible individuals with disabilities, including those individuals with significant disabilities. Congress intended that Title I receive the cost of living increase annually to assist in reducing the rate of unemployment among individuals with disabilities who face multiple barriers to pursuing careers and living independently in the community.

ELIMINATING the cost-of-living increase will result in FEWER individuals with disabilities being served by the State/Federal/Public/Private VR program, will result in an even higher rate of unemployment among individuals with disabilities than we have now, and will SERIOUSLY HARM individuals with disabilities who seek economic and personal independence.

The VR Program has served MILLIONS of eligible individuals with disabilities over eight decades. And, when we say "served" we mean assisted with career



planning, career counseling and development, and employment training and placement by qualified rehabilitation counselors.

REDUCING FUNDING FOR TITLE I of the Rehab Act will force some individuals with disabilities who wish to work and live independently to seek public assistance because FEWER AND FEWER INDIVIDUALS WITH DISABILITIES WILL RECEIVE SERVICES from the VR Program.

Veterans who bravely serve our Country and are surviving serious injuries, thanks to the skilled medical technicians on the battlefield, are returning home with traumatic brain injuries (TBI), as well as Post Traumatic Stress Disorder (PTSD), in greater numbers than the Veteran's Administration is prepared to handle, according to recent news reports. The VR program has many years of history in understanding and serving persons with TBI, and with adequate funding, can expand its partnership with the VA to serve many of these deserving veterans.

We know, too, that the VR Program has an impressive return on investment. Indeed, for every \$1 dollar spent in serving SSI/SSDI recipients/beneficiaries, \$6 of taxpayer dollars is returned to the U.S. Treasury.

If the Congress does not maintain full funding to Title I of the Rehab Act, waiting lists for the proven services and supports that the VR Program provides will return in many States and many individuals with disabilities will be left behind as the door to the American Dream closes due to reduced funding proposed in the President's 2008 budget.

If the Congress does not maintain full funding to Title I of the Rehab Act, thousands of individuals with significant disabilities will have no where to go for services because many times individuals with significant disabilities' services and supports cost more and require the services of staff that are fully qualified to assist those individuals who desire challenging careers and full independence.

Employers and businesses tell us through the VR Business Network, which has presented at NRA's Legislative Summit for the past 4 years, how important proper training of employees is to them and to the viability of their businesses. Consumers of VR services, coupled with their self-determination, are prepared to tackle the tasks presented to them in an increasingly globalized world because of the services and supports they receive from the qualified personnel in the VR Program and their Community Rehabilitation Partners .

Businesses want well-trained, reliable employees. The Public/Private VR Program assists consumers to be well-trained and reliable employees for many businesses. Don't let down consumers. Don't let down businesses that need and appreciate well-trained employees with disabilities.



How many times have we heard from consumers of the VR Program at NRA's Legislative Summit and in other forums that the services and supports they received provided much-needed HOPE to them to live the American Dream? Don't dash the hope--please restore full funding to Title I of the Rehab Act.

Title I has also experienced increased demands on its funding. Presently, there are 43 State Agencies on an Order of Selection which places a priority on serving individuals with significant disabilities. If Congress allows Title I funding to become a discretionarily funded program, thousands of eligible individuals with disabilities will not be served and will have no where to go because, as we said, these individuals require multiple supports and services and are most often the most expensive to serve.

Moreover, last year's WIA bills included language in both the House and Senate versions to enhance transition outcomes for eligible students with disabilities, which we support. This language, regrettably, did not include an authorization for appropriations, which has the unintended consequence of pitting deserving, eligible adults (including veterans) with disabilities against deserving, eligible students with disabilities, because there is simply not enough money to serve all of the consumers who are coming to the VR Program for the excellent supports and services they know they will receive.

We also understand that Senator Kennedy, in his capacity as Chairman of the HELP Committee, wants to expand the Supported Employment program, which serves individuals with the most significant disabilities and oftentimes includes job coaches, as well as other critical services performed by qualified VR counselors. Chairman Kennedy will be inserting language in this regard into a soon-to-be-introduced reauthorization of the Rehab Act, the programs under which comprise Title IV in the Workforce Investment Act (WIA).

This expansion, should it be realized, will place an even greater responsibility on the finite funds in Title I, especially if the CPIU is not maintained with mandatory funding.

The State/Federal/Public/Private VR Program is accountable, cost-effective and has an impressive return on investment which is documented in RSA's Longitudinal Study and other RSA data.

RECOMMENDATION:

The National Rehabilitation Association respectfully requests the Congress maintain mandatory funding for Title I of the Rehabilitation Act and we very respectfully request an increase in Title I funding of \$200 million for the reasons stated.



