Federal Disability Employment Policy

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What Is the Vision of People Disabilities?

• People with disabilities want to live their lives like people without disabilities (with supports as needed)
• Want opportunities for true integration, independence, choice, and self-determination in all aspects of life – where they live, spend their days, and community membership
• Want quality services and supports that meet their needs and help them achieve goals they have identified through real person-centered planning
Employment is Key To This Vision

• Supporting people to work in competitive integrated employment is critical to:
  – Helping people with disabilities access the greater community;
  – Facilitating relationships with people without disabilities;
  – Building new skills and self-esteem;
  – Helping bring people with disabilities out of poverty;
  – Reducing utilization of other Medicaid services; and
  – Providing meaningful ways for people to spend their days.
Critical Time for the Disability Community To Advocate For Disability Employment

• Work with Congress on legislation to advance CIE
• Work on successful implementation of federal policies at the state level
• Advocate against efforts to roll-back key federal statutes, regulations, and guidance that advance Competitive Integrated Employment (CIE)
Federal Legislation Re: Disability Employment
Legislation Regarding Disability Employment

- Transformation to Competitive Employment (H.R. 873/S. 260)
  - First bill to combine funding for capacity building of CIE with a phase out of sub-minimum wage under Section 14(c)
  - Would create a grant program to states (and to providers if in states that don’t get a grant) for provider transformation
  - 6 year phase out of Section 14(c); immediate prohibition on new certificates
  - Disability community is working to educate members of Congress and seek co-sponsors
  - Hearing on May 21st in the House; expect will move to mark-up this spring
Disability Employment Legislation (cont’d)

• **CAPABILITY Act** (H.R. 3070)
  – Focused on improving CIE outcomes for transition-age youth with intellectual, developmental, mental health or other significant disabilities
  – Provides state grants for customized employment and other best practices

• **Raise the Wage Act** (S. 150/H.R. 582)
  – Bill to raise the federal minimum wage (to $15/hour)
  – Includes people with disabilities; has a 6 year phase out of sub-minimum wage under Section 14(c)
  – Disability community has supported inclusion of 14(c) phase out
Disability Employment Legislation (cont’d)

• Disability Employment Incentives Act (S. 255)
  – Encourages employers to hire and retain workers with disabilities through increases to 3 existing tax credits:
    • Work Opportunity Tax Credits for hiring and retaining a worker with a disability referred through a state Voc Rehab agency
    • Disability Access Expenditure Tax Credit for small businesses
    • Architectural and Transportation Barrier Tax credit for increasing workplace accessibility
Federal Legislation: What YOU Can Do

• Educate your members of Congress that all types of people with disabilities can and want to work
  – Keep telling those success stories to counter the narrative that employment is only for some, not for everyone!
• Educate your members of Congress about important disability employment bills
  – Ask them to be a co-sponsor and for their support
Workforce Innovation and Opportunity Act (WIOA)
WIOA: Setting the Employment Vision

• Statute prioritizes and increases employment of people with disabilities in **competitive integrated employment**
  – Defines CIE as work at or above minimum wage, with wages & benefits comparable to, & fully integrated with, co-workers w/o disabilities

• Clear statutory goal to limit significantly the use of 14(c) sub-minimum wage
  – Requires anyone under 24 to explore and try CIE before they can be placed in a sub-minimum wage setting; prohibits schools from contracting with sub-minimum wage providers; and requires at least annual engagement of anyone in sub-minimum wage setting

• Statute recognizes the importance of and requires **cross-agency collaboration** (including VR, Medicaid and IDD)
WIOA Implementation Opportunities

• The impact of WIOA is starting to change state practice!
• Interagency collaboration through MOUs is starting to happen
  – But more work needed to make sure all agencies are included
• Starting to impact Section 511 outreach re: interest in CIE for transition age youth & people in sheltered workshops
  – But more work needed to make sure people who express an interest in CIE get that opportunity
Challenges: WIOA’s CIE Definition

• Starting in 2017, there has been a push from some providers and some members of Congress on the Department of Education to change the definition of CIE.

