



National Association OF State Head Injury Administrators

Overview: Federal Legislation Impacting Individuals with Traumatic Brain Injury

1918—The Smith-Sear Veterans Vocational Rehabilitation Act establishes a federal vocational rehabilitation program for soldiers with disabilities.

1920—The Fess-Smith Civilian Vocational Rehabilitation Act creates a vocational rehabilitation program for civilians with disabilities.

1935—Social Security Act creates a national insurance system for people who are elderly; establishes a federal-state unemployment insurance program; grants aid to states on a matching basis for dependent mothers and children, people with disabilities, and people who are blind; and supports public health services.

1950—Social Security Act Amendments creates a public assistance program for people who are “totally and permanently disabled.” Each state determines eligibility standards and assistance levels in accordance with the Act, which provides for federal financial assistance.

1954—The Vocational Rehabilitation Act is revised, establishing a system of state vocational rehabilitation agencies.

1956—The Social Security Amendments of 1956 creates the Social Security Disability Insurance (SSDI) program for disabled workers aged 50 to 64.

1965—The Social Security Act of 1965 establishes the Medicare and Medicaid programs under Titles XVIII and Title XIX. The initial purpose of Title XIX was to improve access to and the quality of medical care for all low-income people and did not provide services solely based on disability. States were required to provide certain services to individuals who were categorically needy; states could offer optional services and choose to cover individuals who were medically needy.

1968—The Fair Housing Act of 1968, Title VIII of the Civil Rights Act of 1968, prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. Title VIII was amended in 1988 to include individuals with disabilities.

1970—The Developmental Disabilities Services and Facilities Construction Amendments of 1970 gave states responsibility for planning and implementing comprehensive services for people with severe disabilities, calling for Developmental Disabilities Councils in each state to plan and coordinate activities.

1972—The Social Security Act of 1972 authorizes the Supplemental Security Income (SSI) program, a consolidated, federally administered cash benefits program for needy individuals and couples who are aged, blind, or have a disability. Children with disabilities under the age of 18, including children who are blind, become eligible for benefits provided their disabilities are comparable in severity to adult recipients.

1973—The Rehabilitation Act is rewritten providing stronger emphasis on people with severe disabilities. The Act requires vocational rehabilitation agencies to develop an “individualized written rehabilitation program” (IWRP) with each individual receiving services. Section 504 of the Act protects individuals with disabilities from discrimination in all federally assisted programs and activities. Sections 501 and 503 protect people with disabilities from employment discrimination by federal agencies or federal contractors.

1974—The Housing and Community Development Act of 1974 creates the Community Development Block Grant (CDBG) program, authorizing funds for removal of architectural barriers and in constructing public facilities. Urban areas are required to prepare a Housing Assistance Plan that reflects the needs of individuals with disabilities.

1975—The Education for Handicapped Children Act mandates that public schools provide students with disabilities a “free appropriate public education” (FAPE) in the “least restrictive environment.” The Act requires educators to develop an “individual education plan” (IEP) for each child receiving special education services. Part B of the Act provides federal financial assistance to states and local education agencies to meet the mandates.

1975—The Developmental Disabilities Assistance and Bill of Rights Act reauthorizes the Developmental Disabilities Services and Facilities Construction Amendments of 1970 and provides formula grants to state-based Developmental Disabilities Councils. The Act also authorizes the University Affiliated Facilities and establishes state protection and advocacy systems to protect the rights of individuals with developmental disabilities.

1981—The Omnibus Budget Reconciliation Act authorizes Medicaid to waive certain federal requirements so that states can provide personal care and other home and community-based services to individuals who would otherwise receive care in an institutional setting.

1982—The Tax Equity and Fiscal Responsibility Act (TEFRA) allows states to cover home care services under Medicaid for children with disabilities, even when family income and resources exceeded that of the state’s financial eligibility standards.

