



April 14, 2023

The Honorable Liz Olson  
Chair, Ways and Means Committee  
Minnesota House of Representatives  
479 State Office Building  
St. Paul, MN 55155

The Honorable Pat Garofalo  
Lead, Ways and Means Committee  
Minnesota House of Representatives  
295 State Office Building  
St. Paul, MN 55155

Re: Increasing Wages for People with Disabilities, Ending the Subminimum Wage (HF [2847](#)/SF [2934](#))

Dear Chair Olson, Representative Garofalo, and Members of the House Ways and Means Committee:

Thank you for moving Minnesota one step closer to ending the government sanctioned discriminatory practice of paying people with disabilities less than the minimum wage. I am writing to share my support for HF 2847, a bill in alignment with Governor Walz's proposal to phase out the subminimum wage.

My 35-year career as a social worker has been connected to some aspect of disability services, advocacy, support for self-advocacy, scholarship, and teaching. I am the lead author of Minnesota's [Comprehensive Plan for Prevention of Abuse and Neglect of People with Disabilities](#). I have spent 25 years doing work connected to sexual and other violence perpetrated against people with disabilities. People with disabilities experience violent victimization at [rates 3 to 4 times](#) higher than people without disabilities.

There are many reasons to end the subminimum. **Safety** is one of them, but not for the reasons that some would lead you to believe.

Segregating people with disabilities in "special" or "sheltered" places has never, nor will ever, afford people labeled as "vulnerable" in our society safety and protection. Every day reports of abuse, neglect, and exploitation are made documenting harms perpetrated against people with disabilities living and working in disability services settings. These "places" do not offer people with disabilities special protection from harm. [Factors](#) that contribute to higher rates of harm include systematic devaluation, segregation and isolation, a culture of compliance, and lack of power and control over one's own life.

We have been **systematically devaluing** people with disabilities through Section 14(c) of the Fair Labor Standards Act for over eight decades. Through this practice we have marginalized, oppressed, disrespected, impoverished, and thwarted the human potential of generations of Minnesotans with disabilities. These are the very same people we label as "vulnerable", while ignoring the fact that we, as a society, bear much of the responsibility for creating the conditions that lead to enhanced vulnerability.

[History](#) tells us that unless and until we demand better of our disability services system, we will largely get more of the same. Enacting HF 2847/ SF 2934 to end the subminimum wage will send a powerful message about the value of people with disabilities in our state as Minnesotans, as workers and contributors, and as human beings.

Respectfully,

*Nancy M. Fitzsimons (e-signature)*

Nancy M. Fitzsimons, PhD, MSW, LISW (she/her/hers)  
Professor of Social Work ([Nancy.fitzsimons@mnsu.edu](mailto:Nancy.fitzsimons@mnsu.edu) / 507-389-1287)

April 12, 2023

To: Members, House Ways and Means Committee

Re: Minnesota Sex Offender Program

cc: Human Services Vice Chair Bahner  
Minority Lead Neu Brindley  
Speaker Hortman  
Rep. Cha  
Sen. Mitchell

Thanks very much for taking time to read this note and consider its appeal. I've written to some of you during the session and testified at both the House and Senate Human Services Committees regarding the Minnesota Sex Offender Program, a complex, ineffective, and deeply flawed project administered by DHS.

***MSOP has been the subject of repeated critical reviews in professional, media, and legislative studies during the last 35 years. Its costs have risen in every biennium—now at \$210 million dollars. There is no regular independent assessment of the program. Legislative discussion has been avoided due to the nature of its subject. Minnesota's program is the largest and most expensive in the country. The number of individuals incarcerated (now at 750) continues to rise. The average length of stay is the longest in the country. Yet it has had no statistical effect reducing sexual aggression and assault in Minnesota.***

Few legislators are familiar with MSOP, yet should the Omnibus bill pass out of your committee as it is, your DFL members will vote to endorse the program and spend another \$210 million dollars for this grab-bag of ineffective policy and practice.

It is just irresponsible to continue spending more taxpayers money every year just because legislators find the subject politically threatening. ***You can change that!***

***Before passing the Health and Human Services Finance Bill out of your committee, strip the bill of its MSOP appropriation, suspend its allotment until the 2024 session, and require Human Services Committee members to attend a series of discussions based on a contemporary assessment of MSOP during the interim.***

Let's pay attention to preventing sexual aggressions, supporting victims and their families, paying attention to issues of mental health leading to assault, search for the most effective treatment and therapy for offenders, and re-evaluate the process of commitment and rehabilitation.

With sincerity and respect,

Steve Sandell  
4639 Wild Canyon Trail  
Woodbury District 47B  
651-224-2152  
spsandell@gmail.com



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Respectfully,

*Nancy M. Fitzsimons (e-signature)*

Nancy M. Fitzsimons, PhD, MSW, LISW (she/her/hers)

Professor of Social Work ([Nancy.fitzsimons@mnsu.edu](mailto:Nancy.fitzsimons@mnsu.edu) / 507-389-1287)



Representative Liz Olson, Chair  
Ways and Means  
April 20, 2023

Chair Olson and Ways and Means Committee Members,

On behalf of the National Association of Social Workers, MN Chapter (NASW - MN), we are writing in support of House File 2847 and in particular, appreciate the House position phasing out subminimum wage and your support for expanding mental health training opportunities.

NASW - MN is the largest membership organization of professional social workers in our state, representing over 2000 social workers. Our members do both direct practice (clinical and non-clinical) and macro practice. We work as mental health professionals, in child welfare systems, nursing homes, home care settings, and residential care. We advocate for people who are positively impacted by components of this bill, and want to ensure that social work professionals are supported in their work.

Social work is based on a mission to enhance human well-being. Our core values include the dignity and worth of individuals, including the right to self-determination, and the importance of human relationships. Eliminating the practice of paying people with disabilities less than minimum wage supports these principles.

We demonstrate that we value people when we pay them a fair wage that is comparable to others. Ensuring that disabled people have the same labor rights as other Minnesotans will not only increase their sense of self-worth, it will improve their lives as they have more options to participate in the marketplace. Furthermore, life is more fulfilling when we can choose our place of employment. We can create and maintain relationships at work while also earning the income we need. Support services for people with disabilities have evolved since the practice of subminimum started decades ago, and we are able to train and support people with disabilities to successfully work in many settings.

Social work is a professional degree that comes with extensive training and a requirement for direct practice experience. Graduate students pursuing their clinical license need internship settings that provide practical experience with appropriate supervision. The Center for Rural Behavioral Health training clinic will allow a convenient setting for social work students attending Minnesota State University, Mankato. This not only reduces barriers for students completing their graduation requirements, it allows university students an opportunity to serve their local community by increasing access to mental health providers in an underserved region. Tying the setting to the University with clinicians in training is an efficient model to expand direct services for local residents.

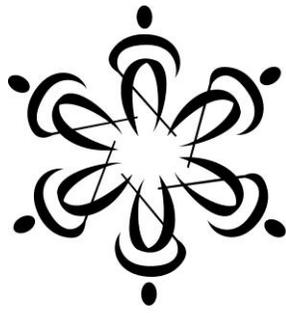
Thank you for your support of these items.  
Sincerely,

A handwritten signature in black ink that reads 'Karen E. Goodenough'.

Karen E. Goodenough, PhD, LGSW  
Executive Director  
NASW-MN

A handwritten signature in black ink that reads 'Jenny Arneson'.

Jenny Arneson, MSW, LGSW  
Legislative Consultant  
NASW-MN



NATIONAL FEDERATION  
OF THE BLIND  
MINNESOTA

*Live the life you want.*

April 20, 2023

The Honorable Representative Liz Olson  
Ways and Means Committee, Minnesota House of Representatives  
479 State Office Building  
St. Paul, MN 55155

RE: NFB of Minnesota Supports Provisions Phasing Out Subminimum Wage in HF2847

Dear Chair Olson and Members of the Ways and Means Committee:

On behalf of the National Federation of the Blind (NFB) of Minnesota, I am writing to express our strong support for the elimination of the use of subminimum wage certificates in Minnesota under §14(c) of the Fair Labor Standards Act, as proposed in HF2847. For many decades, ending the once well-intentioned but now outdated and harmful practice of paying workers with disabilities below the minimum wage has been a goal of our organization. The capacity of workers who are blind or have other disabilities to work in competitive, integrated employment has been demonstrated overwhelmingly throughout our nation in the 85 years since the enactment of the Section 14(c) waiver program in 1938. The US Commission on Civil Rights, among other federal entities, has called for the phasing out of this program because of its inconsistency with federal civil rights policy. Simply put, the program's days are numbered, and Minnesota should begin now to plan for the inevitable.

Many states have already phased out the payment of subminimum wages through successful implementation of models providing competitive integrated employment without the loss of other critical services. Similarly, this proposal is a carefully considered plan that sets up resources and funding to ensure that necessary support services are retained as the employment model shifts. Therefore, claims that people with severe disabilities will be left without a place to go and without opportunities are simply unfounded.

The state of Minnesota adopted an "employment first" policy in 2014, committing to provide people with opportunities for competitive, integrated employment before consideration of other supports and services. Yet, almost ten years later, we remain among the states with the highest percent in the country of workers with disabilities who earn below the minimum wage. Minnesota should catch up to our commitment and demonstrate the kind of positive leadership for which we are known in many other areas by prohibiting use of the 14(c) certificates.

The proposal in HF2847 for phasing out subminimum wages will better protect the civil rights of Minnesotans with disabilities and will also make more effective use of the funding dedicated by our state toward programs for people with disabilities. We urge the committee to move these provisions forward, and we appreciate your consideration.

Founded in 1920 and consisting of chapters throughout the state, the National Federation of the Blind of Minnesota is the largest and oldest civil rights organization of blind people in Minnesota. Please contact me if you have any questions.

Sincerely,

Steve Jacobson, President

April 19, 2023

To: House Ways and Means Committee  
RE: Subminimum Wage Provisions in HF 2847

**Dupree Edwards – Testimony on HF 2847 – 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

April 19, 2023

To: Ways and Means Committee Members  
RE: Subminimum Wage Provisions in HF 2847

### **Marisa Bengston-Loerzel Testimony**

Mr. Chair and Committee Members,

I am Marisa Bengtson-Loerzel. We travelled 4 hours today to testify in support of the provisions to phase out subminimum wage in Senate File 2934 (Twenty-Nine Thirty-Four)

I have 3 children and my hopes and dreams are the same for them all. I dream that my children will grow up happy and healthy. I dream they will grow into caring and loving adults. I dream they are able to pursue their career passions – whether that is to explore the world, become a doctor, or open a bakery.

But with so many hurdles in the way, my dreams are often replaced with worry and doubt for my daughter, Addie. Time and time again, people with disabilities like Addie, face barriers to achieving their dreams. While I had the choice of many colleges, we have **one** in Moorhead that **might** be able to accommodate her needs. While I was able to save up money, look at many houses, and purchase the one of my dreams, Addie will wait for residential “placement” in a group home. And while I was offered employment that comes with a competitive salary and generous benefits package, Addie may make a subminimum wage.

So instead of dreaming that Addie can find a job that values her worth as an employee, I find myself hoping that she can do well enough on a time-study to earn the highest wage possible. This isn't hyperbole. This is what subminimum wage jobs looks like.

Instead of dreaming of her little bakery in downtown Moorhead, I find myself hoping she is given more opportunities than scraping the gum off the bottom of tables. Instead of dreaming that Addie will have enough money to take a vacation or maybe even start a family, I find myself hoping that she does really well on her time study so she can make at least \$4 an hour...because that would actually be a really good subminimum wage. This way of thinking is soul crushing and heart breaking!

I am asking you to please phase out the subminimum wage – NOW! The subminimum wage for workers with disabilities is an old-fashioned and outdated way of viewing people with disabilities as helpless, needy, and unable to work. Do we really want to continue this way of thinking? Of course not! It is time to move forward! It is time to make this change and respect (and pay) people for what they are worth!

Thank you.

Marisa Bengston-Loerzel, Moorhead, MN

TO: Ways and Means Committee Members  
RE: Subminimum Wage Testimony on HF 2847

April 19, 2023

Chair Olson 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 2847.

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

April 19, 2023

To: House Ways & Means Committee  
Re: Subminimum Wage Provisions in HF 2847  
Chair Olson 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 budget 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

4/18/2023

Written testimony of Danielle Mahoehney on HF 2847:

Chair Olson and House Ways and Means Committee,

Please accept my written testimony in support of the Governor's proposal to phase out subminimum wage in HF 2847. My name is Danielle Mahoehney, and I am a community living and employment specialist at the University of Minnesota's Institute on Community Integration where I am the project lead for the Minnesota Transformation Initiative, or MTI. MTI is funded by the Minnesota Department of Human Services to provide training and technical assistance to provider agencies across Minnesota that want to transition away from subminimum wages. We are currently supporting 8 grantees of various sizes from across the state that have committed to phasing out subminimum wages by April 2024.

The proposal in HF 2847 does not force providers to change their services for people with disabilities. However, like the 8 grantees MTI is working with right now, many providers will choose to follow the direction the field is moving and make changes to their services. The idea of change is understandably scary to agency leadership and staff as well as to people with disabilities and their families. Organizational change is hard work, but it can be done with strong leadership, a clear vision, and external support when needed. We are seeing this right now. For instance, MTI is working with a small provider in a rural area that only offers center-based work, often below minimum wage. They are now training staff in evidence-based employment practices and are planning to begin offering services to help people find and keep competitive jobs in the community. They also plan to develop day support services for those who don't want to work or who work part-time. They plan to continue offering services to everyone they currently support.

The proposal to phase out subminimum wage includes technical assistance for providers to transition from subminimum wage. Employment providers in Minnesota and across the country have been transforming to services focused on competitive employment for decades. We have experience and research to inform what is essential to an effective and sustainable transformation. Organizational transformation, when it is intentional, often results in greater community inclusion and better quality of life for people with disabilities. Research supports this, and providers that have successfully made these transformations have stories demonstrating this.

Sincerely,

Danielle Mahoehney

April 19, 2023



To: House Ways & Means Committee  
Re: Subminimum Wage Provisions in HF 2847

Chair Olson and Committee Members,

We are writing in support of the Governor's proposal in HF 2847 that end the outdated practice of paying people with disabilities subminimum wage in Minnesota. These changes 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.

The proposal, based on the Task Force on Eliminating Subminimum Wages' recommendations, includes a comprehensive package of investments and policy reforms that, together, will:

- increase wages for people with disabilities
- create more inclusive workplaces for disabled Minnesotans
- address workforce shortages
- increase labor force participation by people with disabilities

The practice of paying people with intellectual and developmental disabilities (IDD) less than minimum wage in jobs that are not tailored to their skills and abilities goes against The Arc Minnesota's mission to promote and protect the human rights of people with IDD. The state of Minnesota should phase out 14(c), subminimum wage, segregated employment, and other employment-related policies that discriminate against disabled Minnesotans.

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.

There is momentum nationwide and in Congress to phase out subminimum wage. This effort is led by people with disabilities, who want more opportunity for and investment in employment. Many other states across the country – such as Alaska, Hawaii, Maine, Maryland, New Hampshire, Rhode Island, and Vermont – have already taken on this transition, and Minnesota is lagging far 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.

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.

Sincerely,

Andrea Zuber  
*Chief Executive Officer*

Alicia Munson  
*Chief Program Officer*

Julia Page  
*Public Policy Director*

April 19, 2023

Chair Liz Olson

House Ways and Means Committee

479 State Office Building

St Paul, MN 55155

RE: House File 2847

Hearing date: April 20, 2023

Opposing Article 4, Section 16

Opposing Article 5, Section 1-5

Opposing Article 5, Section 6 Subdivision 1c

Dear Chair Olson and Members of the Committee

I am writing to you today to **OPPOSE** Minnesota Opioid Prescribing Improvement Program (OPIP) provisions and DHS Sanction provisions in House File No. 2847 Article 5 Section 1-5, Article 5 Section 6 Subdivision 1c and **OPPOSE** repeal of Article 4 Section 16 Minnesota Statutes, section 256.043, subdivision 4.

There are multiple medical reasons for this opposition. I am a board-certified anesthesiologist and board-certified pain management specialist and have served the Saint Paul and greater Minnesota communities for over 31 years. I have extensive experience in using all forms of pain management treatments, including proper medical use of opioid pain medications. As you are aware, the CDC guidelines have had devastating effects on my patients who suffer severe chronic intractable pain. Even with all the rules and regulations placed on medical legitimate use of opioids, overall opioid deaths have skyrocketed due to the illicit use of fentanyl products. There is no scientific evidence that physicians and chronic intractable pain patients have caused this opioid crisis. To really focus on how to change this we need to not be looking at physicians who help chronic intractable pain patients, but the source of the significant illicit fentanyl products on the street and how to handle severe and devastating inflow of fentanyl based illicit opioids.

I strongly believe in the doctor patient relationship and believe it is very important to keep the sanctity of this. While the Minnesota Opioid Prescribing Improvement Program has had some good outcomes early on, it is now getting in the way of doctor patient relationships. As a "quality measure" DHS/OPIP only measures opioid prescribing rates. There is no measurement of quality on patient impact or patient outcomes. Quality improvement should never be just one metric and always needs to be patient focused, these programs are not patient focused. If they were patient focused, why would it have taken until 2021 to reveal that between 2016 and 2020, over 51,000 Medicaid and MNCare

enrollees were completely discontinued from opioid analgesic medication being used for chronic pain/intractable pain with the vast majority being completed inappropriately and abruptly. Both the FDA and CDC have issued strong warnings to not abruptly discontinue opioid medication as there are severe safety concerns. Many patients have been simply dropped off the medically required pain medications due to these not scientifically based prescribing "rules." It is my opinion that these programs are discriminating against Medicaid and Minnesota Care vulnerable patients and have been devastating to their care plans. There is language in the DHS that states community standard thresholds are standards of care, and this is just simply not truthful. DHS should not be dictating what medical standard of care is in any form, this is not their proper role in any disease state and has been particularly devastating to the pain community and medical providers.

Significant medical evidence has come out since the beginning of the Opioid Prescribing Improvement Program that physicians and patients are not the cause of the opioid epidemic. We should follow the scientific evidence and allow the physicians and patients to make their medical choices for their chronic intractable pain, not the DHS and the government. It is my strong medical opinion that the DHS should not be setting arbitrary dose thresholds on legitimate medical opioid use. Once again there is ample evidence that these are not what are necessary and get in the way of the doctor-patient relationship. There has been undue suffering amongst cancer patients and patients with severe chronic intractable pain. This must stop. We have the Board of Medical Practice, Board of Pharmacy and Board of Nursing and there are multiple safeguards that continue to be set in place to monitor patients to ensure that the benefits out way the risks for their treatment plan and to insure true quality measures.

I also oppose any further fees on opioid pain medications. Penalizing legitimate opioid pain medications with government-mandated fees has negatively impacted my patients and has increased costs and decreased the availability of these medically necessary opioid medications. We have other ways to fund opioid addiction and abuse prevention programs. The people this law would impact are not addicted, and they certainly are not abusing medications. And that begs the question of whether this approach would even be effective, especially as the non-medical use of fentanyl continues to account for the vast majority of opioid-related deaths in our state, not the legitimate prescription opioids helping to compassionately treat the intractable pain these patients must endure, again with very few other options that truly help.

I hope you agree with me that the doctor/provider should be able to treat patients in the very best way possible, using sound medical evidence. We have an outstanding medical community here in Minnesota and I have wonderful colleagues who have been devastated by these arbitrary guidelines, which have not been shown scientifically to help the opioid epidemic and have been shown to harm patients with severe chronic intractable pain. Please follow the literature and sunset the Minnesota Opioid Prescribing Improvement Program and do not allow the DHS to sanction physicians /providers based on pre-determined morphine milligram dosage thresholds.

If you have any specific questions or concerns, I would be more than happy to talk to you personally. My personal cell phone is 612-850-7480 and my e-mail address is [tmhessmd@gmail.com](mailto:tmhessmd@gmail.com)

Thank you for your time and attention, I am willing to help in any way I can.

Sincerely

Todd M Hess, MD

Board certified anesthesiologist and board-certified pain management specialist

**Minnesota-North Dakota Chapter**

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April 18, 2023

Dear Members of the Committee on Ways and Means:

The Alzheimer's Association is a nonprofit organization dedicated to supporting people living with Alzheimer's Disease and other forms of dementia. We are writing today to share our comments on HF 2487, the House Human Services Omnibus Budget Bill.

At the Alzheimer's Association we are committed to supporting people with dementia to live where they want with the people they love. That mission starts by equipping unpaid caregivers with the resources they need to continue the demanding work of caring for a loved one with Alzheimer's or another form of dementia.

**That's why we strongly support:**

- **Caregiver Respite Programs:** We appreciate the effort this bill takes to fund respite services for older adults with dementia with \$2 million in one-time funding. However, we hope that the committee will find the resources to provide ongoing base funding to ensure that more Minnesotans can access affordable respite care services.
- **Live-Well at Home Grant Program:** Thank you for providing \$4.958 million in one-time funding for the Live Well at Home Grant Program. Again, we hope that this committee can provide ongoing funding for these urgently needed service.
- **Elderly Waiver Rate Increase:** We applaud the significant and much needed increase to the Elderly Waiver, Alternative Care Waiver, and Essential Community Supports Program. This will help more people with Alzheimer's remain in the community with their loved ones. However, we hope that the committee will consider including policy language in HF 1852 that would add respite care and adult companion services as eligible uses for Essential Community Supports.

**Minnesota-North Dakota Chapter**

7900 West 78th Street, Suite 100  
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REGIONAL OFFICES

**Minnesota**

Duluth  
Fergus Falls  
Rochester  
St. Cloud  
St. Paul

**North Dakota**

Bismarck  
Fargo  
Grand Forks  
Maddock  
Minot

**Here are other provisions that we support in the bill:**

- **PACE:** We appreciate the one-time funding to develop a payment model for PACE programs, which will improve the support for seniors with complex health needs.
- **Native Elder Coordinator Position at MBA:** Indigenous communities in Minnesota face unique challenges and experience elevated rates of Alzheimer's Disease or another form of dementia. Investing in the capacity of the Minnesota Board on Aging with the Native Elder Coordinator Position is a welcome step.
- **Ombudsman for Long-Term Care Staffing:** People with Dementia and their caregivers face significant challenges navigating a complex elder care system and are at greater risk of maltreatment. We appreciate this investment in the OOLTC and encourage the committee to consider the higher appropriation in HF 2751.

Thank you to Chair Noor for the care and attention he has have brought to building this omnibus budget bill. HF 2847 takes important steps in the right direction and we hope will include ongoing funding for much needed grant programs that expand access to respite care services.

Sincerely,

Sam Smith  
State Affairs Manager  
Alzheimer's Association



April 19<sup>th</sup>, 2023

To: House Ways & Means Committee

Re: Subminimum Wage Provisions in HF 2847

Chair Olson and Committee Members,

We are writing in support of the Governor's proposal in HF 2847 that end the outdated practice of paying people with disabilities subminimum wage in Minnesota. I had the honor of serving as the Co-Chair on the Task Force for eliminating sub minimum wage. We knew that for Minnesotans to have the best outcome- we needed a plan here at home. The provisions in SF2934 are that plan. A plan that a group of 16 highly committed individuals, including people with disabilities, parents, agencies, and providers both with and with out section 14c certificates created together with an incredible amount of input from 454 Minnesotans.

You will hear from people that we are taking away choice.

You will hear that there loved ones with disabilities are incapable of being good employees.

You will hear that without sub minimum wage the day programs will close and there families will be left with nothing.

This is simply not true.

This provision, is the most responsible thing we can do for individuals that are currently being paid sub minimum wage. This is a plan. This is a path. This is support for providers. This is education for individuals and families. This is how Minnesota invests in the workforce, the community and ensures the best outcome for people and providers impacted.

