Capacity Building Subcommittee Chapter

Background

The Capacity Building Subcommittee is one of four created by the full ACICIEID committee to examine and make recommendations concerning competitive integrated employment (CIE). The charge of the Subcommittee was to focus on what needs to be done to build systemic and professional capacity for increasing CIE for individuals with intellectual/developmental disabilities (I/DD) and other significant disabilities. Participation in each Subcommittee was by member preference. This Subcommittee was thus constituted by those who chose to work on this issue and included Cesilee Coulson (Subcommittee Chair), Janet LaBreck, Rita Landgraf, Christine McMahon, and Brian Itzkowitz.

The Subcommittee, during several working sessions, subsequently organized its work around three sub-themes: service culture, service delivery, and organizational and professional development.[1] Service culture refers to how the service system is structured, the expectations it creates, and how it helps or hinders the pursuit of competitive integrated employment. Service delivery is the resultant impact of state and federal policies related to employment services for individuals with significant disabilities. Organizational and professional development refers to what happens or needs to happen to create local capacity for the delivery of services that feature competitive integrated employment. The Subcommittee also identified the use of data to inform and drive optimum service delivery as an important theme that is interwoven into the three selected main sub-themes.

The next section of this chapter provides a summary of the findings and conclusions related to building systemic capacity for delivering services which result in competitive integrated employment. Following a general overview, the section presents the findings and conclusions for each sub-theme identified above. The final section of the chapter contains the Subcommittee's resultant recommendations for increasing services leading to, and outcomes for, competitive integrated employment for individuals with significant disabilities.

Findings and Conclusions

Participation in competitive integrated employment has historically been low and remains so for individuals with significant disability. For example, the most recent comprehensive report on employment services and outcomes indicates that only about 18% of individuals served through programs funded by state I/DD service systems are participating in integrated employment

[1] The Subcommittee met a total of seven times: April 14, May 1, May 8, May 20, May 26, June 8 and June 18, 2015.

(Butterworth, et al., 2014). The remainder is primarily served in either center-based employment or in facility-based non-work programs, with a growing percentage in community-based non-work programs. According to this report, the employment participation rate is relatively unchanged over the past decade as center-based employment and non-work activity remain the predominant service option for individuals with I/DD. In fact, in recent years the rate of entry into center-based work exceeds that of integrated employment. Further, more often than not, those who are employed work limited hours, earning low wages (Human Services Research Institute, 2012).

A recent study, analyzing the National Longitudinal Transition Study 2 data base that included a large percentage of students with intellectual and multiple disabilities, found that only 26% of these youth and young adults were reported to be employed two years after high school Wagner, et al., 2006). This report does not differentiate the type of employment achieved by these individuals and therefore includes those employed in congregate settings earning below the minimum wage. State Vocational Rehabilitation systems have similarly achieved variable results for individuals with I/DD served by those programs. Although individuals with I/DD achieve a rehabilitation rate – that is, the percent who apply for services who achieve employment as a result of the services - comparable to people with other disabilities, they work fewer hours and earn lower wages (Butterworth, et al., 2014). Further, this rate varies greatly from state to state, suggesting a less than uniform approach to facilitating employment for this group.

Although individuals with I/DD as a group have the lowest employment participation rates compared to other disabilities, the employment participation rates of individuals with other significant disabilities is also considered unacceptably low. For example, individuals served by public mental health systems are reported to be unemployed at three times that of the general population (Lutterman, 2013) and are the largest and fastest growing group of public disability income beneficiaries (Drake, et al., 2009).

For people with I/DD or other significant disabilities, center-based employment, also called sheltered workshops, have widely been used as a place where alternative vocational services could be available for those deemed as either unemployable in competitive integrated employment, or as needing training to prepare them for eventual competitive integrated employment in their communities. For the past several decades, sheltered workshops have continued to operate as facility-based vocational service programs attended by adults with disabilities thought to be unable to achieve competitive integrated employment outcomes. Center-based employment characteristically offer opportunities for simple work activities such as assembling, packaging, and light manufacturing for which individuals are paid a wage meant to be commensurate with productivity. The commensurate wage for most center-based employment workers is substantially below minimum wage (Cimera, 2011), as currently allowable under the Fair Labor Standards Act (PL 75-718), Section 14(c). Based on data from the U.S. Department

