

Number of 14(c) Certificates Held by Community Rehabilitation Programs

Throughout the country, efforts are underway to improve employment opportunities and outcomes for individuals with disabilities. These efforts are focused on increasing competitive integrated employment, including supported and customized employment paying at least minimum wage.

Section 14(c) of the Fair Labor Standards Act authorizes payment of subminimum wages to certain employees with disabilities. This legislation is based on the belief that it is acceptable to pay these employees subminimum wage based on certain criteria such as production rate, speed, and accuracy. Community rehabilitation programs, schools, hospitals, residential care centers, and businesses can apply for a Section 14(c) certificate. This certificate can be used for work performed in work centers or sheltered workshops, group supported employment situations such as enclaves or mobile work crews, or more rarely on an individual basis for a specific employee.

With increasing focus on Employment First, service models that include the payment of subminimum wage have come under increased scrutiny. Many feel that system transformation efforts must include a movement toward federal minimum wage or greater. A number of efforts are underway at the state level to significantly decrease or eliminate subminimum wage.

At the federal level, the Workforce Innovation and Opportunity Act places new restrictions on the use of subminimum wage, particularly for youth and young adults. There also is significant debate about Section 14(c) in the business, government, and disability advocacy communities. Organizations including the National Council on Disability, Self Advocates Becoming Empowered, APSE, the National Disability Rights Network, and TASH have called for the repeal of the section, stating that it is discriminatory. However, other organizations, such as ACCSES, maintain that without options for subminimum wage, many individuals with more significant disabilities will not be able to work.

Because this is a controversial and high-profile issue, the State Employment Leadership Network reviewed the data available through U.S. Department of Labor on Section 14(c) certificates to better understand where they are being used and whether there have been changes in recent years.

SELN working documents contain information collected in response to SELN state member requests. An SELN working document is intended to share work in progress and may not be a comprehensive analysis or compilation.

What the Data Tells Us

In January 2016, the U.S. Department of Labor posted the most recent list of certificate holders. There are 2,767 active certificates, with the majority (over 80%) held by community rehabilitation programs (CRPs). The number of certificates dropped by 550 since November 2013, and declined in every category.

TABLE 1: ACTIVE CERTIFICATES BY CATEGORY

	November 2013	January 2016
Community rehabilitation programs	2744	2417
Business certificates	166	94
Patient worker certificates	137	114
School-work experience programs	270	142

Certificates are awarded for a 2-year period. Of the certificates reported as held by CRPs, 1320 expire in 2016, 1086 expire in 2017, and 11 expire in 2018. Under the Fair Labor Standards Act, CRPs with expiring certificates may reapply for their certificates.

A few state intellectual and developmental disability (IDD) agencies have stopped supporting work centers offering subminimum wage employment, while others have declared intent to do so. Examples of state actions include:

- » The District of Columbia Developmental Disabilities Division does not fund center-based employment,

and there were only 2 active 14(c) certificates for community providers in January 2016, with a total of 31 participating workers reported at the time of application.

- » The Maine Office of Adults with Cognitive and Physical Disability Services discontinued support for center-based employment in July 2008. As of March 2016, there are 5 active certificates, down from 21 in 2011.
- » The Maryland Minimum Wage and Community Integration Act, HB420/SB417, will phase out the use of subminimum wage in the state over a 4-year timeline. Passed on April 9, 2016, if signed by the governor, the legislation will prohibit authorizing new subminimum wage certificates as of October 1, 2016, and ends the use of subminimum wage on October 1, 2020.
- » In 2013, Massachusetts established a pathway to end funding for facility-based employment. The number of active certificates fell by 33% between 2013 and 2016.
- » The New Hampshire Bureau of Developmental Services largely stopped funding center-based employment, and reports that they do not support sub-minimum wage employment. The number of active certificates dropped from 3 in 2013 to 0 in 2016.
- » The Vermont Division of Disability and Aging Services does not support center-based or group supported employment services, and in January 2016 there were no active 14(c) certificates. Vermont policy is clear, and the state implemented a systematic process of change between 1999 and 2005.¹
- » Washington State has a long-term commitment to integrated individual employment, and is working toward ending support for work in facility-based settings. As of December 2015, fewer than 200 individuals were reported to be earning wages in sheltered employment, and the number of 14(c) certificates dropped from 46 in November 2013 to 32 in January 2016.

