

Long-term and Short-term Revisions  
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Deliverable Number 5  
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July 2015

The following revisions answer the question:

**What can we do now (short-term) and what should we be working on now (long-term)** to ensure more persons with significant disabilities are working in integrated jobs in the community at commensurate wages when compared to other citizens without apparent disabilities.

The following is an analysis containing 6 long-term revisions and 60 short-term revisions critically necessary to ensure citizens with significant disabilities in Kansas are employed in good jobs in their communities. Short-term revisions in this analysis for most intents and purposes mean immediate changes. These are changes that can occur at no cost, without interagency agreement, or needing the approval from persons in the highest offices of government. These revisions are meant to correct real or perceived system errors, to give immediate relief in a way that immediately makes at least one particular aspect of the employment of citizens with disabilities more successful.

None of the short-term revisions requires or makes a systems change. Sometimes the revision comes in the simple form of a letter or email to stakeholders informing them of a current policy or practice, bringing clarity, and/or encouraging implementation in a more effective manner. Barriers to making these small, pragmatic, and useful changes may be philosophical, fear that they may really be more than just a simple revision to make things work better, the view that changes need to come in clumps or through big announcements to be sure credit is given, or simply a long history of stasis, doing things a certain way, through, new projects, pilots, and initiatives throughout the years, rather than small but important improvements to already existing services and supports. Hopefully resistance to the short-term revisions will be minimal, if carefully staged throughout a period of 12-16 months.

The 6 long-term revisions in this analysis are only those revisions that represent what may be termed as “fatal flaws.” There are dozens of changes needed but these are the six changes that if left unaddressed will assuredly continue the now 20-year decline in citizens with significant disabilities becoming employed in Kansas. These 6 changes are not easy to do or something that can be accomplished overnight. All would need many months of work and planning, most would take one or two full years to do the job right; significant VR policy and Medicaid Waiver and State Plan Amendment changes are included. None of them would require new taxpayer

resources, but a realignment of existing resources from current activity to actions that ensure a community life working alongside most citizens.

Most of these changes, long or short-term will likely have one or more stakeholders who disagree with one or more parts of the critically needed change. Some long-term revision changes interact or are contingent upon other needed changes. In summary, the short term changes will make things immediately better, while the long term changes will fix critical system failings that if left alone will in the end make most improvements for naught. Most short-term changes require only the will, desire, and time of someone in authority to make it happen. Most long-term revisions will require very busy persons in government to stop or set-aside some current activities now to give the time needed to ensure permanent positive outcomes for citizens with disabilities who want to become a part of the Kansas regular public and private workforce.

### **Long Term Revisions**

1. A comprehensive universal assessment of need (a federal requirement), such as the Supports Intensity Scale, that transitions community supports and services planning from a medical/health model of services at excessive costs, to a developmental and community model of services and supports at reasonable costs. A comprehensive universal assessment of need should be used to allocate individual resources based on individual assessed need. It is a cost-effective remedy to the failings of and an alternative to financial tiered or levels of funding.

Rationale: When from the beginning the assessment is similar to those used for persons entering nursing homes or residential care centers rather than the community, then the results found are highly medical, health, and safety. Most people with disabilities, like most people are not injured or harmed at all by falling, while citizens who are very old are, yet the assessments currently used in Kansas focus on medical, health, and safety care, rather than possibilities for growth and a meaningful life, while putting health and safety in its proper ancillary, not primary, role. The quality of individual service planning via case management is likely to soar with an effective tool to begin the process.

2. A Supports waiver without a residential component is a common, but missing in Kansas, way of providing supports and services to persons with developmental disabilities without encouraging him or her to accept a group home placement. The number of persons in supports waivers in States is typically two to three times greater than the number of persons in residential waivers. Within the new waiver and the current residential waiver, funding for day activity and facility-based vocational activities can safely be shifted by approximately 11% to increase employment support funding by approximately 300%.

Rationale: Why Supports waivers without a residential component are so popular in most states is they cost taxpayers far less than a comprehensive residential waiver; more people can receive the services they need at less cost. More people come off the waiting lists and receive needed services. Families may receive services as close as possible to when their son or daughter graduated from school. Supports waivers keep people from using the most expensive community service, a residential group home, until it is needed.

3. An (i) State Plan Amendment (SPA) for targeted citizens with behavioral health needs specifically focusing on providing Supported and Customized Employment and a few other supporting services with zero new investment of state resources would bring millions of dollars in new federal revenue to Kansas.