1984—The Rehabilitation Act Amendments establishes the Client Assistance Program (CAP), a formula grant program for states designed to inform individuals with disabilities who are receiving rehabilitation services how to access available benefits and ensure protection of individual rights through legal, administrative or other remedies.

1984 -- The Emergency Medical Services for Children (EMSC) program was established to authorize grants to states and territories to support injury prevention, training to EMTs, paramedics and other emergency medical care providers.

1984 – The Carl D. Perkins Vocational and Technical Education Act was first authorized to increase the quality of technical education and was reauthorized in 1998. The law recognized rights and protections for students who are members of "special populations" and set aside funding to address services for these special populations that included individuals with disabilities; individuals from economically disadvantaged families, including foster children; individuals preparing for nontraditional training and employment; single parents, including single pregnant women; displaced homemakers; and individuals with other barriers to educational achievement, including individuals with limited English proficiency.

1986—The Education for Handicapped Children Act is expanded to include Part H, a formula grant program, to assist states in developing early intervention services for infants and toddlers with disabilities.

1986—The Employment Opportunities for Disabled Americans Act makes permanent the work incentives provision, Sections 1619 (a) and 1619 (b), of the Social Security Act, authorizing special SSI benefits and continued Medicaid coverage for people with disabilities who are working, but whose income exceeds "substantial gainful activity" levels. Medicaid coverage is extended to people with disabilities who may lose SSI or Section 1619(a) benefits due to excess earnings, but who are unable to afford health care coverage equal to coverage under Medicaid.

1986—Protection and Advocacy for Individuals with Mentally Illness (PAIMI), establishes a formula grant program for statewide mental health advocacy services to be operated directly by or through contract with the state protection and advocacy agency to protect and advocate for the rights of people with mental illness and investigate incidents of abuse and neglect.

1987—The Omnibus Budget Reconciliation Act of 1987, known as the **Nursing Home Reform Act**, requires states to conduct Pre-admission Screening and Annual Resident Review (PASARR) of individuals with disabilities (mental illness, mental retardation, developmental disabilities) prior to admission to a nursing facility to determine if they actually need nursing facility level of care, even if the individual is not Medicaid eligible. PASARR requires that individuals with disabilities be provided specialized services while in a nursing facility. If nursing facility level of care is not

required but an individual requires specialized services, the state must provide for or arrange for the specialized services in an appropriate setting.

1988—The Technology Related Assistance for Individuals with Disabilities Act establishes grant programs to encourage the development and distribution of assistive technology for people with disabilities.

1988—Fair Housing Amendments Act expands the Fair Housing Act of 1968 to prohibit discrimination based on disability or on familial status (presence of child under age of 18, and pregnant women); establishes new administrative enforcement mechanisms; revises and expands Justice Department jurisdiction to bring suit in Federal district courts. In connection with prohibitions on discrimination against individuals with disabilities, the Act contains design and construction accessibility provisions for certain new multifamily dwellings.

1989—The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) defines the Medicaid Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program, a comprehensive and preventative child health program for individuals under the age of 21. OBRA requires that any medical necessary health care service be provided to an EPSDT recipient even if the service is not available under the State's Medicaid plan for the rest of the Medicaid population.

1990—The Americans with Disabilities Act (ADA) affirms the rights of citizens with disabilities and prohibiting discrimination in employment, public services, public accommodations and services that are operated by private entities, and telecommunications. It is wide-ranging legislation intended to make American Society more accessible to people. While the employment provisions of the ADA apply to employers of fifteen employees or more, its public accommodations provisions apply to all businesses regardless of the number of employees. State and local governments are covered regardless of size.

1990—The Individuals with Disabilities Education Act (IDEA) reauthorizes The Education for Handicapped Children Act. The Act includes traumatic brain injury as a disability and requires public schools to report the number of students with TBI receiving special education and related services. IDEA also requires schools to prepare students for transition to adulthood by incorporating a statement of needed services into the student's individualized education program (IEP) no later than age 16. Transition services are defined as "a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities." Post-school activities include "post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation."

