

Employment – Out of the Workshops and Into the Community

Brad Meurrens
Disability Rights Nebraska

Federal Law Allows Sub-minimum Wages

- In 1938 President Franklin Roosevelt signed into law the **Fair Labor Standards Act** which established a minimum wage for employees
 - The federal minimum wage: \$7.25 per hour
 - Nebraska's minimum wage: \$9.00 per hour
- **Section 14(c) of the Act** authorizes the employment of workers with disabilities at **subminimum wages** when their disabilities impair their productivity for the work being performed
 - If employers file for a 14(c) certificate from the U.S. Department of Labor, they can pay people with disabilities less than minimum wage.

Determination of Sub-minimum Wage

- Determine The Prevailing Wage
 - Define The Work
 - Establish The Standard
 - Measure The Worker
 - Calculate And Implement Rate Of Pay
- Workers without disabilities get minimum wage regardless of their production

Nebraska

- Number of issued 14(c) certificates in Nebraska: **10**
- Number of pending 14(c) certificates in Nebraska: **12**
- ***Number of people with disabilities paid below minimum wage in Nebraska: 584***

(Data accurate as of July 1, 2018; source: U.S. Department of Labor,
<https://www.dol.gov/whd/workerswithdisabilities/certificates.htm>)

Sheltered Workshop Definition

- **Social Security definition:** “A private non-profit, state, or local government institution that provides employment opportunities for individuals who are developmentally, physically, or mentally impaired, to prepare for gainful work in the general economy.”
- **Department of Labor (Wage and Hour Division):** “Centers that have historically provided rehabilitation services, day treatment, training, and/or employment opportunities to individuals with disabilities.

Characteristics of Sheltered Workshop

- **Ability to pay sub-minimum wage**
- **Exclusively or primarily employ people with disabilities**
- **Employees with disabilities are usually segregated from workers without disabilities**
- **Work examples: assembly and sorting, shredding paper, or janitorial**
- **Underlying idea is to help people develop job skills and move onto community employment**
 - However, this doesn't always go according to plan or intent

***Bottom Dollars*, a documentary**



What's Being Done?

- **Congress passed Workforce Innovation and Opportunities Act (WIOA) which will have significant impact for people with disabilities**
 - WIOA contains several provisions intended to increase competitive, integrated employment for youth and adults with disabilities and address the payment of sub-minimum wage to individuals with disabilities.
 - Addresses sheltered workshops and sub-minimum wage
- **More states and localities are ending sub-minimum wage**
 - See Department of Labor website for more information on WIOA and 14(c) programs: <https://www.dol.gov/whd/workerswithdisabilities/employers.htm>

What's Being Done? (Cont.)

- **Establishes an Advisory Committee on competitive, integrated employment**
 - Ways to increase competitive, integrated employment
 - Review the sub-minimum wage program
- **Increased scrutiny on sub-minimum wages:**
 - Increases steps before someone under the age of 24 can be paid sub-minimum wage
 - Schools prohibited from contracting with sub-minimum wage contractors.
 - Gives Vocational Rehabilitation agencies a role in determining if sub-minimum wage is appropriate for an individual.
- **For those ALREADY receiving subminimum wage:**
 - Reassessment every six months
 - Require work readiness and job training services