

Phase Out Sub-Minimum Wage Employment in Colorado

*A 2020 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 who are 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.

3 Major Components of the Proposal:

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 support to 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

Reasons to Support

- ✓ Advance economic justice and self-sufficiency through competitive integrated employment for all Coloradans.
- ✓ Create a thoughtful transition plan to eliminate sub-minimum wage on a realistic timeline that supports individuals, families, and employers.
- ✓ Strengthen state programs to better serve individuals with disabilities.
- ✓ Get ahead of likely federal mandates with a Colorado-specific solution.

Frequently Asked Questions

Who Supports This?

Alliance, Disability Law Colorado, and The Arc of Colorado worked together over 6 months with a small stakeholder group to develop this proposal. It has been informed by family advocates, employers, and policy experts. It is endorsed by:

- Colorado Cross-Disability Coalition
- Ability Connection Colorado
- Colorado Developmental Disabilities Council
- Speaking for Ourselves Colorado
- Parent to Parent of Colorado

Do You Anticipate a Fiscal Note?

Yes. This is a significant policy shift that will have profound impacts on the lives of Coloradans with disabilities. We need to be sure we do it right. That means supporting individuals and employers and strengthening state programs – and that will require state investments. We are working to estimate the possible fiscal impact now, but are encouraged that some of the costs, specifically technical assistance grants to 14(c) employers to implement transition plans, will be time-limited, and some of the proposed policy changes should enable cost reductions in other programs, which may help off-set costs of this legislation.

What about people who are happy with their current sub-minimum wage employment position? Won't this displace them?

Yes, this will require a few hundred individuals and families to adjust to new employment structures, new schedules, and new budgets. We know that employment changes can be difficult for anyone to adjust to and particularly difficult for people who have struggled to find positions that meet their particular needs. Recognizing those valid concerns, we are proposing:

- ✓ a five-year transition timeline
- ✓ technical assistance and grant funding to employers to work with their employees and families to plan for and implement the transition in ways that deliver person-centered, successful outcomes
- ✓ benefits counseling services to support families in maintaining access to essential services, even as their income increases
- ✓ expanding the Medicaid Buy-In program for the DD Waiver population to ensure that an increase in income does not compromise access to Medicaid

While there will be impacts to a limited number of families over the short term who will change employment as a result of this new law, ***the long-term economic justice and self-sufficiency benefits to the disability community at large are significant.*** This is why disability advocacy groups, family advocates, and service providers support the proposal.