

## **A National Subject Matter Expert's Discussion on Inclusive Employment**

### **Topics and Content:**

- Examination of Current National Environment
- Analysis of California Environment Influenced by SB 639
- Review of Work Group Recommendations and Budget Requests
- Key Agency Roles
- System Changes Models
- Possible Funding Models
- Systems Change Recommendations
- Selected Resources on Community Integrated Employment
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### **Employment Practices in the United States for Individuals with Disabilities**

In analyzing efforts at advancing competitive integrated employment (CIE) while eliminating subminimum wage for people with disabilities in California it is important to understand the national and even international environment in which it will operate. Throughout the past decades, an array of legislation and policies have created a consistent federal intent that publicly funded employment services and supports should focus on meaningful/individualized jobs integrated in the community.

Even as early as 1948 the right to work has been set down in several international human rights documents and in Article 23 of the UN Universal Declaration of Human Rights. Specific to employment, the UN Convention on the Rights of Persons with Disabilities (CRPD) sets out the right to inclusive employment and measures that have to be taken in order to put this goal into reality.

Within the US there have been several legislative initiatives promulgated over the last 50 years that should guide phasing out subminimum wage in California. The Rehabilitation Act of 1973 (as amended) included Sections 503-504, which while not specific to the use of sub minimum wage helped highlight the importance of meaningful employment for people with disabilities.

More potently, the passage of the Americans with Disabilities Act in 1992 clearly stated the goal of full community integration and inclusion for people with disabilities. The Workforce Innovation and Opportunity Act (WIOA) passed in 2014, is the regulatory and funding authority for both states' workforce and public vocational rehabilitation systems. WIOA establishes "competitive integrated employment" as the optimal outcome of Vocational Rehabilitation services and under its Section 511 provisions intensifies its

already existing expectations to assist people aggressively to exit sub minimum wage work through movement in prevailing wage rates in any state.

WIOA defines competitive integrated employment as full-time or part-time work at minimum wage or higher, with wages comparable to those without disabilities performing the same work, and fully integrated with co-workers without disabilities. Currently in Congress there is the Transformation to Competitive Integrated Employment Act (H.R. 2373, 2021-2022), which had bi-partisan sponsorship in both the House and Senate. This federal bill would have phased-out the use of 14(c) of the Fair Labor Standards Act and assist employers in transforming their business models to support individuals with disabilities through competitive integrated employment. This bill also creates technical assistance centers to support businesses as they phase-out subminimum wage.

It is also crucial to examine the Medicaid funding perspective and potential opportunities as a core driver of SB 639 implementation given that Centers for Medicare and Medicaid (CMS) funding is the primary source of financial support for most community services for people with I/DD. This funding is most often administered through Home and Community Based Services (HCBS), most often under the 1915 [c] provisions. The 2019 CMS Technical Guide emphasizes that individual CIE is the preferred outcome for HCBS employment-related supports. Furthermore, the HCBS “integrated settings” rule first stated in 2014, now scheduled for compliance in 2023 is another support for California’s DDS services for CIE at or above state minimum wage as written under SB 639. States have recently attempted to use more recent provisions under Medicaid such as the 1915i state plan amendment or an 1115 waiver authority to effect service interventions that are more successful in assisting people with significant disabilities to seek and obtain CIE.

There has been significant movement nationally, including in California, in creating Employment First statewide efforts, whether through legislation or executive action. The specifics of what such an emphasis entails varies widely among those states, but all clearly identify the need for robust state action to promote this goal. Furthermore, in recent years, the U.S. Department of Justice has initiated numerous legal actions in states related to access to integrated employment, which have then led to those states’ elimination of use for 14[c] waivers for employees in employment services. Settlement agreements in Rhode Island in 2014 and Oregon in 2015 required the states to actions to ensure that employment is offered as a priority outcome, and to improve both participation in integrated employment and the quality of employment outcomes.

These actions, in addition to long standing advocacy from multiple sources can be credited with the fact that 13 states to date have eliminated the use of sub minimum wage authority for workers with disabilities in employment. (see chart below of states) However, it is just as important to note that the percentage of people using day services through state developmental disabilities systems that are receiving an employment focused intervention is still at 22 percent, with California’s figure an even lower 13 percent (FY 2020 figures through *statedata.info*). The movement to eliminate sub minimum wage for people with disabilities in California will by law be complete by

January 1, 2025. However, this achievement can be costly one unless the numbers of people served through Department of Developmental Services (DDS), the Regional Service Centers, and providers seeking and realizing competitive integrated employment is increased significantly.

Last, there is a workforce crisis that affects almost all sectors of human services currently in the US. Both systems and provider agencies currently have a major difficulty in recruiting and retaining qualified workers to serve people with disabilities, including in employment supports. No one solution has been found but many have been and are being tried. Without some improvement in the personnel and human resource development areas, it will continue to be difficult to use the impetus created by SB 639 to serve people with significant disabilities in the manner in which they deserve to achieve full community inclusion in the employment arena.

### **California Employment Practices for Individuals with Disabilities**

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California will join one of only 13 states currently that have legislatively eliminated the use of subminimum wage for workers with disabilities.

States that have eliminated subminimum wage and the percentage of persons using day services.

<b>State</b>	<b>Persons with Developmental Disabilities using Day Services</b>
California	13%
Arkansas	19%
Maine	16%
Maryland	40%
New Hampshire	57%
Oregon	58%
Hawaii	6%
Delaware	31%
Tennessee	18%
South Carolina	37%
Rhode Island	47%
Washington	84%
Colorado	18%

The national average of all the states is only 22 percent. It is important to note that elimination of 14c authority in a state does not by itself create a strong movement towards competitive employment.

## **Current Program Design for Services in California**

### **Employment Services via Regional Centers**

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The primary service design incorporated into DDS contracts for the various offerings of community services made available to people with intellectual disabilities is through 21 regional center (RC) networks. Services are implemented through the contractual relationships DDS has with the regional centers, which in turn contract with Direct Service Providers (different nonprofits) in their respective areas. This model, implemented in varying forms across the nation, is designed for local jurisdictions who know their region best and can tailor services for individuals and communities. As will be noted later in the report, this service structure does create inconsistency in services provided at different regional centers and consequently inconsistency in assurance of quality employment services. It is also worth noting that a single regional center in California likely serves more individuals than most other states.

### **Funding**

As with DD services in every state, the bulk of funding used for community services in California for people with I/DD comes from federal Medicaid dollars using a state match formula, and generally through a 1915c Home Community Based Services waiver. California has undertaken a recent comprehensive rate review of all the billing codes available under its HCBS model. The purpose of this rate review is meant to ensure that service providers receive adequate reimbursement.

The current challenge is that rates are determined at the time a service is approved by a regional center. For example, for organizations that had a rate determined 30 or 40 years ago, their rates are significantly lower than newer, untested programs and services. Because of this, there is variance in rates within each regional center for the same services. Over time there have been different policies where some service codes had to be set at a median rate and others are more adaptable. This meant that if a regional center sought vendorization for service X during a certain year that would mean a different rate setting methodology perhaps than if a regional center sought vendorization a couple of years later. Rate reform efforts should seek to adjust codes or to bring many codes for many vendors to parity-- to address the disparity of when they were negatively impacted by shifting policy in rate setting methodology through the years.

While the specific monetary amounts allocated to billing activity codes would still vary among the regional centers, the issue that remains is inconsistent use of definitions and inconsistency in applying what service code gets used for what type of intervention across the state. For example, what one center considers the meaning of community-based services can vary from what another center identifies as community-based services. The inconsistent use of service codes creates a challenge to accurately track the services delivered.

A concern raised in the work group discussion is a need for more accurate representation of the amount and type of employment services being delivered to job seekers with disabilities under DDS/regional centers/Medicaid Funding. Though this might be ameliorated by the recent rate review analysis by HCBS.

Additionally, discussions with personnel from Disability Rights California gleaned that based on an analysis of FY21-22 DD employment funding a majority (53 percent) went to group models and about 2/3 was used for segregated employment options, many of which paid less than minimum wage. This will be noted and discussed further in later sections of this report.

### **Role of Key Agencies**

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The responsibility for implementing SB 639 successfully must transcend any one agency and ultimately is an overall state executive function responsibility. Nonetheless it is incumbent on several key service systems to ensure that their contributions to the process provide meaningful employment support services to people with developmental disabilities. The *Recommendations* section later in this report provides some specific methods, policies, and funding to accomplish this goal.