Rationale: Without the incredible financial and personal outcome benefits of psychosocial mental health interventions such as Customized and Supported Employment, Kansas is left with but two tools: Pharmacy and Therapy, both at extreme taxpayer costs when compared to their outcomes. The purpose of intervening in the lives of persons with significant mental health needs is not just to keep people out of more expensive psychiatric hospitals, but to improve their lives to the extent that more expensive medical interventions are rarely if ever needed.

4. An essential component for employment success is making nearly all services available as a Self-directed Service (excluding residential and nursing services) to open up the potential of many more persons with the skills needed to deliver excellent employment outcomes. Self-directed employment services, a waiver change, would allow most businesses and most employers to be paid for the discrete hours spent helping the person with disabilities succeed at their new job skills.

Rationale: Self-directed services, when performed within the CMS technical guidance, ensure only those persons with the skills to provide a service, usually a combination of typical provider agency and employer personnel, are providing the service. Self-directed services allows services in more remote areas of Kansas, offers more choices in areas where there are few or no choices presently, and offers much greater flexibility in order to tailor funding to meet the persons exact needs. Self-directed services cost the same or less than services that do not allow choice and self-direction.

5. Create a service rate setting mechanism based on what the State of Kansas determines to be acceptable costs to ensure providers are reimbursed fully for the allowable costs of every service.

Rationale: Several federal courts in multiple jurisdictions have ruled that rates of Medicaid payments must be based on the exact costs to provide services, that states are prevented from trying out a rate to see if it is adequate, and that rates must be substantial enough to ensure access to a choice of service providers. One high court ruling has found that rates must be adequate enough to prevent excessive staff turnover and that service access is being denied when there is high staff turnover, a federal CMS violation. It has been reported by multiple sources in Kansas that annual turnover of personnel to provide services to citizens with disabilities is 60%.

6. An hourly fee for service reimbursement methodology to replace the Vocational Rehabilitation pay for performance milestone payment methodology that has inhibited the performance of employment outcomes in Kansas and other states.

Rationale: Milestone payment methodologies have been forwarded as a new way of providing payment for Vocational Rehabilitation when in truth these milestone and pay for performance block payment schemes have been around for 30 years, beginning in Oklahoma with a cadre of persons who had less significant disabilities than persons used in data from other states. Milestone payments have been tried by most states. The reason why Indiana, Georgia, Kentucky, other states, and hopefully Kansas considered and successfully implemented alternatives to milestone payments is the data proved milestone payment and tiered funding *reduced* the numbers of persons with significant disabilities who became employed, while fully reimbursing providers at an hourly rate based on the provider's exact allowable costs *increased* the numbers of persons with significant disabilities who were employed in their communities.

### **Short-term (Immediate) Revisions**

1. Provide a state priority of Medicaid recommended waiver services list to all case managers with Customized and Supported Employment at the top listing and day center services as the bottom listing, transportation and other services in between
2. Allow self-directed rates to be negotiable.
3. Allow follow-along employment support services to be something more than face-to-face.
4. Allow day services funding to be used to provide support and customized employment supports, with hours of allowable services being converted to

individual, provider by provider, hourly rates acceptable to the state based on provider costs.

5. Ensure all VR referrals are processed fully within 60 days from initial referral. Actual first day on the job must average 120 days or less for persons with significant disabilities such as persons with developmental disabilities and persons with the most significant and persistent mental health needs.
6. Ask families and persons with disabilities at every meeting, including at first application for services: What type of work do you plan on doing in the next year and are you willing to let us refer you to Vocational Rehabilitation and to a Provider of Services to help you with employment and other community-based non-facility supports before we discuss residential services? Ensure families understand that a service is not a place and that we no longer make referrals to places or facilities but for services and supports.
7. Provide training and support and necessary re-training if necessary for all State Medicaid, Vocational Rehabilitation, Behavioral Health, and Developmental Disability State employees (in particular managers, unit supervisors, and directors) on why community integrated employment for persons with the most significant disabilities is the number one priority among a plethora of available services. The key is to help them understand that Supported and Customized Employment is rehabilitation and habilitation methodology, not an end result, but a rehabilitative and habilitative means to an end, employment.
8. Bring integrity to the employment data by removing persons who receive more than half of their supports and services in settings with other persons with disabilities as day services, and by setting a baseline of at least 20 hours working per week, at minimum wage or greater, without constant or near constant staff support as a person in Supported Employment.
9. Refer all children at age 17 to Vocational Rehabilitation to ensure funding from Vocational Rehabilitation is being paid to a provider of employment services as needed in the month of the person's 18<sup>th</sup> birthday.
10. Create and sign service financing interagency agreements between Vocational Rehabilitation, Medicaid, Developmental Disabilities, and Behavioral Health that are supported by all state agencies.
11. Find and list all disincentives to employment, no matter how minor or major, and provide immediate resolution to any that can be done through a single one-page communication from the state.