**Minnesota's First Autism Resource®**

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autism society of minnesota

We have seen nationwide movement towards ending the antiquated use of this practice, this is how we ensure that when Sub minimum wage is no longer a viable option that we have secured a meaningful and equitable future for these people. This is how we support programs in staying viable and keeping their doors open. And most importantly- to ensure that people with disabilities. Regardless of their assumed competency- Have equal rights.

Studies have shown that individuals with disabilities who are made subminimum wage are more likely to experience poverty, have dependence on government assistance and experience segregation from the community. This is a clear violation of their rights to dignity, self determination and inclusion.

It is time to put an end to this discriminatory practice in mn and ensure that all workers, regardless of their assumed abilities, are paid minimum wage or higher for the work they do. As a society, we must work to create a more equitable and inclusive workforce, and the prohibition of Section 14c is a critical step towards achieving this goal.

Thank you,

Jillian Nelson

Community Resource and Policy Advocate.

Task Force Co-Chair.

---

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PO Box 9310  
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952-992-2900



April 18, 2023

Chair Liz Olson  
Minnesota House of Representatives  
479 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

**Re: Art. 1 Sec. 25 of HF 2837 Human Services Omnibus Bill -- Support**

Dear Chair Olson and members of the House Ways and Means Committee:

I would like to communicate Medica's support of the Governor's proposal in HF 2847 that ends the practice of paying people with disabilities a subminimum wage in Minnesota.

Medica is an independent and nonprofit health care organization with approximately 1.5 million members in twelve states, and has offered individual health insurance coverage in the state of Minnesota for nearly 50 years. Medica's mission is to be the trusted health plan of choice for our customers, members, partners, and our employees.

As the Committee may be aware, 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. Unfortunately, this archaic practice contributes to the cycle of poverty and results in marginalization of Minnesotans with disabilities. We don't think that was ever the intent of the proponents who originally enacted the Fair Labor Standards Act in 1938, nor do we believe that paying subminimum wages to Minnesotans with disabilities is a reflection of our values, today.

The proposal, based on the Task Force on Eliminating Subminimum Wages' recommendations, includes a comprehensive package of investments and policy reforms that, together, will:

- increase wages for people with disabilities
- create more inclusive workplaces for disabled Minnesotans
- address workforce shortages
- increase labor force participation by 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. Minnesotans with disabilities should have supports from individuals and systems to help them to find and keep jobs based on their preferences, interests, and strengths.

There is momentum nationwide and in Congress to phase out subminimum wage. This effort is led by people with disabilities, who want more opportunity for and investment in employment. Many other states across the country – such as Alaska, Hawaii, Maine, Maryland, New Hampshire, Rhode Island, and Vermont – have already taken on this transition.

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Minneapolis, MN 55440-9310  
952-992-2900

MEDICA®

We know the committee has a multitude of competing priorities and do hope eliminating practice of paying people with disabilities subminimum wage will receive its due consideration. Thank you for your time and attention to this matter.

Respectfully Submitted,

Matt Schafer  
Government Relations Director  
[matthew.schafer@medica.com](mailto:matthew.schafer@medica.com) | 612.701.5637



April 16, 2023

To: House Ways and Means Committee

Re: Sub-minimum Wage Provisions in HF 2847

Chair Olson and Committee Members:

My name is Bob Niemiec. Please accept my written testimony in support of the provisions in HF 2934 related to the Governor's proposal to phase out subminimum wage and the use of Section 14c of the Fair Labor Standards Act that allows organizations to pay people with disabilities less than the minimum wage.

I am a senior associate with Griffin-Hammis Associates (GHA), an award-winning, internationally recognized pioneer in the field of customized employment services for people with disabilities. We are a full-service consulting firm that works in partnership with government agencies, employment providers, business leaders, family members, and job seekers to transform systems, lives, and communities. I was the chair of the MN State Rehabilitation Council (1997-2002) a founding member of the MN Employment First Coalition, and a Subject Matter Expert with the US Dept. of Labor, Office of Disability Employment Policy (ODEP). My knowledge, experience, and history regarding Section 14c and disability services provide a unique and thorough understanding of the matters being addressed in this bill.

Prior to working with GHA, I was the Director of Employment and Community Supports at Community Involvement Programs (now Accord) based in Minneapolis and Bloomington. In my capacity as director, I led CIP in the elimination of using Section 14c back in 2004. I know what it takes to utilize 14c, the shortcomings and unreliability of the wage determinations to calculate sub-minimum wages, and the inequity of paying people wages based upon how they measure against perfection (100%). As a young man growing up in industry-laden northwest Indiana, I and many of my peers worked summer jobs in factories, steel mills, oil refineries, and a myriad of industries. It was my experiences working in a cement factory while I was in college that opened my eyes to the lack of productivity in the general workforce. Not one of my co-workers was measured against a time standard, yet they were all paid the prevailing wage.

When I entered the field of disabilities in 1980, sheltered employment was the common practice of rehabilitation agencies across the country. I became the Director of Industrial Services at Hopewell Center in Anderson, IN, where we did contract work for General Motors, particularly Delco-Remy and Fischer Guide. I was part of the sheltered workshop (14c) establishment in Indiana. When the idea of supported employment – people with disabilities working in regular community employment – was first presented to me, I made all the same arguments against it that you have probably heard or will assuredly hear in opposition of HF 2847.

In 1985, I realized that I could no longer be part of a system that treated people with disabilities as less than the least (the definition of sub-minimum). I moved to MN in 1986 to work on the conversion of a conventional day program in Washington County into a community employment program. We began the process of converting resources, both financial and human, into doing our work with ordinary community businesses. Regular jobs, regular businesses, regular wages – one person at a time.



Making the transformation from sheltered/segregated employment to individualized community employment and eliminating the use of the sub-minimum wage is not a matter of skill. It is a matter of will. Here is what I've learned:

- Leadership matters. If the leader says it can't be done – they're right. But if they say "we're doing it even if we don't know how," success is greatly enhanced.
- Elimination of a long-standing practice like 14c cannot be done abruptly (we accomplished it at CIP in 14 months)
- We have a well-funded system in MN.
- We can learn from mistakes made in other places and do this successfully.
- Technical assistance is available.
- Set your goals and work your way backwards to what you can do tomorrow
- Organizations can reallocate resources – get rid of buildings and other material assets that consume financial resources. When you have a building, board meetings become about paving the parking lot.
- There are unlimited ways in the world that people make a living, and we only know a few of them
- Finally, on the issue of "one size fits all." Our communities are bountiful. How many more choices become available in the actual world as opposed to the controlled and limited environments of provider agencies?

Thank you for your time. I'm happy to answer any questions.

Bob Niemiec  
Senior Associate  
Griffin-Hammis Associates  
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Chair Olson and committee Members,

I am writing in support of the Governor's proposal in HF 2847 that ends the outdated practice of paying people with disabilities subminimum wage.

My son has been working two jobs; one going on 2 years and the other a year and a half. One pays \$12/hr and the other \$11/hr. The positions were obtained through the dedicated work of Udac in Duluth. He is a dedicated employee at both jobs and has never missed a day of work. He is also valued by other employees at both positions.

All individuals with disabilities deserve the opportunity to find careers that support their interests and strengths. I am so grateful to Udac who fully implemented their Mission:

To Challenge disability

To Create opportunity

To Cultivate success

I pray our elected officials will see the wisdom in ending the discriminatory subminimum wage practice.

Joanne Steinke

[joannesteinke@msn.com](mailto:joannesteinke@msn.com)

April 18, 2023



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**SOCIAL SERVICES DEPARTMENT**

**Northern Service Center**  
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651.554.6000 • Fax 651.554.6043

April 19, 2023

Members of the House Ways & Means Committee:

As Social Services Director in Dakota County, I am writing to express my full support for the Governor's proposal in HF 2847 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 need state investment, planning, and coordination to build capacity in our home and community-based services system to better support competitive employment. These provisions would support that transition while finally ending sub-minimum wage in Minnesota.

Sincerely,

Evan Henspeter  
Director of Social Services, Dakota County

CFS-GEN-DAK2546

Testimony in Support of the Governor's Proposal in HF 2847  
*To Phase Out Disability-Based Subminimum Wages*

To Chair Olson and House Ways and Means Committee Members:

Thank you very much for considering the Governor's proposal in HF 2847 to phase out disability-based subminimum wages. I strongly support these provisions. Currently, I serve as a research assistant at the Center on Disability and Community Inclusion at the University of Vermont (UVM). I testify on my own behalf, not representing UVM. I am a blind person, and I have personal experience with subminimum-wage sheltered workshops. These are dehumanizing environments designed to break and control disabled people, and I am grateful that I escaped. I cannot simply forget about all those people who are, in many ways, just like me, but who are still stuck in subminimum-wage jobs. I came to the University of Vermont because Vermont was the first state to eliminate the payment of subminimum wages over 20 years ago, and Dr. Bryan Dague wrote his dissertation about the closure of the last sheltered workshop in Vermont. I will offer some comments on some major themes in this discussion in hopes that you will vote in favor of equal rights for disabled workers.

**Vermont Does Not Miss Subminimum Wages**

Vermont eliminated disability-based subminimum wages in 2002. Many disability professionals in Vermont today have no experience with subminimum wages. I will offer a story to illustrate. In my first semester of my doctoral program, I took a course where we designed interview-based research studies. The professor assigned students (all educators ourselves) into pairs based on our professional expertise, and she matched me with a special education transition coordinator for a local school district because my work on subminimum wages related to transition. My classmate and I swapped papers. When it was time to give each other feedback, my classmate told me that she had never heard of subminimum wages or sheltered workshops before, and it blew her mind that both were legal in the United States of America. It blew my mind that she could be a special education transition professional, helping students transition from the K-12 system, and not know about subminimum wages. Vermont has moved on. We should educate teachers about subminimum wages, but we don't miss subminimum wages.

**Rural vs. Urban Communities**

Vermont is such a small state that we have only one person representing us in the United States House of Representatives. I live in Burlington, the biggest population center, a town of about 43,000 people. Vermont is overwhelmingly rural, and I grew up in a typical, depressed New England Appalachian mill town of 5,000 people. Young people, regardless of disability, learn from an early age that seeking gainful employment opportunities requires getting out of town. Rural communities have our struggles, but we are often tired of being held up as the excuse when urban employers want to avoid paying their workers. The jobs we want pay real wages, not subminimum wages.

### **Subminimum-Wage Employers Will Not Be Forced to Close**

Instead of “if you cannot afford to live on the wages, buy fewer lattes,” consider “If you cannot afford to pay your employees, buy fewer yachts.” If an employer decides to close after a policy change, that is their decision, not an automatic consequence of the policy change. This is an ordinary scare tactic used over and over by those employers who do not want to pay their workers. Consistently, the trend is that these employers do not close down after being forced to pay a higher wage.

### **Disabled People Will Not Lose Necessary Services**

This is a common threat, but it does not happen. If a sheltered workshop is in the business of providing disability-related services to its employees, it can continue to offer those services. Even if they cease to work in the workshop, they can go spend part of their day working somewhere out in the community and then return to their former place of employment for those services for the other part of the day. The possibilities are endless, and people will choose the combinations of work, leisure, therapy, and other services that are right for them.

### **Working Hours May Go Down**

If someone’s working hours go down, this does not imply a reduction in quality of life. A disabled person may choose to spend some of the week working, some of the week taking an exercise class at the local YMCA, some of the week receiving Home and Community Based Services (HCBS) under Medicaid waivers, or really doing whatever it is that is right for them. They are free to choose what is right for them.

### **Economic Arguments**

If wages go up, then there becomes an increased incentive for the employers to make those workers productive. Frequently, in current subminimum wage jobs, workers are being trained for one task until they get good at it, then switched to being trained for another task, and the cycle repeats. It keeps the workers perpetually in training. The purpose of a sheltered workshop is not really to make workers productive; if it were, the workshops would not continuously rotate their workers so that they avoid displaying their productive potential. If the employer needs to pay the workers a minimum wage, then the employer is incentivized to promote worker productivity.

Frequently, workers are matched with jobs that showcase how disabled they are, not how competent they are. In real jobs in the competitive market, this is not the trend because employers have an economic incentive to use the employees’ strengths to achieve productivity. For example, someone in my family with cerebral palsy was forced to strip and wax floors for 65 cents per hour, which required a lot of muscle that he could not control. On a computer, he is very productive, but manual labor does not match his strengths. This is obvious, but the workshop was not designed to make him productive.

Many sheltered workshops are currently operating like corporate welfare queens. Many of them gobble up government grants, private foundation grants, tax breaks, and government contracts; at the same time, they do not have to pay for the costs of

keeping their labor alive. If a worker is making 7 cents per hour, they are not living on that wage. Therefore, someone else is picking up the tab to keep that labor alive, and it is frequently the government. Workshops can also get paid just to be giving disabled people a place to go during the day. These are incentives to keep disabled people in the sheltered workshop even if they could otherwise transition to competitive integrated employment. Subminimum-wage employers are parasites on public budgets.

### **The False Promise of Safety in the Workshop**

Many families are under the illusion that their disabled family members are safer in a sheltered workshop than in competitive integrated employment, which is part of why they are often afraid of what will happen if workshops close. The workshops won't need to close, but let me help dismantle the fear in that threat. Instead of thinking that the workers are safer in the workshops, consider the idea that the workers are actually more vulnerable in the workshops than they are in integrated settings. In subminimum-wage sheltered workshops, there is a hierarchy where the people on the bottom are disabled people. The lower someone is paid, the less power they have. Disabled workers in a workshop have no voice and very little ability to fight back if someone is abusing them. These work facilities are separated from the rest of society, often in settings like Willy Wonka's Chocolate Factory, where "nobody ever goes in, and nobody ever comes out." In many ways, we are like the Oompa Loompas in these subminimum wage facilities. We are paid in peanuts. If anyone ever does come in to visit, we are expected to put on a nice happy show, and the visitors are told that we "would never be able to survive outside the workshop on our own." Frequently, these workshops are staffed by people with backgrounds in the criminal justice system, so the key skill set is controlling people. Often, the nondisabled supervisors have no meaningful skill sets for supporting disabled people. Workshops sometimes get dumped on by nursing homes; if they get fired by a nursing home for being abusive, the sheltered workshop will take them. They might be fresh out of jail; I've seen that a lot. It is an opportunity for them to be a supervisor when they otherwise would never become one. For those who seek power and control over others, working as a nondisabled supervisor at a subminimum-wage sheltered workshop is a delectable opportunity. If something happens, nobody will ever believe the disabled person over their "caretakers," a term often used for bosses.

I encourage the Committee to please support these provisions to phase out disability-based subminimum wages without fearing the closure of these workshops. It's not likely, and it also wouldn't be much of a loss. We don't miss subminimum wages in Vermont. The rest of the country is watching to see what Minnesota values.

Thank you,

Justin MH Salisbury, MA, NOMC, NCRTB  
Graduate Research Assistant  
Center on Disability and Community Inclusion, University of Vermont

# **Ending the Subminimum Wage in Minnesota**

A Report from The Minnesota Disability Law Center

October 2022

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# Executive Summary

## Introduction

Decades ago, Minnesota led the effort to provide people with disabilities meaningful opportunities to work in their communities. Where Minnesota was once at the forefront of these efforts, the state now lags behind. Today, far too many Minnesotans with disabilities are in segregated work settings earning subminimum wages — sometimes as low as seven cents per hour.<sup>1</sup> Among the 40 states included in the July 2022 US DOL list of 14(c) certificate holders, Minnesota ranked third for number of people with disabilities being paid subminimum wages—behind only PA and CA, which have much larger populations.<sup>2</sup> Nationwide, 12% of people with disabilities worked in subminimum wage settings in 2018, while 44% of Minnesotans with disabilities earned subminimum wages.<sup>3</sup> In 2018, Minnesota spent \$239,012,000 on sheltered work funding and ten times less — \$20,943,000 — on employment services supporting community jobs.<sup>4</sup> It's time for Minnesota to do better.

The Minnesota Legislature has a historic opportunity to end the outdated, discriminatory practice of paying people who have disabilities less than minimum wage.<sup>5</sup> Minnesota should phase out the practice of allowing employers to pay subminimum wages to people with disabilities. Instead, Minnesota should focus its resources and services on helping people with disabilities find and maintain community jobs.<sup>6</sup>

## What is the subminimum wage?

Section 14(c) of the federal Fair Labor Standards Act (FLSA) allows employers to pay workers with disabilities a subminimum wage, or less than the state or federal minimum wage.<sup>7</sup> In order to pay a subminimum wage, employers must apply for a 14(c) certificate from the United States Department of Labor (DOL).<sup>8</sup> In Minnesota, 73 employers are authorized to pay their workers a subminimum wage.<sup>9</sup>

Most people with disabilities who earn subminimum wages work at nonprofit Community Rehabilitation Providers (CRPs). CRPs were created decades ago with the goal of providing employment, job training, and services to people with a range of disabilities in order to offer support and training to people with

disabilities as they find a job in the community.<sup>10</sup> These programs were never intended to provide long-term employment with subminimum wages to people with disabilities.<sup>11</sup> However, many workers remain at CRPs their entire working life, earning subminimum wages in segregated settings.<sup>12</sup>

### **Why should we end the use of subminimum wage?**

In Minnesota, 22% of people who have disabilities live in poverty.<sup>13</sup> Paying people with disabilities less than minimum wage contributes significantly to this poverty. The average subminimum wage worker with disabilities earns less than \$4.00 per hour, substantially less than Minnesota's minimum wage for large and small employers, \$10.33 and \$8.42, respectively.<sup>14</sup> Some people earning subminimum wages earned as little as seven cents per hour.<sup>15</sup> Not only do these workers earn a low wage, but the number of hours they can work is also often limited. Most subminimum wage workers in Minnesota work fewer than eight hours per week.

Further, many employers who pay their workers a subminimum wage do so in segregated settings, where workers with disabilities only work alongside other people with disabilities and not in the general community. Of the employers authorized to pay a subminimum wage, 97% are CRPs, often referred to as sheltered workshops, which mainly employ people with disabilities and typically include repetitive jobs such as light assembly, card packing, or shredding paper.<sup>16</sup>

There is growing consensus from self-advocates, federal government agencies, and state governments that the subminimum wage model of employment is outdated and discriminatory. In 2020, the United States Commission on Civil Rights published a report revealing that subminimum wage work is rife with abuse and recommended that Congress phase out the practice.<sup>17</sup> By the date of publication, several jurisdictions have outlawed the payment of subminimum wages — including Alaska, Hawaii, Maine, Maryland, New Hampshire, Rhode Island, Vermont, Tennessee and the District of Columbia.<sup>18</sup> In these states, the overall employment outcomes for workers with disabilities improved or stayed the same after phasing out subminimum wages. Other jurisdictions will phase out the payment of subminimum wages in the coming years — including California, Colorado, Delaware, Oregon, and Washington. Minnesota should do the same.<sup>19</sup>

## **Minnesota should phase out the subminimum wage with a thoughtful plan**

The Minnesota Disability Law Center (MDLC) urges the Minnesota Legislature to phase out the payment of subminimum wages to people with disabilities over a five-year period. This systems change must be implemented thoughtfully, to ensure that the unique needs of all Minnesotans with disabilities are met. First, people with disabilities must be leaders in the planning to phase out subminimum wages.<sup>20</sup> People with disabilities, including those who have earned subminimum wages and those who have worked in community jobs, must remain at the head of the table as this systems change is implemented.

Second, Minnesota legislators should ensure that Minnesota's transition is fortified by sufficient funding to provide employment supports for community jobs. Minnesota was recently awarded a \$13 million federal grant to transition away from subminimum wage employment, and this is a good start.<sup>21</sup> But Minnesota must provide more funding for community jobs — right now funding for sheltered employment remains ten times higher than funding for community jobs.<sup>22</sup>

Finally, Minnesota should look to the example of other states that have successfully transitioned away from subminimum wage work towards a model that supports people in community jobs. These states emphasized a person-first approach that was well funded and phased out the payment of subminimum wages over time. Minnesota should follow suit.

To reach these goals, the Minnesota Legislature should enact the following policy recommendations:

1. Pass legislation to **phase out the payment of subminimum wages** in Minnesota by a specific date with funding to implement the phase out.
2. Modify Medicaid Home and Community-Based Services (HCBS) Waiver Employment Services to ensure that **people receiving waiver employment services are not earning subminimum wages** as a part of their employment support service.

3. Provide sufficient **financial resources, policy guidance and technical assistance** to employment service providers transitioning toward helping people find community jobs.
4. **Ensure access to benefits planning** to encourage community job placement.
5. **Fund transportation projects** and help people find transportation to travel to and from work, particularly in rural areas and in areas without public transportation.
6. **Design and implement data collection plans** to ensure that we are tracking each person's progress away from subminimum wage work and toward community jobs.
7. Modify Medicaid Home and Community-Based Services (HCBS) Waiver Employment Services to ensure the service system fully supports and **funds the individualized process of supporting a person to find a community job** based on their interests and strengths.
8. **Support and demand seamless collaboration** amongst special education providers and DEED's vocational rehabilitation program to ensure youth with disabilities aged fourteen to twenty-four leave school with a concrete transition plan, resources, and contacts for future education, training, or employment.
9. **Expand the information, options, and education** provided by DHS, DEED, and MDE to empower people with disabilities to learn, through person-centered practices, about available support that can assist in finding a community job.
10. **Provide high quality, integrated day programming** for people with disabilities who choose not to work.

## Glossary

### Acknowledgements

This report is the result of collaboration between current and former Minnesota Disability Law Center staff, including, but not limited to, Kristina Petronko, Jonah Giese, Dalaine Remes, Anne Robertson, Sarah Watts, Bud Rosenfield, and Susan Fleurant, as well as law clerks Kendall Prior, Malinn Toy, and Delé Nwabuzor.

We would also like to thank the invaluable assistance of the law firm Hogan Lovells, and in particular Elizabeth Maruggi and Sharon McMahon, for their assistance on our Freedom of Information Act request for documents from 14(c) providers in Minnesota.

### Relevant Definitions

**Community Job** – Commonly referred to as Competitive Integrated Employment (CIE), a Community Job refers to an employment arrangement where a person with disabilities is employed in an integrated setting alongside workers without disabilities and is being paid at least a minimum wage. The MDLC prefers the term Community Job over Competitive Integrated Employment for two reasons: 1) the plain language of “Community Job” ensures the accessibility of this report; and 2) it clarifies that these employment arrangements are not necessarily “competitive” in the literal sense. That is, in some cases, these jobs are acquired through non-competitive interview and hiring processes that are designed to promote the hiring of people with disabilities.

**Sheltered Workshop** – Sheltered workshop is a colloquial term used to describe a segregated work setting that employs people with disabilities. Sheltered workshops predominantly pay subminimum wages. These facilities are referred to as workshops as a nod to the fact that most, if not all, offer very limited work options, and mainly employ individuals for rote, menial tasks like shredding, light assembly, and cleaning.

**Segregated Setting** – A segregated setting is an employment setting where people with disabilities do not, for the most part, work alongside people without disabilities. Sheltered workshops are often segregated settings.

**Subminimum Wage** – A subminimum wage is a wage paid to people with disabilities below the federally-mandated minimum wage. These low wages are authorized under Section 14(c) of the Fair Labor Standards Act, which specifies that employers can pay workers with disabilities a subminimum wage provided that the United States Department of Labor approves a 14(c) certificate for the employer.

**SMW Employer** – A subminimum wage employer is a business or nonprofit entity that holds a 14(c) certificate, employs people with disabilities, and pays its workers a subminimum wage.