The National Rehabilitation Association respectfully requests the Congress to maintain discrete funding in Titles III and VI of the Rehabilitation Act for Supported Employment, Projects With Industry (PWIs), Migrants and Seasonal Farmworkers and Recreation, programs that are complementary to the VR Program.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007



INFRASTRUCTURE FUNDING

The National Rehabilitation Association (NRA) continues to support the programs administered under the Rehabilitation Act of 1973, as amended, (hereinafter referred to as Vocational Rehabilitation (VR)) as part of the Workforce Investment Act (WIA) on a cost-allocation, Memorandum of Understanding (MOU) basis. We believe that VR is paying more than a fair share of expenses of the one stop career centers, given that the One-Stops are not successfully serving individuals with disabilities, which was the intent of Congress when it linked the programs administered under the Rehabilitation Act of 1973, as amended, (hereinafter referred to as the VR Program) to the WIA.

The public/private State/Federal VR partnership is administered under the Rehabilitation Services Administration (RSA) in the U.S. Department of Education.

The National Rehabilitation Association recognizes and commends the public/private State/Federal VR partnership as one of the most successful job training and placement programs in the history of the work world and recognizes that it has the supporting documentation to back up this claim. No other career training program has the impressive data that the VR Program has had and continues to have over its 8 decades in providing careers and independence to eligible individuals with disabilities.

The National Rehabilitation Association supports restoration of the \$750 million which has been taken gradually over the past several years from the appropriation for WIA and asks that the restoration of these monies be used to assist in paying for the infrastructure costs of the one-stops.

NRA supports a separate, fully-funded line item in the appropriations bill to pay for infrastructure costs.

NRA remains strongly opposed to additional, substantial funding cuts to job training programs under the WIA bill which have been proposed in the President's 2008 budget.

The National Rehabilitation Association had many concerns regarding H.R. 27, Job Training Improvement Act, which the House passed in 2005. Among those concerns is that this bill would have empowered Governors to take funds from the various job training programs' partners to pay for infrastructure costs on a "proportionate" basis. This additional money would come from administrative funds. The VR Program does not have a cap on administrative funds which would allow Governors to divert money that Congress intended to be used to support a program designed specifically to assist individuals with disabilities in securing economic and personal independence. The National Rehabilitation Association continues to be very concerned about the



chronic inaccessibility -- both in a programmatic and in some cases, physical regard -- of the one-stop centers to all individuals with disabilities.

The U.S. Department of Labor has had more than 8 years since the enactment of the WIA to comply with civil rights law such as the Americans With Disabilities Act (ADA) and Sections 504 and 508 of the Rehabilitation Act of 1973, as amended, yet to this day, the one-stops remain inaccessible to many individuals with disabilities.

Indeed, the General Accountability Office (GAO) has reported on the continued inaccessibility of the one-stop career centers as a continuing barrier to individuals with disabilities who seek economic and personal independence.

RECOMMENDATION:

The National Rehabilitation Association supports a one-stop career system that recognizes the multiple barriers that individuals with disabilities face -- especially those individuals with significant disabilities -- in entering or re-entering the world of work. NRA believes it is imperative that the U.S. Department of Labor make every effort to assure that all one-stops are fully accessible to all individuals with disabilities.

The National Rehabilitation Association strongly supports a discrete, fully-funded line item for funding infrastructure costs at the one-stops.

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QUALIFIED REHABILITATION PROFESSIONAL **(With emphasis on valuing the vocational rehabilitation** **counselor)**

STATEMENT OF ISSUE

There is a critical shortage of qualified rehabilitation professionals across the spectrum of disciplines that serve as members of the rehabilitation support team. None is more acute than the need for increased numbers of qualified vocational rehabilitation counselors. Improvements in diagnostic tools and innovations in assistive technology coupled with older workers continuing in the workforce longer have increased the demand for services and has exacerbated the shortage of qualified rehabilitation personnel. Federal funding for the education and training of qualified professionals has not increased for more than 15 years, holding steady at about 39 million dollars (Rehabilitation Act of 1973, as amended (hereinafter referred to as the Rehab. Act)).

BACKGROUND AND DISCUSSION

Federal legislation has acknowledged that disability is a natural part of the human experience (1992 Rehab. Act amendments, Title 1, Section 2). No longer does the challenge rest solely with the individual; it is now an issue for society as a whole.

Since 1990 individuals with disabilities have experienced greater community access, more choices, better housing, more accessible transportation, improved education and training, and employment leading to careers (Americans with Disabilities Act, 1990; Rehab. Act amendments, 1992, 1998). Expectations have been raised and a new confidence has emerged in the efficacy of the public-private partnership (State vocational rehabilitation (VR) agencies and the vast network of community rehabilitation programs, both non-profit and for-profit) pivotal to the delivery of quality rehabilitation services.

As a result of this positive dynamic there is an escalating and urgent need for knowledgeable, competent and legislatively mandated qualified rehabilitation personnel, especially the vocational rehabilitation counselor.

The U. S. Department of Labor (Chao, 2004) identifies vocational rehabilitation as one of the ten fastest growing industries, with a 49 per cent increase in employment projected by 2012.

