

PAY PEOPLE WITH DISABILITIES MINIMUM WAGE OR HIGHER

The **Minnesota Coalition for Disability Wage Justice** is fighting so that people with disabilities are paid the minimum wage or higher for the work they do. We must phase out the use of Section 14(c) by 2028. **Minimum wage for all people with disabilities, now!**



THE PROBLEM

Federal law allows businesses to pay people with disabilities less than the minimum wage under Section 14(c) of the Fair Labor Standards Act. More than 3200 people with disabilities earn less than minimum wage in Minnesota. Many people who earn less than minimum wage do so in segregated settings. Some people earn as little as 7 cents an hour. Minnesota employs more people with disabilities earning less than minimum wage per capita than any other state.

The integration mandate of the Americans with Disabilities Act requires that people with disabilities have access to the most integrated settings available, including employment. In 2023, the United States Department of Justice found that employers who pay less than minimum wage may be in violation of this federal law.

THE SOLUTION

We recommend that the Minnesota State Legislature ensures all workers with disabilities are paid a minimum wage or higher by 2028. Minnesota should build on the legislative successes of 2023 — including historic investments in individualized, integrated employment programs — to ensure that all people with disabilities earn equitable, dignified wages.

This transition is possible. 16 states have successfully passed legislation to ensure people with disabilities are paid a minimum wage. There are multiple organizations in Minnesota that have shifted their models to ensure that all workers are paid minimum wage. With last year's legislation, there are now funds available to facilitate this transition.

It is time for Minnesota to live up to its commitment to wage justice for all Minnesotans. **Minimum wage for all people with disabilities, now!**



Minnesota Coalition
for Disability Wage Justice

THE COALITION FOR DISABILITY WAGE JUSTICE



LEARN MORE:



Legislative Task Force Report
on Ending Subminimum Wage



TRANSFORMATION PLAN FOR PROVIDERS



Minnesota Coalition
for Disability Wage Justice

Background

[Minnesota Transformation Initiative Technical Assistance Center](#) (MTI) was created through funding from the Minnesota State Legislature to support the reduction of reliance on subminimum wages, and expand customized, integrated employment for people with disabilities – especially intellectual or developmental disabilities – across Minnesota.

Employment means:

- Full-time, part-time, or self-employment with and without supports
- On the payroll of a competitive business or industry
- Pays at least minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by workers without a disability

Since the spring of 2022, MTI has supported 8 providers to successfully end the use of sub-minimum wages and increase employment outcomes for supported individuals. They are all still open and serving people. Six of the eight providers were in greater Minnesota; two were in the Twin Cities Metro area. MTI has supported 14 additional providers across the state to increase customized employment for the people they serve.

Every year, more and more organizations are making sure that people are paid at least the minimum wage.

You can watch the [videos of their success here](#).

What does this look like?

At the start of Technical Assistance (TA), the TA team does a “site visit” with the provider to meet with the project team, tour their sites/offices, interview stakeholders, get a sense of agency culture, and identify strengths and opportunities for transformation.

The TA team uses the research-based [10 Elements of Provider Transformation](#) to identify the strengths of the organization and goals/areas of focus for an action plan for transformation. The 10 elements outline the key action items that are part of a successful transformation plan, including:

- Identifying clear, consistent goals
- Developing an active, person-centered job placement process to support people to find and maintain customized, integrated employment.

- Outlining a communication plan that details the messaging that will be shared with each stakeholder group
- Reallocating and restructuring resources (including buildings, vehicles, staffing) to build up new or existing services while phasing out others
- Training staff to provide new services or provide services in new ways
- Engaging with the local business community and community partners
- Establishing performance measurement and quality assurance metrics to track progress and outcomes
- Integrating changes within other services areas of organization, when applicable

Following the site visit, the TA team works with project team to develop an individualized action plan, including training and TA needs. Based on their strengths and opportunities, MTI works with providers to create a plan that will support their organization to transition away from using subminimum wages and increase employment outcomes for service recipients. There is no one-size fits all approach.

The provider project team meets at least monthly with TA team to share updates, discuss roadblocks and discuss the next steps in the transformation process.

The TA team is available to provide trainings to agency staff, connect the provider to information and resources, troubleshoot challenges that arise, clarify policy, etc.

Providers join a *community of practice* with other providers receiving TA to share and learn from each other.

Providers are connected to organizational peer mentors who have successfully transformed their business model and are no longer using subminimum wages. These mentors are paid by MTI.

A Peer-to-Peer mentorship program for people with disabilities transitioning to customized, integrated employment is also provided through MTI. They work individually or in groups with people who are receiving services to support them through the process of moving to minimum wages or higher.