### **List of Acronyms**

**ADA** – Americans with Disabilities Act

**CIE** – Competitive Integrated Employment

**CMS** – Centers for Medicare and Medicaid Services

**CRP** – Community Rehabilitation Program

**DOL** – United States Department of Labor

**HCBS** – Medicaid Home and Community-Based Services

**I/DD** - Intellectual and Developmental Disabilities

**MDLC** – Minnesota Disability Law Center

**SMW** – Subminimum Wage

## Introduction

The subminimum wage for workers with disabilities was established in 1938 with the passage of the Fair Labor Standards Act (FLSA).<sup>23</sup> Under Section 14(c) of the FLSA, the United States Department of Labor (DOL) is authorized to issue certificates to employers who wish to pay workers with disabilities a subminimum wage below the federal minimum wage.<sup>24</sup> An individual's disabilities must affect their ability to perform the particular employment task(s) offered by the employer. The subminimum wage is typically based on a percentage of the standard, or "prevailing," wage for the type of employment in a geographic area, calculated by comparing a worker with disabilities' productivity to the productivity of a non-disabled worker performing the same work task.<sup>25</sup>

Although Congress initially passed the law to support people with disabilities, the DOL has investigated subminimum wage employers and found significant abuse.<sup>26</sup> Most, but not all, employers who pay subminimum wages operate as sheltered workshops, where workers with disabilities are segregated from individuals without disabilities.<sup>27</sup> Data collected by the Minnesota Disability Law Center (MDLC) show that the average subminimum wage for workers with disabilities in Minnesota was less than \$4.00 per hour in 2019.<sup>28</sup> According to a 2020 report by the United States Commission on Civil Rights (USCCR), the program is "antiquated," and its continued operation runs afoul of applicable civil rights law.<sup>29</sup>

Given these circumstances, many states have begun to end the payment of subminimum wages to workers with disabilities.<sup>30</sup> In Minnesota, the Legislature created the Task Force on Eliminating Subminimum Wages to examine the payment of subminimum wages to people with disabilities and recommend a plan to phase out the practice statewide.<sup>31</sup> The Minnesota Disability Law Center urges the Minnesota Legislature to phase out the use of subminimum wages to ensure that all workers with disabilities are paid at least minimum wage.

This report examines the history of subminimum wage and sheltered work in Minnesota, the current state of subminimum wage work in Minnesota, and the experiences of other states that have eliminated subminimum wages for people

with disabilities. Finally, it concludes by listing the Minnesota Disability Law Center's recommendations for phasing out the use of subminimum wage in Minnesota.

## **History of Subminimum Wage in Minnesota**

Minnesota began providing comprehensive rehabilitation services to people with disabilities in 1919.<sup>32</sup> In 1920, Minnesota established the first state vocational rehabilitation agency for people with disabilities, designed to operate alongside the existing state rehabilitation agency for visually impaired persons.<sup>33</sup> Initially, operating on a sparse budget, the agency primarily offered job placement support and some basic rehabilitation services. These services aimed to integrate people with disabilities into community jobs, rather than segregate workers with disabilities from workers without disabilities. Initially, the agency did not support rehabilitation service facilities, commonly referred to as sheltered workshops.<sup>34</sup>

Employment of people with disabilities changed with the passage of the FLSA in 1938. As part of the sweeping economic reforms of the New Deal, Congress enacted a federal minimum wage, designed to increase the standard of living for workers.<sup>35</sup> However, section 14(c) of the FLSA authorized the payment of subminimum wages to people with disabilities.<sup>36</sup> After passage of the FLSA, thousands of public and private entities nationwide established rehabilitation facilities which employed people with disabilities in settings segregated from the non-disabled workforce.<sup>37</sup> In Minnesota, several sheltered workshops emerged.<sup>38</sup>

In the 1950s, federal legislation funded the expansion of vocational rehabilitation programming. Spurred on by federal funds and the FLSA, Minnesota's vocational rehabilitation agency began supporting rehabilitation facilities, including sheltered workshops and vocational centers. Sheltered workshops were designed to support long-term sheltered employment. By contrast, vocational centers housed short-term, transitional programs. Vocational center programs "analyzed the vocational strengths and weaknesses of handicapped persons and designed individual plans to prepare them for competitive employment."<sup>39</sup> Initially, most

state support for rehabilitation facilities was funneled toward vocational centers.<sup>40</sup> By 1954, only six sheltered workshops were in operation.<sup>41</sup>

In Minnesota, the number of sheltered workshops increased in the late 1960s. In 1965, the Minnesota Legislature passed the Long-Term Sheltered Work Act; the Act allocated additional state funding to facilities operating as sheltered workshops. The Act also authorized local jurisdictions to pay for sheltered workshops using general funds, tax levies, or other revenue. According to a 1984 report by the Minnesota Office of the Legislative Auditor, “the availability of state funds helped to increase the number of sheltered workshops in Minnesota to 29 by 1973.”<sup>42</sup> The number of people working in sheltered workshops ballooned by over 500 percent, from only 700 persons with disabilities in 1965, to 4,300 persons with disabilities by 1980.<sup>43</sup>

Following the expansion of sheltered workshops in the 1970s, disability rights advocates began scrutinizing their discriminatory premise and substandard business practices. In 1981, sheltered workshop employees in Minnetonka, Minnesota unsuccessfully attempted to unionize and sought to end the use of the subminimum wage in segregated settings.<sup>44</sup> In 1984, the Office of the Legislative Auditor authored an evaluation of sheltered workshops.<sup>45</sup> The report highlighted that the average sheltered worker with disabilities earned \$1.66 per hour, and worked for only 20 hours per week.<sup>46</sup> Further, the workshops were not meeting their stated goal to ‘rehabilitate’ workers; in 1983, only 83 out of 3,000 sheltered workers (or, about 2.8 percent) were placed in community jobs. Other reports issued during this period emphasized that sheltered workshops denied people with disabilities dignity, respect, and equal access to opportunities.<sup>47</sup>

Despite criticism of sheltered workshops, they continued to expand. Some of the expansion was driven by Minnesota policy drafted in response to litigation. In the Consent Decree issued in *Welsch v. Levine*, the federal court case that mandated the deinstitutionalization of state mental health institutions, Minnesota funded an additional 600 openings for workers with disabilities in sheltered workshops.<sup>48</sup> By 1990, the Minnesota Department of Public Administration reported that 5,687 people with disabilities were served in sheltered settings.<sup>49</sup> This growth was accompanied by an increase in funding, from both state (from \$6.1 million per

year in 1986 to \$6.7 million per year in 1990) and county (from \$1.8 million per year in 1986 to \$4.5 million in 1990) funding sources.

The Minnesota Legislature has generally relied on task forces and pilot projects to study, though not directly address, the issue of subminimum wage employment. In 2004, the Minnesota Legislature funded a pilot project which supported integrated, minimum wage employment for people with disabilities in an industrial setting.<sup>50</sup> This model, while overwhelmingly successful, was not expanded beyond the scope of the initial project in Thief River Falls, MN. Minnesota adopted an “Employment First” policy in 2014, committing to providing integrated employment opportunities for persons with disabilities.<sup>51</sup> The central tenet of Employment First policies is that people with disabilities should first be provided opportunities for community employment before being offered other supports and services. In 2016, the Legislature appropriated funds to develop pilot projects to transition workers with disabilities out of sheltered workshops and into community jobs.<sup>52</sup> Early reports from this project have been positive, but due its limited scope, more must be done to reach all workers earning subminimum wages.<sup>53</sup>

Today, according to state agencies, approximately 4,500 to 6,000 Minnesotans earn a subminimum wage.<sup>54</sup> As of July 2022, there are 73 employers authorized to pay a subminimum wage; many of these employers operate as sheltered workshops.<sup>55</sup> In 2021, the Minnesota Legislature established the Task Force on Eliminating Subminimum Wages.<sup>56</sup> The Task Force was convened to provide recommendations to the Legislature for a transition away from subminimum wage, in the event that the Legislature or the federal government eliminates the practice. In September 2022, Minnesota’s Vocational Rehabilitation Services was awarded a \$13 million federal grant to decrease the use of subminimum wages and increase access to community jobs.<sup>57</sup> As of the date of publication, neither the state legislature nor Congress has passed legislation to phase out subminimum wages.

## Minnesota Context

Most employers paying subminimum wages in Minnesota are Community Rehabilitation Providers (CRPs), typically nonprofit organizations that receive federal and state funding to provide services to people with disabilities. Of the 73 total subminimum wage employers in Minnesota, 69 are authorized to pay subminimum wages, and 4 employers have pending 14(c) certificates.<sup>58</sup>

According to data released by the DOL, 3,744 individuals in Minnesota are paid a subminimum wage.<sup>59</sup> State agencies estimate that between 4,500 to 6,000 individuals earn a subminimum wage.<sup>60</sup> The DOL calculates the number of individuals earning subminimum wages based on the number of individuals employed at a subminimum wage reported by an employer at the time it renews its 14(c) certificate. However, the DOL calculation may be unreliable.<sup>61</sup> Nevertheless, the DOL individual count serves as the standard reference for employment of people with disabilities,<sup>62</sup> and this report will refer to the number as an adequate, if imperfect, representation of the number of people employed by subminimum wage employers in Minnesota.

From 2016 to 2022, the number of employers nationwide paying subminimum wage declined from 2,570 to 1,133.<sup>63</sup> The number of Minnesota employers authorized to pay subminimum wages also decreased.<sup>64</sup> Nationwide, the number of individuals earning subminimum wages has decreased over the same period. Yet, Minnesota continues to have a higher percentage of people with disabilities earning subminimum wages compared to other states.<sup>65</sup> From 2016 to 2018, the percentage of Minnesotans with disabilities working in subminimum wage employment decreased from 51.8% to 44%.<sup>66</sup> Nationally, however, only 12% of people with disabilities worked in subminimum wage settings in 2018.<sup>67</sup> Minnesota must do more to reduce the payment of subminimum wages to people with disabilities, as other states have done.

Minnesota also lags behind other states in the percentage of people with disabilities working in community jobs alongside people who do not have disabilities. Nationally, 21.1% of people with disabilities worked in an integrated setting in 2018.<sup>68</sup> In Minnesota, this percentage was 11% in 2018.<sup>69</sup> While

Minnesota has increased the number of people working in community jobs, from 8,908 individuals in 2016 to 11,692 individuals in 2018, the state must do more to match the progress that other states have made. The following graph illustrates stark differences in the percentage of people with disabilities employed in community jobs in Minnesota compared to the national average.

Description of graph: Line chart titled “Minnesota falls behind the national average in percent of workers with disabilities employed in integrated settings.” Y-axis labeled “Percentage of people served in community jobs” from 0% to 25%. X-axis labeled “Year” from 2012 to 2018. National line begins between 15% and 20% and remains roughly steady until 2016 then increases to 20% in 2017 and just above 20% in 2018. Minnesota line begins just below the national line and decreases steadily to approximately 8% in 2015 then increases to approximately 11% in 2018.

These employment dynamics are undergirded by a lack of funding: in Minnesota, only 5.1% of all disability-related funding funds employment services supporting community jobs; nationwide, that percentage is 11.6%.<sup>70</sup> In 2018, Minnesota spent \$239,012,000 on sheltered work funding.<sup>71</sup> By comparison, Minnesota spent ten times less — \$20,943,000 — on employment services supporting community jobs.<sup>72</sup> The disparities in funding between the community job model and the facility-based (or, subminimum wage) employment model are shown in the following graph:

Description of graph: Line chart titled “Annual funding for integrated employment has lagged behind annual funding for facility-based employment.” Y-axis labeled “Funding from Minnesota Legislature.” X-axis labeled “Year” from 2015 to 2018. The lines both remain roughly steady throughout with state-based funding for integrated employment at \$20,943,000 and state-based funding for facility-based employment at \$239,012,000.

Minnesota policymakers should reassess the state’s funding priorities and adequately support competitive integrated employment opportunities for people with disabilities.

## Minnesota Subminimum Wage Employer Data

The MDLC filed a Freedom of Information Act (FOIA) request with the DOL’s Wage and Hour Division, the federal agency which authorizes employers paying subminimum wages. The DOL provided the MDLC with the CRPs’ applications that accounted for approximately half of the subminimum wage employers in Minnesota; these applications included employers in the Twin Cities metropolitan area and in Greater Minnesota. The MDLC used the information in the applications to identify trends in subminimum wage employment across Minnesota.

The data from the DOL provides information on both the wages paid to workers and the type of work made available by subminimum wage employers. The data set includes information about employment at employer CRPs’ main office locations as well as branch and off-site locations. Of the 179 employment sites surveyed, the vast majority offer work involving cleaning, light assembly, or recycling. Landscaping, food service, and clerical jobs were available at only a handful of off-site work locations.<sup>73</sup>

Description of chart: Bar graph titled “What jobs are available at subminimum wage employment sites?” Data depicted in a table below.

<b>Most Common Job Category Available at 14(c) Establishment</b>	<b>Number of Employment Sites Offering Job Category</b>
Cleaning	122
Clerical	4
Food Service	5
Landscaping	2
Assembly	37
Recycling	8
Unknown	1

While some employers offer a wide variety of employment tasks, the vast majority offer only one type of work.<sup>74</sup> Eighty-one percent of facilities surveyed offer only one type of work, often in cleaning, light assembly, or recycling. The following chart illustrates the lack of choice for workers with disabilities in these settings:<sup>75</sup>

Description of chart: Pie chart titled “Do subminimum wage employers offer choice in employment options?” Data depicted in table below.

One type of work	81.8%
Two types of work	13.1%
Three types of work	4%
Four types of work	1%

Moreover, a lack of alternatives limits workers’ opportunities for acquiring new job skills that could be leveraged to find community jobs. If Minnesota wants to ensure that its service systems are person-centered, the state must ensure that people with disabilities have choices in their employment settings.

### **Hours Worked at Subminimum Wage Employers**

The MDLC’s analysis shows that few subminimum wage employers offer full-time employment to workers with disabilities. Rather, most employers offer work opportunities totaling fewer than 10 hours a week. The greatest number of hours worked was at subminimum wage employers’ “main establishments,” where access to people without disabilities is limited. The average hours worked at off-site work locations was fewer than three hours per week. The low number of hours worked indicates the limitations of the current practice of CRPs employing people with disabilities to work for community employers. The system needs to change and adapt to allow workers with disabilities to work more hours and gain more skills.

Description of graph: Bar graph titled “Average hours per week worked at 14(c) establishments (2017).”

<b>14(c) Establishment Locations</b>	<b>Average Hours Per Week</b>
Branch Establishment	Approximately 7 hours
Main Establishment	Just under 8 hours
Off-Site Work Location	Just under 3 hours

### **Wages at Subminimum Wage Employers**

The subminimum wages paid to workers with disabilities vary widely based on several factors, including the type of facility, the types of work offered at the facility, and workers’ disabilities and support needs.

To demonstrate the inferior wages paid to people with disabilities, the MDLC compared the average subminimum wage to the state minimum wage.<sup>76</sup> In 2017, (the year of data provided by the DOL Wage and Hour Division), the minimum wage in Minnesota, for employers with an average sales volume of \$500,000 or more, was \$9.50 per hour.<sup>77</sup> On average, workers who worked off-site earned more than workers who worked at an employer’s main location. This discrepancy may be a result of various factors, including, but not limited to: self-selection bias (the individuals authorized to work at off-site locations tend to be workers with fewer support needs); and the type of employment offered at off-site locations (more likely to be cleaning or food service rather than recycling or assembly).

Description of graph: Bar graph titled “Does where you work matter?” and subtitled “The difference in average hourly wage in different subminimum wage settings (2017). Data depicted in table below.

Branch Establishment	Approximately \$4
Main Establishment	Approximately \$3.50
Off-site Work Location	Approximately \$6
Minimum Wage (2017)	\$9.50

Finally, when average wages are broken down by both type of work and type of facility, distinct trends emerge. At main locations, recycling and clerical tasks offered the highest relative wages.<sup>78</sup> At off-site work locations, recycling and

cleaning offered the highest average wages for workers.<sup>79</sup> At branch locations, cleaning and food service offered the highest relative wages.

Description of graph: Bar graph titled “Average wage based on type of work at main establishments (2017).” Data depicted in table below.

Minimum Wage (2017)	\$9.50
Cleaning	Approximately \$0.50
Clerical	Approximately \$4
Light Assembly	Approximately \$3
Recycling	Approximately \$4.50

Description of graph: Bar graph titled “Average wage based on type of work at off-site location (2017).” Data depicted in table below.

Minimum Wage (2017)	\$9.50
Cleaning	Approximately \$6.25
Clerical	Approximately \$4.75
Food Service	Approximately \$4.25
Landscaping	Approximately \$3
Light Assembly	Approximately \$4.25
Recycling	Approximately \$6.50

Description of bar graph: Bar graph titled “Average wage based on type of work at branch establishments (2017).” Data depicted in table below.

Minimum Wage (2017)	\$9.50
Cleaning	Approximately \$5
Food Service	Approximately \$4.50
Light Assembly	Approximately \$3.50
Recycling	Approximately \$3.50

Though the sample sizes for some types of work at certain types of facilities are small, the trends point toward the conclusion that subminimum wages paid to workers with disabilities are far below wages paid to workers without disabilities.

Taken together, these data paint a troubling picture: thousands of Minnesotans are being paid subminimum wages in segregated conditions that fail to offer

choice of work task. To implement a person-centered employment service system, the state must address the failure to pay persons with disabilities a minimum wage and the failure to offer persons with disabilities meaningful choice in the type of work they do.

## **What can we learn from other states?**

Other states have more robust supports for people with disabilities who work and receive services in community jobs. Some jurisdictions have eliminated subminimum wage employment altogether. Alaska, Hawaii, Maine, Maryland, New Hampshire, Rhode Island, Vermont, Tennessee, and the District of Columbia do not have subminimum wage employment.<sup>80</sup> Other states, including California, Colorado, Delaware, Oregon, and Washington, have set an end date for subminimum wage employment in their state.<sup>81</sup> Illinois and Texas prohibit the payment of subminimum wages in contracts with the state.<sup>82</sup>

To learn from the experiences of other states that have transitioned away from subminimum wage, the MDLC studied five states: Oregon, Maine, Rhode Island, Vermont, and Maryland.

### **Oregon**

The phase out of subminimum wage in Oregon began in 2012 with *Lane v. Brown*, the first class-action lawsuit in the nation to challenge a state-funded and administered employment service system, including sheltered workshops, as a violation of the Americans with Disabilities Act's (ADA) integration mandate.<sup>83</sup> Title II of the ADA requires public entities to provide services to individuals with disabilities in the most integrated settings that meet their needs.<sup>84</sup> As part of the transition process, in April 2013 and February 2015, Oregon's Governor issued executive orders directing the Oregon Department of Human Services to adopt an integrated employment plan with a focus on individuals with intellectual and developmental disabilities (I/DD).<sup>85</sup>

In December 2015, the United States Department of Justice reached a settlement agreement with the State of Oregon in *Lane v. Brown*. The terms of the settlement required Oregon to shift 1,115 people in sheltered workshops to jobs in the community with competitive wages by 2021; in addition, 7,000 people would receive employment services, including 4,900 youth exiting school.<sup>86</sup> Although *Lane* focused on integrated employment opportunities replacing sheltered workshops, the case had a direct impact on phasing out subminimum wages. Similar to Minnesota, most Oregon businesses paying subminimum wages under a 14(c) certificate are nonprofit organizations that provide Office of Developmental Disability Services-funded (ODDS) and Medicaid-funded employment services. Since 2014, many of these organizations have been transforming their services to support people in integrated community settings where individuals with disabilities earn competitive wages and benefits.<sup>87</sup> September 2020 marked the end of ODDS-funded sheltered workshop services in Oregon.<sup>88</sup>

Additionally, Oregon Senate Bill 494 became law during the 2019 legislative session, which requires the State to phase out subminimum wage based on disability status.<sup>89</sup> The bill provides a scheduled timeline to increase wages through June 30, 2023; after that date, an employer must provide wages consistent with Oregon state minimum hourly wage.<sup>90</sup>

Oregon's Department of Human Services collects data regarding the population affected by *Lane*, focusing on two specific sub-categories: Transition-age and Sheltered Workshop Class Members.<sup>91</sup> Transition-age Individuals are people with I/DD ages 14 to 24 found eligible for ODDS services. Sheltered Workshop Class Members include all sheltered workshop workers who appeared in ODDS data tracking systems reports since March 2012.

*Lane* settlement data tracks individuals receiving job-related case management services from ODDS. The total ODDS population includes all individuals, not just those in the target populations (Transition-age or Sheltered Workshop Class Members). Some individuals are members of both the Transition-age group and the ODDS Sheltered Workshop Class.

The *Lane* settlement resulted in a steady decline in the use of sheltered work environments, particularly for the sub-category of individuals who started out in sheltered work.

Description of chart: Line chart titled “Oregon’s transition away from subminimum wage employment.” Y-axis labeled “Individuals.” X-axis labeled “Year” from 2016 to 2020. Beginning in 2016, the Adult Sheltered Worker line begins at approximately 1,250 people then decreases to approximately 750 people in 2017, just under 500 in 2018, approximately 250 in 2019, and 0 in 2020. The Transition-Age Sheltered Worker line begins at approximately 100 then decreases to approximately 50 in 2017, nearly 0 in 2018, and 0 in 2019 and 2020.

The number of individuals involved in community jobs increased until the onset of the COVID-19 pandemic in March 2020.

Description of chart: Line chart titled “Oregon’s transition towards community integrated jobs.” Y-axis labeled “Individuals.” X-axis labeled “Year” from 2016 to 2021. The Worker at Community Job line begins at 1,000 in 2016, increases to approximately 1,250 by 2018, rises to 1,500 in 2019, peaks just above 1,500 in 2020, and decreases to approximately 1,250 in 2021.

Description of chart: Line chart titled “Oregon’s transition towards community integrated jobs.” Y-axis labeled “Individuals.” X-axis labeled “Year” from 2016 to 2021. The Transition-Age Youth line begins in 2016 at approximately 225 people, increases steadily to just above 300 in 2018 and 2019, decreases to 200 in 2020 and remains steady around 200 in 2021. The Adult from Sheltered Workshop line begins around 360 people in 2016, increases steadily to just over 400 in 2019, decreases to approximately 360 in 2020, and increases to approximately 280 in 2021.

From September 2016 to September 2019, there was an overall increase in the ODDS population working twenty or more hours per week (data after September

2019 are impacted by the COVID-19 pandemic). There is a less significant increase in the two sub-categories: the class of transition-age individuals and the class of sheltered workers.

There has been a decline in the average number of hours worked in a sheltered setting for each sub-category. The average number of hours worked in community jobs (Competitive Integrated Employment (CIE)) has remained fairly steady, with the exception of the decrease due to COVID-19. The average number of hours worked in community jobs appears to have rebounded in September 2020, but additional data are needed to confirm this.

Description of chart: Line chart titled “Oregon’s transition towards community integrated jobs – hours worked” and subtitled “This chart tracks the percentage of people who work in community jobs whose hours worked per week are greater than 20 hours.” Y-axis labeled “Percentage working 20+ hours.” X-axis labeled “Year” from 2016 to 2021. The Transition-Age Youth line begins at approximately 18% in 2016, rises steadily to around 25% in 2019, increases to approximately 32% in 2020, and decreases to roughly 29% in 2021. The Adult from Sheltered Workshop line begins around 15% in 2016, increases to approximately 19% in 2017, decreases to roughly 15% in 2018, increases slightly in 2019, increases to around 23% in 2020, and increases steadily to approximately 27% in 2021.

Description of chart: Line chart titled “Oregon’s transition towards community integrated jobs – hours work” and subtitled “This chart tracks the average hours worked for transition-age youth and adult workers in both sheltered workshop and community job settings.” The Y-axis is labeled “Average work hours per week.” The X-axis is labeled “Year” from 2016 to 2021. The Transition-Age Youth in Sheltered Workshop line begins around 11 in 2016, decreases steadily to approximately 8 in 2018, declines to approximately 3 in 2019, then ends at 0 in 2020 and 2021. The Transition-Age Youth in Community Job line begins around 12 in 2016, increases to approximately 14 in 2017, decreases slightly in 2018, then increases

steadily to roughly 16 in 2021. The Adult in Sheltered Workshop line begins approximately at 12 in 2016, remains roughly steady through 2018 before declining to around 11 in 2019, then steeply drops to 0 in 2020 and 2021. The Adult in Community Job line begins just above 10 in 2016, increases to approximately 12 in 2017, decreases slightly in 2018 and 2019, then increases to approximately 12 in 2020 and just under 15 in 2021.

