# A Proposal to Improve Integrated Employment Job Opportunities and Outcomes:

## Consolidate LTC Job Supports under the Department of Workforce Development

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*RFW in Action's* 60 member organizations provide services to tens of thousands of people with disabilities and economic disadvantages and employ more than 10,000 direct support workers and other professionals throughout Wisconsin.

***This proposal is part of RFW in Action's 2012 legislative platform.***

## Introduction

Wisconsin's Community Rehabilitation Programs (CRPs) are fully committed to expanding supported employment opportunities for people with disabilities who choose this option as a result of a person-centered planning process. In fact, recent information provided by the Wisconsin Department of Vocational Rehabilitation (DVR) show that CRPs already provide 65% of supported employment opportunities funded by the state and the federal Rehabilitation Services Administration, which are authorized by DVR. CRPs offer a full range of services, from early intervention programs for children with disabilities; to safety net activity and employment training programs for youth and adults with disabilities (day habilitation and prevocational services); to job development, placement, and ongoing job coaching services for youth and adults with disabilities (supported employment); to Alzheimer's and other programs for older adults.

Rehabilitation for Wisconsin in Action (*RFW in Action*) represents the interests of its statewide membership of CRPs and other organizations. On December 1, 2011, the *RFW in Action* Board of Directors adopted a position in favor of consolidation of long-term care employment supports under the Wisconsin Department of Workforce Development (DWD). This proposed consolidation would increase employment outcomes for people with disabilities; help them become taxpayers; achieve greater independence and contribute to the communities they live in; and make employment funding and outcomes more accountable, transparent, and success-oriented.

## The Three Steps That Are Needed to Improve Supported Employment Outcomes

DWD was created on July 1, 1996 to consolidate duties performed by the Department of Industry, Labor and Human Relations, and similar duties from other departments. At that time, employment services for people with disabilities were transferred to the new agency from the Department of Health and Social Services (DHSS), to form a new Division of Vocational Rehabilitation (DVR). However, the long-term supported employment program remained in DHSS. DWD is simply the most logical administrative location for this program, because if it was in a new division in DWD, DVR and the training divisions of DWD and its job centers could work with new long-term employment supports division to create seamless service delivery, program efficiencies, and improved employment outcomes. Therefore, *RFW in Action* proposes the passage of legislation that would:

1. Identify Medicaid and state funding currently used for long-term supported employment in Wisconsin;
2. Transfer this funding from the Wisconsin Department of Health Services (DHS) to a new Division of Extended Employment Supports (DEES) created in the Department of Workforce Development; and,
3. Make DEES responsible for the maintenance of integrated employment placements developed by DVR.

Taking these three steps will have a real impact on the availability of supported employment in communities across the state of Wisconsin for two reasons. First, they will help set goals to increase funding for long-term supported employment. Second, they will enable monitoring of those expenditures and outcomes within the various Workforce Development Areas to take place over time.

In essence, the ability to track spending and outcomes in long-term supported employment will function in much the same way as it does in DVR now for short-term funding. Instead of disappearing within a Per Member Per Month capitation, as the spending on long-term employment does now in Family Care, if DWD is made responsible for administering long-term employment supports, the funding for supported employment will be specifically identified and tracked over time. Taking these three steps will fix the real problem that currently exists, by removing the funds from an environment in which funding for long-term employment are pitted against the other competing funding priorities that Managed Care Organizations (MCOs) have when deciding which services should be authorized with the capitation payments they receive from DHS (see the next section for more a more detailed explanation of why managed care has failed to increase employment outcomes).

Passage of legislation to implement this proposal would establish a dedicated funding stream for supported employment that should meet with approval by many other disability advocacy organizations because it represents a practical solution for the expansion and success of integrated employment. The definition of integrated employment, which all the advocacy organizations want to see increased, is work that pays minimum wage or higher for an employer that does not have the sole purpose of serving people

with disabilities, which gives the employee an opportunity to work with and interact with community members (i.e., non-disabled individuals).

An additional benefit of legislative action on this proposal would be to help the Wisconsin Department of Health Services focus more attention on its core mission: providing funding for insurance coverage under BadgerCare; fulfilling its Public Health responsibilities; and managing residential supports in Nursing Facilities and the Home and Community-Based Services waivers.