Moving Forward

MTI will continue to provide the following supports, which are funded through DHS via the Minnesota State Legislature through June 2026:

- Intensive and targeted technical assistance for providers
- Community of practice for providers undergoing transformation
- Quarterly webinars on topics related to transformation
- Organizational peer-to-peer mentoring
- Peer-to-peer mentoring for people with disabilities

THE COALITION FOR DISABILITY WAGE JUSTICE



LEARN MORE:

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Legislative Task Force Report
on Ending Subminimum Wage





Accessible Space, Inc.

March 19, 2024

Chair Fischer and Members of the House Human Services Policy Committee,

Accessible Space, Inc. (ASI) is a St. Paul-based nonprofit organization that provides affordable, accessible housing and supports to individuals with permanent physical disabilities, brain injuries and mobility impairments, along with older adults and veterans. We have over 160 HUD-subsidized housing communities including apartment and residential settings, here in Minnesota and across the nation. On behalf of all of the individuals we serve and our incredible staff that supports them, **we want to express our full support HF 4392 (Human Services Omnibus Policy Bill).**

We are especially excited to see the inclusion of various sections, specifically:

Article 1: Disability Services

- Section 1 and 2 (HF 3938) will help ensure that individuals with disabilities are allowed to live in communities across Minnesota wherever they choose without the fear of local governments implementing/enforcing discriminatory rental housing ordinances.
- Section 3 to 7 (HF 3941) will clarify timelines related to initial planning meetings, modifying educational requirements of designated coordinators/managers, and permitting staff under the age of 18 (who are trained/competent) to administer medications.
- Section 10 (HF 4158) will modify MA-EPD income review and documentation requirements.
- Section 12 and 13 (HF 3940) will help prevent delays in the approval or implementation of technology for people on the disability waivers.

Article 3: Phase-Out of Special Minimum Wage for Persons with Disabilities

- Section 1 to 4 (HF 4392) will complete the phase-out of subminimum wages across Minnesota authorized under the 14(c) certificate.

Article 4: Aging Services

- Section 1 and part of 4 (HF 4308, as amended) will modify long-term care options counseling.
- Sections 2, 3, and part of 4 (HF 4480) will provide increased transparency in nursing home related-party transactions and remove outdated reports.

I also want to extend our sincere thanks to Chair Fischer, Committee Administrator Nick Stumo-Langer, and *all* the members and staff on the committee for engaging in thoughtful, productive and respectful discussions related to the many important bills heard this session. The work that each of you do truly impacts the lives of Minnesotans and we appreciate how you approach this work on a daily basis.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Josh Berg', is written over a light blue horizontal line.

Josh Berg
Director of Minnesota Services & Strategic Growth
Accessible Space, Inc.

TO: House Human Services Policy Committee
RE: Subminimum Wage Testimony on HF 4392
March 18, 2024

Chair Hoffman and Committee Members,

My name is Addison Loerzel. I am writing to testify in support of the provisions to phase out subminimum wage in HF 4392.

I was really sad when I found out that people with disabilities often get paid less money than those who don't have disabilities. My entire life, I have had to work really hard - sometimes harder than you, and rarely get to achieve the same level of success. This is wrong.

Even though I have shown myself to be a hard worker, there is still a chance that I might make a subminimum wage because society continues to believe that people with disabilities are helpless, unable to complete meaningful work, and don't really care about the size of their paychecks. This way of thinking is false!

When a person finds a job that matches their interests, skills, and supports, you will see them **thrive!** You will watch them blossom into a confident, accomplished, and valued employee. And this idea that people with disabilities don't really care about money is ridiculous. The majority of us do! We want to have hobbies and enjoy leisure time. We want to go on vacation, have nice clothes, and pay our bills. What does that take? **Money!** Come on! Of course we care about the size of our paychecks!

What if I was your daughter? Do you think this would be fair? I have friends that are older than me and some are starting to explore career options. Do you want to know some of their choices? Cleaning hotel rooms, cleaning restaurants, and cleaning stores. Cleaning can be a great job and it is very important but what if that was your only choice? Would you like that? Would you like it if somebody stood over your shoulder with a stop watch to time your work, at a job that you probably didn't even choose, and calculated your wage...your **worth (!)** based on a 60 minute snap shot of time?

That is not what I want for my future...and most people with disabilities would agree. I have goals, dreams, and passions just like other kids my age. I want to go to college and learn how to be a better cook. I want to open my own restaurant or bakery and make people happy with my food. I want to contribute to my local community and economy and help others who want careers in food service.

I hope you will look at me, and others like me, and see us for our worth. Please see my strengths and contributions. Stop focusing on what I **can't** do and listen to me when I tell you what I **can** do! Please vote to end subminimum wage.

Thank you.

