Nursing: Brooke Lipow, Hyun Ah "Esther" Oh, Jessica Schneider

Equal Minimum Wage for Persons with Disabilities

***Executive Summary*:**

Employment opportunities for people with disabilities have expanded in recent years such that Great Depression-era programs allowing employers to pay disabled persons sub-minimum wage are no longer necessary or appropriate. This brief is in support of the Department of Labor's proposal to end the issuance of certificates under 14(c) of the Fair Labor Standards Act that allows employers to pay people with disabilities sub-minimum wage.

The Annual Report on People with Disabilities in America: 2024, estimates that in 2022, the US population with disabilities was 46,227,000 or 13.9% of the US population. According to 12-month aggregate data published by the Bureau of Labor Statistics derived from the Current Population Survey (CPS), the current (2/2025) labor force participation rate of persons with a disability is estimated to be 40.8%, with an employment-population ratio of 37 for every 100 people, and unemployment rate of 9.1%.

In 2022, employment-to-population hit a historic high of 44.5%. However, that same year, median earnings from work between people with and without disabilities widened. Evidence supports the notion that people with disabilities are equally capable workers and can participate in a skilled workforce with appropriate training and accommodations if necessary.

Data from the Department of Labor, reported by the Association of People Supporting Employment First, demonstrates that in states where legislation was passed to eradicate subminimum wage allowance through 14(c) certificates, employment rates for all disabilities (except in Alaska) and, specifically, cognitive disabilities increased between year of enactment and 2019, suggesting eradication generally does not lead to decreased employment rates for those with disabilities, including those with cognitive disabilities.

Problem Description:

Currently, issuance of certificates under 14(c) of the Fair Labor Standards Act allows employers to pay people with disabilities sub-minimum wage based on historical misperception about the lower productivity of disabled employees. Given the expansion of skills training in this population and the body of evidence demonstrating added value to the modern workplace, it is imperative that people with disabilities are paid commensurately with employees without disabilities

According to Government Accountability Office (GAO) data, the number of employees paid subminimum wages has fallen by about 90 percent since 2001. As of May 1, 2024, only approximately 40,579 US workers with disabilities were being paid subminimum wages. However, 91% of 14(c) workers were individuals with developmental and intellectual disabilities (IDD), which suggests this program predominantly affects the vulnerable IDD population. This is even though many individuals with IDD in the workforce are not 14(c) workers and are paid full wages.

Proposed Policy Solution/Recommendations:

An increase in the number of career development programs for workers with IDD indicates that 14(c) certificates are no longer necessary for suitable employment opportunities. For example, the Department of Labor's Office of Disability Employment Policy (ODEP) funds the Disability Employment Initiative which has invested $123 million across 28 states to increase access to job education and training for people with disabilities. The overarching goal is to increase community and workforce integration within this population. One such program in California is the Paid Internship Program, which offers people with IDD up to 1,040 intern hours per year at minimum wage to receive hands-on training at a job that aligns with their career interests and goals. These programs are funded by the Department of Developmental Services (DDS) and administered through regional centers. These funds can even be used to help eligible persons start businesses aligned with their skills and expertise. Additionally, WorkAbility programs coordinated through the California Department of Education aim to provide pre-employment skills training and job placement for people receiving special education. While these programs assist people with IDD, they are also of benefit to employers, as they do not have to pay to train or onboard these potential employees. These programs have been around for decades now, so additional resources to fund them would not be required.

A possible concern with dissolving 14(c) certificates is that employers may no longer be as incentivized to hire employees with disabilities. However, there still remains several business tax incentives, including the Disabled Access Credit and the Work Opportunity Tax Credit. Additional concerns from disabilities rights advocates may include decreased access to SSI, Medical, food stamps and other public services as a result of increased income. Protections should remain in place for these services even in the context of full-time employment, especially since many people with IDD may have co-occurring medical conditions that incur additional costs that may not be adequately covered by minimum wage positions.

Conclusion:

The continued practice of paying individuals with disabilities subminimum wages under Section 14(c) of the Fair Labor Standards Act is no longer appropriate in light of significant progress in workforce inclusion and the demonstrated capabilities of people with disabilities. As skills training and workplace accommodations have expanded, it is

crucial to ensure that individuals with disabilities are compensated equitably and have access to the same employment opportunities as those without disabilities.

Eliminating the 14(c) provision is a necessary step in aligning current labor standards with modern workforce realities. Ensuring equal pay for all workers, including those with disabilities, will foster a more efficient and inclusive labor market. Existing programs that provide job coaching and training, along with tax incentives for employers, will support the smooth transition to this new framework without imposing undue costs on businesses. This policy change addresses outdated wage practices and supports the integration of individuals with disabilities into the broader workforce.