The recent Rehabilitation Services Administration (RSA) national study (Chan, 2004) revealed that the average annual turnover rate of rehabilitation professionals in state VR agencies is approximately 16 per cent. This loss is compounded by expected retirement rates for counselors over the next 3-5 years to exceed 50 per cent. The loss of supervisors and managers is expected to be higher. New personnel will be needed in



massive numbers to replace experienced staff that entered VR at the time that professional education and training was initiated by the Vocational Rehab. Act amendments of 1954.

Further, the RSA study projected the yearly demand for new master's level counselors in the state-federal VR program is 3,812. The projected master's degree graduates is 6,718 with 1,506 of those being Comprehensive System of Personnel Development (CSPD) counselors (already employed by state VR agencies). Thus, graduates equal 5,212 and those entering VR total 1,606 of the needed 3,812. This represents a current retirement replacement issue that will be compounded in the future. The critical shortage becomes even more acute when reviewing the RSA study findings of the loss of newly hired master's degreed counselors who leave because of low salaries. The study shows that the average master's salary is \$36,583 in the state-federal VR program falls far below competitive salaries in other agencies. Twenty-six per cent of the counselors are planning to leave State VR agencies voluntarily for higher-paying opportunities. Counselors with less than four years with the VR agency have a higher rate of departure (32%) and those under 40 years of age have even a higher departure rate at 36 per cent.

These data clearly establish at the very least the need for an aggressive, targeted and effective recruitment and retention strategy to minimize any negative impact on the delivery of rehabilitation services to individuals who need them to achieve productivity, independence and inclusion in their community.

The Comprehensive System of Personnel Development (CSPD, 1992, 1998) was among the legislative hallmarks of the 1992 Rehab. Act amendments. The provisions require state VR agencies and their community partners to employ qualified personnel and to upgrade current staff. It was recognized that hiring and retaining qualified personnel is the pathway to quality rehabilitation services and outcomes. The concern about the quality of rehabilitation services continues today as indicated by 2002 federal statistics (OSERS) which indicate that almost half (49.4 %) of new rehabilitation counselors hired by state VR agencies do not meet CSPD minimum qualification standards for that state (Chan, 2004).

The rehabilitation field has responded favorably over the years to requests to empirically determine the value of the education level of rehabilitation counselors. The National Council on Rehabilitation Education (NCRE) has sought to document the impact of rehabilitation education on improving the quality of services to individuals with disabilities (Bolton, 1990).

A recent meta-analysis (research synthesis) of many studies performed with rehabilitation counselors since 1989 concluded that the overall influence of education level on rehabilitation outcomes is significant at the 95 % level of confidence (Frain, et al, 2006). The report states that consumers who have counselors with master's degrees in



rehabilitation counseling achieve better employment outcomes than do consumers with counselors that have other degrees. The study's conclusions lend empirical support to the value of graduate education and training in rehabilitation as a means of producing competent, professionally committed counselors to work in the field of vocational rehabilitation.

RECOMMENDATION:

There is compelling evidence that 1) public and private rehabilitation programs are facing a critical shortage of qualified rehabilitation professionals, especially master's level vocational rehabilitation counselors employed by state VR agencies, 2) there is a significant and positive relationship between the level of education of the rehabilitation counselor and the quality of consumer outcomes, and 3) there has been no increase in federal funds to support education and training of the individual disciplines represented on the multidisciplinary rehabilitation support team, especially the master's degree vocational rehabilitation counselor. Therefore, it is recommended that 1) NRA should continue and enhance partnerships with cognizant agencies and organizations in the development and implementation of an effective training, recruitment and retention strategy and 2) NRA should continue to advise and educate the responsible committees of the Congress on the need and justification for an immediate \$15,000,000 increase in support of the education and training authorities of The Act (Rehabilitation Act of 1973, as amended, Title III, Section 302).

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- 2006: Frain, M. P., Ferrin, J. M., Rosenthal, D. A., & Wampold, B. E. (2006). A meta-analysis of rehabilitation outcomes based on education level of the counselor. *J. of Rehabilitation*, (72-4), 10-18.



PLACING THE STATE VR DIRECTORS ON THE STATE AND LOCAL WORKFORCE INVESTMENT BOARDS

The National Rehabilitation Association supports both the State Directors of the General VR Agencies the State Directors of the VR Agencies for the Blind, where applicable, to be placed on the State Workforce Investment Boards (SWIB) and the the Local Workforce Investment Boards (WIBs).

In the last Congress, the House WIA bill regrettably, proposed to remove the State VR Directors from the local Workforce Investment Boards (WIBs).

The State VR Directors of both the General and Agencies for the Blind have the expertise in the VR Program and that expertise must be represented on both the State Workforce Investment Boards and the local Workforce Investment Boards to ensure that VR funds are directed toward the economic and personal independence of all eligible individuals with disabilities, which the Congress intended.