Individuals involved in community jobs in Oregon have seen a gradual increase in their average wages. The average wage in sheltered work is included for comparison.

Description of chart: Line chart titled “Oregon’s transition toward community integrated jobs – hourly wages” and subtitled “This chart tracks the average hours worked for transition-age youth and adult workers in both sheltered workshop and community job settings.” The Y-axis is labeled “Average hourly wages.” The X-axis is labeled “Year” from 2016 to 2021. The Transition-Age Youth in Sheltered Workshop line begins around \$6 in 2016 and 2017 then decreases steadily to approximately \$3 in 2019. The Adult in Sheltered Workshop line begins at approximately \$5 in 2016 and 2017 then increases slightly to approximately \$6 in 2019. The Transition-Age Youth in Community Job line begins at \$10 in 2016 and steadily increases to approximately \$13 in 2021. The Adult in Community Job line begins at \$10 in 2016, increases steadily to approximately \$12 in 2018, dips slightly in 2019, then increases to around \$13 in 2020 and 2021.

The scope of the data collected and provided by the Oregon Department of Human Services in compliance with the *Lane v. Brown* settlement is limited to individuals with intellectual and developmental disabilities in the transition-age and sheltered work populations. The data do not include a distinct count match, nor does it track individuals as single points, longitudinally. As a result, when individuals leave sheltered-work environments, the Department of Human

Services does not follow them to determine what services they continue to receive, if any.

Many people who were working thirty to forty hours a week in a sheltered workshop ended up in community-based employment with eight to twenty hours a week. Moreover, the desire to increase the number of individuals participating in community jobs meant employment service providers did not always have the time, resources, and incentives to create a quality, individualized plan for everyone. Individualized programming can lead to greater success. One such success story out of Oregon is Eric. His mother Jan provided a testimonial:<sup>92</sup>

*It took him a long time to get community employment. I had actually given up on it because he needs a lot of support [however,] he gets a lot of support from his program. I'm...over the nervousness of things that could happen...that might discourage him. Eric makes \$17 per hour and lives in his own apartment with support staff. I personally think that anybody can work that has an intellectual disability as long as they have the right supports. When I'm gone, he's going to have a nice life because of this job.*

Changes to Oregon's financial reimbursement structure disincentivized sheltered workshop employment. The Department of Human Services barred new enrollment for transition-age and new entry individuals, allowing only the current cohort of workers to remain in sheltered settings. The state provided grants to incentivize sheltered workshops to change to day services, and modifications to Medicaid home and community-based services (HCBS) waivers aided in the transition.

The employment providers that adapted and transitioned promptly have been more successful. Those that resisted and continued to provide sheltered employment services instead of providing day services or integrated employment supports have closed. Disability Rights Oregon highlighted the negative impact closures had on individuals still involved with those facilities – they were likely to lose out on services entirely.

Disability Rights Oregon further noted that reimbursement rate structures for providers have presented barriers to a smooth transition away from subminimum wage employment. For example, an employment provider may want to transition and provide better services, but the new rate system may not allow them to provide those services to individuals with higher support needs. To generate a lot of community jobs, it is often easiest to hire individuals with low support needs and offer low entry-level jobs. An individual who requires more accommodation may face more difficulties finding high-quality community employment. Development and job coaching services should be included within the rates offered, and the rate model must be sufficient to meet the number of hours an individual wants to work.

Disability Rights Oregon further suggests a collaborative approach among agencies, a rate structure that accommodates the various needs of individuals with disabilities, and individualized programming to find better job placements.

Oregon has made progress in phasing out sheltered workshops and subminimum wage. The data provided by the Department of Human Services, though limited to the scope of the *Lane v. Brown* settlement, show the decline in sheltered work, an increase in competitive integrated employment, a general increase in wages and average hours worked per week, and, in turn, the phasing out of the subminimum wage.

## **Maine**

In the wake of *Olmstead v. L.C.*, in 2003, Maine created a workgroup intent on upholding the integration mandate of the ADA in employment settings.<sup>93</sup> *Olmstead* was a case brought under the ADA in which the Supreme Court held that people with disabilities have a right to live in the community rather than in segregated institutions.<sup>94</sup> Consisting of policymakers, state agency representatives, and advocates, the workgroup developed recommendations that would re-design the state's approach to the employment of people with disabilities.<sup>95</sup> The workgroup urged policymakers to support a transition away from segregated employment toward a model that encouraged community jobs.<sup>96</sup>

By 2008, the Maine Department of Health and Human Services ended the funding of segregated work through the Home and Community-Based Waiver System.<sup>97</sup> At the same time, state agencies leveraged federal, state, and private grant funding to implement person-first, integrated employment programming.<sup>98</sup> Despite these changes, employers retained the ability to pay their workers a subminimum wage through the federal 14(c) certificate program.

In 2015, Maine State Senator Roger Katz proposed phasing out the subminimum wage, but the proposal stalled in committee.<sup>99</sup> A 2017 article in the Bangor Daily News reignited concern over the subminimum wage, reporting that at one subminimum wage employer, several employees with disabilities earned as little as \$2.14 an hour while executives earned upwards of \$500,000.<sup>100</sup> In 2020, Maine passed a law abolishing the payment of subminimum wages to workers with disabilities.<sup>101</sup>

When Maine legislators abolished the subminimum wage, there were no longer any employers authorized by the United States Department of Labor Wage and Hour Division to pay a subminimum wage in the state.<sup>102</sup> Therefore, the legislation had little impact on the lived experiences of workers with disabilities. In 2013, 13 Maine employers were authorized to pay a subminimum wage.<sup>103</sup> In 2015, that number decreased to 5 employers.<sup>104</sup> By 2017, only one employer was authorized to pay its workers a subminimum wage.<sup>105</sup>

As a result of changes instituted by Maine Department of Health and Human Services, the number of people served in facility-based employment settings decreased from 558 persons in 2001 to 0 persons in 2010.<sup>106</sup> The closure of facility-based employment settings, however, has not been matched by a commensurate increase in the number of individuals employed in integrated settings. In 2001, 1,386 individuals with disabilities worked in integrated settings;<sup>107</sup> in 2015, only 901 individuals with disabilities worked in integrated settings.<sup>108</sup> Any transition away from facility-based employment in Minnesota must be supported by adequate transition planning toward community employment.

Despite ending subminimum wage employment, Mainers with disabilities remain underemployed — only 35% of Mainers with a disability are employed, compared to 38% nationwide.<sup>109</sup> Moreover, even those Mainers with disabilities who are employed often work less than a full-time schedule. According to Maine’s Vocational Rehabilitation Agency, the average work week for individuals with intellectual and developmental disabilities was 13 hours, which pales in comparison to the average hours worked by individuals without a disability (averaging 29 hours per week).<sup>110</sup>

Maine’s Department of Health and Human Services has also reported that despite its efforts to desegregate settings that serve workers with disabilities, a paradigm of exclusion remains. In the Department’s most recent update to its Olmstead Roadmap Policy, it admits that more must be done to support integrated employment, transition-age youth, and the seamless collection of data across various departments.<sup>111</sup>

## **Maryland**

In 2014, the Arc of Maryland spearheaded an effort to study the effect of ending subminimum wages in the state.<sup>112</sup> While the initial effort stalled, eventually a statewide working group led by People on the Go, a group of advocates with I/DD, and other stakeholders proposed that Maryland should phase out 14(c) establishments.<sup>113</sup> In 2016, these efforts culminated with the introduction of the Ken Capone Equal Employment Act in the Maryland Legislature.<sup>114</sup>

The Ken Capone Equal Employment Act was signed into law on October 1, 2016. The law initiated a four-year phase out of subminimum wages and mandated that the Maryland Department of Disabilities and the Developmental Disabilities Administration create an individual plan for each person with a disability to find community employment.<sup>115</sup> Moreover, the legislation directed state agencies to build capacity to support transition programs and mandated the “tracking of outcomes of individuals with disabilities” as they transitioned away from earning subminimum wages to community jobs. The transition programs emphasize the importance of a person-centered approach, focusing on the strengths, abilities, and desires of people with disabilities.<sup>116</sup>

Immediately, subminimum wage employers began to transition away from paying workers with disabilities the subminimum wage. While employers were not statutorily required to stop paying subminimum wages until October 1, 2020, some employers chose to not renew their 14(c) certificates when they expired, in anticipation of the program's sunset.<sup>117</sup> In January 2017, 41 establishments held valid 14(c) certificates.<sup>118</sup> By the end of 2017, only 23 establishments chose to renew their 14(c) certificates. At the end of 2019, only four 14(c) establishments remained. Finally, on October 1, 2020, the Maryland Department of Disabilities announced that all establishments had ceased paying workers a subminimum wage under 14(c).

As 14(c) establishments closed, the Maryland Department of Disabilities carefully tracked individual and aggregate outcomes. Published data suggests that the legislation was an unequivocal success: not only has participation in community jobs increased markedly, but wages for all workers with disabilities have also improved. As individuals transitioned away from work in sheltered workshops, they sought employment in integrated community settings; from January 2016 to January 2021, the number of individuals working in community jobs increased from 2,356 individuals to 2,580 individuals.<sup>119</sup> The following graph, initially published by the Kennedy Krieger Institute, illustrates this dynamic: upon passage of the Ken Capone Equal Employment Act, the percentage of individuals working exclusively in sheltered jobs decreased dramatically.

Description of chart: Line chart titled "Maryland's transition – work activities over time." Y-axis labeled "Percentage of work activities." X-axis labeled "Year" from 2016 to 2019. The Individual Contracted Job line remains roughly steady from 2016 to 2019 around 3 to 4%. The Group Integrated Job line begins around 9% in 2016 and decreases steadily and slightly to approximately 8% in 2019. The Individual Competitive Job line begins at 20% in 2016 and 2017 then increases to approximately 22% in 2018 and 23% in 2019. The Sheltered Workshop line begins just above 20% in 2016 and decreases steadily to around 16% in 2017, 12% in 2018, and 7% in 2019.

Notably, this shift was not marked by an increase in the amount of time individuals spent in segregated, non-work settings. Defenders of the subminimum wage often argue that the closure of 14(c) establishments would simply shift individuals with disabilities from segregated work activities to segregated non-work activities.<sup>120</sup> So far, this has not been the case in Maryland. Instead, the only meaningful change in non-work activities has been in community-based non-work.<sup>121</sup>

Description of chart: Line chart titled “Maryland’s transition – non-work activities over time.” The Y-axis is labeled “Percentage of non-work activities.” The X-axis is labeled “Year” from 2016 to 2019. The Facility-Based Non-Work line begins at approximately 55% in 2016, increases to just under 60% in 2017, then decreases steadily to around 50% in 2019. The Community-Bases Non-Work line begins just above 40% in 2016, decreases to 40% in 2017, then increases to approximately 50% in 2018 and 2019. The Volunteer Job line begins just above 20% in 2016, decreases to 20% in 2017, then increases to just above 20% in 2018 and 2019.

Hourly wages for workers with disabilities have also improved since the implementation of the legislation. By October 2019, workers with disabilities in individual, community jobs earned a median wage of \$11.80 an hour; for those in individual, contracted jobs, the median wage was \$12.21 an hour; for those in group, integrated jobs, the median wage was \$10.80 an hour. Median average wages for October 2020 were not published as a result of the COVID-19 pandemic.<sup>122</sup>

Finally, the employment rate for all workers with disabilities increased during this period, indicating that the individualized employment programming offered by the Maryland Department of Disabilities impacted all workers with disabilities, not simply those transitioning away from 14(c) establishments.<sup>123</sup>

In 2020, as a result of the COVID-19 pandemic, and the consequent economic downturn, employment outcomes were not published by the Maryland Department of Disabilities.<sup>124</sup> However, there is reason to believe that workers

with disabilities in Maryland were severely affected by the flagging economy.<sup>125</sup> Future reports from the Maryland Department of Disabilities will need to be scrutinized to ensure the prolonged positive impact of this legislation.

Despite the wealth of data collected by the State, there is one glaring omission from the sample: the Maryland Department of Disabilities did not collect any data accounting for hours worked (or spent, in non-work cases) in different settings. Hypothetically, then, a worker with disabilities could have transitioned away from a 40-hour work week in a sheltered workshop to a community job that offers them only a few hours of work per week. This outcome would pass muster under Maryland's standard of analysis, despite the decrease in meaningful, programmed hours. While this may meet an individual's employment needs, any system needs to offer meaningful opportunities and programs to account for a reduction in programmed employment hours. As other states look to model Maryland's reforms, they should collect more granular data to ensure that a new program truly meets the goal of offering meaningful, integrated employment options to workers with disabilities.

### **Rhode Island<sup>126</sup>**

For decades, most individuals with I/DD in Rhode Island received employment and day services in segregated settings. In 2014, 80% of the people with I/DD receiving these services were placed in "segregated sheltered workshops or facility-based day programs."<sup>127</sup>

Given these statistics, the DOL began to investigate the abuses of subminimum wages in sheltered workshop settings. Initially, the investigations focused on the abuses of individual nonprofit employers paying subminimum wages, rather than structural problems.<sup>128</sup> In 2012, the DOL ordered service provider Training through Placement to pay \$300,000 in back wages to workers earning a subminimum wage.<sup>129</sup> Eventually, the DOL involved the Department of Justice (DOJ) to widen the scope of the investigations. On January 14, 2013, the DOJ formally initiated an investigation to determine if Rhode Island had violated Title II of the ADA and the holding of *Olmstead v. LC* (1999).

In 2013 and 2014, respectively, the State of Rhode Island entered into an Interim Settlement Agreement and Consent Decree with the DOJ.<sup>130</sup> Both agreements acknowledged that the State had violated the ADA by failing to serve individuals with I/DD in integrated settings and failing to place youth with I/DD in settings that were not at serious risk of segregation. The Consent Decree required Rhode Island to reform its employment, vocational, and day service programs in 10 years' time to comply with the integration mandate of the ADA. Specifically, the State must work with three target populations — "Youth in Transition,<sup>131</sup> Youth Exit,<sup>132</sup> and the Sheltered Workshop Population"<sup>133</sup> — to transition away from segregated settings toward community integrated settings.

Under the Consent Decree, Rhode Island has until 2024 to ensure that its systems are in full compliance with the integration mandate of the ADA. As of the publication of this report, the total impact of this court-ordered transition is undetermined. However, early results indicate that while Rhode Island has made significant strides toward reforming their systems, these measures have fallen short of the benchmarks specified in the Consent Decree.<sup>134</sup>

The Consent Decree mandated that Rhode Island track individuals longitudinally across time as they transition away from their current placements toward integrated services. Since 2014, 284 individuals in the Youth Exit population have acquired an integrated job; 260 individuals from the sheltered workshop population have acquired an integrated job; and 417 individuals from the day program population have acquired an integrated job. However, each count falls short of the benchmarks stipulated in the Consent Decree.<sup>135</sup>

Despite the increase in the number of individuals employed in integrated settings, questions remain as to the quality of these placements. In particular, the number of work hours available in integrated settings has been scrutinized by the Court Monitor. The Consent Decree mandated that all individuals who receive a supported employment placement must work an average of 20 hours a week. Yet, according to a 2021 Court Monitor Report, "only 55% of the Consent Decree adult populations were participating in integrated community activities for an average of 9.48 hours per week," and "only a small fraction of the Consent Decree

populations are participating in combined integrated employment and community activities for more than 20 hours per week.”<sup>136</sup>

Staffing shortages remain a persistent impediment to the implementation of the transition. Consultants from Approach Group, a private consultancy firm hired by the State of Rhode Island to analyze the totality of the state’s I/DD support system, found that 2,845 direct care staff were necessary to support the goals of the Consent Decree. The firm found that Rhode Island fell short of reaching that hiring target by 1,000 direct care staff people.<sup>137</sup> Even the State’s administration of the Consent Decree transition has been marred by staffing issues: the Consent Decree Coordinator role, an executive position designed to lead across multiple state agencies, has experienced high turnover, as six individuals have held the position since 2014. Recently, the court monitoring the transition ordered that immediate action be taken to hire more workers - in the form of wage hikes, incentive-based programs, and targeted training.<sup>138</sup>

Finally, the most profound barrier to an effective transition is Rhode Island’s failure to adequately fund the Consent Decree programs. The DOJ alleges that Rhode Island has systematically failed to even ask the Legislature for sufficient funding for the court mandated programs.<sup>139</sup> The State, despite the urging of the Court Monitor, has failed to raise wages for direct care staff, increase reimbursement rates for service providers, or adequately fund transportation and technology needs of individuals.<sup>140</sup>

In 2021, the District Court monitoring the implementation of the Consent Decree requested preliminary hearings to determine whether Rhode Island was in contempt of the mandates of the Consent Decree. The DOJ threatened fines amounting to \$1.5 million per month for each month that the State remains out of compliance. In October 2021, U.S. District Court Chief Judge John McConnell Jr. mediated the contempt hearing between Rhode Island and the DOJ.<sup>141</sup> The parties mutually agreed to seek corrective action and created an action plan to address the Consent Decree transition plan’s deficiencies. The action plan provides corrective strategies for three main problem areas: 1) funding critically under-capitalized programs; 2) addressing staffing shortages; and 3) addressing transportation issues. Chief Judge McConnell commented that “it is not easy to

move government," and that the corrective action plan marks a "monumental achievement."<sup>142</sup>

## **Vermont**

Vermont has long been a leader in providing meaningful, integrated employment opportunities for people with disabilities. In the 1980s, state agencies collaborated with researchers at the University of Vermont to build pilot programs that ushered people with disabilities away from sheltered work toward community jobs.<sup>143</sup> Accessing federal funding from the Rehabilitation Services Administration, the program was a remarkable success, expanding community employment infrastructure to every Vermont county.<sup>144</sup> Then, in 2000, the Vermont state intellectual and developmental disability service-provision agency — Vermont Developmental Disability Services — mandated that it would no longer fund new entrants into sheltered workshop populations.<sup>145</sup> In 2002, Developmental Disability Services altered the State System of Care Plan, indicating that it would phase out Medicaid funding for sheltered work in three years.<sup>146</sup>

The phase-out not only closed traditional sheltered workshops with 14(c) certificates, but enclave models of employment as well. Notably, these policy changes took place outside of the state's legislative process. This was by design; according to Jennie Masterson, a Developmental Disability Services agency coordinator, "[Developmental Disability Services] didn't want to make it a big political process."<sup>147</sup> By 2003, the last sheltered workshop in Vermont had closed.<sup>148</sup>

Due to Vermont's robust supported employment infrastructure and a thoughtful, phased approach, the transition away from sheltered work was overwhelmingly positive. According to a National Council of Disability Report published in 2012, 40% of people with disabilities in Vermont worked in integrated employment settings; the remainder spent their days in community-based, integrated non-work settings.<sup>149</sup> In 2019, the percentage of people with disabilities working in integrated settings rose to 49%, far outstripping the national average of 21.5%.<sup>150</sup> By way of comparison, in 2019, this percentage was 26% in Minnesota.<sup>151</sup>

Moreover, wages for workers with disabilities have also steadily increased since the end of sheltered work in Vermont. Average yearly wages for individuals with intellectual and developmental disabilities in Vermont were \$22,300 per year, increasing by over \$10,000, on average, in the last decade alone.<sup>152</sup>

Anecdotal evidence also suggests that, over the long run, the transition has been looked upon favorably by workers and providers alike. In a case study of the final sheltered workshop that closed in Vermont, University of Vermont researcher Brian Dague reported that 80% of people had found competitive employment in the community; while the remainder found community-based, integrated non-work placements.<sup>153</sup> Despite participants noting an initial “fear of the unknown, an inability to visualize a future without sheltered employment, and the strong history of [sheltered work],” the overall process was characterized as a “new and fulfilling experience for participants.”<sup>154</sup>

While rates of supported community employment have increased, the number of hours worked per week by workers with disabilities in Vermont has remained relatively stagnant. In 2013, the average workweek was only 16 hours.<sup>155</sup>

Moreover, Vermont was unsuccessful, throughout the transition process, in tracking individuals’ process away from sheltered work and toward competitive integrated employment. While aggregate data are available, Vermont Developmental Disability Services has not published, to date, any information demonstrating the success of its individualized transition planning. In designing a thoughtful transition program, Minnesota should carefully track, on an individual basis, the transition of workers away from sheltered work toward community jobs.

## **Which Model Should Minnesota Adopt?**

While the MDLC recognizes that every state has a unique political history and landscape, there are similarities in states' disability employment services systems. Minnesota lawmakers should learn from the examples set by the five states included in this report and others that have phased out subminimum wages and selectively implement the aspects of these programs that were successful.

First, Minnesota should look to states that implemented a thoughtful, phase-out approach to ending subminimum wage through legislative processes. The Minnesota Legislature has already signaled its willingness — by the creation of a task force — to study the issue. The MDLC recommends that the Legislature pass legislation to phase out subminimum wages by a date certain in the next five years. Maryland provides an example of a phase-out approach. Not only was the systems change carefully implemented over four years, but it also provided robust, individualized programming for each person with disabilities transitioning away from sheltered work to a community job. Notably, the transition in Maryland was led by people with disabilities; the outcomes, thus far, have been overwhelmingly positive.

If a legislative solution is untenable, Minnesota policymakers should consider the example of Vermont, where the policy change was implemented through agency action. Vermont state agencies unilaterally altered their Medicaid HCBS funding model to halt, over a four-year phase-out period, reimbursement for any facility that provided subminimum wage work in a sheltered setting. Minnesota state agencies could take similar action.

Any phase-out must be paired with sufficient funding to ensure, that as people with disabilities transition away from sheltered work, there are robust supports available to transition to an appropriate community job or integrated community day programming. For example, despite a court-mandated ten-year phase-out, Rhode Island has not met its stated goals due to a lack of funding.<sup>156</sup> Even Maryland, with a more clearly defined phase-out, has not fully capitalized on their well-designed plan due to the state's fiscal challenges.

The United States Commission on Civil Rights noted that Oregon’s transition has been successful because the state earmarked funding for the “right supports including ‘longer, more intensive transition services.’”<sup>157</sup> In Vermont, stakeholders worked to ramp up support for individualized employment support programs before ending subminimum wage in sheltered settings. In the 1980s, using federal funding, Vermont created an employment support infrastructure that surpasses what exists in Minnesota today.<sup>158</sup>

Minnesota legislators should ensure that Minnesota’s transition is fortified by sufficient funding. Minnesota was recently awarded a \$13 million federal grant to transition away from subminimum wages and sheltered employment.<sup>159</sup> However, Minnesota legislators must do more to address the fact that funding for sheltered employment remains ten times higher than funding for community jobs.<sup>160</sup>

Finally, data collection played a role in each states’ transition to community employment. States took different approaches, but most states tracked outcomes for specific groups of people transitioning away from subminimum wages. Only Rhode Island and Maryland tracked both individualized and aggregate longitudinal outcomes, which allowed the states to track if and when people moved from subminimum wage work to community jobs. Granular data allows policymakers to track outcomes across time, ensuring no one person, or group of people, is lost in the transition. The state should also track outcomes across demographics, including, but not limited to, race, gender, age, type of disability, and location. These data will reveal inequities that may arise in the implementation of a transition from subminimum wage employment to community jobs.

