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Transformation of Center-based Work into Integrated Opportunities for People with Disabilities in New York:

Analysis and Recommendations for Center-Based Employers

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Funded by New York Makes Work Pay Project, a Comprehensive Employment Services Medicaid Infrastructure Grant funded by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to the New York State Office of Mental Health (OMH) and its management partners the Blatt Institute at Syracuse University and the Employment and Disability Institute (EDI) at Cornell University.

Executive Summary

This paper examines the rationale for work centers (or sheltered workshops) as places of employment for people with disabilities in New York State and the factors influencing the agencies that operate them as they are transformed into more integrated employment options. As people with disabilities, their families and advocates, and the public and private agencies that serve them increasingly promote the value and necessity of integrated rather than segregated work, agencies operating work centers are exploring ways to address the organizational, funding and services issues that affect transformation. As other states have found, transformation is not an easy process. Transformation necessarily means changing longstanding attitudes and habits, addressing internal issues of organization, staff, and financing, navigating conflicting state laws, and ensuring that the people who depend upon their daily work center routines are not disadvantaged while the transformation is in process. After examining the historical and present-day rationale for work centers and the research that presents integrated work as a preferred alternative to segregated jobs, this paper concludes with a number of recommendations that New York State agencies can consider as they embark on the transformation process. These recommendations are summarized below and described in more detail within the paper:

- Shift attitudes, beliefs and expectations among consumers, families, staff, employers
- Create alternative organizational and agency financing structures supporting integrated employment
- Leverage external resources, including federal resources, that sustain integrated work opportunities
- Address public entitlements and benefits issues for consumers making the transition
- Work with Vocational Rehabilitation, New York State Office of Mental Health, New York State Office for People with Developmental Disabilities, and Department of Labor and other partners including consumers, families and employers to develop, implement and manage the transformation process
- Focus on jobs that provide a living wage in preference to those that provide sub-minimum wages
- Develop self-employment and cooperatively owned business alternatives
- Utilize affirmative action requirements to facilitate competitive job opportunities

Beginning in January 2009, New York State implemented a comprehensive and integrated scheme of services, trainings, and technical assistance throughout the state to improve wage and self-employment outcomes for New Yorkers with disabilities using resources provided by the Center for Medicaid Services (CMS) through its Comprehensive Employment System Medicaid Infrastructure Grant (MIG) program—"New York Makes Work Pay" (NYMWP). NYMWP is led by the New York State Office of Mental Health (OMH) acting on behalf of the state's Most Integrated Settings Coordinating Council (MISCC) with implementation

provided by the Syracuse University Burton Blatt Institute (BBI) and the Cornell University Employment and Disability Institute (EDI). NYMWP is intended to address the well-recognized need to promote increased economic independence and community-based employment and services for this population consistent with the Americans with Disabilities Act (ADA) and the mandate of *Olmstead v. L.C.* to serve people in the most integrated setting.

A key component of New York Makes Work Pay is the use of best and promising practices to enable more people with disabilities to make a successful transition from unemployment or under-employment, or center-based and other segregated employment programs, into an array of integrated employment options at wages at least equaling the Federal Minimum Wage. Additional components include developing and implementing improved employment and entrepreneurship policies and practices, improving the availability and use of work incentives and improved economic self-reliance through asset accumulation. The intent of these activities is to make dramatic improvements in the rate of integrated employment or entrepreneurship for New Yorkers with disabilities. In order to achieve this goal, NYMWP and New York State disability services agencies are reexamining work centers based upon these essential criteria:

- Do work centers help or hinder people with disabilities from obtaining competitive employment commensurate with their skills, abilities, talents, hopes and aspirations?
- What services redesign must take place to enable more people with disabilities to choose competitive jobs or self-employment rather than working in work centers?
- How do agencies operating work centers need to redesign their structure, train or re-train staff and/or develop the capacity necessary to make the successful shift from segregated to integrated employment services?
- Do the dynamics of transformation allow for intermediary options for individuals; that is, creating transitional services like social enterprises or cooperatively owned business ventures that achieve integration objectives?

Many center-based employers in New York and elsewhere have made the decision to transform their centers into services that support more integrated employment.¹ Some New York State agencies, particularly the NYS Office of Mental Health (NYSOMH), are engaged in a process of shifting resources from segregated to integrated competitive employment. They, like the people with disabilities they serve, believe that integrated wage or self-employment is necessary, essential and possible for many more people served presently in work centers than the modest numbers currently making the transition. This effort is informed by research indicating that a person-centered planning process customized to the needs of each individual will dramatically increase the number of workers with disabilities who can perform the essential functions of a job with reasonable accommodations. This paper is intended to provide background and guidance to agencies operating work centers to transform these services into competitive, integrated wage and entrepreneurship alternatives.

¹ Fesko, S.L., Butterworth, J. Eds., *Conversion to Integrated Employment: Case Studies of Organizational Change, Volume 3*. Boston, MA: Institute for Community Inclusion, Children's Hospital (2001).

Most New York State community rehabilitation agencies operating work centers are interested and willing to shift resources towards integrated employment. Through partnerships, use of evidence-based and promising practices, financial incentives and technical assistance throughout the process, it is very possible that work center transformation can occur rapidly in New York State while doing no harm to those whose transition from segregated to integrated jobs may move at a slower pace. The paper is organized as follows:

Part I. A. provides a historical context for the development of work centers and other forms of segregated employment.

Part I. B. briefly reviews the rationale for the creation of segregated employment programs.

Part I. C. summarizes some of the key operational elements of the programs as well as the present status of center-based employment services and sub-minimum wages in New York State

Part II. A. presents an overview of the research and compelling reasons to support work center transformation.

Part II. B. identifies a number of attitudinal factors that challenge the transformation of work centers in New York State and in other states

Part III. contains charts that describe the primary barriers to be considered at the individual, agency and systems levels in order to implement the recommendations presented in Part II. These charts also include practical recommendations that can be explored and adopted to address each identified barrier and their implications. This section concludes with a chart providing brief descriptions of many of the integrated employment options that might be considered as alternatives to segregated work.

Part IV. contains lists of resources and citations used throughout the paper.

PART I. Background

A. Historical Context for the Creation of Work Centers and other Segregated Employment Programs

Why segregated employment?

The history of employment of people with disabilities goes back to the late 1800s.² In New York, the Bronx was the site of a documented workshop for individuals with tuberculosis,

² *Sheltered Employment and the Second Generation Workshop*, Journal of Rehabilitation, (Jan-March 1993).

which attempted to “rehabilitate” them in a work setting.³ This enterprise, in part, offered protection and nurturing as it was operated by medical nurses. Asylums were built across New York State as self-contained communities, with patient censuses in the thousands. The concept of a ‘work-ordered day’ was seen as providing therapeutic value for inpatients who worked without wage to raise livestock, repair shoes, tend the grounds and perform other tasks in return for tokens or coupons they could exchange for items at the facility’s ‘community store.’ Throughout the first half of the 20th century these work programs also offered training in food preparation, clerical, janitorial and maintenance services, and wood and machine shop skills to persons with increasingly diverse disabilities.⁴

As the Community Support movement and deinstitutionalization took hold in the 1960s, the concept and practices of center-based employment followed people even after discharge with the development of what became more widely known as “community workshops” or “sheltered workshops.” In the meantime, people with disabilities who could not be discharged from state facilities continued to work in center-based settings or at service-sector jobs primarily for sub-minimum wages, a practice that continues today. The U.S. Department of Labor revised its regulations under the FLSA, however, making token, scrip and coupon based payment unlawful, and began requiring payment of cash wages.⁵ Not all individuals in these centers were able to reach the optimum productivity levels, and thus legislation and policies such as Section 14(c) evolved. Over time, workshops came to be known more commonly as “work centers” and, more recently, as center-based employment opportunities.⁶

B. Rationale for the Creation of Work Centers and other Segregated Employment Programs

Like the institution-based work therapy programs that preceded them, the philosophy behind center-based work opportunities operated by not-for-profit community rehabilitation programs has been to recognize the inherent value of work and the tangible and intangible advantages that are imparted through work. In *Closing the Shop* (1995), Murphy and Rogan examined the rationale for creating segregated employment programs:

Shelter: Workshops and other segregated employment programs were developed and promulgated based upon the premise that some people with disabilities possess impairments that are so severe as to make work in the community impossible. Recognizing that work provides therapeutic benefit, workshops provide a place where individuals with dis-

³ Schwartz, B., & Zelfas, I., *Rehabilitation nursing in a sheltered workshop*. 59(10) *American Journal of Nursing* (1959), retrieved from <http://www.jstor.org/pss/3418028>.

⁴ Northeast Career Planning, *Our History*. The agency continues to this day and is, in fact, one of several agencies with center-based work programs that are affiliated with NYSRA, retrieved from <http://northeastcareer.org/History.html>.

⁵ 32 Fed. Reg. 13575, 13,578 (Sep. 28, 1967); 29 C.F.R. § 531.34 (2010).