• Specific push back on:
  – Focus of “integration” on interaction with co-workers
  – Whether AbilityOne jobs are CIE -- longstanding VR policy to evaluate individual settings but guidance acknowledges many A1 programs may not meet the definition
  – “Typically in the community,” meaning not a job just created for people with disabilities
Challenges:
Efforts at Regulatory Changes

• Throughout 2017 and 2018, strong advocacy against opening the regulations
  – Letters from a broad range of disability stakeholders opposing opening the regulations
  – Reports from National Council on Disability and Senate HELP Committee advocating for additional TA, not regulatory changes
  – Consensus letter from disability advocacy groups and providers recommending additional sub-regulatory guidance and technical assistance, not opening the regulations
Challenges:
Efforts at Regulatory Changes (cont’d)

• US Department of Education has given public notice through its unified agenda for rulemaking that it plans to re-open the WIOA regulations
  – Initially on the spring 2018 agenda, estimated for September 2018
  – Then on fall 2018 agenda, estimated for January 2019
  – On recent spring 2019 agenda, estimated for December 2019
WIOA’s CIE Regulations: What You Can Do

• We expect that a Notice of Proposed Rulemaking (NRPM) will be out in the next several months
  – NPRMs must be put out for public comment and the agency must respond to the comments when finalizing a rule
  – IT WILL BE CRITICAL FOR PEOPLE WHO SUPPORT COMPETITIVE INTEGRATED EMPLOYMENT TO COMMENT

• A coalition of national advocacy organizations will be providing information about the NPRM and how to comment once the rule is out.
  – Resources will be at https://integratedemploymentnow.org/
Medicaid HCBS Settings Rule
Systems Change Through the HCBS Settings Rule

• HCBS Settings Rule, finalized in 2014, for the first time sets clear standards for community integration for all Medicaid-funded home and community based services

• The Rule itself specifically requires that HCBS programs provide “opportunities to seek and work in competitive employment”
  – Important to constantly remind stakeholders that the Rule applies to both non-residential and residential services

• The HCBS Settings Rule can and should be a game changer for increasing opportunities for competitive integrated employment
Choice of Non-Disability Specific Setting

• Rule requires states to offer individuals a choice of a “non-disability specific setting”
  – Applies to both residential and non-residential settings
  – That means the opportunity to work in competitive integrated employment

• CMS has made clear in approval letters that states should assess their current capacity of non-disability specific settings and develop a plan to increase capacity so all individuals have a real and meaningful choice
Tiered Standards

- States have flexibility to set different standards for existing and new settings through their statewide transition plan
  - State may set standards for “models of service that more fully meet the state’s standards” for HCBS and require all new service development to meeting the higher standards
  - This allows states to “close the front door” to settings/services
  - Numerous states are using tiered standards to move away from facility-based day and to focus on CIE
HCBS Settings Rule: What YOU Can Do

• Public input is required into state’s transition plans (STPs)
• It is critical that stakeholders make their voices heard
• Make sure your state is including a focus on employment in its STP
• Encourage your state to align HCBS transition activities with their own state initiatives and other federal obligations:
  – State “Employment First” initiatives
  – State’s Workforce Innovation Opportunity Act plans
  – State’s Olmstead plans or settlement agreements
A Reminder of Why This Matters
Role of Employment in Evan’s life
Skills and Relationships In the Workplace
Relationships with Co-workers
Outside the Workplace
Work Helps People Afford to Live Independently
Work Helps People Afford a Social Life
Work Builds Self Advocacy Skills
Resources

• Coalition to Advance Competitive Integrated Employment:  
  www.IntegratedEmploymentNow.org

• HCBS Settings Rule implementation:  www.hcbsadvocacy.org  
  (HCBS Advocacy Coalition) &  www.medicaid.gov/hcbs  (CMS)