12. Create an agreement to be signed by Residential services providers, pledging to support all Supported and Customized Employment efforts, including evening and weekend employment that may require staffing of the group home during the day, this as a signed memorandum of understanding with every residential services provider, updated annually.
13. Allow self-direction of more than attendant services.
14. Require families and persons with disabilities to select which provider(s) will help them learn the skills they need for a particular job when they are actually working as an employee at that particular job, before deciding on the group home placement location and subsequently the provider of residential services.
15. Require persons, stakeholders involved, to prepare for reasons why day center financing must someday be shifted to supported and customized employment financing through the following exercise. Calculate the hourly rate of day services by multiplying the number of persons allowed in a group setting x the hourly rate of payment for day services, divided by the number of persons required for oversight. For example, hourly rate for a day is for example \$3.00 every 15 minutes or \$12.00 per hour x 20 people are the maximum allowed = \$240.00 per hour in potential revenue/1 for one staff member = the state paying \$240.00 per hour for 20 people to sit or stand in a room together doing similar non-employment activities almost every day. If it is usually a 10:1 ratio, say with two staff then the rate would drop to \$120.00 per hour. Note that the current 1:1 face-to-face only rate of payment to providers for supported employment in Kansas is \$12.24 per hour.
16. Encourage providers to provide on average 200 hours of on-site job coaching prior to Status 26, instead of 30-35 hours, by VR Counselors authorizing services after milestone payments are made in 100 hour, then 50-hour blocks.
17. Ensure providers of services cannot discriminate by refusing services to persons with Autism, or others with significant behavioral challenges.
18. Do not allow community group employment settings, work crews or enclaves to be back-filled when a vacancy arises to ensure compliance with CMS Final Rule.
19. Allow people to be in SE, CE, Day, Sheltered, during the same day, just not billed at the same time.
20. Use formal rejection from VR for services, such as being deemed unemployable, as a definitive okay to use Medicaid services for the entire employment process as a habilitative service in accord with the person's

individual support plan that includes supported or customized employment. Any persons subsequently working successfully after VR denial and through Medicaid funding should have their names and circumstances referred to the Kansas State Medicaid Director as Medicaid funds may have been legally, usefully, but unnecessarily used to an incorrect finding of unemployable.

21. Require VR counselors to return phone calls, emails, or any inquiry related to, from, by, or about a person eligible or anticipated to be eligible for VR services, the same day or within 24 hours if possible, but never more than 48 hours after inquiry.
22. VR should authorize benefits counseling.
23. The VR counselor should make contact with the person and their family within the year of the person's 16<sup>th</sup> birthday to begin the process to receive VR services upon graduation.
24. Aging out Foster Children should be referred to VR when they turn 16 years old, not within 6 months of aging out of children's services.
25. Fully match available VR funding at 21/79, which is essentially a 100% funded program given the subsequent churning and taxation of funds entering Kansas.
26. Do not require that the person's employment success be guaranteed in order to receive VR services or be considered unemployable.
27. Discover the average number of days counselors are paying a provider for VR services to ensure that it is never limited to 90 days while communicating there are no day limits on services through VR to counselors and providers of services.
28. Ensure there is at least one VR counselor available in every county in Kansas and give the name of that counselor or other counselors to the State DD agency and Behavioral Health services agency, updated.
29. Make it clear that VRCs in Kansas are welcome to have a second job without a real conflict of interest, unless their yearly wages are in excess of \$53,000 through VR.
30. VR should ask counselors via a third party, with their anonymity assured, what needs to change to get more people with significant disabilities jobs.
31. Because job tryouts are proven to be ineffective in securing the sustained employment of citizens with significant disabilities at a living wage, a policy

that job tryouts should not be used for anyone with a developmental disability or anyone with severe and persistent mental illness.