Foremost among them is the state Department of Developmental Disability Services (DDS), as the overwhelming number of workers being paid under subminimum wage authority fall under the purview of this agency. California, like other states over the years, had assumed that 14c authority was the best way to maximize employment for the I/DD population. While those making that supposition need not be faulted, current research and evidence now demonstrate there are better alternatives. Now SB 639 requires that DDS assertively focus its employment policy and funding efforts on CIE while at the same time increase its ability to create positive employment outcomes for a larger percentage of its clientele. Since its direct service efforts are accomplished through its contractual relationships with 21 regional centers these agreements must now reflect CIE for greater numbers of clients served through these centers as a major priority. In addition, DDS should continue to engage Department of Rehabilitation (DOR) in coordinated employment interventions for mutual clients both through individual staff level coordination and collaboration and more formalized administrative Memoranda of Understanding (MOUs) and/or Memoranda of Agreement (MOAs).

The regional centers must in turn use funding to enhance expectations for direct service providers which they fund so that clients served through these processes do attain personally and financially satisfying vocational success. These regional centers also can and should use specific MOUs and MOAs with DOR, either as bilateral or trilateral (i.e., including DDS as a party to the agreement) to leverage existing resources devoted to employment. Since the regional centers are in the best position to identify local needs, they also should be the primary vehicles for innovation and experimentation extending the current evidence base and state of the practice for employment with people with significant disabilities into a broader knowledge framework.

The California Department of Rehabilitation (DOR) has had a longstanding interest in minimizing and eventually eliminating the use of subminimum wage under the Section 511 provision of the Workforce Innovation and Opportunity Act (WIOA) of 2014. So, the SB 639 state elimination of the 14c waiver is a perfect complement to the federal legislation which started movement down that path. DOR has also just recently received a 5-year U.S. Department of Education Disability Innovation Fund grant to “Increase Competitive Integrated Employment for People with Disabilities” between October 1, 2022, through September 30, 2027.

Given the focus and the stated grant intent under the federal Request for Proposals (RFP) to move away from subminimum wage employment, these resources should be a major financial boost to the state’s efforts under SB 639. The specifics of the activities funded under this proposal are not known at this time but given the focus they should dovetail quite well with the SB 639 implementation period and outlast it (i.e., January 1, 2025, vs. September 30, 2027). As noted above, one aspect of any of DOR efforts, either under the new grant or its existing service authority under WIOA, should be developing joint service delivery strategies addressing the employment needs of mutual clients whether through formal MOUs/MOAs with DDS and/or regional centers or individual client level interagency collaboration.

The Department of Health Care Services also holds a potential role as the state’s Medicaid authority. While funding amounts and methods do not totally drive service changes they are, in fact, key elements in any intervention design for system change. Medicaid funding and the specific state Medicaid plans and waivers authorized through Centers for Medicare & Medicaid Services (CMS) should be examined as to their utility both for using existing regulations to better achieve CIE and to analyze whether any new authorities should be sought to supplement any new state funding that SB 639 may bring into play.

Any elements funded through SB 639 are constrained by the January 1, 2025 deadline and the DOR federal grant only offers funding only through September 30, 2027. Therefore, since Medicaid resources provide the bulk of financing for current DD day services, as well as annual appropriations available under the state-federal match agreement for DOR or annual line-item fiscal authority given to DDS, these fiscal resources must be made compatible with the goals of SB 639 to create any enduring service structure. This requires a comprehensive and complex financial analysis outside the scope of this report. However, the *Recommendations* section does offer some suggestions in this regard. In addition, there are several states that have refined their Medicaid plans to more closely adhere to the desire to focus on CIE for most system clients with I/DD and it would be a worthwhile endeavor for the state DCHS to examine some or all these plans for possible utility in the California context.

## State Council on Developmental Disabilities:

### **SB 639 Work Groups**

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The State Council on Developmental Disabilities (SCDD) convened a 3-part series of work groups composed of over 40 individuals throughout the state representing a wide array of constituencies: service recipients, family members, advocates, service providers, state agency personnel, Disability Rights California, as well as SCDD staff. The purpose of the work groups was to brainstorm ways the state could effectively implement subminimum wage phase out between 2023 and 2025.

The workgroups met 4 times between March 16 - July 27, 2022 and were facilitated by subject matter experts, Amy Gonzalez and Doug Crandall. The groups focused the following strategy in developing a phase out plan as required by SB 639:

#### ***“What Should We Start Doing?”***

- *Things that we are not doing, but think we should*
- *Things that we could start to have better outcomes*
- *Things we can experiment with that could make things better*

#### ***“What Should We Stop Doing?”***

- *Things that aren’t working or aren’t helpful*
- *Things that get in the way of success*
- *Things keeping us from the outcomes we want*

#### ***“What Should We Continue Doing?”***

- *Things that work well*
- *Things we want to keep*
- *Things we feel we need*

While there was no agreement among all the participants on all steps required for a transition plan, recommendations did emerge from the earlier meeting, and these will be presented further down in this summary. There was close to total consensus on general concerns and issues the attendees wanted to ensure were analyzed prior to implementing the phase out. Below are the workgroup’s concerns listed by category:

#### CIE Program Design

1. Coordinated planning for CIE job exploration with transition age youth is an integral part of the SB 639 effort. Ideally this begins at or before age 12.
2. Must create an understanding that career development and wage progression are two crucial elements of successful CIE.

3. Ensure all individuals moving out of 14c move into CIE and avoid all non-employment day services.
4. Use proven models of service for many people such as Project Search and Customized Employment.
5. Phase out success involves designing localized solutions reflecting the state's geographic, social, business, and resource diversity
6. Examine diverse options of self-employment and entrepreneurship as well as more traditional jobs. Often service providers and job developers are not prepared to help people with disabilities ~~who have disabilities~~ with small business planning and development. Increased awareness of these options as well as the resources and supports like the California Small Business Technical Assistance Program to develop and actualize alternatives to more traditional jobs are needed.
7. How implementation of the phase out can affect service recipients from cultural/ethnic/linguistic minority populations

#### Customization of Services: Individualized Plans

1. Any service intervention must be driven by the consumer's expectations and needs
2. Service recipients need assistance to ensure that employers can modify and customize jobs in ways that enable individuals to maximize their employment success
3. Job developers must develop job customization competencies that meet both the job seeker and employer's needs

#### Program Engagement & Supports

1. Families and personal advocates should be involved with the employee's consent in service planning
2. Provide basic to comprehensive Work Incentives Planning Assistance (WIPA)/CalABLE benefits planning to individuals and families as well as financial planning supports

3. Staff should address concerns of people who feel the lack of subminimum wage impacts them negatively by providing information on impact of benefits and/or providing alternative community inclusion options. However, staff must be careful not to be influenced by stereotypes of a person's work capacity, which can lead to stigma reinforced by providers and ultimately, discrimination.

### **State Agency Organization/Structure, Program Evaluation and Data-Gathering**

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1. The regional centers and Department of Developmental Services (DDS) should examine contractual requirements to enshrine outcome expectations around community integrated employment (CIE) in service provision, using an Employment First framework
2. The state should create a cross-agency data sharing system that collects important outcome and service data related to CIE and SB 639.
3. The state should increase its numerical commitment to the *State as A Model Employer* goal. Track, publish and expand utilization of the LEAP list across position classifications to support a more inclusive and diverse government workforce.
4. The state needs to create some structure (a person or larger organizational entity) of overall monitoring towards the SB 639 goals that is external to and transcends individual public agencies.
5. There is a need for stronger interagency collaboration possibly involving formal Memorandum of Understanding (MOU) between and among groups such as DDS, DOR, the Workforce system, and the Regional Service Centers.
6. Value-Based Payment – the method and amounts for rates service providers receive for employment services should reflect the SB 639 expectations, i.e., adequate compensation for incentivizing and achieving CIE/SB 639 goals. There is no one payment model that other states have used in a way that is totally applicable to the California environment, but the state should examine these data from other locations to see what “fits” for areas within California (Appendix D.1).

Below are additional recommendations (some variations of these important topics are included in the *Recommendations* section):

1. Expansion of the *State as a Model Employer* effort
2. Focus on upskilling and certification for direct employment service staff
3. Increased use of Disability Benefits 101 (DB101) throughout the state
4. Information options in different languages including American Sign Language (ASL)
5. Developing several pilot projects focused on exploring a new payment structure using a needs scale and payment for hours worked versus hours coached.
6. Some specific focus on services for transition age youth to continue to divert them from sub minimum wage and into CIE option planning.
7. Funding for CIE services tied to an acuity scale to ensure individuals with high support needs are served.

More extensive information about the workgroup activities including real time notes is available at: <https://scdd.ca.gov/sb639stakeholderworkgroups/>.

## RECOMMENDATIONS

### Employment First/SB 639

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1. Any of the specific recommendations must be implemented within an overall policy framework of Employment First and SB 639 that assumes all transition age and working adult clients within the DDS services system can and should work as one expected outcome of any day service intervention.

While the existing Employment First policy statement encourages the consideration of work, it does not consider that providers are required to include service recipient's choice to decline employment. But even in such cases the assumption should be made that this decision gets revisited consistently.