of Labor Wage and Hour Division, in 2010, there were approximately 3,300 entities in the United States that hold 14(c) certificates (www.dol.gov/whd/specialemployment). The actual number of individuals being paid subminimum wage is more difficult to determine since that data is not tracked by the Department of Labor. The most recent federal analysis was conducted in 2001 when the Government Accountability Office (GAO) estimated that 424,000 individuals were being paid subminimum wage. It is unknown how closely the current number of individuals paid subminimum wage approximates this finding but, given the previously cited Butterworth, et al. (2014) study about the growth of individuals in center-based employment, this number it is likely to have grown accordingly since the GAO study.

These circumstances have created a service culture characterized by low employment expectations and a service delivery system that often perpetuates these expectations. However, a significant number of people want to work in competitive integrated employment but lack the opportunity as the current service structure does not readily support it (Migliori, et al., 2008). Poverty and limited financial resources are the result. Changing the conditions under which more competitive integrated employment is both expected and supported by education and by the employment service delivery system will require a particular focus on re-building capacity at several levels. There needs to be a change in the service culture, the way services are provided, and the development and preparation of those agencies and professionals who deliver these services. Each of these will be addressed in the subsequent sections.

Service Culture

The current circumstances are an indication that the existing service culture can be a contributing factor to historically low employment expectations as well as simultaneous, and perhaps inadvertently, a perpetuator of these low expectations. In other words, the fact, for example, that most of the individuals with I/DD and other significant disabilities who are served by the I/DD system are in some type of center-based or facility-based environment suggests a systemic belief that not much else is possible, except for a relatively small minority of persons served. At the same time, these services, which primarily offer an accompanying subminimum wage when work is available, have often led to the conclusion that this type of work and/or productivity is the most that can be expected. In fact, less than 4% of individuals served in sheltered workshops move into jobs in the regular labor market (Rogan & Rinne, 2011). Consequently, sheltered workshops represent places that, at best, only promote a state of "perpetual readiness" for work, but rarely lead to actual employment in workplaces outside of the workshop (Murphy & Rogan, 1996; Wehman, Inge, Revell & Brooke, 2006).

In order to alter these circumstances, the service culture will need to emphasize the expectation of employment, and its ability to create independence and financial self-sufficiency, throughout the life span. The presumption of employability is a prominent underpinning of current

"Employment First" initiatives. These are grassroots initiatives to promote the adoption by states of community-based, competitive integrated employment as the first option for employment services for youth and adults with significant disabilities. However, the Employment First movement does not impose any mandate about competitive integrated employment. Nor does it require any specific action to invest in building community employment services or minimize the use of sheltered employment. States and employment service providers can adopt its tenets, or not, at their choosing. However, at its core, this movement represents an emerging catalyst for further promoting the notion of presumed employability and complementing the push for ever stronger legislative and policy support of integrated employment. In some cases, these policies focus exclusively on individuals with intellectual and developmental disabilities. In others, they are cross-disability. What they all have in common is an overt recognition that competitive integrated employment is a worthwhile, and achievable, goal for individuals considered to have significant disability.

Significantly, presumed employability of individuals with significant disabilities has received progressively strong emphasis in federal legislation over the years. For example, since 1973 the various Rehabilitation Act Amendments, including those contained in the Workforce Investment Act of 1998 have emphasized service priority in the State VR system to those considered to have "severe" disabilities and prohibited the use of disability severity as a disqualifier for services. Most recently, provisions included in the Workforce Innovation and Opportunity Act (WIOA) make access to sheltered employment and receipt of subminimum wages more difficult for youth and adults with significant disabilities[2]. Likewise, the Individuals with Disabilities Education Improvement Act of 2004 reflects an increasing emphasis on planning for post-school life and on education services that lead to optimal post-school outcomes, including employment. However, services have been historically funded and structured for youth and adults with significant disabilities, albeit unintentionally, to do much the opposite. For example, the Medicaid system allocates $7.8 billion to services that primarily support segregated non-work service options, compared to the $3.1 billion (with an additional $27.5 million in supported employment state grant funding) that is allocated to the entire national VR system (DOE Budget Tables, 2015). The resulting current system is heavily entrenched and weighted in favor of segregated services, creating a longstanding service culture of low expectations for the achievement of competitive integrated employment.

