

A Kansas Roadmap to Improve Employment Outcomes  
of its Citizens with Disabilities

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The Roadmap changes numbered (1, 2, 3...) below are changes that could in most circumstances be implemented without additional funding or the need for authority beyond the primary Director of the following services: State Developmental Disabilities Services, State Medicaid, State Vocational Rehabilitation, State Behavioral Health Services or the State Education Department. The Roadmap changes lettered (A, B, C...) below would require cooperation by more than one government agency and a realignment of taxpayer resources. **Under no circumstances is there a recommendation on the Roadmap that will cost additional taxpayer resources.**

The following changes should be considered in the following order:

1. A Policy that confirms to providers that it is fine for people to be in Supported Employment, Customized Employment, a Day Center, in a Sheltered Workshop facility, or on a mobile work crew or in an employment enclave of some kind—**on the same day is okay**. Rates would need to be based on hourly costs, no lump sum payment for a whole day or half day without considering actual hourly costs. This in no way suggests that segregated or grouped options are efficacious. It gives people the opportunity to not have to be a “day activity person” or a “sheltered workshop person” or a “supported employment person,” but can instead begin to choose more integrated,

beneficial, and outcome-based services, without financial disincentives or income lost to their provider of services.

2. Case Managers could benefit greatly from the State Medicaid Office and Vocational Rehabilitation giving non-mandatory advice and direction, a priority list of available services, to Case Managers, with **Customized Employment, Discovery, and Supported Employment as the highest recommended priorities**, with congregated facility-based services, where people with disabilities are grouped together to receive services having the lowest priority. This simple one page guidance letter, a listing of all services in priority order, to case managers would put Kansas in further compliance with the Medicaid Final Rule by encouraging services that do to have an “isolating effect,” and additionally encouraging employment services in accord with CMS guidance of September 3, 2015.
  
3. Vocational Rehabilitation should authorize **Discovery for employment development as the primary** VR approved employment development methodology. There is a significant difference between assessing/evaluating a job seeker in the traditional manner and getting to know someone through Discovery methodology, his or her individual circumstances in order to make an employment match that lasts.
  
4. Vocational Rehabilitation and Developmental Disabilities should consider a policy that **discourages** placement of citizens who have not historically been valued for their ability to work, persons with significant disabilities, in **jobs that most other people would not want to do**: handling garbage, sorting rubbish (recycling), employment in a filthy environment, handling waste, mopping or sweeping up dirt or filth, dealing with trash, or any such jobs that are ancillary to the primary mission of his or her place of employment.

5. Immediate **policy guidance on the job application process**, eliminating it as one of the early steps in securing employment for persons with disabilities. This to discourage people from traveling about applying for jobs as a form of job development. This is also to discourage people with disabilities being placed in a job simply because there is a job opening. Instead, helping people find jobs they are interested in and want to do through an efficacious process like Discovery.
6. Where are they now data is critical to **ensure the efficacy of the taxpayer investment** in integrated community employment. Data is routinely reported by states, including Kansas, which show citizens with disabilities being closed as VR status 26 employed and working 20 or more hours. But it has been the case in some states, but not all, where citizens are routinely working on average but 9 hours a week when data is taken after one year. The remaining portion of the week is likely spent in a day activity facility or sometimes in group community activities, similar to time spent prior to the significant investment of Vocational Rehabilitation resources and the continued invest in Medicaid funded ongoing follow-along and support services.
7. Widespread advice should be disseminated to schools and their Special Education departments advising them on what the adult services system, including Vocational Rehabilitation is requesting be said and not said during the conferences held in the final two public school education years. **What not to ask: do you have services set up?** What to ask: What kind of work in the community do you plan on doing? Have you found someone to assist and support you on getting and keeping a good job?
8. Prior to putting someone on a waiting list for a group home, make planning for community employment through **Customized and Supported**

**Employment a mandatory part of the information gathered to assist in the selection of the person's place of residence.** This as an alternative to people getting in the next open slot at a group home that says yes we'll take him or her, leaving the persons with day center for workshop facility services because that's all that's immediately available.

9. Guidance from State Medicaid on person specific services and the long-standing practice of CMS allowing services to be more than simply face-to-face, ensuring persons can **work on behalf of a specific citizen** with disabilities without him or her being present.
  
10. Secure an agreement with the Kansas Department of Education that families and students with disabilities will be asked the following or similar questions at every Special Education meeting, beginning in the school year of the student's 14<sup>th</sup> Birthday: What type of work do you plan on doing in the next year? Beginning with the school year of the student's 17<sup>th</sup> birthday: What type of work do you plan on doing in the next year? Are you willing to let us help refer you to Vocational Rehabilitation and to give you information about providers of employment services in area? Ensure the family and the student understands that we cannot recommend a place and that we **no longer make referrals to places or facilities but for services and supports**. A service is not a place.
  
11. Send a survey out to each person's case manager for the purpose of bringing further integrity to **Kansas's employment data**. Persons who work fewer than 10 hours per week on average, meaning they spend the majority of his or her time in services other than employment or without services, would be taken out of the "in supported employment" data. Advise providers of services that the expectation of customized and supported employment supports and services should be a living wage and result in persons working an average of 26 hours per week.

