



March 2021

# SUBMINIMUM WAGE PROGRAM

## Factors Influencing the Transition of Individuals with Disabilities to Competitive Integrated Employment



A Century of Non-Partisan Fact-Based Work

## Why GAO Did This Study

The Fair Labor Standards Act of 1938 permits, in certain circumstances, the payment of subminimum wages—wages that are below the federal minimum wage—to individuals with disabilities, often those with intellectual or developmental disabilities. To pay such wages, employers must apply for and hold a 14(c) certificate from the U.S. Department of Labor’s Wage and Hour Division. As of October 2020, more than 1,200 organizations held or had applied for 14(c) certificates to employ workers with disabilities, often in segregated settings. At the same time, the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, calls for maximizing opportunities for individuals with disabilities to earn competitive wages in non-segregated settings.

GAO was asked to review the 14(c) program, including how and why individuals transition from 14(c) employment to CIE. This report describes (1) factors that help or hinder transition from 14(c) employment to CIE, and (2) the extent to which the COVID-19 pandemic might affect this transition.

GAO identified an initial list of factors, primarily by reviewing the literature on 14(c)-to-CIE transition and by interviewing 14(c) employers and officials in two states selected, in part, for their number of active 14(c) certificates. GAO refined this list based on input from 17 interviewees: 12 experts, including disability advocates, selected for their professional focus on disability employment, and officials from five additional states in different stages of progress toward increasing CIE opportunities.

View [GAO-21-260](#). For more information, contact Elizabeth Curda at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov).

## SUBMINIMUM WAGE PROGRAM

### Factors Influencing the Transition of Individuals with Disabilities to Competitive Integrated Employment

## What GAO Found

GAO identified 32 factors that can influence the transition from 14(c) employment to competitive integrated employment (CIE). Generally, CIE is employment that (1) is paid at or above the applicable minimum wage; (2) is performed in integrated settings, among people with and without disabilities; and (3) offers opportunities for advancement. GAO grouped the factors into the four categories depicted below, and experts and state officials GAO interviewed validated them.

#### Categories of Factors that Influence Transition from 14(c) Employment to Competitive Integrated Employment (CIE)

 Employee	 Employer	 Public Policy	 Local Economy
Employee characteristics and views, or views of employee’s family	Characteristics and views of 14(c) certificate holders or CIE employers	State or federal policies, programs, or resources	Employment conditions, transportation, and services

Source: GAO analysis of literature and input from interviewees. | GAO-21-260

The 17 interviewees identified the factors in each category they believed to be among the most important for influencing transition from 14(c) employment to CIE, and provided some additional detailed perspectives. Such factors included:

- **Concern for Maintaining Benefits (employee):** Eight interviewees considered this factor to be among the most important. They explained that individuals or families may fear that earning higher wages in CIE would make individuals ineligible for certain benefits, but several noted that benefits counseling could mitigate these concerns.
- **Sufficiency of CIE Resources for 14(c) Certificate Holder (employer):** Eight interviewees considered this factor to be among the most important. Six interviewees noted that certificate holders may be discouraged from providing CIE-focused services, such as job coaching, when funding for these services is lower than for services provided in 14(c) settings.
- **State Resources for CIE (public policy):** Twelve interviewees considered this factor to be among the most important. For example, officials from one state described plans to offer specialized training to 14(c) employer staff, which two interviewees said is key to helping individuals transition to CIE.
- **Available Transportation (local economy):** Eight interviewees considered this factor to be among the most important. Two interviewees noted ways to mitigate transportation-related challenges, such as 14(c) employers identifying nearby job openings for potential CIE positions.

Most interviewees said that the COVID-19 pandemic had caused disruptions to either 14(c) employment or CIE and described uncertainties about the future of transitions. For example, many interviewees noted that 14(c) employers have closed their facilities to comply with public health requirements. While some interviewees said that many individuals working in CIE have retained their jobs due to their status as essential workers, other interviewees described a general fear that people with disabilities are first to be fired and last to be rehired.

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# Contents

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Letter		1
	Background	5
	Factors Related to Employee, Employer, Public Policy, and Local Economy May Influence Transition into Competitive Integrated Employment	12
	Interviewees Identified Wide-Ranging Effects of COVID-19 Pandemic on 14(c) Employment and CIE	31
Appendix I	Objectives, Scope, and Methodology	36
Appendix II	Table of Factors that Help or Hinder Transition to Competitive Integrated Employment	44
Appendix III	GAO Contact and Staff Acknowledgements	48
Tables		
	Table 1: Experts who Participated in GAO's Review	40
	Table 2: Example of Factor Label and Employment Outcome Descriptors	43
	Table 3: Factors Influencing Transition from 14(c) to Competitive Integrated Employment (CIE) and Ways They Might Help or Hinder Transition	44
Figures		
	Figure 1: Approaches for Engaging in Competitive Integrated Employment (CIE)	11
	Figure 2: Four Categories Comprising 32 Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)	13
	Figure 3: Employee Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)	15
	Figure 4: Employer Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)	20
	Figure 5: Public Policy Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)	25

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Figure 6: Local Economy Factors Influencing Transition from 14(c)  
Employment to Competitive Integrated Employment (CIE) 29

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**Abbreviations**

APSE	Association of People Supporting Employment First
CIE	competitive integrated employment
CMS	Centers for Medicare & Medicaid Services
DOL	Department of Labor
FLSA	Fair Labor Standards Act of 1938
HCBS	home and community-based services
ODEP	Office of Disability Employment Policy
SSI	Supplemental Security Income
WHD	Wage and Hour Division
WIOA	Workforce Innovation and Opportunity Act
WIPA	Work Incentives Planning and Assistance

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March 4, 2021

The Honorable Robert C. “Bobby” Scott  
Chairman  
Committee on Education and Labor  
House of Representatives

The Honorable Robert P. Casey, Jr.  
United States Senate

Under section 14(c) of the Fair Labor Standards Act of 1938, employers may be authorized to pay individuals with disabilities wages lower than the federal minimum wage if the individuals’ earning or productive capacity is limited as a result of their disability.<sup>1</sup> The U.S. Department of Labor (DOL) provides qualifying employers with a 14(c) certificate that allows them to employ these individuals at a subminimum wage. While this statute is intended to “prevent curtailment of opportunities for employment,” many individuals working under 14(c) certificates are employed in sheltered workshops—facilities where people with intellectual and developmental disabilities work in segregated settings and earn subminimum wages.

However, more recent federal legislation and other efforts emphasize the importance of providing these workers with the option of earning a competitive wage in an integrated employment setting, known as competitive integrated employment (CIE). In particular, the Workforce Innovation and Opportunity Act (WIOA) made CIE a priority by amending the Rehabilitation Act of 1973, to state that one of its purposes is “to maximize opportunities for individuals with disabilities, including individuals with significant disabilities, for competitive integrated employment.”<sup>2</sup> In addition to federal legislation, at least 40 states have adopted legislation or state policy stating that integrated employment in the community is the first and preferred option for people with disabilities,

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<sup>1</sup>See 29 U.S.C. § 214(c).

<sup>2</sup>See 29 U.S.C. § 701(b)(2). Since 2001, work in sheltered workshops and other segregated settings has not qualified as an “employment outcome” for states’ vocational rehabilitation programs under the Rehabilitation Act of 1973, which authorizes public funding for employment services provided to individuals with disabilities.

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according to the Association of People Supporting Employment First (APSE).<sup>3</sup>

Despite this shift in federal and state priorities, as of October 1, 2020, 1,247 employers held or had applied for 14(c) certificates to employ workers at subminimum wages, and little is known about the extent to which individuals have successfully transitioned from 14(c) employment to CIE, or what factors might influence this transition.<sup>4</sup> Additionally, among other wide-ranging effects, the COVID-19 pandemic has disrupted the way individuals generally, and individuals with disabilities in particular, engage in employment. Advocacy groups and others describe how places of employment—including 14(c) worksites where individuals with disabilities often receive vocational and other services—have closed as a result of the pandemic. The impact of a prolonged economic recession on employment opportunities for individuals with disabilities—including 14(c) and CIE—remains uncertain.

You asked us to review how and why individuals transition from working under 14(c) certificates to CIE.<sup>5</sup> This report describes what is known about (1) factors that help or hinder transition from 14(c) employment to CIE, and (2) the extent to which the COVID-19 pandemic might affect this transition.

To address the first objective, we identified an initial list of nearly 80 factors related to transition from 14(c) employment to CIE, primarily based on a review of three relevant studies that met our standards for

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<sup>3</sup>APSE is an advocacy organization with the mission of advancing employment equity for people with disabilities. Employment First is a nationwide, state-led movement that provides a framework for systems change that is centered on the premise that all citizens, including individuals with intellectual and developmental disabilities, are capable of full participation in CIE.

<sup>4</sup>According to data reported by DOL's Wage and Hour Division (WHD), 762 employers held 14(c) certificates to employ over 54,000 workers. However, this under-represents the full universe of 14(c) employees, as another 485 employers (about 39 percent of the total) had applications pending with WHD, and WHD only reports data on the number of workers associated with issued certificates.

<sup>5</sup>The original request included this as part of a broader review of 14(c) employment. As a result of the pandemic, we placed our audit work addressing other lines of inquiry on hold, and we agreed to address this issue in a separate, interim report.

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methodological soundness.<sup>6</sup> Two of the studies surveyed individuals—including 14(c) employees, their families, and representatives of 14(c) certificate holders—about their opinions on the factors influencing individuals to remain in 14(c) or transition to CIE.<sup>7</sup> The third study solicited expert opinions on the factors necessary for successful organizational transformation,<sup>8</sup> which may support individuals' transition to CIE.<sup>9</sup> We supplemented this review by soliciting and incorporating perspectives on such factors through interviews with selected 14(c) certificate holders and state officials in Minnesota and Texas.<sup>10</sup>

To further hone our list of factors and address the second objective, we held interviews with 12 experts and officials from five states—referred to collectively in this report as interviewees. We selected the 12 experts to achieve a balance of perspectives, based on their range of academic research and policy and professional expertise. We selected the five states to reflect a range in the status of efforts to increase opportunities for individuals with disabilities to enter or remain in CIE, as well as

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<sup>6</sup>We also obtained input from officials from DOL's Office of Disability Employment Policy and relied on information included in the final report of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities. According to the report, the primary purpose of the work of this committee was to address issues and make recommendations to improve the employment participation of people with intellectual and developmental disabilities and others with significant disabilities by ensuring opportunities for CIE. See Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, *Final Report* (Sept. 15, 2016).

<sup>7</sup>Katherine J. Inge, Paul Wehman, Grant Revell, Doug Erickson, John Butterworth, and Dana Gilmore. "Survey Results from a National Survey of Community Rehabilitation Providers Holding Special Wage Certificates," *Journal of Vocational Rehabilitation*, vol. 30 (2009), 67-85. Alberto Migliore, Teresa Grossi, David Mank, and Patricia Rogan. "Why do Adults with Intellectual Disabilities Work in Sheltered Workshops?" *Journal of Vocational Rehabilitation*, vol. 28 (2008), 29-40.

<sup>8</sup>Oliver Lyons, Jaimie Timmons, Allison Cohen-Hall, and Stephane LeBlois. "The Essential Characteristics of Successful Organizational Transformation: Findings from a Delphi Panel of Experts," *Journal of Vocational Rehabilitation*, vol. 49 (2018), 205-216. For the purposes of this report, organizational transformation means changes 14(c) certificate holders make to their business model to support individuals' transition to CIE.

<sup>9</sup>None of these studies endeavored to quantify the extent a given factor was associated with the likelihood of transition to CIE, using statistical modeling or multivariate regression approaches.

<sup>10</sup>The original design for our work included site visits to between four and six states, selected for their large number of 14(c) certificate holders, having 14(c) certificate holders with a large number of employees, and geography. However, widespread quarantines put into place after visits to the first two states prevented us from interviewing additional employers.

