

From Sub-Minimum Wage to Supported Employment

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When you first meet a person or are getting to know someone new, the often-asked question is: “What do you do?” Inquiring into what someone “does” helps in getting to know who that person is and what’s important to them. Our identities are tightly tied to this question’s answer.

Yet, we have biases associated with different careers. What are your pre-conceived notions if a person replies that they are a physician versus a janitor? We also have thoughts surrounding the type of person who should be in which job. These biases have placed countless people with disabilities in jobs that do not support their skills, interests, or personal growth. And they have led to people with disabilities being paid less than the federal minimum wage for work that they do.



To support our learning during National Disability Employment Awareness Month (NDEAM) – which takes place every year in October – we are sharing information and insights about moving from a workshop-based, sub-minimum wage employment model to one that supports people to find job opportunities in their communities. In this Capstone, we include some background information on section 14(c) of the Fair Labor Standards Act (FLSA) of 1938, along with strategies and associated resources to improve employment-related outcomes. You will also hear from Kim Zoeller, President and CEO of the Ray Graham Association and Daniel Kohler and Heather Jenkins from the Life Skills and Transition Center. They share their perspective on employment, some tips for other providers, and words of encouragement!

Section 14(c) of the Fair Labor Standards Act (FLSA)

People with disabilities have not been granted the same opportunities as have those without disabilities due in part to an 80-year-old law which makes it legal to pay people with disabilities less than minimum wage. Under section 14(c) of the Fair Labor Standards Act (FLSA) of 1938, employers are allowed to pay individuals with disabilities wages lower than the federal minimum wage, if – as detailed on the U.S. Department of Labor website – the individuals’ “earning or productive capacity is impaired by a physical or mental disability, including those relating to age or injury.” The biases that created this outdated law have created a system which perpetuates these inequalities towards adults with disabilities and their employment opportunities, while incentivizing providers to continue the unjust practice.

Fortunately – according to a ‘Trends and Current Status of 14(c)’ report from APSE, the number of people that are paid sub-minimum wage through a 14(c) certificate are decreasing, but tens of thousands of people are still compensated this way. To learn more about how providers can transition from using 14(c) certificates and move towards community-based employment, we turned to providers who have already made that transition, to gain insights from their collective experiences.

The following is excerpted from correspondences with Kim Zoeller of the Ray Graham Association in Illinois, as well as Heather Jenkins and Daniel Kohler from the Life Skills and Transition Center in North Dakota:

What influenced you to move away from subminimum wage?

Kim Zoeller:

“There were several factors, but primarily it was mission and value driven. Our footprint in competitive community employment was already quite large and there were many people in our workshop that wanted to find employment at area businesses. We had also started to open smaller community embedded locations where we learn, work, and recreate. There was new demand for this sort of service model, as well as a lot of interest from people served in our workshop. We were quite deliberate in our process of soliciting input from people. Our goal was to transition to a service delivery model and not to “close or eliminate” anything without having a full menu of new options available to replace or select from. Moving away from subminimum wage was a natural transition.”

Heather Jenkins:

“Individuals with disabilities should be empowered to attain a higher level of work in a job that not only challenges and interests them, but also pays them at least the minimum wage like anyone else.”

Daniel Kohler:

“All employed people should be paid fairly for the work they do. Remove the stigma that their worth is not as much as others.”

What has been the impact of no longer having a 14(c) certificate?

Kim Zoeller:

“I do not think we had any negative impact because we allowed it to happen naturally as people learned about new options and community engagement. People quickly learned that working all week for a \$15 check was not that much fun any longer, when new choices became available! At some point we did pull the plug, because it did not make sense any longer from a program model and philosophy-wise. We honestly did not give the 14(c) certificate issue too much attention. It was really not a focal point for us.”

Heather Jenkins:

“People feel as though they are valued for the hard work that they do! We have seen movement of people being paid subminimum wage transition into integrated employment opportunities that are paid comparable wages to co-workers without disabilities.”

