



Developmental Disabilities Assistance and Bill of Rights Act of 2000 Final Rule

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July 30, 2015



Background

- The DD Act was reauthorized in 2000
- There are three programs/networks authorized under the Act
 - State Councils on Developmental Disabilities
 - Protection & Advocacy Systems
 - University Centers for Excellence in Developmental Disabilities
- The Projects of National Significance are also authorized
 - The Projects of National Significance did not have any significant changes through this rule process

Preamble background

- Effective Date: August 26, 2015
- Councils: (from Statute)
 - 70% of funds must be set aside for Council goals
 - 60% of Council members must be people with DD or their family members
 - States must have a functioning P&A for the Council to receive their award
- P&As: (from Statute)
 - Increased access to records from the 2000 Act – not from new rule
 - States must provide information on adequacy of HCBS services to P&As
 - Majority of governing board (51%) must be people with disabilities or their family members
- UCEDDs: (from Statute)
 - New UCEDDs must target underserved or unserved States or populations
 - \$500,000 plus inflation trigger amount for new UCEDDs
- Titles II and III of the Act have been authorized (Family Support and Programs for Direct Workers Who Assist Individuals with DD)
 - No Money has been appropriated

Preamble background

- Commissioner refers to Commissioner of the “Administration on Disabilities” as there is no longer a Commissioner for AIDD
- No new regulations concerning Class Action lawsuits
- UCEDD definition placed into regulation at chapter 1388
- Education of Policy Makers:
 - Networks and grantees are to follow current AIDD policy
 - Offer balanced and non-partisan information consistent with the principles of the DD Act (See 2001 Guidance ADD-01-1)
 - Non-federal funds may be used for other activities in accordance with other applicable laws
 - AIDD plans to develop Guidance on “Advocacy”

Preamble & Section by Section Discussion of Rule

Section 1385.1 General

- The Act changed PADD to PAIR, since ED has a PAIR program the rule has referenced the P&A program as PADD

Section 1385.2 Purpose

- Updated language from 1997 regulation that the rule implements the 2000 statute

Section 1385.3 Definitions

- A number of statutory definitions in the NPRM had been changed, we changed them back to the statute based on comments received

Preamble & Section by Section Discussion of Rule

Section 1385.3 cont'd

- Definitions that are of particular note:
 - Accessibility
 - AIDD
 - Advocacy Activities
 - Capacity Building Activities
 - Note this now applies to all networks
 - Developmental Disability
 - State

Preamble & Section by Section Discussion of Rule

Section 1385.4 Rights of Individuals

- Slight variation from 1997 rule, changes applicable to Councils and UCEDDs

Section 1385.5 Program Accountability and Indicators of Progress – now [Reserved]

- Removed language from NPRM based on negative feedback from grantees and have reserved the section for future rules
- Reporting requirements are already established through OMB
- The section did address collaboration and AIDD may issue guidance on the topic in the future

Preamble & Section by Section Discussion of Rule

Section 1385.6 Employment of Individual with Disabilities

- Updated from 1997 rule to meet current law and ADA
- Loss of federal funds if out of compliance

Section 1385.7 Reports to the Secretary

- Was not in previous rule
- New requirements (as in NPRM):
 - All plans, applications, and reports must label goals, activities, and results in following areas:
 - Areas of emphasis
 - Type of activity
 - Category of measure of progress
- This will be included in monitoring by project staff

Preamble & Section by Section Discussion of Rule

Section 1385.8 Formula for Determining Allotment

- Formula has been removed from regulation
- FY 2016 formula will stay the same – guidance this week
- FY 2017 formula will be released in the fall for public comment through the guidance process with a 45 day comment period
- April 1st deadline will be met to put estimates up on AIDD website
- **IM was issued 7/28/2015 through email and is available on the AIDD website**

Preamble & Section by Section Discussion of Rule

Section 1385.9 Grants Administration

- Some changes in CFR references at the last minute as HHS updated their CFRs for grants management

Part 1386 – Formula Grant Programs

Subpart A - General

Section 1386.1 General

- Terminology for the Councils were updated

Section 1386.2 Obligation of Funds

- Terminology for the Councils were updated

Preamble & Section by Section Discussion of Rule

Section 1386.3 Liquidation of Obligations

- Similar language as previous rule – grantees have two years to liquidate funds or they revert back to the Federal Government
- Instead of Commissioner having authority to issue waiver, it is now the Secretary, or his or her designee

Section 1386.4 Reserved

Preamble & Section by Section Discussion of Rule

Subpart D – Federal Assistance to SCDDs

Section 1386.30 – State Plan Requirements

- Paragraphs (e) and (f) have been modified to limit Council demonstration projects to five years (*further guidance to come*)
 - Councils must also include strategies to locate other funding sources
 - If a Council wishes to extend a demonstration they must submit, in the State Plan, the estimated duration, justification why the project is not funded by another source, justification to continue funding the project, data outcomes showing evidence of success
 - AIDD reserves the right as the overseeing agency to deny the continuation of the demonstration project past five years

Preamble & Section by Section Discussion of Rule

Section 1386.30 – State plan requirements

- In (b) failure to comply with the State Plan will result in loss of federal funds
- In (d) the State plan updated and AIDD must be informed
 - If we are not informed that is considered to failure to comply by engaging in unallowable costs
 - This complies with current AIDD practice of substantive changes that are due each year on August 15th (and will be due this year on August 15th)
 - Updates will continue to be due January 1st of each year

Preamble & Section by Section Discussion of Rule

Section 1386.31 – State plan submittal approval

- In (a) technical changes to update to current technology and accessible format to individuals with DD and the public (i.e. limited English proficiency)
- In (b) we removed the requirement that the State Plan or amendment must be approved by the entity or individual authorized to do so under State law as it may interfere with the non-interference clause
 - AIDD will determine how to best effectuate this with the new cycle of State Plans, such as demonstrating that the Plan or amendment has been shared or shown to the State entity or individual

Preamble & Section by Section Discussion of Rule

Section 1386.31 – State plan submittal approval

- In (c) if a State plan is not approved by the start of a Fiscal Year, Councils will not be able to draw down the funds between the start of the fiscal year and the approval of the State plan
 - Councils will be able to be reimbursed for costs incurred back to the current quarter
 - Councils will be fully responsible for any costs obligated during the time between the start of the fiscal year and approval of the State plan

Section 1386.32 – Periodic reports

- AIDD is continuing to review this section to update PPRs

Preamble & Section by Section Discussion of Rule

Section 1386.34 – Designated State Agency

- No changes from NPRM except technical changes to reflect the move of AIDD to ACL
- In (a)(2) DSAs give information and procedural information only on hiring, supervision, and staff assignments in accordance with State law
- AIDD encourages you to read this section as it deals redesignation of DSAs

Section 1386.35 – Allowable and non-allowable costs

- Same as previous rule

Section 1386.36 – Final disapproval of the State plan or amendments

- Eliminates references to regional offices
- Technical changes from NPRM to reflect name change of AIDD

Preamble & Section by Section Discussion of Rule

Sections 1386.80 through 1386.112

Subpart E – Practice and Procedure Hearings (formerly Subpart D)

- No comments were received, however, AIDD has made technical changes to reflect the move of AIDD to ACL and related delegations.

Summary

The final rule strengthens the ability of AIDD grantees to help individuals with developmental disabilities to live and fully participate in the community of their choice.

For more information about the rule:

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