RECOMMENDATION:

The National Rehabilitation Association supports having both the State VR Director of the General Agency and the State Director of the VR Blind Agency on the WIBs. We believe that as a mandatory partner, VR is contributing millions of dollars to the one-stop career centers and must have a strong presence on both the SWIBs and the WIBS in ensuring that individuals with disabilities receive the recognition and respect that they deserve in all decisions made by the SWIBs and WIBs.

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TRANSITION

The National Rehabilitation Association has always supported, and continues to support enhancing employment outcomes for eligible transitioning students with disabilities into the world of work.

The National Rehabilitation Association applauds the recognition of the State VR Agencies in providing services and supports to deserving, eligible students with disabilities, but remains concerned about the many demands being placed on the VR Program absent adequate funding.

Last year's Workforce Investment Act (WIA) bills had identical language in this regard in Title IV, but did not include an authorization of appropriations to effect this enhancement.

With 43 State Agencies on an Order of Selection (which prioritizes that individuals with the most significant disabilities be served first) coupled with waiting lists in some States for the excellent and proven services and supports that qualified Rehabilitation Counselors provide in the State VR Agencies in conjunction with its Community Rehabilitation Partner/Programs, it is critical that substantial, additional dollars be authorized /appropriated in order to realize enhanced transition outcomes.

The unintended consequence of not providing additional funding for transition regrettably pits deserving students with disabilities against deserving eligible adults with disabilities.

The National Rehabilitation Association recognizes this is not what Congress intended by including language in both the House and Senate WIA bills last year, but the reality is that this is exactly what will happen if additional funding is not provided.

RECOMMENDATION:

The National Rehabilitation Association strongly supports additional funding for enhanced transition outcomes and strongly recommends an additional \$200 million authorization for appropriations be included in both the 2007 House and Senate WIA bills.

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SUPPORTED EMPLOYMENT

STATEMENT OF ISSUE

President George W. Bush has asked Congress to eliminate the Supported Employment (SE) State Grant Program. The request was included in the FY 2008 budget that was sent to Congress in February. Supported employment presently has a discrete funding stream in Title VI of the Rehab Act.

\ This program provides funding to each state VR system on a formula basis, with no state matching requirement. The money is to be spent exclusively on supported employment in the State(s). The President has requested zero funding for the program for the past six years. Until FY 2006 Congress totally rejected the request, and fully funded the program. Last year (FY 2006) Congress reduced the funding from \$37 million to \$30 million. The pressure is going to be even greater this year to eliminate small programs like this one from the Federal budget.

In previous years Congress has recognized the merits of a line item in the budget for the SE State Grant Program. However, with clear and strong administrative funding priorities for homeland security, defense, funding the war, tax cuts, budget debt management, there is less and less money available for social programs. To continue to secure this program, it is crucial that every Senator and Representative understands the importance of the SE State Grant Program as a means of continuing to build the supported employment infrastructure in his/her state.

The SE State Grant Program in the Labor, Health, Education and Related Agencies Appropriations bill provides funding for an important part of the VR system in all States with no State matching requirements.

The President has requested elimination of this program with the rationale that SE could easily be subsumed into Title I of the Rehabilitation Act (funding for the state VR program). With heavy demands already on Title I, the loss of the SE State Grant would mean a loss of employment services to many individuals, including those with the most significant disabilities who rely on the workplace supports generated through supported employment.

See chart immediately below prepared by The Association of Persons in Supported Employment to learn how much your State would lose if Supported Employment were to lose its discrete funding stream.



Supported Employment Program Allotment Summary Fiscal Year: 2006

ALABAMA	388,508	ALASKA	300,000
ARIZONA	492,590	ARKANSAS	300,000
CALIFORNIA	3,078,248	COLORADO	394,615
CONNECTICUT	300,468	DELAWARE	300,000
DC	300,000	FLORIDA	1,491,977
GEORGIA	757,206	HAWAII	300,000
IDAHO	300,000	ILLINOIS	1,090,319
INDIANA	534,933	MINNESOTA	437,457
MISSISSIPPI	300,000	MISSOURI	495,515
MONTANA	300,000	NEBRASKA	300,000
NEVADA	300,000	NEW HAMPSHIRE	300,000
NEW JERSEY	746,014	NEW MEXICO	300,000
NEW YORK	1,648,911	N. CAROLINA	723,493
NORTH DAKOTA	300,000	OHIO	982,723
OKLAHOMA	302,179	OREGON	308,271
PENNSYLVANIA	1,063,961	RHODE ISLAND	300,000
SOUTH CAROLINA	360,026	SOUTH DAKOTA	300,000
TENNESSEE	506,065	TEXAS	1,928,740
UTAH	300,000	VERMONT	300,000
VIRGINIA	639,753	WASHINGTON	532,036
WEST VIRGINIA	300,000	WISCONSIN	472,453
WYOMING	300,000		

Senator Kennedy, Chairman of the Senate Health, Education, Labor and Pensions Committee (HELP) has indicated his desire to expand the Supported Employment Program, which we would support, with the caveat that extensive additional monies must be authorized for appropriations for this expansion to succeed.