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geographic variation.<sup>11</sup> During the interviews we solicited views on the appropriateness and completeness of the list of factors—including whether they had suggestions for factors to add.<sup>12</sup> We also asked interviewees to identify factors they considered to be relatively important or unimportant, and allowed interviewees to identify as many factors as they wished.<sup>13</sup> Our use of semi-structured interviews allowed us to identify how many interviewees considered each factor to be among the most important, but did not yield sufficiently precise information to allow us to produce a rank order list of the factors by importance. We also solicited interviewees' experiences with and perspectives about the impact of the pandemic on 14(c) employment and CIE transition.

To finalize our list, we revised the content based on these interviews. As a result of our analysis of input from interviews, we identified 32 factors in our final list. We sent the list to interviewees to validate the final list and verify the factors each had noted during the interviews they considered to be among the most important. We made minor revisions to our descriptions of the factors based on interviewees' suggestions. See appendix I for a detailed description of our methods and appendix II for a full list of the factors and descriptions of ways they may help or hinder transition from 14(c) employment to CIE.

We conducted this performance audit from August 2019 to March 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

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<sup>11</sup>We interviewed officials from Colorado, Maryland, New Hampshire, Ohio, and Virginia. State interviewee groups ranged in size from two to eight, and included officials from the state vocational rehabilitation and health and human services agencies, and sometimes private state-based employer coalitions and state-based disability advocacy organizations.

<sup>12</sup>We asked interviewees to discuss the influence of factors on transition in the context of a pre-pandemic environment.

<sup>13</sup>The number of factors experts selected as among the most important ranged from two to 12, and the number of factors state officials selected as most important ranged from five to 23. To obtain views from state officials on the relative importance of factors, we additionally requested that state officials annotate the preliminary list of factors, indicating factors the state officials considered to be among the most important, factors state officials viewed as unimportant, and factor descriptions that should be reworded to improve accuracy or precision. All five states submitted an annotated list that represented the consensus perspective of the group.

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the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

### *14(c) Program and 14(c) Certificate Holders*

Section 14(c) of the Fair Labor Standards Act of 1938 (FLSA) allows DOL to certify employers to pay subminimum wage rates in certain circumstances.<sup>14</sup> Under this section, DOL may certify employers to pay wages below the federal minimum to individuals whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury. Under the law, such wages must be related to the productivity of the individuals completing the work. The law also states that wages must be commensurate with the wages paid to workers who are employed in the same vicinity and doing essentially the same type, quality, and quantity of work but are not disabled for that work. The Secretary of Labor delegated authority to its Wage and Hour Division (WHD) to administer and enforce the 14(c) program, including by certifying employers to pay wages below the statutory minimum in accordance with relevant regulations.<sup>15</sup> In this report, we will generally refer to wages lower than the statutory minimum wage as “subminimum” when they are paid to an eligible individual under a 14(c) certificate.

To participate in the 14(c) program, regulations require that employers establish a commensurate wage rate for each individual they employ under FLSA, for each specific type of work those individuals perform. To establish the wage rates, regulations require that employers identify the prevailing wages in their geographic area, calculate workers’ productivity ratings for each job they perform based on their measured productivity as compared to the measured productivity of experienced workers without disabilities, and apply the workers’ productivity ratings to the prevailing wages.<sup>16</sup> To maintain their certification, these employers—referred to in this report as 14(c) certificate holders—must provide assurances that they will review hourly wage rates at least every 6 months and adjust all wages

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<sup>14</sup>29 U.S.C. § 214(c).

<sup>15</sup>See 29 C.F.R. § 525.5(a).

<sup>16</sup>For example, if an individual working under a 14(c) certificate has a productivity rating for a specific job that is 50 percent of the productivity of experienced workers who do not have disabilities that affect their work, and the prevailing wage paid to experienced workers for that job is \$10.00 an hour, the subminimum wage rate for the 14(c) worker for that job would be \$5.00 an hour.

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at least annually, to reflect changes in local prevailing wages for comparable work.

According to the National Council on Disability's review of WHD data, the vast majority of employers certified to pay subminimum wages are also nonprofit organizations that provide daytime services and supports to individuals with disabilities.<sup>17</sup> Such services and supports may include those designed to enable individuals to obtain or perform employment, either directly, such as job coaching, or indirectly, such as instruction on daily living skills. Regardless of whether or not they earn subminimum wages, more than 80 percent of the individuals receiving such services from these providers have intellectual and developmental disabilities, according to the Institute for Community Inclusion.<sup>18</sup>

14(c) certificate holders may be financed using some combination of public funding and revenue from their business, as well as charitable contributions. Certificate holders who are also service providers may receive payment for providing home and community-based services (HCBS) under their state's Medicaid program.<sup>19</sup> Examples of employment-related HCBS include assisting individuals in 14(c) or CIE settings in building social skills, preparing for employment, and performing required tasks, for example by using job coaches to support

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<sup>17</sup>National Council on Disability, *From the New Deal to the Real Deal: Joining the Industries of the Future* (Washington, D.C.: October 2018). According to the National Council on Disability, it is an independent federal agency charged with advising the president, Congress, and other federal agencies regarding policies, programs, practices, and procedures that affect people with disabilities. WHD collects basic information about 14(c) certificate holders—such as whether they are schools, hospitals, or for-profit businesses—but does not collect information about certificate holders' business or service offerings.

<sup>18</sup>The Institute for Community Inclusion, located at the University of Massachusetts Boston, offers training, clinical, and employment services, conducts research, and provides assistance to organizations to promote inclusion of people with disabilities in school, work, and community activities.

<sup>19</sup>Medicaid, overseen at the federal level by the Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS), is a joint federal-state program that finances health care coverage for certain low-income and medically needy individuals. States may provide HCBS through a variety of options in the Medicaid program. HCBS are delivered outside of institutional settings and include adult day care, personal care services, and services provided in assisted living facilities. See *Medicaid Home- and Community-Based Services: Selected States' Program Structures and Challenges Providing Services*, [GAO-18-628](#) (Washington, D.C.: Aug. 30, 2018). According to the Institute for Community Inclusion, Medicaid is the largest federal source of funds for day and employment services for individuals with developmental disabilities.

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individuals as they perform their job duties. Certificate holders may also receive revenue from public or private contracts to purchase the goods or services produced by the individuals receiving subminimum wages. Generally, 14(c) employees who perform this contract-based work do so in a congregate setting, along with other individuals with disabilities who may be working under the same or other contracts, or receiving disability services.<sup>20</sup>

### *CIE for Individuals with Disabilities*

WIOA established—through an amendment to the Rehabilitation Act of 1973—the goal to “maximize opportunities for individuals with disabilities, including individuals with significant disabilities, for competitive integrated employment.”<sup>21</sup> WIOA added a provision to the Rehabilitation Act of 1973 generally defining CIE as employment performed on a full-time or part-time basis

- that pays a wage at least as high as (1) the relevant required minimum wage and (2) the customary rate paid by the employer for similar work performed by other employees who do not have a disability and who are similarly situated (in terms of occupation, training, experience, and skills);<sup>22</sup>
- for which an individual is eligible for the level of benefits provided to other employees;
- that is at a location where employees with disabilities interact with individuals without disabilities to the same extent as individuals without disabilities in comparable positions interact with each other; and

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<sup>20</sup>According to WHD, 14(c) certificate holders also include a small number of “business establishments,” which generally employ workers with disabilities along with individuals not disabled for the work in integrated settings. For the purposes of this report, when we refer to “14(c) employment,” we are referring to work performed in a segregated setting where employees with disabilities work mostly with other employees with disabilities.

<sup>21</sup>Pub. L. No. 113-128, § 402(b)(3), 128 Stat. 1425, 1631-32 (2014), codified at 29 U.S.C. § 701(b)(2).

<sup>22</sup>For individuals who are self-employed, the rate of compensation should be one that yields an income that is comparable to the income of self-employed individuals without disabilities in similar occupations or on similar tasks and with similar training, experience, and skills.

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- that, as appropriate, provides opportunities for advancement that are similar to those for employees without disabilities in similar positions.<sup>23</sup>

WIOA also added to the Rehabilitation Act of 1973 section 511, which requires that individuals receive, as a condition of 14(c) employment, regular career counseling and information designed to enable the individuals to explore, discover, experience, and attain CIE (in this report, we refer to the set of requirements in this section of the law as “Section 511”).<sup>24</sup> Specifically, Section 511 requires this career counseling be provided by “designated state units,” which generally are state vocational rehabilitation agencies. It also requires 14(c) certificate holders to inform their employees about certain self-advocacy, self-determination, and peer mentoring training opportunities, though there is no requirement for certificate holders to actively assist their employees in obtaining CIE. Section 511 requires that this career counseling and information is provided every 6 months during the first year of employment under a 14(c) certificate and annually thereafter.<sup>25</sup>

Beyond WIOA, a Supreme Court decision and federal regulations have emphasized the importance of community-based settings for individuals with disabilities. The U.S. Supreme Court held, in 1999’s *Olmstead v. L.C.* decision, that the Americans with Disabilities Act of 1990 prohibits unjustified segregation of individuals with disabilities.<sup>26</sup> This decision has been relied upon in various contexts, including litigation around individuals’ rights to receive employment services in their community,

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<sup>23</sup>Pub. L. No. 113-128, § 404(5), 128 Stat. 1425, 1633-34 (2014), codified at 29 U.S.C. § 705(5). The Department of Education, which plays a role in helping individuals with disabilities achieve CIE, recently issued a document clarifying its policy with respect to the definition of “competitive integrated employment.” Department of Education, *Frequently Asked Questions: Criterion for an Integrated Employment Location in the Definition of “Competitive Integrated Employment” and Participant Choice*, FAQ 21-03 (Washington, D.C.: Jan. 19, 2021).

<sup>24</sup>Pub. L. No. 113-128, § 458(a), 128 Stat. 1425, 1676-78 (2014), codified at 29 U.S.C. § 794g(c).

<sup>25</sup>Section 511 also includes specific limitations for employment of workers with disabilities age 24 and younger. Before certain such workers can be employed under a 14(c) certificate, they must complete various requirements, including receiving transition services or pre-employment transition services, as appropriate; applying for vocational rehabilitation services (and receiving these services if determined eligible); and receiving career counseling.

<sup>26</sup>*Olmstead v. L.C.*, 119 S. Ct. 2176, 2187 (1999).

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rather than in institutions or other segregated settings. In addition, CMS issued a rule in 2014 requiring that Medicaid HCBS—including employment-related services—be delivered in settings that promote and support community integration for the individuals they serve.<sup>27</sup>

In the early 2000s, a nationwide, state-led movement called Employment First began, which provides a framework for systems change that is centered on the premise that all citizens, including individuals with intellectual and developmental disabilities, are capable of full participation in CIE. Employment First encourages states to make changes to state systems, such as increasing payment rates for reimbursing disability service providers for community employment services; and better aligning education, disability, and employment agency policies. DOL, through its Office of Disability Employment Policy (ODEP), provides technical assistance in support of Employment First, and many states have formally committed to the Employment First framework through legislative or executive action.<sup>28</sup> For example, Ohio’s governor issued an executive order in 2012 establishing the Employment First Taskforce to, among other things, encourage statewide collaboration and coordination, and Maryland adopted legislation in 2016 prohibiting the state Developmental Disabilities Administration from funding employers that pay subminimum wages.

#### *Transition from 14(c) Employment to CIE*

For the purposes of this report, transitioning from 14(c) employment to CIE generally means that the individual is actively seeking or has achieved some degree of CIE, but has not fully left their 14(c) position for CIE employment. An individual’s transition from 14(c) employment to CIE can take a range of paths that are influenced by many factors, such as

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<sup>27</sup>See State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers, 79 Fed. Reg. 2948, 2957 (Jan. 16, 2014). States are required to demonstrate compliance with this settings requirement by March 17, 2023. CMS, *State Medicaid Director Letter; Re: Home and Community-Based Settings Regulation – Implementation Timeline Extension and Revised Frequently Asked Questions*, SMD-20-003 (Baltimore, MD: July 14, 2020).

<sup>28</sup>According to APSE, an advocacy organization with the mission of advancing employment equity for people with disabilities, as of 2020, 40 states have adopted legislation and/or an official state policy stating that employment in the community, or CIE, is the first and preferred service option for people with disabilities.

