

April 3, 2023

To: Chair and Members of the MN House Ways and Means Committee

RE: HF4392 in Ways and Means Committee & HF2513 in House Labor Committee – provisions relating to subminimum wage. Two bills with the same language being considered this week.

I am Sue Hankner with A-Team MN – a community of people with significant intellectual or developmental disabilities, their families, and community partners. We support a full array of disability service options and informed choice.

Our community has been marginalized by DHS and disability organizations pushing to eliminate a work option choice. They want you to think that as families we do not know what is best for our disabled family member. Many, simply discard the existence of our loved ones.

Those disability organizations excluded representation on their subminimum wage task force of our family members and us. They pushed those most affected by the work of the task force to the sidelines. They didn't want us involved in planning a future.

We reached out to ARC MN last fall and hosted a meeting seeking common ground. We got a cold shoulder response.

I have two sons with significant (emphasize significant) intellectual and developmental disabilities. They are 45 and 50 years old. I have 50 years of lived experiences with my sons and in the study of human development and psychology of learning. My two sons' cognitive and language development, and physical speaking ability via speech is extremely limited. They look to and depend on their family to advocate for them.

We are appalled and offended with the arrogance, the intentional disregard, and lack of comprehensive planning that further marginalizes a vulnerable community of people with significant cognitive and developmental disabilities.

HF4399 and HF2513 mandates people with significant cognitive disabilities be paid minimum wage in 14c center-based work options.

Question: Will the legislature appropriate funds to pay that minimum wage?

14c providers are nonprofit businesses specially created to provide training and jobs for people who are not able to hold a job in the general workforce. Their primary revenue is from federal and state program funds and local fund raising.

You've likely heard about 8 MN providers that eliminated special minimum wages. One of those providers bragged to me that their clients are now volunteers and not paid for what they do. Is that the intent?

Proponents of this bill fail to mention in states that eliminated 14c there is increased unemployment, increased movement to day activity programs or people isolated in their homes because there is no job and no day activity program available. Is that the intent?

What happens to provider services that rely primarily on unique in-house client products to sell? For example: Birdhouse: On average it takes 20 hours for a trained person with significant I/DD to build a birdhouse. The birdhouse sells for \$35. Assuming 20 hours at \$10.85/hour (minimum wage) the cost to make the birdhouse is \$217 resulting in a loss of \$182 per birdhouse before considering payroll taxes.

Unanswered questions to consider:

- How can the provider sustain its operations and facilities at a loss?
- Who makes up the \$182 loss per birdhouse? Will the legislature appropriate funds for this purpose?
- These work options are in accepting and supporting integrated communities. They offer integrated employment as defined by the individual.
- Does the worker lose their chosen job in their choice of setting?
- What occurs in the workers' community support plans and their informed choices?
- Is the worker forced into day activities or volunteer work instead of a chosen work option?
- How is Informed Choice of people with significant I/DD respected and honored?
- Will the proposed legislation force 14(c) nonprofit providers to close their programs?

Their plan is to dole out grant dollars to providers that submit to their will and there is no plan to find individuals with significant I/DD a job in the general workforce. As a parent, what I hear from the proponents of HF4392 and HF2513 provisions is they know best for our loved ones and to get out of their way.

Please consider the perspective of those who are most affected by the elimination of 14c.

Thank you

Sue Hankner
Buyck, MN

April 2, 2024

Re: The Arc Minnesota, Phase-out of Subminimum Wage in HF 4392, Human Services Policy Bill

Chair Liz Olson and Members of the Ways and Means Committee,

Thank you for supporting the end of the outdated practice of paying people with disabilities subminimum wage in Minnesota. This change will affirm the civil rights of people with disabilities and align our state's policies with our state's values. This will help advance equity, drive social change, and truly protect human rights.

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

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

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

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

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

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

We are so grateful for your forward-thinking leadership on this critical issue, and believe this will bring us closer to the vision of one Minnesota.

Sincerely,

Andrea Zuber, CEO

Tina Rucci, Public Policy Director

The Arc Minnesota



April 1, 2024

The Honorable Liz Olson
Chair, Human Services Policy Committee
Minnesota House of Representatives
479 State Office Building
St. Paul, MN 55155

The Honorable Pat Garofalo
Republican Lead, Human Services Policy Committee
Minnesota House of Representatives
295 State Office Building
St. Paul, MN 55155

Re: Legal Aid letter regarding HF 4392

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

Thank you for the opportunity to provide written testimony regarding HF 4392. We have comments on two sections of the bill. We write in support of section 1, special certificate prohibition. We write in opposition to section 19, informed choice in and technology prioritization in implementation for disability waiver services.

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

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

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

Legal Aid Letter re: HF 4392

April 1, 2024

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—but at minimum wage or higher.

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

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

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

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

Sincerely,



Jennifer Purrington
Legal Director/Deputy Director
Minnesota Disability Law Center



Ellen Smart
Staff Attorney
Legal Services Advocacy Project

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

RE: Center-Based 14c Employment
HF2513 HF4392

I am here to tell you about my son Joe's experience finding a minimum wage job in the community.

After Joe graduated from high school in 2017, Voc Rehab said Joe would be the perfect candidate for customized employment under Section 511 of WIOA. Here's what happened:

We attended every meeting set up for Joe.
We filled out every form we were asked to fill out.
We got Joe ready for every staff encounter.
We answered a million questions about our son.
We did our job.

The system failed us.

We had four different service providers.
We endured countless staff changes, requiring us to start over every single time on Joe's job search.
After 3 1/2 years of searching, Joe was working 1 hour a week at minimum wage.

One hour a week.

When I was notified of yet another agency/staff change in July of 2020, I asked for and received a waiver from Voc Rehab and St Louis County to allow Joe to start pre-vocational training at the East Range Day Achievement Center (ERDAC).

We waited out the pandemic restrictions, and Joe started at ERDAC. It is a key component of Joe's person-centered plan.

He works five days a week.

He has work that is meaningful to him.

He has staff (all members of the Steelworkers Union) who understand his intellectual disability.

He has transportation provided.

He has friends and a social network.

ERDAC operates a non-profit gift shop, and Joe decorates bird houses and makes braided rugs that are sold on campus.

If 14(c) employment is eliminated, Joe will have to go back to the very system that failed him. I have no confidence that another 30 hour/week job will be found that provides him with all of the intrinsic benefits he has working at ERDAC.

I am asking you as a parent, a guardian, an advocate, and a taxpayer to find a way to let center based employment under 14(c) continue in Minnesota.

Joe is depending on you to defend his right to CHOOSE where he works.

Thank you for your time.

Jeanne Prittinen
4527 Woodlawn Point
Eveleth, MN 55734

PAY PEOPLE WITH DISABILITIES MINIMUM WAGE OR HIGHER

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



THE PROBLEM

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

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

THE SOLUTION

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

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

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



Minnesota Coalition
for Disability Wage Justice

THE COALITION FOR DISABILITY WAGE JUSTICE



LEARN MORE:



Legislative Task Force Report
on Ending Subminimum Wage