Compounding this situation is the fact that disability-specific service delivery systems have historically functioned in a manner separate from other, generic, systems such as American Job Centers (AJCs) organized through the WIOA and administered through the US Department of

[2] Section 511 of WIOA requires a series of steps before an individual under the age of 24 can be placed in a job paying less than minimum wage. It also prohibits schools from contracting with a sub-minimum wage provider.

Labor. There have been initiatives to increase the participation of people with disabilities in AJCs such as the Disability Employment Initiative (jointly administered by the Employment and Training Administration and the Office of disability Employment Policy) and the ODEP-administered Customized Employment grants. They represent a policy intent to increase available integrated employment services, and therefore expectations, for individuals with disabilities. The ultimate impact of AJCs services on systemic improvement of competitive integrated employment is hopeful, but as yet not determined.

There are additional pockets of activity that reflect changing expectations. For example, New Hampshire House of Representatives passed SB 47 on April 15, 2015, becoming the first state in the country to prohibit employers from paying persons with disabilities less than the state minimum wage simply because they have a disability. Vermont closed all of its sheltered workshops by 2002. There are also no small group enclaves in the state, and the average wage for a person with I/DD is above minimum wage. In Rhode Island, a settlement with the U.S. Department of Justice intends to end segregated service options for individuals with I/DD by 2022. Similarly, a 2011 Settlement Agreement between the state of Delaware and the USDOJ highlights the advancement of access to employment for individuals with serious persistent mental illness. Other states are in various stages of similar activities to insure access to competitive integrated employment by individuals with significant disabilities.

Although these activities reflect changing expectations for the impact of service delivery, the longstanding heavy investment in sheltered programs and facilities will be difficult to dismantle without service system alignment and considerable technical assistance to those organizations and professionals involved in current service delivery. There is a need to align multiple service systems so that resources can be applied to maximize impact on competitive integrated employment outcomes as discussed in the next topic area.

Service Delivery System

Despite the fact that presumed employability is implicit in relevant federal legislation, the delivery of services and the associated policy still make it difficult to implement services across the board that will support this notion. Since there is no universal legislative mandate to require integrated over segregated employment or non-employment activities, only a handful of states currently prioritize their funding for competitive integrated employment (Kiernan, Hoff, Freeze & Mank, 2011). State and federal policy and funding realignment will be necessary to help people with disabilities achieve competitive integrated employment because States do not have consistent policies about promoting competitive integrated employment.

The service delivery systems in question include not only disability-specific systems but also the mainstream systems that are increasingly opening their doors to individuals with the full range of

disabilities. Thus the needed alignment and capacity building cuts across not only disability-specific systems such as early intervention, special education, vocational rehabilitation, mental health and Medicaid, but also the public Workforce Development System through AJCs, the mainstream education and higher education systems, programs funded through activities of the Department of Commerce and Small Business Administration, and others.

In effect, competitive integrated employment has not become a public policy/funding priority despite research that sheltered workshops cost more and produce poorer outcomes that competitive integrated employment (Cimera, 2010). Recognizing that there is considerable inconsistency in how data is collected, especially in the Centers for Medicare and Medicaid Services (CMS) Waiver system, existing data nevertheless documents wide variability among states in services resulting in any type of non-segregated employment, ranging from 10% of those in one state receiving these services who earn wages from a competitive integrated job (however differently "integrated" is defined among states – see below for discussion on service definitions) to over 60% in another state (Butterworth, et al., 2014).

These results reflect local and state funding structures that are widely inconsistent. Rates that cover various forms of "vocational" service categories under the CMS Home and Community-based Services (HCBS) Waiver vary across states. The disability-specific systems often align their policy and funding in ways that may unintentionally support segregation over integration. For example, a provider may be reimbursed at a higher rate for a group-based placement than for individualized supported or customized employment, thus encouraging group-based outcomes such as sheltered workshops. Typically, service in segregated settings is funded at a higher rate than services intended to result in competitive integrated employment. Some states pay service providers for a unit of service by the hour, others by the day. Some states pay by service benchmarks, e.g., completing a job development plan, and others pay a flat rate for any service delivered in a time increment such as an hour or a day. Finally, as previously indicated, in many states the reimbursement rates make it more economically advantageous for service providers to serve people in groups rather than individually, even though the service is counted as integrated employment.