Given the knowledge that exists and keeps accumulating on the deleterious effects (physical, mental social, financial) of continued unemployment on individuals with and without disabilities, it is incumbent on state policy makers and providers to influence (not control) decisions people make vis a vis seeking competitive, integrated employment (CIE).

This expectation for all service plans, though needed, is not a panacea, a good example is provided by Washington State which created this expectation several years ago and reports 80+ percent in integrated employment (not all in above minimum wage) compared to the national average of approximately 22 percent and

the California average of approximately 13 percent. Implementation of SB 639 should ensure both that every worker with a disability earns minimum wage in the state while at the same time increase the number of working age adults with I/DD into competitive integrated employment. -

2. Ensure that as of June 1, 2023, any movement of new clients into subminimum wage, sheltered work is cut off even if the provider has a non-expired 14c certificate in place and the focus is then put on moving people currently working below minimum wage into competitive wage situations by the legislative deadline
3. DDS, regional centers, and SCDD to develop a working group comprised of providers, consumers, family members, advocates to counter any drift towards putting people now at subminimum wage into day programs that are not employment related at all.
4. Since the primary service design is incorporated into DDS contracts with regional centers, DDS should be expected to ensure that any new contracts entered with the regional centers should reflect employment planning interventions and outcomes adopted from these and other recommendations made through the SCDD and other entities.

California has a well-established model of regional control for service interventions. Nonetheless, if it is in fact state policy with a focus on competitive integrated employment (CIE) at or above state minimum wage, such a policy should not be contravened under the guise of local control. Presumably executive and legislative systems of state authority hold sway over service policies even if those policies get delivered through a network of private, nonprofit entities. While the regional center system details are unique to California, the devolving of state mandates through private non- and for-profit organizations is endemic throughout the United States. So, this concept of state authority to set policy is well established nationally and should not preclude the need for a statewide adherence to such legally constituted requirements.

5. The service delivery is controlled through the contractual relationships DDS has with the regional centers. These contracts should reflect specific goals of percent of people engaged in employment services and benchmarking progress towards the eventual goal of 0% receiving sub minimum wage as of January 1, 2025.

## **HUMAN RESOURCE DEVELOPMENT**

There is a need to focus on broad issues of human resource development for provider direct support personnel involved other than just through training. In the current employment climate for human service line staff the key issues are recruitment, onboarding, and retention as well as training. Consideration should be given to creating an innovative model such as the newly designed (as yet not fully tested) Missouri Talent Pathways (<https://dmh.mo.gov/dev-disabilities/service-providers/talent-pathways>).

More specific information on this innovation is included in Appendices D.2 through D.5. Missouri has chosen to create this workforce development initiative through state funding and through its state DD service agency, which has contracted with external technical assistance organization to assist in bringing it to full fruition. California will need to decide if this approach warrants further study and possible replication. If that activity is deemed advisable than the state would need to develop a model of action that fits the socio-political environment in California.

1. There are existing credentialing programs such as CESP or ACRE which should be strongly encouraged if it is not feasible currently to require all direct support staff serving consumers with DD. Rather than focusing additional training on any one “model” (Customized Employment, Progressive Employment, IPS for the population) agencies should be encouraged to develop early adopter programs incorporating person centered employment programs tailored to local needs. Adhering strongly to fidelity concepts of some still relatively new intervention designs (which all purport to develop individualized approaches to planning and career development and use marketing/advocacy links with employers to accommodate various needs of people served) discourages innovation at this stage. The most used fidelity scales in human services now are those of ACT and IPS in the behavioral health field which were not institutionalized until almost a decade of peer reviewed randomized controlled design experiments--are not feasible for the SB 639 implementation.
2. Ensure that people with disabilities (including but not limited to people with intellectual and/or developmental disabilities) are actively recruited to serve in a variety of roles within employment service interventions (employment specialists, job coaches, peer mentors, etc.)
3. DDS and the CAL HHS should fund a time limited (April 1, 2023 through January 1, 2026) statewide TA Center with regionalized staff (broader regions than the 21 regional center service areas (perhaps 6-7 to cover the state) to develop and provide or contract for statewide and regional trainings on the various models and approaches that might successfully assist people with achieving competitive integrated employment at prevailing wages. While the SCDD should have some involvement within this center there is a need for a targeted, intensive approach to accomplish the goals of SB 639 and the overall California Employment First mandate. Presumably other existing entities like the UCEDD at UCLA and DOR can also be incorporated into such a model through some sort of joint funding arrangement. This would enable an intense focus on increasing employment overall among the DDS working age population as well as the January 1, 2025 sub minimum wage cessation.
4. DDS and DOR could appoint a joint statewide Employment First/SB 639 coordinator to monitor implementation of overall employment goals and elimination of any use of 14c waivers in the state as of the January 1, 2025 deadline. This coordinator should be expected to link with a designated person at each of the regional centers to monitor compliance with SB 639 progress and identify system wide training or TA needs for staff that could be funded in ways

that each system uses currently, whether through existing federally funded TA centers, the UCEDD network, or state specific training/TA contracts that could be let.

## TECHNICAL ASSISTANCE

1. The proposed center in #4 above would in addition to training, provide policy and system design advice to provider organizations and regional centers and DDS to create an overall approach that maximizes achieving community employment at competitive wages.
2. Alternatively, if the option outlined in #5 above is taken then those personnel should also be capable of providing policy and system design advice to provider organizations and regional centers and DDS to create an overall approach that maximizes people achieving community employment at competitive wages.
3. Since SB 639 proposes a major system change within DDS employment services this proposed center should reflect an existing model of system change proven effective as analytical tools in various structures. This report cites 3 frameworks from different disciplines (Kotter, CSH, ICI) that each appear to have resonance for the SB 639 implementation. But there are others (e.g., Deming/TQM, ODEP Provider Transformation Manual, Human Centered Design) that might be considered. The proposed center or any TA structure used should be expected to adhere to an established frame of reference for major system changes.
4. It would also be useful for the California DDS to consider becoming a member of an existing consortia such as the joint NASDDS/UMASS Boston ICI State Employment Leadership Network. Another, more labor-intensive option is for DDS (or through contractual arrangements with SCDD) to reach out to the 12 other states that currently have or are eliminating sub minimum wages to develop a state level Community of Practice. In some states the UCEDD can be a resource and participant in such an effort, though many UCEDDs are not primary movers of employment. It is up to the local advocates involved in SB 639 planning to ascertain whether the UCEDDs that exist in California would be useful allies for such a consortium.

## **BENEFITS AND FINANCIAL PLANNING**

The state should focus beyond just benefit retention work with consumers but think more holistically about finances generally and the role that increased income can support individually defined needs. The state should encourage use of the DB 101 widely accepted benefits planning tool for staff working to encourage employment. This should be used early in employment planning and not wait until job search. In addition, several states have used more of a tiered financial/benefits model that does not require a full benefits analysis for everyone which is more time and financially intensive but rather a triaged, sequential approach. Minnesota is perhaps the best example of effective use of DB101, consumer direct access to benefits planning tools, and this tiered model (<https://mn.db101.org>).

## **TRANSPORTATION**

A transportation gap analysis/problem solving exercise is needed to understand transportation access barriers and possible solutions to those barriers for individuals in 14(c). California's regional diversity presents unique challenges for those in urban areas, and distinctly different challenges in rural areas. The stakeholder group recommends conducting a needs assessment to better understand these issues and identify potential solutions appropriate and effective for one's region, level of support needs, and employment goals.

## **FUNDING SUGGESTIONS FOR CONSUMERS EMANATING FROM THE SCDD PLANNING GROUPS**

Since SCDD developed a broad-based work group that spent much time examining options for enhanced funding, the state should consider the following options in either the budget process or contracts with DDS and/or DOR.

Below are recommendations found in the April 2022 budget request letter submitted by the SB 639 Stakeholder sub workgroup focused on the budget:

### **1. Work Incentive Benefits/Financial Wellness Coaching - \$350,000**

As noted earlier, this model that California should adopt goes beyond just benefit retention work with consumers but think more holistically about finances generally and the role that increased income can support individually defined needs. It should be used early in employment planning and not wait until job search and involve a tiered array of financial coaching services.

## **2. Transportation Needs Assessment –\$300,000**

The transportation needs of the current 14(c) population are unknown. People who have disabilities often struggle with accessing reliable, affordable and safe transportation to and from work. A transportation gap analysis is needed to understand transportation access barriers and possible solutions to those barriers for individuals in 14(c).

## **3. HRD (recruitment, retention, upskilling)- \$900,000**

The recommendation is broadened here to reflect a more expansive strategy recognizing that a] the major personnel issues that California direct support staff face are probably the same as nationally, i.e., recruitment and retention (which also leads to more skill development once hired) and b] training is an essential second stage strategy to effect comprehensive system change that SB 639 envisions.

