

III. EMPLOYMENT

Work is a fundamental part of adult life, and for people with disabilities, taking part in working life is an essential condition to equal participation in society. Through employment, people with disabilities gain an important point of entry into their communities, a sense of being valued, earned wages, job benefits and an opportunity to make a meaningful contribution. With both tangible and intangible rewards from employment, people with disabilities achieve greater independence and freedom from public support service systems.

Far too frequently people with disabilities are steered into non-integrated settings instead of community-based employment. These segregated day activity programs and sheltered workshop environments pay sub-minimum wage and fail to cultivate a person’s potential. The advances in education and community living are not fully leveraged or realized when so few people with disabilities actually work in the community. Various factors—including low expectations, lack of training, inadequate transportation, and discrimination—can create barriers to employment among people with disabilities. Because employment is such a complex issue, it cannot be remedied by just one solution.

The Texas Legislature has created opportunities for Texas to be attractive to business, drawn, in part, by a workforce educated by our world-class university system. DPC’s goal is to ensure that those businesses also find an educated, prepared workforce that includes Texans with disabilities. Access to “real jobs with real wages” is essential if citizens with disabilities are to avoid lives of poverty, dependence, and isolation. The employment policy recommendations of DPC will ultimately reduce per-capita cost for services by assisting Texans with disabilities in preparing for, finding, and maintaining positions in the workforce.

Key Policies That Impact Employment

- Home and Community-Based Settings (HCBS) Rule
- The Fair Labor Standards Act of 1938
- The Workforce Innovation and Opportunity Act (WIOA)
- The Employment Opportunities for Disabled Americans Act of 1986
- The Ticket to Work and Work Incentives Improvement Act of 1999
- The Americans with Disabilities Amendments Act (ADAAA) of 2008
- Achieving a Better Life Experience Act of 2014
- Senate Bill 1226 (83R) (Employment First Law)

EMPLOYMENT FIRST INITIATIVES

Expand initiatives that align with the Texas Employment First law and Medicaid home and community-based settings (HCBS) rule for people with disabilities. Offer services and supports to help working age Texans with disabilities pursue their employment goals, beginning when they first obtain state services. Improve competitive and integrated employment outcomes for Texans with disabilities.

RECOMMENDATIONS

- Require the Texas Workforce Commission (TWC) and the Health and Human Services Commission (HHSC) to expand and enhance the Money Follows the Person (MFP) Employment First Pilot. The pilot should be made available to at least three organizations to restructure and implement employment services for current and future clients.
- Require that all grants through the Skills Development Fund at TWC are made available to organizations that can improve the competitive, integrated employment outcomes for Texans with disabilities.
- Explore the possibility of outcome-based reimbursement methodologies for day habilitation and employment services within Medicaid waivers to support efforts to fully comply with HCBS settings rules and ensure that individuals with disabilities have access to the general community.
- Require all local intellectual and developmental disability authorities (LIDDAs) to have an in-house certified benefits counselor.
- Improve the availability of information regarding work incentives and benefits planning for people with disabilities who receive Medicaid services and transition-age students in receiving special education services.
- Reestablish the Employment First Taskforce.
- Have Texas lead by example by requiring state agencies to hire a certain percentage of people with disabilities each year.

BACKGROUND

Through employment, people with disabilities gain an important point of entry into their communities, a sense of being valued, earned wages, job benefits and an opportunity to make a meaningful contribution. With both tangible and intangible rewards from employment, people with disabilities achieve greater independence and freedom from public support service systems.

Texas passed the Employment First law in 2013 (SB 1226, 83R). It states that earning a living wage through competitive, integrated employment in the general workforce is the priority and preferred outcome for working-age individuals with disabilities who receive public benefits.

From January 2014 to July 2016, an Employment First pilot program using funds from MFP to help community employers become employment first providers was conducted. This pilot was extremely successful in helping Texans with disabilities secure competitive, integrated employment. Results indicated that 50% of the participants tracked were successfully placed in competitive employment in integrated settings. There was also a significant difference in the rate of competitive employment between individuals in the employed group (70.6%) who received Vocational Rehabilitation services and those in the unemployed group (23.1%).^{viii}

The 2014 Final Rule, CMS 2249-F and CMS 2296-F, or Community-Based Settings Rule, creates the expectation that Medicaid-funded services will support competitive integrated employment and other community life engagement activities, and that agencies will shift away from service settings that isolate or segregate people with disabilities from the general population (CMS, 2014).^{ix} In Texas, community-based employment assistance and supported employment services funded by Medicaid waivers are extremely underutilized while day habilitation services are heavily utilized. Data suggests that the low amount of funding for integrated employment services in Texas has contributed to a high percentage of people with disabilities spending their time in facility-based non-work settings, or day habilitation. For example, outcome-based reimbursement methodologies for day and employment services - as developed in Oklahoma, Wisconsin and Oregon.^x