Daniel Kohler:

“Those that were moved to minimum wage are proud to be paid that. They will tell you that. The staff working with them feel a sense of accomplishment knowing they are being paid fairly. Employers are viewing them as competent workers. Most employers felt it was time this happened and are glad to see it.”

What do you want to share with other providers that are looking to make the transition?

Kim Zoeller:

“Be willing to truly listen to people and understand that there needs to be a lot of planned education, exposure, and experiences so people can more fully know their options. Also, it is a journey, and you probably will not get it right the first, second, or third time! Be willing to take risks, it is worth it. Embrace change because this is an evolving process!”

Heather Jenkins:

“Go for it, it is worth the time and money! Take a closer look at how the 14(c) is really affecting people. It is important to have a well thought out approach and data to back up your strategy. Remember: Employment creates opportunities. As advocates with people with disabilities, we feel it is our responsibility to educate and empower people to make informed decisions, especially when it comes to employment.”

Daniel Kohler:

“Take the leap. The people you serve, the employers, and your staff will be proud to be part of this transition. It is the dignity and respect they deserve.”

Five Ways to Support the Transition to Community Employment

Given the collective experience of CQL and the many amazing organizations and individuals we have worked with over the years, here are five suggestions to support the transition from subminimum wage to community employment.

Encourage Education System Changes

Opportunities exist to support students in learning skills so that they graduate high school ready for college or a career opportunity. Some of the same processes used to guide adults with disabilities to obtain employment can be useful when working with high school students, such as learning about job opportunities, exploring good career fits, and helping them discover their interests and skills. While historically students often transitioned from high school to workshop settings, they can now be successfully supported to transition from high school to a job.

Utilize Benefits and Work Incentive Counseling Services

Many myths are out there regarding work for people who receive Social Security, Medicaid, and other benefits. Every state has work incentive programs, and every state has programs that support people to learn about their benefits. Each state is different, and each person's benefits are different, so it's important to get the correct information from people trained in benefits counseling. Find out who the benefits counselors are in your area and reach out to them. Their job is to support people to understand their benefits and to get people working. Navigating people's benefits should not be seen as a barrier to employment.

Provide Opportunities For The Three E's

At CQL, we use The Three E's – Education, Experience, and Exposure, which are applicable to employment opportunities. Many times, people with disabilities are not provided diverse career options to find a good fit so that they can have long term success. Training staff is a big part of overcoming this limitation. Staff need to believe that people are capable, instead of perpetuating stereotypes that people are not capable. Staff should make and take opportunities to use their time with people to explore the diverse job opportunities, environments, and models that exist.

Train Staff On Best Practices

Staff training is one of the barriers to people having a variety of employment opportunities. Training staff in supported and customized supported employment practices can help people to find jobs in their communities that are based on their skills and interests.

Reach Out To Other Providers

The providers interviewed here shared some great advice on transitioning to community-based employment. Reaching out to providers who have been through the process makes it much easier for those that are about to go through the process. Providers can learn from the successes and challenges experienced rather than trying to do everything from scratch.

What Do You Do?

To bring things full circle, when it comes to improving employment opportunities, ensuring fair wages, and supporting people to find meaningful careers in the community – what do you do?

Moving from sub-minimum wage workshop-based employment to community employment is a challenge. And yes, change and transition is something new for everyone involved. All of the people interviewed expressed that the change was hard but worth it!

As we know, the greatest impact of moving from a subminimum wage model to one of community employment is not on the organization, the staff, or even the community. The greatest impact is on the people we support. It increases their dignity, self-respect, self-worth, and quality of life. Subsequently, transitioning to community employment impacts the way society sees, and looks at, people with disabilities. And one of the most effective ways to overcome bias for people with disabilities that have more barriers to employment is to have more people in community-integrated jobs.

Stories about people with disabilities in community-integrated jobs should be elevated to show examples of the possibilities and to support people's thinking about the potential for all people to find jobs that are meaningful to them.