The data in Table 2 refer to certificates held by community rehabilitation programs.

¹www.communityinclusion.org/article.php?article_id=200

Table 2: Number of Section 14(c) Certificates Held by Community Rehabilitation Programs as of January 1, 2016*

State	Nov 2013	Jan 2016	Change
AK	9	6	-33%
AL	42	29	-31%
AR	42	51	21%
AZ	38	43	13%
CA	163	145	-11%
CO	29	29	0%
CT	58	54	-7%
DC	0	2	-
DE	7	4	-43%
FL	97	75	-23%
GA	79	64	-19%
HI	9	6	-33%
IA	70	58	-17%
ID	11	11	0%
IL	140	138	-1%
IN	53	46	-13%
KS	53	46	-13%
KY	46	35	-24%
LA	79	71	-10%
MA	75	50	-33%
MD	42	36	-14%
ME	14	5	-64%
MI	69	56	-19%
MN	104	100	-4%
MO	110	107	-3%
MS	26	23	-12%
MT	28	27	-4%
NC	83	76	-8%
ND	16	17	6%
NE	24	24	0%
NH	3	0	-100%
NJ	66	60	-9%
NM	9	5	-44%
NV	13	10	-23%
NY	116	106	-9%
OH	151	130	-14%
OK	69	61	-12%
OR	50	42	-16%
PA	117	111	-5%
RI	9	4	-56%
SC	70	72	3%
SD	22	18	-18%
TN	73	63	-14%
TX	113	108	-4%
UT	18	19	6%
VA	52	40	-23%
VT	0	0	-
WA	46	32	-30%
WI	80	75	-6%
WV	19	18	-5%
WY	9	6	-33%

Source: U.S. Department of Labor Wage and Hour Division

* Certificates are awarded for a 2-year period. Of the certificates reported as held by CRPs on January 1, 2016, 1320 expire in 2016, 1086 expire in 2017, and 11 expire in 2018.

Table 3: Number of Section 14(c) Workers Reported Under Community Rehabilitation Provider Certificates at Time of Application

State	Number of 14(c) workers	Number per 100,000 general population
AK	191	26
AL	2,071	43
AR	3,445	116
AZ	2,192	33
CA	22,639	58
CO	1,877	35
CT	2,983	83
DC	31	5
DE	274	29
FL	6,037	30
GA	3,442	34
HI	65	5
IA	4,817	155
ID	343	21
IL	13,742	107
IN	7,357	112
KS	3,324	114
KY	1,790	41
LA	3,009	65
MA	4,658	69
MD	3,469	58
ME	131	10
MI	7,481	75
MN*	24,611	451
MO	8,020	132
MS	4,684	156
MT	1,202	117
NC	5,812	58
ND	828	112
NE	1,702	90
NH	0	0
NJ	5,977	67
NM	182	9
NV	1,178	41
NY	13,903	70
OH	18,536	160
OK	2,691	69
OR	3,475	88
PA	12,101	95
RI	382	36
SC	9,038	187
SD	1,466	172
TN	3,999	61
TX	8,938	33
UT	1,626	55
VA	3,667	44
VT	0	0
WA	1,751	25
WI	9,156	159
WV	809	44
WY	152	26

Source: U.S. Department of Labor Wage and Hour Division

NASDDDS



The State Employment Leadership Network (SELN) is a cross-state cooperative venture of state MR/DD agencies that are committed to improving employment outcomes for adolescents and adults with developmental disabilities. Working documents contain information collected in response to state requests, and federal, state and local initiatives of interest to the SELN membership. They are intended to share work in progress but may not be a comprehensive analysis or compilation. Working documents are updated over time as information changes.

The SELN is a joint program of the Institute for Community Inclusion at UMass Boston and the National Association of State Directors of Developmental Disabilities Services.

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* The DOL list of CRPs includes one Minnesota provider with a reported number of workers that is a significant outlier and likely an error. Without this provider included, Minnesota providers reported 10,937 workers and number reported/100,000 general population is 200.