RECOMMENDATION:

The National Rehabilitation Association recognizes the importance of the Supported Employment Program to individuals with disabilities, especially those with significant disabilities and therefore supports the continued discrete funding of this important program in Title VI of the Rehabilitation Act.

The National Rehabilitation Association is opposed to any consolidation of this program into Title I of the Rehabilitation Act, which itself is already woefully underfunded.



The National Rehabilitation Association supports the expansion of the Supported Employment Program, with the caveat that any expansion of the program must be accompanied by substantial, additional funding. Accordingly, the National Rehabilitation Association respectfully requests an additional \$200 million for this purpose.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007



PROJECTS WITH INDUSTRY

STATEMENT OF ISSUE

The President's 2008 Federal Budget proposes to eliminate funding in Title VI of the Rehabilitation Act for Projects With Industry (PWI). The National Rehabilitation Association is strongly opposed to this elimination of funding in PWI.

*** Projects with Industry is a most effective means of helping people with significant disabilities obtain good jobs in the community.**

PWI has been in existence since 1968 and has placed tens of thousands of persons with disabilities into competitive community jobs.

For more than 12 years PWIs have had to meet stringent standards and indicators to maintain funding.

PWIs serve and place a higher percentage of persons with significant disabilities.

Targets for competitive employment, increased wages and job retention for persons with disabilities were all exceeded in 2004 according to the Department of Education.

Projects with Industry has had standards and indicators for many years and is accountable

PWI has had standards since 1984 and indicators went into effect in 1989.

PWIs must meet certain indicators or they will lose their funding.

Indicators include: placement of at least 55% of persons served, increase weekly wages by an average of \$125 a week, at least 50% must be persons unemployed continuously for six months, at least 50% with significant disability, and cost per placement no more than 115% of cost projected in application.

*** Projects with Industry involves the local business community in meaningful participation.**

Each PWI has a Business Advisory Council (BAC) that helps guide the program and assists in identifying local job needs and insuring that the program will meet employer needs.

Over 2500 local businesses are involved with current PWI's.

PWI's maintain good relationships with business by providing regular follow up



and immediate response to any issues that arise post placement. This was cited in a 2003 evaluation of PWI conducted for the Department of Education by Research Triangle Institute. They said in the executive summary, "...the strength of the PWI program continues to be its emphasis on job placement and rigorous follow up with former participants and employers."

*** PWI has established links with local One Stop Centers.**

Most PWIs work with the local OneStop Centers under the Workforce Investment Act to identify the local employment needs. Many PWIs are co-located with OneStops and/or maintain close ties. The 1998 Rehabilitation Act Amendments added this linkage.

PWI has a long history and includes a diverse group of providers and businesses

Since its inception in 1968 the PWI program has involved hundreds of service providers and thousands of businesses. Providers have included businesses, labor unions, schools, colleges, trade associations, and foundations as well as traditional rehabilitation service providers. Businesses have included the broadest range from large multi-national corporations to the smallest local employers.

PWI is a complementary program to the state vocational rehabilitation program.

- A 2003 Department of Education funded evaluation by the Research Triangle Institute said that the state vocational rehabilitation personnel they interviewed said that PWI services were complementary rather than duplicative.
- The Administration claims the states could do what PWI does through appropriations for basic state grants. We do not believe this is the right way to go:
 - States will not be able to take on this additional burden given the meager increase requested for state grants
 - States would have to provide matching funds. Under the present set up, PWI's and their business partners provide the 20% match and often much more.
 - PWIs currently provide the job placement services for a significant proportion of state VR clients.

The RTI evaluation notes it would be problematic for states to take on PWI like programs

- Hesitancy of businesses to become directly involved in state programs
- Lack of established linkages with business community



What needs to be done to make PWI a better resource

Funding needs to be continued and substantially increased. PWI has been funded at approximately \$22 million since 1994 and was reduced to \$20 million in 2006. There have not even been increases to reflect inflation.

As recently as seven years ago there were over 120 PWI projects across the country. Now there are only 75 in 31 states and two territories and there are likely to be even fewer next year unless Congress steps in.

There was a major competition in 2005 for 75 new projects. The money is already available to fund the first year of these three year projects. Appropriations for 2008 will fund the first year of the next grant cycle. We urge Congress to provide at least \$50 million and to mandate that these projects be funded for the full five years authorized by law. Thousands of persons with disabilities will not get jobs and thousands of businesses will not have this effective program to help them employ persons with disabilities if PWI is not adequately funded.

The Bush Administration has not requested funding for the PWI program for FY2003, 2004, 2005, 2006 or 2007. Congress maintained the funding for FY2003, 2004, 2005 and cut funding by 9.5% for 2006.