Addie Loerzel, Moorhead, MN

March 20, 2024

Dear Chair Fischer and Members of the Human Services Policy Committee:

On behalf of ARRM and our more than 185 provider organizations, thank you for the opportunity to provide written testimony in support of the Delete Everything Amendment to HF 4392, the Human Services Policy Omnibus bill.

This session, ARRM brought forward many initiatives aimed at improving and streamlining services for people with disabilities, making policy adjustments to support workforce growth, and removing regulations that prevent people from getting the services that they need when they need them and where they choose to receive them.

To that end, we are happy to see many of those proposals included in the Human Services Omnibus bill and would like to take this opportunity to highlight the sections of the bill that we are in particular support of.

Beginning with Article 1, sections 1 and 2, we want to thank the Chair for including language exempting both 245D and 144G homes from municipal rental licensing requirements. These requirements are redundant to state and county requirements and can be used as a tool to discriminate against people with disabilities. By eliminating the ability for a city to require a rental license for these homes, you are helping to ensure that people have the right and choice to live in whatever community they want.

We would also like to highlight the provisions in Article 1, sections 3 through 7. These important changes made within 245D make sensible changes to workforce qualifications for the Designated Coordinator, Designated Manager, and allowable job duties for 16 and 17-year-old staff while maintaining high safety standards. These changes will support providers in hiring the right person for the job, not just the person that meets the qualifications listed in statute.

ARRM would also like to thank the Chair for including Article 1, section 9 of the bill, allowing for Out-of-Home Respite for children in an unlicensed setting. This provision has been a priority of ARRM for the last four years and we are thrilled to see the language included in the Omnibus bill. The loss of respite options has contributed to some families going into crisis and having to seek other options to get support for their child and the family. Expanding options for Out-of-Home Respite will support families in finding options for their children, in their own communities, that are safe and comfortable.

Finally, we want to express our support for Article 1, sections 12 and 13 of the bill. The language in these sections sets clear timelines and parameters for the approval, or denial, of assistive technology in the support of people with disabilities. ARRM has been a champion of the advancement and expansion



of technology options for people with disabilities, and we are happy to see potential barriers and obstacles eliminated that could prevent or delay the review of technology requests.

Thank you again to the Chair and committee members for the opportunity to provide comments on the Human Services Omnibus Policy bill, and for your thoughtful consideration of all the proposals ARRM brought forward this session. We are grateful for the leadership of the Chair and committee members in developing meaningful policy changes that impact people with disabilities and their service providers. We look forward to working collaboratively as we move through the rest of the session.

Sara Grafstrom
Senior Director of State and Federal Policy



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March 18, 2024

Chair Fischer and Members of the House Human Services Policy Committee:

As Social Services Director in Dakota County, I am writing to express my full support for HF 4392 that phases-out the outdated and discriminatory practice of paying employees with disability less than minimum wage in Minnesota.

First, and most importantly, ending subminimum wage is the right thing to do. The practice is rooted in historical assumptions that people with disabilities can't work and earn real wages. These beliefs devalue the contributions of people with disabilities and have been disproven over and over. Dakota County has a long history of supporting people with disabilities to find jobs and careers that leverage their strengths, interests, and contributions.

We have invested in training for case managers on employment and informed choice; developed internal capacity to support transition-age youth in exploring career opportunities; established partnerships with employment services providers, employers, and state agencies to align employment efforts; and adopted our own Employment First policy to reflect a belief that all people can work and earn competitive wages. We are committed to increasing wages and economic opportunity for people with disabilities not only because it can be a ladder out of poverty, but also because it is what people tell us they want.

And while supporting these provisions is the right thing to do, it is also a practical matter. There is growing momentum nationwide to phase out subminimum wage federally. Minnesota - once a leader in employment for people with disabilities - has fallen behind. We can now build on the historic investments made last year in planning, and coordination to build capacity in our home and community-based services system to better support customized employment. These provisions would support that transition while finally ending sub-minimum wage in Minnesota.

Sincerely,

A handwritten signature in black ink, appearing to read "Evan Henspeter", written over a horizontal line.

Evan Henspeter
Director of Social Services, Dakota County

March 18, 2024

To: House Human Services Committee
RE: Subminimum Wage Provisions in HF 4392

Dupree Edwards – Testimony on SF 4399 – Subminimum Wage

My name is Dupree Edwards. I am testifying in support of the elimination of the subminimum wage. I live in Crystal, MN and have some mental health and cognitive disabilities. I grew up in the Twin Cities and moved to Arizona for a few years but have lived in Minnesota again since 1999. I live in licensed housing and receive the CADI waiver.