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the individual's desires and needs, available supports (including from their 14(c) employer), and the availability and nature of CIE work, among others. Depending on such factors, the transition may be gradual, tentative, or temporary.<sup>29</sup> For example transitioning individuals may:

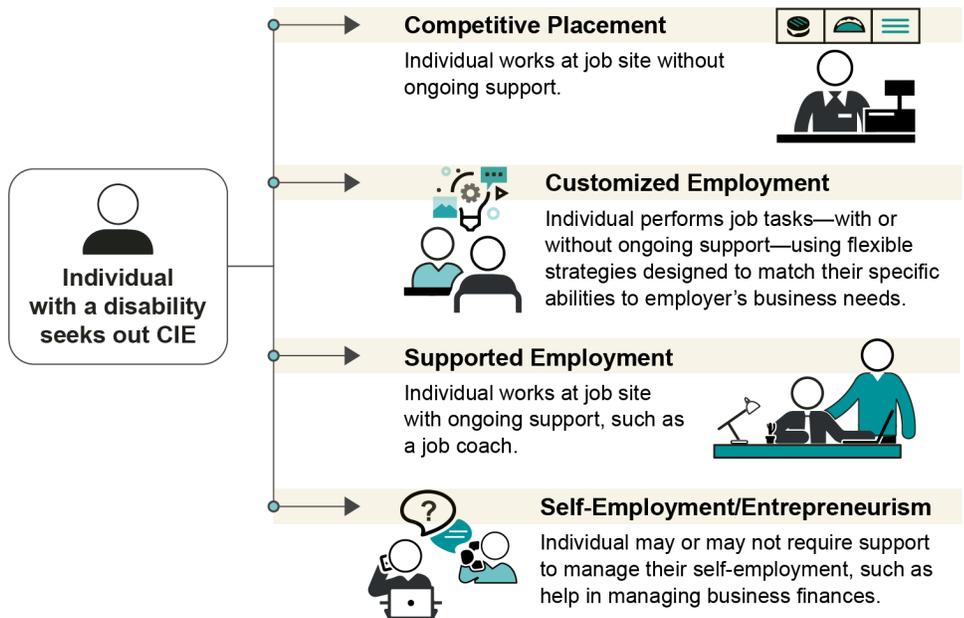
- work any number of hours in a CIE position, including just a few hours each week;
- earn subminimum (14(c)) and competitive (CIE) wages in the same week, or even the same day;
- work for one or multiple CIE employers; or
- change their 14(c) or CIE schedule depending on the availability of the work, or other factors.

During their transition from 14(c) employment to CIE, individuals may receive support from their 14(c) employer, from other providers funded by federal or state programs, or other sources. For example, during the time individuals are not working in CIE, they may continue receiving other Medicaid HCBS services. Figure 1 and the subsequent bullets describe various ways individuals may engage in CIE and the services and practices that may help facilitate CIE.

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<sup>29</sup>While this report generally addresses transition *from* 14(c) employment *to* CIE, it is possible that individuals who have already made that transition may, for various reasons, go back to working exclusively in 14(c) employment.

**Figure 1: Approaches for Engaging in Competitive Integrated Employment (CIE)**



Source: GAO analysis of Department of Labor guidance. | GAO-21-260

- **Competitive Placement:** Individuals are hired directly through a business's traditional hiring and recruitment process, but may receive assistance with searching for job openings or preparing for interviews. However, once employed, the individual works at the job site without ongoing support.
- **Customized Employment:** Individuals' job tasks are determined based on their specific strengths, needs, and interests. For example, a clothing store owner may customize a position within the shoe department that aligns with the aptitude of a job seeker with disabilities for organizing items by color and size. Individuals may or may not receive ongoing support at job sites, depending on their needs and the needs of the business.
- **Supported Employment:** Individuals receive appropriate, ongoing support to find and maintain employment. For example, the 14(c) certificate holder may pay a job coach to work alongside an individual to provide consultation as the individual is learning the responsibilities of the position, but the need for assistance may fade as the individual masters the tasks or develops closer working relationships with other onsite employees. Services are determined by the individuals' needs and intended to maximize individuals' integration within the workplace.

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- **Self-Employment/Entrepreneurism:** Individuals identify income-earning opportunities that do not involve an employer, based on their own desires and skills, and receive supports to achieve success.

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## Factors Related to Employee, Employer, Public Policy, and Local Economy May Influence Transition into Competitive Integrated Employment

Based on our literature review, site visits, and interviews with selected experts and state officials, we identified 32 factors that may influence an individual's transition from 14(c) employment to CIE.<sup>30</sup> We organized the 32 factors into four categories—employee, employer, public policy, and local economy—to show the range of actors and conditions that may directly or indirectly help or hinder an individual's transition to CIE.

- **Employee** factors are individual characteristics, such as age and work experience, and views or perceptions of the individual or those of their family.
- **Employer** factors include characteristics and policies of both 14(c) certificate holders (who often serve as both employer and disability services provider) and CIE employers and the views of those organizations' leadership.
- **Public policy** factors include state or federal policies, programs, or resources that, depending on implementation effectiveness and design, may or may not support individuals' transition to CIE.
- **Local economy** reflects factors such as the local unemployment rate and locally available transportation that may make it easier or more difficult for individuals to successfully transition to CIE.

Figure 2 shows the 32 factors, organized into four categories, which may influence individuals' transition from 14(c) employment to CIE.

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<sup>30</sup>All 17 of our interviewees validated the comprehensiveness of the list of factors for influencing the transition from 14(c) employment to CIE.

**Figure 2: Four Categories Comprising 32 Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)**

 <p><b>Employee</b> Employee characteristics and views, or views of employee's family</p>	 <p><b>Employer</b> Characteristics and views of 14(c) certificate holders or CIE employers</p>	 <p><b>Public Policy</b> State or federal policies, programs, or resources</p>	 <p><b>Local Economy</b> Employment conditions, transportation, and services</p>
<ul style="list-style-type: none"> <li>• Concern for maintaining benefits</li> <li>• Concern for safety of work environment</li> <li>• Views about individual's skills</li> <li>• Desire for social community</li> <li>• Concern about consistent schedule and/or program structure</li> <li>• Individual's age</li> <li>• Previous experience with CIE</li> <li>• Level of interest or effort in changing 14(c) employment</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficiency of CIE resources for 14(c) certificate holder</li> <li>• CIE employer view of individuals with disabilities as employees</li> <li>• Flexibility of CIE employer</li> <li>• 14(c) certificate holder leadership views</li> <li>• 14(c) certificate holder's use of person-centered approach to employment planning</li> <li>• 14(c) certificate holder's mission or business model</li> <li>• 14(c) certificate holder's access to training and technical assistance</li> <li>• 14(c) certificate holder's provision of ongoing supports for CIE</li> </ul>	<ul style="list-style-type: none"> <li>• State resources for CIE</li> <li>• State policies allowing federal benefits to continue while working</li> <li>• State adoption of employment first policies</li> <li>• Federal interagency coordination</li> <li>• Extent of federal support for 14(c) employment versus CIE</li> <li>• State progress towards implementing federal requirements for integrated employment</li> <li>• State incentives for or outreach to CIE employers</li> <li>• Effect of federal work incentive policies</li> <li>• State minimum wage increase</li> <li>• Intra-state coordination</li> <li>• State requirements for or subsidization of qualified employment services staff</li> <li>• State implementation of Section 511</li> </ul>	<ul style="list-style-type: none"> <li>• Unemployment rate</li> <li>• Available transportation</li> <li>• Available CIE options</li> <li>• Available employment services</li> </ul>

Source: GAO analysis of literature and input from interviewees. | GAO-21-260

While our 17 interviewees validated the entire list, each of the interviewees considered a subset of factors to be among the most important for influencing 14(c)-to-CIE transition. Specifically, each of the 32 factors was identified by at least one interviewee to be among the most important in influencing an individual's transition from 14(c)

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employment to CIE. Almost all of the factors were identified by multiple interviewees to be among the most important.<sup>31</sup>

In addition, some interviewees cautioned that the 32 factors cannot be viewed in isolation. Specifically, two experts described the difficulty of fully isolating the effect of individual factors, because the factors can be interrelated. For example, one expert said that the unemployment rate and available transportation are interrelated factors because in an economy with low unemployment, individuals may be more likely to find jobs closer to home, making transportation less of a barrier. Therefore, while low unemployment and easily available transportation might both encourage an individual to transition to CIE, their interaction may make it difficult to isolate the effect of each factor alone.

In the sections below, we provide more information on the four factor categories, including detailed perspectives from our interviewees on how certain factors may help or hinder CIE transition. Generally, we highlight factors within each category that a relatively large number of interviewees considered to be among the most important for influencing transition from 14(c) employment to CIE, and about which there was substantial discussion in the interviews. See appendix II for a full list of the factors and descriptions of ways they may help or hinder transition from 14(c) employment to CIE.

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### Employee: Employee Characteristics and Views, or Views of Employee's Family

The Employee category contains eight factors related to characteristics of individuals, or to views of individuals or their families, that might influence whether an individual transitions from 14(c) employment to CIE. In this category, several interviewees underscored that the views of families, in addition to those of the individuals themselves, influence whether an individual transitions to CIE. For example, two interviewees mentioned that the views of an individual's family member may differ from the individual's own views and, according to one of those interviewees, the family member's views may play the deciding role in the individual's employment outcome. See figure 3 for a list of the eight factors in the employee category and brief descriptions of how each could help or hinder transition from 14(c) to CIE.

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<sup>31</sup>Twelve of the 32 factors were considered to be among the most important by five or more interviewees; another 12 were considered to be among the most important by three or four interviewees; and the remaining eight were considered to be among the most important by one or two interviewees.

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**Figure 3: Employee Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)**



**Employee**

Employee characteristics and views, or views of employee's family

- Concern for maintaining benefits
- Concern for safety of work environment
- Views about individual's skills
- Desire for social community
- Concern about consistent schedule and/or program structure
- Individual's age
- Previous experience with CIE
- Level of interest or effort in changing 14(c) employment

Source: GAO analysis of literature and input from interviewees. | GAO-21-260

Interviewees provided additional context for how the factors in the employee category may affect individuals' employment outcomes. Comments provided especially pertained to the following five factors, each of which five or more interviewees considered to be among the most important.<sup>32</sup>

**Concern for Maintaining Benefits.** The extent of concern individuals or their family members have about losing public benefits if the individual's earnings increase can affect individuals' transition to CIE. Eight of the 17 interviewees considered this to be among the most important factors. In particular, one interviewee noted that many individuals working under a 14(c) certificate receive Supplemental Security Income (SSI), and that individuals or families may fear increased earnings will jeopardize the

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<sup>32</sup>Two factors that we do not discuss in detail below are age and level of interest or effort in changing 14(c) employment. Regarding age, nine interviewees said that the effects of age can be nuanced, and that, for example, older people might be just as likely as younger people to want to try CIE. Regarding level of interest, two interviewees raised considerations, including that 14(c) employees might not know on their own what to do to demonstrate greater interest in CIE. For both factors, at least one interviewee said it was among the most important in influencing whether the individual transitions to CIE.

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individual's eligibility for SSI and access to the health care that may come with it.<sup>33</sup>

Interviewees described different ways that individuals or their families may perceive a tradeoff between earning wages and maintaining means-tested public benefits, such as SSI and Medicaid. One expert explained that an individual would be more likely to transition to CIE if the position paid sufficient wages to offset the potential income loss and additional medical expenses associated with the reduction of benefits. On the other hand, three interviewees said that the potential for higher wages and greater community integration may not sufficiently mitigate the risks individuals or their families may perceive associated with losing their benefits. For example, individuals or families may be concerned that if individuals gave up their benefits to enter a CIE position, and then the CIE job did not work out, the individuals would not have ready access to the benefits they had prior to CIE employment.

