



LEAD CENTER



LEAD CENTER WHITE PAPER ON COMMUNITY ENGAGEMENT

Five Ways You Can Help Expand Opportunities for Competitive Integrated Employment in Your Community

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INTRODUCTION

Employment is central to all of our lives. A good job contributes to our self-worth, offers membership in a community, provides benefits like health insurance, and is critical to financial stability and independence. The same is true for people with disabilities who seek competitive integrated employment (CIE).ⁱ

Competitive integrated employment means jobs in typical workplaces, alongside co-workers without disabilities, where people with and without disabilities are paid the same.ⁱⁱ CIE is critical to achieving equal opportunity, full participation, and economic self-sufficiency for people with disabilities. CIE helps people with disabilities access and participate in the broader community, develop meaningful relationships with peers without disabilities, build new skills and self-esteem, and gives meaning to their days. Perhaps most importantly, CIE provides people with disabilities a pathway out of a life of poverty and towards economic independence.

People with disabilities can and want to work. Yet, many Americans with disabilities struggle to access employment opportunities. Only an estimated 18.5 percent of people with disabilities are employed, compared to about 66.4 percent for people without disabilities.ⁱⁱⁱ For individuals with intellectual and developmental disabilities (I/DD) nationally, an estimated 18.6 percent of individuals receiving day supports from state I/DD agencies participated in competitive integrated employment services during Fiscal Year (FY) 2015; this number has slowly declined after reaching a peak of almost 25 percent in FY 2001.^{iv}

The good news is that recent federal and state policies are advancing opportunities for CIE, such as the Workforce Innovation and Opportunity Act (WIOA), Home and Community-Based Services (HCBS) Settings Rule, and state Employment First policies. These policies provide important

i By Alison Barkoff, Molly Burgdorf, and Kathryn Rucker from the Center for Public Representation.

ii The Workforce Innovation and Opportunity Act (WIOA) defines CIE as job that (1) pays people with disabilities at least the minimum wage and not less than the wage paid to people without disabilities for the same or similar work; (2) is performed in a location where the employee interacts with co-workers without disabilities; and (3) provides workers with disabilities the same opportunities for career advancement as their non-disabled co-workers. 29 U.S.C. § 3102; 29 U.S.C. § 705(5).

iii U.S. Bureau of Labor Statistics, Economic News Release: Table A-6. Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted, <https://www.bls.gov/news.release/empsit.t06.htm> (last visited August 17, 2018).

iv John Butterworth et al., *StateData: The National Report on Employment Services and Outcomes*, 14 (2016), https://www.statedata.info/sites/statedata.info/files/files/statedata_bluebook_2016.pdf.

opportunities for people with disabilities, their families, providers, and other stakeholders to work together in their states and local communities to expand CIE. This paper provides stakeholders some suggestions for engagement, as well as additional resources.

1. GIVE INPUT INTO WIOA IMPLEMENTATION IN YOUR STATE

WIOA, a bi-partisan bill passed by Congress in 2014, for the first time clearly defined and established CIE for people with disabilities as a national priority, as part a broader law to increase access to and opportunities for employment, education, training, and support services to boost the prosperity of both workers and employers.^v WIOA is designed to increase opportunities for CIE for people with disabilities and significantly limit placements in subminimum wage sheltered workshops, particularly for transition-age youth.^{vi} It also focuses on the collaboration that is required across state agencies for successful employment of people with disabilities.

Significant provisions of WIOA include that:

- Anyone under 24 must have an opportunity to try CIE before being placed in a subminimum wage setting;
- Schools may no longer contract with subminimum wage providers;
- At least half of state supported employment grant funds must be targeted for youth (up to age 24) with the most significant disabilities;
- Anyone in a subminimum wage setting must be engaged at least annually to discuss CIE alternatives;
- States must enter into cooperative agreements between state agencies to prioritize CIE;
- A minimum of 15 percent of vocational rehabilitation funding must be used for pre-employment transition services; and
- Post-employment services can be used for up to 24 months.^{vii}

States must submit a plan to the federal government for approval – known as its Unified or Combined State Plan – outlining their strategy for implementing WIOA. The initial State Plans cover a four-year period (the current time period for plans is FY 2016 to 2019). States must review their State Plans every two years and update their strategies based on changes in the labor market, economic conditions, or other factors affecting the implementation of the State Plan.