There is need to partner with regional centers and providers to create a comprehensive outreach and onboarding system (like the Missouri Talent Pathways approach noted earlier). As a component of this initial work, a companion statewide training initiative is needed focused on interventions required to assist consumers with multiple needs who require a panoply of employer-focused and client focused advanced skills, encompassing client engagement, marketing, motivational enhancement, use of technology, strengths-based assessment advanced interviewing skills, labor market analysis, developing sector specific vernacular, and the ability to work with employers to create a culture of inclusion at work sites.

## **4. Early Adopter Sites to Implement Prioritized Innovative Strategies — \$1,300,000**

The movement towards elimination of subminimum wages for people with disabilities is inexorable at this stage with the earlier Section 511 of WIOA and in California the adoption of SB 639.

The use of the term “early adopter” rather than “pilots” is intentional to emphasize the expectation that any innovations developed should have longer lasting impact within the site itself and with other locales.

The suggestion is that these sites be chosen through some sort of competitive process that can choose to adhere to a specific model (e.g., Progressive Employment, Customized Employment, IPS for People with I/DD) but be expected to demonstrate the use of general concepts like competitive wages, employer advocacy, ability to use job modification, person centered and person- driven employment planning (e.g., Discovery), Person Driven Service Planning/Guided Decision Making processes and their analogs, age-appropriate use of job experiences, etc.

In addition, the competitive process would outline some systemic innovations the state would like to see in any site projects (e.g., rural service areas, work with people with multiple barriers deriving from disabilities, outreach to indigenous populations, focus on social/culturally, linguistically disadvantaged groups, transition age youth service delivery, engaging employers as co-sponsors of project, self-employment, etc.)

## **FAMILY AND SELF ADVOCATE INVOLVEMENT**

There is a need to support families and self-advocates in efforts to advance employment with a goal that does not require continuous involvement of families and advocates for people with disabilities to get employed in CIE at market wages.

This effort must reach out to families who feel that eliminating sub minimum wages for their family member[s] interferes with their ability to work in the community at all and to help them develop greater confidence in the “system’s” willingness and capacity to ensure employment success for people with disabilities. SCDD, in partnership with DDS and DOR and the regional centers, are ideally situated to serve as a linchpin to this ongoing effort.

There is a concomitant need to involve self-advocates at two levels. The first requires using supported decision making throughout the service planning process, which involves ensuring that direct support staff have the requisite skills to implement the concept routinely and ensuring at an administrative level that this policy is implemented and monitored consistently across services and programs. The second is that SCDD is best situated to create a statewide and perhaps regional advisory groups made up of self-advocates elicit ongoing feedback on quality and discuss multiple aspects of new and existing program design. It is important to note, in regards to supported decision making, that with the passage of AB 1663 (Maienschein, Chapter 894, Statutes of 2022) and budget trailer bill SB 188 (Chapter 49, Statutes of 2022), SCDD is launching a supported decision making technical assistance program with \$3 million in grant funding from the state.

## **TRANSITION SERVICES FOR YOUTH WITH DISABILITES**

One of the key facets to overall success of phasing out subminimum wage and transitioning to CIE, is focusing on services to transition age youth moving on to CIE. This can include activities such as using Pre-Employment Transition Services available through DOR under WIOA regulations, actively involving families in conjunction with the students with disabilities, incorporating adult service agency staff in IEP and transition planning meetings for youth, and developing employment interventions based on

techniques specifically applicable to youth vocational development such as Customized Employment, Progressive Employment, multiple paid work experiences, etc.

## **EMPLOYER INVOLVEMENT**

Analogous to the need for family involvement, there must be a system wide marketing and outreach strategy to employers. Ultimately, the local labor markets in a large, diverse state such as California will need to be identified by local employment service providers. Nonetheless, the state can assist by coordinating an employer outreach effort in conjunction with DOR and Workforce Councils through the Department of Workforce Development as well as with statewide economic development entities emphasizing partnerships with employers to achieve the goals of SB 639. There are probably existing efforts that focus on maximizing employment options for people with disabilities through employer partnerships, but these need to be expanded and enhanced by specific emphasis on the SB 639 goals.

## **RATE REVIEW/USE OF MEDICAID**

Many states as a core component of the elimination of subminimum wages have engaged in rate reviews to ensure that any state or local service agency's rate structure is compatible with the values espoused in state or federal policy. California has undertaken earlier rate reviews to be cognizant of providers' legitimate fiscal needs but it would be worthwhile to revisit the rate system both in fiscal content (i.e., how much is paid for what) and structure (i.e., payment for services rendered), value based payments (i.e., pay for performance), and if "value based" what is the value i.e. type of client served, type of job obtained, characteristics of the job such as hours or benefits or high wages, etc.).

Value-based reimbursement (VBR) can be performance-based incentives, case rates, bundled rates, per diems, or capitation. Every VBR model still is based on the cost of some type of units of care and making sense of VBR reimbursement options is difficult without accurate unit cost information. This type of fiscal information is available through the California Vendor Rate Study completed for the DDS. Also, while "value based" currently holds sway as being the most innovative funding model, it is not a miracle for the lack of participation in CIE.

For example, Oklahoma's rate structure has been in place for many years and is viewed within the state and nationally as an important tool to encourage supported employment services and considered a bellwether funding model. The focus on payment for the number of hours a person works is unique, but also has created some challenges including incentivizing group supported employment and requiring strong oversight of

the fading process to ensure movement between job coaching and stabilization (Appendix D.6).

One other aspect of any formal or informal rate review is the mix of incentives and disincentives any rate methodology must apply. Examining various states that use a variety of rates (some states use hours of service, others use hours employed, others are purely milestone based, some involving state VR funding while others rely on a combination of state and/or Medicaid HCBS fiscal resources) shows that no one model is necessarily the panacea.

CAVEAT: Note that the national statistics collected reflect people with disabilities receiving an employment focused service, not necessarily actual employment. While positive incentives are most useful for individual change, the ability to affect system change fiscally is often more effective by being clear about what is not “fundable” than adding relatively modest resources to existing rates or payment models in hopes of motivating organizational change in service providers or local regional entities. While not a perfect analog, much work over the recent years in the field of Behavioral Economics clearly demonstrates this concept of “loss aversion” as a powerful motivator, at least for individuals.

Most state and local DD agencies use Medicaid funding to support employment services usually through a CMS HCBS services waiver (the 1115 type) with some using the 1915i service plan amendment. Medicaid financing is complicated, and California already uses a variety of models but none that seem to be focused on assisting in achieving SB 639 goals. Designing a state Medicaid plan that eventually receives CMS approval is a complex and lengthy process, but it is worthwhile for the state Medicaid authority in conjunction with DDS, SCDD, Disability Rights California and advocates to examine potential use of Medicaid resources to support the efforts required to make SB 639 successful for clients and fiscally workable for the service system as a whole.

The states should use the period of January 1, 2023 through January 1, 2025 to try a variety of funding models to ascertain whether any one California locally designed model supports more robust CIE outcomes or conversely whether certain funding approaches work better in some regional center areas than others (rural- suburban-urban; high unemployment- low unemployment; type of industry mix, etc.) Usually, with the addition of such a significant policy change as SB 639 it would behoove the state to undertake a modified rate review, which has its purpose aligning existing rates and service definitions with the expectations created under SB 639. Since California has recently undertaken a large-scale rate review the timing may not be right to do another one. Nonetheless, since financial structure (not just amounts but what activities are supported through rates) has an impact on service delivery-- DDS, DHCS, and DOR with either internal (UCEDD, SCDD) or external (outside subject matter experts) assistance --should still do an analysis of the potential impact of the current rate structure on achieving SB 639 goals. One suggestion regarding a model of a possible new rate structure emerged from an informal working group called “Employment Revolution” and is attached in Appendix D.7.

A brief review of the current California rate structure shows that a unit of service for Supported Employment funding already exists but apparently by report of the working group is not used extensively. One reason is that lack of employment focused services as shown by the low rate (13 percent) of clients served in day services overall are considered served under an employment service. Another, reason from a provider staff standpoint, is it is not uncommon in a human service funding system for staff to record certain service delivery in a manner not totally congruent with the service. This occurs for a variety of reasons. If an alternate stream can be legally used that is considered more flexible, easier and less time consuming to document, or more ominously, pays more than providing employment services, then staff often take the “path of least resistance”. There are also support services legitimately offered under HCBS waiver that are not strictly employment services yet nonetheless are provided to enable employment interventions to be rendered successfully. So, while there needs to be an increased use of the Supported Employment funding mechanism as one indicator of CIE, this is not a totally reliable success measure without an accompanying focus on outcomes, included in other sections of this report. One executive director of a large agency in the state has stated that “it will all change when the rate study is fully implemented. Once the rate study is in, the services are more regulated with few (if any) opportunities to have flexible rates or use miscellaneous service codes.”