## Policy Recommendations

After reviewing the status of subminimum wage employment in Minnesota, the outcomes for workers with disabilities in states that have phased out subminimum wage, and studies by other organizations, the MDLC supports policy changes to phase out the payment of subminimum wages in Minnesota. The 92nd Minnesota Legislature (2021-2022) began this process by passing legislation to create a task force to plan by 2023 for the transition away from subminimum wages by 2025.<sup>161</sup> The MDLC applauds the Legislature for taking this important step and supports a thoughtful, planned approach to eliminating subminimum wages to lead to the best outcomes for workers with disabilities.<sup>162</sup>

People with disabilities must be leaders in the planning to phase out subminimum wages. The MDLC is pleased that at least three representatives on the task force must be people with disabilities.<sup>163</sup> People with disabilities, including those who have earned subminimum wages and those who have worked in community jobs, have lived experience that is an asset to the planning process. The task force must think creatively about how Minnesota can adapt its service delivery models and funding to support people looking for and maintaining community jobs.

After researching five states that phased out the subminimum wage for people with disabilities, the MDLC recommends the following ten policy changes:

- 1. Expand the information, options, and education provided by the Department of Human Services (DHS), the Department of Employment and Economic Development (DEED), and the Department of Education (MDE) to empower people with disabilities to learn, through individualized planning, about support to find a community job.**

State agencies need to improve coordination to better support people with disabilities seeking community jobs. Key state agencies, including the Minnesota Department of Employment and Economic Development (DEED), Department of Human Services (DHS), and the Department of Education (MDE) are already coordinating through a partnership called “E1MN.”<sup>164</sup> E1MN is part of the state’s Employment First plan. However, more coordination and support are required to

transition people from subminimum wage employment to community jobs that match individuals' interests and skills. Like the division of responsibility created by E1MN policies and the Workforce Innovation and Opportunity Act,<sup>165</sup> DHS, DEED and MDE need to be transparent with workers with disabilities and their support networks about each agency's responsibility in helping people transition to community jobs. DHS, DEED and MDE also need to continue to improve coordination to prevent siloed systems from impeding the success of workers with disabilities in community jobs. The agencies and lead agencies, including counties and tribal nations, need to go beyond strategies used in the past to inform workers with disabilities about the supports available to them, and the information needs to be provided in plain language, in multiple languages, and in multiple formats to ensure accessibility.

**2. Provide sufficient financial resources, policy guidance, and technical assistance to employment service providers transitioning toward helping people find community jobs.**

Subminimum wage employers need financial resources, policy guidance, and technical assistance to transition from paying subminimum wages to providing employment services focused on helping people with disabilities find community jobs. A 2022 report from the University of Minnesota's Institute for Community Integration and the University of Massachusetts Boston's Institute for Community Integration on the Minnesota Technical Assistance Project (MN-TAP)<sup>166</sup> includes several recommendations, such as ongoing technical assistance for employment service providers, affordable training for employment services staff, and providing microgrants for people seeking community jobs.

The same legislation that created the task force to plan for phasing out subminimum wages also provided \$14 million for a provider reinvention grant program for HCBS waiver service providers seeking to stop paying subminimum wages and instead help people find community jobs.<sup>167</sup> In November 2021, DHS issued a Request for Proposals to find an entity to provide technical assistance to providers under the grant.<sup>168</sup> The provider reinvention grant and technical assistance will assist HCBS waiver service providers moving away from paying subminimum wages. More technical assistance and funding may be necessary to help all subminimum wage employers shift their services toward helping people find community jobs.

**3. Modify Medicaid Home and Community-Based Services Waiver Employment Services to ensure that people receiving Waiver Employment Services are not earning subminimum wages as a part of their Employment Support Service.**

If the Minnesota Legislature does not pass legislation to phase out subminimum wages, the MDLC urges the Minnesota DHS to limit the payment of subminimum wages to people with disabilities by stopping the use of Medicaid HCBS funding to fund services at facilities that pay subminimum wages. Similar to Maine, Minnesota's DHS should amend the scope of waived employment services to prohibit subminimum wage employers from paying workers with disabilities a subminimum wage while the subminimum wage employers are receiving federal funding to provide waiver funded employment services.<sup>169</sup> Maine reduced the number of people earning subminimum wages by preventing state agencies from using federal Medicaid HCBS dollars to pay for supported employment services at facilities that pay subminimum wages.<sup>170</sup> If the Minnesota Legislature does not act, Minnesota DHS should do the same.

**4. Modify Medicaid Home and Community-Based Services Waiver Employment Services to ensure the service system fully supports and funds the individualized process of supporting a person to find a community job based on their interests and strengths.**

Services and planning for people with disabilities must be individualized. Service providers must consider individuals' strengths, interests, and needs, and move beyond the traditional and limited fields of employment in which many people with disabilities have traditionally worked, like assembly, cleaning, food service, and landscaping. A person's support team, including case managers, waiver employment service providers, and vocational rehabilitation counselors, need to invest time to address questions about working in the community, resolve potential barriers such as transportation, and provide benefits counseling.

More training and funding may be needed for assessors and case managers to support an individualized planning process following person-centered practices. Additionally, as recommended above, more training and funding may also be needed for service providers to provide support, assistance, and coordination to people with disabilities looking for or trying to keep community jobs. DHS needs

to allow for more flexibility in using waiver funding for transportation to and from work. As state agencies change their service systems and waiver reimbursement rates to support employment service providers helping people find community jobs, it is important to design a system that encourages providers to find a job that is a good match for a person's interests and skills, rather than incentivizing service providers to help find the first job that comes along.

**5. Pass legislation to phase out the payment of subminimum wages in Minnesota by a specific date with funding to implement the phase out.**

Legislation introduced in 2021 sought to phase out the payment of subminimum wages over five years and create a task force to plan for the transition away from subminimum wages.<sup>171</sup> Now that the task force has convened,<sup>172</sup> we urge the Legislature to pass legislation phasing out subminimum wages by a specific date within five years. While a thoughtful process is required, planning to phase out subminimum wage is not sufficient. The state must act to phase out subminimum wages for workers with disabilities with time and funding, with the goal of a seamless transition.

**6. Design and implement data collection programs to ensure the adequate tracking of each person's progress out of subminimum wage work and into a community job.**

To measure outcomes, Minnesota state agencies, including DHS and DEED, should design and implement data collection systems to track each person's progress away from subminimum wage work and toward a community job. DHS and DEED already collect some data about the employment status and work income of people receiving services from their agencies.<sup>173</sup> DHS and DEED need to collect additional data, starting before subminimum wages are phased out, to ensure that the agencies, people with disabilities, and other stakeholders can track Minnesota's transition away from paying subminimum wages.

The data collected should include: how much each individual earned and how many hours they worked in subminimum wage employment; how much they earned and how many hours they worked after moving to a community job; if the individual wants to work additional hours; and whether they found a job in their chosen field. The data collected should also include demographic information,

including racial and ethnic information, to allow analysis of whether there are racial and ethnic disparities in employment outcomes. Like in Oregon and Maryland, data should be collected at least every six months to allow for periodic analysis of outcomes.

While states that have phased out the subminimum wage have collected data to track the outcomes of groups of workers with disabilities previously earning subminimum wages, the data collected did not provide enough information to fully understand the employment status of all workers who previously earned subminimum wages and whether they needed additional support to reach their community job goals. California's law phasing out subminimum wage and requiring individual-level and aggregate data tracking may serve as a helpful model.<sup>174</sup> Minnesota should follow suit to ensure that outcomes are equitable across demographic groups.

#### **7. Fund transportation and help people find transportation to get to and from work, particularly in rural areas and in areas without public transportation.**

Transportation is a significant barrier to employment for people with disabilities.<sup>175</sup> Funding and creative solutions for transportation are essential to transitioning people with disabilities into community jobs. Minnesota has taken steps forward with pilot projects, like Dakota County's Lyft Ridesharing program that provides waiver recipients with Lyft vouchers to get rides to and from work and community activities. Dakota County's project was funded by DHS' Innovation Grant.<sup>176</sup> Washington County also had success allowing workers with disabilities to gain independence and take jobs not accessible by public transportation by providing workers with Lyft vouchers.<sup>177</sup> DHS should move forward with including ridesharing as a part of waiver services throughout the state, while also taking steps to ensure that accessible vehicles are available through ridesharing programs. DHS and lead agencies should also investigate other solutions to transportation barriers. Additional creative projects, such as volunteer driver programs<sup>178</sup> and collaboration with community and faith groups, may be needed to support people working community jobs. As creative solutions are determined to be successful, they should be replicated to reach as many areas of the state as possible.<sup>179</sup>

**8. Support and demand seamless collaboration amongst DEED’s vocational rehabilitation programs and special education providers to ensure youth who have disabilities aged fourteen to twenty-four leave school with a concrete plan, resources, and contacts for future education, training, or employment.**

Youth with disabilities aged fourteen to twenty-four need more help and seamless collaboration among agencies and service providers to ensure that they leave school with a concrete plan and resources for future education, training, and employment. Additionally, school districts, MDE and DEED need to cooperate more to ensure that students with disabilities are meaningfully connected to DEED’s vocational rehabilitation programs early in high school to avoid an interruption in employment search assistance, training, or post-secondary education. DEED must implement a plan to communicate with families about vocational rehabilitation services and track outreach efforts and the number of students reached. At present, too many young people with disabilities are unemployed.<sup>180</sup> The MDLC has represented young people who have lost time and momentum after graduation waiting to connect with services and waiting to make a plan to find a job or receive additional education.

Several legislative changes could improve coordination between special education providers and DEED’s vocational rehabilitation programs. The legislature should pass legislation to require the following:

- School districts must provide information about DEED vocational rehabilitation services at a student’s annual IEP meeting after a student eligible for special education services turns 14 years old.
- For students receiving vocational rehabilitation services from DEED, their vocational rehabilitation counselor must attend an IEP meeting between 12 to 24 months before the student’s expected completion of twelfth grade.
- School districts must document the attendance of the DEED vocational rehabilitation counselor in the student’s prior written notice or the IEP.
- School transition services and DEED Pre-Employment Transition Services (Pre-ETS) should include training on safety in the community to help prepare transition-age youth to work in the community.

## **9. Ensure access to benefits counseling to encourage community jobs.**

Benefits counseling is essential to supporting people who want to work in community jobs. Many people are understandably confused about how earned income may affect their government benefits and need the help of a trained professional to understand how earning income could affect their health insurance, food assistance, housing assistance, Social Security disability benefits, and other government benefits. Trained benefits counselors are especially important because there is a lot of misinformation about how working can affect government benefits.

The Work Incentives Connection at Goodwill Easter Seals provides a helpful resource by conducting benefits analysis for people who receive Social Security disability benefits. Recent efforts by DEED and DHS to increase the number of trained benefits counselors is a positive step toward more help for people with disabilities who are working and receiving government benefits. More timely, comprehensive, and clear benefits counseling is needed to empower everyone who wants to work in community jobs to understand how their benefits may be impacted by working. People also need the opportunity to return for additional information about how their benefits may be affected if they change their hours or get a raise.

## **10. Provide high-quality, integrated day programming for people who choose not to work.**

Phasing out subminimum wages could mean that some people with disabilities choose not to work or choose to work a limited number of hours. Minnesota should ensure that high-quality, integrated day programming is available for people who choose not to work, or for people who choose not to work full-time during the traditional work week. Day programming provides an opportunity for people to have organized, integrated social opportunities that some people may not otherwise have and would allow people to remain connected to friends/co-workers from their previous time working in a setting providing subminimum wages.

Many supporters of subminimum wage work highlight the social relationships developed at CRPs. People could maintain social relationships with former CRP

co-workers, including by participating in high-quality, integrated day programs. In Vermont, people who transitioned from earning subminimum wages to working in community jobs continued to meet for lunch with friends/co-workers they met while working for subminimum wages.<sup>181</sup> Not only did the lunches allow people to maintain social connections, they also provided an opportunity for people to learn from each other about their search for community jobs and their integrated work experiences.<sup>182</sup> People with disabilities would also be able to form new relationships with people in the community, including people who have and who do not have disabilities, through high-quality, integrated day programming.

## Conclusion

Minnesota's Olmstead Plan,<sup>183</sup> the Employment First policy,<sup>184</sup> federal law,<sup>185</sup> and court rulings<sup>186</sup> envision and protect the rights of people with disabilities to work in community jobs.<sup>187</sup> While some people with disabilities have found community jobs, too many remain in sheltered, subminimum wage employment. Moreover, while many states have successfully shifted away from the dominant model of subminimum wage work at a CRP, Minnesota has not.

The MDLC applauds the Minnesota Legislature for passing legislation in 2021 to create the Task Force on Eliminating Subminimum Wages to plan for phasing out subminimum wages in Minnesota.<sup>188</sup> In addition to thoughtful planning, the Legislature should act to phase out subminimum wages.

## Works Cited

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- <sup>1</sup> See HOGAN LOVELLS, *Subminimum Wage Data Collected from Freedom of Information Act Request of U.S. Department of Labor Wage and Hour Division* (2019) (unpublished data on file with the Minnesota Disability Law Center).
- <sup>2</sup> U.S. DEP'T OF LAB. WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited October 6, 2022).
- <sup>3</sup> *Id.*
- <sup>4</sup> See Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2018* 95, UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION (2021), [https://www.statedata.info/sites/statedata.info/files/files/state\\_data\\_2021\\_F%5B3%5D.pdf](https://www.statedata.info/sites/statedata.info/files/files/state_data_2021_F%5B3%5D.pdf).
- <sup>5</sup> Health & Hum, Servs. Omnibus Bill, 2021, Special Session 1, Minn. Sess. Law, Ch. 7, H.F. No. 33, art. 17, § 1.
- <sup>6</sup> 'Competitive integrated employment' is the term defined in federal law as work for which workers receive the same "customary rate" pay (minimum wage or higher) and benefits as other workers doing "similar work" and having "similar training, experience and skills." 34 C.F.R. § 361.5(c)(9) (2016). This report sometimes chooses to use the term 'community job' rather than 'competitive, integrated employment' because 'community job' is easier to understand in certain contexts.
- <sup>7</sup> Fair Labor Standards Act of 1938, 29 U.S.C. § 214(c); Fair Labor Standards Act of 1938, ch. 676, § 14, 52 Stat. 1068. See also U.S. DEP'T OF LAB. WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited May 21, 2020).
- <sup>8</sup> 29 C.F.R. §§ 525.9(a)(3), 525.12(h)(1). See also 29 U.S.C. § 214(c)(1)(C); 29 C.F.R. § 525.12(c).
- <sup>9</sup> U.S. DEP'T OF LAB. WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited October 6, 2022).
- <sup>10</sup> Allan Baumgarten, *Evaluation of Sheltered Employment Programs* PROGRAM EVALUATION DIV., OFF. OF THE LEGIS. AUDITOR, STATE OF MINN. (Mar. 28, 1984), <https://www.lrl.mn.gov/docs/pre2003/other/840684.pdf>.
- <sup>11</sup> *Id.*

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- <sup>12</sup> See generally *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, U.S. COMM’N ON CIV. RTS., *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities* 23 (Sept. 17, 2020), <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>.
- <sup>13</sup> See StateData.info, *Population Data from the American Community Survey* (2022), <https://www.statedata.info/data/showchart/997145>.
- <sup>14</sup> MINN. DEP’T OF LAB. & INDUS., *Minimum Wage in Minnesota*, (Aug. 5, 2022, 2:45 PM), <https://www.dli.mn.gov/minwage>.
- <sup>15</sup> See HOGAN LOVELLS, *Subminimum Wage Data Collected from Freedom of Information Act Request of U.S. Department of Labor Wage and Hour Division* (2019) (unpublished data on file with the Minnesota Disability Law Center) (many of the 14(c) certificate applications reviewed covered periods in 2017 and 2018).
- <sup>16</sup> U.S. DEP’T OF LAB. WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited October 6, 2022).
- <sup>17</sup> See generally *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, U.S. COMM’N ON CIV. RTS., *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities* 23 (Sept. 17, 2020), <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf> (“Over the last 10 years, an average of eight percent of all 14(c) workshops in the country were investigated each year, and the great majority of those investigated were in violation of even the subminimum wage rules and were ordered to pay back pay.”). Federal Courts have ruled that subminimum wage employment at sheltered workshops is in violation of the “Integration Mandate” of the Americans with Disabilities Act (ADA).
- <sup>18</sup> See ASS’N OF PEOPLE SUPPORTING EMP. FIRST, *APSE 14c Update*, [https://apse.org/wp-content/uploads/2021/10/10\\_20\\_21-APSE-14c-Update-REV.pdf](https://apse.org/wp-content/uploads/2021/10/10_20_21-APSE-14c-Update-REV.pdf) (last visited Oct. 1, 2021).
- <sup>19</sup> *Id.*
- <sup>20</sup> Health & Hum. Servs. Omnibus Bill, 2021, Special Session 1, Minn. Sess. Law, Ch. 7, H.F. No. 33, art. 17, § 1. The MDLC is pleased that at least three representatives on the Task Force on Eliminating Subminimum Wages must be people with disabilities.
- <sup>21</sup> U.S. DEP’T OF EDUC., *Education Department Awards \$177 Million in New Grants to Increase Competitive Integrated Employment for People with Disabilities*

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(2022), <https://www.ed.gov/news/press-releases/education-department-awards-177-million-new-grants-increase-competitive-employment-people-disabilities>.

- <sup>22</sup> Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2018* 95, 23 UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION (2018).
- <sup>23</sup> Fair Labor Standards Act of 1938, Pub. L. No. 718, ch. 676, 52 Stat. 1060 (1938) (current version at 29 U.S.C. § 8 (2006)). The origins of the practice can be traced back to the National Industrial Recovery Act (NIRA) of 1933. Under the NIRA, “productivity-based subminimum wage, arranged through a system of certificates, was established for persons with disabilities. In competitive industry, such workers were payable at 75% of the industry minimum.” However, this Act, and all provisions related to the subminimum wage, was declared unconstitutional by the United States Supreme Court in 1935. *See generally* William G. Whittaker, *Treatment of Workers with Disabilities Under Section 14(c) of the Fair Labor Standards Act*, CONG. RSCH. SERV., THE LIBR. OF CONG. 1, 6-7 (Feb. 9, 2005), [https://www.everycrsreport.com/files/20050209\\_RL30674\\_62fc5eaa673a0af2f2f15dc23de8d2b11cc24210.pdf](https://www.everycrsreport.com/files/20050209_RL30674_62fc5eaa673a0af2f2f15dc23de8d2b11cc24210.pdf).
- <sup>24</sup> 29 U.S.C. § 214(c) (1938).
- <sup>25</sup> *Id.*
- <sup>26</sup> Eighty percent of all cases investigated by the U.S. Department of Labor showed that 14(c) providers harm employees with disabilities. U.S. COMM’N ON CIV. RTS., *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, i, vii (Sept. 17, 2020), <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>.
- <sup>27</sup> As of January 1, 2020, there were 1,558 14(c) certificates either issued or pending renewal by the U.S. Department of Labor’s Wage and Hour Division. Of those 1,558 certificates, 1,452 (93%) were held by Community Rehabilitation Programs. *See* ADVISORY COMM. ON INCREASING COMPETITIVE INTEGRATED EMP. FOR INDIVIDUALS WITH DISABILITIES, *Final Report to: The Hon. Thomas E. Perez, U.S. Sec’y of Lab.; The U.S. Senate Comm. On Health, Educ. & Lab.; The U.S. House of Representatives Comm. on Educ. & the Workforce* (Sept. 15, 2016), [https://www.dol.gov/odep/topics/pdf/ACICIEID\\_Final\\_Report\\_9-8-16.pdf](https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf) (finding that the majority of people with disabilities earn a subminimum wage

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for work in congregate work centers operated by Community Rehabilitation Programs).

- <sup>28</sup> HOGAN LOVELLS, *Subminimum Wage Data Collected from Freedom of Information Act Request of U.S. Department of Labor Wage and Hour Division* (2019) (unpublished data on file with the Minnesota Disability Law Center).
- <sup>29</sup> U.S. COMM’N ON CIV. RTS., *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, i, vii (Sept. 17, 2020), <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>.
- <sup>30</sup> See ASS’N OF PEOPLE SUPPORTING EMP. FIRST, *APSE 14c Update Rev: Trends and Current Status of 14(c)*, (last visited Oct. 1, 2021), [https://apse.org/wp-content/uploads/2021/10/10\\_20\\_21-APSE-14c-Update-REV.pdf](https://apse.org/wp-content/uploads/2021/10/10_20_21-APSE-14c-Update-REV.pdf).
- <sup>31</sup> Task Force on Eliminating Subminimum Wages, 2021, Special Session 1, Minn. Sess. Law, Ch. 7, H.F. No. 33, art. 17, § 14, <https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/7/#laws.17.14.0>.
- <sup>32</sup> Allan Baumgarten, *Evaluation of Sheltered Employment Programs*, PROGRAM EVALUATION DIV., OFF. OF THE LEGIS. AUDITOR, STATE OF MINN. (Mar. 28, 1984), <https://www.lrl.mn.gov/docs/pre2003/other/840684.pdf>.
- <sup>33</sup> *Id.* The Minnesota Division of Services for the Blind and Visually Handicapped was established in 1917.
- <sup>34</sup> Although the state did not financially support rehabilitation service facilities during this time, nonprofit and religious entities had already established multiple “sheltered workshops” by 1919. In 1910, the Jewish Vocational Workshop was established. In 1914, the Minneapolis Society for the Blind opened a sheltered workshop. In 1919, Goodwill Industries Twin Cities commenced operation of its workshop.
- <sup>35</sup> Fair Labor Standards Act of 1938, 29 U.S.C. § 206 (2016).
- <sup>36</sup> Fair Labor Standards Act of 1938, 29 U.S.C. § 214(c)(1) (1938).
- <sup>37</sup> Matthew Crawford & Joshua Goodman, *Below the Minimum Wage: A Critical Review of the 14(c) Wage Program for Employees with Disabilities*, 30 HOFSTRA LAB. & EMP. LAW J. 591, 595 (2013), <https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=1556&context=hlelj> (citing William G. Whittaker, *Treatment of Workers with Disabilities Under Section 14(c) of the Fair Labor Standards Act*, RL 30674, CONG. RSCH. SERV 2, 7 (Aug. 27, 2007)).

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- <sup>38</sup> Allan Baumgarten, *Evaluation of Sheltered Employment Programs* PROGRAM EVALUATION DIV., OFF. OF THE LEGIS. AUDITOR, STATE OF MINN. (Mar. 28, 1984), <https://www.lrl.mn.gov/docs/pre2003/other/840684.pdf>.
- <sup>39</sup> OFF. OF THE LEGIS. AUDITOR, STATE OF MINN., *Evaluation of Sheltered Employment Programs* (Mar. 28, 1984), <https://www.lrl.mn.gov/docs/pre2003/other/840684.pdf>.
- <sup>40</sup> *Id.*
- <sup>41</sup> *Id.*
- <sup>42</sup> *Id.*
- <sup>43</sup> MINN. DEVELOPMENTAL DISABILITIES PROGRAM, DEP'T OF ENERGY, PLANNING & DEV., *Policy Analysis Series: Issues Related to Welsch v. Levine/No. 16* (Apr. 19, 1983), <https://mn.gov/mnddc/learning/document/GT020.PDF>.
- <sup>44</sup> See Ellen R. Anderson, Comment, *Invisible Laborers: Sheltered Workers under the National Labor Relations Act*, 3(2) MINN. J. LAW & INEQ. 265 (Dec. 1985), <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1306&context=lawineq&httpsredir=1>.
- <sup>45</sup> OFF. OF THE LEGIS. AUDITOR, STATE OF MINN., *Evaluation of Sheltered Employment Programs* (Mar. 28, 1984), <https://www.lrl.mn.gov/docs/pre2003/other/840684.pdf>.
- <sup>46</sup> *Id.*
- <sup>47</sup> See Peter H. Benzian, *Statement of Minnesota Public Interest Research Group before Bill of Rights Committee of Minnesota Constitutional Study Commission*, MINN. PUB. INT. RSCH. GRP. (June 21, 1972), <https://mn.gov/mnddc/past/pdf/70s/72/72-SPI-PHB.pdf>.
- <sup>48</sup> MINN. DEVELOPMENTAL DISABILITIES PROGRAM, DEP'T OF ENERGY, PLANNING & DEV., *Policy Analysis Series: Issues Related to Welsch v. Levine/No. 16* (Apr. 19, 1983), <https://mn.gov/mnddc/learning/document/GT020.PDF>.
- <sup>49</sup> MINN. DEP'T OF ADMIN., MGMT. ANALYSIS DIV., *Public Expenditures for Services to Persons with Developmental Disabilities in Minnesota* (Apr. 1991), <https://mn.gov/mnddc/past/pdf/90s/91/91-DAM-PES.pdf>.
- <sup>50</sup> See John Sherman, *A Study of the Custom Products Alternative Industrial Model for Employment of Individuals with Severe Disabilities for the Extended Employment Program*, COMM. PARTNERS UNIT, REHAB. SERVICES BRANCH, [MINN.] DEP'T OF EMP. & ECON. DEV. (Sept. 29, 2006), <https://www.lrl.mn.gov/docs/2006/mandated/060511.pdf>.
- <sup>51</sup> MINN. DEP'T OF HUM. SERVS., *Minnesota Employment First Policy* (Sept. 29, 2014), <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports->

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workgroups/long-term-services-and-supports/employment-first/employment-first-policy.jsp#:~:text=Policy%20Statement%20Employment%20First%20means%20Oraising%20the%20expectation,before%20being%20offered%20other%20supp orts%20and%20services.%20Introduction.