It took a lot of work to avoid being trapped in a subminimum wage job, because that is what I was offered after graduating from the Transition Plus program. However, I knew right away that I was capable of competitive employment. I knew that I might never have other opportunities if I took a “piece work” job at a DT&H. That was the name we used for subminimum wage.

After several agencies failed to find me employment, I was offered services with Workabilities, Inc. and they found me a job in the community in 2011. I was employed by a big salon with 40 stylists as someone who helped in the laundry with towels and other things needing to be washed, as well as janitorial work that needed to be completed. I was paid at least the minimum wage and appreciated that I got a real paycheck. I stayed until 2018.

Since 2018, I have worked for Lunds and Byerlys bagging groceries and taking them to people’s cars. I help to collect carts and do some cleaning work too. I have a second job at Upstream Arts as a teaching artist. I maintain my Medical Assistance through the MA-EPD program.

I believe that people with disabilities can work and should be offered support to work competitively. I was able to overcome that support not being offered to me because I believed in myself. I ask that you give other people the opportunity to find real jobs and not be stuck at subminimum wage.

Thanks for the opportunity to testify.

Dupree Edwards, Crystal MN

Testimony in support of [HF4149 \(Frederick\)](#)

Dr. Kevin Doyle, LPCC, President/CEO, Hazelden Betty Ford Graduate School, Center City, MN

Date: March 11, 2024

My name is Kevin Doyle, and I serve as the President of the Graduate School at Hazelden Betty Ford. We were founded in 1999 to train addiction counselors, and we are an accredited higher education institution, having graduated over 1100 students since our founding. We are celebrating our 25th anniversary year in 2024.

I am pleased to write/speak in support of [HF4149](#). This bill would facilitate workforce expansion for those treating substance use disorders by providing another academic option (a master's degree, in addition to the currently required bachelor's degree) for those pursuing licensure as alcohol and drug counselors (LADCs) in Minnesota. A bachelor's degree would remain acceptable as well; the proposed change simply adds the master's degree as an option as an additional route to licensure. Coursework requirements would not change.

At a time when Minnesota and the nation face unprecedented levels of overdose deaths and the need for quality treatment is higher than ever, adding more ways for individuals to enter the workforce as licensed professionals is essential.

Thank you for your consideration.

March 18, 2024

Re: Subminimum Wage Provisions in HF 4392

Dear Fischer and members of the House Human Services Policy Committee,

I am testifying in support of phasing out the Subminimum Wage that is part of the proposal in HF 4392 .

My name is Jenny Svihel. I am a self-advocate. I live in Sauk Rapids. I have lived there for 23 years. My disabilities are hard of hearing and a learning disability.

My first job was a subminimum wage job. I was on a work crew. We worked cleaning hotel rooms in St Cloud. The company would divide the money by each person in the work crew. The paycheck was only \$1.60 for every two weeks! I was so disappointed and shocked when I got my check. I was on the crew for two years earning just pennies on the dollar.

I didn't like being on the subminimum wage. I asked the work crew agency to find me a real job paying at least minimum wage. I told my job coach that I could do better. They agreed to help me find a job. I found a job working at Cub Foods, and earned over \$8 per hour in 2008.

I then went to Shopko and worked there starting in 2010 and made \$10.88 when I left. I started working at HomeGoods where I worked as a cashier. I was making \$11.45 per hour when I started at HomeGoods. I made \$12.45 per hour when I left. Today, I am working at Coborn's for \$13.50 per hour. I need to stay under 20 hours per week to comply with Social Security rules.

I was once on the subminimum wage. We were doing hard work! It was not easy to clean hotel rooms. It is physical labor. Getting paid 60 cents per day was an insult when I was doing the same work as people who DO get at least minimum wage. People should get paid for their labor. All people with disabilities should have opportunities. We want to have a better life. I want to have my own place. I want to get married. You can't do that on 60 cents per day. Please support the phase out of the subminimum wage!

Sincerely,

Jenny Svihel
420 Summit Ave S, Apt 302
Sauk Rapids, MN 56379



To: Chair Fischer—House Human Services Policy
From: Brian Zirbes, MARRCH Executive Director
Subject: Feedback regarding [HF 4392 DE1](#) and [HF3495 DE3](#)
Date: March 20, 2024
Chair Fischer and committee members--

MARRCH is pleased to be involved in these policy discussions and offer our support for many provisions of these bills. We have appreciated the engagement and dialogue with the MN Department of Human Services, the Board of Behavioral Health and Therapy, the MN Association of County Social Service Administrators, and the Mental Health Legislative Network. We are especially appreciative of the authors for the MARRCH policy bill ([HF 4149](#)), Representatives Frederick and Baker, and Chair Fischer.