⁶ Wise, Jeffrey, JD, CEO of NYSRA/RRTI, 2010 *Employment, Careers, Opportunities: Navigating the Policies and Factors of Change* viewable at www.nyrehab.org.

abilities are exposed to the demands of work, receive some remuneration for work performed, and offer a protective environment with flexible performance standards.

Vocational Readiness: Sheltered work was, and is, seen as part of a continuum of services that provides work readiness training and soft and hard skills development, enabling individuals to successfully transition into competitive jobs once these skills have been demonstrated. As people master tasks, they progress through a number of levels of increased responsibility in the work center, more independence and in many cases, higher wages. At the end of the continuum, when the job-seeker ideally has all of the skills necessary to succeed in integrated competitive employment, lies the step to competitive work.

Vocational Choices: Work centers and other forms of segregated employment have been rationalized as not only places to work on a daily basis but places where people with disabilities can develop friendships and socialize – an option seen as not always available in competitive employment. Proponents argue that work centers fill a need for many people with disabilities and that they should have the ability and opportunities to choose whether to work in a work center or in a community integrated setting. Proponents of not-for-profit community rehabilitation programs in New York argue they provide services—within the constraints of existing systems—tailored to the distinct needs and wishes of individuals. They indicate that when desires, choice and independence are accommodated and encouraged, increased opportunities for community involvement are fostered. They conclude that center-based work presents an option for some individuals, who otherwise would find themselves excluded from work opportunities and associated benefits. In New York, community rehabilitation providers have expressed their belief that the widest range of work opportunities must be available if the field is going to be responsive to the needs of all people with disabilities based upon their preferences and choices.

C. Key Operational Elements of Work Centers

Authority to pay sub-minimum wages

Work centers and other segregated employment programs are authorized to pay subminimum wages pursuant to Section 14(c) of the FLSA. Although this federal statute permits wages to be paid at less than the minimum wage, not all center-based employment programs pay subminimum wages. Thus, workers in center-based settings may be paid less than the federal minimum wage, above the federal minimum wage but less than the prevailing wage, or at or above the prevailing wage, etc. Proponents of Section 14(c) argue it is intended to prevent the curtailment of opportunities for employment by providing employers, including community rehabilitation programs, with the flexibility to employ hundreds of thousands of individuals who might otherwise not enjoy the benefits of work.⁷

New York State has its own version of Section 14(c)—N.Y. Labor Law §655(5)(c). This grants authority to the Wage Board to recommend special wages for “the employment of indi-

⁷ Wise, Jeffrey, JD, CEO of NYSRA/RTTI, 2010 *Employment, Careers, Opportunities: Navigating the Policies and Factors of Change* viewable at www.nyrehab.org.

viduals whose earning capacity is affected or impaired by ... physical or mental deficiency or injury, under special certificates issued by the commissioner, at such wages lower than the minimum wage”⁸ Minimum Wage Order, §142-3.12(c)(12) provides that subminimum wage permission to nonprofits only. According to the U.S. Department of Labor’s Wage and Hour Division (2010), presently there are 153 special minimum wage certificates held by agencies supporting persons with disabilities in New York State. The majority (100) are held by private not-for-profit organizations such as Goodwill Industries, incorporated chapters of NYSARC, and Mount Sinai Hospital. Forty-eight are held by public (state and local government) entities such as the Rochester Psychiatric Center and regional Developmental Disabilities Services Offices. Five certificates are held by private for-profit companies like the Center for Disability Services in Albany and Upscale Cleaning Service in Hempstead. Data are not available for the number of persons with disabilities receiving a subminimum wage in New York from these 153 center-based employers.⁹

Sources of business-related revenue

State and local governmental units can use preferred source/set-aside purchasing provisions contained in the NYS Finance Law to support costs associated with work center wage and operating expenses. These preferential purchasing statutes favor state and local government purchases from vendors whose workforces are composed of special populations, including individuals who are blind, have other disabilities, have veteran status, or are in the correctional services system.¹⁰ New York’s preferred source activities are overseen by a State Procurement Council. Among the providers that are involved in the provision of commodities and services are New York State Industries for the Disabled, Inc. (NYSID); and Industries for the Blind of New York State, Inc. and programs operated by the NYS Office of Mental Health (“BUY OMH”).¹¹

Community rehabilitation programs operating work centers across the state have been active with NYSID for more than three decades. NYSID assists agencies in procuring contracts with state and local governments that involve the provision of services to state government subdivisions through the preferred source process and governed by Article 11 of the State Finance Law. The amount of this preferred source activity is not insignificant; for the year 2008, NYSID worked with community rehabilitation programs on 1,327 contracts that involved 7,385 total jobs, 3,653,406 hours worked, and wages of just less than \$41 million.¹² At the federal level, procurement services are overseen by an organization that has been in existence for some time. Created in 1974, NISH is one of the two agencies (the other being National Industries for the Blind) recognized by the federal Commit-

⁸ N.Y. Lab. L. §655(5)(c)(2) (West 2010).

⁹ U.S. Dept. of Labor, Wage & Hour Division. *List of business certificate holders and school work experience programs* (2010), retrieved from [http://www.dol.gov/whd/specialemployment/sweplist.htm](http://www.dol.gov/whd/specialemloyment/sweplist.htm).

¹⁰ N.Y. State Fin. L. §§162(1)-(2), 163(West 2010).

¹¹ NYS Finance Law Article XI-State Purchasing; Sections 160-162.

¹² N.Y. State Industries for the Disabled, Inc. *NYSID 2009 Annual Report* (2009), retrieved from <http://www.nysid.org/documents/AnnualRpt09.pdf>.

tee for Purchase From People Who are Blind or Have Severe Disabilities in the preferred source program governed by what is now known as the AbilityOne program.¹³ Today, by providing employment opportunities to more than 40,000 people, the AbilityOne Program is the largest single source of employment for people who are blind or have other severe disabilities in the United States. More than 600 participating nonprofit organizations employ these individuals and provide goods and services to the federal government.¹⁴ Work centers also provide products and services for sale to the general public or act as suppliers to private businesses. Many, if not most, have staff that is expert in procuring contracts, marketing and managing the workforce, work flow and contract commitments.

Some agencies have sought to create Affirmative Businesses that occupy an intermediary position between work centers, which pay subminimum (or above minimum) wages and employ only those with disabilities, and integrated competitive employment. Affirmative businesses are intended to provide training and employment to people with disabilities in small business settings.¹⁵ Often used as an alternative to center-based employment programs, affirmative businesses are generally operated as non-profits, and compete fairly based upon relative price and quality with other businesses in the marketplace. Affirmative businesses have a social purpose, and may provide an opportunity for individuals with disabilities to overcome traditional employment barriers.¹⁶ Throughout the country, these enterprises are providing employment at or above minimum wage in skills-building occupations even for those with significant disabilities and/or disadvantages.¹⁷

The New York Department of Vocational and Educational Services for Individuals with Disabilities (VESID) explains that the affirmative business model is “based in small private sub-contractors, retail or manufacturing businesses,” established for the purpose of providing employment, and employing “a small group of individuals with Most Severe Disabilities... as well as individuals who do not have disabilities.”¹⁸ An affirmative business typically provides products or services for public consumption, such as a restaurant or bakery, or remodeling or catering services. Affirmative businesses often are supported by preferred source contracts authorized by the state finance law, which allow state agencies to procure

¹³ AbilityOne, *Laws, Regulations and FAR*, retrieved from http://www.abilityone.gov/laws_regs/law_regs.html.

¹⁴ Wise, Jeffrey, JD, CEO of NYSRA/RTTI, 2010 *Employment, Careers, Opportunities: Navigating the Policies and Factors of Change* viewable at www.nyrehab.org.

¹⁵ Whittaker, W.G., *The Fair Labor Standards Act: Continuing Issues in the Debate [hereinafter FLSA Debate]*, Washington, DC: Congressional Research Service (2008).

¹⁶ Shaheen G., *Transforming NYS Affirmative Businesses into...What?*, New York Makes Work Pay (2010), retrieved from http://www.ilr.cornell.edu/edi/nymakesworkpay/docs/Transforming_NYS_business_072010.pdf.

¹⁷ Dees, G; Emerson, J; Economy, P. (2001) *Enterprising Nonprofits, A Toolkit for Social Entrepreneurs*, New York.

¹⁸ N.Y. State Educ. Department, Vocational & Educational Services for Individuals with Disabilities Internal Manual. *1310.00P Supported Employment Procedure [hereinafter “VESID 1310.00P]*, retrieved from http://www.vesid.nysed.gov/current_provider_information/vocational_rehabilitation/policies_procedures/1310_supported_employment/procedure.htm.

products and services from programs serving people with disabilities.¹⁹ This model also provides worksite training, supervision, opportunity for career development, cooperative ownership, as well as individualized, direct placement into wage employment outside the affirmative business.²⁰

New York State historically has supported the affirmative business model.²¹ The Office of Mental Health and Office for People with Developmental Disabilities (OPWDD) supports affirmative businesses by appropriating funds to support job training and employment for people with intellectual and psychiatric disabilities. State law implies a business does not require a special designation as an “affirmative business,” but rather must only meet the requirements to become incorporated as a not-for-profit business.