- <sup>52</sup> MINN. DEP'T OF EMP. AND ECON. DEV., *Grants to Day Training and Habilitation Providers: Report to the Legislature* 1, 3 (Feb. 1, 2020), <https://www.lrl.mn.gov/docs/2019/mandated/191293.pdf>.
- <sup>53</sup> *Id.* at 5.
- <sup>54</sup> MINN. TASK FORCE ON ELIMINATING SUBMINIMUM WAGES, *Initial Background Brief: Subminimum Wage Use, Concerns, Trends Among States, and Resources*, 1, 2 (Mar. 1, 2022), [https://mn.gov/dhs/assets/TFESW%20Initial%20Background%20Brief-accessible\\_tcm1053-521663.pdf](https://mn.gov/dhs/assets/TFESW%20Initial%20Background%20Brief-accessible_tcm1053-521663.pdf).
- <sup>55</sup> *Id.* at 2.
- <sup>56</sup> Task Force on Eliminating Subminimum Wages, 2021, Special Session 1, Minn. Sess. Law, Ch. 7, H.F. No. 33, art. 17, § 14, <https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/7/#laws.17.14.0>.
- <sup>57</sup> United States Department of Education, *Education Department Awards \$177 Million in New Grants to Increase Competitive Integrated Employment for People with Disabilities* (2022), <https://www.ed.gov/news/press-releases/education-department-awards-177-million-new-grants-increase-competitive-employment-people-disabilities>
- <sup>58</sup> U.S. DEP'T OF LAB., WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited September 20, 2022). The DOL allows employers to continue to pay employees a subminimum wage while their re-certification is pending.
- <sup>59</sup> U.S. DEP'T OF LAB., WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited September 20, 2022).
- <sup>60</sup> MINN. TASK FORCE ON ELIMINATING SUBMINIMUM WAGES, *Initial Background Brief: Subminimum Wage Use, Concerns, Trends Among States, and Resources*, 1, 2 (Mar. 1, 2022), [https://mn.gov/dhs/assets/TFESW%20Initial%20Background%20Brief-accessible\\_tcm1053-521663.pdf](https://mn.gov/dhs/assets/TFESW%20Initial%20Background%20Brief-accessible_tcm1053-521663.pdf).

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<sup>61</sup> See U.S. COMM’N ON CIV. RTS. *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities* 59 (Sept. 17, 2020), <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>. According to the U.S. Commission on Civil Rights, the DOL estimates of the number of Minnesotans being paid subminimum wages is “modest.” The Commission report notes that the “snapshot” counting model employed by the DOL undercounts by as much as a factor of three. A 2018 review by the Government Accountability Office revealed that the DOL Wage & Hour Division failed to account for workers earning subminimum wages working at branch and off-site locations, and only counted those working at 14(c) certificate holders’ main establishments. The MDLC acknowledges the possibility that this count inadvertently inflates the number of people working in a subminimum wage job at any one time because each subminimum wage employer only updates the number of workers reported every two years, when the 14(c) certificate is renewed. Therefore, it is possible that some individuals may have moved out of subminimum wage work (and into a community job or another setting) in the time since the last count, potentially inflating the number.

<sup>62</sup> *Id.*

<sup>63</sup> See U.S. DEP’T OF LAB., WAGE & HOUR DIV., *14(c) Certificate Holders*, <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders> (last visited September 20, 2022).

<sup>64</sup> *Id.*

<sup>65</sup> See Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2018 95*, UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION (2021), [https://www.statedata.info/sites/statedata.info/files/files/state\\_data\\_2021\\_F%5B3%5D.pdf](https://www.statedata.info/sites/statedata.info/files/files/state_data_2021_F%5B3%5D.pdf).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 95.

<sup>70</sup> Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2018 95*, 23 UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION (2018), [https://www.statedata.info/sites/statedata.info/files/files/state\\_data\\_2021\\_F%5B3%5D.pdf](https://www.statedata.info/sites/statedata.info/files/files/state_data_2021_F%5B3%5D.pdf). (The nationwide percentage of disability-related funding

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allocated for integrated employment is based on data from forty-five states that reported such data).

<sup>71</sup> *Id.* at 95.

<sup>72</sup> *Id.*

<sup>73</sup> See HOGAN LOVELLS, *Subminimum Wage Data Collected from Freedom of Information Act Request of U.S. Department of Labor Wage and Hour Division* (2019) (unpublished data on file with the Minnesota Disability Law Center).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> While subminimum wages usually refer to wages less than the federal minimum wage of \$7.25, people with disabilities working in community jobs earn at least the Minnesota minimum wage, which in 2022 is \$10.33 for large employers with at least \$500,000 in revenue.

<sup>77</sup> MINN. DEP'T OF LAB. AND INDUS., *Minnesota Minimum Wage Report* (June 7, 2019), <http://www.dli.mn.gov/business/employment-practices/minnesota-minimum-wage-report#:~:text=The%20following%20is%20a%20summary%20of%20findings.%20Actual,in%202019%20%E2%80%93%20is%20adjusted%20annually%20for%20inflation.>

<sup>78</sup> See HOGAN LOVELLS, *Subminimum Wage Data Collected from Freedom of Information Act Request of U.S. Department of Labor Wage and Hour Division* (2019) (unpublished data on file with the Minnesota Disability Law Center).

<sup>79</sup> *Id.*

<sup>80</sup> See ASS'N OF PEOPLE SUPPORTING EMP. FIRST, *APSE 14c Update: Trends and Current Status of 14(c)*, (last visited Oct. 1, 2021), [https://apse.org/wp-content/uploads/2021/10/10\\_20\\_21-APSE-14c-Update-REV.pdf](https://apse.org/wp-content/uploads/2021/10/10_20_21-APSE-14c-Update-REV.pdf).

<sup>81</sup> See *id.* California will end subminimum wage employment by January 1, 2024; Colorado will end subminimum wage employment by July 1, 2025; Delaware will end subminimum wage employment by July 1, 2023; Oregon will end subminimum wage employment by June 1, 2023; and Washington will end subminimum wage employment by August 1, 2023.

<sup>82</sup> See *id.*

<sup>83</sup> OFF. OF PUB. AFFS., U.S. DEP'T OF JUST. *Justice Department Reaches Landmark Settlement Agreement with State of Oregon Regarding Americans with Disabilities Act* (Dec. 30, 2015), <https://www.justice.gov/opa/pr/justice-department-reaches-landmark-settlement-agreement-state-oregon-regarding-americans>.

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- <sup>84</sup> 28 C.F.R. § 35.130(d) (2010).
- <sup>85</sup> CIV. RTS. DIV., U.S. DEP'T OF JUST., *Fact Sheet on Proposed Agreement over Oregon Supported Employment*, [https://www.ada.gov/olmstead/documents/lane\\_fact\\_sheet.pdf](https://www.ada.gov/olmstead/documents/lane_fact_sheet.pdf) (last visited June 25, 2021).
- <sup>86</sup> *Id.*
- <sup>87</sup> Lilia Teninty, *Transmittal Cover Page: Information Memorandum Transmittal Developmental Disabilities Services*, OR. DEP'T OF HUM. SERVS. (Sept. 20, 2019), <http://www.dhs.state.or.us/policy/spd/transmit/im/2019/im19064.pdf>.
- <sup>88</sup> *Employment First: Outcomes and Successes Report*, OR. DEP'T OF HUM. SERVS. (Oct. 2020), [https://www.oregon.gov/dhs/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/EF\\_Outcomes\\_Successes\\_October\\_2020.pdf](https://www.oregon.gov/dhs/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/EF_Outcomes_Successes_October_2020.pdf).
- <sup>89</sup> Lilia Teninty, *Transmittal Cover Page: Information Memorandum Transmittal Developmental Disabilities Services*, OR. DEP'T OF HUM. SERVS. (Sept. 20, 2019), <http://www.dhs.state.or.us/policy/spd/transmit/im/2019/im19064.pdf>.
- <sup>90</sup> *Id.* OR. REV. STAT. § 653.025 (2021).
- <sup>91</sup> OR. DEP'T OF HUM. SERVS., *Employment First Data & Reports*, <https://www.oregon.gov/dhs/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/data-reports.aspx> (last visited June 25, 2021).
- <sup>92</sup> OR. DEP'T OF HUM. SERVS., *Eric's Parent Testimonial*, YOUTUBE (Jan. 9, 2019), <https://www.youtube.com/watch?v=YI9kSAzQ5bU>.
- <sup>93</sup> *See* OFF. OF AGING & DISABILITY SERVS., ME. DEP'T OF HEALTH & HUM. SERVS., *Olmstead Roadmap for Change: Update for Developmental Services*, (2014), [https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/documents/OlmsteadupdateFinal31414\\_000.pdf](https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/documents/OlmsteadupdateFinal31414_000.pdf).
- <sup>94</sup> *Olmstead v. L.C.*, 527 U.S. 581 (1999).
- <sup>95</sup> *See* ME. DEP'T OF HEALTH & HUM. SERVS., *Olmstead Roadmap for Change, Maine's Response to the Olmstead Decision*, (2003).
- <sup>96</sup> *Id.*
- <sup>97</sup> *See* OFF. OF AGING & DISABILITY SERVS., ME. DEP'T OF HEALTH & HUM. SERVS., *Olmstead Roadmap for Change: Update for Developmental Services*, (2014), [https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/documents/OlmsteadupdateFinal31414\\_000.pdf](https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/documents/OlmsteadupdateFinal31414_000.pdf).
- <sup>98</sup> *Id.*
- <sup>99</sup> Mal Leary, *Maine Bill Would Phase Out Lower Wages for Disabled*, ME. PUBLIC (Apr. 7, 2015, 3:23 PM), <https://www.mainepublic.org/business-and->

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economy/2015-04-07/maine-bill-would-phase-out-lower-wages-for-disabled (last visited Aug. 16, 2022).

- <sup>100</sup> Corlyn Voorhees, *A Maine Nonprofit Paid Its Disabled Workers Less Than Minimum Wage, While Its Executives Got Six Figures*, BANGOR DAILY NEWS (July 12, 2017), <https://bangordailynews.com/2017/07/12/news/a-maine-nonprofit-paid-its-disabled-workers-less-than-minimum-wage-while-its-executives-got-six-figures/> (last visited Aug. 16, 2022).
- <sup>101</sup> An Act to Amend the Laws Governing the Subminimum Wage, H.P. 1340 - L.D. 1874 Sec. 1. 26 ME. REV. STAT. ANN. § 666 (2020).
- <sup>102</sup> Maine House Democrats, *Governor Mills Signs Fecteau’s Bill to Eliminate the Subminimum Wage for Persons with Disabilities* (April 6, 2020), <https://www.maine.gov/tools/whatsnew/index.php?topic=HouseDems+News&idhttps://bangordailynews.com/2017/07/12/news/a-maine-nonprofit-paid-its-disabled-workers-less-than-minimum-wage-while-its-executives-got-six-figures/2330114&v=article2019>.
- <sup>103</sup> Corlyn Voorhees, *A Maine Nonprofit Paid Its Disabled Workers Less Than Minimum Wage, While Its Executives Got Six Figures*, BANGOR DAILY NEWS (July 12, 2017), <https://bangordailynews.com/2017/07/12/news/a-maine-nonprofit-paid-its-disabled-workers-less-than-minimum-wage-while-its-executives-got-six-figures/> (last visited Aug. 16, 2022).
- <sup>104</sup> *Id.*
- <sup>105</sup> *Id.*
- <sup>106</sup> John Butterworth et al., *StateData: The National Report on Employment Services and Outcomes, 2012*, INST. FOR CMTY. INCLUSION, UNIV. OF MASS. BOSTON (Winter 2013), [https://www.statedata.info/sites/statedata.info/files/files/2012\\_bluebook.pdf](https://www.statedata.info/sites/statedata.info/files/files/2012_bluebook.pdf) (last visited Aug. 16, 2022).
- <sup>107</sup> This statistic refers to the number of individuals with disabilities served by Maine’s Vocational Rehabilitation Agency while working in integrated employment settings and may not reflect the actual number of people with disabilities working in competitive jobs. However, as a standard comparison across time, this statistic reveals that Maine has not increased their support for workers with disabilities in integrated employment settings.
- <sup>108</sup> *Id.*; Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2017*, INST. FOR CMTY. INCLUSION, UNIV. OF MASS. BOSTON (2019),

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[https://www.statedata.info/sites/statedata.info/files/files/bluebook2019\\_Final.pdf](https://www.statedata.info/sites/statedata.info/files/files/bluebook2019_Final.pdf).

- <sup>109</sup> STATEDATA, *Build a Chart: Population Data from the American Community Survey (Post 2007), Any Disability*, (2022),  
<https://www.statedata.info/data/showchart/685203>.
- <sup>110</sup> Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2018*, INST. FOR CMTY. INCLUSION, UNIV. OF MASS. BOSTON (2021),  
[https://www.statedata.info/sites/statedata.info/files/files/state\\_data\\_2021\\_Final.pdf](https://www.statedata.info/sites/statedata.info/files/files/state_data_2021_Final.pdf).
- <sup>111</sup> ME. DEP'T OF HEALTH & HUM. SERVS., *2016 Update: Maine's Response to the Olmstead Decision* (2016),  
<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fdhhs%2Fsites%2Fmaine.gov.dhhs%2Ffiles%2Fdocuments%2FMaine2016OlmsteadRoadmap.docx&wdOrigin=BROWSELINK>.
- <sup>112</sup> See AUCD POLICY TALK, *Nothing About Us Without Us: Maryland Phases out Subminimum Wages* (October 2, 2020),  
<https://aucdpolicytalk.org/2020/10/02/nothing-about-us-without-us-maryland-phases-out-subminimum-wages/>.
- <sup>113</sup> Tami Goldsmith & Stacey Herman, *Nothing About Us Without Us: From Subminimum Wage to Meaningful Employment in Maryland* (2020),  
<https://www.kennedykrieger.org/community/initiatives/maryland-center-developmental-disabilities/information-dissemination/posters/from-subminimum-wage-meaningful-employment>.
- <sup>114</sup> Formally known as the “Individuals with Disabilities – Minimum Wage and Community Integration (Ken Capone Equal Employment Act).” MD. GEN. ASSEMBLY, *Individuals with Disabilities – Minimum Wage and Community Integration (Ken Capone Equal Employment Act)*,  
<http://mgaleg.maryland.gov/mgaweb/legislation/details/hb0420?ys=2016rs> (last visited September 13, 2021).
- <sup>115</sup> MD. DEP'T OF DISABILITIES, *Individuals with Disabilities: Minimum Wage and Community Integration – Ken Capone Equal Employment Act – Annual Report 2020* (October 1, 2020),  
[http://dlslibrary.state.md.us/publications/Exec/MDOD/HG7-1012\(d\)\(2\)\\_2020.pdf](http://dlslibrary.state.md.us/publications/Exec/MDOD/HG7-1012(d)(2)_2020.pdf)
- <sup>116</sup> Tami Goldsmith & Stacey Herman, *Nothing About Us Without Us: From Subminimum Wage to Meaningful Employment in Maryland* (2020),

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<https://www.kennedykrieger.org/community/initiatives/maryland-center-developmental-disabilities/information-dissemination/posters/from-subminimum-wage-meaningful-employment>.

<sup>117</sup> 14(c) certificates for CRPs expire after 2 years.

<sup>118</sup> Tami Goldsmith & Stacey Herman, *Nothing About Us Without Us: From Subminimum Wage to Meaningful Employment in Maryland* (2020), <https://www.kennedykrieger.org/community/initiatives/maryland-center-developmental-disabilities/information-dissemination/posters/from-subminimum-wage-meaningful-employment>.

<sup>119</sup> *Id.*

<sup>120</sup> Non-work activities broadly refer to time spent engaged in activities other than employment, including, but not limited to leisure time and recreational time spent at day programs. Non-work activities can take place in both sheltered settings and integrated settings.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> ASS'N OF PEOPLE SUPPORTING EMP. FIRST, *APSE 14c Update: Trends and Current Status of 14(c)*, (last visited Oct. 1, 2021), [https://apse.org/wp-content/uploads/2021/10/10\\_20\\_21-APSE-14c-Update-REV.pdf](https://apse.org/wp-content/uploads/2021/10/10_20_21-APSE-14c-Update-REV.pdf).

<sup>124</sup> M.D DEP'T OF DISABILITIES, *Individuals with Disabilities: Minimum Wage and Community Integration – Ken Capone Equal Employment Act – Annual Report 2020* (October 1, 2020), [http://dlslibrary.state.md.us/publications/Exec/MDOD/HG7-1012\(d\)\(2\)\\_2020.pdf](http://dlslibrary.state.md.us/publications/Exec/MDOD/HG7-1012(d)(2)_2020.pdf).

<sup>125</sup> Thomas Golden, *Impact on the Workforce and People with Disabilities* (May 18, 2020), <https://www.ilr.cornell.edu/work-and-coronavirus/public-policy/impact-workforce-and-people-disabilities>.

<sup>126</sup> The Minnesota Disability Law Center was unable to reach Rhode Island stakeholders for comment on this report.

<sup>127</sup> U.S. DEP'T OF LAB., *Fact Sheet - Rhode Island Supported Employment and Integrated Day Services Consent Decree* (2014), [https://www.dol.gov/sites/dolgov/files/odep/topics/employmentfirst/doj-r.i.factsheet-4-2014usvri\\_fact-sheet.pdf](https://www.dol.gov/sites/dolgov/files/odep/topics/employmentfirst/doj-r.i.factsheet-4-2014usvri_fact-sheet.pdf).

<sup>128</sup> *Rhode Island Nonprofit Owes Disabled Workers \$300,000 in Back Wages*, PUB. SOURCE (2014), <https://www.publicsource.org/rhode-island-nonprofit-owes-disabled-workers-300000-in-back-wages>.

<sup>129</sup> *Id.*

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- <sup>130</sup> U.S. DEP'T OF LAB., *Fact Sheet - Rhode Island Supported Employment and Integrated Day Services Consent Decree* (2014), [https://www.dol.gov/sites/dolgov/files/odep/topics/employmentfirst/doj-r.i.factsheet-4-2014usvri\\_fact-sheet.pdf](https://www.dol.gov/sites/dolgov/files/odep/topics/employmentfirst/doj-r.i.factsheet-4-2014usvri_fact-sheet.pdf).
- <sup>131</sup> The “Youth in Transition” population is defined as: students who have not yet entered the adult services system. These are students who are ages 14-21, in secondary school, and eligible or likely to be eligible for developmental disabilities services as adults.
- <sup>132</sup> The “Youth Exit” population is defined as individuals who have left secondary school between September 1, 2013 and August 31, 2016 and are eligible for adult developmental disabilities services.
- <sup>133</sup> The “Sheltered Workshop” Population is defined as individuals who received services in a sheltered workshop in 2013, the year before the consent decree took effect.
- <sup>134</sup> Mot. to Adjudge in Contempt, *United States v. Rhode Island* (D. R.I. Aug. 16, 2021).
- <sup>135</sup> *Id.*
- <sup>136</sup> *Id.*
- <sup>137</sup> Gina Macris, *Proposed \$50,000/Day Fine Against Rhode Island for Civil Rights Consent Decree Noncompliance*, RI NEWS TODAY (Aug. 20, 2021), <https://rinewstoday.com/proposed-50000-day-fine-against-ri-for-civil-rights-consent-decree-noncompliance/>.
- <sup>138</sup> Gina Macris, *DOJ Seeks Fines up to \$50K Daily for Rhode Island’s DD Consent Decree Noncompliance*, DEVELOPMENTAL DISABILITIES NEWS (Aug. 19, 2021), <http://olmstead-ddnews.org/olmstead-updates/2021/8/19/vpogazx0szxbew2gdwfrm83eh1l879>.
- <sup>139</sup> *Id.*
- <sup>140</sup> *Id.*
- <sup>141</sup> *Historic Step Forward in US Case Affecting Rhode Islanders with Disabilities*, THE PROVIDENCE JOURNAL (Oct. 22, 2021), <https://www.providencejournal.com/story/news/local/2021/10/22/historic-step-us-court-case-affecting-rhode-islanders-disabilities/6118521001/>.
- <sup>142</sup> *Id.*
- <sup>143</sup> R. Timm Vogelsberg, *Competitive Integrated Employment in Vermont*, in COMPETITIVE EMPLOYMENT ISSUES AND STRATEGIES (Frank R. Rusch ed., 1986).
- <sup>144</sup> By 2002, when the sheltered workshop phase out began, every county had a distinct supported employment agency.