RECOMMENDATION:

The National Rehabilitation Association is opposed to any consolidation (elimination) of Projects With Industry (PWIs) into Title I of the Rehabilitation Act and further recommends that PWIs be funded at \$50 million in 2008

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THE DOWNGRADING OF THE OFFICE OF THE COMMISSIONER OF RSA

In the 109th Congress, H.R. 27, the Job Training Improvement Act of 2005, proposed downgrading the Office of the Commissioner of the Rehabilitation Services Administration (RSA) in the U.S. Department of Education from an individual appointed by the U.S. President, which requires confirmation by the full U.S. Senate, to a Director appointed by the Secretary of Education.

The National Rehabilitation Association had been advised by reliable sources that during conferencing of the House and Senate WIA bills (which did not occur in 2006) the plan by some Members was to have insisted on the downgrading of the Office of the RSA Commissioner as the only change in Title IV of WIA, which comprises the programs administered under the Rehabilitation Act of 1973, as amended.

The National Rehabilitation Association is strongly opposed to this downgrading for a number of reasons, which includes the fact that no one in the Congress, the U.S. Department of Education, or anyone else has given the disability advocacy community a reason for the downgrading of the Office of the Commissioner of the RSA, which office has the principal responsibility for, and unmatched expertise in, the programs administered under the Rehabilitation Act of 1973, as amended (hereinafter referred to as the Public/Private Vocational Rehabilitation (VR) partnership).

No other Office within the U.S. Department of Education has the expertise in the VR program that the Office of the Commissioner of RSA has had and continues to have, including the Office of the Assistant Secretary (OAS) in the Office of the Special Education and Rehabilitative Services within the U.S. Department of Education, whose Assistant Secretaries' experience has almost always been directed in the special education area.

The Office of the Commissioner of the RSA has traditionally employed more individuals with disabilities than any other governmental department or agency in the Federal government. Indeed, the Commissioner of RSA, very often a consumer of the VR Program, is the highest ranking official in the Administration with the expertise in the VR Program. Why would anybody want to downgrade an individual/office who administers one of the most successful career producing programs for eligible individuals with disabilities? It simply doesn't make sense and is misguided public policy.

The National Rehabilitation Association believes that downgrading the Office of the Commissioner of RSA, would diminish the importance of the VR Program, has the domino-effect of downgrading all programs that support the education, employment and



independence of individuals with disabilities and works counter to the President's New Freedom Initiative.

RECOMMENDATION:

The National Rehabilitation Association recommends and strongly supports the retention of the title of "Commissioner of RSA" and strongly opposes any downgrading of this individual and office. This Title has dominated for 42 years (since 1965) and any downgrading will further diminish the visibility of the successful State/Federal Vocational Rehabilitation Program and clearly devalues individuals with disabilities.

We believe by maintaining the integrity of the Office of the Commissioner of RSA Congress continues to demonstrate the importance and value it places on the Vocational Rehabilitation Program and all programs that support the education, employment and independence of the 54 million individuals with disabilities throughout our Nation.

Congress's continued commitment to upholding the Office of the Commissioner of RSA sends a clear message to individuals with disabilities that it honors and supports their hard-won civil rights to be educated, pursue careers and live independently in the community. The National Rehabilitation Association further believes that by sustaining the critical role of the Office of the Commissioner of RSA, Congress will continue to communicate to the community that it is aware of and respects the ever-changing issues and challenges confronting individuals with disabilities which by itself mandates the continued empowerment of a high level of responsibility to the Office of the Commissioner of RSA.

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THE GOVERNOR'S WAIVER AUTHORITY

The National Rehabilitation Association does not support Governors or anyone else having the authority to waive any provision of the Rehabilitation Act that has been carefully crafted and amended by Congress over eight decades.

The original Congressional architects of the Workforce Investment Act made it clear that the programs administered under the Rehabilitation Act of 1973, as amended, would always maintain their own, dedicated funding stream.

The monies authorized/appropriated to the VR program should not be diverted to populations other than those for whom the Congress had intended -- eligible individuals with disabilities. Congress intended this funding stream to address the 70% unemployment rate among people with disabilities.

Individuals with disabilities -- especially those with significant disabilities -- need and deserve individualized services and supports in order to assist them in pursuing careers and . The Public/Private VR Partnership provides the individualized services and supports by qualified rehabilitation counselors and associated qualified personnel. Statistics show that individuals with disabilities who enter the world of work make an impressive return on investment of federal dollars and equally important have and will continue to thrive in the world of work with the proper supports and services that the Public/Private VR Partnership can and does provide.

RECOMMENDATION:

The National Rehabilitation Association strongly opposes any waiver authority by the Governor -- including any "superwaiver" authority over the VR Program that would subvert the original intent of Congress in linking the VR Program to the one-stops and would hurt individuals with disabilities.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007



THE EFFICIENCY MEASURE IN WIA'S COMMON PERFORMANCE MEASURES

Individuals with disabilities -- especially those with significant disabilities -- who want the dignity of a career and living independently in their communities, encounter numerous barriers to employment.