Several interviewees noted that benefits counseling—formal or informal instruction for individuals and their families explaining the sometimes complex relationship between earnings and benefits—could mitigate misunderstandings about benefit loss and thereby encourage transition to CIE. According to the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, benefit counseling can help individuals understand the tradeoffs between earnings and benefits, and help them make informed decisions about whether to seek CIE.<sup>34</sup> One expert explained that benefits counseling may assure many individuals or their families that it may be possible to work and receive

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<sup>33</sup>SSI is a means-tested cash assistance benefit for low-income individuals with disabilities, among others. In participating states, individuals who are eligible for SSI may also be eligible for Medicaid.

<sup>34</sup>Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, *Final Report* (Sept. 15, 2016).

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benefits at the same time.<sup>35</sup> In addition, an official from one state said that benefits counseling can also help individuals or their families understand how to access complex federal work incentives that can be difficult for the individual or their family members to navigate independently.<sup>36</sup>

**Concern for Safety of Work Environment.** An individual's or family members' concerns about the individual's physical or psychological safety might affect whether the individual transitions to CIE. Seven of the 17 interviewees said they viewed concerns about safety as among the most important factors in influencing whether an individual transitions from 14(c) employment to CIE. One expert said that a family member's concern for safety may outweigh the desire an individual may have to try CIE. Another expert described a parent who routinely waited in the parking lot for his daughter to finish shifts at her CIE worksite because the parent was concerned that the daughter, who had a disability and was highly trusting of others, might be taken advantage of.

Positive experiences and exposure to CIE could mitigate individual or family concerns about the relative safety of CIE versus 14(c) employment positions, according to three experts. For example, individuals who have had prior positive experiences in integrated environments, or exposure to close peers who have had positive CIE experiences, may not consider safety risks in CIE to be as high. Similarly, family-to-family information sharing could mitigate families' concerns about CIE, according to officials from one state. The state provided families who had concerns about their

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<sup>35</sup>For example, this expert said that individuals with the most significant disabilities do not typically lose all access to benefits, especially health benefits, when they transition to CIE, because their earnings are not high enough. For those transitioning 14(c) workers whose earnings are too high to qualify for an SSI cash payment, the expert told us that he expects most workers would maintain access to health care through a provision of the Social Security Act designed to ensure health coverage for SSI recipients who begin to work. The expert said that in rare instances, where, for example, the individual's income exceeds the limits of this provision, transitioning 14(c) employees may be able to access health insurance through Medicaid buy-in, which provides states the option to offer Medicaid coverage to individuals with disabilities and impose premiums or other cost sharing on a sliding scale based on income. There are multiple pathways to Medicaid eligibility for individuals with disabilities; however, the scope of our work did not allow us to determine all of them and understand under what circumstances transitioning 14(c) employees whose earnings increase might use them.

<sup>36</sup>Work Incentives Planning and Assistance (WIPA) projects, which are funded by the Social Security Administration, provide benefit counselling to Social Security beneficiaries with disabilities. The goal of the WIPA program is to enable beneficiaries with disabilities to receive accurate information and use that information to make a successful transition to work.

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adult children working in CIE with videos of other parents describing how their children had successfully transitioned.

**Desire for Social Community.** Five interviewees said that desire for social community is among the most important factors in influencing whether an individual transitions from 14(c) employment to CIE. Individuals with disabilities or their families may value the relationships individuals have established in 14(c) employment settings, or may believe that relationships with CIE coworkers would be more difficult to forge than with those in subminimum wage settings. According to officials from one state, individuals who appreciate having friendships with people without disabilities may be encouraged to transition to CIE. However, one expert noted that a CIE environment could lead to loneliness if the individual is unable to connect with coworkers without disabilities.

Three experts mentioned strategies to improve individuals' sense of social inclusion in a CIE setting. For example, according to one expert, natural supports—such as assigning a coworker to serve as a mentor—could improve social integration for individuals transitioning to CIE and help mitigate potential loneliness. Moreover, two experts mentioned that placing two or more individuals with disabilities who know each other together at a CIE work site provides for a built-in social community and thereby could ease transition to CIE.

**Concern for Consistent Schedule and/or Program Structure.** Five of the 17 interviewees said that concern for schedule consistency and structure was among the most important factors in influencing whether an individual transitions from 14(c) employment to CIE. One interviewee explained that families and caregivers rely on the predictable structure of 14(c) employment to meet other commitments while the individual is at work. According to two interviewees, it is sometimes challenging to ensure individuals have access to sufficient meaningful activities throughout their day as individuals typically start in CIE jobs working only on a part-time basis. On the other hand, one expert said that 14(c) employers who support the individual in CIE may supplement the individual's time working in CIE with non-work activities, such as recreation, to constitute a full day, and another expert said that individuals may supplement CIE time by continuing to work part-time in 14(c) employment.

**Views about Individual's Skills.** An individual's or family's beliefs in an individual's skills and confidence in their abilities can play an important role in whether the individual transitions from 14(c) employment to CIE.

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Seven of the 17 interviewees noted that individual or family beliefs in the individual's skills is among the most important factors influencing the decision to pursue CIE. One expert noted research showing that individuals with disabilities have less confidence than individuals without disabilities in their ability to achieve their desired goals. The expert said that people who perceive that they have less control over their lives may be less likely to transition to CIE. Another participant told us that how individuals view themselves is highly influenced by what the individuals are told they can accomplish. In addition, family members' views are also important influencers in an individual's employment outcome, according to four interviewees. For example, one participant told us that family members may not see the individual's potential for accomplishing work because they remember times when the person struggled.

Four interviewees described how individual or family expectations about 14(c) employees' skills and abilities to succeed at CIE can change. One expert pointed to cultural changes that have shifted expectations for individuals with disabilities from non-integrated employment to CIE over the course of a generation. Moreover, two interviewees said that exposure to CIE experiences can help raise individual expectations. People who have been exposed to CIE, including through real-world, authentic experiences, almost always choose CIE, according to one of the interviewees, because they have a more accurate perception of what it entails.

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### Employer: Characteristics and Views of 14(c) Certificate Holders or CIE Employers

The Employer category contains eight factors related to either 14(c) certificate holders or CIE employers. While both 14(c) certificate holders and CIE employers employ individuals with disabilities, they play different roles in influencing whether or not an individual working under a 14(c) certificate transitions to CIE. Specifically:

- **14(c) certificate holder** factors generally indicate the extent the certificate holder is willing and able to implement changes to its business model to support individuals' transition to CIE—a process generally referred to as “provider transformation” or “organizational transformation.” For example, 14(c) certificate holders can provide—in addition to or instead of 14(c) employment opportunities—supported employment services, such as job coaches who accompany individuals to their CIE jobs. Job coaches can help individuals learn how to complete assigned work and how to build workplace relationships, enabling individuals to be successful in CIE.
- **CIE employer** factors generally indicate CIE employers' willingness or ability to hire or provide employment flexibilities to individuals

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transitioning from 14(c) employment. CIE employers play an important role in an individual's transition to CIE because they make hiring decisions and may determine the conditions of the individual's employment. For example, CIE employers may permit individuals to work part-time, or customize tasks to match individuals' skills and abilities—flexibilities that may enhance individuals' productivity and, along with supported employment services, increase their chances for success in CIE.

See figure 4 for a list of factors related to 14(c) certificate holders or CIE employers and descriptions of how each factor could influence the individual to remain in subminimum wage employment or transition to CIE.

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**Figure 4: Employer Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)**



**Employer**

Characteristics and views of 14(c) certificate holders or CIE employers

- Sufficiency of CIE resources for 14(c) certificate holder
- CIE employer view of individuals with disabilities as employees
- Flexibility of CIE employer
- 14(c) certificate holder leadership views
- 14(c) certificate holder's use of person-centered approach to employment planning
- 14(c) certificate holder's mission or business model
- 14(c) certificate holder's access to training and technical assistance
- 14(c) certificate holder's provision of ongoing supports for CIE

Source: GAO analysis of literature and input from interviewees. | GAO-21-260

Interviewees provided additional context for and examples of how the factors in this category may affect individuals' employment outcomes. Comments provided especially pertained to the following four factors, which four or more interviewees considered to be among the most important.

**Sufficiency of CIE Resources for 14(c) Certificate Holder.** Sufficiency of resources includes access to Medicaid payments, dependence on 14(c) contract revenue, and availability of trained staff. Eight interviewees cited this factor as being among the most important for influencing whether individuals transition to CIE.

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Six interviewees said that Medicaid HCBS payment rates may not encourage CIE in certain situations. For example, officials from one state explained that 14(c) certificate holders may receive a lower reimbursement rate for supporting individuals in CIE employment compared with rates for other employment or HCBS services. This, in turn, may make offering CIE services a lower priority when the certificate holder is making choices about which disability services to offer. Officials from another state said that their state's current HCBS program allows Medicaid payments for one service per day. As a result, an individual working part time may receive job coaching for CIE employment or additional day services, but not both, because the state will not pay for both in the same day. Officials said that their state plans to move to an hourly structure, which they say will provide flexibility for individuals to receive services in the frequency and duration needed to be successful.

One expert illustrated how financial concerns—in conjunction with relatively low Medicaid payments for CIE versus other disability services—can create disincentives for 14(c) certificate holders to offer CIE services. Citing a specific example, the expert stated that 14(c) certificate holders that wish to support individuals in CIE may receive more income through their contracts filled using 14(c) labor than from any payments they might receive for providing the CIE services. As a result, the expert said some of these 14(c) certificate holders may not actively seek to place their clients in community employment.

Certificate holders who are willing to pursue funding sources other than 14(c) contract revenue and state Medicaid reimbursements—such as by seeking state grants or engaging in entrepreneurial activities—may have more flexibility to provide supported employment services, according to one expert and officials from one state. For example, the state officials described a provider that leveraged its physical space by placing solar panels on its building and selling the power, revenue that helped the provider support individuals in CIE positions.

In addition to funding constraints, a 14(c) certificate holder lacking staff who are trained to support individuals in CIE positions may hinder the transition of the individuals it serves to CIE. Three interviewees said professional development and training for staff is key to helping individuals transition to CIE, with two interviewees saying that the skills required to support individuals in CIE, such as the ability to negotiate with CIE employers, are very different from those required to support individuals in 14(c) employment. One expert and officials from one state expressed concern about the availability of sufficient staff to place and

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support individuals in CIE positions. To continue to emphasize CIE, officials from one state told us that they are contracting with an external consultant to offer customized employment training to staff who work with individuals with disabilities in their state.

**14(c) Certificate Holder Leadership Views.** A 14(c) certificate holder's leadership may view 14(c) work as a necessary employment alternative to CIE for individuals with the highest support needs, and this view may serve to hinder individuals from transitioning to CIE.<sup>37</sup> Alternatively, certificate holder leadership that views CIE employment as a good option for all individuals may encourage CIE transition for all those to whom it provides services. Four interviewees viewed attitudes about the capabilities of individuals to be among the most important factors in helping or hindering transition to CIE. In fact, one expert described leaders' beliefs as being the most important of all the factors, saying that if the leaders of a 14(c) certificate holder see the value of CIE, they will "make it happen" in spite of resource constraints they may face. The expert said that alternatively, if the leaders do not see the value of or prioritize CIE, they might actively encourage individuals to remain in or seek out subminimum wage work.

Officials from two states said that the views of 14(c) certificate holder leaders regarding CIE may be shaped by their prior experience or openness to innovation. For example, one state and one expert said that some 14(c) certificate holders' leadership lacks personal experience supporting people in CIE, does not know how to gain that experience, or does not understand how to take the first steps toward provider transformation. 14(c) leadership that does not understand or support CIE might reduce the likelihood of an individual transitioning from 14(c) to CIE, according to these interviewees.

**14(c) Certificate Holder's Use of Person-Centered Approach to Employment Planning.** A person-centered approach to employment planning generally involves providing individuals with sufficient information to actively involve them in employment-related decisions and appropriately matching the individual's needs, strengths, and interests to

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<sup>37</sup>As noted above, 14(c) certificate holders are required to inform their 14(c) employees about certain self-advocacy, self-determination, and peer mentoring training opportunities. However, they are not required to actively assist their employees in obtaining CIE.