**Why Managed Care Has Not Improved Integrated Employment Outcomes**

Until the expansion of Family Care began in 2005, Wisconsin Counties had the primary responsibility for the administration of the long-term care system at the local level. In the pre-Family Care era, limited funds and competing priorities caused an uneven pattern of supported employment in Wisconsin. Those counties that could afford to "over-match" state and federal Medicaid dollars expanded the use of supported employment, whereas those that could not afford to put county dollars into long-term care programs were slow to fund anything other than center-based employment services.

When the responsibility for managing long-term care programs shifted from counties to Family Care organizations, the State of Wisconsin regionalized the problem of competing funding priorities instead of fixing it, as the advocacy organizations had hoped. After the transition to Family Care, counties that had previously been slow to adopt supported employment had the opportunity to expand this program. However, the 2008 recession caused a great deal of pressure on long-term care funding, and reduced the base funding assumptions for MCO capitation payments, coupled with a decline in the number of available jobs.

When directly asked how much the funding to MCOs was reduced, as part of the legislative mandate for DHS to cut the Medicaid budget by $650 million in 2009, the Division of Long-Term Care Assistant Administrator Fredi Bove stated that the reduction was expected to be in the range of 8 – 15%. **Subsequently, several MCOs experienced budget shortfalls and cut rates to employment providers. During that same period of time, DVR's job placement numbers declined for the first time ever in 2009.** In this funding and jobs environment, it is understandable that supported employment opportunities have not increased. From 2009 to 2011, CRPs and other supported employment providers struggled to maintain the funding for job supports for people currently enrolled in supported employment and were unable to add job coaches or other staff to expand these services.

MCOs and counties that still administer long-term care programs will always have competing spending priorities within the limitations of the capitated payments or Community Integration Program funding they receive. As long as these competing spending priorities continue to exist, the expansion of supported employment will not keep pace with consumer demand for it.

In his 2009 analysis of outcome-based employment funding, John Villegas-Grubbs, one of the nation's foremost experts in financing services for people with intellectual and developmental disabilities, concluded that supported employment would be a low priority in a funding environment in which MCOs do not have sufficient resources to deal with other competing financial demands:

> The potential is strong that this service (integrated employment) will be ignored where possible, or worse, authorized at artificially low rates. As is all too often the case in services where vulnerable people are the consumers, **it is better not to provide a service at all than to compromise because the true cost of providing the service cannot be supported.**

In addition, advocacy organizations like the Survival Coalition have also acknowledged that managed care is not producing the integrated employment results that its members hoped the Family Care program would achieve:

> (The) Survival Coalition continues to work with the Department of Health Services to understand why there has actually been an increased reliance on congregate housing and sheltered employment in some Family Care managed care organizations and to address problems in consumer informing about options related to long-term care

> services. Survival Coalition also reminds legislators that they need to address funding issues for long-term care services in those counties that have not entered into Family Care because funding constraints are resulting in increased use of congregate living and sheltered work in these areas as well. – *2009 Survival Coalition budget paper.*

Instead of realizing that the impact of the economic recession and funding cuts made in the 2009 – 2011 biennium was the real cause of the failure to increase integrated employment, the Pathways program has worked with DHS just this year to create yet another program that duplicates existing services within the provider network, with the intent of supplanting job coaches with Long-Term Job Support Workplace Assistants. These Assistants would be employed by Personal Assistance Service agencies instead of CRPs. Again, if funding for DVR to develop the initial job opportunity for people with disabilities is not sufficient, or if funding commitments cannot be made by MCOs for long-term employment supports because of competing funding priorities described above, it is not clear how the addition of another service would address the failure of managed care to increase integrated employment.

**Why CRPs Are Critical to Achieving Better Employment Outcomes for Wisconsinites with Disabilities**

Community Rehabilitation Programs were created more than 50 years ago when few, if any, services existed to provide employment and other community-based services for people with disabilities. Beginning in the 1950s and 60s, families, guardians, and community business owners began working together to fill the void. Before then, most people with disabilities were placed in institutions at considerably higher risk to the safety of people with disabilities, resulting in their isolation and increased taxpayer expense when compared to community-based services.