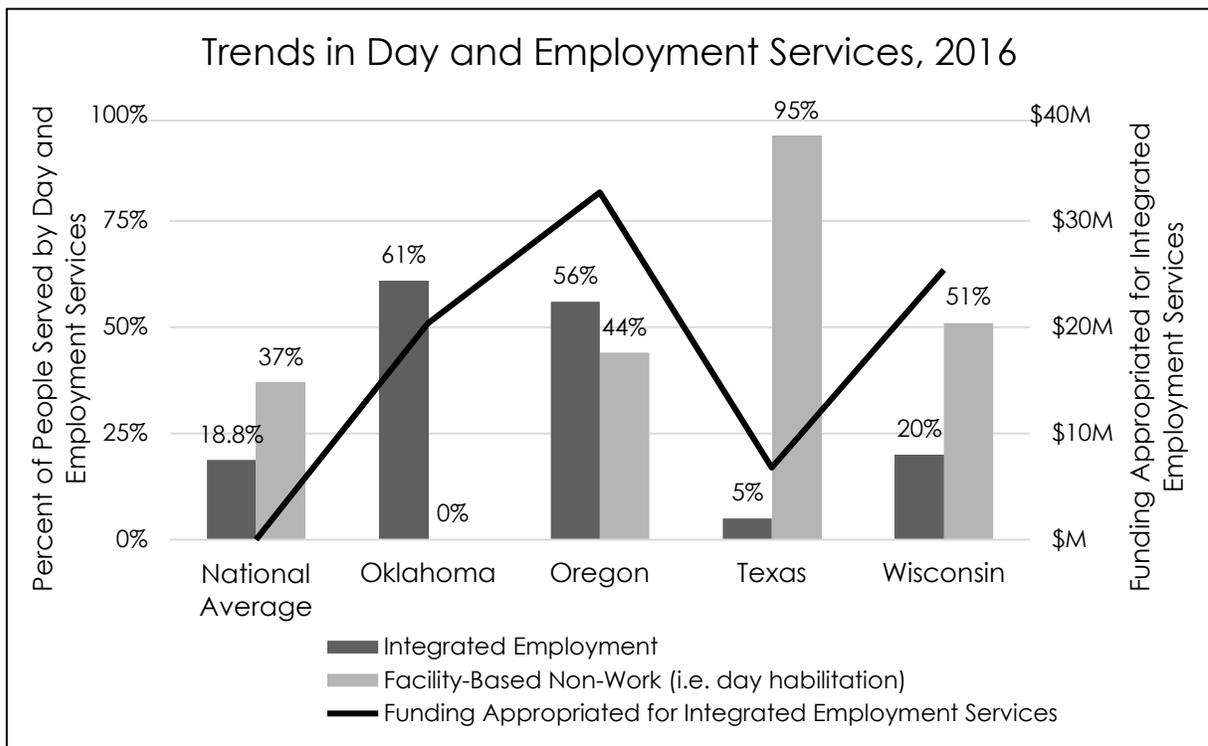


Figure 8: Trends in Day and Employment Services, 2016

Individuals with disabilities receiving both residential and nonresidential services through Medicaid community services have reported not receiving the employment-related assistance and support they want and need to obtain employment.^{xi} Entities involved in statewide employment initiatives should disseminate quality information to providers, employers, and the business community to overcome the negative perceptions and fears of people with disabilities being employed, and to promote the benefits and incentives available for employees with, and employers of, people with disabilities.

CONCLUSION

Work is a fundamental part of adult life, and for people with disabilities, taking part in working life is an essential condition to equal participation in society. Texas' Employment First policy was established to promote the position that all Texans with disabilities are valued members of the workforce and can meet the same employment standards, responsibilities, and expectations as other working-age adults. DPC was highly involved in advocating for the adoption of Employment First and continues to be a resource for state agencies, legislators, and others interested in improving the participation of people with disabilities in the workforce.

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OCCUPATIONAL SKILLS TRAINING

Promote Employment First initiatives and utilize Texans with disabilities in the workforce by expanding the access to and availability of occupational skills training programs in the state. Improve job preparedness and increase opportunities for gained experience among people with disabilities to foster economic competitiveness and development in Texas.