12. Bring written clarity in a guidance letter from State Medicaid considering services for persons with autism, ensuring that all providers of services for persons with developmental or intellectual disabilities are required to have robust services offerings, including **customized and supported employment services for citizens with autism.**
13. **Require employment to be a standard part of every authorized person-centered/personal futures planning process.** Emphasizing that while friendships, relationships, contacts, and connections are critical for happiness, they are also important for discovering social assets, persons who can be of great value to someone who wants to be a productive and employed member of society through real community employment contacts, connections, and relationships.

The above 13 changes can be made at no cost or change in how any service or support is delivered, for Kansas to move forward, the following system changes must be made with the support, direction, guidance, and work of employees of the State of Kansas.

- A. The first need is for Kansas to **implement a new comprehensive universal assessment of need** (a federal requirement), such as the Supports Intensity Scale (SIS), to ensure the reliable and valid allocation of taxpayer resources. Services to persons with disabilities in Kansas today are largely based on the most expensive medical/health model of services, a holdover from the days when these citizens were institutionalized in state-run hospitals. The vestiges of this **costly and unnecessary medical orientation to services** begin with the assessments currently used and currently being considered for Kansas. The SIS is being used in many states and is being considered or being implemented in most others as the preferred comprehensive universal assessment of need to allocate individual resources. Kansas should implement the Supports Intensity Scale and use it to efficiently and effectively assign taxpayer resources to services that make a difference, get

outcomes, and reduce taxpayer costs. The SIS will help eliminate wasteful, ineffective, and unnecessary services and supports.

- B. As soon as feasible allow, following Centers for Medicare and Medicaid Services (CMS) 2015 Technical Guidance, the ability to **self-direct nearly all Medicaid services**, at minimum all employment-related services, with the exception of residential and nursing services. This will ensure significant more choices for families and citizens with disabilities, while ensuring that only those persons with the skills to provide a service will be paid to deliver the service. Self-directed services can more efficiently and effectively use taxpayer dollars.
  
- C. Change the rates paid for employment services to bring them into compliance with the CMS announced payment option changes, September 3, 2015. **All rates are required to be built on an hourly basis based on actual costs to deliver the Medicaid Service.** This is a much needed and welcome emphasis by CMS of past guidance and will have an immediate impact on any performance-based payment option, tiered funding, or milestone payment mechanism. Financial reimbursement to providers of employment services and supports in Kansas is currently unacceptably low. On the Vocational Rehabilitation side, too much is being spent on job development using dated methods and too little is being spent for job coaching. On the ongoing support and follow along side of funding, primarily Developmental Disabilities or Behavioral Health, too little, \$12.24 per hour face-to-face, is being spent by administrating agencies of the HCBS waivers.
  
- D. 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 state-determined allowable costs for every service.** Federal courts have upheld CMS policy that rates paid to providers for services rendered must be based on costs. States are prevented from

trying out a rate to see if it is adequate. The rates of payment must be substantive to the extent that they ensure access to a choice of service providers. Excessive annual turnover of personnel by provider agencies has been seen evidence of a state's payment system's inadequacy to ensure access to services.

Continuing needed no cost policy and practice changes.

14. **Refer all students at age 17 to Vocational Rehabilitation** to ensure that funding from Vocational Rehabilitation is being paid to a provider of customized and or supported employment services as needed to begin, if the person is not already employed at a living wage, in the month of the participant's 18<sup>th</sup> birthday.
15. Create a list of **current disincentives to employment**. Order disincentives from those that may be resolved by bringing clarity to field practice of already existing policies via several one page letters of guidance, to those disincentives that can only be resolved with an infusion of new additional taxpayer resources. There should be policy and practice changes in between these two, such as retraining, new state policy guidance based on federal changes, additional no-cost service and practice options, simple no cost waiver or state plan amendment changes, and service and support financial rebalancing.
16. A state policy that **prohibits back-filling vacancies** in sheltered employment work crews on enclaves to ensure compliance with CMS final rule guidance.
17. A policy that encourages service participants to select the best provider available for the needed service, meaning that most participants will have **multiple providers** of needed services.

18. The State should complete an analysis of persons coming off the waiting list and into residential services to see if significant correlations exist in some areas of Kansas where the choice of what happens during the day, employment, day facility, workshop, etc. may be more **correlated** to the persons location and choice of residential provider than to the person's individual needs and **opportunities for choice**.
  
19. Consider advice that **offsite training experiences sponsored by public schools** must show that the employer's work was impeded, that the employer lent help and support that was extraordinary and beyond mere access, in other words, proof that the employer where the offsite training experience occurs showed no financial gain from the work provided by the students compared to a similar employer doing similar work without the off site training experience, **in accord with USDOL**.
  
20. Advise providers of all waiver and state plan amendment services about the **changes in the CMS Final Rule, the September 3, 2015 employment financing guidance**, and the USDO Olmstead and ADA interpretations about "services that have an isolating effect."

