

# EmploymentFirstMaine

## Maine Employment First Coalition

### Report to the Governor, Legislature and State Agencies

In June of 2013, the Employment First Maine Act (LD 1352) became law, memorializing the state's intent to promote and facilitate Mainers with disabilities' participation in gainful employment. The law established the Employment First Maine Coalition to operate through October 1, 2016. Among the duties and powers of the Employment First Maine Coalition is the following:

Make recommendations to the Governor, the Legislature and state agencies regarding ways to improve the administration of employment services and employment outcomes for persons with disabilities.

To fulfill this duty, the Employment First Maine Coalition issues this Report summarizing the work of the Coalition and its (consensus; majority) recommendations resulting from its three years of diligent work on behalf of the State of Maine.

### Introduction

In considering the importance of the Employment First Maine Act (LD 1352), some may wonder whether Maine needs its state residents with disabilities in the workforce. Fortunately, no one need look very far for evidence that Maine, like many states, is seeing its workforce participation rate dropping as baby boomers retire in record numbers. In a July, 2016 article by the Portland Press Herald<sup>1</sup>, it was noted that “across the region, “Help Wanted” signs dot the landscape. Businesses of all stripes are trying to fill positions, and they have been trying for months.”

Despite a long recession, it's important to recognize that Maine's unemployment rate is currently low. While this is often considered the sign of a strong economy, it's likely the shrinking labor force that is driving the decline in the unemployment rate in the state. The traditional unemployment rate only accounts for people who are unemployed **and actively looking for work**. Most people with disabilities don't fall into this category because while they

<sup>1</sup> Read the article at <http://www.pressherald.com/2016/07/23/firms-find-hiring-can-be-a-challenge/>

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are unemployed, they are not actively looking for work. While the reasons for this are complex, there is a growing realization nationally that our publicly funded systems of support do not expect, encourage and facilitate employment opportunities for people with disabilities. As former US Senator Tom Harkin stated so eloquently in the US Senate Committee on Health, Education, Labor and Pensions' July, 2012 report entitled "Unfinished Business: Making Employment of People with Disabilities a National Priority":

*"In order to address this stubborn problem (of unemployment among people with disabilities), we need to focus on the root causes. This will include rethinking the way our support programs for people with disabilities are structured... I am convinced that we must develop and implement bipartisan strategies to modernize these programs in a way that consistently promotes long-term employment and economic self-sufficiency and security."*

As the state's economy becomes increasingly impacted by the growing labor shortage, working-age Mainers, who are unemployed but not looking for work, will need to be engaged to help keep the state's economy growing. Yet we know that nationally, individuals with disabilities have the highest rate of unemployment of any group, and more than two-thirds do not participate in the workforce at all. This is not an unavoidable phenomenon, as many of us have been conditioned to believe over the years. Like poverty, it seems clear that we have mistakenly come to normalize a problem that we could actually solve.<sup>2</sup>

**Employment First** is a growing national and state-level effort to ensure gainful employment is a priority focus of publicly funded programs and services for people with disabilities. It is a banner under which states are taking proactive steps to increase the workforce participation rate of their working-age residents with disabilities, putting in place policies and programmatic strategies to ensure gainful employment is expected first and supported first so that each person with a disability has the opportunity to find and keep gainful employment that matches their skills and abilities with businesses who need those skills and abilities. There are few if any states that do not have any *Employment First* efforts underway. Yet turning the tide, and revamping publicly funded programs to expect, encourage and support work first, is no simple task. As we know, nothing worth achieving is ever easy or quickly accomplished.

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<sup>2</sup> Scott C. Miller, Founder and CEO of Circles USA makes this assertion about poverty at: <http://www.circlesusa.org/>



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([www.delmarvafoundation.org](http://www.delmarvafoundation.org)) focused on what disability service provider practices and services most improved quality of life among individuals with disabilities. The researchers found that community integration is strongly tied to increased quality of life, and that receiving employment services was more beneficial than any other service in supporting community integration.<sup>6</sup>

Overall, there are a multitude of strong rationales for focusing publicly funded programs, and the service providers who implement them, on supporting gainful employment for Mainers with disabilities. The State of Maine demonstrated its recognition of the many strong rationales in passing the Employment First Maine Act in 2013. Yet it remains clear that the power of any state law lies in its implementation. Just over three years after the passage of the Employment First Maine Act, this report reviews the law, its impact to date, and recommendations for further efforts to realize the full potential of *Employment First* in Maine.

## The Employment First Maine Act (LD 1352)

The passage of the Employment First Maine Act followed three years of grassroots efforts which began with Maine APSE (Association of Persons Supporting Employment First) hosting a statewide **Employment For All** conference in October, 2010. This led to a group of organizations formally establishing themselves as **Employment First Maine** in August, 2011. The founding organizations and members, from the beginning committed to a cross-disability effort, included:

- ◆ Individuals with disabilities and family members, including representatives from the Consumer Council System of Maine, SUFU and Maine Parent Federation
- ◆ Representatives from the Maine Departments of Health & Human Services, Labor, and Education
- ◆ Providers of services to Mainers with disabilities
- ◆ Maine APSE
- ◆ Disability Rights Maine (previously called Disability Rights Center)
- ◆ Maine Developmental Disabilities Council
- ◆ Center for Community Inclusion and Disability Studies

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<sup>6</sup> [http://www.nationalcoreindicators.org/upload/presentation/AAIDD\\_-\\_outcomes\\_that\\_predict\\_performance\\_%282%29.pdf](http://www.nationalcoreindicators.org/upload/presentation/AAIDD_-_outcomes_that_predict_performance_%282%29.pdf)