Today, many people with disabilities are employed in private sector-operated work centers and state-operated work centers located either on the grounds or in the vicinity of state institutions.²² These programs receive funding through either state or local appropriations from their designated state agency (primarily NYSOMH or OPWDD) and revenues received from sale of products or services are deposited in either specially designated fiduciary accounts administered by private center providers to pay wages or work center expenses or in “351 Enterprise” accounts maintained by state operated programs for the same purposes. A civil service job title ‘Workshop Specialist’ was established specifically to procure contracts and administer work centers, while in the private sector staff who have requisite skills are hired in the open job market.

Part II: The Case for Transformation of Work Centers into Integrated Employment Alternatives

A. Factors Influencing the Transformation of Work Centers in New York State and in Other States

Congruence with federal policy initiatives to improve labor force integration

There is much congruence of federal policy to improve labor force integration, including the New Freedom Initiative, the Ticket to Work and Work Incentives Improvement Act of 1999, and the Workforce Investment Act of 1998 are congruent with efforts to transform work centers. Further supported by federal civil rights law such as the ADA, these policies establish that people with disabilities are entitled to live, work, go to school, receive necessary services and participate in the community of their choosing. In particular, the ADA Title II regulations, covering state and local government entities, require administration

¹⁹ N.Y. State Fin. L. § 162 (West 2009).

²⁰ VESID 1310.00P.

²¹ *Id.*

²² Statewide statistics regarding numbers of individuals served in private sector and state-operated work centers is not publically available.

of all “services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”²³ The ADA and its integration mandate, as expressed through *Olmstead v. L.C.*,²⁴ are imposing a civil rights framework on the issue of employment of people with disabilities. The ADA, as interpreted by the Supreme Court, requires state and local governments to serve individuals with disabilities in the most integrated setting appropriate to their needs, unless doing so would fundamentally alter the service. By treating integrated services as a civil right, rather than merely a best practice or a charitable aspiration, the ADA is becoming a strong impetus toward transformation.

Congruence with Supreme Court rulings

In 1999, the Supreme Court held in *Olmstead v. L.C.*,²⁵ that the ADA’s integration mandate requires state and local governments to serve individuals with disabilities in the most integrated setting appropriate for the individual. Although the *Olmstead* case was in the context of psychiatric hospitals, the principle applies whenever an individual with a disability is in an institutional setting and could be served in a more integrated setting. As a result, state and local governments who fund center-based employment programs are facing pressure to change to more integrated programs.

Congruence with NYS policy and program priorities

Within three years of the U.S. Supreme Court’s *Olmstead* decision, New York State responded, in part, by creating the Most Integrated Setting Coordinating Council (MISCC).²⁶ In creating the MISCC, the NYS Legislature expressly found that “while New York provided community supports for people of all ages with disabilities, it had no centralized mechanism in place to determine whether or not people of all ages with disabilities are residing in the most integrated setting.”²⁷ The MISCC presented the Legislature and the Governor with its first formal report in late 2006. The report presented the Council’s plan to ensure that New Yorkers with disabilities receive services in the most integrated setting appropriate to their needs.²⁸ Most recently, in November 2009, the first 2010-11 Draft Plan was

²³ Northeast Career Planning, *Our History*. The agency continues to this day and is, in fact, one of several agencies with center-based work programs that are affiliated with NYSRA, retrieved from <http://northeastcareer.org/History.html>.

²⁴ 32 Fed. Reg. 13575, 13,578 (Sep. 28, 1967); 29 C.F.R. § 531.34 (2010).

²⁵ 527 U.S. 581 (1999).

²⁶ N.Y. State Office for People with Developmental Disabilities. *Most integrated setting coordinating council*, retrieved from <http://www.omr.state.ny.us/MISCC/>.

²⁷ N.Y. State Office for People with Developmental Disabilities, Most Integrated Settings Coordinating Council. *MISCC 2008 annual report (2008)*, retrieved from http://www.omr.state.ny.us/MISCC/images/hp_miscc_draft08annualreport.pdf.

²⁸ N.Y. State Office for People with Developmental Disabilities, Most Integrated Setting Coordinating Council. *MISCC 2006 Annual Report: Addressing the Service and Support Needs of New Yorkers with Disabilities: Report of the Most Integrated Setting Coordinating Council (2006)*, retrieved from http://www.omr.state.ny.us/MISCC/images/2006_annual_report.pdf.

published by the MISCC.²⁹ The Draft Plan includes Employment goals and objectives, and specific Employment Values:

1. All individuals with disabilities can work when the proper supports and services are available.
2. Work is a normative and expected activity for working-age individuals with disabilities and should be the first consideration when providing supports and services for people with disabilities. Integrated work in the community is the preferred option over center-based day programs.
3. New York State policy needs to shift to a “make work pay” paradigm that promotes integrated employment supporting greater financial independence while at the same time creating safety nets to ensure ongoing access to essential benefits and services that make work possible and enable individuals to achieve real gains in economic self-sufficiency.³⁰

Among other things, the Draft Plan calls for OMH and OPWDD to increase integrated employment opportunities for people with disabilities.³¹ These agencies have responded by prioritizing integrated community employment through a number of mechanisms. OMH prioritizes employment as a key component of its Medicaid reimbursable Person Oriented Recovery System (PROS), through promulgation of training and support for integrating the evidence based Individual Placement and Support (IPS) employment model and efforts to transform its state-facility based workshops into more integrated business models in partnership with community mental health services providers. OPWDD recently implemented a statewide Enhanced Supported Employment Program (ESEMP) as a core component of its “Putting People First” agenda, and continues to prioritize work through its “Money Follows the Person” Medicaid waiver initiative.

Data analysis supporting community integration

According to the 2008 Chapter 515 Report on Integrated Employment for People with Disabilities, OPWDD assisted 9,000 New Yorkers with developmental disabilities with employment needs in fiscal year 2007/2008.³² In addition, 3,328 individuals with disabilities were served with ongoing integrated support in fiscal year 2007/2008, and completed 128,580 hours of service (this includes affirmative businesses and forms of integrated employment). The Chapter 515 laws only assure that these employment services be paid “in accordance

²⁹ N.Y. State Office for People with Developmental Disabilities, Most Integrated Setting Coordinating Council. *Draft 2010-11 MISCC Plan [hereinafter “2010 Plan”]* (2009), retrieved from http://www.omr.state.ny.us/MISCC/hp_miscc_DRAFT_2010-11.pdf.

³⁰ Most Integrated Setting Coordinating Council. *2010 Plan (2009)*.

³¹ *Id.*

³² N.Y. State Department of Education, *Chapter 515 Annual Report on Integrated Employment for Individuals with Disabilities [hereinafter Integrated Employment Annual Report]* (2008), retrieved from http://www.vesid.nysed.gov/current_provider_information/vocational_rehabilitation/chapter_515/chapter515.pdf.

with the FLSA and NYS Wage and Hour Regulations.”³³ However, the report also found that, for fiscal year 2007/2008, individuals receiving intensive or extended employment services, averaged a wage between \$7.14/hour and \$8.46/hour, depending on which agency controlled the services.

Integrated employment may save state and provider resources

Research indicates that supported integrated employment has lower employment costs than center-based employment. Supporting employees with intellectual and developmental disabilities working in integrated environments can be done for one-third the expense of providing services in center-based settings. Over time (3 years), the cost of supporting persons in integrated environments decreased on average by 1.07% per fiscal year, while the cost of center-based employment per capita increased by 0.38%.³⁴ In the face of the barriers and disincentives to change, transformation of center-based employment requires a principled commitment at the highest levels of individual organizations to make transformation a reality.

Center-based employment can limit opportunities for persons with disabilities to work in inclusive environments or in an entrepreneurial capacity

It should be noted that not all center-based employment facilities pay employees with disabilities a subminimum wage. Reportedly, some employees earn minimum or above minimum wage; while others, by virtue of being labeled “in training,” earn no wage whatsoever. However, incentives to retaining the center’s best producers to meet production needs, the perception that work centers are safer and more accessible places to go for work, and the fact that work center employees may not be routinely exposed to other employment options can be self-limiting factors for transition.

Special-wage employment denies persons with disabilities the opportunity to accumulate assets and exit poverty

Subminimum wages create barriers to achieving self-sufficiency or accumulating assets. According to the 2007 study of subminimum wage providers, “for those relatively few individuals who transitioned into integrated employment settings, employment in integrated settings resulted in substantial gains in earned income.”³⁵ The Medicaid Buy-In³⁶ and other public benefits reforms, including the new health care reform, will continue to reduce the disincentives to work for people with disabilities, facilitating transformation from subminimum wage to full-wage employment. However, it is important to note that the ability to

³³ Act of July 24, 1992, ch. 515, Sess. Law News of N.Y.

³⁴ Cimera, R.E., *The cost-trends of supported employment versus sheltered employment*. 28 *Journal of Vocational Rehabilitation* 15-20 (2008).

³⁵ Blanck et al., *Labor Force Participation and Income of Individuals with Disabilities in Sheltered and Competitive Employment* (2003).

