



April 26, 2021

The Honorable Debbie Dingell
116 Cannon House Office Building
Washington, DC 20515

The Honorable Maggie Hassan
324 Hart Senate Office Building
Washington, DC 20510

The Honorable Bob Casey
393 Russell Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
503 Hart Senate Office Building
Washington, DC 20510

Dear Congresswoman Debbie Dingell, Senator Maggie Hassan, Senator Bob Casey, and Senator Sherrod Brown:

Thank you for the opportunity to submit feedback on the draft Home and Community Based Services (HCBS) Access Act. We applaud this effort and the intent to support more individuals with disabilities through a transformational change of the Medicaid HCBS system.

The Association of People Supporting Employment First (APSE) is the only national, non-profit membership organization dedicated to Employment First, a vision that all people with disabilities have a right to competitive employment in an inclusive workforce. As you work on this legislation, we ask that you intentionally consider the impact **on employment opportunities** for people with disabilities. In the draft, it is not clear if or how the proposed investment of HCBS funds would ultimately funnel down to employment supports & services, which is what a majority of our comments below reflect. **Specifically, we hope to see clarification on how the new system will support employment services without HCBS waivers, the inclusion of employment supports in the funding for Direct Support Professionals (DSPs), language that addresses the program supports outside of Medicaid, and the importance of supporting competitive, integrated employment reflected.**

Ensuring Employment Supports Without Waivers

Currently, HCBS Waivers provide the primary avenue for funding of long-term employment services for people with the most significant disabilities. This needs to be protected in the midst of any Medicaid overhaul. This funding can provide access to assistive technology, job coaches, and access to accessible internet and technology. We specifically have questions about how these long-term employment services will be protected without waivers. Waivers allow for greater flexibility in setting reimbursement rates for employment services, and waivers also

allow employment supports & services to fit within a health care plan. We have also seen through our experience with managed care that employment expertise or services are often not prioritized or even made available in a traditional health care management system. **If employment supports remain a mandated service, there must be an instrument for ensuring that adequate funding flows to this. Additionally, should the system be transformed away from HCBS Waivers, there must be mechanisms in place to ensure that the funding goes to employment supports.** This could include the legislation specifically prioritizing funding for employment support and outlining the employment supports available, including but not limited to assistive technology, access to broadband services, individual supported employment services, individual career planning, discovery and customized employment services, job exploration, small-business development/entrepreneurship, benefits planning, and job coaching.

Additionally, the HCBS waivers are multi-faceted in each state and have been developed to address the specific population needs. As part of this, the Center for Medicaid Services has not fully enforced the HCBS final settings rule, and so states may not have the readiness to implement this legislation. **A significant timeline given to allow states to make this cultural and logistical transformation to ensure that those currently under waivers are protected and that employment and other supports are not lost under the new funding model.**

Support for Direct Support Professionals (DSPs), including Employment Supports

We applaud the HCBS Access Act intent to address the broader DSP workforce crisis and the language to strengthen the DSP workforce to deliver HCBS. It is long overdue, and we see this as an even greater need in light of the COVID-19 pandemic, which has eroded the stability of the disability employment support/service system. We anticipate a 25% loss of job coaches/job developers within the DSP workforce as a result of COVID-19. DSPs provide critical supports to essential and frontline workers with disabilities. These DSPs are essential to ensuring the success of people with disabilities who receive employment supports to access and maintain employment in the general workforce. The HCBS Access Act has the potential significantly increase the number of people with disability into the workforce because of the expanded access to direct service providers, but **we would like more assurances and clarifying language to ensure that employment supports are included in this effort. Unfortunately, the public workforce system provides minimal training to build the capacity and a pipeline for the DSP workforce, and this should be prioritized under the HCBS Access Act.**

Program Supports Outside of Medicaid

APSE continues to support bringing the fractured workforce system in alignment as intended in the passing of WIOA and appreciates the recognition and potential value in having home and community long term services incorporated into the mandatory Medicaid system. However, there are many individuals with disabilities that do not qualify for Medicaid but that use other long-term services to help them live in the community, and there should be in coordination with and building upon current programs, such as vocational rehabilitation, Veterans Affairs, mental health systems, or Ability One programs. Each of these programs do not have adequate funding to support employment services for people with disabilities, despite their best efforts to do so.

As such, there should also be a review of expanding the long-term community-based services outside of Medicaid. Long term community-based services are critical to supporting individuals with disabilities to access and maintain employment in the general workforce. Having these needed long-term services only available within a poverty program seems counterintuitive to supporting individuals with disabilities to engage in employment, build their economic status, and economically contribute to the communities in which they live.

Additionally, while we are very grateful for the language to support the DSP workforce in the bill, as outlined above, there is need to strengthen this essential workforce outside the Medicaid mandatory service system. Long term care services (now in our health care industry) is one of the fastest growing industries in the United States. Development of this workforce must be a cross system priority and not left to a fragile poverty program out of Medicaid.

Supporting Competitive, Integrated Employment (CIE)

In order to continue to advance the economic self-sufficiency of people with disabilities, as called for by the Americans with Disabilities Act (ADA), CIE must remain a priority. As you consider how the funding under this legislation will support employment for individuals with disabilities, we must ensure that the funding is used for CIE.

As outlined in the Transformation to Competitive Integrated Employment Act (TCIEA, HR2373), similar language should be included to require “individualized, integrated employment services that lead to competitive, integrated employment.” We would also recommend including language that reinforces that while individualized integrated employment settings that provide competitive wages are considered to be in compliance with the HCBS rule, any facility-based day or prevocational settings must be assessed, validated, and remediated to be in full compliance with the federal HCBS regulations.



Thank you again for the opportunity to submit comments on the HCBS Access Act. Please do not hesitate to reach out should you have any questions. We look forward to working with you.

Sincerely,

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