The concern about funding models is twofold. First, and as noted above, funding disincentivizes supported employment towards CIE by making other funding options more lucrative for providers and easier to access. Second, a 2021-2022 funding review provided by Disability Rights California staff stated that: “of the \$139 million allocated to employment by DDS in fiscal year 2021-22, two-thirds is going to supports/programs that are either segregated or are segregated and pay subminimum wage. 53 percent is going to group supported employment. Just one-third (\$45 million) is going to supports/programs that are individualized and pay at least minimum wage to employees in integrated settings, i.e., ‘individual supported employment’.

It has long been known that group models of employment consistently lag in terms of helping people attain CIE at or above state minimum wages. Yet, they are easier for providers to arrange and manage plus are often more lucrative. Thus, as stated on the Oklahoma example above, the funding system may have the unintended consequence of incentivizing group supported employment over individual employment.

While group models are not the preferred best practice for supported employment intervention, the problem can be solved through rigorous adherence to the SB 639 mandates to eliminate subminimum wage--as it is hard for group models to financially sustain themselves while paying workers competitive wages.

In addition, there are two external federal factors under which the California system must operate that would obviate the need to restrict the use of groups through regulation, though would still require a rate analysis to ensure that group models do not seem to be (unintentionally) prioritized.

One, AbilityOne contracts (formerly labeled NISH contracts) now add a new qualification requirement for nonprofit agencies seeking both initial and continuing qualification to participate in the AbilityOne Program. Specifically, the rule requires these nonprofit agencies to certify that, when paying employees on AbilityOne contracts, they will not use certificates authorized under section 14(c) of the Fair Labor Standards Act (FLSA) of 1938. Under the rule, individuals who are blind or have significant disabilities and who work on AbilityOne contracts will earn at least the Federal minimum wage, the applicable local or state minimum wage, or the applicable prevailing wage – whichever is highest. The rule has an effective date of October 19, 2022. It prohibits use of 14(c) certificates to pay employees on AbilityOne new contracts, extensions of contracts, and options. Nonprofit agencies may request an extension of up to 12 months to come into compliance and must have requested this by September 19, 2022.

A second element is the forthcoming full compliance required under the Medicaid HCBS “most integrated settings” rule scheduled to be fully in place as of March, 2023, defines 1 type of “setting” as “Any other settings that have the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community of individuals not receiving Medicaid HCBS.”

## **DATA COLLECTION**

There are a variety of well thought out data collection needs that SCDD has already identified and articulated:

1. Data collection and reporting requirements for tracking the following outcomes for the individual employees with disabilities who are transitioned out of subminimum wage employment:
  - Average weekly wages earned.
  - Hours worked each month.
  - Type of job using broad USDOL categories.
  - Length of employment.
  - Services utilized to obtain competitive integrated employment
2. Data collection and reporting requirements that will track the following aggregate outcomes of employees with disabilities who transition out of subminimum wage employment:
  - a. Total number of individuals with disabilities who are employed and paid subminimum wage
  - b. Employment rates
    - i. percent of people seeking employment who are employed and
    - ii. percent of total served in day services who are

- receiving employment focused day services and/or
  - employed
- c. The number of individuals who were participating in a subminimum wage position that are not participating in job search activities
  - d. The number of individuals who move from subminimum wage positions to nonpaying activities
  - e. The number of individuals who move from subminimum wage positions to positions that are paid at or above minimum wage
  - f. The number of persons served jointly through Vocational Rehabilitation and DDS/Medicaid funding through the regional centers and aggregate outcomes for this cohort

It is possible that many of these data exist in various systems but not collected or are not monitored consistently. One of the recommendations identified in the report is the need for a centralized entity under the appropriate state agency charged with monitoring and reporting information quarterly; and for organizations[s] to collect the information regularly. Some employment data can be gleaned by the state unemployment insurance system, but this requires data sharing agreements. Also, unemployment insurance data may not necessarily include wages earned out of state, or through federal employment, or self-employment. If there are no robust data sharing agreements in place, Utah is a good example of a state that has implemented a statewide MOU for data sharing in human services, though not strictly employment focused (<https://gopb.utah.gov/wp-content/uploads/2021/08/On-Going-Data-Exchange-Social-Services-MOU-SIGNED.pdf>).

Though there are federal restrictions on unemployment insurance (UI) data use, many UI information sharing agreements exist with state Vocational Rehabilitation and in some cases with other human service systems.

## **AGENCY TRANSITION PLANNING**

DDS, DOR, and regional centers should develop a transition plan by April 1, 2023 and identify:

- general policy/system
- financial barriers
- potential solutions
- customized transition planning to CIE for anyone currently under a 14c certificate and ensure individual/family/advocates are involved in the plan.
- Timelines for expected progress

## **SB 639 PHASE OUT: OVERSIGHT**

There are several overlapping areas of responsibility involved in ensuring phase out of subminimum wage. The California DDS, DOR, and regional centers all should designate specific staff whose job it is to monitor the activities leading to subminimum wage elimination among their respective clientele. Since SB 639 is a legislative mandate to be enforced by executive authority through Cal HHS service agencies, HHS should appoint a SB 639 Coordinator to oversee implementation across the various agencies under its purview. Furthermore, there is a need for a coordinating oversight committee to act as an overall monitor of the efforts between January 1, 2023, and final completion on January 1, 2025, as well as serve as a repository of the multiple agency information sets. Several options exist for oversight of phase out:

- The state could create a group consisting of executive level staff from DDS and DOR, a few designated regional center representatives, some consumers and advocates (3-4), SCDD representative, UCEDD representative, Disability Rights representative. This body could be formally constituted to provide day-to-day oversight of the SB 639 transition out of subminimum wages.
- Another alternative is to create a group with members from the Employment First Committee located within SCDD, but this would require some restructuring to create a focused set of specific responsibilities under SB 639 authority.

## **PARTNERSHIPS**

The successful phase out of subminimum wages involves multiple entities who provide employment services or advocate as such. Some of the governmental services agencies such as DDS, DOR, regional centers presumably have existing MOUs or Local Partnership Agreements focused on enhancing CIE for mutual clients. These could be amended to specify efforts undertaken to further the elimination of sub minimum wage for workers with disabilities.

There are other statewide, federally funded organizations which do not offer direct employment service but are advocates and information/technical assistance/training resources in support of SB 639 such as SCDD and the UCEDD at UCLA, as well as other universities in CA. Also, since California has an extensive network of 28 Centers for Independent Living (CILs), it would behoove the state as an element of SB 639 efforts to engage them in some fashion.

Historically CILs in most states have not been especially active with people with intellectual disabilities or even in employment overall. However, these groups' overall mission dovetail quite well with the state's initiation of phasing out subminimum wage and can especially be leveraged through them under the DOR umbrella. The State of

Virginia is conducting a pilot project on customized employment through a CIL in that state and this could potentially serve as one model of engagement for CA CILs for employment transition.

The service agencies (DDS, DOR, and regional centers) should engage these groups in formal or informal partnership efforts as specific vehicles to include not just their professional staff but also to use such organizations to create linkages among consumer and family advocates to ensure they are included. DOR successfully received a federal RSA grant (\$13,000,000+ over 5 years) devoted exclusively to expediting the elimination of sub minimum wage in the state through innovation programming models. Available data from RSA examining the percentage of people with I/DD who apply for DOR services and proceed to service receipt is above 80 percent. While this figure is an optimistic sign, further investigation is needed regarding how successfully people with I/DD are getting referred to DOR for employment services in the first place.

The major service driver for DDS clients is incorporated in contracts between DDS and the regional centers. As mentioned in earlier sections, since the primary service design is enshrined into DDS contracts with regional centers, DDS should ensure that any new contracts entered with the regional centers should reflect employment planning interventions and outcomes adopted from these and other recommendations made through the SCDD and other entities. The SB 639 oversight entity can develop a “model” employment services contract that DDS and regional centers can use as a suggested template even though not mandated by June 30, 2023.

## **COMMUNICATION PLANNING**

Each of the key entities involved in SB 639 implementation (DDS, regional centers, DOR, SCDD) should craft a unique communication plan as one vehicle to accomplish California’s achievement of the elimination of sub minimum wage by January 1, 2025. Such a plan should include the following:

- Focus on the “actors:” i.e., someone who needs to “do something” (e.g., policy makers, administrators, direct service personnel, people with I/DD, families, advocates, employers, the general public)
- Decide what level of information do persons who are the “actors” need?
- Decide what is going to convince them to act? (or in some cases, not act?)
- If they get the message, will they change their behavior?
- Who should communicate the message to the “actors”?
- At what level should you initiate communication?
  - Top to bottom?