A major part of the service picture is that CMS, the biggest funder of services for people with significant disabilities, pays for a service, not the outcome. Under the CMS HCBS Waiver program, each state receives its allocation after submitting a plan how they will provide long-term care services in home and community settings rather than in institutional settings. CMS does not pay for services that focus exclusively on the outcome of integrated employment. Although day services and supported employment are among those services allowable under the CMS Medicaid Waiver program, notably absent is any expectations that these services will result in any specific quantifiable outcome other than non-institutional service.

One consequence of the CMS system is that data collected by each state agency is not necessarily compatible with one another. Each state, through its state HCBS Waiver plan, tracks services differently. There is no consistent way that states report aggregated service delivery and employment outcomes. For example, some states track aggregate employment data based on reported monthly earnings, others aggregate and report bi-weekly earnings. In addition, there are inconsistencies in the way states define and track integrated employment. Some count individual competitive jobs, group integrated jobs, self-employment, and contract employment as "integrated employment." Others define these categories differently and/or and count various combinations of them as "integrated employment." Consequently, CMS does not have a standard data collection system to track employment.

Conversely, the federal VR system requires states to collect and manage service and outcome data so that it can be documented into the federal RSA 911 system. In this way, it is possible to identify and compare the specific outcomes generated by the VR systems in each state. However, this does not align with how data is collected by CMS, which does not include universal data collection on employment outcomes, making it difficult to jointly align these federal agencies to jointly promote competitive integrated employment. Among other things, the different Medicaid and VR accountability systems make collaboration difficult for achieving common outcomes for jointly served individuals.

Accurate, concise, and quality data is necessary to determine both system effectiveness and policy/practice development. Without it, service is less driven by the use of good data than it is by suppositions and myths about what works and what does not. A consistent data system does not currently exist that provides longitudinal information across systems and that track participation in competitive integrated employment services and the result of that service.

The resulting service system is a mix of different services that include center-based, or sheltered, employment, facility based day services, non-facility based day services, supported or customized employment, and group employment under the Ability One ® program. Some people exclusively receive one of these services, others receive various combinations of these services. Too often, competitive integrated employment is significantly less available than segregated service options.

Even when services are provided which are intended to result in competitive integrated employment, Evidence Based Practice (EBP) is not always the basis for how service delivery is designed and implemented. For example, there is considerable research support for experience in community-based workplaces performing actual work tasks as a tool for exposing individuals to career and employment options and as a way of determining work preferences and teaching work skills (Carter, et al., 2013, Gold, et al., 2014). However, this EBP strategy is inconsistently applied, or alternative and ineffective strategies are employed, compounding the particular

ongoing challenge for service providers to successfully engage employers who might hire individuals with significant disabilities (Luecking, 2011). These circumstances point to an obvious need to elevate the skills of practitioners in the field who are supporting individuals with significant disabilities to seek and obtain integrated employment.

There is already evidence that lack of system capacity to provide services that lead to competitive integrated employment will result in more people enrolled in non-work day activity programs if sheltered workshops are closed (Butterworth, et al., 2014). In order to move the service delivery system so that it more universally promotes competitive integrated employment, the Subcommittee felt that Federal, State and local policy should be underpinned by presumed employability for youth and adults with significant disabilities and needs to be aligned with the following general goals: 1) build leadership in systems and organizations committed to competitive integrated employment, 2) create, enhance and/or realign existing infrastructure funding across systems to favor community integrated employment, 3) prioritize, measure and reimburse for service strategies that result in competitive integrated employment, such as supported and customized employment, and 4) prioritize and fund both staff development (pre-service and in-service) and technical assistance.

