

Phase Out Sub-Minimum Wage Employment in Colorado

A legislative proposal to promote economic justice & enhanced self-sufficiency for people with disabilities

BACKGROUND

Section 14(c) of the federal Fair Labor Standards Act allows employers to pay people with disabilities less – in some cases substantially less – than the minimum wage, if their disability impairs their earning or productive capacity. There are approximately 15 Colorado employers utilizing 14(c) certificates and ***an estimated 500 Coloradans employed in sub-minimum wage positions today***. Colorado has declared itself an Employment First state, promoting competitive, integrated employment for people with disabilities. This proposal is the next step in that movement.

THE PROBLEM

Section 14(c) was enacted in 1938, when people with disabilities had very limited supports and opportunities for work. In the time since, numerous employment rights for people with disabilities have been enacted, but many people, especially individuals with intellectual disabilities, continue to earn sub-minimum wages. Thanks to state and national policy efforts as well as leadership among sub-minimum wage employers, Colorado has made significant progress toward supporting people in competitive employment, but significant barriers remain to ensuring that all Coloradans have this same opportunity.

THE SOLUTION

To phase out sub-minimum wage employment while supporting individuals, families, and providers to successfully transition, the proposed bill would:

1. ***Eliminate sub-minimum wage employment in Colorado by 2025***
 - Require 14(c) certificate employers to develop plans to transition their sub-minimum wage employees to competitive employment over 5 years, including annual progress reports
 - Provide technical assistance and grant funding to support employers to implement their transition plans
 - Pursue new Medicaid waiver services to enable implementation of innovative supported-employment models that will help with successful transitions
2. ***Develop recommendations to streamline bureaucracy and reduce barriers to competitive integrated employment***
 - Empower the Employment First Advisory Partnership to develop actionable recommendations by 2021 to address policies and regulations, including Medicaid payment methodology and rates, that are structural barriers to employment
3. ***Protect access to benefits so families are not penalized for income gains***
 - Create a benefits counseling service and expand the Medicaid buy-in program to ensure adults can maintain access to health care as their income increases

THE COST

A fiscal estimate for the bill is in progress. A majority of the additional anticipated General Fund can be matched at the federal level, doubling Colorado's investment. Research also demonstrates that employing people with disabilities can reduce costs over time by improving health and personal outcomes, reducing reliance on public supports, and through their contributions as taxpaying citizens.