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## ◆ Syntiro's Employment for Maine Workforce Development System

Recognizing the state's existing interest in ensuring gainful employment opportunities for Mainers with disabilities, the Employment First Maine group sought to build on early steps taken by state agencies to lay the groundwork for expanded and improved employment opportunities and services including:

- Ten years of requiring professionals delivering publicly funded employment services, funded by the Department of Health & Human Services and the Vocational Rehabilitation agency within the Department of Labor, to be certified in best practice delivery of employment services;
- The redirection, in 2008, of public funding that was previously supporting subminimum wage employment in segregated settings, contrary to the vision and goals of the Americans with Disabilities Act;
- The elimination, in 2010, of long-standing waiting lists for Vocational Rehabilitation services that assist Mainers with disabilities to obtain gainful community employment;
- The adoption of policy by the Department of Health & Human Services, in November, 2010 (updated in October, 2014 to reflect the Employment First Maine Act) that committed the agency to support career development and meaningful employment for all working aged individuals receiving services through the Department.<sup>7</sup>

In spring of 2012, after several members of the Employment First Maine group attended a national "Alliance for Full Participation" conference<sup>8</sup> focused on employment of people with disabilities, the group recognized the need for legislation to establish Employment First policy as the will of the people and to bring greater attention and cooperation to achieving the goals of Employment First.

Draft language for the Employment First Maine Act was widely shared for public comment and it went through a number of revisions to take account of input received. When the legislation was introduced and a hearing was held, it is notable that 42 citizens (32 of which were individuals with disabilities) testified in favor while *no one testified in opposition*. After two minor amendments, the Labor Committee *unanimously passed* the bill out of committee, and it was soon passed by both the Senate and the Appropriations Committee. The bill became law on June 22, 2013 and went into effect on October 9, 2013. **When the Employment First Maine**

<sup>7</sup> <http://employmentfirstmaine.org/uploads/Employment-Policy-for-Individuals-Served.pdf>

<sup>8</sup> <https://www.nasddd.org/conferences/2011-alliance-for-full-participation/>

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**Act was passed into law, Maine became the only state in the country to have both legislation and policy directives designed to embrace and advance Employment First for all state residents with disabilities.**

Around the same time, and in the year that followed, a groundswell of federal policy guidance, regulatory changes and legal interpretations of states obligations under the Americans with Disabilities Act consistently stressed the need to ensure integrated employment services are readily available to people with disabilities and states are actively promoting the benefits of people receiving services in integrated settings.<sup>9</sup> At the same time, the general public was becoming more aware of the issues as local and national media began covering this topic more than in the past. The issue that has received the most media attention is the payment of less than minimum wage to people with significant disabilities. Although this practice is legal under Section 14(c) of the Fair Labor Standards Act, enacted in 1938, much of the recent public discourse has been around the need for reform or phase out of this law.

It's also important to note that the US Congress was becoming more focused on strategies for improving the integrated, gainful employment of people with disabilities, with members becoming more educated on the issues (costs, research and best practices) related to the provision of publicly funded employment services. The Senate Health, Education, Labor and Pensions (HELP) Committee led a bi-partisan effort to bring attention to the issue of widespread unemployment among people with disabilities.<sup>10</sup> The HELP Committee was a key force in Congress crafting and passing the Workforce Innovation and Opportunity Act, which was signed into law by the President in July, 2014 ushering a wide-ranging set of policy changes designed to increase the integrated employment participation rate of Americans with disabilities.

## **Summary of State Agency Requirements in Maine's Employment First Law**

The Employment First Maine Act also established a number of new requirements for the Departments of Education, Health & Human Services, and Labor, to implement as part of carrying out their established duties to provide services and supports to persons with disabilities. The requirements established in Maine' state law include:

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<sup>9</sup> See discussion in Part I. of this report prepared for State of Maine:

[http://www.employmentfirstmaine.org/uploads/Maine\\_VQ\\_Final\\_Phase\\_1\\_Final\\_Assessment\\_LMills.pdf](http://www.employmentfirstmaine.org/uploads/Maine_VQ_Final_Phase_1_Final_Assessment_LMills.pdf)

<sup>10</sup> See <http://www.help.senate.gov/ranking/newsroom/press/after-year-long-investigation-senate-help-committee-chairman-tom-harkin-releases-report-showing-adas-promise-of-integration-is-not-being-met-for-many-americans-with-disabilities> and <http://www.help.senate.gov/imo/media/doc/HELP%20Committee%20Disability%20and%20Poverty%20Report.pdf>

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1. The three state agencies shall include as a core component of their services and supports, the opportunity for persons with disabilities to acquire integrated community-based employment or customized employment.
  - a. When entering into contracts with providers of services to persons with disabilities, each state agency shall include appropriate provisions regarding facilitating integrated community-based employment<sup>11</sup> or customized employment<sup>12</sup> and ensuring measurable outcomes.
  - b. Each state agency shall incorporate standards for integrated community-based employment and customized employment into its processes for program monitoring and quality assurance.
  
2. The three state agencies shall offer to each person with a disability, as the first and preferred service or support option<sup>13</sup>, a choice of employment services that will support each person in acquiring integrated community-based employment or customized employment.
  
3. Each of the three state agencies shall:
  - a. Coordinate its efforts with other state agencies to ensure that the programs directed, the funding managed and the policies adopted by each state agency support the persons with disabilities in acquiring integrated community-based employment or customized employment; and
  - b. When permissible under the law, share information regarding the use of services and other data with other state agencies in order to monitor progress toward facilitating Mainers with disabilities to acquire integrated community-based employment or customized employment.

