

Key Provisions of the Independent Living Final Rule October 2016

In July 2014, the Workforce Innovation and Opportunity Act (WIOA) was signed into law, transferring the Independent Living programs, the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), and the Assistive Technology programs to ACL, and creating the Independent Living Administration. The transition of these three important programs reflects their strong alignment with ACL's current efforts and mission—to maximize the independence, well-being, and health of older adults and people with disabilities, and the families and caregivers of both.

In addition to moving IL programs from the Department of Education (ED) to the Department of Health and Human Services (HHS), WIOA also included statutory changes that affect IL programs including the addition of new core services, shifts in the process of developing and adopting state plans and changes in the functions of the SILC.

The final rule for Independent Living (IL) programs was developed in close coordination with the independent living network and addresses the requirements of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA). The rule provides clarification of definitions and processes to reflect the independent living philosophy that is integral to WIOA.

Specifically, the rule:

- Provides guidance on the implementation of WIOA's addition of new "core services," which specify that all CILs must:
 - Facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based settings. This includes providing consumer-controlled supports and services and the advocacy needed to move from an institutional setting to community-based setting;
 - Provide assistance, services and supports to individuals with significant disabilities who self-identify as being at risk of entering institutions so that the individuals may remain in the community;
 - Facilitate the transition of youth with significant disabilities who are no longer in school and no longer receiving services under section [614\(d\) of IDEA](#).
 - The focus of this core service is postsecondary transition. If a person is still receiving services under the IDEA, they are not eligible to receive youth transition services under WIOA.
 - Transition services for youth prior to post-secondary life are important in order to prepare youth for a successful transition into adult life. However, some youth transition activities not covered under the fifth core services may be included within the other four core services, Sec. 7 (17)(A-D) of the Act, 29 U.S.C. 705(17)(A-D), as well as within the Independent Living Services in Sec. 7(18), 29 U.S.C. 705(18) , and CILs should continue to report their work in these areas accordingly.

- Clarifies key definitions. For example:
 - **“Consumer control”** as applied to individuals is explicitly defined to mean that the person with a disability has control over his or her personal life choices and independent living plan and has the right to make informed choices about content, goals and implementation.
 - **“Personal assistance services”** is now defined to explicitly include assistance with activities that are not related to employment, such as social activities and parenting.
- In the context of the mission of CILs to facilitate transitions for people with disabilities to community-based settings, the final rule adopts the comments from stakeholders on the NPRM to not specifically define “institution” in order to avoid creating the incorrect perception that only specifically named facilities were covered.
- Clarifies provisions of WIOA that give greater responsibility and authority for IL programs and state-level IL planning to the organizations and entities with the greatest knowledge and expertise. Specifically, the rule addresses the roles and responsibilities of the State Independent Living Council, as defined by WIOA. For example, the final rule:
 - Clarifies the significantly expanded role of SILCs and CILs in developing State Plans for Independent Living.
 - Includes additional details of what must be included in the SILC Resource Plan to carry out the functions of the SILC. The rule says: The State plan should include staff/personnel, operating expenses, council compensation and expenses, meeting expenses, including public hearing expenses, such as meeting space, alternate formats, interpreters, and other accommodations, resources to attend and/or secure training for staff and council members, other costs as appropriate.
 - Addresses the SILC’s new authority to conduct resource development activities to support the provision of services by Centers for Independent Living. Resource development activities include annual fund drives and other solicitation of funds from private donors, as well as applying for grants.
 - Clarifies that SILCs are independent from other state agencies.