

(iv) A reorganization plan shall be considered to be imposed when, at a minimum:

(A) The problem or deficiency is identified,

(B) The problem is communicated to the SDA, and

(C) The SDA is provided an initial statement of the actions or steps required and the timeframe within which they are to be initiated. A final statement of required steps and actions is to be issued within 30 days.

(d)(1) If the Governor does not impose a reorganization plan, required by paragraph (c)(4) of this section, within 90 days of notifying the Grant Officer of an SDA's continued failure to meet performance standards, the Grant Officer shall develop and impose such a plan (section 106(j)(5)).

(2) Before imposing a reorganization plan, the Grant Officer shall notify the Governor and SDA in writing of the intent to impose the plan and provide both parties the opportunity to submit comments within 30 days of receipt of the Grant Officer's notice.

(e) An SDA subject to a reorganization plan under paragraphs (c)(4) or (d) of this section may, within 30 days of receiving notice of such action, appeal to the Secretary to revise or rescind the reorganization plan under the procedures set forth at §627.471 of this subpart, Reorganization plan appeals (section 106(j)(6)(A)).

(f) *Secretarial action to recapture or withhold funds.* (1) The Grant Officer shall recapture or withhold an amount not to exceed one-fifth of the State administration set-aside allocated under sections 202(c)(1)(A) and 262(c)(1)(A) of the Act when:

(i) The Governor has failed to impose a reorganization plan under paragraph (c)(4) of this section, for the purposes of providing technical assistance under a reorganization plan imposed by the Secretary (section 106(j)(5)(B)); or

(ii) The Secretary determines in an appeal provided for at paragraph (e) of this section, and set forth at §627.471 of this subpart, that the Governor has not provided appropriate technical assistance as required at section 106(j)(2) (section 106(j)(6)(B)).

(2)(i) A Governor of a State that is subject to recapture or withholding

under paragraph (f)(1) of this section may, within 30 days of receipt of such notice, appeal such recapture or withholding to the Secretary.

(ii) The Secretary may consider any comments submitted by the Governor and shall make a decision within 45 days after the appeal is received.

(g) *Title III performance standards.* (1) The Governor shall establish SSG performance standards for programs under title III within the parameters set annually by the Secretary pursuant to section 106(c) and (d) of the Act.

(2) Any performance standard for programs under title III shall make appropriate allowances for the difference in cost resulting from serving workers receiving needs-related payments authorized under §631.20 of this chapter (section 106(c)(2)).

(3) The Secretary annually shall certify compliance, if the program is in compliance, with the title III performance standards established pursuant to paragraph (a) of section 322(a)(4) of the Act.

(4) The Governor shall not establish standards for the operation of programs under title III that are inconsistent with the performance standards established by the Secretary under provisions of section 106(c) of the Act (section 311(b)(8)).

(5) When an SSG fails to meet performance standards for 2 consecutive years, the Governor may institute procedures pursuant to the Governor's bypass authority in accordance with §631.38(b) of this chapter or require redesignation of the substate grantee in accordance with §631.35 of this chapter, as appropriate.

§627.471 Reorganization plan appeals.

(a) A reorganization plan imposed by the Governor, as provided for at §§627.470(c)(4) or 627.477(b)(2) of this part, or by the Secretary, as provided for at §627.470(d) of this part, may be appealed directly to the Secretary without prior exhaustion of local remedies.

(b)(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, DC 20210, ATTENTION: ASET. A copy of the appeal shall be provided simultaneously to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification from the Governor or the Secretary.

(3) The appealing party shall explain why it believes the decision to impose the reorganization plan is contrary to the provisions of section 106 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the decision to impose the reorganization plan is inconsistent with section 106 of the Act. The Secretary may consider any comments submitted by the Governor or the SDA, as appropriate. The Secretary shall make a final decision within 60 days after this appeal is received (section 106(j)).

§ 627.475 Oversight and monitoring.

(a) The Secretary may monitor all recipients and subrecipients of financial assistance pursuant to section 163 of the Act.

(b) The Governor is responsible for oversight of all SDA and SSG activities and State-supported programs. The Governor shall develop and make available for review a State monitoring plan. The plan shall specify the mechanism which:

(1) Ensures that established policies to achieve program quality and outcomes meet the objectives of the Act and regulations promulgated thereunder;

(2) Enables the Governor to determine if SDA's and SSG's have demonstrated substantial compliance with the requirements for oversight;

(3) Determines whether the Job Training Plan shall be disapproved consistent with the criteria contained in section 105(b)(1) of the Act;

(4) Regularly examines expenditures against the cost categories and cost limitations specified in the Act and these regulations;

(5) Ensures that all areas of SDA and SSG operations are monitored onsite regularly, but not less than once annually; and

(6) Provides for corrective action to be imposed if conditions in paragraphs (b)(1)–(4) of this section are not met.

(c) The Governor shall issue instructions to SDA's and title III SSG's on the development of a substate monitoring plan. The instructions for development of the monitoring plan, at a minimum, shall address the monitoring scope and frequency, and the Secretary's emphasis and direction. The substate monitoring plan shall be part of the job training plan.

(d) The Governor shall establish general standards for PIC oversight responsibilities. The required PIC standards shall be included in the Governor's Coordination and Special Services Plan (GCSSP).

(e)(1) The PIC, pursuant to standards established by the Governor, shall establish specific policies for monitoring and oversight of SDA performance which shall be described in the job training plan.

(2) The PIC shall exercise independent oversight over activities under the job training plan which shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(f) The PIC and chief elected official(s) may conduct such oversight as they, individually or jointly, deem necessary or delegate oversight responsibilities to an appropriate entity pursuant to their mutual agreement.

§ 627.477 Governor's determination of substantial violation.

(a) Except as provided at paragraph (d) of this section, if, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations under this Act, and corrective action has not been taken, the Governor shall

(1) Issue a notice of intent to revoke approval of all or part of the plan affected; or

(2) Impose a reorganization plan, which may include

(i) Restructuring the private industry council involved;

(ii) Prohibiting the use of designated service providers;

(iii) Selecting an alternative entity to administer the program for the service delivery area involved;

(iv) Merging the service delivery area into 1 or more other existing service delivery areas; or