Additional needed Systems Changes:

- E. The current all or nothing approach with citizens who have developmental and or intellectual disabilities receiving a waiver that contains residential services, should be replaced with a second much more cost effective **1915 (c) waiver that does not contain a residential services component**. Two waivers for citizens with developmental disabilities would cost Kansas's taxpayers less than the current single residential waiver. This second waiver, known as a Supports Services waiver and used in more than twenty states, has specific purposes of putting people in supports and services that

are extensive enough that placement in a residential waiver outside of their parent's home is not needed, sometimes for decades. The key to the most successful supports waivers is the provision of support and follow along employment services, following Vocational Rehabilitation Customized or Supported Employment training. The ongoing cost of support and follow along services is between \$3500-\$5000 per year, at least **nine times less costly** than the current Kansas Residential waiver.

- F. Citizens who have behavioral health needs, such as citizens with significant mental illness, would benefit greatly from a **1915 (i) State Plan Amendment** that shifts treatment and intervention costs in a pragmatic way from a pharmacological approach to supports and services to a psychosocial approach to supports and services featuring the evidenced based methodologies of customized and supported employment services.

Continuing needed no cost policy and practice changes.

21. **Allow day services funding to be used to provide supported and customized employment services**, with hours of allowable billable services being converted, provider by provider, into hourly rates acceptable to the state's guidance on allowable costs.

22. Provide training, support, and **retraining as needed**, for State Medicaid, Vocational Rehabilitation, Behavioral Health, and Developmental Disabilities services state employees (in particular managers, unit supervisors, and directors) on the reasons why Employment First and community integrated employment for persons with the most significant disabilities is the number one state priority from among all available services. The key to success is the

understanding that Supported and Customized Employment are Rehabilitation and Habilitation Methodologies and are not end results. They are but evidenced-based means to an end, employment in a real job, making a living wage in their community.

23. Create and sign an interagency service **financing agreement** with dollar commitment projections between Vocational Rehabilitation, Medicaid, Developmental Disabilities and Behavioral Health, supported by all state agencies.
24. Create a **Residential Services provider agreement** pledging their support of Employment First and the States efforts to increase Supported and Customized Employment. Key to emphasize in the signed agreement is their verifiable support based on results of people with disabilities, who live in group settings, working in jobs during the evenings and on weekends, with shifts in staffing for persons who may be home during the day.
25. Allow persons to **self-direct** Supported Employment, Customized Employment, and 1:1 Community Access, community participation services.
26. Bring the hourly rate services formula in line with the September 3, 2015 CMS guidance to **ensure all payment rates are based on actual provider hourly costs**, such as Supported Employment or Customized Employment at \$48 per hour for a 1:1 service provided by someone who is paid \$36,000 full time to provide such services, with the implication that a 6:1 service provided by a person in a group setting would be at a rate of \$8 per hour, or that a 20:1 ratio for some large group day activities would be paid at \$2.40 per hour.
27. Have a 90-day limit agreement with Vocational Rehabilitation that determines the person as unemployable through VR if VR services have not begun. This would free Medicaid services to be spent for the entire employment process as a habilitative service in accord with the person's individual support plan

that would include Supported Employment, Customized Employment, and Discovery. Because Vocational Rehabilitation has a significantly more Kansas taxpayer friendly match than Kansas Medicaid funding, it would be important to keep data on the numbers of persons that were deemed “**unemployable**” through VR and determine what future policy enforcement steps could be appropriate in the future to ensure the most economical use of the Kansas taxpayer’s resources.

28. Vocational Rehabilitation or Medicaid as clarified in the September 3, 2015 CMS guidance, should authorize **benefits counseling** to increase parent’s interest in assuring his or her son or daughter becomes employed.
29. A plan between Vocational Rehabilitation, Children’s Services, Developmental Disabilities, Behavioral Health and Medicaid should detail that children/young adults are a part of the same employment policies afforded to other young persons in Kansas. This would ensure reasonable system accommodations are in place so that **children aging out of foster care** may make a timely transition to adult employment.
30. Multiple **Vocational Rehabilitation policy reforms**: phone call return policy, student referral while still in school before 18<sup>th</sup> birthday policy, VR services beginning within 90 days of leaving school policy, fully match federal monies available policy, no guarantee of employment success policy, over 90 days VR services policy, counselor for every Kansas county policy, VRCs second job policy, VRC confidentiality assured suggestion box policy, a tryouts policy, a publication of VR vendor performance policy, a VR policy on a statewide professional rehabilitation association, a job developer, employment specialist, support and follow-along services hourly pay rate policy, a voluntary attendance at student’s IEP meeting during last two years of a student’s education policy, representation on a statewide employment coordinating and policy change committee.

## **Summary**

It is critical for Kansas to move beyond pilots and special initiatives to making the changes, including systems and service financing changes necessary to improve how the hundreds of millions of dollars are spent annually on behalf of its citizens with disabilities. There is no good reason why Kansas has one-third fewer citizens with disabilities working than the average state. The money is there. Significant changes in where and how it is spent are overdue.