

**Amendment 1 To
Implementation Memorandum of Agreement
on Competitive Integrated Employment for Individuals with I/DD**

This Amendment 1 (“Amendment”) is made to the Implementation Memorandum of Agreement on Competitive Integrated Employment for Individuals with I/DD, dated December 8, 2022 (“Agreement” or “Implementation MOA”) by and between the North Carolina Department of Health and Human Services (NCDHHS), Disability Rights North Carolina (DRNC), and the Center for Public Representation (CPR).

RECITALS

WHEREAS, NCDHHS, DRNC, and CPR entered into an Implementation Memorandum of Agreement for Competitive Integrated Employment for Individuals with I/DD on December 8, 2022;

WHEREAS, the Parties now desire to update and extend the Implementation MOA, and the Parties have agreed upon the terms and conditions hereinafter set forth; and

WHEREAS, the State Budget for State Fiscal Year 2023-24 did not become law until October 3, 2023.

NOW, THEREFORE, in consideration of the premises, covenants and agreements herein contained, and intending to be legally bound hereby, the Parties hereby agree to the following amendments to the Implementation MOA which shall be effective as of September 30, 2023, as follows:

AMENDMENT

1. Incorporation of Recitals

The foregoing recitals are hereby incorporated in this Amendment and made a part hereof by reference.

2. Section III of the Implementation MOA is hereby revised to read as follows:

III. Covenants

DRNC and CPR agree not to pursue any legal or administrative remedies against NCDHHS regarding the October 8, 2021 Competitive Integrated Employment Memorandum of Understanding (“CIE MOU”) prior to July 1, 2025. Until that time, DRNC and CPR agree that the covenant not to sue contained in the CIE MOU shall not be subject to rescission, and NCDHHS agrees to toll any legal and administrative remedies DRNC and CPR may have under the CIE MOU until July 1, 2025. DRNC and CPR also agree to work cooperatively with NCDHHS to support the Department’s implementation of the steps set forth in this Implementation MOA. If NCDHHS does not timely complete the commitments outlined in Section IV.2 regarding the completion of Employment Assessments and Career Development

Plans, and the commitments outlined in Section IV.3 regarding the transition of individuals to CIE, after following the dispute resolution process set forth in Section VII of the Implementation MOA as amended by this Amendment, DRNC and CPR will not be bound by the covenant not to sue and may elect to pursue legal or administrative remedies before the July 1, 2025 end date.

3. Section IV of the Implementation MOA is hereby revised to read as follows:

IV. Commitments to Continued Development of Enhanced Competitive Integrated Employment Services and Supports

In consideration of the terms set forth in Section III of the Implementation MOA, NCDHHS commits to the following timelines and actions to further develop and enhance CIE services and supports for individuals with intellectual and developmental disabilities:

1. Timelines and Actions for Creating a Stakeholder Education, Outreach and Engagement Campaign

Establish forums with external stakeholder groups to discuss progress towards CIE Implementation Plan and receive feedback on the system of support for those seeking employment services – August 22, 2023 – **Complete**

Launch new brand identity for CIE for I/DD Initiative as part of communications strategy to provide effective messaging and reach broader stakeholder population – September 20, 2023

Retain experienced, qualified consultant to work with NCDHHS communications team to develop and implement stakeholder education, outreach, and engagement campaign regarding CIE for individuals with I/DD – November 3, 2023

Form large, inclusive advisory group with consumer, family, and provider representation to offer guidance around the implementation of the Updated Strategic Plan for CIE (as defined below); – 2 months after CIE Consultant Contractor start date

Develop mixed media campaign and updated stakeholder engagement plan – 6 months after CIE Consultant Contractor start date

Begin implementation of mixed media campaign and updated stakeholder engagement plan – 6 months after CIE Consultant Contractor start date

Perform landscape assessment of current supported employment services for individuals with I/DD in North Carolina and develop an updated Strategic Plan for CIE which is informed by stakeholder input and sets forth a comprehensive plan for improving services and supports to promote CIE as the preferred outcome in non-CIE settings, based upon individuals' informed choice and person-centered planning ("Updated Strategic Plan"). – 6 months after CIE Consultant Contractor start date

The Updated Strategic Plan shall include, without limitation, the following:

- (1) An informed choice process including employment assessments and career development plans and the provision of the information, reasonable accommodations, and opportunities sufficient to enable individuals to make an informed choice to seek CIE based upon person-centered planning. The informed choice process is multi-faceted, individualized, accessible, and meaningful, and includes the opportunity to participate in discovery and to visit, observe, and talk with other individuals working in CIE.
- (2) Professional competency and training requirements for paraprofessionals and qualified professionals providing Supported Employment services or other services that contain pre-vocational supports to individuals with I/DD, that enable individuals to explore and obtain work in CIE.
- (3) Training and technical assistance for providers of ADVP Services and Day Components of ICF IID In Lieu of Service In ADVP Settings when they contain pre-vocational supports or vocational supports at sub-minimum wage, through nationally recognized experts, to assist them with transforming their program and business models to become providers of Supported Employment, or to increase capacity within their existing, integrated employment services resulting in CIE.
- (4) A provider innovation initiative that includes financial incentives to further the transformation efforts of providers of Supported Employment and state-funded ADVP Services to provide Supported Employment and related services that support individuals with I/DD to explore and achieve CIE, as well as to increase the number of hours worked by individuals with I/DD in CIE.
- (5) The provision of Supported Employment, customized employment, post-secondary opportunities, and related support services sufficient to enable all individuals who have made an informed choice to seek CIE to actually obtain CIE.
- (6) Process for collecting key data elements to monitor and share progress of the efforts to expand CIE supports and services for individuals with I/DD employed in non-CIE settings.
- (7) **Yearly** benchmark goals for the number of unique individuals with I/DD who will obtain CIE during each state fiscal year, that reflect individual informed choice and person-centered planning. The annual benchmark goals will be based upon data collected by NCDHHS pertaining to North Carolina individuals with I/DD employed in non-CIE settings. The first annual benchmark goal is 5% of the number of individuals with I/DD, but no less than 50 individuals with I/DD, who are employed only in non-CIE settings will be employed in CIE as set forth in Section IV.3 below.