RECOMMENDATIONS

- Provide funding for the expansion or improvement of existing occupational skills training programs, including Project SEARCH®, for Texans with disabilities as described in the SB 2027 (85R) report by the Texas Health and Human Services Commission (HHSC) and the Texas Workforce Commission (TWC).
- Require TWC to produce a report outlining:
 - all possible funding sources for occupational skills training programs for people with disabilities, and
 - specific occupations of in-demand industries that require a certificate in occupational skills necessary to obtain and maintain competitive integrated employment, and that could be reasonable occupations for people with disabilities.
- Revise the definition of a formal occupational skills training program to include the training needs of people with disabilities.
- Establish a network of regional job coaches to be responsible for providing extended supports and services to assist people with disabilities in maintaining and advancing in competitive integrated employment as a result of participating in an occupational skills training program.
- Establish performance measures for the number of people with disabilities who have:
 - participated in occupational skills training programs;
 - obtained competitive integrated employment;
 - maintained competitive integrated employment; and
 - advanced in their chosen occupation.

BACKGROUND

Employment First, or the policy in Texas that affirms that earning a living wage through competitive integrated employment is the first and preferred outcome for adults with disabilities who receive public benefits, was adopted by the Texas Legislature in 2013. Despite the passage of Employment First, 92% of Texans with IDD still work in segregated settings. This means that they do not work in typical businesses in which people with disabilities work side-by-side without disabilities, encounter members of the public, and are not eligible for the same advancement opportunities as workers without disabilities.

In alignment with Employment First, the SB 2027 (85R) report inventoried and studied the occupational skills training programs in Texas for people with intellectual and developmental disabilities (IDD). The purpose of the report was to determine where programs need improvement or expansion and to develop strategies to place trainees in fulfilling competitive integrated employment. SB 2027 study results suggest that there is a high-demand for - yet low supply of - occupational skills training programs throughout Texas available to people with IDD. For example, 84 percent of SB 2027 respondents stated that they would attend an occupational skills training program that would help them get a better job.^{xii} Expanding occupational skills programs will increase competitive integrated employment for Texans with IDD and further the aims of Employment First.

CONCLUSION

By expanding occupational skills training programs that improve job preparedness and increase opportunities for gained experience, people previously considered “unemployable” can work and be productive and can achieve independence.

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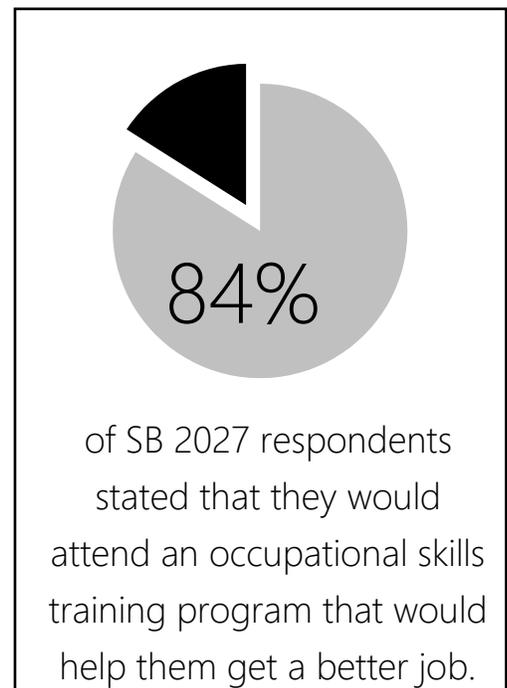


Figure 9: Percent of SB 2027 respondents who would attend an occupational skills training program that would help them get a better job.

SUBMINIMUM WAGE IN THE PURCHASING FROM PEOPLE WITH DISABILITIES PROGRAM

Demonstrate a commitment to Texas' Employment First law by requiring all employers of the Texas Purchasing from People with Disabilities Program (TPPWDP) to pay all of their employees at least minimum wage.

RECOMMENDATIONS

- Prohibit Texas state agencies from contracting with organizations that do not align with the principles of the Employment First law, including organizations that pay subminimum wage.
- Require the Texas Workforce Commission (TWC) and subminimum wage employers of the TPPWDP to work together to transition subminimum wage earners into at least minimum wage earners with TWC to transition towards paying their employees at least minimum wage within a defined timeline.
- Reinvest revenue generated from TPPWDP to fund the creation of new competitive integrated employment opportunities and the provision of individualized, employment supports and services to transition employees with disabilities earning less than minimum wage in segregated settings into competitive integrated employment.
- Require that TPPWDP provide high-quality benefits counseling to all employees with disabilities who have concerns about maintaining eligibility for benefits while working and earning at least minimum wage.
- Limit contracting by TIBH to only organizations that have community-based employment opportunities that pay workers at least the minimum wage and should prohibit the co-location of segregated sheltered workshops at day habilitation sites. This would be a first step in eliminating the inequity of paying subminimum wages to more than 5,000 individuals with disabilities in Texas.