SUD organizations are committed to providing high quality services to people needing treatment/recovery services as well as providing a workplace where employees can work and thrive in an industry they love. **As provided in previous testimony, SUD rates are horribly underfunded, there is significant burnout amongst direct care staff, and programs are closing.** Many of these policy proposals will reduce some barriers to client access and reduce administrative burden.

The sections of [HF 4392 DE1](#) we want to highlight our support are in Article 5: Substance Use Disorder Services:

- Section 8— Removing licensing candidates from a ratio limit
- Section 14—Behavioral Health Fund Affidavit
- Section 16—Aligning ASAM requirements in SUD
- Section 21—Paperwork Reduction report

The sections of [HF3495 DE3](#) we want to highlight our support are in Article 4: Substance Use Disorder Services:

- Sections 1 and 2—Replacing and waiving fees for birth records
- Section 3--Expanding paths to licensure

There are a few areas of [HF 4392 DE1](#) that need some continued work and discussion. Section 18; line 63.26. This change seeks to change ASAM 3.1 (low intensity residential) from 5 hours a week to 9-19 hours per week. **This language will double or triple the amount of treatment services needing to be provided, at a rate of \$79.84 per day!!** Programs cannot afford more requirements and regulations without financial relief. If this language moves forward, we strongly request a match to the old medium intensity rate (\$166.13) or implement the proposed rate from Burnes and Assoc (\$216.90) for ASAM 3.1. We look forward to the ongoing work and collaboration to make systemic improvements in SUD.

March 18, 2024

To: House Human Services Policy Committee
Re: Subminimum Wage Provisions in HF 4392

Chair Fischer and Committee Members,

Katie McDermott – Subminimum Wage Testimony

Hello, my name is Katie McDermott, and I work at The Arc Minnesota. I will talk about my experiences working for the subminimum wage.

I worked for a provider as a “client”, but really I was a worker earning subminimum wage. I helped prepare greeting cards for sale and sorted nuts and bolts. I can remember getting a paycheck for \$30 and saying, “what’s this?” because it was so small.

Using my personal advocacy, I was able to create a peer mentoring program at the agency. I was paid \$8 per hour, and it was a big difference! For the first time, I felt like a true employee instead of a client. I was paying taxes and had some extra money to buy things I wanted. However, it took me almost five years to start making that much money.

Based on my peer mentoring experience, I was hired by The Arc in 2014. For the first time, I got paid vacations and sick days.

It is important people get paid at least the minimum wage. I worked at the subminimum wage and was paid such low wages, that I had nothing to show for my labor. Please keep the value of people in mind as you consider changes to the subminimum wage.

In conclusion, I ask for your support in passing the Governor’s policy bill. This would create a transition away from the subminimum wage. I have benefited from true employment and other people with disabilities would too.

Thank you.

Katie McDermott; St Paul, MN

Nick Stumo-Langer

From: Lisa Arnet <fourgirlsmn@gmail.com>
Sent: Friday, March 15, 2024 2:37 PM
To: Nick Stumo-Langer
Subject: My testimony opposing JF4392

Hello, my daughter Emily is a beneficiary of the minimum wage exemption for disabled employment. She works at Merrick Inc. and performs contracted on-site work at sub minimum wage. The job opportunity she has at Merrick is not as much about earning a living as it is about the immense satisfaction she derives from her work, the routine of going to work, her job-site peers and the Merrick staff. She is not capable of working a minimum wage in the community comparable to non-disabled peers, or "high-functioning" disabled peers. I appreciate the opportunity employers such as Kowalskis, Lunds, or McDonalds, offer to disabled persons, however, the "high-functioning" disabled persons you see in the community represent only a small portion of the disabled community. You would be disenfranchising a very large segment of the disabled adult community by removing the ability for them to work at sub-minimum wage at centers such as Merrick Inc. The more profoundly disabled persons would thus have no option for employment. Please keep the subminimum wage exemption intact. Thank you.

Sincerely,
Lisa Arnet



March 13, 2024

The Honorable Peter Fischer
Chair, Human Services Policy Committee
Minnesota House of Representatives
551 State Office Building
St. Paul, MN 55155

The Honorable Debra Kiel
Republican Lead, Human Services Policy Committee
Minnesota House of Representatives
203 State Office Building
St. Paul, MN 55155

Re: Legal Aid letter regarding HF 4392

Dear Chair Fischer, Lead Kiel, and Members of the Committee:

Thank you for the opportunity to provide written testimony regarding HF 4392. We have comments on two sections of the bill—sections 1 & 19.