1992—The Rehabilitation Act Amendments of 1992 make several fundamental changes to the Rehabilitation Act of 1973 and the way in which rehabilitation services are provided to Americans with disabilities through the public vocational rehabilitation

program. The amendments reflect competence and choice and afford individuals with disabilities to access the services and supports they need to live, work, and meaningfully participate in community life. Services must be carried out in a manner consistent with the principles of presumed ability, integration and inclusion, full participation, meaningful and informed choice, and involvement of families and natural supports. Title I contains a presumption that individuals with disabilities, including those with severe disabilities, are capable of engaging in gainful employment. Title VII establishes standards and assurances for Centers for Independent Living and includes a statement of the independent living philosophy.

1993—Rehabilitation Act Amendments of 1993 mandates Centers for Independent Living to provide four “independent living core services” along with any of the other optional independent living services specified in the amendments. The four core services are: information and referral, independent living skills training, peer support, and individual and systems advocacy. The Act also establishes the PAIR Program, Protection and Advocacy Services for Individual Rights, to protect and advocate for legal and human rights of persons with disabilities.

1994—The Technology-Related Assistance for Individuals with Disabilities Act is expanded and includes funding to the National Institute on Disability and Rehabilitation Research (NIDRR) for protection & advocacy agencies for the Assistive Technology (PAAT) Program is to assist individuals with disabilities and their family members, guardians, advocates and authorized representatives in accessing technology devices and assistive technology services through case management, legal representation and self advocacy training.

1996—The Traumatic Brain Injury Act authorizes funding to the Health Resources and Services Administration for grants to states for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury; to the Centers for Disease Control and Prevention to carry out projects to reduce the incidence of TBI; to the National Institutes of Health to conduct basic and applied research regarding TBI; and to the National Center for Medical Rehabilitation Research, within the National Institute for Child Health and Human Development, to conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

1997—The Amendments to IDEA shifts the focus from providing children with disabilities access to an education to improving results for all children in the education system. Prior to 1997, the law did not include a regular education teacher as a required member of the Individualized Education Program (IEP) team. The new law mandates that a regular education teacher, to the extent appropriate, participate in the development, review and revision of the IEP of the child. The law also strengthens the role of parents in educational planning and decision making on behalf of their children and that a statement of transition service be prepared and included in the IEP by age 14.

1998—The Workforce Investment Act of 1998 (Title III) amends the Wagner-Peyser Act to require that Employment Service/Job Service activities become part of the "One-Stop" system and establishes a national employment statistics initiative. It establishes a temporary "Twenty-First Century Workforce Commission" to study issues relating to the information technology workforce in the United States. The purpose of the bill is to establish the "One-Stop" concept where information about and access to a wide array of job training, education, and employment services is available for customers at a single neighborhood location. Provisions of the Act promote individual responsibility and personal decision-making through the use of "Individual Training Accounts," allowing customers to "purchase" the training they determine best for them. Title IV reauthorizes Rehabilitation Act programs through FY 2003 and links these programs to state and local workforce development systems. Title V contains general provisions that include authority for state unified plans relating to several workforce development programs, incentive grants for states exceeding negotiated performance levels under the Workforce Investment Act, Adult Education Act, Perkins Vocational Education Act, and transition provisions.

1999—The Ticket to Work and Work Incentives Improvement Act creates options for states and individuals with disabilities to get jobs and keep their health insurance. The goal is to also reduce individuals with disabilities' dependence on cash benefits, such as SSI and SSDI. Title II expands availability of health care services. States are given the option of providing Medicaid coverage for people with disabilities who would qualify for SSI, if not for income, or who are working and have a "medically determinable impairment", or allow individuals to "buy in" to Medicaid coverage.

2000—The TBI Act of 1996 is amended and reauthorized as Title XIII of the Children's Health Act of 2000. The Act authorizes funding to the Centers for Disease Control and Prevention (CDC) to expand state surveillance and national education and prevention; to the National Institutes of Health to carry out applied research related to cognitive disorders and neurobehavioral consequences; and to the Health Resources and Services Administration for state capacity building grants. The Amendments of 2000 also authorize funding for state protection and advocacy services. The Act changes the definition of TBI by replacing the phrase "anoxia due to near drowning" with "anoxia due to trauma."