Organizational and Professional Development

Changing the circumstances that currently favor segregated services over integrated services and outcomes will require not only a significant change in the management and delivery of a service, but also the way in which organizations are staffed and structured. For staff, there are currently few postsecondary education offerings that emphasize development of disability employment program support professionals, and there are no universally applied standards regarding the hiring and training of staff. There are certifications available, such as through the Association for Persons Supporting Employment First (APSE) and the Association of Community Rehabilitation Educators (ACRE). There is also a comprehensive Customized Employment Competency Model that identifies knowledge, skills and abilities relevant to practitioners who are in a position to support individuals with significant disabilities pursue customized jobs in competitive integrated work settings (see www.dol.gov/odep/topics/CustomizedEmployment). There are also multiple in-service training opportunities on related topics provided by private and public entities, including but not limited to certifications offered through Marc Gold and Associates and Griffin-Hammis & Associates. No entities that fund employment services requires that staff, hired to support individuals with significant disabilities to secure and maintain integrated competitive employment, obtain specific credentials related to their capacity to provide this support. While states often require organizational certification that includes licensure, certification and training standards, and VR counselors have available formal pre- and in-service professional development on a host of topics related to VR services and practice, specific training in competitive integrated employment is not universally available. Further, the training for special

education professionals preparing students with significant disabilities for the transition from school to adult life does not typically include training in community integrated employment strategies (Morningstar & Benitez, 2013). As a result, local and state capacity is currently insufficient to meet an increased demand for competitive integrated employment.

Likewise, the community organizations which employ these practitioners and which are contractors for Medicaid waiver, VR, and other public funds reflect a range of capacity to provide competitive integrated employment. Butterworth, et al, (2014) report that there are pockets in many states where there are organizations only providing CIE. There are an unknown, but likely a relatively small number of organizations that have transformed their services from entirely sheltered, non-integrated employment entirely competitive integrated employment. However, the service system is represented by a large number of providers which either exclusively provide sheltered, non-integrated employment services or provide primarily sheltered, non-integrated employment, services along with a smaller competitive integrated employment service component. For these latter organizations, a major shift to competitive integrated employment services would require considerable technical assistance and re-directed funding streams to transform their operational structures.

Thus, assuming funding and policy support of increased community integrated employment, several major areas of focus would be required to build the capacity of local service providers and practitioners:

1. Structural transformation of organizations which provide employment services, including leadership development, business management models, and staff training and deployment strategies. Especially for the over 3,000 organizations which are heavily invested in providing subminimum wage employment, they would essentially need to learn how to manage and deliver a whole different set of services
2. Training and technical assistance needs to be made more readily available for local field staff who are responsible for supporting individuals to pursue competitive integrated employment, including how to recruit and negotiate with employers.
3. Both preservice and in-service training of teachers must result in understanding and strategies that lead to youth transitioning from school into post-school activities that ultimately lead to competitive integrated employment.

Capacity Building Subcommittee Preliminary Recommendations

The Subcommittee on Capacity Building has concluded that in order to promote increased competitive integrated employment there need to be new ways to pay for services, new ways to account for and track these services and, new ways of preparing organizations and staff to provide these services. To that end, these specific recommendations are offered:

1. CMS should expand the use of the HCBS Waiver funds, now used for facility-based services, for competitive integrated employment services by changing the State match rate to be the same as that for the State VR program, thus providing an incentive for states to prioritize competitive integrated employment outcomes.
2. CMS should adopt a standard system of publicly reporting employment outcomes, including competitive integrated employment, using a clear definition for competitive integrated employment that also includes hours worked, wages and level of integration.
3. Federal agencies that have programs related to providing employment services to individuals with significant disabilities, including CMS and the six core programs covered under WOIA (including VR), should identify common data collection points across federal agencies and establish systems to share data across programs.
4. Working with service providers, Federal, State and local service infrastructures should promote and fund innovative projects that result in the modernization and standardization of services that result in competitive integrated employment, new programs within existing organizations, and new organizations that provide only services leading to competitive integrated employment.
5. CMS and VR, and the designated IDD and VR agencies in each state, should support professional development that includes the development of organizational leaders, program managers, and professional employment staff who focus on competitive integrated employment.
6. Designated State VR and IDD agencies should develop State/local standards or adopt national standards of professional competence in providing services leading to competitive integrated employment.
7. Designated State VR and IDD agencies should support program transition away from sheltered employment settings and into competitive integrated employment settings.

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