

June 28, 2000

Butch McMillan, Executive Director
MS Department of Rehabilitation Services
1281 Highway 51 North
Madison, MS 39110

Dear Mr. McMillan:

The Client Assistance Program (CAP) is a federal grant that provides advocacy services to Mississippians seeking or receiving services from the Office of Vocational Rehabilitation under Section 112 of the Rehabilitation Act of 1973 as revised in 1998.

Notice of redesignation

Due to the fact that the organization here to for known as “Easter Seals Mississippi” as of August 10, 2000, will no longer bear that name and will no longer be affiliated with the National Easter Seal Society and due to the fact that Easter Seals Mississippi has here to for been contracted to administer the CAP program, the Governor of Mississippi declares his intent to redesignate the administration of this program to the Mississippi Society for Disabilities, formerly known as Easter Seals Mississippi, effective August 10, 2000, in order to ensure continued services without interruption for the convenience of clients and after consultation with the director of the state rehabilitation agency and representatives of professional and consumer organizations serving disabled individuals. The Mississippi Society for Disabilities will administer the CAP program under the same procedures and guidelines as the Easter Seals Mississippi.

Client Assistance Program federal requirements.

Sec. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this

Act, and, upon request of such clients facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which

(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

(2) meets the requirements of designation under subsection **(c)**.

(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

(B)(i) The Governor may not redesignate the agency designated under subparagraph **(A)** without good cause and unless-

(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998--

(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the

merger of the designated State agency with 1 or more other State agencies or departments; and **(II)** an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph **(A)**, the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

(d) The agency designated under subsection **(c)** of this section may not bring any class action in carrying out its responsibilities under this section.

(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than \$50,000.

(B) The Secretary shall allot \$30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(C) For the purpose of this paragraph, the term "State" does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed \$7,500,000, the minimum allotment shall be \$100,000 for States and \$45,000 for territories.

(ii) For any fiscal year in which the total amount appropriated under subsection **(h)** exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause **(i)** by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any

such amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

(B) In subparagraph (A), the term "alternative means of dispute resolution" means any procedure, including good faith negotiation, conciliation, facilitation, mediation, fact finding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of or any other personally identifiable information related to, any individual requesting assistance under such program.

(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003 to carry out the provisions of this section.

Description, Goals and Function of Mississippi's CAP

Mississippi's Client Assistance Program is a 100% federally funded statewide advocacy program administered by Easter Seals Mississippi. The original designation to Easter Seals Mississippi was on September 25, 1991. The CAP staff operates the program under Section 112 of the Rehabilitation Act of 1973 as amended in 1998. The "Mississippi Client Assistance Program Policies and Procedures Manual" was adopted by the Easter Seals Mississippi Board in 1998. In accordance with 34 CFR 370, the purpose of this program is to establish and carry

out CAPs that:

- (a) Advise and inform clients and client applicants of all services and benefits available to them through programs authorized under the Rehabilitation Act of 1973 (Act), as amended;
- (b) Assist and advocate for clients and client applicants in their relationships with projects, programs, and community rehabilitation programs providing services under the Act; and
- (c) Inform individuals with disabilities in the State, especially individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs, of the services and benefits available to them under the Act and under title I of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101—12213.

Public Notice and Hearings

Public hearings concerning this proposed redesignation will be held Thursday, July 27, and Wednesday, August 2, at 1:30 p.m. in the Easter Seals Mississippi offices at 3226 North State Street, Jackson, Mississippi, in order to provide interested parties an opportunity for comment. Notice of these hearings will be published in the *Clarion Ledger* on July 7 and July 14.

The Office of the Governor will also receive oral or written comments on this redesignation until August 7. Please direct such comments to Kelly Riley, Office of the Governor, P.O. Box 139, Jackson, MS 39205-0139, 601/359-2528. Thank you for your assistance in this matter.

Very truly yours,

RONNIE MUSGROVE

RM:klr