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<sup>11</sup> "Integrated community-based employment" means employment in the competitive labor market that is performed on a full-time or part-time basis in the general community or through self-employment and for which a person with a disability is compensated at or above the minimum wage but not less than the prevailing wage and level of benefits paid by the employer for the same or similar work performed by persons without disabilities.

<sup>12</sup> "Customized employment" means employment acquired as a result of implementation of a flexible blend of strategies, services and supports designed to increase employment options for job seekers with complex needs through voluntary negotiation of the employment relationship with the employer.

<sup>13</sup> "First and preferred service or support option" is defined in the law as the first employment service option that is offered by a state agency, prior to the offer of other supports or services, including day services.

4. The three state agencies shall adopt rules necessary to implement the Employment First Maine Act.

## **The Employment First Maine Act Establishes the Employment First Maine Coalition**

The Employment First Maine Coalition (the Coalition) was formally established within Disability Rights Maine, the protection and advocacy agency for persons with disabilities. The law established the Coalition for a three-year period through October 1, 2016. The law further designated membership of the Coalition, requiring that the Coalition strive to ensure that at least 1/2 of the coalition members are persons with disabilities, and providing seats for the following specific representatives:

- A. The Commissioner of Labor or the commissioner's designee;
- B. The Commissioner of Education or the commissioner's designee;
- C. The Commissioner of Health and Human Services or the commissioner's designee;
- D. The executive director of the Maine Developmental Disabilities Council or the executive director's designee;
- E. The chair of the Maine Association of People Supporting Employment First or the chair's designee;
- F. The chair of the Consumer Council System of Maine or the chair's designee;
- G. The chair of Speaking Up For Us or the chair's designee;
- H. The executive director of the Disability Rights Center or the executive director's designee;
- I. The director of the Center for Community Inclusion and Disability Studies at the University of Maine or the director's designee;
- J. The executive director of Alpha One or the executive director's designee;
- K. The executive director of the Iris Network or the executive director's designee;
- L. The director of the Maine Business Leadership Network or the director's designee;
- M. The executive director of the Manufacturers Association of Maine or the executive director's designee;
- N. The chair of the Commission on Disability and Employment or the chair's designee;
- O. The executive director of the National Alliance on Mental Illness - Maine or the executive director's designee;
- P. The chair of the Division of Vocational Rehabilitation, State Rehabilitation Council, within the Department of Labor, Bureau of Rehabilitation Services or the chair's designee;



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- Q. The chair of the Division for the Blind and Visually Impaired, State Rehabilitation Council within the Department of Labor, Bureau of Rehabilitation Services or the chair's designee;
- R. The chair of the Commission for the Deaf, Hard of Hearing and Late Deafened within the Department of Labor, Bureau of Rehabilitation Services or the chair's designee;
- S. The chair of the Maine Statewide Independent Living Council or the chair's designee;
- T. The executive director of the Maine Association for Community Service Providers or the executive director's designee;
- U. At least one executive director or designee from a vocational clubhouse program in the State;
- V. A certified rehabilitation provider that provides integrated community-based employment or customized employment services; and
- W. At least 2 persons who are parents of persons with disabilities.

The Employment First Maine Act gives the Coalition discretion to invite additional members to join the Coalition. The Coalition is required, by the Maine Employment First Act, to:

- Hold regularly scheduled business meetings at least once in each quarter and at such times as the chair determines necessary or at the request of a majority of the members; and
- Annually elect from among its members a chair and a vice-chair to serve a term of one year.

The Employment First Maine Act establishes the following duties for the Coalition:

1. Promote coordination and collaboration among state agencies that provide services and supports for persons with disabilities to advance integrated community-based employment and customized employment services for persons with disabilities;
2. Review, on a continuing basis, state policies, plans, programs and activities concerning the integrated community-based employment and customized employment of persons with disabilities that are conducted or assisted, in whole or in part, by state agencies or state funds, in order to determine whether such policies, programs, plans and activities effectively meet the employment needs of persons with disabilities;
3. Serve as a conduit for information and input to aid in the implementation of the Maine Revised Statutes, Title 26, chapter 39 for advocacy groups, commissions and councils that focus on issues facing persons with disabilities in the State;

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4. Make recommendations to the Governor, the Legislature and state agencies regarding ways to improve the administration of employment services and employment outcomes for persons with disabilities;
5. Review and comment on proposed legislation affecting the employment of persons with disabilities; and
6. Propose and promote rules and policies to state agencies that provide services and supports to persons with disabilities to improve integrated community-based employment and customized employment of persons with disabilities.

The Employment First Maine Act empowered the Coalition to submit annually, by the first Wednesday in December, proposed legislation to the Legislature to improve integrated community-based employment and customized employment of persons with disabilities. Legislation submitted could include recommendations regarding extending the coalition's authorization beyond the October 1, 2016 sunset date.