The development, implementation, and revision of your state's Unified or Combined State Plan is an important opportunity for you to impact your state's implementation of WIOA.

Comment on and monitor implementation of your state's four-year plan, including comments

v 29 U.S.C. § 3101(f).

vi 29 U.S.C § 794g(a)(2)(B)(ii)(I); 34 C.F.R. 397.20(a)(3)(i).

vii 29 U.S.C. § 3101, et. seq.

during the two-year modification process. Stakeholder collaboration, review, and comments are key to ensuring that the requirements of WIOA are actually translating into increased opportunities for CIE for people with disabilities.

Learn more about WIOA State Plans:

[Reviewing Your State’s WIOA Unified or Combined State Plan](#)

[WIOA and the Unified State Planning Process - Part 2 of 4-Part Series on WIOA](#)

[LEAD Center Reviews Unified WIOA State Plans: What We Learned](#)

[Policy Brief: Reviewing and Updating Your WIOA Unified or Combined State Plan from a Disability Perspective](#)

[WIOA State Plan Modifications from a Disability Perspective: Recommendations for Ensuring Inclusion and Equal Opportunity in State Plan Updates](#)

[WIOA State Plan Modifications from a Disability Perspective: Recommendations for Ensuring Inclusion and Equal Opportunity in State Plan Updates Webinar](#)

[DRIVE Site State Profiles \(includes WIOA State Plans and WIOA profiles that highlight sections of the State Plan focusing on employment of youth and adults with disabilities\)](#)

2. GET INVOLVED IN YOUR STATE’S IMPLEMENTATION OF THE HCBS SETTINGS RULE

Medicaid is the primary funding source for services that help people with significant disabilities live, work, and participate in their communities through Home and Community-Based Services. HCBS funds employment supports for many people with disabilities, including supported and customized employment services for people with I/DD. In 2014, the federal agency that oversees Medicaid, the Centers for Medicare and Medicaid Services (CMS), issued rules to ensure that all people receiving HCBS receive the full benefits of community living, including opportunities to work. Specifically, the HCBS Settings Rule requires that people with disabilities receiving HCBS be offered “opportunities to seek employment and work in competitive integrated settings.” They also must be given a choice to receive services in a “non-disability specific setting,”^{viii} (like an integrated job in the community as a day service option), and states must ensure there is capacity to make that choice available.^{ix} This makes the HCBS Settings Rule an important tool for increasing opportunities for CIE.

States are required to develop a plan to implement the HCBS Settings Rule, known as a

viii “Non-disability-specific,” in the context of this regulation, means that among the options available, the individual must have the option to select a setting that is not limited to other people with disabilities. This could include services provided in setting like a typical worksite or an individual’s own home or a provider-controlled setting that includes people with and without disabilities. CMS, HCBS Regulations Q&As Re: HCBS Settings, <https://www.medicaid.gov/medicaid/hcbs/downloads/q-and-a-hcb-settings.pdf>.

ix 42 C.F.R. § 441.530 (a)(1)(i) and (ii).

Statewide Transition Plan (STP).^x States must seek public input on these plans and obtain approval from CMS. States have until March 2022 to fully implement their STPs, but must have an approval for their implementation plan by March 2019. Many states have already taken significant steps to begin implementing the Rule.

Getting involved in the development and implementation of your state’s STP is an important opportunity to expand CIE. Review and comment on your state’s plan when it is out for public comment. Make sure the requirements for people be offered an opportunity for CIE and have a choice to receive day and employment services in “non-disability specific” settings are planned for and are being implemented.^{xi} The STP should evaluate your state’s current capacity for CIE and include a plan to increase it so people have that option. Your state should also be examining whether its service definitions and reimbursement rates incentivize CIE; if not, the STP should include a plan to change that. In addition, your state’s STP should align with other employment-related initiatives in your state, such as Employment First policies and implementation of WIOA State Unified or Combined Plans. Encourage your state to begin working on implementation steps now.

The HCBS Settings Rule provides an ongoing opportunity for stakeholder input and engagement. Many states are not only seeking stakeholder input when STPs are out for formal public comment, but also have created stakeholder advisory groups for input on an ongoing basis as their STPs are being implemented. Remember, these are the rules governing HCBS systems going forward – make sure stakeholders that care about CIE use this ongoing opportunity to improve your state’s employment options.