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the business needs of the CIE employer.<sup>38</sup> Four interviewees considered the 14(c) certificate holder's use of this approach to be among the most important factors in helping or hindering transition to CIE. Interviewees described different elements of a person-centered approach, such as clearly communicating alternative options to individuals and families, including real world opportunities to gain job skills and experience. Interviewees also underscored the importance of effective outreach to community employers to find suitable CIE positions for the individual. One expert stressed that the person negotiating with the CIE employer should have specialized training for doing so.

**CIE Employer View of Individuals with Disabilities as Employees.**

CIE employers' attitudes towards workers with disabilities may be shaped by the employers' prior experiences, information, or perceptions they have about working with individuals with disabilities. Five interviewees out of 17 said that a CIE employer's view of workers with disabilities is among the most important factors in influencing whether an individual transitions to CIE.<sup>39</sup>

Interviewees explained that CIE employers may have low receptivity to hiring workers with disabilities or may lack awareness of how to incorporate these workers into the business. As a possible explanation for CIE employers' low receptivity, one expert said CIE employers may have concerns that their health insurance costs may increase if they were to hire individuals with disabilities. In addition, another expert said that employers may not know how to connect with workers with disabilities who are seeking CIE employment, and officials from one state said that employers may be unaware of the potential benefits of a more diverse workforce. Regardless, a third expert and officials from one state said that

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<sup>38</sup>According to the Department of Education, state vocational rehabilitation agencies use a person-centered approach when delivering services, such as individualized employment plans.

<sup>39</sup>Two experts referred to research that illustrates how workers with disabilities may be treated differently from workers without disabilities. In the study, which was conducted in 2018, the researchers submitted over 6,000 cover letters as part of the application materials for accounting positions. They found that cover letters that specifically mentioned that the applicant had a particular disability received less employer interest than otherwise identical applications that did not mention any disability. Although the study could not distinguish whether the difference in expressions of employer interest between people with and without disabilities was due to employer preferences for employees without disabilities or some other reason, the experts suggested that employers' preferences may be at play. See Mason Ameri, Lisa Schur, Meera Adya, F. Scott Bentley, Patrick McKay, and Douglas Kruse, "The Disability Employment Puzzle: A Field Experiment on Employer Hiring Behavior," *ILR Review*, vol. 71, no. 2 (March 2018).

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employers who understand customized employment—employment where an employer’s needs are carefully matched to the skills of a worker with a disability to develop a custom position—will better understand how the employee can meet the employer’s needs.

Four interviewees said that a CIE employer’s exposure to, or prior experience working with, employees with disabilities is an important element in determining whether the employer will hire more individuals with disabilities. Officials from one state noted that CIE employers may have had unsuccessful experiences with workers with disabilities in the past, or their front-line staff may have voiced concerns about working alongside individuals with disabilities. Alternatively, three experts said that when employers have positive exposure to employees with disabilities, they are more open to hiring other individuals with disabilities. For example, one expert cited research focused on a company where workers who had family members with disabilities encouraged the company to hire workers with disabilities. As the company hired a critical mass of workers with disabilities, employees with and without disabilities became more comfortable working side by side, and attitudes towards workers with disabilities became more open.

Three interviewees said a CIE employer’s view may be shaped by how effectively employment service providers communicate to employers the contributions the individual can make towards supporting the business. For example, officials from one state said that in the past, service provider staff in their state tried to convince employers to hire individuals with disabilities because “it’s a nice thing to do.” Now, service providers will convey an empowering message about how individuals with disabilities are productive and bring value to the workplace and thereby help improve the employer’s bottom line. Two interviewees said that employers need to hear this message from other businesses, in addition to hearing it from service provider staff.

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**Public Policy: State or Federal Policies, Programs, or Resources**

As seen in figure 5, the Public Policy category contains 12 factors that relate to mostly state, but also federal policies, practices, or resources that, depending on implementation and design, may or may not support individuals’ transition to CIE.

**Figure 5: Public Policy Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)**



### Public Policy

State or federal policies, programs, or resources

- State resources for CIE
- State policies allowing public benefits to continue while working
- State adoption of employment first policies
- Federal interagency coordination
- Extent of federal support for 14(c) employment versus CIE
- State progress towards implementing federal requirements for integrated employment
- State incentives for or outreach to CIE employers
- Effect of federal work incentive policies
- State minimum wage increase
- Intra-state coordination
- State requirements for or subsidization of qualified employment services staff
- State implementation of Section 511

Source: GAO analysis of literature and input from interviewees. | GAO-21-260

In our interviews, state officials and experts provided useful context and examples for how public policy factors may help or hinder CIE transition. We are highlighting the following four factors because five or more interviewees considered them to be among the most important in influencing transition from 14(c) employment to CIE or, in the case of the factor related to federal support, because it generated substantial discussion in our interviews.

**State Resources for CIE.** This factor encompasses state funding, technical assistance, and training directed at encouraging disability service providers to shift their focus to CIE, or improve their support for individuals already in CIE. Twelve of our 17 interviewees said that state resources was among the most important factors in influencing movement between 14(c) employment and CIE. As indicated in the discussion of employer-related factors, six interviewees commented on how state-established Medicaid payments may not encourage CIE because, for example, they are relatively low compared to payments for other disability

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services or not flexible enough.<sup>40</sup> One expert said that sufficiently high reimbursements for services that support CIE is an essential approach for prompting providers to focus more on CIE and, in his opinion, the level of a state's funding is the most important factor in encouraging transition to CIE.

Interviewees described other ways that states provide resources to support CIE for individuals with disabilities. Officials from one state told us they planned to develop training on customized employment for providers to better position them to provide services such as job coaching to individuals with disabilities in CIE, and two experts said that such training for provider staff is key to helping individuals transition to CIE. Officials from another state told us they have provided technical assistance to over 40 different providers to help with capacity building and provider transformations.<sup>41</sup>

**State Adoption of Employment First Policies.** Three experts and officials from two states said that adopting Employment First policies, laws, and/or state executive orders was among the most important factors in influencing transition to CIE, particularly when these efforts involve a wide range of stakeholders and when they are fully funded. For example, officials from one state said their governor's executive order created an Employment First task force to align state policies and practices to identify and eliminate barriers to CIE. The task force partnered with the state vocational rehabilitation agency to prioritize services for 14(c) employees who want to work in CIE. That agency, in turn, has further developed employment and training programs by partnering with the state departments of education and labor. Officials from another state told us

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<sup>40</sup>We have previously reported that states can opt to use any of a number of different Medicaid authorities to pay providers for the services they provide and that the payment rates they establish can vary. *Medicaid Home- and Community-Based Services: Selected States' Program Structures and Challenges Providing Services*, [GAO-18-628](#) (Washington, D.C.: Aug. 30, 2018).

<sup>41</sup>As mentioned above, provider transformation refers to the changes a service provider makes to its business model to support individuals' transition to CIE. These state officials explained this effort originated with DOL's Office of Disability Employment Policy (ODEP) working with 10 of the state's service providers to move them either from 14(c) employment to CIE or from facility-based to community-based services. To do this, ODEP conducted assessments, helped develop provider transformation plans, and provided ongoing support through training.

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that the state had committed funding and developed training over many years to emphasize the importance of CIE.<sup>42</sup>

At the same time, three experts noted that adopting Employment First policies without fully funding and implementing them was insufficient to increase transition to CIE. One expert said that states have to follow through on Employment First plans or policies by securing funding from the legislature to pay for employment services and backing from the agencies, or they just become pieces of paper and do not help support providers or individuals.<sup>43</sup>

**State Policies Allowing Public Benefits to Continue while Working.** Six interviewees said that state adoption of policies that facilitate individual access to benefits, in particular Medicaid, is among the most important factors in influencing individuals to transition from 14(c) to CIE. As discussed above, an individual's or family's concern about losing health care or other benefits due to higher earnings may hamper movement into CIE. Along with access to benefits counseling to help individuals and families understand their options, interviewees explained that adopting policies that allow individuals to access benefits when working encourages movement to CIE. On the other hand, two experts questioned the importance of varied Medicaid eligibility pathways in employment decisions, as they suspected many individuals transitioning from earning subminimum wages to CIE positions would not work and earn enough to be at risk of losing access to their Medicaid benefits.

**Extent of Federal Support for 14(c) Employment versus CIE.** Three interviewees said that this factor was among the most important, and six interviewees described the prominent role federal programs, technical assistance, or funding has played in their efforts to increase CIE opportunities. Officials from all five of our selected states discussed working with DOL's Office of Disability Employment Policy (ODEP) on efforts to improve capacity building or provider transformation. For example, officials from one state described participating in an initiative called the National Employment Opportunities Network, which gives

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<sup>42</sup>Officials told us that as a result of these efforts, by the time the state legislature enacted a law that repealed the use of subminimum wages for persons with disabilities, there were just two 14(c) certificate holders in the state—and neither certificate was being utilized to pay subminimum wages.

<sup>43</sup>In addition, ODEP officials underscored the importance of aligning policy, funding, and service strategies across various systems that facilitate CIE.

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providers technical support and peer mentoring to help workers with disabilities prepare for and obtain CIE. In addition, officials from one state said that they relied heavily on ODEP's provider transformation manual in navigating the conversations they had with providers about increasing CIE-focused services.<sup>44</sup>

Officials from two states emphasized that CMS's Medicaid Infrastructure Grant Program was very helpful. One state used the grant in part to create a data system to track outcomes, and the other used it to build a group of knowledgeable state staff, which officials said was instrumental in the state's success in increasing CIE opportunities.<sup>45</sup> An expert told us that the quick and clear guidance CMS has provided through Medicaid to allow providers to deliver HCBS services remotely during the pandemic has been important.

Interviewees also described ways federal programs might hinder transition to CIE. In particular, one expert told us that the federal government supports many 14(c) jobs through AbilityOne contracts, which may pay subminimum wages to its employees.<sup>46</sup> Officials from one state said there is a need for the AbilityOne program to incorporate practices recommended by the Advisory Committee report. State officials

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<sup>44</sup>U.S. Department of Labor Office of Disability Employment Policy, *Provider Transformation Manual 2.0* (Washington, D.C.: Oct. 10, 2018), accessed at <http://drivedisabilityemployment.org/employment-first-resources/provider-transformation-2.0-manual>. The manual is divided into modules and can be used as a comprehensive resource or providers can pull out specific modules as needed.

<sup>45</sup>The Medicaid Infrastructure Grant Program provided employment-related information and support services to employers of people with disabilities. The program expired at the end of fiscal year 2011.

<sup>46</sup>In 1938, Congress created a program providing employment opportunities for people who are blind and expanded it in 1971 to include people with severe disabilities. Now known as AbilityOne, the program involves approximately 500 affiliated nonprofit agencies that employ people who are blind or who have a severe disability to provide products and services to federal agencies, which are generally required to purchase such products and services through the program. These nonprofit agencies may receive Medicaid reimbursements for the employment-related services they provide. To increase employment opportunities, the program requires that 75 percent of the nonprofit agency's total direct labor hours are performed by the employees who are blind or who have a severe disability. However, a recent report by the National Council on Disability concluded that the AbilityOne Program results in the segregation of people with disabilities. National Council on Disability, *Policies from the Past in a Modern Era: The Unintended Consequences of the AbilityOne Program & Section 14(c)* (Washington, D.C.: Oct. 14, 2020).

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also noted that AbilityOne had considered eliminating the payment of subminimum wages but had fallen short of doing so.<sup>47</sup>

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## Local Economy: Employment Conditions, Transportation and Services

As shown in figure 6, the Local Economy category includes four factors that relate to local economic and employment conditions, available employment services, and available transportation that can affect whether an individual remains in subminimum wage employment or transitions to CIE.

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**Figure 6: Local Economy Factors Influencing Transition from 14(c) Employment to Competitive Integrated Employment (CIE)**



### Local Economy

Employment conditions, transportation, and services

- Unemployment rate
- Available transportation
- Available CIE options
- Available employment services

Source: GAO analysis of literature and input from interviewees. | GAO-21-260

In our interviews, state officials and experts provided context and described examples of how factors within this category may affect individuals' employment outcomes. We discuss two of these factors below, which four or more interviewees considered to be among the most important.