## Overview of Maine's Employment Statistics for Persons with Disabilities

As of 2013 - the year the Employment First Maine Act became law – 14.2% of state's working-age population (18-64) had a disability, as compared to 10.5% nationally. 31.2% of Maine's working-age population with a disability was employed as compared to 78.8% of the state's working-age population without disabilities. As of 2014, 32.5% of Mainers with disabilities were employed, as compared to 79.9% of the state's working-age population without disabilities.<sup>14</sup>

While the percentage of the nearly 118,000 working-age Maine residents with disabilities who are employed is **below** the national average<sup>15</sup>, the percentage of Maine residents without disabilities who are employed is **above** the national average, making the gap between these two groups larger in Maine than in all other states. Comparing data from 2012 and 2014, the percentage of Mainers with disabilities employed was *declining* (from 33.2% to 32.5%) while the percentage of Mainers without disabilities employed was *increasing* (from 78.1% to 79.9%), illustrating a gap that was widening over time.<sup>16</sup> This widening gap is significant in considering how Maine can best address current and future workforce shortages, particularly given that

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<sup>14</sup> Annual Disability Statistics Compendium that can be found at:

[http://www.disabilitycompendium.org/docs/default-source/2014-compendium/2014\\_compendium.pdf](http://www.disabilitycompendium.org/docs/default-source/2014-compendium/2014_compendium.pdf)

<sup>15</sup> Nationally, 33.9% of people with disabilities, aged 18-64, were employed in 2013 compared to 31.2% in Maine.

<sup>16</sup> Annual Disability Statistics Compendium that can be found at:

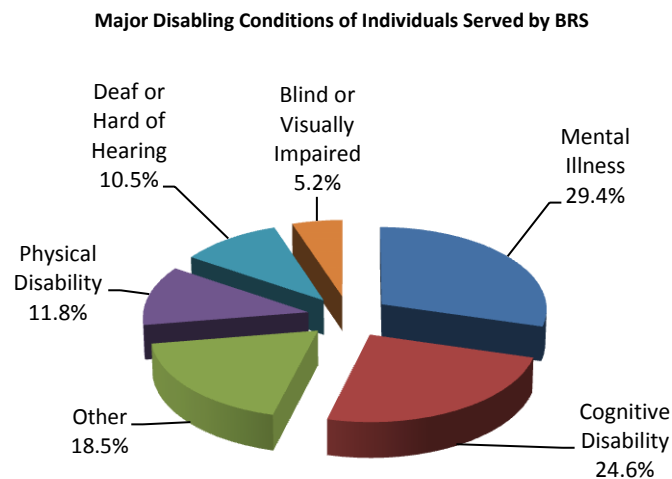
[http://www.disabilitycompendium.org/docs/default-source/2014-compendium/2014\\_compendium.pdf](http://www.disabilitycompendium.org/docs/default-source/2014-compendium/2014_compendium.pdf)

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Maine has the highest median age in its overall population.<sup>17</sup> This means that the baby boomer exodus from the workforce will have a much greater impact on Maine than other states. In looking for solutions to address the resulting workforce shortage, and recognizing that Maine’s current working-age population includes a larger percentage of people with disabilities than the national average (14.2% versus 10.5% as of 2013), it seems clear that Maine has a real need for more residents with disabilities to be part of the state’s workforce.

## Disability-Specific Data Available from State Agencies

Within DOL, the Bureau of Rehabilitation Services (BRS) includes the Division of Vocational Rehabilitation (DVR) and the Division for the Blind and Visually Impaired (DBVI). These agencies, co-located at CareerCenters statewide, deliver public vocational rehabilitation and independent living services to Mainers with a variety of types of disabilities as illustrated in the chart below. In 2014, **10,862** Mainers with disabilities received services from BRS; of those participants, **5,903** received services with a plan for employment. Of those, **1,055** clients were successfully employed.<sup>18</sup>



Using fiscal year 2012 data from the Maine Division of Mental Health (located within DHHS), the employment rate of all mental health consumers in Maine (as a percentage of those in the labor force across all age group demographics) averages 9% less than national figures. Maine’s

<sup>17</sup> <http://www.maine.gov/labor/cwri/disabilities/>

<sup>18</sup> [http://www.maine.gov/rehab/brs\\_highlights/index.shtml](http://www.maine.gov/rehab/brs_highlights/index.shtml)

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Substance Abuse and Mental Health Services agency reports that Maine serves roughly 19,000 people each year in case management type services (e.g. “Community Integration & Rehabilitation Services; Assertive Community Treatment). The employment rate of this group of mental health consumers is 8.8%.

## Outcomes Domain: Employment Status of Adult Mental Health Consumers Served in the Community by Age and Gender, FY 2012