BACKGROUND

It is legal to pay someone with a disability less than minimum wage - employers can pay less than minimum wage by applying for a Federal 14(c) waiver, which is a special wage certificate created in 1938. The Texas Purchasing from People with Disabilities Program (TPPWDP), also known as the State Use or WorksWonders Program, within TWC gives preferential state contracts and millions of taxpayer dollars to 107 organizations to hire Texans with disabilities. Nine of these organizations pay subminimum wages to their 222 employees with disabilities.^{xiii} These employees can earn as little as \$.02 an hour.^{xiv} Three of these nine organizations pay 100% of all their employees subminimum wage.

Individuals are often kept in subminimum wage employment due to widespread misinformation regarding work and benefit eligibility for programs and services vital to their well-being. There is a statewide shortage of well-trained benefits counselors to advise Texans with disabilities and their families.

Not earning competitive wages keeps Texans with disabilities in poverty. The federal government put an end to the practice of using taxpayer funds to pay subminimum wages for goods and services through in its former version of the TPPWDP.

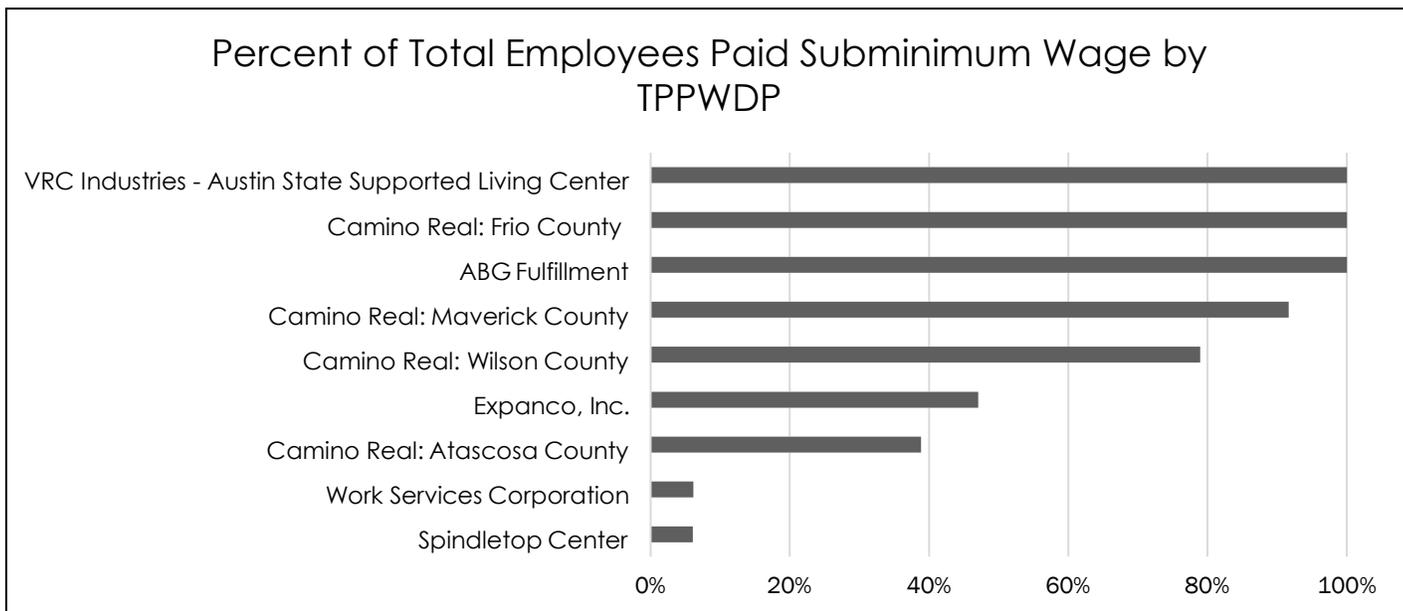


Figure 10: Percent of Total Employees Paid Subminimum Wage by TPPWDP

CONCLUSION

Texans with disabilities want to work and earn a wage that supports a meaningful life. They deserve the dignity to bring home a paycheck that allows them to contribute to society like everyone else. It's time to demonstrate Texas' commitment to Employment First and the rights, inclusion, and independence of Texans with disabilities.

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