- Bottom up?
  - Internal vs external?
  - Direct to consumers/families or through other intermediaries?
  - Internal versus External?
- How frequently should you communicate?
  - What medium is best for what type of messaging?
  - When should we communicate to whom?
  - How do you build in feedback loops and assess clarity of the message?

These communication plans should be formalized no later than April 15, 2023. Communication planning must address information geared to adults and transition age youth with disabilities, parents, employers, service providers, and advocates both to inform these groups explicitly about SB 639 and engage them in various ways in implementation efforts. Some content areas to include would be availability and ways of accessing financial planning, employment service availability, innovative employment options, creating effective public- private partnerships, local labor market information, and person-driven planning expectations directly involving youth and adults with disabilities. The bullet points above can and should serve as a template for any formal Communication Plan adopted in any venue.

### **BENCHMARKS INCLUDING THOSE CITED UNDER INDIVIDUAL HEADINGS**

1. DDS, DOR, and each of the 21 regional centers should develop an agency transition plan by April 1, 2023.
2. Agency formal internal analysis and report of the potential impact of the current rate structure on achieving SB 639 goals by April 1, 2023.
3. Movement of new clients into subminimum wage, sheltered work is cut off even if the provider has a non-expired 14c certificate as of April 1, 2023.
4. Communication plans should be formalized no later than April 15, 2023.
5. Develop a “model” employment services contract that DDS and regional centers can use as a suggested template even though not mandated by June 30, 2023.
6. Early adopter sites piloting various strategies should be in place by July 1, 2023.
7. Even if the legislature does not create a separate line item this does not preclude

DDS or DOR from creating innovative models using their existing funding structures. Create a centralized data collection system overseen by whatever entity is designated as the SB 639 overseer by September 30, 2023.

8. Assuming there is baseline data available there should be a goal of 100 percent direct employment staff being certified under some existing national standard (e.g., ACRE, CESP) by January 1, 2025
9. Whatever the current numbers of people with developmental disabilities working under 14c waiver, that number should be at least halved by January 1, 2024 and as the legislation requires totally down to 0 by January 1, 2025.
10. A success goal of employment should be at least 20 hours per week. This does not mean that individuals cannot be assisted who choose not to work that many hours but that one measure Employment First is for people not just to working in the community but to be employed a significant number of hours. Once again this should not necessarily be a measure of individual success but rather of whether the system is assisting people effectively.

## **SYSTEM CHANGE MODELS**

SB 639 creates a simple concrete outcome for workers with disabilities in the state, i.e., any employment will have to be compensated at least at the state minimum wage. This goal might appear to create a straightforward path to resolution as of January 1, 2025. However, as this report notes in several sections, focus on this goal without a concomitant determination to increase capacity of the state systems to create more robust employment opportunities for service recipients would fall short of the intent of the legislation. This short-term goal with nothing more proposed would obviate both the long-standing California Employment First efforts as well as the conceptual intent beyond SB 639 and its various national analogs such as Section 511 of WIOA. Furthermore, even after January 1, 2025, policy makers, providers, and advocates must exercise due diligence to continue the path forward to the eventual destination of community inclusion, including enhanced opportunities for employment and financial success through CIE for people with significant disabilities in the state. To accomplish this lofty but necessary goal, the state organizations and related entities and advocates must devote major energy towards system change.

There has been a national focus over many years on making progress towards greater numbers of people with significant disabilities achieving employment success. Thus, the concept of “system change” is integral to most of these activities focused on this result. However, while there are many proponents of various models of system change, none has been successful enough consistently to lay claim to a widely accepted, evidence-based approach to such an endeavor. Therefore, the report outlines some system change templates that have proven relatively successful in various venues.

It is recommended that all parties interested in the achievement of more CIE opportunities for job seekers with disabilities be familiar with the different models. This enables change agents at multiple levels to make decisions relating to different approaches that might be relevant in various locales in California, since it is unlikely that any one model would fit the needs of all the citizens residing in the different regional center service areas.

There are multiple gray and peer reviewed literature bases related to system change and the report does not purport to be a thorough repository for such materials. Rather, the ones selected have been used successfully at some levels in an array of situations: two are specific to employment issues; one is relevant to structures regarding supportive housing for people with behavioral health problems, and the other is a more general business (not human service oriented) paradigm which has been a well-respected and utilized model of analysis for close to 30 years. These four informational sets are:

- Provider Transformation Manual (developed under the oversight and funding of US DOL Office of Disability Employment policy (Appendix D.8)
- The “High Performing States Model” developed jointly by the University of Massachusetts, Institute for Community Inclusion (ICI) and the National Association of State Directors of Developmental Disabilities Services (Appendix D.9)
- “Laying a New Foundation: Changing the Systems that Create and Sustain Supportive Housing” from the Corporation for Supportive Housing (Appendix D.10)
- “Leading Change: Why Transformation Efforts Fail” authored by John Kotter of the Harvard Business School (<https://hbr.org/1995/05/leading-change-why-transformation-efforts-fail-2>).

## **FUNDING MODELS AND A REVIEW OF EXISTING FUNDING STRUCTURE**

Funding is a complex issue and it is hard to envision successful implementation of SB 639 beyond mere compliance (as opposed to greatly improving the employment and financial prospects of job seekers with disabilities) without some additional work done during the transition period between now and January 1, 2025, to review and analyze potential sources of funding to achieve

this goal. This must be directed both at maximizing existing financial funding authorities that may not have been used effectively to support CIE and at leveraging and accessing potential new sources of support that might be available but not otherwise considered earlier.

The most commonly used funding nationally and in California for community services for people with I/DD is of course Medicaid, specifically the 1915[c] Home and Community Based Services (HCBS) waiver. Many current services, including employment focused ones, are now being supported through this resource. However, the configuration of this funding heavily weighted towards segregated and group employment do not best serve the goals of the SB 639 legislation. Home and Community Based Services (HCBS) waiver program can cover the entire array of supported employment services provided the basic premise of this waiver (i.e., the costs of community services outweigh analogous costs of institutional care) is reinforced.

Many states are now using the Medicaid 1115 Waiver Authority to cover supported employment services in both DD and Behavioral Health systems. This use would not be specific to supported employment but as part of a larger Medicaid strategy such as expanding eligibility or implementing an innovative service delivery system. The most salient aspect of this approach is it allows using innovative service delivery systems (including but not limited to managed care plans) that improve care, increase efficiency, and lead to cost reduction. All once again in service to and justified by reducing costs that would normally be associated with an institutional level of care. Less commonly used Medicaid funding authority to specifically support employment in the population of people with I/DD is the 1915[i] state plan amendment, which essentially replicates 1915[c] though unlike this waiver requires a needs-based level of care rather than an institutional level of care and does not need to be cost neutral vis a vis institutional care.

There are relatively recent waivers available which would not directly fund employment intervention *per se*, but which would make ancillary services in support of employment success more easily accessible (e.g., 1915[k] attendant care and 1915[j] self-directed personal assistance). Any of the above Medicaid options can of course also be buttressed by specific state line-item funding in addition to the cost matches required under the various Medicaid funding formulas.

In addition to the Medicaid financial options, which for the foreseeable future will offer the most financial amounts to support employment, is the federal Workforce Innovation and Opportunity Act (WIOA), the authority under which the state Department of Rehabilitation (DOR) through the national network of state - federal partnerships operates. Most DOR funding is federal but also requires a state match (a little more than 20 percent for the core services that DOR provides). While DOR funding capacity is much less than would be available through Medicaid there are several ways that DOR can work in concert with DDS and regional centers to support employment options in CIE for people with I/DD.

The core service funding, which is the bulk of financial resources available to DOR, can be used, not to supplant Medicaid or state DDS resource but to be used sequentially in some fashion to augment the array of employment services available through DDS and the regional centers.

In addition, there is a more limited pool of federal funding under WIOA that is specifically targeted for DOR to use for supported employment and some specific requirements regarding supported employment options for transition age youth and/or students with disabilities. Vocational rehabilitation services through DOR are an eligibility, not an entitlement system, and thus is based on individual employment focused service planning with a special emphasis on serving people with the most significant disabilities. Often state developmental disability systems and the local state vocational rehabilitation agency used MOUs (either formally constituted or *de facto*) to jointly service mutual clients, including those with I/DD seeking employment assistance for CIE.

An additional opportunity for DOR/DDS/regional center collaboration has been made recently available as DOR has received a 5-year federally funded grant (\$13,000,000 + over a 5-year period beginning October 1, 2022). The focus of this proposal is directly targeted to assisting greater numbers of people with disabilities to achieve CIE at or above minimum wage. To receive the grant DOR had to propose specific goals and activities under its rubric so given that it is in its initial startup phase, it would be important for the state HHS to ensure that the efforts DOR undertakes under this new project dovetail (conceptually and financially) with the overall state efforts directed to successful implementation of SB 639.