³⁶ The Medicaid Buy-In Program for Working People with Disabilities, is a program that allows individuals with disabilities to work and get or keep Medicaid.

increase assets while working at a regular wage must be accompanied by a range of asset-accumulation and financial literacy services and supports.

Agencies in center-based employment programs tend to have low rates of transition into supported or more inclusive employment

One of the rationales for sheltered employment was that people with disabilities needed opportunities to develop appropriate work habits and job skills that could be transferrable to competitive jobs. Although clients in day centers and sheltered workshops were trained to prepare for competitive employment through the train-place model of traditional vocational rehabilitation, before being placed they often had difficulty transferring skills to mainstream workplaces.³⁷ Blanck and colleagues investigated the rates of transition among workers with disabilities out of center-based work settings and into more integrated employment. They found substantial numbers of individuals did not progress to integrated employment settings over time. In contrast, those that did transition demonstrated more highly developed daily living skills than those who did not transition or did not have a job at all. Among those remaining in center-based employment, there were some with Adaptive Behavior Scale scores comparable to the scores of those who had transitioned. This suggests there are individuals who remained in center-based employment who might have been capable of working in integrated settings.³⁸ A recent study also indicates that center-based employment does not improve workers' ability to become employed in their communities and may actually lead to reduced hours and wages and increased service costs once they do transition to supported employment.³⁹

Centers may not have incentives to transition their most productive workers

Center-based employers may not have significant incentives to promote employee transition from center-based employment into more integrated employment. From a program standpoint, many assert that they provide the only alternative to unemployment or underemployment for people with significant disabilities in their communities, especially when jobs in the general economy are scarce. Workers paid under 14(c) often are ineligible for worker's compensation and unemployment benefits, and may not unionize. The Internal Revenue Service (IRS) uses an employee versus trainee classification to determine if agencies offering center-based employment have to pay taxes on the wages of their workers. Because trainees are exempt from FICA taxes, agencies have an incentive to classify workers as trainees. The IRS fleshed this distinction out in a 1965 ruling, which is still the law on the matter. The ruling classifies workshop services into three different categories: individu-

³⁷ "New Directions in Supported Employment," National Institute on Disability and Rehabilitation Research, Office of Special Education & Rehabilitative Services, U.S. Dept. of Education, Washington, DC, Vol. XIV, No. 3 (1992), ISSN: 0732-2623, available at <http://codi.buffalo.edu/archives/directions.htm>.

³⁸ Blanck et al., *Labor Force Participation and Income of Individuals with Disabilities in Sheltered and Competitive Employment* (2003).

³⁹ Cimeria, R., "Do Sheltered Workshops Prepare Persons with Disabilities for Community Employment?," *Job Training and Placement Report*, Vol. 35, No. 2 (Feb. 2011).

als in training, regular employees, and individuals working from home for therapeutic purposes.⁴⁰ The key determination is whether an employment relationship (based on common law principles) is intended (factors include: maintains a set schedule, must take direction from staff, subject to discipline and promotion, eligible for standard benefits).

The potential for worker exploitation

Center-based workshops, by the nature of having a segregated workforce, have been the sites of alleged fiscal and human exploitation and abuse. James Gashel, Secretary for the National Federation of the Blind, bluntly stated in Congressional hearings on Section 14(c) that “safeguards are not working.”⁴¹ Donald Elisburg, former Assistant Secretary of Labor during the Carter Administration, characterized the present system for challenging workshop abuses as “a study in futility.” He reminded the Subcommittee that people filing these complaints were fighting for the option of being paid only at the federal minimum wage.⁴² Recent cases, including the 2009 discovery of abuses at Henry’s Turkey Service in Atalissa, Iowa, have called attention to the possibilities of abuse.⁴³ A 2001 report by the U.S. Department of Labor’s Inspector General showed that federal enforcement of Section 14(c) subminimum wage requirements, including appropriate productivity assessment to set wages, was severely lacking and that the remedies available provided little incentive for proactive compliance.⁴⁴

⁴⁰ Schwimmer, M. Department of the Treasury, Internal Revenue Service. (2001). (INFO 2001-0142). Washington, D.C.: Retrieved from <http://www.irs.gov/pub/irs-wd/01-0142.pdf>.

⁴¹ Whittaker, W.G., *The Fair Labor Standards Act: Continuing Issues in the Debate [hereinafter FLSA Debate]*, Washington, DC: Congressional Research Service (2008).

⁴² Whittaker, W.G., *FLSA Debate (2008)*.

⁴³ In Atalissa, dozens of men with intellectual disabilities lived out their lives in an unlicensed, 106 year-old, roach-infested care facility with boarded-up windows and no central heating. Operators of the facility, in part, are alleged to have failed to pay Iowa minimum wage, made illegal deductions from worker pay, and neglected and physically abused the workers. The Iowa Workforce Development agency has imposed a \$900,000 fine on the operators and the U.S. Department of Labor is further investigating. Clark Kauffman, *Feds Sue Turkey Processor over Workers’ Pay in Atalissa*, Des Moines Register (Nov. 18, 2009), at <http://www.desmoinesregister.com/article/20091118/NEWS/91118010/-1/ATALISSA/>; Clark Kauffman, *State Sends Prosecutor its Findings on Atalissa*, Des Moines Register (Nov. 1, 2009), at <http://www.desmoinesregister.com/article/20091101/NEWS10/911010339/-1/ATALISSA/>. In December 2010, the Department of Labor sought \$1.7 million in back pay and damages for the workers. *Henry’s Asked to Pay \$1.7M to Disabled Men*, Quad-City Times (Dec. 23, 2010), at http://qctimes.com/news/local/article_d69aa4de-0e9d-11e0-87cf-001cc4c03286.html; See also *Charity Leaders Prosper as “Disabled” is Redefined*, Oregonian, http://blog.oregonlive.com/oregonianspecial/2006/03/charity_leaders_prosper_as_dis.html (March 5, 2006) (reporting large salaries paid to executives of organizations providing center-based work and subminimum wages).

⁴⁴ U.S. Dept. of Labor Office of the Inspector General, *The Wage and Hour Division’s Administration of Special Minimum Wages for Workers with Disabilities* (2001).

B. Attitudinal factors that challenge the transformation of work centers in New York State and in other states.

Attitudes, Beliefs and Expectations

Although agencies transforming into work centers offering integrated wage or entrepreneurial programs will face a number of significant challenges at the individual, program and systems level (summarized in the Tables contained in Part III), perhaps the most pervasive challenge is addressing attitudes, beliefs and expectations. Employment opportunities for people with intellectual and other disabilities have increased significantly since the passage of the ADA in 1990, though three times as many people with intellectual disabilities work in center-based, rather than competitive, employment.⁴⁵ Blanck and colleagues confirmed that skill and ability alone do not predict whether persons with intellectual disability are able to transition from center-based to integrated employment—the attitudes of service providers, families, consumers and others play a significant role.⁴⁶ Many of the prevailing attitudes and assumptions of policymakers and rehabilitation professionals dating back to the mid-1800s, “that persons with disabilities were not capable of working and needed a safe and supportive environment,” remain at the root of center-based employment in the present day.⁴⁷ These attitudes are held by various stakeholders involved in assisting persons with disabilities to engage in the workforce, including center-based employers and staff, service providers, employers generally, family members and employees themselves.

- **Service Providers:** Nationally, service providers with a long history of providing center-based employment programs are among those most resistant to changing programs to support integrated employment.⁴⁸ In a comprehensive survey of 290 center-based employers, Inge and colleagues found only 9% indicated closing the program is an organizational goal.⁴⁹ Less than 20% believed “individualized technical assistance [is] available to help [individuals with intellectual disabilities] find jobs and ... perform real work in the community.” Frequently provided reasons for not referring or facilitating the transition of persons with intellectual disabilities into supported or more competitive work were the perception that persons had not yet learned the necessary work and social skills to work outside the facility. Sixty-eight percent (68%) of those surveyed agreed, “Individuals who are in our

⁴⁵ Migliore, A., Grossi, T., Mank, D. & Rogan, P., *Why do adults with intellectual disabilities work in sheltered workshops?*, 28 *Journal of Vocational Rehabilitation* (2008).

⁴⁶ Blanck et al., *Labor Force Participation and Income* (2003).

⁴⁷ Morris et al., *Framing Policy Issues* (2002).

⁴⁸ Fesko, S.L., Butterworth, J. Eds., *Conversion to Integrated Employment: Case Studies of Organizational Change, Volume 3*. Boston, MA: Institute for Community Inclusion, Children’s Hospital (2001).

⁴⁹ Inge, K.J., Wehman, P., Revell, G., Erickson, D., Butterworth, J. & Gilmore, D., *Survey results from a national survey of community rehabilitation providers holding special wage certificates*, 30 *Journal of Vocational Rehabilitation* (2009).