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- <sup>145</sup> NAT'L COUNCIL ON DISABILITY, *National Disability Policy: Subminimum Wage and Supported Employment* (2012), [https://ncd.gov/sites/default/files/NCD\\_Sub%20Wage\\_508.pdf](https://ncd.gov/sites/default/files/NCD_Sub%20Wage_508.pdf).
- <sup>146</sup> VT. DEVELOPMENTAL DISABILITIES SERVS., *Vermont System of Care Plan* (2017), [https://ddsd.vermont.gov/sites/ddsd/files/documents/Vermont\\_DS\\_State\\_System\\_of\\_Care\\_Plan.pdf](https://ddsd.vermont.gov/sites/ddsd/files/documents/Vermont_DS_State_System_of_Care_Plan.pdf).
- <sup>147</sup> Halle Stockton, *Vermont Closed Workshops for People with Disabilities; What Happened Next?*, PUB. SOURCE (Sept. 24, 2014).
- <sup>148</sup> *Id.* at 3.
- <sup>149</sup> NAT'L COUNCIL ON DISABILITY, *National Disability Policy: Subminimum Wage and Supported Employment* (2012), [https://ncd.gov/sites/default/files/NCD\\_Sub%20Wage\\_508.pdf](https://ncd.gov/sites/default/files/NCD_Sub%20Wage_508.pdf).
- <sup>150</sup> STATEDATA, *State IDD Agencies. U.S. Total, Vermont: Integrated Employment Percentage* (2022), <http://www.statedata.info/data/showchart/369193>.
- <sup>151</sup> STATEDATA, *State IDD Agencies. U.S. Total, Vermont: Integrated Employment Percentage* (2022), <http://www.statedata.info/data/showchart/612771>.
- <sup>152</sup> John Butterworth et al., *StateData: The National Report on Employment Services and Outcomes 2012 333* (2013), UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION.
- <sup>153</sup> Halle Stockton, *Vermont Closed Workshops for People with Disabilities; What Happened Next?*, PUB. SOURCE (Sept. 24, 2014).
- <sup>154</sup> Brian Dague, *Sheltered Employment, Sheltered Lives: Family Perspectives of Conversion to Community Based Employment*. J. OF VOCATIONAL REHAB. (2012).
- <sup>155</sup> John Butterworth et al., *StateData: The National Report on Employment Services and Outcomes 2012 333* (2013), UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION.
- <sup>156</sup> Gina Macris, *DOJ Seeks Fines up to \$50K Daily for Rhode Island's DD Consent Decree Noncompliance*, DEVELOPMENTAL DISABILITIES NEWS (Aug. 19, 2021), <http://olmstead-ddnews.org/olmstead-updates/2021/8/19/vpogazx0szxbew2gdwfrm83eh1l879>.
- <sup>157</sup> U.S. COMM'N ON CIV. RTS., *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, I, vii (Sept. 17, 2020), <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>.
- <sup>158</sup> *Id.*

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- <sup>159</sup> U.S. DEP'T OF EDUC., *Education Department Awards \$177 Million in New Grants to Increase Competitive Integrated Employment for People with Disabilities* (2022), <https://www.ed.gov/news/press-releases/education-department-awards-177-million-new-grants-increase-competitive-employment-people-disabilities>.
- <sup>160</sup> Jean Winsor et al., *StateData: The National Report on Employment Services and Outcomes Through 2018* 95, 23 UNIV. OF MASS. BOSTON, INST. FOR CMTY. INCLUSION (2018).
- <sup>161</sup> Health and Human Services Omnibus Bill, Minn. Sess. Laws 2021, First Special Session, ch. 7, art. 17, § 14 (2021).
- <sup>162</sup> The Task Force will help prepare Minnesota for the national phase out of subminimum wages, if federal legislation passes. Federal legislation, including the Raise the Wage Act (H.R. 603 and S. 53) and the Transformation to Competitive Integrated Employment Act (H.R. 2373), call for the phase out of subminimum wages across the United States over several years.
- <sup>163</sup> Health and Human Services Omnibus Bill, Minn. Sess. Laws 2021, First Special Session, ch. 7, art. 17, § 14 (2021).
- <sup>164</sup> See DISABILITY HUB MINN., *DEED-VRS/SSB and DHS-DSD MOU* (2021), <https://disabilityhubmn.org/media/hirdrm05/dhs-deed-mou.pdf>.
- <sup>165</sup> Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 (2015).
- <sup>166</sup> See UNIV. OF MINN., INST. FOR INTEGRATION, *Minnesota Employment, Training, and Technical Assistance Project* (2022), <https://ici.umn.edu/projects/sBpjnTWQTIKylHNTmp5hZA>.
- <sup>167</sup> Health and Human Services Omnibus Bill, Minn. Sess. Laws 2021, First Special Session, ch. 7, art. 17, § 14 (2021).
- <sup>168</sup> See MINN. DEP'T OF HUM. SERVS., *Provider Reinvention Grants*, (2022), <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/task-force-on-eliminating-subminimum-wages/grants.jsp>.
- <sup>169</sup> DHS should seek the approval of the Centers for Medicare and Medicaid Services as necessary.
- <sup>170</sup> Janet A. Phoenix & Tyler Bysshe, *Transitions: A Case Study of the Conversion from Sheltered Workshops to Integrated Employment in Maine*, GEORGE WASH. UNIV., MILKEN INST. SCH. OF PUB. HEALTH (2015).
- <sup>171</sup> A Bill for an Act Relating to Wages; Eliminating Subminimum Wages, H.F. 439 and S.F. 658, 92nd Leg. (2021-2022).

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- <sup>172</sup> Health and Human Services Omnibus Bill, Minn. Sess. Laws 2021, First Special Session, ch. 7, art. 17, § 14 (2021).
- <sup>173</sup> See MINN. DEP'T OF HUM. SERVS., *Employment First Dashboard* (2022), <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/employment-first/employment-first-data-dashboards>.
- <sup>174</sup> A Bill for an Act Relating to Minimum Wages: Persons with Disabilities, S.F. 639, 2021 Cal. Leg. Sess. (2021-2022), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB639](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB639).
- <sup>175</sup> See UNIV. OF MINN., INST. FOR INTEGRATION, *Minnesota Employment, Training, and Technical Assistance Project 25* (2022), <https://ici.umn.edu/projects/sBpjnTWQTIKylHNTmp5hZA>.
- <sup>176</sup> MINN. DEP'T OF HUM. SERVS., *Innovation Grants Awarded*, (2022), <https://mn.gov/dhs/partners-and-providers/grants-rfps/disability-innovation-grants/innov-grant-swards.jsp>.
- <sup>177</sup> See MINN. DEP'T OF TRANSP., *Minnesota Council on Transportation Access, Annual Report 2021*, (2021), [https://coordinatemntransit.org/sites/coordinatemntransit.org/files/2021-09/2021\\_mcota\\_ar\\_draft\\_15sept2021.pdf](https://coordinatemntransit.org/sites/coordinatemntransit.org/files/2021-09/2021_mcota_ar_draft_15sept2021.pdf).
- <sup>178</sup> *Id.*
- <sup>179</sup> See UNIV. OF MINN., INST. FOR INTEGRATION, *Minnesota Employment, Training, and Technical Assistance Project 25* (2022), <https://ici.umn.edu/projects/sBpjnTWQTIKylHNTmp5hZA>; RURAL HEALTH INFO. HUB, *Rural Transportation Toolkit*, (2022), <https://www.ruralhealthinfo.org/toolkits/transportation>.
- <sup>180</sup> “In 2020, the unemployment rate for youth with disabilities ages 16-19 and 20-24 was 26.7% and 21.1%, respectively. For comparison, the rate for youth without disabilities ages 16-19 and 20-24 was 17.7% and 13.5%, respectively, and the disparity is even larger for youth with disabilities from historically marginalized communities.” U.S. DEP'T OF LAB., *ODEP at 20: Driving Change through Youth Policy* (2021), <https://blog.dol.gov/2021/08/26/odep-at-20-driving-change-through-youth-policy>.
- <sup>181</sup> Interview with Bryan Dague, Project Director, Supported Employment, and Research Assistant Professor, University of Vermont (2021).
- <sup>182</sup> *Id.*

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- <sup>183</sup> MINN. OLMSTEAD IMPLEMENTATION OFF., *The Minnesota Olmstead Plan*, <https://mn.gov/olmstead/mn-olmstead-plan/about-mn-olmstead-plan/> (last visited September 16, 2021).
- <sup>184</sup> MINN. DEP'T OF HUM. SERVS., *Minnesota Employment First Policy*, <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/employment-first/employment-first-policy.jsp#:~:text=The%20Minnesota%20Employment%20First%20Policy%20provides%20state%20agencies,to%20their%20peers%20> (last visited September 16, 2021).
- <sup>185</sup> Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 (2014).
- <sup>186</sup> See *Lane v. Kitzhaber*, 283 F.R.D. 587 (D. Or. 2012).
- <sup>187</sup> Competitive employment means work for which someone earns minimum wage or higher. Integrated employment means work that is in the community, alongside people who have and who do not have disabilities.
- <sup>188</sup> Health and Human Services Omnibus Bill, Minn. Sess. Laws 2021, First Special Session, ch. 7, art. 17, § 14 (2021).



April 18, 2023

Madam Chair Olson,

I'm writing in support of the Governor's proposal to phase out subminimum wage which is included in HF 2847. People with disabilities already face significant barriers to employment in our state. The hoops that a person has to jump through to access the services and supports they need to be successful in their job search and on the job already make things much more difficult to access a meaningful job. By creating a sub-standard wage that can be paid to people with disabilities further marginalizes the population, perpetuates inequality, and incentivizes a structure of agencies that are designed to warehouse and exclude people with disabilities not just from their communities, but also from their peers and from making an income that allows them to live a full and meaningful life.

Despite having an abundance of services for people with disabilities in Minnesota we carry the highest percentage of workers earning subminimum wages in our nation. AFSCME Local 306 is opposed to all exemptions from the state minimum wage and we support the work of the Task Force on Eliminating Subminimum Wages and the Governor's proposal to phase out this discriminatory policy as written in HF2847.

AFSCME Local 306 stands up for their workers both with and without disabilities and believes strongly that the time has come for our elected officials to step forward and support all workers, regardless of disability status by supporting the passage of HF2847.

Thank you for your time,

Megan Zeilinger

Vice President, AFSCME Local 306



**MINNESOTA DISABILITY LAW CENTER**  
**Duluth   Fertile   Mankato   Minneapolis**

April 19, 2023

Chair Olson and Members of the House Ways and Means Committee:

Thank you for the opportunity to provide written testimony on behalf of the Minnesota Disability Law Center, a statewide division of Mid-Minnesota Legal Aid. The Minnesota Disability Law Center is the state's designated Protection and Advocacy System providing free civil legal services to Minnesotans with disabilities.

The Minnesota Disability Law Center strongly supports the Governor's proposal to phase out the subminimum wage included in HF 2847. Our organization has spent several years developing our position on this issue and our support for phasing out the subminimum wage is the result of years of research, consultation with organizations in other states, monitoring of subminimum wage employment sites, and engagement with clients and communities.

Last year, the Disability Law Center published a report on subminimum wage employment in Minnesota and our recommendations for phasing out the practice. I will briefly share some of our findings. In 2018, the state of Minnesota spent ten times more on subminimum wage employment than the state spent on supporting community employment for people with disabilities. Minnesota falls behind other states in the percentage of people served in community employment – 10 percentage points below the national average – unsurprising given the relative lack of investment.

Our research found that over 80% of subminimum wage providers in Minnesota offered only one type of work. If people are limited to one, maybe two types of work, how will they have an opportunity to explore their interests or develop their skills? To make an informed choice about employment, the state and service providers must meaningfully offer a variety of options and opportunities to all people with disabilities. Subminimum wage employment does not offer choice.

Today, 13 states have passed legislation ending subminimum wage employment. Minnesota is one of six states with currently pending legislation to phase out the practice. Bipartisan legislation introduced in Congress would eliminate subminimum wages nationwide.

*The Protection and Advocacy System for Minnesota*

**111 North Fifth Street, Suite 100 Minneapolis, MN 55403**

Toll Free Client Intake: (800) 292-4150 [www.mndlc.org](http://www.mndlc.org)

A United Way Agency

Subminimum wage employment is on its way out. In 2020, the United States Commission on Civil Rights published a detailed 349-page report recommending that Congress phase out the practice. The Commission found that people with intellectual and developmental disabilities earning subminimum wages are not categorically different in their disabilities and levels of support needs from those working in integrated employment.

Minnesota can learn from the states that have phased out subminimum wages over the last two decades, implement the carefully researched and thoughtfully planned recommendations specific to our state, and expand opportunity and choice for Minnesotans with disabilities by investing in person-centered, community-based, integrated employment services.

The Minnesota Disability Law Center asks the members of this Committee to support the Governor's proposal in HF 2847 to advance the civil rights of Minnesotans with disabilities by phasing out the subminimum wage. Thank you.

Sincerely,

Susan Fleurant  
Staff Attorney  
Minnesota Disability Law Center

Written TESTIMONY OF Mary Hauff

House District 45B Constituent

Chair Olson and committee members:

My name is Mary Hauff. I am submitting my testimony in support of the HF 2847 provisions that include the Governor's proposal to phase out subminimum wage.

Thank you for accepting my written testimony.

Specifically, I support the bill provisions that include the establishment of the Statewide Disability Employment Technical Assistance Center, the Employment First Capacity Building grants, and phasing out subminimum wage. The bill provides a timeline and resources for service providers as well as Minnesotans with a disability to transition to and/or pursue employment at a competitive wage on a proactive basis. HF 2847 bill does not eliminate center-based jobs or service providers. The proposed legislation takes into consideration what has worked and not worked in other states that have already phased out subminimum wage. If HF2847 is passed and the resources are established, Minnesota will avoid the challenges that are raised as concerns and were faced in other states.

The proposed legislation aligns with Minnesota's Employment First policy and the Olmstead Plan. All Minnesotans must have opportunities to make life choices about where they live, learn, work, and enjoy their lives in the most integrated settings alongside people without disabilities. Competitive integrated employment and earning

a competitive wage are possible for Minnesotans with a disability who want to work. I have a 22-year-old daughter with an intellectual disability. Through her person-centered plan, she is making informed choices about her post-secondary education, where she lives, and her career. Jean enjoys working with co-workers with and without disabilities. She currently has an internship and is paid a competitive wage. It is possible.

As a parent, I understand and share the concerns raised by families about the safety of their loved ones with a disability. However, segregating people with disabilities in center-based jobs earning a subminimum wage does not assure that they are safer or have a higher level of protection than if they are employed and earning minimum wage or higher in a competitive integrated job. If you want to address safety issues, I encourage you to look toward and support the recommendations from Minnesota's Comprehensive Plan for Prevention of Abuse and Neglect of People with Disabilities and the Olmstead Plan goals of Preventing abuse and neglect of vulnerable adults and children.

Thirteen states have already passed legislation to phase out subminimum wages and the Federal government is considering similar legislation. It is a matter of time. I ask that you support the Governor's proposal to phase out subminimum wages proactively as outlined in House File 2847.

Thank you.



April 19, 2023

TO: House Ways & Means Committee  
RE: Subminimum Wage Provisions in HF 2847

Chair Olson and Committee Members,

The Arc Northland would like to show their support of the Governor's proposal in HF 2847 that will end subminimum wages in Minnesota for persons with disabilities. The current practices of paying individuals less than minimum wage are not only outdated but violate the civil rights of Minnesotans with disabilities.

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. In addition, this was meant to be a training program for persons with disabilities to enter the workforce, not a "common practice" to oppress Americans with disabilities for 85 years. It is time, and you have the power to make this change.

Having economic stability can not only help our economy but allows individuals financial independence. This means less dependence on government funding. All individuals with disabilities, no matter their support or accommodation needs deserve the opportunity to work for fair wages and contribute to our community through gainful employment. There is momentum nationwide and in Congress to phase out subminimum wage and for almost 10 years we have been working through the Workforce Innovation Opportunities Act, spending time and resources to ensure individuals have choices when it comes to employment. Minnesota, a historic leader in human services, has now fallen behind several other states initiatives.

The proposal, based on the Task Force on Eliminating Subminimum Wages' recommendations, includes a comprehensive package of investments and policy reforms that, together, will:

- increase wages for people with disabilities
- create more inclusive workplaces for disabled Minnesotans
- address workforce shortages
- increase labor force participation by people with disabilities

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.

Respectfully,

Amanda Crosby, Executive Director  
Arc Northland  
424 W Superior Street Suite 500  
Duluth MN, 55807

*To promote and protect the rights of people with disabilities and their families while supporting inclusion and participation in the community throughout their lifetime.*



April 18, 2023

Chair Olson and Committee Members,

I am writing in support of the Governor's plan to phase out subminimum wage included in HF 2847. People with disabilities deserve the same wage protections as anyone else. This bill will eliminate a process that was designed in 1938 and has long since used up its usefulness.

Kaposia phased out our use of 14(c) certificates nearly 15 years ago. Since that time, we have expanded our business and continue to receive record number of referrals. None of our customers are unhappy with being paid minimum wage or more.

In addition, we have provided technical assistance to many other providers around the state. Nearly 20 of them have either transitioned away from their 14(c) certificates or are in the process of doing so. None of them are at risk of closing their doors and no person served has lost their supports.

The opposition will tell you this is going to ruin people's lives. How exactly does living the American dream ruin someone's life? It doesn't.

Please vote to support SF 2934.

A handwritten signature in black ink that reads "Jon Alexander".

Jon Alexander

Chief Executive Officer

April 19, 2023

Kurt Rutzen Written Testimony on HF 2847

Chair Olson and Committee Members,

I Support phasing out subminimum wage for this main reason: It in a way downgrades the person. I don't care if it's a disability person or not and by the way we all have Disabilities so get over it. I think but I'm not sure that we can all agree that people with disabilities are people too, can't we? If we say yes, then we need to treat Disability people like everyone else in all aspect of life. We can say "OH, we support all our disability people in all other aspects of life, and we will help them but, in the work, setting we should treat them with pay differently" I want to ask why? I would love to talk about this with anyone.

I was paid this way at one time in my life and thinking about it. I was sort of ashamed of what I was making for a wage. I felt if I honest I was made to feel less than a person and no one should be made to feel that way ever! I know some of you talk about fairness and all. I have heard it all and I respect that and all. IF that is the case the person isn't in the right job. Let's work to get them the right job with pay that is the same as everyone else!

Kurt Rutzen  
Chaska, Minnesota

April 19, 2023

Chair Liz Olson  
House Ways and Means Committee  
479 State Office Building  
St. Paul, MN 55155

Sent via electronic mail to: [owen.wirth@house.mn.gov](mailto:owen.wirth@house.mn.gov) and [leah.killian@house.mn.gov](mailto:leah.killian@house.mn.gov)

**RE: House File 2847**  
**Hearing date: April 20, 2023**

**Opposing Article 4, Section 16**  
**Opposing Article 5, Section 1 through 5**  
**Opposing Article 5, Section 6, Subdivision 1c**

Dear Chair Olson and members of the committee,

We are submitting this letter in hopes that the House Ways and Means Committee will take our concerns into consideration.

The signors of this letter, which include pain patients, advocates, caregivers, family members, healthcare professionals and concerned citizens, are graciously asking the committee to oppose the aforementioned provisions in HF2847 and adopt the Senate companion bill language, including the sunset for the Minnesota Opioid Prescribing Improvement Program, for the following reasons:

It is imperative that our legislators hear from Minnesotans who are the collateral damage, the humans behind the unintended consequences, and to understand why it is so vital that patient-centered care goes back to being the standard of care. Pre-determined dosage thresholds and one-size-fits-all morphine milligram equivalents of medically necessary opioid analgesics is not patient-centered care, nor standard of care. DHS should not be regulating medicine for any health issue.

The Minnesota Opioid Prescribing Work Group (OPWG), established in 2015 and dissolved in December 2021, was not balanced, lacked board-certified pain management specialists, and didn't have any representation from pain patients until 2020. It was not until 2021 that these patients had voting rights, which means that for five years, the very community these policies and guidelines would impact the most had no input into what was being implemented. Patients and advocates could provide public comments during those five years, but those comments were mostly dismissed by the OPWG. There even was a listening session between the OPWG and concerned citizens, yet only a few members of the OPWG even showed up to listen to the concerns that nearly 100 Minnesota pain patients, providers, and their loved ones offered.

It is deeply concerning that Minnesota has deemed it acceptable to treat Medicaid and MNCare patients differently than private insured patients. This is discrimination and should not be tolerated any longer. Many pain patients are on Disability and rely on Medicaid and MNCare for coverage, so by targeting these patients you are targeting some of our most vulnerable citizens.

The Minnesota Opioid Prescribing Improvement Program (OPIP), under the DHS, has not had an official advisory council or official working group since December 2021, when the OPWG dissolved. Since they have no official advisory council or work group, they do not have to abide by Open Meeting Laws. This keeps stakeholders from participating in the process.

The DHS/OPIP are creating policies behind closed doors with no option for public involvement. We know it is happening, but DHS will not tell us the names of everyone involved. The lack of transparency is unacceptable. We ask our legislators to take action since they all have constituents who have been negatively affected by all of this. DHS and OPIP continue to leave out this community and they've been allowed to do it.

Leaving out our voices and lived experiences was intentional. If it were not, the DHS would have amended the applicable statute immediately, which they failed to do. In addition, a Senator sat on the OPWG the entire time and could have easily introduced legislation to add pain patients to the OPWG. This Senator also failed to act and include the very community these policies and guidelines would impact the most.

It is unacceptable that DHS and OPIP do not measure patient impact and patient outcome of the policies they implemented. There is more to this than how low prescribing rates can get, but that is all that is measured.

In addition, even though the CDC removed the hard thresholds in the initial twelve recommendations in its updated 2022 opioid prescribing guidelines, DHS/OPIP made the decision to NOT update the Minnesota Prescribing Guidelines or policies to reflect this. They made this decision with no public comment period, no community input, and blatant disregard for the known harms the guidelines and unbalanced policies have caused patients, which includes poor health outcomes, more people on disability, abandoned patients turning to alcohol or illicit drugs to treat their physical pain and tragic suicides for patients denied viable care based on their individual healthcare circumstances.

There is a way to address the illegal and illicit drug crisis without further harming Minnesotans with a legitimate medical necessity for opioid analgesics, when benefits outweigh risk for them.

These misguided policies also negatively affect the medical professionals responsible for caring for pain patients. We have already lost so many providers, and more providers will stop taking on patients if these policies are moved forward. More providers will leave their practice, leave the field of pain management, and do so out of fear. DHS, OPIP and the dissolved OPWG were made aware that their policies and guidelines were and still are interfering between the doctor/patient relationship, especially those who still dare to treat complex patients suffering with extreme pain that have exhausted all other treatments or have no FDA indicated treatments due to their disease or condition is rare and incurable.

We are all asking you to protect some of Minnesota's most vulnerable citizens and their providers. Minnesota chronic and intractable pain patients deserve patient-centered care, and medical providers should be allowed to do their jobs without more government overreach.

As far as the repeal of the sunset of increased fees in Article 4, Section 16, the mandated report from the Board of Pharmacy to measure if these increased fees have negatively impacted Minnesotans, isn't even out yet and not due until 2024. We know it's negatively impacted Minnesotans with a medical necessity for opioid analgesics. Increased healthcare costs, higher prescription costs and shortages of medications which result in patients rationing or having to go without until their pharmacy can order more; IF they can order more to meet the needs of the patients. To repeal the sunset before a report is compiled is

irresponsible and shows us that the unintended consequences our community has endured doesn't matter to our policy makers. The collateral damage is real and to ignore it will only cause more harm.

In addition, the settlement funds coming into Minnesota will far exceed the 250 million threshold. An agreement was made in 2019 to sunset the increased fees if and when the threshold was met. Please stand by that agreement.

Last, but not least, "One Minnesota" should include all Minnesotans, but it doesn't. We all should matter. DHS/OPIP has shown us again and again that we don't. If OPIP is allowed to expand and continue to create policies behind closed doors, without any official working group, without any public input, without the very community these policies and guidelines impact the most, you should expect to see more harm done to Minnesotans, including, but not limited to people removing themselves from life as they know it.

Minnesota must strive for balanced policies which improve our very broken healthcare system. Expanding OPIP and allowing DHS to regulate medicine and dictate standard of care based on arbitrary morphine milligram equivalent thresholds, will do the opposite of improving healthcare.

Thank you for your time and consideration.

Sincerely,

Amber Bullington and Cammie LaValle, in support of the Minnesota chronic and intractable pain community and their healthcare providers.