32. VR should consider publishing a provider identified but customer de-identified list of placement rates, with employment circumstances 18 months after Status 26 to help persons choose providers.
33. VR should encourage the formation of a professional rehabilitation association in Kansas similar to the one that existed 20 years ago.
34. VR should authorize Discovery methodology for employment development as the only allowable and approved employment development methodology.
35. Integrated competitive employment at a living wage increases and complicates the work of the representative payee, removing this role from the residential services provider may be necessary if there is evidence that persons living in group homes are working less than these same persons who do not reside in a group home.
36. A policy by VR, DD, and BH around the important and proper methods to handle the job application process, emphasizing that filling out the application for employment is something that happens *after* employment has been secured and not ever the initial step of job development. This will prevent people with disabilities from being driven in cars being asked where they would like to apply for a job or applying for jobs online.
37. Persons should be taught the principles of the conservatism corollary to ensure persons with significant needs that are at risk of being devalued in our society are put in employment positions that enhance the person's image or competence. This would mean VR, DD, and BH not authorizing payment for work that would put someone handling garbage, in a filthy environment, sorting (recycling) waste, mopping or sweeping up dirt, dealing with trash, the kinds of job that most people wouldn't want, jobs ancillary to the primary mission of the employer to the extent that the person with disabilities would not be missed if not present and working.
38. VR, DD, and BH should have a policy that ensures the reporting of de-hiring practices involving persons with disabilities: such as persons, for example, who begin working 30 hours a week and are now working 9 or fewer hours, persons with disabilities being on a different and longer pay schedule, like once a month, while other employees are on weekly or bi-weekly pay schedules.
39. A policy that encourages more than one provider of the person's services.

40. A policy that people are put in jobs that they are interested in and want to do, not put in jobs because there is a job opening.
41. An analysis of how often people come off of a waiting list, our put in a group home and receive whatever non-residential services are offered by that provider.
42. A policy that ensures persons with Autism and Behavioral Challenges in particular are receiving VR services and are working in integrated jobs in the community.
43. A policy that ensures the same hourly pay rate for job development, employment site training using systematic instruction, and ongoing follow along and support services. This means the same rate of pay for a job developer or job development activities, for an employment specialist or on site instruction and job coaching activities, and for a job coach, someone providing ongoing follow-along and support services.
44. An understanding that a Medicaid rate cannot be subsidized, that is added to with state or private funds. Medicaid rates are by law considered the total and full payment for a service rendered at the cost of providing the service.
45. Advise that persons should be working on average 26 hours per week at the prevailing wage, without constant paid support present.
46. Advise that potential employers or businesses should never be sent the resumes or vitas of someone obtaining a job through Supported or Customized Employment.
47. Advise to encourage employment taking place in the evenings and weekends without the expectation that previous day program hours are filled.
48. Advise that only persons with experience, education and training in the employment of persons with significant disabilities will be working with the sons and daughters of family members. This guarantees that no one's family member will serve as a training ground or as an employment experiment for a new employment specialist.
49. Parents should be shown the data of how many people with disabilities have experienced mistreatment, abuse, exploitation, and/or neglect in state facilities, how many in group homes, and how many while employed in a real job in the community.
50. Consider a policy that students cannot work for an employer during school hours where that employer receives financial gain (usually meaning that employer would have to pay someone to do the work if the person were not

doing it) and the student is not paid at least minimum wage for the work performed, in line with federal DOL standards.

51. Consider advice that offsite training experiences sponsored by schools must show that the employer's work was impeded, the employer lent help and support that was extraordinary and beyond mere access, proof that the employer showed no financial gain when compared to a similar employer doing similar work without the off site training experience.
52. Consider advise that education offsite employment experiences happen in the presence of qualified professional staff that can offer students systematic individualized instruction, and is not operated with a parapro taking a group of people out with the purpose of transporting them back and forth from the educational setting and watching them while they work at an employer.
53. Advise Schools to ask students and their families that are in their last two years before graduation what kind of work in the community do you plan on doing? Have you found someone to assist and support you in getting and keeping a good job? As an alternative to asking the question: do you have services set up?
54. Advise schools to have long periods of time when students with disabilities are not in the vicinity or presence of parapro.
55. VR Counselors should voluntarily attend at least one IEP meeting in the student's last two years of educational services.
56. Advise providers on the new changes via WIOA, CMS Final Rule, USDOJ Olmstead and ADA interpretations about "services that have an isolating effect."
57. Create a state agency employment coordinating and policy change council of VR, DD, MH, and Medicaid representatives.
58. Ensure Employment is an important part of person-centered planning, that the purpose of life in a wealthy twentieth century democracy is not only to have friendships, relationships, contacts, and connections that make you happy and keep you pleased and busy but to have a life that adds to the well-being of yourself and others in a society to reveres human productivity, working.
59. Advise provider organizations to not have a job developer, then an employment specialist, then a follow along person, compounded with turnover—a host of people (strangers not employed at that business) going in and out of an employer's business, consider one stable knowledgeable person that convinced them to hire a person with a significant disability,

provides the systematic instruction training, and is still there to ensure it all worked out well and continues to work well, known as ongoing support and follow-along services.

60. Make planning for employment an important part of the information gathered prior to putting someone on a waiting list for a group home.