14(c) programs are not able to earn minimum wage,” and 65% indicated the main purpose of their organization was to provide subminimum wage employment. Center-based employers further indicated their beliefs that:

- “Parents of consumers who work in our sub-minimum wage program(s) prefer their sons and daughters remain in these programs.” (76% agreed)
 - “Individuals in our sub-minimum wage programs prefer/choose to stay in these programs.” (70% agreed)
 - “Individuals who are in our sub-minimum wage program(s) are not able to earn minimum wages (e.g., do not have sufficient level of productivity or work skills).” (68% agreed)
 - “Income generated by our center-based work programs such as sub-contract income is crucial to the survival of our organization. (41% agreed)
- **Staff:** The staff of center-based settings surveyed by Jones and colleagues offered similar attitudes and beliefs toward transitioning persons with intellectual disabilities into more integrated employment, though generally more positive than center operators.
 - Forty-eight percent (48%) indicated center-based employment is essential for this population; and 34% indicated persons with intellectual disabilities should live in “facilities where they can have the help and support of staff.”⁵⁰ Differences in responses were attributed in part to gender, education, age and experience among respondents. For instance, older staff members were more likely than younger staff members to endorse sheltering of individuals with intellectual disabilities.
 - In a study of workshop staff, employees and family, Migliore and colleagues found that 60% of center-based staff could not recall anyone encouraging workers with intellectual disabilities to pursue integrated employment.⁵¹ In contrast, staff in employment programs being converted into integrated employment, spoke positively of heightened “[e]xpectations associated with consumers’ performance in community jobs.”⁵²
 - **Private Employers:** Several studies of employer expectations and experiences hiring persons with disabilities have found positive beliefs and attitudes.
 - In a 2001 study, employers’ widely held belief that hiring persons with disabilities is good business was an important catalyst to integrated employment.⁵³

⁵⁰ Jones, J., Ouellette-Kuntz, H., Vilela, T. & Brown, H., *Attitudes of Community Developmental Services Agency Staff Toward Issues of Inclusion for Individuals With Intellectual Disabilities*, 5(4) *Journal of Policy and Practice in Intellectual Disabilities* (2008).

⁵¹ Migliore et al., *Why do adults with intellectual disabilities work in sheltered workshops?* (2008).

⁵² Fesko, S.L., *Conversion to Integrated Employment* (2001).

⁵³ *Id.*

Employees with significant disabilities have been viewed as dependable, productive workers who can interact socially and foster positive attitudes on the part of their co-workers. Generally employers have greater concerns about employing persons with intellectual or emotional disabilities than employing persons with physical disabilities.⁵⁴

- Private employers with diversity or affirmative action goals for employees with disabilities frequently say they cannot find qualified individuals with disabilities.
- **Family:** A number of studies addressed the impact of family attitudes on center-based employment.
 - A 2008 survey of 182 family members of persons with intellectual disabilities found 43% of family members reported that case managers encouraged center-based employment programs more often than any other group.⁵⁵
 - Mothers (30%) and fathers (23%) also were identified as encouraging center-based employment programs.
 - Vocational rehabilitation counselors (28%) and workshop staff members (23%) encouraged the center-based setting with similar frequency to parents.⁵⁶
 - Not surprisingly, family members reported few people encouraged their sons and daughters to pursue integrated employment: case managers (31%), vocational rehabilitation counselors (29%), and workshop staff (22%). Moreover, 40% of families did not recall anybody encouraging adults with ID to pursue employment outside center-based employment.⁵⁷

The attitudes and expectations of families who currently have family members receiving services and support in a segregated setting are similar to family perceptions early in the process of deinstitutionalization. Families currently relying on segregated settings do not want to be told they have done something harmful by placing their children there. Families need reassurance that transition to an integrated employment opportunity will not undermine their child's safety and income (from public benefits), that there are safety nets in place in case integrated employment does not immediately work, and that their lives will not be unduly upset by the transition.

- **Consumers:** Consumers' attitudes must also be taken into account.
 - A 2007 study found that persons with intellectual disabilities have a preference for employment outside workshops and are optimistic regarding their employ-

⁵⁴ Unger, D.D., *Employers' Attitudes Toward Persons with Disabilities in the Workforce: Myths or Realities?*, 17(1) Focus on Autism and Other Developmental Disabilities (2002). School staff (14%), siblings (12%), and friends (10%) were among the least likely to encourage center-based employment.

⁵⁵ Alberto Migliore, Teresa Grossi, David Mank & Patricia Rogan. (2008). *Why do adults with intellectual disabilities work in sheltered workshops?* Journal of Vocational Rehabilitation, 28(1), p. 29-40.

⁵⁶ Migliore et al., *Why do adults with intellectual disabilities work in sheltered workshops?* (2008).

⁵⁷ *Id.*

ment outlook.⁵⁸ Important factors for persons with intellectual disabilities in their choices between center-based and integrated employment include: safety, transportation, fear of employment instability outside of center-based employment, convenience of work hours, retention of disability benefits, the belief that integrated employment is more demanding, more frustrating and too complex, and concerns about developing relationships with co-workers without disabilities.⁵⁹

Murphy and colleagues, in a study of a center-based employment program transitioning to integrated employment, found many of the same concerns.⁶⁰

Part III: Primary Barriers to Transformation and Suggested Strategies and Integrated Employment program Options

Table 1: Addressing Transformation Challenges - Personal Level		
Challenge	Impacts Upon Transition	Service Strategies
Reluctance to leave the secure and stable workshop job and friendships	Participant may try to sabotage efforts for transition. Anxiety, fear, unclear motivation or expressed preference to remain in the workshop environment.	<p>Trial and testing visits to integrated work settings. Step-down integrated employment through reverse-integrated Affirmative Businesses.</p> <p>Vocational counseling, motivational interviewing. Attend discussions led by peers who have made the transition.</p> <p>Identify recreational, volunteer opportunities in the community to reduce reliance on staff support for non-work hours.</p> <p>Ensure that individuals with disabilities have access to protection and advocacy services to minimize legal obstacles to employment and support full employment, including the federally-mandated Protection and Advocacy for Beneficiaries of Social Security (PABSS) program.</p>

⁵⁸ Migliore, A., Mank, D., Grossi, T. & Rogan, P., *Integrated employment or sheltered workshops: Preferences of adults with intellectual disabilities, their families, and staff*. 26(1) Journal of Vocational Rehabilitation (2007).

⁵⁹ Murphy, S.T., Rogan, P.M., Handley, M., Kincaid, C. & Royce-Davis, J., *People's Situations and Perspectives Eight Years After Workshop Conversion*, 40(1) Mental Retardation (2002).

⁶⁰ Murphy, et al., *People's Situations and Perspectives* (2002).

Table 1: Addressing Transformation Challenges - Personal Level		
Challenge	Impacts Upon Transition	Service Strategies
Parent and family pressure and opposition	Creates negative support system for transition. Makes it difficult for staff to help create transition strategies.	<p>Convene parents and family in dialogue sessions to express fears/hear responses.</p> <p>Attend discussions led by peers who have made the transition. Ask them to recommend places of work that they feel their child/sibling might wish to explore-use personal connections.</p>
Poor self-esteem, confidence	Reluctance or fear of trying employment.	<p>Vocational counseling including use of alternative assessment methods that recognize and skills and successes, no matter how small.</p> <p>Paid, time-limited work try-outs and/or volunteer work in preferred jobs.</p>
Undeveloped vocational goals and unclear aspirations	"Impulse shopping for jobs," unclear knowledge of personal skills relevant to available jobs.	<p>Re-visit and revise current vocational assessments to focus on skills instead of deficits.</p> <p>Use involvement in part time, transitional or volunteer work to develop/reinforce goals.</p> <p>Offer assessment and planning to support individual entrepreneurship or creation of cooperatively owned businesses.</p> <p>Take advantage of the universally accessible services for job seekers at One-Stops, including job listings, workshops on developing resumes, interview skills, on-site recruitment events.</p> <p>With each person, develop a plan designed to lead to successful transition to integrated employment.</p>
Skills mismatch	Skills needed for success in a sheltered employment program not necessarily those needed for integrated competitive work.	<p>Vocational counseling, skills identification and sorting to assess skills needed for success at a particular job. Strongly correlate to revised alternative assessment. Identify and differentiate skills that are needed for wage employment and for entrepreneurship.</p> <p>Identify high-demand jobs in the community and focus training on developing qualifications for those jobs. Establish partnerships with large employers to place and support employees.</p>