(8) Stakeholder education and engagement and media campaign.

2. Timelines and Actions for Implementing Employment Assessments and Career Development Plans (CDPs)

Award RFP Contract for CIE Consultant Contractor – November 3, 2023

Execute RFP Contract for CIE Consultant – December 3, 2023

Refine Employment Assessment and Career Development Plan tools and develop a process to implement new assessment process into existing provider workstream that includes provider-implemented assessment and career development tools – 4 months after the CIE Consultant Contractor start date

Educate members, community provider staff, and tailored care managers on employment assessments and develop Career Development Plans – 5 months after the CIE Consultant Contractor start date

Initiate implementation of Employment Assessments and Career Development Plans tools – 6 months after the CIE Consultant Contractor start date

Complete Employment Assessment and Career Development Plan for all individuals employed in non-CIE settings – 12 months after the CIE Consultant Contractor start date

Train community provider staff and tailored care managers (including community-based and plan-based) to conduct employment assessments and develop Career Development Plans – 12 months after the CIE Consultant Contractor start date

3. Timelines and Actions for Implementing CIE Services (a new, three-phase service definition for state and Medicaid-funded supported employment that includes “discovery”)

Launch new 1915(i) Option Medicaid and respective State-funded service definitions for integrated supported employment – July 1, 2023 - **Complete**

Finalize 1915(i) Clinical Coverage Policies – November 30, 2023

All individuals with I/DD employed in non-CIE settings will be provided information on Inclusion Works and provided an employment assessment and Career Development Plan - 12 months after the CIE Consultant Contractor start date

Five percent of the number of individuals with I/DD, but no less than 50 individuals with I/DD, employed only in non-CIE settings will be employed in CIE. Not more than one-half of these individuals will be from the three pilot sites in Project SPARK. - 12 months after the CIE Consultant Contractor start date. The Parties agree to re-evaluate the first

annual benchmark requirements no later than January 31, 2024, based upon additional data collected by NCDHHS from the LME/MCOs for the time period of April 1 – June 30, 2023.

4. Timelines and Actions for Implementing a Provider Innovation Initiative

Develop an RFP – April 30, 2023 – **Complete**

Identify successful RFP bidder(s) – July 31, 2023 - **Complete**

Award new contracts – November 3, 2023

Engage with service providers to determine priority components for Provider Innovation Initiative – 4 months after the CIE Consultant Contractor start date

Develop and begin implementation of Provider Innovation Initiative with technical assistance following best practices in Supported Employment in the following areas: Provider Innovation, Customized Employment, and Self-Employment – 6 months after the CIE Consultant Contractor start date

5. Issue quarterly reports to DRNC and CPR within sixty days after the end of each calendar quarter

6. Beginning in December 2022, meet with DRNC and CPR every two months on the second Tuesday of the month to evaluate progress regarding the CIE I/DD implementation steps set forth in this Agreement.

4. Section V of the Implementation MOA is hereby revised to read as follows:

V. Communications

The Parties agree to work cooperatively in educating and communicating with stakeholders and others regarding the Department’s ongoing CIE efforts in order to help ensure consistent and clear messaging and avoid misunderstandings.

5. Section VI of the Implementation MOA is revised to read as follows:

VI. Re-Evaluation of Implementation MOA

The Parties agree to evaluate the status of the CIE I/DD implementation steps set forth in this Agreement, and to re-evaluate all of the provisions and requirements of the Implementation MOA no later than August 30, 2024.

6. The Implementation MOA is revised to include a new Section VII to read as follows:

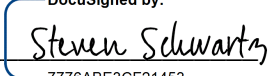
VII. Dispute Resolution

The Parties will work cooperatively to communicate proactively with each other regarding any questions or concerns pertaining to this Implementation MOA as they may arise, and to address any such questions or concerns. Any disputes arising between the Parties relating to this Implementation MOA will be resolved informally by discussions between the parties, including but not limited to, during bi-monthly meetings. In the event that informal discussions do not resolve the dispute, either party may request mediation of the dispute. The Parties agree to engage in good faith efforts to resolve any such dispute and, if possible, to do so without terminating the Implementation MOA. DRNC and CPR may, in their discretion and after following this dispute resolution process, rescind their covenant not to sue if they have a reasonable and articulable basis for concluding that NCDHHS is unlikely to meet its commitments under this Implementation MOA. Exhaustion of this dispute resolution process shall constitute exhaustion of, and compliance with, the dispute resolution process set forth in Sec. 12 of the CIE MOU.

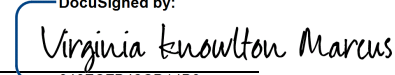
The Implementation MOA, as amended by this Amendment, constitutes the entire agreement among the Parties with respect to the subject matter hereof and amends prior Implementation MOA agreements and understandings, both written and oral, among the parties with respect to the subject matter thereof. If there is conflict between this Amendment and the Implementation MOA, the terms of this Amendment will prevail. Except as expressly modified by this Amendment, all of the terms and conditions of the Implementation MOA shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF the Parties agree to the foregoing and have caused this Amendment to be executed by their duly authorized representatives this ____ day of October, 2023.

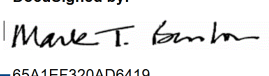
CENTER FOR PUBLIC REPRESENTATION

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