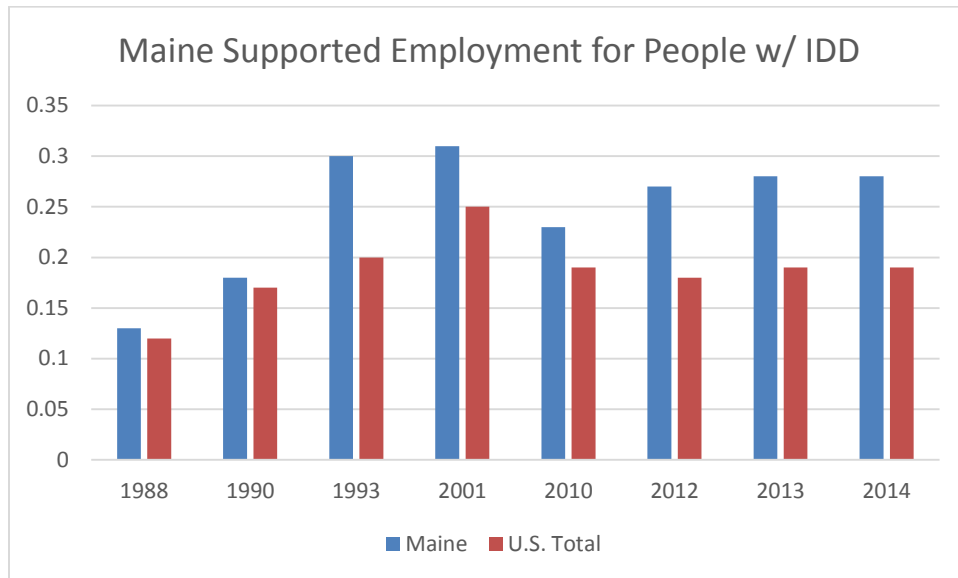
### Maine

Demographics	State				Employed as Percent of those in Labor Force		Employed as Percent of Known Employment Status		States Reporting
	Employed	Unemployed	In Labor Force*	With Known Employment Status**	State	US	State	US	
Age 18 to 20	65	204	269	483	24%	30%	13.5%	12.0%	57
Age 21 to 64	777	2,270	3,047	10,328	26%	34%	7.5%	17.9%	58
Age 65 and over	12	38	50	681	24%	32%	1.8%	9.8%	58
Age Not Available	-	1	1	3	0%	31%	0.0%	5.7%	12
Age TOTAL	854	2,513	3,367	11,495	25%	34%	7.4%	16.9%	58
Female	474	1,281	1,755	6,462	27%	35%	7.3%	17.2%	58
Male	351	1,152	1,503	4,584	23%	32%	7.7%	16.5%	58
Gender Not Available	29	80	109	449	27%	42%	6.5%	21.1%	27
Gender TOTAL	854	2,513	3,367	11,495	25%	34%	7.4%	16.9%	58

Using fiscal year 2013 data, Maine’s Division of Developmental Disabilities (also located within DHHS) reported 28% of the 3,515 people with IDD receiving Medicaid-funded community-based day/employment services were receiving supported community employment services. This was 9% higher than the national average for FY2013, with Maine outpacing 36 other states. However, these percentages remained unchanged in fiscal year 2014.<sup>19</sup>

<sup>19</sup> Source: StateData: The National Report on Employment Services and Outcomes (Winter 2014) which can be found at: [https://www.statedata.info/sites/statedata.info/files/files/statedatabook\\_2015\\_F.pdf](https://www.statedata.info/sites/statedata.info/files/files/statedatabook_2015_F.pdf)

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While DHHS has the current ability to report out employment statistics for individuals receiving mental health and developmental disability services, the ability to do similar reporting for other disability groups (e.g. individuals with physical disabilities, traumatic brain injuries, or other health impairments) does not exist or is very limited. The state has yet to develop a cross-system, longitudinal tracking system that can track employment status and outcomes, and track the relationship between positive employment outcomes and the use of publicly funded programs and services that can assist with obtaining and retaining employment. Recommendations for addressing the lack of comprehensive data to measure the state’s ongoing success are addressed later in this report.

## Maine’s Opportunity to Close the Employment Gap

Overall, what is most notable about available state data is the *size of the gap* between the percentage of working-age Mainers with and without disabilities who are in the workforce. In both 2013 and 2014, **Maine has the highest employment gap of any state in the country.**<sup>20</sup> Over 47% more working-age Mainers without disabilities are in the workforce, as compared to Mainers with disabilities. The passage of the Employment First Maine Act held – and still holds – the promise of closing the gap on gainful employment.

<sup>20</sup> <http://www.disabilitycompendium.org/statistics/employment/2-10-change-in-employment-gap---civilians-ages-18-64-years-living-in-the-community-for-the-u-s->

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## Maine's Disability Employment Gap

Working-Age Population	2012	2013	2014
With Disability	33.2%	31.2%	32.5%
Without Disability	78.1%	78.8%	79.9%
<b>Employment Gap</b>	<b>44.9%</b>	<b>47.6%</b>	<b>47.4%</b>

States with a larger employment gap than Maine: None.

### **History and Major Milestones of the Employment First Maine Coalition**

The Employment First Maine Coalition, created through the Employment First Maine Act, began officially meeting in October, 2013. Monthly, two-hour meetings, widely publicized and held at the Department of Labor in Augusta. A total of thirty-one (31) monthly meetings were held during the three-year tenure of the Coalition.

- On average, 20-30 people attended and participate monthly
- New participants were always welcome to join or simply attend the meetings
- The Coalition established a website to make its processes and deliberations publicly available and accessible for anyone interested in joining, attending or tracking the work of the Coalition over time. [www.employmentfirstmaine.org](http://www.employmentfirstmaine.org)
- Notices of public meetings, agenda and minutes were all posted on the Employment First Maine website

During the first year of the Coalition (October, 2013 to October, 2014), a number of milestones were achieved including the following:

- ◆ Solidified the Coalition – reached agreement on expectations of members, meeting dates, and other operational strategies
- ◆ Wrote and approved by-laws, established work groups and regular meeting schedule
- ◆ Elected chair and vice-chair of the Coalition and work group chairs
- ◆ Determined a specific data reporting structure for the purposes of gathering data from key state agencies and programs

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- ◆ Developed six thematic workgroups to ensure a holistic process that ensured the Coalition could fulfill its charge and make a comprehensive set of recommendations to advance Employment First in Maine.