Table 1: Addressing Transformation Challenges - Personal Level

Challenge	Impacts Upon Transition	Service Strategies
Transportation	<p>Jobs may not be easily accessible by public transportation.</p> <p>Lack of familiarity in using public transportation.</p> <p>Family unable to transport. Fear of using public transportation instead of routine bus or van pick-up and drop off at the work center/return home.</p>	<p>Carpooling and/or each employee sharing a ride, or paying a weekly fee to a friend or family member with the right assurances may be options.</p> <p>Use of public transportation, with transportation coaching included as part of the vocational counselor's job might be considered.</p> <p>Agencies operating work centers may wish to create a shuttle bus service for worker drop-off and pick-up.</p> <p>Consider home based businesses and/or work center-based business incubators.</p>
Functional illiteracy and educational deficits	Individual cannot meet basic hiring requirements.	Include both formal (GED, classroom) and informal (on-the-job) educational (reading, math, etc) opportunities as part of the employment services package.
Functional disabilities caused by psychiatric symptoms or other physical health conditions	Individual cannot meet the physical or cognitive demands of work or manage work-related interpersonal relationships, including those with supervisor.	<p>Ensure access to integrated treatment and rehabilitation that includes medications, mental health counseling and support services, and case management.</p> <p>Cognitive remediation services and physical therapy may also be needed.</p> <p>Integrate peer support counseling and planning into job acquisition and retention plan.</p>
Alcohol and drug dependency	Alcohol/drug use violates drug-free workplace rules, increases absences from work, impairs physical and cognitive functioning, and increases the likelihood of criminal charges, errors or injury on the job. Provides just cause for termination from employment.	<p>Ensure access to alcohol/drug treatment, recovery/motivation support groups and peer and family support networks.</p> <p>Include case management support as part of an integrated planning strategy that addresses an individual's needs at various stages of recovery.</p>
Criminal justice system involvement	Criminal record can exclude eligibility for some jobs and questions regarding past criminal involvement in the hiring process are not precluded under the ADA.	<p>Vocational case management that builds motivation for change, addresses worker role recovery, and focuses on acquiring or retaining work to rebuild an acceptable work history.</p> <p>Enrollment in job training or educational programs that provide credentials which employers need and indicate the person's motivation to succeed.</p>

Table 1: Addressing Transformation Challenges - Personal Level		
Challenge	Impacts Upon Transition	Service Strategies
Fear of losing entitlements	Decision not to work, or to limit hours worked per week, or reluctance to accept wage increases for fear of losing entitlements.	<p>Include work incentives benefits management counseling as a part of the transition plan and on an ongoing basis.</p> <p>Build staff capacity and use external resources such as the WIPA programs and the Work Incentive Network, to provide benefits management assistance.</p> <p>Utilize/advocate for options that ensure retention of health care benefits including Medicaid Buy-In.</p> <p>Support replacing the existing cash benefit structure under Section 1619(b) of the Social Security Act with one like the Old Age Survivors Insurance (OASI) program, which allows people with disabilities to hold employment and continue receiving a monthly benefit check from SSA.</p>
Poverty and lack of assets influence job choices	People are caught in low-level, low-wage jobs without support for planning more secure economic futures.	Support center-based participant with disabilities in developing assets that support greater economic self-sufficiency, using Volunteer Income Tax Assistance (VITA) sites, New York State Literacy Zones and/or other community partners provide financial literacy training and assist individuals with disabilities in building assets and taking advantage of tax incentives that may be available to them.

Table 2: Addressing Transformation Challenges - Agency Level

Challenge	Impacts Upon Transition	Service Strategies
Lack of knowledge and experience in integrated employment practices	Unclear goals, expectations, tools and practices, unfamiliarity with alternative funding sources to use to meet the employment needs of their constituency.	Provide staff training in evidence-based and promising integrated wage and entrepreneurship practices. Work with labor organizations to prepare staff for new roles.
Staff “paradigm paralysis”	Generally held belief among staff that consumers are too disabled to work, work is too stressful, consumers need protection from the stresses associated with open market employment and lack of prior success impedes future success.	Develop new alternative assessment tools that provide a more accurate and individualized measure of inherent skills and competencies, incorporate consumers who achieved work success as trainers or presenters to staff indicating what worked and did not work in transition.
Agency mission, leadership and staff structure oriented towards sheltered rather than competitive jobs	Agency mission statement does not prioritize integrated competitive employment or entrepreneurship. Agency board and management are opposed to shift. Staff assigned to work center tasks may need to be reassigned, re-trained and alternatively funded and supervised in new roles.	Review and revise agency mission statement. Enlist Board and leadership members as Ad Hoc Transition work group. Develop new staffing structure with assignments, training needs, funding sources. Implement a mechanism for staff members to document how their time is being spent on a weekly basis to ensure efficient use of resources. Set goals and dates for reducing center-based services, in conjunction with targets for changes and shifts in fiscal support.
Agency infrastructure not aligned towards transformation	Agency leadership and constituents may want to shift, but agency organizational, fiscal and capacity issues may hinder transformation.	Ensure regular communication between fiscal and operations staff (including program managers and front line) to discuss plans for the transformation, and the fiscal impact. Stretch staffing ratios as necessary to move resources into community employment services. Ensure strong fiscal oversight during and after the transition to a new program model. Set goals and dates for transformation milestones, including shifts in fiscal support.

Table 2: Addressing Transformation Challenges - Agency Level		
Challenge	Impacts Upon Transition	Service Strategies
Agencies challenged to transition from subminimum to above minimum wages	Agencies have not developed a transformation plan that links wage growth with reassessment, skills growth, customized work opportunities.	<p>Ensure wages below the prevailing wage are provided only when individuals with disabilities are assessed properly and frequently for productivity, and that accommodations are provided during assessment and work activities.</p> <p>Ensure that each individual's wages increase over time, moving toward minimum or prevailing wage.</p> <p>Ensure that participants are truly informed of their rights under Section 14(c) and state law, including requiring written explanations of and consent to any deductions or adjustments, and of how to petition the enforcement agencies.</p>
Stringent readiness prerequisites for integrated wage or entrepreneurship	Assessments screen out rather than include requirements that people prove they are ready in sheltered settings first, are abstinent or symptom-free, conflict with consumers' wish to work.	<p>"Meet the person where they are" with jobs that they can do safely and wish to do, with vocational counseling and peer support.</p> <p>Replace preoccupation with the disability with a new purpose and build motivation for integrated employment or entrepreneurship.</p> <p>Use more person-centered, customized assessment methods that focus on discovering each individual's unique gifts, strengths and skills and how they match with wage or self-employment that can be created or negotiated with employers.</p>

Table 2: Addressing Transformation Challenges - Agency Level

Challenge	Impacts Upon Transition	Service Strategies
<p>Funding inadequacy or fragmentation</p>	<p>Dealing with a different service delivery model, and uncertainty regarding the costs involved with such a model, and in particular the changes in staffing costs.</p> <p>Shifting from a service model that results in consistent revenue on an ongoing basis, to one where there are variations and potential reductions in level of reimbursement on behalf of specific individuals due to increased use of natural supports in the community and need for less use of ongoing supports.</p> <p>Loss of revenue from products or services that were provided to businesses through a center-based employment program.</p> <p>Costs of staff retraining.</p> <p>Costs involved in maintaining a center-based program while simultaneously expanding a community-based employment program.</p> <p>Reimbursement mechanisms that may not cover the full costs of services. Costs associated with legal or accounting fees when facilities reorganize their center-based employment into more market-based, entrepreneurial models like worker-owned cooperatives, limited liability corporations (LLCs) or other structures.</p>	<p>These barriers can be addressed through a three-step process involving: a) analysis of the program’s current fiscal status and the impact of reducing or eliminating a center-based service model; b) development of projections regarding the fiscal status under a community-based employment service model; c) identifying funding mechanisms to support those costs.</p> <p>Develop new business feasibility plans and business plans based upon new service models.</p> <p>Leverage state agency resources as alternatives to VR funding streams for people not historically successful in those systems.</p> <p>Explore/utilize TTW/Employment Network funding as part of a braided funding strategy.</p> <p>Explore/utilize SBDC funding for entrepreneurship as part of a braided funding strategy.</p> <p>Use Medicaid resources for employment counseling and support as part of a braided funding strategy.</p> <p>Identify consumers interested in and able to work in Affirmative Businesses that meet above minimum wage and integration standards and have clearly identified market and business revenue generation plans.</p>
<p>Lack of coordination between employment services, case management, and treatment and rehabilitative services</p>	<p>Clash of priorities viewed from different staff perspectives, integrated work is not prioritized in services plan.</p>	<p>Adopt an integrated team approach to coordinate the full range of work and non-work services to meet consumers’ comprehensive needs.</p>
<p>Family opposition</p>	<p>Families and advocates oppose transformation and advocate against change.</p>	<p>Include family members in Ad Hoc transformation committee. Support visits by a group of family members to former work centers that have made the transformation and present findings to larger group.</p>

Table 2: Addressing Transformation Challenges - Agency Level

Challenge	Impacts Upon Transition	Service Strategies
Lack of strategic partnerships to leverage funding and expertise	Agencies attempting to transform do so in isolation and depend upon their own funding streams or in-house expertise when other sources of support might be available.	<p>Develop a core understanding of the range of available state, local and federal funding streams.</p> <p>Identify local stakeholders whose missions and interests are compatible with transformation and enlist them as partners.</p> <p>Identify and utilize the full array of community resources, including transportation and natural supports.</p> <p>Design and implement well-crafted memorandums of understanding (MOU) among partners for clarifying funding responsibilities, service flow, etc., and ensuring that consumer needs can be met in an efficient, streamlined, and efficient fashion.</p> <p>Access WIA youth funds and collaborate with youth service providers in supporting individuals to utilize WIA funded services.</p> <p>Build partnerships between the VR, WIA and TANF service systems to allow for sharing of resources and expertise, including combining funding depending on the individual's needs and current availability of funds from the respective agencies.</p>