Nancy Heiser	Albert Lea	Pain Patient
KARRINE STORBY	Albert Lea	Pain Patient
Edward Sallee	Albert Lea	Spouse/Family/Friend of patients negatively impacted
Ed Sallee	Albert Lea	Spouse/Family Member/Friend of Pain Patient
Michael Brue	Alvarado	Spouse/Family/Friend of patients negatively impacted
Denesa Lutterman	Apple Valley	Healthcare professional
William Grabosky	Apple Valley	Spouse/Family/Friend of patients negatively impacted
William Morris	Apple Valley	Concerned Citizen
Diane Granowski	Apple Valley	Spouse/Family/Friend of patients negatively impacted
Merrilee Bliss Lawler	Apple Valley	Spouse/Family/Friend of patients negatively impacted
Sheila Grabosky	Apple Valley	Pain Patient
Pam Clark	Appleton	Pain Patient
Crystal Sticha	Arden Hills	Advocate/Activist
Michelle Buck	Arlington	Pain Patient
David Buck	Arlington	Spouse/Family/Friend of patients negatively impacted

Michelle Buck	Arlington	Pain Patient
Jalene Roberts	Austin	Pain Patient
Jennifer Bergherr	Becker	Pain Patient
Kathryn nelson	Belle Plaine	Concerned Citizen
Kris mcombs	Bethel	Pain Patient
Erica Wilder	Bloomington	Pain Patient
Kelly Hill	Bloomington	Pain Patient
Brishen Hampton	Bloomington, MN	Pain Patient
Sandra McKenzie	Braham	Pain Patient
Brent wannerlind	Brooklyn Center	Spouse/Family/Friend of patients negatively impacted
Penelope A Brown	Brooklyn Center	Pain Patient
Jennifer Brown	Brooklyn Center	Pain Patient
Brent wannerlind	Brooklyn Center	Spouse/Family/Friend of patients negatively impacted
Mark Stock, APRN, CNP	Brooklyn Center	Caregiver
Rachel Schermann	Brooklyn Park	Pain Patient
Andrea Noyola Hernandez	Brooklyn Park	Healthcare professional
Harry George	Buffalo	Pain Patient
Lori Anderson	Buffalo Lake	Pain Patient
McKenna Dennstedt	Burnsville	Spouse/Family/Friend of patients negatively impacted
Julianna Thomas	Burnsville	Spouse/Family/Friend of patients negatively impacted
Kallie LaValle	Burnsville	Spouse/Family/Friend of patients negatively impacted
Sara Schmitt	Burnsville	Spouse/Family/Friend of patients negatively impacted
Judy Ellingson	Burnsville	Caregiver
Pam LaValle	Burnsville	Spouse/Family/Friend of patients negatively impacted
Elisa Odegard	Burnsville	Spouse/Family/Friend of patients negatively impacted
Betsy Anderson	Burnsville	Concerned Citizen
Jane Kaplan	Burnsville	Spouse/Family/Friend of patients negatively impacted
Cara Schulz	Burnsville	Advocate/Activist
Kim Dennstedt	Burnsville	Spouse/Family Member/Friend of Pain Patient
Pat LaValle	Burnsville	Spouse/Family/Friend of patients negatively impacted
Leah Amerson	Champlin	Concerned Citizen
Tara Stone	Chanhassen	Pain Patient
Linda Anderson	Clearwater	Pain Patient

Sheila skaj	Cloquet	Spouse/Family/Friend of patients negatively impacted
Patrick R. Doyle	Cokato	Pain Patient
Kelly Christensen	Coon Rapids	Pain Patient
Susan Schwartz	Cottage Grove	Spouse/Family/Friend of patients negatively impacted
Jennifer Haller	Crookston	Pain Patient
Marcie Anderson	Darwin	Pain Patient
Louellen Peters	Delano	Concerned Citizen
Ann M Anderson	Delano	Pain Patient
Michelle Stifle	Duluth	Pain Patient
kim katra	dodge center	Pain Patient
Brenda Shoberg	Duluth	Pain Patient
Howard lacy	Duluth	Pain Patient
Scott S	Duluth	Spouse/Family/Friend of patients negatively impacted
Dan L	Duluth	Spouse/Family/Friend of patients negatively impacted
Sue S	Duluth	Pain Patient
Steve S.	Duluth	Pain Patient
Scott S.	Duluth	Spouse/Family Member/Friend of Pain Patient
Michael Palmquist	Dundas	Pain Patient
Veronica Palmquist	Dundas	Spouse/Family/Friend of patients negatively impacted
Rachel Schwake	Eagan	Spouse/Family/Friend of patients negatively impacted
Kathryn A. Krisko-Hagel	Eagan	Pain Patient
Jason Michaelson	Eagan	Concerned Citizen
Roberta George	Eagan	Spouse/Family/Friend of patients negatively impacted
Melisha West	Eagan	Concerned Citizen
William Kocke	Eagan	Spouse/Family/Friend of patients negatively impacted
Tina Sanz	Eagan	Pain Patient
Livie Castle	Eagan	Spouse/Family/Friend of patients negatively impacted
Chad Castle	Eagan	Spouse/Family/Friend of patients negatively impacted
Amy Walker	Eagle Bend	Pain Patient
Rick Lewis	Eagan	Pain Patient
Carolyn Chambers	Eden Prairie	Concerned Citizen
Star Selleck RN	Edina	Healthcare Professional - in practice or retired

Heather Campain-Robish	Excelsior	Spouse/Family/Friend of patients negatively impacted
Sarah Browne	Excelsior	Spouse/Family/Friend of patients negatively impacted
Natalie Hayward	Farmington	Spouse/Family/Friend of patients negatively impacted
Skylar Gohr	Farmington	Healthcare professional
Sienna Stucke	Farmington	Concerned Citizen
Erin Monahan	Farmington	Pain Patient
Alison Kral	Farmington	Spouse/Family/Friend of patients negatively impacted
Katie Gislason	Farmington	Spouse/Family/Friend of patients negatively impacted
Natalie Hayward	Farmington	Spouse/Family Member/Friend of Pain Patient
Ava Beumer	Farmington	Spouse/Family Member/Friend of Pain Patient
Bret	Farmington	Spouse/Family Member/Friend of Pain Patient
Sandra Bedeaux	Farmington	Healthcare Professional - in practice or retired
Birdie Bret	Farmington	Pain Patient
Heather Vallevand	Fergus Falls	Pain Patient
Melissa Wolter	Forest lake	Pain Patient
tara kauck	Forest Lake MN	Spouse/Family/Friend of patients negatively impacted
Faith Hunt	Foreston	Pain Patient
Sharon Panasuk	Fridley	Healthcare professional
Anastasia Peasley	Fridley	Pain Patient
Lisa O'Brien	Ft Ripley	Concerned Citizen
Gloria Hilgers	Glencoe	Caregiver
Lisa Alsleben	Glencoe	Pain Patient
Mindy McRae	Grasston	Pain Patient
Mindy	Grasston	Spouse/Family Member/Friend of Pain Patient
Dennis Lutterman	Ham Lake	Spouse/Family/Friend of patients negatively impacted
Misty Ashley	Ham Lake	Pain Patient
Lauren Nava	Harlingen	Pain Patient
Joseph DeVries	Harris	Concerned Citizen
Brett sharp	Hastings	Pain Patient
Jessica green	Hawley	Spouse/Family/Friend of patients negatively impacted
Lisa Murphy	Hayfield	Pain Patient
Eileen Levin	Hopkins	Concerned Citizen
Sheila Nelson	Hopkins	Pain Patient
Vanessa Percy	Hopkins	Pain Patient

Wendy Wimmer	Hugo	Healthcare Professional - in practice or retired
Deborah Withrow	International falls	Pain Patient
Susan Kemp	Inver Grove Heights	Pain Patient
Marta Nightingale	Inver Grove Heights	Advocate/Activist
Sarah Monn	Inver Grove Heights	Concerned Citizen
Kay Lehto	Inver Grove Heights	Concerned Citizen
Keyara Rodgers	Inver grove Heights	Spouse/Family/Friend of patients negatively impacted
Erin Potter-Rank	Inver Grove Heights	Advocate/Activist
Calvin Morgan	Inver Grove Heights	Spouse/Family/Friend of patients negatively impacted
Kallie LaValle	Inver Grove Heights	Spouse/Family/Friend of patients negatively impacted
Susan Kemp	Inver Grove Heights	Pain Patient
Ted Johnson	Inver Grove Hts.	Spouse/Family/Friend of patients negatively impacted
Ross Hebeisen	Isle	Pain Patient
Alexis Erwin	Kensington	Pain Patient
Sharon reibly	Lakeville	Concerned Citizen
Mary Kuna	Lakeville	Concerned Citizen
Mary B Kusske	Lakeville	Spouse/Family/Friend of patients negatively impacted
Carol Wentzel	Lakeville	Spouse/Family/Friend of patients negatively impacted
Jon Dahl	Lakeville	Concerned Citizen
Sharon Howell	Lakeville	Healthcare professional
Rick Hibbing	Lakeville	Pain Patient
Sue Hibbing	Lakeville	Spouse/Family/Friend of patients negatively impacted
Cammie LaValle	Lakeville	Pain Patient
Daniel LaValle	Lakeville	Spouse/Family Member/Friend of Pain Patient
Trent kral	Lakeville	Concerned Citizen
Ann	Lakeville	Healthcare Professional - in practice or retired
Brian Hill	Laporte	Pain Patient
Lesha johanneck	Litchfield	Pain Patient
Kerry Sheehan	Lowell	Pain Patient
Connor LaValle	Mankato	Spouse/Family/Friend of patients negatively impacted
Stephanie Perri	Maple Grove	Spouse/Family/Friend of patients negatively impacted
Rachel Halverson	Maple grove	Caregiver
Victoria Rocha	Maple Grove	Spouse/Family/Friend of patients negatively impacted

Randy Johson	McGregor	Concerned Citizen
Patrick Woltersen	Medford	Pain Patient
Denesa Lutterman	Mendota Heights	Pain Patient
Pamela Stein	Mendota Heights	Concerned Citizen
Angela Thornburg	Mendota Heights	Pain Patient
Aimee Watson	Merrifield	Pain Patient
Deanna Upchurch	Middlesex	Pain Patient
Arlene Pyka	Millelacs	Pain Patient
Arnold Feldman MD	Minneapolis	Healthcare professional
Rory O'Brien	Minneapolis	Pain Patient
Angie Priebe	Minneapolis	Caregiver
David wagner	Minneapolis	Pain Patient
Sharla Stremski	Minneapolis	Concerned Citizen
Anita Newhouse	Minneapolis	Pain Patient
Catherine Heilmann	Minneapolis	Healthcare professional
Kristina Gronquist	Minneapolis	Concerned Citizen
deborah Zanish	Minneapolis	Spouse/Family/Friend of patients negatively impacted
BILL KOCKE	Minneapolis	Caregiver
Laurie Engel	Minneapolis	Pain Patient
Sara Sauser	Minneapolis	Pain Patient
Dawnelle Hesse	Minneapolis	Concerned Citizen
Sam Warner	Minneapolis	Spouse/Family/Friend of patients negatively impacted
Kathryn Wegner	Minneapolis	Pain Patient
Katira Lutterman	Minneapolis	Spouse/Family/Friend of patients negatively impacted
Olivia Paikos	Minneapolis	Advocate/Activist
Julie Jeatran	Minneapolis	Pain Patient
Laurie Engel	Minneapolis	Pain Patient
Amanda Dobbs	Minneapolis	Pain Patient
Lawrence Silber	Minneapolis	Healthcare professional
Michael	Minneapolis	Healthcare professional
Sara Sauser	minneapolis	Pain Patient
Louis C. Saeger, MD	Minneapolis	Healthcare Professional - in practice or retired
Angela Leula CPP	Minneapolis	Healthcare Professional - in practice or retired
Laurie Engel	Minneapolis	Pain Patient
Marlyss Mickey	Minneapolis Minnesota	Pain Patient
Natalie Askov, RN, BSN, BC	Minneapolis, MN	Healthcare Professional - in practice or retired

Jennifer Evans	Minnesota	Spouse/Family/Friend of patients negatively impacted
Jen daluge	Minnesota	Concerned Citizen
Royd Hanson	Minnetonka	Spouse/Family/Friend of patients negatively impacted
James Bullington	Minnetonka	Spouse/Family/Friend of patients negatively impacted
Skyler Bullington	Minnetonka	Pain Patient
Amber Bullington	Minnetonka	Pain Patient
Carly Sedacca	Minnetonka	Spouse/Family/Friend of patients negatively impacted
Lisa Schierman	Minnetonka	Pain Patient
Ali Lee-O'Halloran	Minnetonka	Spouse/Family/Friend of patients negatively impacted
Nancy Fursetzer	Minnetonka	Spouse/Family/Friend of patients negatively impacted
Maryann Esh	Minnetonka	Spouse/Family/Friend of patients negatively impacted
Sarah Jackson	Minnetonka	Spouse/Family/Friend of patients negatively impacted
Nancy Fursetzer	Minnetonka	Spouse/Family Member/Friend of Pain Patient
Rick Hyatt	Montecello	Pain Patient
Lori Triden	Montgomery	Pain Patient
Randi Ehindero	Monticello	Spouse/Family/Friend of patients negatively impacted
Rachel Nieves Brunotte	Monticello	Concerned Citizen
Krista Sederberg	Monticello, MN	Healthcare professional
Kyssie Wilson	Moose Lake	Healthcare professional
Sarah	Mound	Pain Patient
Lorrie Dahl	Mounds View	Pain Patient
Rose Levin	Mpls	Concerned Citizen
Cassandra Stein	New Brighton	Pain Patient
Lawrence Brown	New Brighton	Spouse/Family/Friend of patients negatively impacted
Jennifer Young	NEW HOPE	Pain Patient
Peter Dietz	New Prague	Concerned Citizen
Sam Poquette	New Ulm	Pain Patient
sue adams	NORTH MANKATO	Pain Patient
Catherine Warner	Northfield	Concerned Citizen
Kelly Costello	Northfield	Pain Patient
Danny L. Brown	OAKDALE	Pain Patient
Debra Brown	Oakdale	Pain Patient
Sam Micheletti	Onamia	Pain Patient

Megan Thomas	Otsego	Spouse/Family/Friend of patients negatively impacted
Angel Lambert	Ottertail	Pain Patient
Sue and Steve Morem	Plymouth	Spouse/Family/Friend of patients negatively impacted
David Perri	Plymouth	Pain Patient
Michael Perri	Plymouth	Spouse/Family/Friend of patients negatively impacted
Samatha Flynn	Plymouth	Concerned Citizen
Jena Bevens	Plymouth, Mn	Concerned Citizen
Vicki truax	Prior lake	Spouse/Family/Friend of patients negatively impacted
Kim Coyle	Prior Lake	Spouse/Family/Friend of patients negatively impacted
Alfred Anderson	Prior Lake Minnesota	Healthcare Professional - in practice or retired
Dana Makinen	Ramsey	Spouse/Family/Friend of patients negatively impacted
Karon Revell	Ramsey	Pain Patient
Jason Matthews	Randolph	Spouse/Family Member/Friend of Pain Patient
Denise Matthews	Randolph	Spouse/Family Member/Friend of Pain Patient
Ashley Corvin	Red Wing, MN	Pain Patient
Barb Fitz	Renville	Pain Patient
Greg Taylor	Richfield	Spouse/Family/Friend of patients negatively impacted
Gregg Lurie	Robbinsdale	Spouse/Family/Friend of patients negatively impacted
Deborah J. Lurie	Robbinsdale	Pain Patient
Lauren Ranghelli	Rochester	Pain Patient
Brian Newcomer	Rogers	Spouse/Family/Friend of patients negatively impacted
Teresa Liesener	Rogers	Pain Patient
Jennifer Gordon	Rogers	Pain Patient
Kristina Schweigert	Rosemount	Pain Patient
Jamie Rotegard	Rosemount	Advocate/Activist
courtney casey	rosemount	Concerned Citizen
Lori Anderson	Roseville	Pain Patient
Cynthia Cunnien	Saint Francis	Pain Patient
Jessica Forga	Saint Michael	Pain Patient
Sherri Shuherk	Saint Michael, MN	Pain Patient
Lori Welch	Saint Paul	Pain Patient
Vickie Lachelt	SAINT PAUL	Spouse/Family/Friend of patients negatively impacted

Jim LaValle	Saint Paul	Spouse/Family/Friend of patients negatively impacted
Anna Dudda	Saint Paul	Caregiver
Jennifer Morgan	Saint Paul	Concerned Citizen
Kat Sherman	Saint Paul	Concerned Citizen
Andrew Weber	Saint Paul	Spouse/Family/Friend of patients negatively impacted
Suzanne Bennett	Saint Paul	Spouse/Family/Friend of patients negatively impacted
Frances Gandy	Saint Paul	Pain Patient
Peter Koski	Savage	Spouse/Family/Friend of patients negatively impacted
Laura Johnson	Shafer	Pain Patient
Nancy Vanderburg	Shoreview	Concerned Citizen
Joy Fredrickson	Shorewood	Concerned Citizen
Jill Weinzierl	St Bonifacius	Pain Patient
Becky Cannon	St Cloud	Concerned Citizen
Linda Anderson	St Cloud	Pain Patient
Virginia Mason	St Paul	Spouse/Family/Friend of patients negatively impacted
Wendy Narum	St Paul	Pain Patient
Wesley Wright	St Paul	Concerned Citizen
Court winjum	St Paul	Concerned Citizen
Abigail Opstad	St Paul	Healthcare Professional - in practice or retired
Amy Nietz	St. Charles	Pain Patient
Darla Hamann	St. Cloud	Pain Patient
Elizabeth Javinsky	St. Louis Park	Concerned Citizen
Court Winjum	St. Paul	Advocate/Activist
Danielle Novack	St. Paul	Concerned Citizen
Victoria Smith	St. Paul	Spouse/Family/Friend of patients negatively impacted
Justin Zderad	St. Paul	Spouse/Family/Friend of patients negatively impacted
Katherine Larson	St. Paul	Healthcare professional
Sandra Peterson	St. Paul	Spouse/Family/Friend of patients negatively impacted
Karen Kerr	St. Paul	Caregiver
Diana LaValle	St. Paul	Spouse/Family/Friend of patients negatively impacted
Kathleen Buss	St. Paul Park	Concerned Citizen
Roxanne Gross	St.Paul	Pain Patient
Theresa Erickson Bohn	Stacy	Pain Patient

Shae Green	Stillwater	Pain Patient
A Dreyling	St. Paul	Pain Patient
Shari Hansen	Sunfish Lake	Spouse/Family Member/Friend of Pain Patient
Annika Hansen	Sunfish Lake	Pain Patient
Todd M Hess, MD	Sunfish Lake MN	Healthcare Professional - in practice or retired
Jodi K. ysne	TAYLORS FALLS	Pain Patient
Julie Murphy	Vadnais Heights	Pain Patient
Stacey Klein	Victoria	Spouse/Family Member/Friend of Pain Patient
Danya Espinosa	Winona	Pain Patient
Hannah Beumer	Winona	Spouse/Family Member/Friend of Pain Patient



April 16, 2023

House Ways and Means Committee  
Minnesota House of Representatives

**SUBJECT: LETTER OF SUPPORT FOR HF 2847**

Dear Chair Olson and Committee Members,

Our organization is writing to you today in support of HF 2847 and specifically the proposal to phase out subminimum wage for people with disabilities in Minnesota.

Any person with a disability or their families will tell you there are a hundred different ways that society tells people with disabilities “You are less than.” “You are not as worthy as a non-disabled person.” “You do not deserve the minimum standards that apply to everyone else.”

Society sends that message in the judgemental looks our children receive when they may become overwhelmed in public. We see it in the treatment plans that demand eye contact or sitting still when their bodies want to move. Discrimination is also formally enshrined in law in the form of marriage penalties, the hefty fees we assess to access medical assistance, in the asset limits that keep people from getting ahead, and in our segregated school settings. Solving all the problems of ableism in the world is a tall order, but eliminating wage discrimination is not. This is a problem we are ready to not only solve, but lead!

It is time for us as a state to say “It does not matter what your disability is, or your IQ, or how you move through the world, or how you communicate, or how much support you need. It is time for the state to say, loudly and unequivocally, “if you work, you are worthy of the minimum wage.” And some may argue that “subminimum wage is not a measure of your worth, but that is EXACTLY what we are saying. It is in the name “subminimum.” As in “not worthy of the minimum standard applied to everyone else.”

This effort is being led by people with disabilities, and we acknowledge for some parents the shift of handing over power to our children feels uncomfortable, but it is time for us to listen. And that is why we are so grateful for your support on the subminimum wage provision of this bill.

As parents it is our role to support, to encourage, to protect, our children, but it is not our role to be their voice. Our role is to set up the microphone, make sure it is adjusted properly, and then get out of their way.

Sincerely,

Multicultural Autism Action Network  
Fatima Molas, Co-Founder  
Delia Samuel Ph.D., Co-Founder  
Rufo Jiru, Board Member  
Maren Christenon Hofer, Executive Director



April 18, 2023

The Honorable Liz Olson  
Chair, Ways and Means Committee  
Minnesota House of Representatives  
479 State Office Building  
St. Paul, MN 55155

The Honorable Pat Garofalo  
Republican Lead, Ways and Means Committee  
Minnesota House of Representatives  
295 State Office Building  
St. Paul, MN 55155

**Re: Legal Aid Letter of Support for HF 2847**

Dear Chair Olson, Lead Garofalo, and Members of the Committee:

The Legal Services Advocacy Project and the Minnesota Disability Law Center write in support of the House's proposal to end the practice of paying people with disabilities less than the minimum wage in HF 2847.

**This bill will not force the closure of current 14(c) certificate holders.** However, it is important to note that many providers in Minnesota have chosen to end their 14(c) certifications, pay their employees at least minimum wage, and continue to serve people with physical, intellectual, and development disabilities. Several more are transitioning out of 14(c) certification. This bill provides resources and technical assistance for 14 (c) employment providers to shift their business models, stop paying people with disabilities less than the minimum wage, and ensure financial viability going forward.

The U.S. Commission on Civil Rights issued a report calling for an end to Section 14(c) employment in 2020 (2020-09-17-Subminimum-Wages-Report.pdf (usccr.gov)). In the report, the Commission found that these programs were limiting people with disabilities from “realizing their full potential while allowing providers and associated businesses to profit from their labor.” The report called for states to phase out these programs and, instead, invest in meaningful employment and placement services.

Nationwide, 12% of people with disabilities earn less than the minimum wage, but in Minnesota it is 44%. Minnesota is also way behind the national average in employing people with disabilities in integrated settings. In 2018, 21.1% of people with disabilities worked in integrated settings while only 11% of Minnesotans with disabilities worked in integrated settings.

Current research supports shifting to integrated employment services, finding that it leads to better outcomes across employment, health, and independence compared to segregated employment. In Minnesota, many providers have already successfully transitioned their service models, showing that people with disabilities—with all kinds of support needs—can thrive in community jobs earning at least minimum wage. Yet, Minnesota spends ten times more on subsidizing Section 14(c) employers than it does on employment and training programs to help Minnesotans with disabilities find and retain successful, integrated employment.

Most 14(c) employers do not assist their employees develop skills to move into integrated employment settings, and a one-size-fits-all approach is not what works best and respects the differing abilities and needs of any group. In 2019, the Minnesota Disability Law Center, the designated Protection and Advocacy agency in Minnesota, reviewed subminimum wage providers in Minnesota. Only 5% of 14(c) organizations offered more than two choices of work. Limited choice in employment results in a lack of opportunities to explore individual interests and develop new job skills. The opportunity to make an informed choice about employment is only possible when the state and service providers make a variety of options available.

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, 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.

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 put its money where its mouth is and 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 support this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Purrington', written in a cursive style.

Jennifer Purrington  
Legal Director/Deputy Director  
Minnesota Disability Law Center

A handwritten signature in black ink, appearing to read 'Ellen Smart', written in a cursive style.

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.



April 19th, 2023

Chair Olson & Committee Members,

I am writing on behalf of MN APSE, the Association of People Supporting Employment First, to support the Governor's proposal to phase out subminimum wage included in HF 2847.

MN APSE, a chapter of the national organization that promotes the competitive, integrated employment of people with disabilities, has long supported the phase out of 14C. It is an archaic law that was never designed to be used to keep people with disabilities -- particularly people with intellectual or developmental disabilities -- from accessing jobs that fit their skills.

By definition, people making less than minimum wage are working on tasks at which they do not excel. If job tasks are aligned to better fit their skills and interests, they would be able to meet the same performance expectations as anyone else in those positions. It's time for all people with disabilities to have work opportunities for which they have the skills to be proficient and thrive, just as we all do.

Given the chance to earn more income and to be fully included in the competitive workforce, I cannot imagine that anybody would willingly chose to stay in sub-minimum wage employment, below the standard set for the rest of society.

Let's move into the 21<sup>st</sup> century and pass HF 2847.

Sincerely,

*Dana J Eisfeld*

Dana Eisfeld  
Co-President