**Unemployment Rate.** Four interviewees considered the local unemployment rate to be among the most important factors. According to one expert, the local unemployment rate, which can be influenced by national economic conditions, is a rough indicator of employment opportunities in the local economy. As such, he said, this is probably the most important factor for predicting whether subminimum wage employees transition to CIE. The expert explained that where greater employer demand for workers exists, the employer may be willing to customize a job or offer part-time employment. Another expert said that

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<sup>47</sup>In March 2016, the AbilityOne Commission issued a declaration in support of minimum wage for all people with disabilities. Further, in February 2019 the Commission issued a letter to SourceAmerica (one of two central nonprofit agencies that administer much of the program), calling on it to accelerate the process of ending the payment of subminimum wages on AbilityOne contracts.

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prior research has generally found that since the passage of the Americans with Disabilities Act of 1990, employment of people with disabilities has been persistently low, but that this trend began to change recently, from 2016 to 2018. He observed that the tight labor market during this period (when unemployment was historically very low) was especially good for people with disabilities, and their employment rates had climbed faster than those without disabilities.<sup>48</sup> At the same time, another expert stated that the level of unemployment does not necessarily have an impact on employment rates for people with disabilities because, for example, they tend to work only a few hours a week.

**Available Transportation.** Eight interviewees considered transportation—which includes transportation provided by municipal or county government, as well as by employment or disability service providers—to be among the most important factors influencing individuals to remain in subminimum wage employment or transition to CIE. Officials from one state told us that for individuals seeking a CIE position, if they do not drive or own a car, it is difficult to find flexible transportation to get them to their worksite. They added that people who have “9-to-5” jobs during the week might have better access to transportation than people who work at other times, such as evenings or weekends. One expert said that individuals earning subminimum wages from providers that include transportation among the services they offer may be encouraged to remain in 14(c) employment rather than transition to CIE. Officials from one state noted that although transportation remains a challenge, regional agencies in their state are coming together to think about creative solutions that may facilitate CIE employment for individuals with disabilities. Further, one expert noted that providers strive to and often identify solutions to their client’s transportation needs, such as finding a CIE position for individuals within their commuting ability.

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<sup>48</sup>Despite the rise in employment rates for persons with disabilities, according to the Bureau of Labor Statistics, in 2019 the employment-population ratio of people ages 16 to 64 with disabilities (30.9 percent) remained substantially lower than that of people without disabilities in the same age group (74.6 percent).

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## Interviewees Identified Wide-Ranging Effects of COVID-19 Pandemic on 14(c) Employment and CIE

As the United States continues to experience serious economic repercussions and turmoil as a result of the COVID-19 pandemic, DOL does not have data to determine how the pandemic has impacted individuals with disabilities working in 14(c) employment and transitioning to CIE. DOL tracks information on the employment rates of people with disabilities as a whole—but it does not separately track those working under 14(c) certificates. Most state officials and experts we spoke with said that the COVID-19 pandemic had caused disruptions to either 14(c) employment or CIE, and many described concerns and uncertainties about the potential effects of the pandemic on 14(c) employment and CIE, as well as the transition from one to the other.

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## Pandemic's Effect on 14(c) Employment

Interviewees we spoke with discussed challenges 14(c) certificate holders have faced, and will likely continue to face, due to the effects of the COVID-19 pandemic. In particular, many interviewees noted the wide-ranging closures among 14(c) employment facilities due to, according to one expert, the prevailing concern that congregate settings are inconsistent with the accepted public health assumptions that people need to be relatively isolated to avoid spreading COVID-19. One expert whose organization surveyed disability service providers in April and July 2020 said that between 60 and 77 percent of providers had closed one or more programs that largely provided support services, because either the state closed them down or the provider felt it was untenable to operate.<sup>49</sup> Another expert explained much of 14(c) work is not suitable for telework because it is not computer or phone-based.<sup>50</sup>

Interviewees also noted the negative impact these closures have had on providing disability and other support services previously offered in-person at 14(c) employment facilities. One expert said that while 14(c) employers may choose to offer non-employment services and supports (such as opportunities to socialize with coworkers via videoconference) virtually to individuals in their homes during the pandemic, Medicaid reimbursement rates set by the state may not cover the cost of providing them. Another expert said that service providers—either 14(c) employers or other providers—were transitioning to providing services remotely and were reaching out to individuals, with varying levels of success. One

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<sup>49</sup>Avalere Health, *Impact of COVID-19 on Organizations Serving Individuals with Intellectual and Developmental Disabilities* (Washington, D.C.: April 2020). This survey had 689 respondents. ANCOR, *COVID-19-Related Losses and Increased Expenses* (Washington, D.C.: July 2020). This survey had 191 respondents.

<sup>50</sup>For example, as described above, individuals working in 14(c) employment may work producing office supplies for the AbilityOne program.

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expert explained that disability service providers—including those who hold 14(c) certificates—have increased their provision of non-employment services (such as those facilitating socialization and community experiences) as a share of all their service offerings. The expert expressed concern that the pandemic could encourage this trend to continue, hampering individuals' transition to CIE. Finally, officials from one state said that the pandemic has made it difficult for 14(c) employers to ensure that individuals are receiving the required counseling the state vocational rehabilitation agency has been providing remotely.<sup>51</sup>

Some interviewees we spoke with also expressed concern about how the economic fallout from the pandemic could negatively impact disability service providers or state budgets. For example, one expert said that it may not be financially viable for providers to reopen with capacity limits for workers. Another expressed concern about whether providers will be able to retain highly trained and experienced staff without sufficient funding. The expert explained that the closures may lead staff to seek out other types of work, leaving fewer people to help individuals with disabilities find employment, as well as creating a need to recruit and train new people in order to be prepared when facilities reopen. In addition, officials from one state said that prior to the pandemic, they were advocating for a bill that would have funded new employment services for individuals with disabilities in the state. However, due to the heavy fiscal impact of the pandemic, state officials said that bill is no longer under discussion.

On the other hand, interviewees described some aspects of the pandemic that did not have a negative effect on 14(c) employment. For example, one expert said that some 14(c) certificate holders, mainly AbilityOne employers, are highly reliant on defense contracts, so have been designated as essential and have remained open. Also, officials in one state said that while early on in the pandemic some certificate holders were considering furloughing staff, Medicaid retainer payments allowed some providers to hold off on furloughs and continue providing services.<sup>52</sup>

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<sup>51</sup>As described above, Section 511 requires the provision of career counseling and information every 6 months during the first year of employment under a 14(c) certificate and annually thereafter.

<sup>52</sup>CMS offers an Appendix K form, which is a standalone appendix that may be utilized by states during emergency situations to request amendments to approved Medicaid HCBS waivers. Through Appendix K, states can request to temporarily include retainer payments for some services, such as those provided by 14(c) employers.

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In addition, interviewees provided examples of 14(c) certificate holders providing remote services during the pandemic. One expert said a majority of service providers that her organization contacted, which included 14(c) certificate holders, had delivered remote services during the COVID-19 pandemic, while only one-third had done so prior to the pandemic. The expert said that service providers have expressed a desire to expand the use of remote supports, such as providing job coaching services to individuals working in grocery stores via cell phone. Two experts said that some individuals were receiving additional individualized services by remotely connecting with staff, and officials from one state described offering services to help individuals practice interviewing skills during video calls.

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## Pandemic's Effect on CIE

Some interviewees expressed concern about the overall employment of people with disabilities in the context of the COVID-19 pandemic and economic recovery. Officials from one state said that many individuals with disabilities were laid off because of the state's stay-at-home order, and three experts noted a general fear that people with disabilities are the first to be fired and the last to be rehired. One expert said that some of the positions, such as bagging groceries, filled by people with disabilities during good economic times are generally filled by those without disabilities during an economic downturn.

Some unique characteristics of the COVID-19 pandemic may influence the employment outcomes for individuals with disabilities seeking CIE, according to the experts and state officials with whom we spoke. For example, two experts and officials from two states said that many individuals working in CIE who were identified as essential workers (e.g., at grocery stores) have continued working during the pandemic. Officials from one state said that since the onset of the pandemic, providers have worked with potential CIE employers to place individuals where there are critical needs, including grocery stores, health care facilities, and distribution centers. On the other hand, another expert noted that other businesses where people with significant disabilities work are particularly vulnerable to closure, such as restaurants and movie theaters. Officials from another state said that some individuals with disabilities working in public-facing essential positions have stayed on, but others with underlying medical conditions have chosen not to, due to a fear of increased exposure to COVID-19.

Interviewees also discussed both challenges and opportunities related to remote CIE work or CIE transition supports, such as job coaching, during the pandemic. One expert said there is great inequity between those who

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have internet and access to computer equipment and those who do not, and a wide range of understanding of how to use such technology. As such, certain individuals may be excluded from CIE opportunities, particularly if either individuals or their providers lack equipment or access to technology. At the same time, another expert observed that employers may be more willing to let their employees work from home, which could benefit workers with disabilities who face transportation challenges. Finally, for individuals in congregate settings, including those working in 14(c) employment, an expert said that the only option for supporting CIE transition is for providers to continue to provide these individuals with remote support and placement services.

Interviewees we spoke with discussed other potential effects of the pandemic on the transition from 14(c) employment to CIE, as well as on the employment of people with disabilities in general. For example, one expert and officials from one state said that closures of, or concerns about safety at, 14(c) settings may prompt families, individuals, and providers to consider alternatives, including potentially CIE. In particular, one expert noted that, prior to the pandemic, many families assumed that a congregate setting would make their family member safer; but now such settings are risky.<sup>53</sup> Another expert said service providers had been discussing using the pandemic as a springboard to move away from 14(c) settings. On the other hand, CIE settings that involve extensive interaction with others may also pose higher infectious disease risks to individuals with disabilities than other settings.<sup>54</sup> In general, one expert said that as the economy begins to recover, it will be important to take into account employment rates of people with disabilities to see if the pandemic has had a disproportionate impact. The expert expressed concern that the specific workforce needs of people with disabilities may not be given sufficient attention, given the large scope of the pandemic's impact on the economy.

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<sup>53</sup>One safety concern for 14(c) settings may be the ability of 14(c) certificate holders to access masks and other personal protective equipment. As mentioned above, one organization surveyed disability service providers about pandemic-related challenges in April 2020. Providers named staffing and access to personal protective equipment as their top two concerns. Avalere Health, *Impact of COVID-19 on Organizations*.

<sup>54</sup>We reported in 2020 that workers at higher risk of infectious disease include health care providers; emergency responders; and workers in the grocery, transportation, meat and poultry, and postal and shipping industries, among others. See *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, [GAO-20-701](#) (Washington, D.C.: September 2020).

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## Agency Comments

We provided a draft of this report to the Departments of Labor and Education for review and comment. Neither agency provided formal comments, but both agencies provided technical comments, which we incorporated as appropriate.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Labor, the Secretary of Education, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



Elizabeth H. Curda,  
Director, Education, Workforce,  
and Income Security Issues

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# Appendix I: Objectives, Scope, and Methodology

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This report describes what is known about (1) factors that help or hinder transition from 14(c) employment to competitive integrated employment (CIE), and (2) the extent to which the COVID-19 pandemic might affect this transition. To address the first objective, we used a stepwise approach. We first identified an initial list of factors primarily based on a review of literature and augmented by interviews with 14(c) certificate holders and officials in two states.<sup>1</sup> We then refined this list into a smaller set of related factors, grouped the factors into categories, and sent it to 12 experts and groups of officials from five states for review. Through interviews, we gathered experts' and state officials' input about the completeness of the list, and which factors they considered most important and unimportant. We revised the list of factors again, then sent it to each participant to validate both the overall list, and the subset of factors they considered to be among the most important. For the second objective, we used the above interviews with experts and officials from five states to collect perspectives on how the pandemic might affect transition. See below for a more detailed description of each step, including a description of how we also used interviews to address the second objective.

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## Initial Factor Identification

### *Review of the Literature*

To identify our preliminary list of factors that influence whether an individual remains working in 14(c) employment or transitions to CIE, we first conducted three separate literature searches.