Learn more about the HCBS Settings Rule:

[CMS’ New HCBS Regulations Opens the Door to Competitive Employment for People with Disabilities](#)

[HCBS Advocacy Coalition Website \(includes general resources and state-specific information\)](#)

[CMS’ Statewide Transition Plan Webpage \(includes state-specific resources\)](#)

[Redefining Home & Community-Based Services: CMS Guidance on Non-Residential Services and Its Implications for Employment](#)

[CMS Final HCBS Rule Q&A](#)

[FAQs on Medicaid and Integrated Employment](#)

[FAQs on the HCBS Settings Rule](#)

[HCBS Settings Rules Q&A from National Organizations](#)

x 42 C.F.R. § 441.710(a)(3).

xi The final HCBS Settings Rule, which took effect in March of 2014, requires that all HCBS settings: be integrated in, and facilitate full access to, the greater community; optimize autonomy and independence in making life choices; and be chosen by the individual from among residential and day options, including non-disability specific settings. See generally, Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers, 42 C.F.R. § 441.301(c)(4).

3. WORK IN YOUR COMMUNITY TO IMPROVE THE TRANSITION OF STUDENTS WITH DISABILITIES TO EMPLOYMENT

State and federal policies, including WIOA and the Individuals with Disabilities Education Act (IDEA), are aimed at improving employment outcomes for students transitioning from school. Preparing students and their families, early and often, is key to success. The chance to explore different jobs and begin building a resume while still in school makes a significant difference for students with disabilities. Whether students have held one or more paid jobs during high school is a strong predictor of post-school employment success for young adults with disabilities.^{xii} Community-based vocational evaluation, job training, work study opportunities, and paid employment opportunities, while still in high school, are among the important factors in determining a good job match for the student and achieving positive post-school outcomes.^{xiii}

Families are critical to the successful transition of students. To help support successful transitions, families must have opportunities to learn about and explore employment opportunities at an early stage in their student's education. Families should be engaged early and be encouraged to have high expectations around employment. Transition activities and pre-employment services should begin as early as possible, but no later than age 14.^{xiv} To keep families engaged and to hold schools accountable, schools should be reporting regularly on progress towards reaching transition-to-career goals.

Collaboration between schools and adult service agencies, including Vocational Rehabilitation (VR), Medicaid, and I/DD or mental health agencies, is essential to successful transition. It is important to coordinate planning, leverage all available funding sources, and ensure that there is not an interruption of services and supports as students leave school for employment. In particular, assistive technology that students use in school should follow them to the workplace when they graduate.^{xv} WIOA, and its requirement of cross-agency collaboration, has been helpful in ensuring that key agencies are at the table working together as students transition.

You can play an important role in elevating the conversation about CIE in your local schools and with young families. Find opportunities to educate students with disabilities, their families, and their teachers about CIE and the transition process, including through school districts' special education Parent-Teacher Associations, inclusion task forces, disability support services programs, state special education advisory committees, and teacher trainings. The best messengers are recent graduates and their families, who can talk about their experiences and honestly address fears or concerns.

xii See, e.g., David w. Test et al., *Evidence-Based Secondary Transition Predictors for Improving Postschool Outcomes for Students with Disabilities*. Career Development for Exceptional Individuals, 32, 160-181 (2009); Tony LoBianco & Harold L. Kleinert, *Factors in Successful Post-School Transitions*, Human Development Institute Research Brief (2013).

xiii See, e.g., Robert Flexer et al., *Transition Planning for Secondary Students with Disabilities* (4th ed. 2013); Alfred Daviso, et al. *Postschool Goals and Transition Services for Students with Learning Disabilities*, American Secondary Education, 91, 77–93 (2011); U.S. Dep't of Ed. *A Transition Guide to Postsecondary Education and Employment for Students and Youth with Disabilities*, 4 (2017), <https://www2.ed.gov/about/offices/list/osers/transition/products/postsecondary-transition-guide-may-2017.pdf>.

xiv See Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, Final Report to Thomas E. Perez U.S. Sec. of Labor et al. 14 (Sept. 15, 2016), https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf [hereinafter "Final Report"].

xv Final Report at 26-27.