Special certificate prohibition (Section 1, lines 1.18-1.28)

Last year, the legislature voted to invest in employment services and individualized supports to assist workers with disabilities find and retain jobs in which they earn at least minimum wage. There was also investment in resources and technical assistance for 14(c) certificate holders to shift their business models, ensure financial viability for their organizations, and stop paying people with disabilities less than the minimum wage. We ask that you finish this work and support SF 4399, sunsetting 14(c) certificates. All Minnesota employees deserve to make at least minimum wage for their work.

Opponents of the bill say that 14(c) organizations will have to shut their doors if they are not allowed to pay their employees less than the minimum wage. However, we know this is not the case. So far, eight 14(c) organizations have taken advantage of the funding made available last session and are working towards phasing out subminimum wages by April 2024. Others made the transition on their own before then—in the Twin Cities and in greater Minnesota.

Thirteen states and the District of Columbia have ended the subminimum wage, and several more are phasing it out. Vermont phased out subminimum wage employment for people with disabilities in the early 2000s. In studying the last sheltered workshop that closed in Vermont,

Legal Aid Letter re: HF 4392

March 13, 2024

University of Vermont researcher Brian Dague reported that 80% of people had found competitive employment in the community. The remainder found community-based, integrated non-work placements—but at minimum wage or higher.

Minnesota can and should do better for people with disabilities and support employment services over funding subminimum wage employment. This can be done by investing in the right services and supports. Minnesota must live up to the tenets of Olmstead, Employment First, etc. We can build a more just, more supportive employment network for people with disabilities that does not rely on over segregation and poverty wages. Please end the subminimum wage.

Informed choice in and technology prioritization in implementation for disability waiver services (Section 19, lines 19.17-19.27)

The Disability Law Center urges the committee to reject the changes to this section. This change would require lead agencies to offer waiver recipients assistive technology or remote supports before offering them direct support staff in initial cases and renewals. The change would impact all waiver recipients, regardless of whether they are satisfied with their current direct support staff and do not wish to alter their service plans. It is not the informed decision making required by this statute when one type of service is favored and must be discussed and rejected before the full array of services available are presented. Waiver recipients should have all service types explained to them and then be permitted to make an informed decision about what services they would like to use. Please reject this provision.

Thank you for allowing us to submit input on HF 4392.

Sincerely,



Jennifer Purrington
Legal Director/Deputy Director
Minnesota Disability Law Center



Ellen Smart
Staff Attorney
Legal Services Advocacy Project

This document has been formatted for accessibility. Please call Ellen Smart at 612/746-3761 if you need this document in an alternative format.

March 18, 2024

Re: Minnesota Coalition for Disability Wage Justice Letter of Support, HF 4392

Chair Hoffman and members of the Senate Human Services Committee,

On behalf of the Minnesota Coalition for Disability Wage Justice (MCDWJ), we write in support of House File 4392– specifically the provision prohibiting issuance of 14(c) certificates which authorize payment of subminimum wage to people with disabilities.

MCDWJ is a statewide coalition of nearly 40 entities all working toward the same goal – wage equity for people with disabilities. We represent service providers, labor unions, advocacy organizations, higher education institutions, social workers, legal experts, and – most importantly – people with disabilities, their parents, family members, and other trusted supporters.

As you know, federal law allows businesses to pay people with disabilities less than minimum wage through Section 14(c) of the Fair Labor Standards Act. More than 3200 people with disabilities in Minnesota legally earn less than minimum wage, and our state – a purported leader in disability rights – employs more people with disabilities earning subminimum wage than any other state in the nation (per capita).

On average, Minnesotans with disabilities who work under 14(c) make just \$4.15 per hour, but some earn as little as 7 cents per hour.

Many people earning subminimum wage are in segregated settings. This contradicts the integration mandate of the Americans with Disabilities Act (ADA), which requires that people with disabilities have access to the most integrated settings possible – including employment. Just last year, the United States Department of Justice found that employers who pay less than minimum wage in these segregated settings may be in violation of the ADA.

We urge the Minnesota Senate to support the prohibition of 14(c) certificates as outlined in HF 4392, which will help ensure that all workers with disabilities are paid minimum wage or higher by 2028.

This change is possible. The Minnesota Task Force on Eliminating Subminimum Wages created a robust transition plan that would make sure no one is left behind in the transition to ensuring Minnesotans with disabilities are paid minimum wage or higher. Just last year, the legislature funded that plan, making historic investments in individualized, integrated employment programming so all people with disabilities can earn minimum wage in jobs that build on their skills and interests.

Technical assistance, training and support is available for service providers, people with disabilities and their families to make this change. Service providers who have electively and successfully ended subminimum wage are available and are providing peer-to-peer mentoring so other providers remain viable. People who do not want to work will continue to have robust, enriching programming to support their needs during the day.

It is time for Minnesota to live up to our stated commitment to integration, inclusion, belonging, and justice for all Minnesotans. We call on the legislature to support wage equity for all Minnesotans with disabilities now.