1. In November 2019, we searched ProQuest and Scopus databases, among others, to identify studies using broad phrases related to individuals with disabilities and employment, their wages, and other relevant terms, which yielded 42 peer-reviewed studies;
2. In November 2019, we also searched the Scopus database to identify studies that cited the last report GAO published on the Department of

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<sup>1</sup>We also obtained input from officials from the Department of Labor's Office of Disability Employment Policy, and relied on information included in the final report of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities. According to the report, the primary purpose of the work of this committee was to address issues and make recommendations to improve the employment participation of people with intellectual and developmental disabilities and others with significant disabilities by ensuring opportunities for CIE. See Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, *Final Report* (Sept. 15, 2016).

Labor's 14(c) certificate program,<sup>2</sup> which yielded seven peer-reviewed studies; and

3. In April 2020, we searched ProQuest and Scopus databases, among others, to identify studies focused on 14(c) transition to CIE, which yielded 47 peer-reviewed studies.

To select studies from our literature review effort that identified factors affecting an individual's remaining in 14(c) employment or transitioning to CIE, we used the following criteria:

- The study focused on 14(c) employees transitioning to CIE in the United States, and not on other closely related topics, such as recently-graduated youth transitioning to CIE.
- The study endeavored to measure the factors' roles in employment outcomes of individuals with disabilities, not simply describe the factor or assert its importance.
- The study met GAO standards for methodological soundness.

After applying these criteria, we identified three studies relevant to our research objective.<sup>3</sup> Two of the studies surveyed individuals—including 14(c) employees, their families, and representatives of 14(c) certificate holders—about their opinions on the factors influencing individuals to remain in 14(c) or transition to CIE. The third study solicited expert

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<sup>2</sup>GAO, *Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers With Disabilities, But Labor Should Improve Oversight*, [GAO-01-886](#) (Washington, DC; Sept. 4, 2001).

<sup>3</sup>Katherine J. Inge, Paul Wehman, Grant Revell, Doug Erickson, John Butterworth, and Dana Gilmore. "Survey Results from a National Survey of Community Rehabilitation Providers Holding Special Wage Certificates," *Journal of Vocational Rehabilitation*, vol. 30 (2009), 67-85. Alberto Migliore, Teresa Grossi, David Mank, and Patricia Rogan. "Why do Adults with Intellectual Disabilities Work in Sheltered Workshops?" *Journal of Vocational Rehabilitation*, vol. 28 (2008), 29-40. Oliver Lyons, Jaimie Timmons, Allison Cohen-Hall, and Stephane LeBlois. "The Essential Characteristics of Successful Organizational Transformation: Findings from a Delphi Panel of Experts," *Journal of Vocational Rehabilitation*, vol. 49 (2018), 205-216.

opinions on the factors necessary for successful organizational transformation,<sup>4</sup> which may support individuals' transition to CIE.<sup>5</sup>

*Interviews with Selected 14(c) Certificate Holders and Officials in Two States*

Through interviews and worksite observations in Minnesota and Texas, we solicited and obtained views on factors that affect individuals' transition to CIE.<sup>6</sup> Site visits in these states included worksite observations and interviews with a total of seven 14(c) certificate holders; interviews with representatives from each state's vocational rehabilitation agency; and interviews with officials from each state's agency that oversees and reimburses disability service providers, such as the state Medicaid or developmental disabilities agencies. Specifically, we listed examples of factors that might influence whether individuals transition from subminimum wage employment to CIE, and asked interviewees whether the list of factors or others were relevant to achieving CIE.

*Creation and Organization of Initial List of Factors*

Through our literature review and interviews with selected employers in Minnesota and Texas, we identified a preliminary list of nearly 80 factors. In particular, one study identified 42 factors that influenced individuals to either remain in 14(c) employment or transition to CIE, such that many of

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<sup>4</sup>For the purposes of this report, organizational transformation means changes 14(c) certificate holders make to their business model to support individuals' transition to CIE.

<sup>5</sup>None of these studies endeavored to quantify—using statistical modeling or multivariate regression approaches—the extent a given factor was associated with the likelihood of transition to CIE.

<sup>6</sup>The original design for our work included site visits to between four and six states, selected for their large number of 14(c) certificate holders, having 14(c) certificate holders with a large number of employees, and geography. However, widespread quarantines put into place after visits to the first two states prevented us from interviewing additional employers.

the factors were related conversely.<sup>7</sup> In general, many factors in the original list were quite similar to one or more other factors on the list in how they influenced 14(c) or CIE employment outcomes.

To facilitate review of the factors by experts and state officials, we made several revisions to the initial list. First, we grouped the factors into four general categories related to: individual and family preferences and characteristics, 14(c) certificate holders and CIE employers, federal and state policies and practices, and local economy. Second, we streamlined the list by combining factors that were substantially similar or related. Third, we organized the list of factors into two columns, according to whether they may encourage an individual to remain in 14(c) employment or encourage an individual to transition to CIE, and placed similar factors in the same row to show how the influence of two factors can be conversely related.

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Soliciting Input on the Initial List of Factors and Role of COVID-19 Pandemic

*Selection of Experts*

To obtain perspectives on the initial list of factors, we selected 12 experts based on their academic research, policy expertise, and referrals by other experts. Experts included four researchers who have published on 14(c) and/or transition from 14(c) employment, four researchers who have published on disability employment more generally, and representatives of four advocacy organizations that work with 14(c) employees and employers. In selecting experts, we endeavored to ensure their specific collective areas of expertise spanned the range of topics reflected by the categories in the preliminary list of factors. See table 1 below for an alphabetical list of experts we interviewed.

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<sup>7</sup>For example, two factors the study identified were “There are not enough direct service staff in my agency to support everyone with disabilities in competitive jobs who want to work in the community” and “There are sufficient staff available in my organization to support individuals served by my agency in community jobs.” The study reported results from a national survey of a random sample of 14(c) certificate holders, intending to identify the factors that were perceived as inhibiting and facilitating integrated employment outcomes. Katherine J. Inge, Paul Wehman, Grant Revell, Doug Erickson, John Butterworth, and Dana Gilmore. “Survey Results from a National Survey of Community Rehabilitation Providers Holding Special Wage Certificates,” *Journal of Vocational Rehabilitation*, vol. 30 (2009), 67-85.

**Table 1: Experts who Participated in GAO’s Review**

<b>Expert</b>	<b>Affiliation</b>
Richard V. Burkhauser	Cornell University
John Butterworth	Institute for Community Inclusion, University of Massachusetts Boston
Julie Christensen	Association of People Supporting Employment First (APSE)
Robert Cimera	Kent State University
Andrew Houtenville	University of New Hampshire
Nicole Jorwic	The Arc of the United States
Douglas Kruse	Rutgers University
Richard Luecking	University of Maryland
Donna Martin	American Network of Community Options and Resources (ANCOR)
Kate McSweeney	ACCSES
Patricia Rogan	Indiana University-Purdue University, Indianapolis (IUPUI)
Lisa Schur	Rutgers University

Source: GAO list of expert interview participants. | GAO-21-260

*Selection of States*

We also solicited input from officials representing five states in various stages of progress toward increasing opportunities for individuals with disabilities to enter or remain in CIE, or that have transitioned away from subminimum wage employment altogether. We selected the five states—Colorado, Maryland, New Hampshire, Ohio, and Virginia—based on geographic variation and publicly available information on their state-wide policy actions.<sup>8</sup> For example, using information provided to us by the Department of Labor’s Office of Disability Employment Policy, we identified states that had enacted laws limiting the use of subminimum

<sup>8</sup>In 2016, Colorado established an Employment First Advisory Partnership to recommend policy changes to the state’s General Assembly and various state entities to implement an Employment First framework. Also in 2016, Maryland passed legislation that prohibited the state Developmental Disabilities Administration from funding providers that pay individuals less than minimum wage. In 2015, New Hampshire passed legislation generally banning subminimum wage employment. In 2012, Ohio’s governor issued an executive order establishing an Employment First Taskforce. According to state officials we interviewed, Virginia established funding for long term supported employment services in the 1980s that is separate from state vocational rehabilitation program funding.

wages or taken action to increase CIE opportunities. For each state selected, we identified and reached out to relevant points of contact to schedule interviews. To ensure key perspectives were represented, we encouraged state points of contact to invite other key stakeholders to participate in the interviews.<sup>9</sup>

### *Interviews with Experts and State Officials*

From May to July 2020, we held interviews with 12 experts and groups of officials from five states, for a total of 17 interviewees, to obtain views on both of our reporting objectives.<sup>10</sup>

Regarding our first objective, we sent the preliminary list of factors for interviewees to review in advance.<sup>11</sup> We used semi-structured interviews to solicit interviewees' views on the appropriateness and completeness of the list of factors in the context of a pre-pandemic environment—including whether they had suggestions for factors to add. We also asked interviewees to identify factors they considered to be relatively important or unimportant.<sup>12</sup> Regarding importance, we allowed interviewees to identify as many factors as they wished, and each participant identified multiple factors as most important.<sup>13</sup> Our use of semi-structured interviews allowed us to identify how many interviewees considered each factor to be among the most important. However, this data collection approach did not yield sufficiently precise information to produce a rank-

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<sup>9</sup>Each state's point of contact worked within a state agency; the groups of stakeholders they invited included representatives from the state vocational rehabilitation and health and human services agencies, and sometimes included private state-based employer coalitions and state-based disability advocacy organizations.

<sup>10</sup>We interviewed 10 experts separately and two experts together. We conducted one interview per each of the five selected states, with groups ranging from two to eight persons.

<sup>11</sup>We interviewed state officials several weeks before experts, and continued streamlining and refining the preliminary list of factors between the two sets of interviews. As a result, while the substance was largely the same, the list of factors the states reviewed included more factors and categories than the list the experts reviewed.

<sup>12</sup>To obtain views from groups of state officials on the relative importance of factors, we additionally requested that states annotate the preliminary list of factors, indicating factors the group considered to be among the most important, factors the group viewed as unimportant, and factors that should be reworded to improve accuracy or precision. All five groups submitted an annotated list that represented the consensus perspective of the group.

<sup>13</sup>The number of factors experts selected as most important ranged from two to 12, and the number of factors state officials selected as most important ranged from five to 23.

order list of the factors by the number of interviewees considering them to be among the most important. Throughout this report, we *use among the most important* to describe the individual factors interviewees identified as being particularly important in helping or hindering an individual's transition to CIE. In addition, while some interviewees considered four factors on the list to be unimportant, other interviewees identified those four factors to be among the most important so we did not exclude these factors from the list. We also asked interviewees to elaborate on why they viewed factors to be particularly important or unimportant. Interviewees also shared their opinions on whether the wording of factors should be changed or broadened to better reflect the conditions or phenomena they intended to describe, and we made changes when warranted.

Regarding our second objective, we asked interviewees for examples of actual effects of the COVID-19 pandemic on individuals working in subminimum wage employment or transitioning to CIE, and expectations for the pandemic's future impacts. Many interviewees caveated their responses to these questions, noting either that there are insufficient data to authoritatively describe pandemic effects, or that the outcome of the pandemic is too uncertain to be able to predict effects with any confidence.

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## Factor Refinement and Validation

Following the interviews, we reformatted the preliminary list to clarify and simplify for report presentation. To do this, we developed labels that represented each unique factor that, depending on its presence or implementation, could influence two divergent employment outcomes, i.e., remaining in 14(c) employment or transitioning to CIE. Recognizing that individuals may move back and forth between 14(c) employment and CIE, or be engaged with both concurrently, for each factor we added a brief description of how it could potentially influence divergent outcomes.<sup>14</sup> See table 2 for an example.

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<sup>14</sup>In some cases, we identified these two opposing descriptors as separate factors from the sources we used to identify our initial list of factors. In other cases, we constructed opposing outcomes for factors. In doing so, we requested and incorporated feedback from interview participants, who ultimately validated them as a part of their validation of the full list of factors.