Learn more about Transition of Students from School to Work:

[Transition to Employment for Young Adults with Disabilities: What We \(as Parents and Community Supporters\) Can Do to Ensure Success](#)

[High Expectations](#)

[WIOA Advisory Committee Report](#) (Ch. 2: Capacity Building for Youth)

[National Technical Assistance Center on Transition](#) (NTACT)

[National Collaborative on Workforce and Disability for Youth](#) (NCWD-Youth)

[Vocational Rehabilitation \(VR\) Youth Technical Assistance Center](#) (Youth-TAC)

LEAD Center [Guided Group Discovery Materials](#)

LEAD Center [Self-Guided Discovery Materials](#)

4. ADVOCATE FOR STATE POLICIES TO INCREASE CIE AND MAKE EMPLOYMENT FIRST A REALITY

Employment First^{xvi} is a national movement towards a “framework for systems change that is centered on the premise that all citizens, including individuals with significant disabilities, are capable of full participation in integrated employment and community life.”^{xvii} Employment First means that publicly-financed systems commit to CIE as the priority option for publicly-financed day and employment services for youth and adults with disabilities. Employment First states should align public policies, service delivery practices, and state funding/reimbursement structures to develop and expand options for CIE. Many states have formally committed to the Employment First framework through official executive proclamation or formal legislative action.

It is critical for stakeholders to work with state policymakers to ensure that Employment First is translated into practice. One way to do that is to work with your state to make sure its funding priorities and investments match its stated values. Medicaid is one of the primary funding sources for employment supports for many people with disabilities, including services like supported and customized employment. New Medicaid rules require public input when a state proposes to renew or amend HCBS services, including those provided through 1915(c)

xvi David Mank & Richard Luecking, *Employment First State Transformation Guide: 10 Critical Areas to Increase Competitive Integrated Employment* (2017), <http://drivedisabilityemployment.org/sites/default/files/E1st%20State%20Transformation%20Guide.pdf>.

xvii U.S. Dep’t of Labor, Employment First, <https://www.dol.gov/odep/topics/EmploymentFirst.htm> (last visited Aug. 17, 2018).

waivers^{xviii} or 1115 demonstrations.^{xix} This public comment process provides an opportunity to advocate for service definitions that clearly define CIE, reimbursement rates that prioritize CIE over other types of day services like group employment or prevocational services, and robust data collection on employment outcomes.

Vocational Rehabilitation is another major funding source for CIE for people with disabilities, as is funding from states' behavioral/mental health agencies and public workforce systems. Youth and adults with disabilities benefit most when their states' Medicaid and these other agencies work together, collaborate, and leverage each other's resources to jointly serve people who are eligible for support from multiple systems.

Work with your state and local communities on increasing access to community activities and wraparound supports that are necessary to complement and facilitate employment. Integrated day services should consist of community-based activities that “complement and help maximize CIE and that provide a meaningful set of activities outside of work hours.”^{xx} For people with disabilities who have not yet obtained CIE, integrated day services should focus on activities aimed at increasing the person's chances of CIE, such as integrated work-based learning experiences, networking, and career planning. It is important for states and local communities to consider wraparound supports that enable individuals to find and sustain employment, such as affordable housing and transportation. Disability advocates should ensure that local and state policymakers understand that employment is not possible without access to stable housing and accessible transportation.

To translate Employment First policies into reality, states must also make sure their investment in provider capacity matches their values across systems. One important way to do this is by providing resources and technical assistance to providers who are interested in transforming their service model to CIE. You can work in your own local communities by identifying and collaborating with providers who are interested in moving toward CIE. Facilitate the connection between providers who have made the transformation and those who are in the process of making changes or even those just considering it. Finally, share personal success stories with your community, local businesses, state agencies, and policy makers to better ensure the ongoing success and investment in Employment First in your state. You can also share resources with providers that are interested in transformation.

Learn more about Employment First, Advancing CIE in States' Medicaid Programs and Provider Transformation:

[New Resources for States in Assessing Implementation Progress on Employment First Systems Transformation and Most Integrated Employment Settings](#)

^{xviii} 1915(c) waivers provide a range of HCBS to people who meet an institutional level-of-care, but instead choose to receive services in the community. To learn more about 1915(c) waivers, see <https://www.medicaid.gov/medicaid/hcbs/authorities/1915-c/index.html> (last visited Sept. 23, 2018).