Table 3 - Addressing Transformation Challenges - Systems Level

Challenge	Impacts Upon Transition	Service Strategies
<p>Poor economic conditions</p>	<p>People with disabilities face tough competition in a tight job market.</p> <p>Testimonies about their unique skills and potential contributions to an employer’s workforce may not be heard as employers struggle to address their bottom-line business needs by hiring people who appear more capable, skilled and need less supports.</p>	<p>Agency representation on local economic development, Chamber of Commerce, WIB and other groups to ensure that job interests of people with disabilities are understood and addressed within the local economic context.</p>
<p>Stigma</p>	<p>Prevailing attitudes include fear, lack of confidence in people’s ability to succeed in wage employment or entrepreneurship and employment discrimination.</p> <p>Stigma associated with medical-model employment services as the most protective and optimal setting for consumers.</p>	<p>Transformation should be accompanied by anti-stigma materials and initiatives.</p>
<p>Employer attitudes</p>	<p>Employers facing their own staff hiring constraints, shifting to new economy.</p> <p>People with disabilities not viewed as a competitive workforce.</p> <p>Value to employers of diversity hiring not recognized.</p> <p>Feel that providers do not understand their hiring needs and send unready candidates.</p>	<p>Use Board member expertise and connections with employers to develop support for hiring.</p> <p>Utilize job carving, negotiation strategies to meet the needs of employers and job-seekers.</p> <p>Offer services to HR departments about addressing hidden and other disabilities in their present workforce to build partnerships.</p> <p>Understand hiring and educational needs- collaborate with post-secondary institutions to provide education and training correlated to job-seeker and employer needs.</p> <p>Understand local employers’ affirmative action requirements and diversity goals; educate employers about how transitioning workers can meet those goals.</p>

Table 3 - Addressing Transformation Challenges - Systems Level

Challenge	Impacts Upon Transition	Service Strategies
<p>Fragmentation, isolation, overlap-wage employment</p>	<p>State agency transformation efforts may not be in sync, resulting in mixed messages to work centers serving clients with diverse disabilities. They may either transition only some of their center based clientele and/or transition them at different rates and using different methods depending upon the direction they receive from their funder.</p>	<p>Link work center transformation to OSOS/SMART supported employment integrated data system.</p> <p>Encourage joint planning for work center transformation among state agencies.</p> <p>Implement customized employment strategies as reimbursable alternatives for persons with greater and more complex barriers to employment who have not been successful in supported employment.</p> <p>Identify work center consumers for inclusion in OPWDD ESEMP initiative.</p> <p>Support strengthened federal affirmative action requirements for federal contractors under Section 503 of the Rehabilitation Act.</p> <p>Support strengthened state affirmative action requirements for state contractors under Article 15-A.</p> <p>Support eliminating or raising the caps on Civil Service Law Section 55 noncompetitive service placements for state and local government employment of people with disabilities, and improving the incentives and requirements for government agencies to participate in Section 55 placements. Help workers seek noncompetitive placement with state and local government agencies through Civil Service Law Section 55.</p> <p>Train workers with the skills needed by local federal and state contractors, as well as private employers, provide screening, placement, training, and support services to match and support center-based employees to transition to employment by federal and state contractors. Develop fee-for-service partnerships with integrated employers to provide these services.</p> <p>Support modification of state and federal preferred source regulations to support more integrated employment by reducing the percentage of hours that must be done by people with disabilities. [This supports the "reverse integration" concept – currently, federal JWOD requires 75% of the work to be by people with disabilities. A lower percentage would encourage greater integration. HOWEVER, it would also mean fewer jobs for people with disabilities].</p>

Table 3 - Addressing Transformation Challenges - Systems Level

Challenge	Impacts Upon Transition	Service Strategies
<p>Fragmentation, isolation, overlap-entrepreneurship</p>	<p>ACCES-VR, Entrepreneurial assistance Programs (EAPs), Small Business Development Centers (SBDCs), One Stops and others have resources but are rarely blended or braided to assist people with disabilities.</p> <p>Entrepreneurship assessment, business planning, follow-along not widely available to agencies contracted to VR.</p> <p>Current state procurement preferences favor work centers over individual entrepreneurs with disabilities.</p>	<p>Review, adopt, implement recommendations made to the State Rehabilitation Council on increasing entrepreneurship outcomes.⁶¹</p> <p>Review, incorporate Primers on Inclusive Entrepreneurship,⁶² SBDC Simply Speaking Guide to develop partnerships, use promising and effective practices.⁶³</p> <p>Understand how VR agencies including those serving people who are blind currently fund self-employment assessment and business planning. Work with them to improve outcomes for these services within their existing budgets, including fee-for services contracts that result in a valid self-employment goal plan and business feasibility while braiding VR and SBDC resources to help consumers create viable business plans.</p> <p>Support modification of state and federal preferred source regulations to serve as the basis for center-based employment to transform into support centers for small businesses owned by persons with disabilities, for current center-based employers to support them in the ownership of those businesses, and for joint ventures between center-based employers and workers with disabilities, where they each share in the responsibilities and the rewards.</p> <p>Expand the New York Minority and Women Owned Business Enterprise (MWBE) program to include disability-owned businesses, with access to technical assistance supports, the MWBE Statewide Advocate, bonding assistance, capital, and the Entrepreneurial Assistance Program (EAP).</p>

⁶¹ Shaheen, G. (2010) Improving Self-Employment Outcomes for People with Disabilities. New York Makes Work Pay: http://nymakesworkpay.org/docs/Improving_self_employ_062010.pdf.

⁶² Shaheen, G, Killeen, M;. (2010) A 'Primer' on The StartUP New York 4-Phase Entrepreneurship Model. New York Makes Work Pay: http://nymakesworkpay.org/docs/StartUP_New_York_4-Phase_Model.pdf.

⁶³ Ansteth, N. Higgins, P. Shaheen, G: (2010) Simply Speaking Inclusive Entrepreneurship Guidelines for SBDC Advisors New York Makes Work Pay: http://nymakesworkpay.org/docs/Simply_Speaking.pdf.

Table 3 - Addressing Transformation Challenges - Systems Level		
Challenge	Impacts Upon Transition	Service Strategies
Benefits and work incentives planning not accessible or available to all	While reinforcing importance of planning, services are not readily available for people making the transition on either an initial or ongoing basis.	<p>Maintain and extend the corps of work incentive specialists through the Area Work Incentive Coordinators and Work Incentive Liaisons.</p> <p>Maintain and extend the Work Incentives Information Network, which train credentialed benefits planners and information and referral specialists throughout the state.</p> <p>Build staff expertise by utilizing the free training available to individual practitioners interested in joining the NYS Work Incentives Information Network.</p> <p>Equip staff to provide initial benefits screening and analysis, benefits advisement, information and referral, long-term benefits management support as well as asset development and financial literacy services duties and responsibilities or by establishing articulation agreements with other community partners such as WIPA programs, WIIN members and/or other resources.</p>
Continued availability of subminimum wage laws may limit use of other alternatives	Without incentives, some work centers may not make the transition.	<p>Advocate for increased federal and state enforcement of subminimum wage laws, higher penalties, increased reporting requirements by providers and enforcers, and longer time limits for complaint filing, in order to stop abuses and bad actors.</p> <p>Support state and federal study of the experience, wages, and quality of life of people who work in center-based jobs.</p> <p>Consider steps to phase out 14(c) and New York's special wage law to alleviate the financial burden on center-based employers.</p>

⁶⁴ Shaheen, G., Williams, F., and Dennis, D., eds. *Work as a Priority: A Resource for Employing People who Have a Serious Mental Illness and who are Homeless*. DHHS Pub. No. SMA 03-3834. Rockville, MD: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, (2003).