The National Rehabilitation Association is pleased that the "Efficiency" measure in both the House and Senate WIA bills in the 109th Congress had been dropped, but we remain vigilant and would strongly oppose the "Efficiency" measure being added to either the Senate and House WIA bills that may emerge from the 110th Congress.

By way of background, the "Efficiency" measure in the WIA Common Performance Measure does not take into account the multiple barriers that individuals with disabilities, especially those individuals with significant disabilities, encounter in securing or re-securing employment. The "Efficiency" measure by its very name and nature suggests a one-size-fits-all approach to employment. This is contrary to the paradigm of the public/private Vocational Rehabilitation (VR) Partnership which serves a dual customer, the individual and the business community.

The VR program is a comprehensive approach to individuals with disabilities seeking the American Dream. One of the major benefits of the VR program is the assistance it provides to eligible individuals with disabilities to enable them to move from being a user of Federal dollars to being a taxpayer. The VR Program does not, and should not, ever allow itself to be coerced into the "any-job-will-do" mindset in order to meet rigid efficiency measures.

All workers in America deserve the best training for the best jobs that this country has to offer. That training should be fully funded and should take into consideration those individuals who need the services and supports to assist them in succeeding in the world of work.

The quick, cheap employment placement will neither serve American workers nor this country in its quest to compete in an increasingly global economy.

RECOMMENDATION:

The National Rehabilitation Association supports and applauds the removal of the efficiency measure in WIA's Common Performance Measures to reflect an increasingly diversified workforce, which includes all individuals with disabilities who continue to encounter multiple barriers to employment.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007



THE COMMUNITY CHOICE ACT OF 2007
(FORMERLY KNOWN AS THE MEDICAID
COMMUNITY-BASED ATTENDANT SERVICES AND
SUPPORTS ACT (MiCASSA))

The National Rehabilitation Association (NRA) strongly urges Congress to quickly pass the S. 799, the Community Choice Act of 2007, which was formerly known as the Medicaid Community-Based Attendant Services and Supports Act, (MiCASSA).

This landmark legislation would not only provide cost savings, but give people real choice in long-term care options by reforming Title XIX of the Social Security Act. The Community Choice Act of 2007 offers states financial assistance to reform their long-term care systems and provides services and supports in the most integrated setting for each person who needs these services.

NRA recognizes the institutional bias that has existed within our Nation's long-term care system throughout its history. In general, 75% of Medicaid's long-term care dollars go toward institutional services, while only 25% is left to cover community-based services. It has been proven that individuals currently residing in institutional settings, or those who are at-risk of being placed there, can receive quality services and supports in their community. The Community Choice Act will provide this much-needed alternative to institutional placement in a cost-effective manner by offering community-based attendant services and supports that will:

- * Provide assistance with activities of daily living
- * Be based on functional need, rather than diagnosis or age
- * Be selected, managed, and controlled by the consumer of services
- * Be supplemented with back-up and emergency services

The Community Choice Act is not another "unfunded mandate." It merely states that people who have already been deemed eligible for services should have a choice of where they can receive them. This "most integrated setting" mandate was upheld by the Supreme Court of the United States in *Olmstead v. L.C.* The Community Choice Act ensures that a state need not spend any more money in total for a fiscal year on community-based services and supports than it would have spent to provide those same services and supports in institutional settings.

As one the longest-serving advocates for the rights of persons with disabilities, the National Rehabilitation Association calls for "Real Choice" through the passage and



enactment of The Community Choice Act. It is time to change the institutional bias that currently exists in Title XIX of the Social Security Act and take the dollars being spent to keep people out of work, away from their families, and separated from the rest of society and reinvest that money in community-based services and supports.

RECOMMENDATION:

The National Rehabilitation Association strongly supports S. 799, the Community Choice Act, in both Houses of Congress and urge that both bills include language on Personal Attendant Care.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007



THE MENTAL HEALTH PARITY

The National Rehabilitation Association (NRA) supports the passage of the Paul Wellstone Mental Health Equitable Treatment Act assuring mental health parity and insurance coverage.

The National Rehabilitation Association supports parity in insurance coverage for physical and mental health services. There should be no difference in co-pays, deductibles, or lifetime limits. Coverage should include all disorders listed in the APA Diagnostic and Statistical Manual (DSM-IV-TR) and future editions.

The National Rehabilitation Association is pleased to support S. 558, the Mental Health Parity Act of 2007, which was introduced with bipartisan support on February 12, 2007, and was favorably reported out of the Senate Health, Education, Labor and Pensions (HELP) Committee on February 14, 2007, on a roll call vote of 18-3.

We understand the House is working on a companion bill to S. 558 and hopes to introduce a bill soon.

In circumstances in which full parity has been achieved, the cost to the insurance company has been minimal (1-2%). In most cases, physical health care costs go down. Disorders such as depression, bipolar, or schizophrenia should not be covered to a lesser degree than Alzheimer's and Parkinson's disease, as all are physical disorders of the brain.

Untreated mental illness costs American businesses, government, and families at least \$79 billion annually in lost productivity and unemployment, broken lives and broken families, emergency room visits, homelessness, and unnecessary use of jails and prisons.