Some advocacy organizations believe that the best way to increase supported employment is to single out the center-based services provided by CRPs for rate cuts <u>and</u> to severely constrain or eliminate their use of the commensurate wage provisions of Section 14(c) of the Fair Labor Standards Act. But CRPs in no way have inhibited the expansion of integrated employment. In fact, as noted previously, CRPs are the largest single provider of supported employment that is funded by DVR. They provide most of the long-term employment supports funded by DHS, as well. While DHS has tried alternative approaches to increase integrated employment under the MIG-funded Pathways grant program, the outcomes of the millions of dollars they have spent on these services are uncertain because Pathways was not required to report specific employment outcomes.

There are no viable alternatives to the services provided by CRPs for thousands of Wisconsinites with significant disabilities who have yet to obtain a full-time job, or for those who prefer to receive center-based services for any number of valid reasons. CRPs are a critical safety net for these individuals in local communities, especially those that continue to deal with very high unemployment rates for the general population.

After Mr. Villegas-Grubbs participated in a seminar by the Pathways program in November 2009, which was held in Wisconsin Dells, he came to the following conclusion:

> There is a risk that while this service (integrated employment) might be construed to satisfy the need for all employment supports in their full range of variety, funding only the outcomes related to paid wage job placement will result in only those supports occurring, to the exclusion of all others. If such a funding structure (outcomes-based) is the only one used to purchase employment-related services, the “safety net” services (for those not yet able to find employment) that occur in center-based employment supports would disappear. This will happen even if it is not the express intent of the state to discontinue these services as a matter of policy.

Villegas-Grubbs made the following recommendation, with the assumption that supported employment would continue to be the responsibility of MCOs:

> If the State of Wisconsin seeks to ensure the survival of supported employment services and wishes to implement the outcomes-based approach, a standard fee schedule should be developed and implemented on a statewide basis, regardless of any existing over-

arching capitation schedules. The rate development should follow the cost patterns that are inherent to the delivery of the service. There are a number of significant advantages to establishing standardized rates for *all* (habilitative residential, habilitative day, and other support) services provided under a capitation.

- Standardization mitigates any pressures to negotiate rates for services down to unrealistic levels because there are no other utilization management options available to the financial managers of the MCO's. By publishing set rates for all services, the funding agency (the State) goes far to ensure that either the services are adequately compensated or they are not provided at all. To do less would be to place consumers at risk.
- Standardization creates portability of the service between capitated catchment (MCO base) areas . . . (now) rate issues would cause a consumer to have to discontinue services if / when they move to another part of the state.

**Implementation Considerations**

A schedule for the following benchmarks should be established in the legislation that moves long-term employment supports from DHS to DWD, in consultation with the Secretaries of the Departments of Health Services and Workforce Development:

- Identification of Medicaid and state funding currently used for long-term supported employment in Wisconsin, including any funds used by MCOs for employment specialist positions and those spent on staff positions in the DHS Office of Family Care Expansion;
- Establishment of an Intergovernmental Transfer of this funding from DHS to a new Division of Extended Employment Supports (DEES) to be created in DWD, with a Memorandum of Understanding signed by both parties that establishes how many FTEs[1] will be necessary for the administration of the new division; and,
- Determine the date DEES will become responsible for the maintenance of integrated employment placements that are developed by DVR.
- DEES will set rates for these services - DVR has demonstrated its ability to set statewide rates for services based on cost data from providers, so it is a reasonable assumption to ask them to assist in this process and for consultation during the transition. When CRP service providers have brought concerns about rates to the attention of the DVR administrator and senior managers in the past, DVR has requested additional information to enable them to adjust the rates to produce successful employment outcomes. We would expect DEES to function in the same manner.

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*RFW in Action* and its member organizations would like to partner with the legislature and the two agencies involved in this transfer of administrative responsibilities to make it a success. We hope that this will be an opportunity for bi-partisan action in the 2012 legislative session that will help individuals with disabilities join the mainstream.

[1] Ideally, there will be sufficient capacity in each Workforce Development Area for authorization of services, as well as in the DWD offices in Madison for oversight of the division.