Respectfully signed,

Members of the Minnesota Coalition for Disability Wage Justice

- Accord
- AFSCME Council 5
- Autism Society of Minnesota
- City of St. Paul
- Cow Tipping Press
- Dakota County Social Services
- Dungarvin
- Employee Ownership Network
- Epic Enterprise
- Great Work
- Griffin-Hammis Associates
- Hennepin County
- Howry Residential Services
- Inclusive Networking
- Integrated Living Options
- Kaposia
- Legal Services Advocacy Project
- Lifeworks
- Mains'l
- Medica
- Minnesota APSE
- Minnesota Association of Professional Employees
- Multicultural Autism Action Network
- Minnesota Council on Disability
- Minnesota Disability Law Center
- Minnesota Inclusive Higher Education Consortium
- National Association of Social Workers, Minnesota Chapter
- National Federation of the Blind, Minnesota
- Oak Tree Support Services
- Phoenix Residence
- Ramsey County
- Reach for Resources
- Residential Services, Inc.
- SEIU Healthcare Minnesota & Iowa
- Strengths at Work
- The Arc Minnesota
- Udac
- University of Minnesota Institute on Community Integration

Dear Chair Fischer and Committee Members,

My name is Raquel Sidie-Wagner, and I'm writing today as both a former member of the Task Force on Eliminating Subminimum Wages and Disability Services Professional to speak to my resounding support of the provisions to phase out the use of subminimum wages in HF4392. It is of the utmost importance that we ensure that all Minnesotans with disabilities are being paid at a wage that's been determined by the work, not a diagnosis.

For the better part of the last decade I worked as a disability services provider managing a multitude of services, including Employment and Day Support Services, and my role on the task force was to represent a provider that successfully ended their use of a 14C, special wage certificate. In 2016, that provider made the decision to let go of the certificate they'd held for many years in order to advance the stated mission of the organization, with no financial or technical support from the state or other organizations, unlike what is included and encouraged in the task force's recommendations.

When I have testified in support of this legislation previously, I have spoken to the fact that that organization made that choice, and the sky didn't fall. In fact, the employment services have thrived ever since.

However, in the hearing room, in your offices, and in the press, there is one thing that is loud and clear: people are afraid. In large part, parents are afraid that their adult children with disabilities will lose access to services, that the work they currently do will no longer be an option, or that their loved one, specifically, will be left behind.

I have sat in dozens and dozens of meetings with parents, guardians, and other providers talking about these exact fears in employment services and otherwise. They are warranted, and based on a lifetime of battling on behalf of their families and the people they serve. But, as providers, legislators, and advocates, it is our job to challenge these fears, and design systems that bring us beyond them, because the current systems, and all of those fears, are consistently holding people back. Those of us in these systems of power need to recognize our own culpability in perpetuating legalized ableism.

When my former employer exited that subminimum wage certificate, the majority of people kept their jobs. 7 of 8 businesses using the certificate chose to maintain their employees. Most people got a pay increase and were allowed to take on tasks they were restricted from when being paid subminimum wage. For the people that lost their jobs in the process they were then offered the chance to work with staff to explore employment ideas and opportunities they'd likely never been offered before. Many people currently being paid subminimum wages in a job have not, in good faith, been given the opportunity to make an informed decision about that work.

Employment services are designed to be individualized and person-centered. They include multiple stages to allow for an exploration of what that person's interests and skills are, the time

to prepare for and execute a job search, and the ongoing supports a person needs to be successful in their employment long term. I have watched countless people be successful through this process despite many barriers.

I have seen someone whose team never believed he'd be able to work not only get and maintain a job, but then be able to move out and live in his own, independent apartment.

I have seen a person whose interests were very specific and difficult to find without extensive education, which was a barrier to them because of their disability, who, with their staff, found a job that met their needs and a volunteer opportunity that fed their passions.

I have seen someone whose physical disability would make it difficult to use the restroom at an employer use the motivation they had to find that meaningful employment to drive them to work hard with a physical therapist and then use the restroom entirely on their own for the first time in their life.

I have watched as businesses changed their outdated thought processes on how to interview, accommodations on the job, and how the work needs to be done and found employees who can do things like monitor barges coming up the Mississippi River all day when they could never find someone to do that work previously.

Employment isn't the answer to all things. People with disabilities should be considered valued members of society even if employment isn't feasible for them, but with the right supports, a job at or above minimum wage is attainable for most people who want one. The reality is, in our current model, the state spends around \$200 million funding these sheltered workshops and spaces that pay subminimum wages, while only spending \$20 million on the employment services that can help people find the meaningful jobs like those listed above. Investing in the excellent staff and providers who walk alongside people in this process is what will assuage the fears of so many families and teams worried that their loved one won't have access to employment or supports.