There are some other possible financial resources for the state to consider how to use as part of its overall SB 639 transition planning. The Social Security Administration (SSA) has developed a series of work incentives, which historically have been underutilized by participants. However, California should consider some strategies (elucidated elsewhere in this report) that might allow people to make better use of these options to lessen the impact of increased earnings on a person's SSA (usually SSI for most DDS consumers) benefit. These options include:

- Plans for Achieving Self Support (PASS)
- Trial Work Period (TWP) programs (mainly useful for SSDI recipients)
- Ticket to Work and Work Incentive Program (TWWIA).

One final note regarding use of any of these funding options: in other sections of this report ideas will be generated about what are the most effective vehicles for supporting services leading to CIE. There has been much discussion of Value Based Purchasing, which is outcome rather than hours of service-based payment methodology. There is no "magic bullet" and even "value based" approaches must define what values are sought. There are situations where the value is in increasing outputs rather than initial outcomes. Given the small number of people served by DDS and regional centers

receiving employment (13 percent) within the DDS day and employment system structure, it is a worthwhile goal to significantly increase this percentage before examining other valued outcomes such as employment and benefit acquisition, job retention, job satisfaction, etc. Even straightforward fee-for-service systems can be used in an outcome management framework with monitoring, continuous quality improvement focus, and modified financial and social incentives and [dis]incentives.

## EMPLOYMENT RESOURCES FOR PEOPLE WITH DISABILITIES

Substantial resources and information exist that are helpful for proponents and advocates of CIE. Many are referenced specifically in the report but all are worth examining as the state, regional centers, policy makers, advocates, job seekers with disabilities and providers seek to engage in major, continuous improvement of the employment systems in California (Appendices D.11 through D.13).

Below is a list of broader contact resources and sources of both individual expertise and many written and video resource materials. This is not an exhaustive list but does offer a large amount of potential information as well as contacts experienced and knowledge in the field of CIE for people with significant disabilities, especially those with I/DD.

- Center for Public Representation - <https://www.centerforpublicrep.org/>
- Cornell University YANG TAN Institute on Employment and Disability - <https://yti.cornell.edu/>
- Disability Employment TA CTR - <https://aoddisabilityemploymenttacenter.com/about/>
- Griffin- Hammis Associates - <https://www.griffinhammis.com/>
- Job Accommodation Network - <https://askjan.org/>
- National Assn of State Directors of DD Services (NASDDS) - <https://www.nasdds.org/>
- San Diego State U./ INTERWORK INSTITUTE - <https://interwork.sdsu.edu/main/>
- State Employment Leadership Network (partnership of NADDDS and ICI, UMASS Boston) - [www.seln.org](http://www.seln.org)
- *UCEDDs with Expertise in Employment:*
  1. University of Arizona, Sonoran Center for Excellence in Disabilities - <https://sonoranucedd.fcm.arizona.edu/>
  2. University of Minnesota, Institute on Community Integration - <https://ici.umn.edu/>
  3. University of Massachusetts Boston, Institute on Community Inclusion - [www.communityinclusion.org](http://www.communityinclusion.org)
  4. University of New Hampshire, Institute on Disability - <https://iod.unh.edu/>
- US Department of Labor, Office of Disability Employment Policy - <https://www.dol.gov/agencies/odep/state-policy/reports-and-policy-briefs>

- Virginia Commonwealth University RRTC - <https://vcrrtc.org/resources/listContent.cfm/24> CU
- Workforce Innovation Technical Assistance Center - <http://www.wintac.org/about-us>

## **BIBLIOGRAPHY**

1. Anyatonwu, S. C. & Callaghan, T. (2022). "Exploring the Role of Discretionary Income as a Social Determinant of Health." Health Services Research n/a(n/a).
2. APSE (2021) Trends and Current Status of 14(c). ROCKVILLE, MD: Author. Retrieved from: [https://apse.org/wp-content/uploads/2021/10/10\\_20\\_21-APSE-14c-Update-REV.pdf](https://apse.org/wp-content/uploads/2021/10/10_20_21-APSE-14c-Update-REV.pdf)
3. Brooke, V., et al. (2018). "Employees with Autism Spectrum Disorder Achieving Long-Term Employment Success: A Retrospective Review of Employment Retention and Intervention." Research and Practice for Persons with Severe Disabilities: 1540796918783202.
4. Butterworth, J.; Gandolfo, C.; Revell, W. G.; and Inge, K. J., "Community Rehabilitation Programs and Organizational Change: A Mentor Guide to Increase Customized Employment Outcomes" (2007). *GLADNET Collection*. Paper 359. <http://digitalcommons.ilr.cornell.edu/gladnetcollect/359>
5. Council of State Governments (2021). "The State As A Model Employer Of People With Disabilities" Washington, D.C. : Author. Retrieved from: <https://seed.csg.org/wp-content/uploads/2022/07/Accessible-Final SAME SEED Report.pdf>
6. Crandall, D. (2022). Balancing Economics and Advocacy: UCEDDs' Role in Increasing the Awareness and Importance of Competitive Integrated Employment. Washington, D.C.: Lewin Group.
7. "Customized Employment Competency Model" (2011). Retrieved from: <https://www.dol.gov/sites/dolgov/files/odep/pdf/2011cecm.pdf>. Fairfax, VA: ICF International
8. Dean, E. E., et al. (2022). "Employer willingness to hire people with intellectual disability: The influence of employer experience, perception of work, and social responsibility." Journal of Vocational Rehabilitation 57: 85-95.
9. Friedman, C. & Rizzolo, M.C. (2020). "Fair-Wages for People With Disabilities: Barriers and Facilitators." Journal of Disability Policy Studies: 1044207320919492.

10. Giordano, L. S. (2020). "From employment optional to "Employment First": Explaining two cases of state-level disability policy change." Public Policy and Administration 37(3): 283-316.
11. Grieff, D., Proscio, T., & Wilkins, C. (2003). Laying a new foundation: Changing the systems that create and sustain supportive housing. Oakland, CA: Corporation for Supportive Housing
12. Haber, M.G., Mazzotti, V.L., Mustian, A.L., Rowe, D.A., Bartholomew, A.L., Test, D.W., & Fowler, C.H. (2016). What works, when, for whom, and with whom: A meta-analytic review of predictors of postsecondary success for students with disabilities. *Review of Educational Research*, 86(1), 123–162.
13. Haines, K., Marrone, J., Halliday, J., Tashjian, M., Klemm, M., Stoddard, S., & Foley, S. (2012). Description of supported employment practices, cross-system partnerships, and funding models of four types of state agencies and community rehabilitation providers. Final report of the supported employment supplement to the RRTC on Vocational Rehabilitation. University of Massachusetts Boston, Institute for Community Inclusion.
14. Hall, A.C., Butterworth, J., Winsor, J., Gilmore, D., & Metzel, D. (2007). Pushing the employment agenda: Case study research of high-performing states in integrated employment. *Intellectual and Developmental Disabilities*, 45(3), 182–198.
15. ICI, HSRI, & NASDDDS. (2022). *Community supports in crisis: No staff, no services*. Minneapolis, MN: University of Minnesota, Institute on Community Integration.
16. Inge, K. J., et al. (2022). "The Essential Elements of Customized Employment: Results from a National Survey of Employment Providers." Rehabilitation Counseling Bulletin: 00343552221088256.
17. Inge, K. J., Graham, C. W., Brooks-Lane, N., Wehman, P., & Griffin, C. (2018). Defining customized employment as an evidence-based practice: The results of a focus group study. *Journal of Vocational Rehabilitation*, 48(2), 155- 166. Available at: <https://www.griffinhammis.com/wp-content/uploads/2020/05/JVR-48.2-Inge-et-al-Customized-employment-.Results-of-Focus-Group.pdf>
18. Jones-Parkin, T., et al. (2021). "Employment First and transition: Utah school-to-work initiative." Journal of Vocational Rehabilitation 54: 265-271.
19. Kaya, C. (2018), Demographic Variables, Vocational Rehabilitation Services, and Employment Outcomes for Transition-Age Youth with Intellectual Disabilities. *Journal of Policy and Practice in Intellectual Disabilities*, 15: pp. 226-36. <https://doi.org/10.1111/jppi.12249>