Table 4: Overview of Selected Integrated Employment Program Approaches⁶⁴

Types	Transitional Employment Programs (TEP)	Supported Employment	Customized Employment	Individual Placement and Support (IPS)	Social Enterprises	Self-Employment
Approach	Time-limited placements in competitive jobs. Agency commits to keeping job slots filled. Often clubhouse-based.	Direct placement into integrated competitive jobs with follow-along supports.	Emphasizes discovery of the individual including strengths, supports, needs, gifts and skills upon which is built an individualized job or entrepreneurship plan.	Emphasizes rapid job search. Continuous and comprehensive assessment that continues throughout employment. Time-unlimited support.	Agency-sponsored businesses that provide affirmative employment paying at or above minimum wage that could be reverse-integrated by hiring non-disabled co-workers.	Consumer owned business (sole proprietorship/partnership/cooperative).
Objective	Build experience, competence, and job goals with the objective of attaining a permanent job.	Part- or full-time employment at prevailing wage.	Part or full time wage employment that could be carved or negotiated with the employer to meet the needs of both, or entrepreneurship.	Replace traditional day treatment programs with those focused on work to achieve better vocational outcomes.	Replace traditional day treatment programs with those focused on work to achieve better vocational outcomes.	Employment as ft/pt self-employed business owner.
Possible Funding Sources	State VR/CBVH, HUD, MH, Foundations.	State VR/CBVH, MH, HUD, DOL, OPWDD (wage subsidies, employer hiring incentives), Foundations, Medicaid.	MH, State VR/CBVH, DD, Labor, Medicaid/Managed Care.	State VR/CBVH, MH, DD, Medicaid.	VR/CBVH, MH, DD, business revenue, economic development, HUD, foundations.	VR/CBVH, SSA, MH, DD, State/Federal, SBDC, State community business lenders, private capital, IDAs, business revenue.
Staff Expertise Required	Skills teaching, job development, placement, support, ability to perform job in consumer's absence.	Skills teaching, job development, placement, intensive/extended support, replacement.	Interdisciplinary customized team trained in CE principles and practices.	Employment specialist to coordinate services with case management or mental health treatment team.	Business/production experts, training/job coach staff, job development placement staff.	Business-related TA/support, personal support.
Advantages	Basis for establishing links with employers. Builds credentials, experience, & resume.	Employee hired by the employer, not by the program. Works with non-disabled co-workers. Salary, growth potential like co-workers.	Extremely person-centered and offers an alternative to traditional assessment processes esp. for people with complex needs. Employers engaged in the process. Can support entrepreneurship.	Employment specialists participate as members of integrated services teams linking employment with rehabilitation and recovery outcomes.	Adds to the available jobs in a community. Has economic development potential. Agency "owns" jobs.	Responsibility for success relies upon the individual. Independence, control. Public benefits programs less affected by self-employment income.
Disadvantages	Time limitations not always congruent with consumer preference. Staff may need to fill in for absent worker. Unclear outcomes re: how TEP facilitates competitive employment.	Clash between long-term job coaching needs and short-term VR support; individual's discomfort with being coached on the job.	Not a VR/CBVH funded practice in NYS. Discovery can take longer than traditional assessments depending upon level of complexity.	Providing time-unlimited supports contains similar disadvantages as noted for PACT and supported employment; e.g. funding for long-term follow-along and re-placement assistance. Need support for people who cannot or do not find jobs through IPS.	Requires sound business planning. High business risk factor. Start-up capital needs. Present State agency budget neutrality funding requirement is prohibitive.	Responsibility for success relies upon the individual. High financial risk factors. Requires sound business planning.

PART IV: Resources and Citations

Tools and Resources on Financial Structures

Funding Sources

The following are links to additional information on sources that programs can use to diversify funding sources:

- Ticket to Work – www.ssa.gov/work
- Social Security Work Incentives – www.ssa.gov/disabilityresearch/workincentives.htm
- Temporary Aid to Needy Families (TANF) - www.otda.state.ny.us/main/programs/temporary-assistance
- Workforce development
 - NYDOL Funding Opportunities – <http://www.labor.ny.gov/workforcenypartners/funding.shtm>
 - Local Workforce Investment Boards - <http://www.labor.ny.gov/workforcenypartners/lwia/lwiacontacts.htm>

Community Resources

The following are links to information on external resources that can be leveraged for community employment program needs:

- Transportation
 - Easter Seals Project Action - <http://projectaction.easterseals.com>
 - Community Transportation Association of America - CTAA – www.ctaa.org
 - United We Ride - www.unitedweride.gov
 - ATI - Association of Travel Instruction - www.travelinstruction.org
- Benefits
 - Work Incentive Planning and Assistance (WIPA) Programs - <https://secure.ssa.gov/apps10/oesp/providers.nsf/byonestate!openview&restricttcategory=NY>
 - Work Incentives Network: <http://www.ssa.gov/ny/win-intro.htm>

Tools and Resources on Federal Funding

Federal Regulations and Guidance

- RSA State Vocational Rehabilitation Services Regulations - http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title34/34cfr361_main_02.tpl
- RSA Supported Employment Regulations - <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=42e9499ed57115a52785998e66b563e6&rgn=div5&view=text&node=34:2.1.1.1.8&idno=34>
- Workforce Investment Act Laws and Regulations - <http://www.doleta.gov/usworkforce/wia/act.cfm>

- Workforce Investment Act Nondiscrimination Regulations - http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title29/29cfr37_main_02.tpl
- Home and Community Based Waiver Instructions, Technical Guide, and Review Criteria <http://www.hcbsstrategies.com/IL%20project%20docs/IL%20QM%20project%20docs/Version%203.5%20Instructions%20Final%202.1.2008.pdf>

Publications, Reports, Resources

- Ticket to Work – www.ssa.gov/work
- Advancing Integrated Employment Through Home and Community Based Waiver Services - [http://www.nasddd.org/pdf/AdvancingIntegratedEmployment\(1-20-2010\).pdf](http://www.nasddd.org/pdf/AdvancingIntegratedEmployment(1-20-2010).pdf)
- Information on SSA Work Incentives: <http://www.ssa.gov/disabilityresearch/workincentives.htm>
- Federal TANF/SSI Transition Project - http://www.acf.hhs.gov/programs/opre/welfare_employ/tanf_ssi/tanf_ssi_overview.html
- Assisting TANF Recipients with Disabilities to Find and Keep Jobs – links to a series of reports - http://www.mathematica-mpr.com/family_support/tanfdisabilities.asp
- VA Vocational Rehabilitation and Employment Program - <http://www.vba.va.gov/bln/vre>
- Federal Office of Special Education (OSERS) – publications on transition - <http://www2.ed.gov/about/offices/list/osers/reports.html>
- Young People with Disabilities: Accessing WIA Youth Services - http://www.massworks.org/index.php?option=com_content&task=view&id=162
- Onestops.Info – website dedicated to people with disabilities in the workforce development system - <http://www.onestops.info>
- WIA Contacts
 - NYDOL Funding Opportunities – <http://www.labor.ny.gov/workforcenypartners/funding.shtm>
 - Local Workforce Investment Boards - <http://www.labor.ny.gov/workforcenypartners/lwia/lwiacontacts.htm>

Tools and Resources on Self Employment

The New York Makes Work Pay website provides a variety of resources on self-employment for people with disabilities, including <http://www.ilr.cornell.edu/edi/nymakesworkpay/rpm-employment.cfm>.

The Inclusive Entrepreneurship tm program has demonstrated the success of entrepreneurship for people with a variety of disabilities. More information is available at <http://whitman.syr.edu/eee/startupny/>.

Tools and Resources on Affirmative Action

The New York Makes Work Pay website provides an analysis of state and federal affirmative action programs that serve, or could serve, people with disabilities, at <http://www.ilr.cornell.edu/edi/nymakesworkpay/index.cfm#pm>.

The U.S. Department of Labor Office of Federal Contract Compliance Programs website addressing Section 503 of the Rehabilitation Act governing federal contractor affirmative action requirements is at <http://www.dol.gov/OFCCP/reg-library.htm>.

Information on New York Civil Service Law Section 55 is available at New York State Department of Civil Service, Summary of New York State Civil Service Law, www.cs.state.ny.us/pio/publications/summofcsl.pdf. See also New York Department of Civil Service website at <http://www.cs.state.ny.us/dpm/workersdisabilities.cfm>.

Tools and Resources on Public Benefits

The Protection and Advocacy for Beneficiaries of Social Security (PABSS) program was established to advocate for beneficiaries of SSA who have disabilities to secure and maintain gainful employment so that they may regain greater independence and community involvement, and through that involvement prevent the abuse and neglect of individuals with disabilities; to respond to allegations of discrimination and legal rights violations that are barriers that prevent individuals with disabilities in returning to work; and, to conduct education and training events about PABSS. To learn more about the PABSS program or locate the PABSS program nearest you, go to: <http://ssa.gov/work/PandA.html>.

For center-based employers interested in building their staff expertise around benefits and work incentives planning and assistance, free training is available to individual practitioners interested in joining the NYS Work Incentives Information Network. A certification program as well as continuing education programs are available and you can learn more about these training resources online at <http://www.nymakesworkpay.org>.

You can locate the WIPA or WIIN member closest to you online at <http://www.ilr.cornell.edu/edi/nymakesworkpay/rsp-wip.cfm>.

Conclusion

Transforming work centers to more integrated employment or entrepreneurial options can pose a challenge for state disability services agencies, their provider networks, the individuals they serve in the centers, and the families of those individuals. Yet, the need for transformation is built upon a central belief that each person has within them the potential to work at jobs or own businesses that are personally meaningful in the most integrated settings possible and at livable wages. As this paper suggests, we must appreciate the historical context of work centers while recognizing that new and improved and

more individualized and integrated job and career alternatives are possible. Transforming work centers requires us to become more entrepreneurial in our thinking, more creative in our financing, more attentive to the partnerships we need, and more focused on assessing and strengthening our internal agency capacities to make and sustain the shift. Working together with consumers, families, advocacy organizations and business and community partners, work center transformation can truly occur.

www.NYMakesWorkPay.org

Contact Information

Employment and Disability Institute
ILR School / Cornell University
201 Dolgen Hall
Ithaca, New York 14853-3901
607.255.7727 (voice)
607.255.2891 (tty)
607.255.2763 (fax)
ilr_edi@cornell.edu
www.edi.cornell.edu

Partnering Organizations

New York State Office of Mental Health
Employment and Disability Institute (Cornell University)
Burton Blatt Institute (Syracuse University)

Alternate Formats

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