## Employment First Maine Coalition Workgroups and Charges Agreed by the Coalition:

- ◆ Communication
  - ◆ To establish, coordinate and maintain a clear, consistent and accurate message about Employment First Maine and the work of the coalition
  - ◆ Promote coordination and collaboration among state agencies to advance integrated, community-based employment and customized employment
  - ◆ Act as a conduit for information and seek input to aid in the implementation of the Act from advocacy groups, commissions and councils that focus on employment, as well as with the general public and other stakeholders, such as schools, state agencies and employers
- ◆ Data
  - ◆ To obtain existing data from stakeholders that is aligned with the tenets of the EF Maine charge
  - ◆ Using data – develop recommendations to improve employment outcomes for persons with disabilities
  - ◆ Make recommendations for future data outcome elements based on review of current systems and tracking
- ◆ Transition
  - ◆ Determine and address needs of youth, educators, families and others in order to improve better transitions to and outcomes in competitive, integrated employment
  - ◆ Collaborate with DHHS, DOE and DOL to recommend and support best practices in employment

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- ◆ Collaborate with other work groups to ensure that youth in transition are accounted for in recommendations that enhance and strengthen outcomes
- ◆ Capacity Building/Systems Development
  - ◆ To review systems and make recommendations regarding the professional development and training needs of the provider community in order to realize the goals of EF Maine
  - ◆ Provider community includes: CRPs, day and work support providers, educators, individuals/families school personnel, and case managers
- ◆ Business/Employer Engagement
  - ◆ Gather information that informs recommendations to expand the engagement of companies and the outcome of employment for people with disabilities
  - ◆ Include recommendations to strengthen business engagement within DHHS, DOL and DOE by taking the dual customer approach
- ◆ Legislation
  - ◆ Review and make recommendations for changes to rule, regulation and/or statutes that eliminate barriers to integrated, community-based and customized employment
  - ◆ Propose, support and promote rules to state agencies that provide employment supports to individuals with disabilities
  - ◆ Review and comment on proposed legislation affecting employment of persons with disabilities

Membership on the workgroups, like the Coalition, was open to anyone who had an interest in supporting and promoting the work of the Coalition and advancing Employment First in Maine.

## **Employment First Maine Coalition Hosts a Statewide Summit**

October, 2014 marked the one year anniversary of the Employment First Maine Act becoming effective. The Coalition hosted a statewide summit which included a report on the Coalition's work in its first year of existence. Just under 200 people attended the summit.

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Initial recommendations from the six workgroups were presented at the Summit, including the following:

- Develop an Employment First 101 curriculum and widely disseminate
- Establish a Job Coach credential
- Phase out the use of sub-minimum wage (a provision created in 1938 under Section 14c of the federal Fair Labor Standards Act) in Maine to ensure all individuals with disabilities are paid at least the state minimum wage, like all other state residents.
- Submit a 1915 (i) Medicaid State Plan Amendment application to provide a mechanism for the provision of employment services for individuals eligible for Substance Abuse and Mental Health Services
- Design a mentoring program to support service provider agency leadership in accomplishing the transformation of their agencies to an Employment First mission and practice
- Adopt the “Discovering Personal Genius”/Career Planning model in transition services and processes facilitated by the Department of Education
- Expand and strengthen business and employer engagement across Maine
- Ensure that transition and working-age individuals (aged 14-64) with disabilities served by the Departments of Health & Human Services, Labor and Education are on pathways to employment, and barriers to obtaining and retaining employment are routinely and effectively addressed in each individual’s person-centered planning process

The Summit also engaged participants to offer recommendations and suggestions for making Employment First a reality in Maine. (See Appendix for document summarizing the many recommendations and suggestions that were received.) The Coalition used the many recommendations and suggestions from participants to inform their work, and the final recommendations of the Coalition contained in this report.

## **The Employment First Maine Coalition’s Efforts Around Proposing New Legislation**

The Employment First Maine Act empowered the Coalition to submit annually, by the first Wednesday in December, proposed legislation to the Legislature to improve integrated community-based employment and customized employment of persons with disabilities.

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During its tenure, the Coalition worked on developing draft legislation to phase out the state's use of subminimum wage.<sup>21</sup> Passage of such legislation would align Maine with both New Hampshire and Vermont, and would make the state's wage laws reflective of anticipated changes in federal law expected to occur in the next four to five years. At the federal level, developments that signal the likely elimination of subminimum wage under the federal Fair Labor Standards Act including:

- A US Department of Labor Advisory Committee charged with making recommendations regarding the future use of subminimum wage recommended a phase-out in its final report released September 8, 2016.<sup>22</sup>
- Reintroduction in the US Congress of the T.I.M.E. Act (HR 188) to phase out subminimum wage, which garnered 73 co-sponsors from the House of Representatives even though it suggests a very fast timeline for phase out that is likely not reflective of how a potential phase-out will be implemented.<sup>23</sup>
- Both the Democratic and Republican party platforms call for phasing out subminimum wages for workers with disabilities, with the Democratic presidential candidate committing to such a phase-out<sup>24</sup> and the Republican party platform endorsing the T.I.M.E. Act and *Employment First*<sup>25</sup>
- Provisions in the federal Workforce Innovation and Opportunity Act [WIOA] (Public Law 113-128) limit use of subminimum wage for youth age 24 and younger, effective July, 2016.
- Additional states, including Maryland, move to eliminate the use of subminimum wage in state law; Maryland's legislation passing with wide, bi-partisan majorities.<sup>26</sup>

On April 7, 2015, the legislation that the Employment First Maine Coalition assisted to draft was introduced in the Maine legislature as LD1240 by Senator Katz of Kennebec and cosponsored by

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<sup>21</sup> The introduced legislation can be found at: <http://employmentfirstmaine.org/uploads/LD1240.040615.pdf>

<sup>22</sup> [https://www.dol.gov/odep/topics/pdf/ACICIEID\\_Final\\_Report\\_9-8-16.pdf](https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf)

<sup>23</sup> <https://www.congress.gov/bill/114th-congress/house-bill/188>

<sup>24</sup> <https://www.hillaryclinton.com/feed/companies-can-legally-pay-workers-disabilities-less-minimum-wage-its-time-end/>

<sup>25</sup> The Republican Party platform states: "Our TIME Act (Transition[ing] to Integrated and Meaningful Employment) will modernize the Fair Labor Standards Act to encourage competitive employment for persons with disabilities. ... We endorse efforts like Employment First that replace dependency with jobs in the mainstream of the American workforce."