I ask that all of you support the provisions in the house's bill that phase out subminimum wages in Minnesota. It is well past time to end this outdated and ableist practice, and support people with disabilities in the ways they deserve.

Thank you for your time and consideration,
Raquel Sidie-Wagner



March 20, 2024

Rep. Peter Fischer, Chair
House Human Services Policy Committee
100 Rev Dr Martin Luther King Jr Blvd.
State Office Building, Room 551
St. Paul, MN 55155

RE: 245D and 144G rental license exemption in HF 4392

Dear Chair Fischer and members of the House Human Services Policy Committee,

The Residential Providers Association of Minnesota (“RPAMN”) is a 501(c)(6) non-profit trade association that represents small, residential customized living and waivers service providers in Minnesota. RPAMN has roughly 200 provider members and subscribers, with the vast majority being BIPOC-owned, culturally-specific service providers who might not otherwise be engaged in the policy development and legislative processes.

We are writing you to express our support for the inclusion of the rental license exemption proposal for 245D and 144G state licensed settings operating in single family homes (Article 1, Sections 1 and 2 of HF 4392). We have been appreciative of the Chair and committee members’ dedication to prevent further instances of discrimination in Minnesota.

This proposal gets to the root of the problem: municipalities using revocation of rental licenses as a tool for discrimination and over-regulating providers who serve people with disabilities and/or mental health conditions. In the example of the city of New Hope, the city’s revocation of a provider’s rental license resulted in a violation of all resident rights and protections with only 30 days’ notice to vacate, and it put the provider out of business. The fear of rental license revocation puts providers in difficult positions when it comes to deciding whether to call emergency services, like the police, or they must turn away clients who may have high acuity mental health needs because they do not want to give their city a “reason” to revoke their license. With the desperate need for hospital decompression, we see these municipal rental licenses as a major barrier to getting people out of the hospital. Additionally, this disproportionately impacts BIPOC providers providing culturally specific care in suburban communities.

Municipal rental licenses are duplicative and do not add any value beyond the regulation of state licenses from the Minnesota Department of Health and the Department of Human Services. Many major cities in the metro and municipalities throughout the state already exempt these settings from rental licensing. This proposal will ensure uniformity in how cities treat 245D and 144G licensed settings across the state and it will prevent further misuse.

We know this committee prioritizes the right for people with disabilities to live in the community and in the setting of their choosing. Thank you for your support of this proposal and for your support of the rights of Minnesotans with disabilities.

Sincerely,

Zahnia Harut, President

Residential Provider Association of Minnesota

March 18, 2024

Re: The Arc Minnesota, HF 4392



Chair Fischer and Committee Members,

We are writing in support of the important provision in HF 4392 that would end the outdated practice of paying people with disabilities subminimum wage in Minnesota.

It is time to ensure that people with disabilities in Minnesota are paid the minimum wage or higher by 2028. This change would affirm the civil rights of people with disabilities and align our state's policies with our state's values. This will help advance equity, drive social change, and truly protect human rights.

Section 14(c) of the Fair Labor Standards Act, passed in 1938, allows people with disabilities to be paid less than the state or federal minimum wage. It is an archaic and discriminatory practice that contributes to the cycle of poverty and results in segregation of people with disabilities.

All individuals with disabilities – no matter their support needs – deserve the opportunity to explore, find, and keep jobs and careers that provide personal fulfillment and help build wealth. People with IDD should have supports from individuals and systems to help them to find and keep jobs based on their preferences, interests, and strengths.

We know Minnesota can make this change successfully. We have a strong transition plan, backed by historic funding from the 2023 legislature. There is structure and support available for providers, lead agencies, and people with disabilities and their families to make this change and ensure no one is left behind.

Many providers in our state have already moved away from using a 14(c) certificate and they have remained strong, viable providers, while being person-centered and honoring the choices of people with IDD. People who do not want to work have, and will continue to have, robust, enriching programming to support their needs during the day.

There is momentum nationwide to phase out subminimum wage. Sixteen other states across the country have already taken on this transition, and Minnesota is poised to be the next to make this transformational change. This effort is led by people with disabilities, who want more opportunity.

Minnesotans with disabilities deserve better than this discriminatory practice and it is time for our state to put our values of inclusion and opportunity into practice through our policy. This change is far overdue.

Please support HF4392 and prohibit issuance of 14(c) certificates to effectively end the use of subminimum wage in our state and ensure people with disabilities are paid the minimum wage or higher.

Sincerely,

Andrea Zuber, CEO

Alicia Munson, CPO

Tina Rucci, Public Policy Director

The Arc Minnesota