^{xix} 1115 waiver demonstrations allow states to propose to test new approaches in their Medicaid programs that differ from the usual Medicaid rules. A number of states included HCBS in their 1115 demonstrations. For more information on 1115 demonstrations, see <https://www.medicaid.gov/medicaid/section-1115-demo/about-1115/index.html> (last visited Sept. 23, 2018).

^{xx} Final Report at 46.

[Innovative Strategies for Using Medicaid State Plan and Waiver Options to Promote Integrated Employment of People with Disabilities](#)

[Provider Transformation Manual](#)

[Employment First Resources from the Association of People Supporting Employment First \(APSE\)](#)

[DRIVE \(Data and Resources to Inspire a Vision of Employment\) Site State Profiles \(including Employment First under “Policies and Initiatives” and the “Provider Transformation” tab.\)](#)

5. KEEP UPDATED ON FEDERAL LEGISLATION AND REGULATIONS IMPACTING CIE

Congress and federal agencies are considering legislation and regulations related to the employment of people with disabilities. It’s important to keep updated about legislation being considered by Congress. For example, numerous bills that advance CIE and decrease reliance on, or even end, subminimum wage sheltered workshops have been introduced in this Congress. These bills include:

- Transitioning to Integrated and Meaningful Employment (TIME) Act ([H.R. 1377](#)): Proposes to phase out, over several years, Section 14(c) of the Fair Labor Standards Act, which allows the payment of subminimum wages to people with disabilities.
- Transitions to Independence ([H.R. 4931](#)): Proposes a federally-funded pilot program to provide enhanced Medicaid funding to incentivize states to shift funding and capacity from sheltered workshops and other segregated day services to CIE.
- Raise the Wage Act ([S.1242](#) and [H.R.15](#)): Proposes to raise the national minimum wage to \$15 per hour and includes a proposed multi-year phase out of Section 14(c) subminimum wages.

In any Congress, there may also be legislative proposals that impede expansion of opportunities for CIE. For example, the Workplace Choice and Flexibility for Individuals with Disabilities Act ([H.R. 5658](#)) would rewrite and weaken WIOA’s definition of CIE. The bill would eliminate the current CIE definition’s requirement that employees with disabilities work alongside co-workers without disabilities and would count any settings funded through federal or state programs that preference or require the hiring of people with disabilities as CIE, even if they are segregated and do not otherwise meet the definition of CIE.

Similarly, the U.S. Department of Education (DoEd) has indicated that it may amend its current regulations implementing WIOA. Specifically, in May 2018, DoEd issued a [notice](#) in its “Unified Agenda” that it “plans to issue a notice of proposed rulemaking to amend regulatory definitions in 34 CFR part 361 implementing . . . the Workforce Innovation and Opportunity Act.” The notice states that a notice of proposed rulemaking (NPRM) may be issued as early as September 2018.

The notice from DoEd does not identify the specific issues that the NPRM would change in the WIOA regulations. Public letters from members of Congress and some provider associations have focused on the regulation’s definition of “integrated” in the definition of CIE. Specifically, under the current rule,^{xxi} an employment setting must meet two criteria to be considered an integrated location to meet the definition of CIE:

1. That the setting is “typically found in the community”; and
2. That employees with disabilities in the setting interact, “for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.”

A great part of living in the United States of America is that citizens have a voice in our government. One example of this is that if DoEd issues an NPRM, it must seek public comment on any proposed changes. This will be an important opportunity for people with disabilities, their families, and other stakeholders to share their experiences with CIE and why the definition of CIE is important to them. Similarly, with legislation in Congress, people with disabilities, their families, and other stakeholders can educate their members of Congress about the importance of CIE in their lives and in the lives of future generations of people with disabilities. It is particularly impactful for people who have transitioned from sheltered workshops to CIE and for providers who have transitioned their models to share these stories.

CONCLUSION

It is an important time for people who support CIE to get involved. Make your voice heard! There are many meaningful opportunities for people with disabilities, families, providers, and stakeholders to take action to increase opportunities for CIE in your states and local communities. Your involvement can help expand opportunities for CIE in your state and community so that people with disabilities have the chance to work, contribute, and gain the economic and other benefits that come from employment and full participation.

^{xxi} 34 C.F.R. §361.5(c)(9)(ii); 34 C.F.R. §361.5(c)(32)(ii).