20. Kotter, J. P. (1995). "Leading Change: Why Transformation Efforts Fail." Harvard Business Review. V.73. P.59-67.
21. LEAD CENTER (2016) Employment First Technical Brief #3 Criteria for Performance Excellence in *Employment First* State Systems Change & Provider Transformation. Washington D.C.: Author. Retrieved from: [https://leadcenter.org/wp-content/uploads/2021/07/Employment\\_First\\_Technical\\_Brief\\_\\_3\\_0.pdf](https://leadcenter.org/wp-content/uploads/2021/07/Employment_First_Technical_Brief__3_0.pdf)
22. LEAD CENTER (2015) "Perspective of Employers on Customized Employment". Retrieved from: <https://leadcenter.org/resources/employment-first-information-brief-perspective-of-employers-on-customized-employment/>. Washington, D.C.: LEAD Center
23. Mann, D. R., et al. (2018). "Learning from State Vocational Rehabilitation Agencies on the eve of WIOA: State differences in service receipt and employment outcomes by applicant employment status." Journal of Vocational Rehabilitation 48(3): 369-386.
24. Marrone, J. and M. A. Swarbrick (2020). "Long-Term Unemployment: A Social Determinant Underaddressed Within Community Behavioral Health Programs." Psychiatric Services 71(7): 745-748.
25. Marrone, J. (2005). Disability Policy and Employment: Marriage of convenience or passionate love affair between VR and other public systems? In "25 Years of Switzer Seminars: What Have We Learned?" Alexander E. (ed). Alexandria, VA: National Rehabilitation Association.
26. Marrone, J., Hoff, D., & Helm, D. (1997). Person-Centered Planning for the Millennium: We're Old Enough to Remember When PCP Was Still a Drug. Journal of Vocational Rehabilitation, 8(1), 285-297.
27. Maryland Department of Disabilities (2020). Individuals with Disabilities: Minimum Wage and Community Integration-Ken Capone Equal Employment Act: Annual Report 2020. Annapolis, MD: Maryland DOA- DOH/DDS
28. Migliore, A., Butterworth, J., Lyons, O., Nye-Lengerman, K., & Foos, P. (2018). Supporting employment consultants in their work with job seekers: A longitudinal study. Journal of Vocational Rehabilitation, 49(3), 273-286
29. Mills, L. (2021) Value-Based Payment Methodologies to Advance Competitive Integrated Employment. Washington, D.C.: DOL/ODEP
30. MN DHS (2022) Request for Proposals for Home and Community-Based Services (HCBS) Employment Providers to Transition to Competitive Wages. ST PAUL, MN: MN DHS

31. Molfenter, N. F., et al. (2017). "Let's Get to Work Wisconsin: Launching youth with intellectual and developmental disabilities into the workforce." Journal of Vocational Rehabilitation 47(3): 379-390.

32. Murray, D.W., Rosinsky, K., Haas, M., Glosser, A., & Boyd, S. (2022). *Applying Human-Centered Design to Human Services: Pilot Study Findings*, OPRE Report 2022-214, Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

33. NCDHHS (2022). CIE for I/DD Strategic Plan. RALEIGH, NC: NCDHHS

34. Nebraska Vocational Rehabilitation Progressive Employment Model Replication and Evaluation Report: 2019-2020 Update. Working Paper. Version 2. (May 2020), Moore, D., Haines, K., Foley, S., Kwan, N. Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

35. Ouimette, M. & Rammler, L.H. (2017). "Entrepreneurship as a means to Employment First: How can it work?" Journal of Vocational Rehabilitation 46(3): 333-339.

36. Remund, C., et al. (2022). "Preparing community rehabilitation providers to deliver a provision of employment supports: A tiered training approach." Journal of Vocational Rehabilitation 56: 193-201.

37. Riesen, T., et al. (2019). "Customized employment discovery fidelity: Developing consensus among experts." Journal of Vocational Rehabilitation 50: 23-37.

38. Rosinsky, K., Murray, D.W., Nagle, K., Boyd, S., Shaw, S., Supplee, L., & Putnam, M. (2022). A Review of Human-Centered Design in Human Services, OPRE Report 2022-78, Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

39. Sassnet, G. & Pollock, R. (2018). Provider Transformation Manual. Washington, D.C.: ODEP. Retrieved from: <https://leadcenter.org/wp-content/uploads/2021/07/Provider-Transformation-Manual-2.0.pdf>

40. Schutz, M. A. & Carter, E.W. (2022). "Employment Interventions for Youth With Disabilities: A Review of Transition Practices and Partners." Career Development and Transition for Exceptional Individuals: 21651434221075810.

41. Schutz, M. A., et al. (2021). "Parent Perspectives on Pre-Employment Transition Services for Youth With Disabilities." Rehabilitation Counseling Bulletin: 0034355221993542.

42. Schwartz, S. & Moore, R. (2021) Ending Segregated Workshops and Promoting Competitive, Integrated Employment (CIE). Retrieved from [https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/07/DETAC\\_BY\\_Resource\\_PA\\_Legal\\_Foundations\\_Pt\\_1\\_Final\\_508.pdf](https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/07/DETAC_BY_Resource_PA_Legal_Foundations_Pt_1_Final_508.pdf)

43. Smith, T. J., et al. (2019). "Achieving competitive, customized employment through specialized services (ACCESS)." Journal of Vocational Rehabilitation 50: 249-258.

44. State of Oregon (2015) Executive Order No. 15-01. Providing Employment Services To Individuals With Intellectual And Developmental Disabilities [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_15\\_01.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_15_01.pdf)

45. Stockton H. (2014) Vermont closed workshops for people with disabilities; what happened next? Sept 24, 2014. Pittsburgh, PA: Public Source. Retrieved from: <https://www.publicsource.org/vermont-closed-workshops-for-people-with-disabilities-what-happened-next/#.VKbwlnkcQdX>

46. Svidron, L. M. (2021). "Entrepreneurship as an employment option for people with disabilities: Adding information to your job development toolkit." Journal of Vocational Rehabilitation 54: 285-288.

47. Taylor, J.; Avellone, L.; Brooke, V.; Wehman, P.; Inge, K.; Schall, C., & Iwanaga, K. (2021). The impact of competitive integrated employment on economic, psychological, and physical health outcomes for individuals with intellectual and developmental disabilities. *Journal of Applied Research in Intellectual Disabilities*,

48. Taylor, J., et al. (2021). "Cost-benefit analyses of employment services for individuals with intellectual and developmental disabilities: A scoping review." Journal of Vocational Rehabilitation 54: 193-206.

49. TennCare. (n.d.). TennCare's culture and system transformation initiative. <https://www.tn.gov/content/dam/tn/tenncare/documents/LTSSSystemTransformationOnePager.pdf>

50. Tucker, K., et al. (2017). "Improving competitive integrated employment for youth and young adults with disabilities: Findings from an evaluation of eight Partnerships in Employment Systems Change Projects." Journal of Vocational Rehabilitation 47: 277-294.

51. Umkehrer, M. and P. vom Berge (2020). "Evaluating the Minimum-Wage Exemption of the Long-Term Unemployed in Germany." ILR Review 73(5): 1095-1118.

52. Virginia Commonwealth University (2022). Disability and Rehabilitation Research Project on Customized Employment. Available at: <https://drrp.vcurrvc.org/index.cfm>

53. Wehman, P., et al. (2020). "Competitive Employment for Transition-Aged Youth with Significant Impact from Autism: A Multi-site Randomized Clinical Trial." Journal of Autism and Developmental Disorders 50(6): 1882-1897

54. Wehman, P., et al. (2018). "Toward Competitive Employment for Persons with Intellectual and Developmental Disabilities: What Progress Have We Made and Where Do We Need to Go." Research and Practice for Persons with Severe Disabilities: 1540796918777730.

55. Winsor, J., Timmons, J., Butterworth, J., Migliore, A., Domin, D., Shepard, J., & Zalewska, A. (2022). *StateData: The national report on employment services and outcomes*. Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

56. Winsor, J., Timmons, J., Butterworth, J., Migliore, A., Domin, D., Zalewska, A., & Shepard, J., (2021). *StateData: The national report on employment services and outcomes through 2018*. Institute for Community Inclusion, University of Massachusetts Boston. [https://www.statedata.info/sites/statedata.info/files/files/state\\_data\\_2021\\_F%5B3%5D.pdf](https://www.statedata.info/sites/statedata.info/files/files/state_data_2021_F%5B3%5D.pdf)

57. Winsor, J., Landa, C., Hall, A., & Narby, C. (2020). Pushing the integrated employment agenda: A case study of Oklahoma's high-performing employment system. *Bringing Employment First to Scale*, Issue 22. Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

58. Winsor, J., Lyons, O., Butterworth, J., & Kennedy-Lizotte, R. (2017). "A systematic approach to revising Florida's integrated employment funding system." Prepared for Florida Developmental Disabilities Council. Institute for Community Inclusion and the National Association of State Directors of Developmental Disabilities Services.

59. Workforce Innovation and Opportunity Act, Public Law 113–128. Available at: <https://www.govinfo.gov/content/pkg/PLAW-113publ128/pdf/PLAW-113publ128.pdf>

60. Yin, N. & Heiland, F. (2021). "Do Disability Policies Shape How People Perceive Work Limitation? An International Perspective." Journal of Disability Policy Studies.