Mental illnesses such as schizophrenia, bipolar disorder, major depression, obsessive-compulsive disorder, and severe anxiety disorder are real illnesses. Treatment of mental illness is effective when provided. The treatment efficacy rates for most severe mental illnesses exceed those for heart disease and diabetes. Discriminatory insurance coverage of mental illness can often lead to loss of income, and eventual bankruptcy, which consequently places a burden on taxpayers with the potential of suicide, homelessness, and criminalization.

Parity is affordable for employers and health plans. The Congressional Budget Office (CBO) estimates that this legislation will result in premium increases of only 0.9%. The results of early mental health treatment are decreased absenteeism and increased productivity.



Thirty-four states have enacted parity laws but even these laws offer no protection for workers and their families who receive coverage through self-insured ERISA plans.

RECOMMENDATION:

The National Rehabilitation Association strongly urges the full U.S. Senate to pass The Mental Health Parity Act of 2007, which enjoys not only bipartisan support but that of business, insurance and, of course, the mental health community.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007



THE ADA RESTORATION ACT

The Americans with Disabilities Act (ADA) has been hailed as the most significant and sweeping civil rights act for persons with disabilities of its time. It was a national mandate to remove discrimination from areas of employment, public service, public accommodations and services provided by public entities, communication and transportation. It was the promise of equality, inclusion and empowerment for persons with disabilities.

At the time of the signing of the Americans with Disabilities Act on the White House lawn, President George H.W. Bush stated that the ADA was an “historic civil rights act...the world’s first comprehensive declaration of equality for people with disabilities.” He added that “with today’s signing of the landmark Americans with Disabilities Act, every man, woman and child with a disability can now pass through once closed doors into a bright era of equality, independence and freedom.”

Since its enactment, there have been overall positive results for persons with disabilities. In the *NCD Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*, they cited:

“It has brought the principles of disability civil rights into the mainstream of public policy. The law, coupled with the disability rights movement, produced a climate where such legislation could be enacted, has impacted fundamentally the way Americans perceive disability. The placement of disability discrimination on the same par with race and gender discrimination exposed the common experiences of prejudice and segregation and provided clear rationale for the elimination of disability discrimination in this country.”

Unfortunately, judicial decisions by the U.S. Supreme Court of the United States have placed limitations on the impact of the Americans with Disabilities Act. While all decisions by the Supreme Court have not had a negative impact (*Lane v. Tennessee*, *Olmstead v. L.C.*; *Casey Martin v. PGA*), many of the decisions have changed the intent of the Act by Congress to end discrimination.

For example,

- I. The Court has significantly limited the number of individuals protected by the Americans with Disabilities Act



- A. As a result of the U.S. Supreme Court definition of disability, the lower courts have ruled that persons who use mitigating measures are not covered by the ADA.
 - B. As a result of the U.S. Supreme Court definition of disability, the lower courts have ruled that persons whose impairments *could* be mitigated by medication are not protected by the ADA.
 - C. As a result of the U.S. Supreme Court definition of disability, the lower courts have made it much more difficult for persons with disabilities to establish that they are substantially limited in the major life activity area.
 - D. As a result of the Supreme Court definition of disability, the lower courts are now requiring individuals prove that they are substantially limited in major life activities, but also in activities central to daily life.
 - E. As a result of the Supreme Court definition of disability, the lower courts have made it almost impossible for persons with disabilities to establish that they fall in the prong of “regarded as” of the ADA’s definition of disability.
 - F. The U.S. Supreme Courts decisions in definition of disability cases has had an adverse impact on whether and how individuals with disabilities and their attorneys pursue ADA cases in court.
- II, The U.S. Supreme Court has given states immunity from suits in federal court for monetary damages under Title I of the ADA.
- III. The U.S. Supreme Court’s interpretation of the ADA attorney’s fees provision has restricted persons with disabilities access to the courts.

Not only have U.S. Supreme Court decisions re-defined disability under the ADA, they have limited access to the court for redress of discrimination.

Additionally, organizations and individuals serving in an advocacy position for persons with disabilities to pursue legal action in an ADA case The Equal Employment Opportunity Commission (EEOC) data shows that the number of ADA lawsuits filed decreased significantly following the Supreme Court's decisions in 1999 regarding the definition of disability and decrease further in 2002.

The US Department of Justice, Protection and Advocacy have also noticed a direct impact on ADA enforcement as well due to the U.S. Supreme Court ruling regarding the ADA.



RECOMMENDATION:

The National Rehabilitation Association urges Congress to enact legislation that will return the Americans with Disabilities Act to its original Congressional intention of providing protections to individuals with disabilities from discrimination.

The National Rehabilitation Association acknowledges the contribution of the National Council of Disability for its research on the impact of Supreme Court decision on the ADA to this position paper.

Approved by the National Rehabilitation Association's Board of Directors - March 10, 2007