**Table 2: Example of Factor Label and Employment Outcome Descriptors**

Factor label	How factors encourage individuals to <i>remain in 14(c)</i> employment	How factors encourage individuals to <i>transition to competitive integrated employment (CIE)</i>
Concern for Safety of Work Environment	Individual or family perceives that CIE work environment is less safe or poses a higher risk (e.g., of crime or abuse).	Individual or family perceives that CIE work environment is safe or does not pose a higher risk (e.g., based on a prior positive experience or exposure).

Source: GAO analysis of factors from literature and interviews with experts and state officials. | GAO-21-260

Based upon our interviews, we further refined our list to reflect interviewees’ input on the factor descriptors and their comments about which factors they considered to be among the most important. We then sent the revised list of factors to the interviewees for their validation. We specifically asked interviewees to verify the comprehensiveness of the list (inclusive of labels and employment outcome descriptors) and our interpretation of which factors they considered to be among the most important. We made final edits to the factor labels and descriptors based on internal review.

We conducted this performance audit from August 2019 to March 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Table of Factors that Help or Hinder Transition to Competitive Integrated Employment

Table 3 below presents a complete list of the factors we identified that can influence an individual’s transition from 14(c) to competitive integrated employment—organized by the four categories of Employee, Employer, Public Policy, and Local Economy—and includes a brief description of how each factor might either help or hinder transition. All 17 of our interviewees validated the factors and descriptors. Table 3 presents the factors in alphabetical order by category and are not in rank order of importance because our data collection approach did not allow this.

**Table 3: Factors Influencing Transition from 14(c) to Competitive Integrated Employment (CIE) and Ways They Might Help or Hinder Transition**

Category	Factor label	How factor might help transition	How factor might hinder transition
Employee	Concern about Consistent Schedule and/or Program Structure	Individual or family is unconcerned that CIE may provide less structure and schedule continuity than 14(c) work.	Individual or family appreciates structure and schedule of 14(c) employment and worries that CIE provides less structure and continuity.
Employee	Concern for Maintaining Benefits	Individual or family understands and/or is unconcerned about the potential impact working has on the receipt of benefits (because, e.g., they accessed counseling or information about available benefits, or feel sufficiently compensated by CIE position).	Individual or family insufficiently understands and/or is concerned about the potential impact working has on the receipt of benefits, such as Supplemental Security Income.
Employee	Concern for Safety of Work Environment	Individual or family perceives that CIE work environment is safe or does not pose a higher risk (e.g., based on a prior positive experience or exposure).	Individual or family perceives that CIE work environment is less safe or poses a higher risk (e.g., of crime or abuse).
Employee	Desire for Social Community	Individual or family wants to expand individual’s social network into the community (e.g., based on a prior positive experience or exposure).	Individual or family wants individual to maintain social community at 14(c) employer.
Employee	Individual’s Age	Individual is younger, and/or spent short time in 14(c) employment.	Individual is older (e.g., approaching retirement age) and/or spent a long time in 14(c) employment.
Employee	Level of Interest or Effort in Changing 14(c) Employment	Individual or family has high interest in individual achieving, and/or shows great effort to achieve CIE opportunities due to, e.g., being well informed about them.	Individual or family has low interest in individual leaving 14(c), and/or shows minimal effort to find work outside of 14(c) due to, e.g., lack of information about CIE options.
Employee	Previous Experience with CIE	Individual or family had prior positive experience with CIE—either directly (e.g., in an educational setting) or indirectly (based on exposure to a peer who successfully transitioned to CIE).	Individual or family has had no prior experience, or had negative experience with CIE.

**Appendix II: Table of Factors that Help or Hinder Transition to Competitive Integrated Employment**

<b>Category</b>	<b>Factor label</b>	<b>How factor might help transition</b>	<b>How factor might hinder transition</b>
Employee	Views about Individual's Skills	Individual or family believes individual possesses the work skills to succeed in a CIE position.	Individual or family believes individual lacks the work skills necessary for CIE position.
Employer	14(c) Certificate Holder Leadership Views	14(c) certificate holder believes the individuals it serves are capable of succeeding in CIE positions and is open-minded about supporting individuals in CIE.	14(c) certificate holder believes that 14(c) work is either necessary—e.g., for individuals with the highest support needs—or a helpful step in an individual's eventual transition to CIE.
Employer	14(c) Certificate Holder's Access to Training and Technical Assistance	14(c) certificate holder accesses training and technical assistance related to shifting organizational goals toward CIE and makes them available to staff and managers.	14(c) certificate holder lacks access to training and technical assistance related to shifting organizational goals toward CIE for its staff and managers.
Employer	14(c) Certificate Holder's Mission or Business Model	14(c) certificate holder prioritizes or has as its mission the transition of people to CIE, e.g. through established goals, performance measures, and/or a written plan, or focusing on transition-related activities it offers during the time individuals are not earning wages.	14(c) certificate holder prioritizes or has as its mission providing 14(c) employment options for individuals it supports.
Employer	14(c) Certificate Holder's Provision of Ongoing Supports for CIE	14(c) certificate holder provides ongoing supports (such as job coaching), or ensures they occur naturally in the workplace to help individuals achieve long-term CIE success.	14(c) certificate holder does not provide ongoing supports to help individuals achieve long-term CIE success.
Employer	14(c) Certificate Holder's Use of Person-Centered Approach to Employment Planning	14(c) certificate holder seeks to understand individuals' interest in CIE, and matches individual strengths and goals with CIE employer needs via effective outreach.	14(c) certificate holder lacks knowledge of individuals' interest in CIE and does not match individual strengths and goals with CIE employers' needs.
Employer	CIE Employer View of Individuals with Disabilities as Employees	CIE employer has positive views about hiring people with disabilities, possibly due to past positive experiences.	CIE employer has negative views about hiring people with disabilities due to, e.g., a lack of understanding or previous negative experiences.
Employer	Flexibility of CIE Employer	CIE employer is willing and able to tailor work activities to match individual's skills, offer learning/internship opportunities, or is open to flexible schedules.	CIE employer lacks flexibility in their business model and/or expects greater levels of productivity, work skills, or social skills than what the individual possesses.
Employer	Sufficiency of CIE Resources for 14(c) Certificate Holder	14(c) certificate holder has sufficient qualified staff or funding to support individuals in obtaining and retaining CIE and uses these resources effectively.	14(c) certificate holder has insufficient qualified staff or funding (e.g., dependence on revenue specific to 14(c)), or has not pursued additional resources, such as state grants, to support individuals in obtaining and retaining CIE.
Public Policy	Effect of Federal Work Incentive Policies	Federal work incentive policies effectively encourage individuals to seek CIE positions.	Federal work incentive policies do not sufficiently encourage individuals to transition to CIE.

**Appendix II: Table of Factors that Help or Hinder Transition to Competitive Integrated Employment**

<b>Category</b>	<b>Factor label</b>	<b>How factor might help transition</b>	<b>How factor might hinder transition</b>
Public Policy	Extent of Federal Support for 14(c) Employment versus CIE	Federal programs, policies, and technical assistance favor CIE transition over 14(c) employment.	Federal programs, policies, and technical assistance support 14(c), such as the AbilityOne program. <sup>a</sup>
Public Policy	Federal Interagency Coordination	Federal agencies overseeing programs that support CIE coordinate effectively.	Federal agencies overseeing programs that support CIE coordinate poorly, or potential contradictions exist among laws authorizing the programs.
Public Policy	Intra-State Coordination	State, regional, and local entities collaborate across systems and share data on employment outcomes.	State, regional, and local entities insufficiently coordinate and share data.
Public Policy	State Adoption of Employment First <sup>b</sup> Policies	State has implemented Employment First policies, and did so involving a broad range of stakeholders, and/or has CIE-related goals towards which it measures and reports progress.	State has not adopted Employment First policies, e.g., laws or executive orders that support CIE, and/or has not established clear CIE-related goals.
Public Policy	State Implementation of Section 511 <sup>c</sup>	State has consistently and effectively implemented Section 511 requirements.	State has inconsistently or ineffectively implemented Section 511 requirements.
Public Policy	State Incentives for or Outreach to CIE Employers	State offers incentives or conducts outreach to encourage CIE employers to hire individuals with disabilities.	State does not offer incentives or conduct outreach to encourage CIE employers to hire individuals with disabilities.
Public Policy	State Minimum Wage Increase	State has raised the minimum wage, which may increase incentives for individuals to pursue CIE.	State has raised the minimum wage, which may increase costs for employers to hire employees, including individuals with disabilities.
Public Policy	State Policies Allowing Public Benefits to Continue While Working	State has adopted policies to allow individuals to access public benefits while working.	State has not adopted policies to allow individuals to access public benefits while working.
Public Policy	State Progress Towards Implementing Federal Requirements for Integrated Employment	State has made substantial progress toward implementing Medicaid HCBS settings rule <sup>d</sup> requirements and/or Olmstead plan. <sup>e</sup>	State has made little or no progress toward implementing Medicaid HCBS settings rule <sup>d</sup> requirements and/or state Olmstead plan. <sup>e</sup>
Public Policy	State Requirements for or Subsidization of Qualified Employment Services Staff	State requires intensive training and/or higher level of proficiency for staff who support CIE for individuals with disabilities, or subsidizes higher wages for staff with certain qualifications.	State does not require intensive training and/or higher level of proficiency for employment services staff or subsidize higher wages for staff with certain qualifications.
Public Policy	State Resources for CIE	State provides sufficient programs, funding, training, and/or technical assistance to promote 14(c) certificate holders' focus on CIE, and/or to help individuals maintain CIE.	State does not provide sufficient resources or support (e.g., to help 14(c) certificate holders shift their focus to CIE goals, and/or to help individuals maintain CIE).
Local Economy	Available CIE Options	Varied and multiple CIE options are available locally or regionally.	Few CIE options are available, such as in remote rural areas.
Local Economy	Available Employment Services	Employment services, such as training on how to use transportation, are available locally or regionally from sources other than 14(c) employer.	Limited options for employment services, including training on how to use transportation, are available.

**Appendix II: Table of Factors that Help or Hinder Transition to Competitive Integrated Employment**

<b>Category</b>	<b>Factor label</b>	<b>How factor might help transition</b>	<b>How factor might hinder transition</b>
Local Economy	Available Transportation	Reliable transportation to CIE site is available through publicly funded source or through employment or disability services provider.	Reliable transportation to CIE site is unavailable, or 14(c) certificate holder provides convenient transportation to 14(c) job.
Local Economy	Unemployment Rate	When unemployment rates are low, jobs tend to be more plentiful for individuals with and without disabilities.	When unemployment rates are high, jobs tend to be less plentiful for individuals with and without disabilities.

Source: GAO analysis of research and input from selected experts and state officials. | GAO-21-260

Note: The table presents factors in alphabetical order by category and not in rank order by importance.

<sup>a</sup>AbilityOne provides employment opportunities for people who are blind or who have a severe disability to provide products and services to federal agencies.

<sup>b</sup>Employment First is a framework for systems change based on the premise that all individuals with mental disabilities are capable of full participation in CIE.

<sup>c</sup>Section 511 of the Rehabilitation Act of 1973 requires that individuals receive, as a condition of 14(c) employment, regular career counseling and information designed to enable the individuals to explore, discover, experience, and attain CIE. 29 U.S.C. § 794g.

<sup>d</sup>The 2014 Medicaid home and community-based services (HCBS) settings rule requires that Medicaid HCBS—including employment-related services—be provided in settings that promote and support community integration. States are required to demonstrate compliance with this settings requirement by March 17, 2023.

<sup>e</sup>In 1999, the Supreme Court held in *Olmstead v. L.C.* that the Americans with Disabilities Act of 1990 prohibits unjustified segregation of individuals with disabilities. *Olmstead v. L.C.*, 119 S. Ct. 2176, 2187 (1999). An *Olmstead* plan is a state's or other public entity's plan for implementing its obligation to provide individuals with disabilities opportunities to live, work, and be served in integrated settings.

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# Appendix III: GAO Contact and Staff Acknowledgements

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## GAO Contact

Elizabeth Curda at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov)

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## Staff Acknowledgements

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