<sup>26</sup> <http://cnsmaryland.org/2016/04/15/legislation-that-ends-subminimum-wages-for-workers-with-disabilities-passes/>

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Representative Herbig of Belfast, Representative Campbell of Newfield and Representative Gilbert of Jay. One hearing on the bill was held by the Labor Committee where public testimony was given. The bill was subsequently tabled and did not make it out of committee. Despite this, during the tenure of the Coalition, the number of organizations employing people at subminimum wage declined from eight to three. Currently, it is estimated that 120 people with disabilities in the state are still employed at subminimum wage. The Coalition continues to look for additional positive ways to ensure all individuals who may otherwise be eligible for subminimum wage have pathways to employment at competitive wage.

## Final (Consensus; Majority) Recommendations of the Employment First Maine Coalition

Pursuant to its duties and powers within the Employment First Maine Act, the Employment First Maine Coalition recommends to the Governor, legislature, and state agencies the following ways to achieve the policy vision and goals established in the Employment First Maine Act, to improve employment outcomes for persons with disabilities in Maine, and to improve the effectiveness of publicly funded services in supporting those employment outcomes.

1. **Support and make available a wide-ranging, tiered system of professional development and technical assistance for all providers of any services** to individuals with disabilities, including educators and case managers, across the state. The professional development should be accessible and affordable with the goal of assuring a common foundational level of knowledge and skills to:
  - a. Create a culture supportive of employment for all that raises expectations and then plans for, converts to, and supports an array of employment options.
  - b. Understand and utilize: Career Planning and Discovering Personal Genius; job development and job carving; assistive technology; SSA work incentives; financial literacy and planning; evidence-based Individual Placement Supports; integration of employment into ACT teams, and strategies to negotiate with employers.
  
2. **Make Employment 101 curriculum** widely available in multiple formats to provide a values-based and foundational introduction to the concept that everyone can work. Employment 101 should be required for case managers, educators, and policymakers and recommended for individuals with disabilities, parents and board members.

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3. **Assure uniform employment services staff credentialing across state agencies,** Maine Departments of Education, Labor, and Health & Human Services, including recognition of the newly created job coach credential.
4. **Create a mentoring program** to support provider agency leadership in their transformation towards employment services.
5. **Phase out subminimum wage certificates** (permitted under Section 14c of the federal Fair Labor Standards Act) in the state of Maine and assist the small number of Maine residents with disabilities, currently receiving subminimum wage, to maintain their current level of employment in jobs that pay at or above minimum wage.
6. **Address the need for cross-system data on employment outcomes and services to effectively measure over time the state's progress toward full implementation of the vision and goals of the Employment First Maine Act.** This includes state agencies' working together, in a timely manner, to:
  - a. Agree the set of employment outcome and quality indicators to track for all transition and working-age individuals engaged in integrated, community-based employment or customized employment and receiving publicly funded services from the Departments of Health & Human Services, Labor and/or Education [see the Coalition's suggestions for indicators in the text box on the next page];
  - b. Agree the set of employment process indicators to track for all transition and working-age individuals **not yet** engaged in integrated, community-based employment or customized employment but receiving publicly funded services from the Departments of Health & Human Services, Labor and/or Education [see the Coalition's suggestions for indicators in the text box on the next page];
  - c. Determine which of the agreed indicators (from a. and b. above) are already available in existing state agency data systems and take steps to establish a data warehouse where the data from all three agencies can be pulled together, analyzed and aggregated to issue annual reports on the status of the state's efforts to improve employment opportunities and outcomes, and to ensure the availability and effective use of publicly funded supports to facilitate improved opportunities and outcomes.
  - d. Determine which of the agreed indicators (from a. and b. above) are not currently available in existing state agency data systems and take steps to establish mechanisms for collecting such data so that it can also be part of the data warehouse as described in c. above.
  - e. Ensure processes for data collection and reporting used by the Departments of Health & Human Services, Labor and Education utilize best practices for such

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efforts including strategies for minimizing burden, maximizing validity and reliability, and streamlining processes to ensure the effort can and will be sustained over time as part of the state's overall commitment to following the state's Employment First law.

Recommended set of employment process indicators to track for all transition and working-age individuals **not yet** engaged in integrated, community-based employment or customized employment but receiving publicly funded services

- Identified goal of integrated community-based employment or customized employment in individual plan of service/support
- Access to, and receipt of, Career Exploration/Discovery
- Access to, and receipt of, Work Incentives Counseling & Planning
- Access to, and receipt of, Financial Literacy Education
- Access to, and receipt of, Person-Centered Career Planning
- Access to, and receipt of, Post-Secondary Education & Training
- Access to, and receipt of, supports that build Social Capital and facilitate people filling Valued Social Roles in the local community
- Access to, and receipt of, Transportation to advance on the pathway to employment
- Access to, and receipt of, Assistive Technology to advance on the pathway to employment
- Access to, and receipt of, Personal Assistance to advance on the pathway to employment

Recommended employment outcome and quality indicators to track for all transition and working-age individuals engaged in integrated, community-based employment or customized employment and receiving publicly funded services:

- Hours worked
- Wages earned
- Consistency of employment
- Employer of Record
- Benefits through employer/small business
- Health status
- Reduced dependence on paid services
- Job satisfaction

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7. **Pursue the possibility that the Bureau of Rehabilitation Services' could adopt a policy of presumptive eligibility** (including presumptive determination of most significant disability) for individuals with disabilities determined eligible for any of the Home and Community Based Services (HCBS) waivers.
8. **Submit to CMS for approval, a finalized version of the 1915(i) Medicaid State Plan Amendment application drafted by the DHHS Office of Substance Abuse and Mental Health Services (SAMHS)** to provide a mechanism to ensure the availability of integrated community-based employment services for individuals, eligible for Substance Abuse and Mental Health Services, who want to work rather than participate in publicly funded non-work services; or otherwise increase resources devoted to employment supports and services for individuals served by SAMHS.
  - a. Explore implementation of Alternative Benefits Plan to ensure access or continued eligibility to 1915(i) services.
9. **Promote a process for working together across systems to develop protocols for services to transition-age youth** that are based on best practice that lead to employment.
10. **Repurpose resources or develop new resources to conduct transition planning and services** that include:
  - b. Increased opportunities for students to have community based work experience; specifically, at least one paid, integrated job before graduating from high school or aging out of services.
  - c. Students with disabilities being provided with instruction and support necessary to develop self-determination and self-advocacy skills, including opportunities to practice those skills in preparation for employment, post-secondary education and/or training, and independent living.
11. **Develop, promote, and widely disseminate resources for families** to provide information and support about the transition process early in the school careers of their children:
  - d. To raise family/parental expectations for employment for students with disabilities.
  - e. To assist families/parents in navigating the varied systems which have roles in the process.

12. **Analyze services funding distribution and rate structures and realign where necessary to promote and incentivize employment services**, the completion of which is critical to the continued development and support of employment-first service systems.
13. **Recruit and assist with the development of new employment service providers in underserved areas** to address the need for customized, integrated community-based employment.
14. **Share and promote resources on customized employment in Maine**, highlighting successful employment outcomes.
15. **Promote understanding and use of assistive technology to support the inclusion of people with disabilities in the workplace.**
16. **Develop and implement mechanisms to ensure that collaboration around employment** at all levels and especially at the provider level occurs to ensure quality services are provided to the individual:
  - f. Ensuring at the very least that all person-centered plans, IEPs, and treatment/recovery plans include genuine employment-focused goals.
  - g. Increasing their readiness for employment and self-supportive choice.
17. **Develop an “Employment Report Card” for providers** that identifies the number of individuals served, the number of individuals employed, the number of hours worked and wages earned, in support of meeting requirements of outcomes-based contracting.
18. **Recommit the State of Maine as a Model Employer** with an Updated Executive Order to bring new focus to Maine State Government’s commitment to hiring people with disabilities.
  - h. Increase hiring of people with disabilities across the various departments of state government, including managerial positions.
  - i. Utilize the Special Appointment program more widely.
  - j. Establish baseline and biennial goals for increasing above the baseline, the percentage of people with disabilities working in state government.
  - k. Establish disability as a preferential hiring category

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19. **Increase focus on Business as a Customer** in the Employment First Initiative and across all Departments of Labor, Health & Human Services and Education initiatives, implementing a dual customer approach: meeting the needs of both businesses and individuals with disabilities.
20. **Implement new Workforce Innovation and Opportunity Act Employer Section** that improves Services to Employers and Promotes Work-Based Training: WIOA contributes to economic growth and business expansion by ensuring the workforce system is job-driven, i.e. matching employers with skilled individuals.
21. **Provide increased support to Business** that include resources, tools and access to information on Accessibility, Accommodation, Assistive Technology, Disclosure and other areas as identified by business, by possibly utilizing: Maine State Chamber of Commerce website, Employment for ME website, and/or Department of Labor website.
22. **Promote a Business to Business platform** that engages and shares information, resources and strategies that have been effective in a Business by asking business to act as models for others and champion diversity hiring.
23. **Conduct a coordinated, focused educational/marketing approach to businesses** about the benefits of engaging a diverse workforce that includes employees with all abilities, e.g. the very successful “100 Veterans in 100 Days” campaign. (Among other things, promote hiring from the pool of people already indicating a desire to work on the state’s “Need for Change” surveys.)
24. **Continue financial support for The Maine Business Leadership Network** established in 2010 that provides a mechanism for business to support one another.
25. **Allow for Business Consultant roles** within State Offices that provide support and services directly to a Business engaging in disability hiring initiatives.
26. **Improve and increase availability, options, resources, funding, vehicles, etc., for people to have access to reliable transportation to and from employment.**
  - i. Address transportation needs as part of individual job development.
27. **Require state agencies to develop a plan to address these recommendations** and report annually on the progress of the plan. For each recommendation, identify the appropriate lead and supporting agencies expected to develop the plan.

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## APPENDICES:

1. The Employment First Maine Act  
[http://www.employmentfirstmaine.org/uploads/LD\\_1352\\_-\\_Final\\_Public\\_Law.pdf](http://www.employmentfirstmaine.org/uploads/LD_1352_-_Final_Public_Law.pdf)
2. List of Employment First Maine Coalition Members
3. Employment First Maine Summit (October 17, 2014) Summit Participants' Recommendations and Suggestions to Make Employment First a reality in Maine  
<http://employmentfirstmaine.org/uploads/SummitFeedbackSummary.pdf>