2001—The No Child Left Behind Act of 2001 redefines the federal role in K-12 education and seeks to close the achievement gap between disadvantaged and minority students and their peers. It is based on four basic principles: stronger accountability for results, increased flexibility and local control, expanded options for parents, and an emphasis on teaching methods that have been proven to work.

2006—The Deficit Reduction Act of 2005, which was signed by the President in February 2006, affects many aspects of domestic entitlement programs, including both Medicare and Medicaid. The law imposes citizenship documentation requirements on applicants and recipients, including children. It gives states broad powers and flexibility to restructure coverage through the use of a "benchmark" option, but also retains Early

and Periodic Screening, Diagnostic, and Treatment (EPSDT) services as the coverage standard for children under age 19. States are provided greater authority to impose cost-sharing for Medicaid-covered benefits and services. The bill also redefines the federal role in financing targeted case management services.

2006—The Carl D. Perkins Career and Technical Education Improvement Act of 2006, amends the Carl D. Perkins Vocational and Technical Education Act of 1998 and repeals a prohibition against use of funds to: (1) provide funding under the School-to-Work Opportunities Act of 1994; or (2) carry out activities that were funded under such Act through programs funded under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, unless such programs only serve participants eligible under this Act. The legislation revises, reauthorizes and renames Title I of the Act as Career and Technical Education (CTE) Assistance to the states. It requires certain core indicators of performance for secondary and postsecondary CTE students to be identified in state plans and to include measures of specified matters. The bill extends through FY2012 the authorization of appropriations for national CTE activities.

2006—The "Post-Katrina Emergency Management Reform Act of 2006" passed as a part of the FY 2007 Homeland Security appropriations bill. The Act contained amendments to the Stafford Act to better address the needs of people with disabilities in emergencies and outlines responsibilities between the Department of Health and Human Services, FEMA (Department of Homeland Security) and other federal agencies to assist them in better addressing the needs of the disability community.

2006—Older Americans Act Reauthorization reauthorized the Older Americans Act (OAA). The bill authorized funding and created the National Family Caregiver Support Program to help aging caregivers with a child with a disability.

2006—Promoting Safe and Stable Families reauthorizes and makes changes to the Promoting Safe and Stable Families (PSSF) program; authorizes grants to states to administer their child welfare agencies to prevent and address child abuse and neglect; reauthorizes the Mentoring Children of Prisoners program; and reauthorizes the Court Improvement Program.

2007—The Trauma Care Systems Planning and Development Act reauthorized funding for improved trauma systems of care for a five year period from FY 2008-2012. The legislation reauthorizes the program in the amount of \$12 million in FY 2008 for grant programs to assist states, and sub-regions of states, in their trauma system development. The grant program is dual-track with a little more than one-half of the funds that are appropriated committed to a competitive grant program and the rest for a formula program where funding goes to all eligible states that apply.

2008—The Defense Authorization Act of 2008 (P.L. 110-181) authorized appropriations for FY 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy and for

other purposes. The bill included many provisions to improve treatment and health care for injured military and veterans, including the Wounded Warriors bill.

2008—The TBI Act Reauthorization Act of 2008 reauthorizes appropriations for the Department of Health and Human Services Health Resources and Services Administration (HRSA) Federal TBI Program, which provides grant funding to states and to state Protection & Advocacy Systems; and to the Centers for Disease Control and Prevention for public education, data surveillance and linkage to services and prevention programs through 2011. The American Native Consortium was added as an entity eligible to receive grant funding. A new provision was added to address war-related injuries as related to overall incidence and prevalence of traumatic brain injury.

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NASHIA assists State government in promoting partnerships and building systems to meet the needs of individuals with traumatic brain injury and their families.