



March 31, 2022

To: Members of the House Human Services Finance and Policy Committee
RE: HF 4071 – Changes to Task Force on Eliminating Subminimum Wage

Dear Chair Schultz and Committee Members,

We write regarding the proposed changes to the Task Force on Eliminating Subminimum Wage in HF 4071. The Minnesota Disability Law Center (MDLC) and the Legal Services Advocacy Project (LSAP) are statewide projects of Mid-Minnesota Legal Aid. MDLC serves as the Protection and Advocacy (P&A) organization for Minnesota, one of 49 other state P&A's federally designed under a Congressional act. MDLC provides free legal services to children and adults with disabilities in Minnesota. LSAP is the advocacy arm of Legal Aid and has provided legislative and administrative advocacy on behalf of Legal Aid's clients and all low-income Minnesotans since 1977.

We write to share our concerns about the language proposed in House File 4701. The task force has already begun its work and we do not support changing the purpose of the task force, particularly at this stage.

This task force as enacted is a very good policy approach for our state. The ability for some employers to pay people who have disabilities less than minimum wage was incorporated into the federal Fair Labor Standards Act in 1938. It is now time to move away from this model – as many states have done¹ – and to fully recognize and compensate the labor of people who have disabilities.² The task force is a thoughtful approach to phasing out a practice that remains embedded in some of the options for people who have disabilities throughout our state. Rather than simply eliminating the use of subminimum wage, the task force is charged with creating a plan to phase it out. One of the goals of such planning is to ensure that all people in Minnesota who currently receive less than minimum wage can continue to spend their time in the ways that have meaning for them, along with being paid minimum wage for their work.

¹ Alaska, Maine, Maryland, New Hampshire, Rhode Island, Vermont have ended the use of subminimum wages and other states, including Colorado, Delaware, Hawaii, Oregon, and Washington, have set an end date for ending subminimum wage.

² See *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, U.S. Commission on Civil Rights (September 2020), available at <https://www.usccr.gov/files/2020-09-17-Subminimum-Wages-Report.pdf> (recommending the end of the use of subminimum wage and noting that “[t]he Commission’s research shows that Section 14(c) is antiquated as it was enacted prior to our nation’s civil rights laws, and its operation in practice remains discriminatory by permitting payment of subminimum wages based on disability without sufficient controls to ensure that the program operates as designed “to the extent necessary to prevent curtailment of opportunities for employment”); see also National Council on Disabilities, *National Disability Policy: A Progress Report*, at 54 (2017), available at https://ncd.gov/sites/default/files/NCD_A%20Progress%20Report_508.pdf (recommending a “transformation strategy to phase out the 14(c) model in favor of one of empowerment and self determination,” and noting “NCD believes that no person with a disability should be discriminated against in an employment setting by receiving less than the minimum wage available to all other citizens”).

We understand the concern that this task force has generated, yet we don't believe it is warranted. The purpose of the task force is not to take away the jobs or the meaning that folks who currently receive subminimum wage have. The purpose is to find ways to **keep** all of those things, while paying people who have disabilities at least minimum wage. If the prospect of paying more than subminimum wage seems to providers that it will not be workable, that is precisely the purpose of the task force – to support providers to find approaches that will work while paying a minimum wage. This may include addressing imbalances in payment rates for disability waiver day program services, or other approaches. And there are grants available to support providers to transition away from subminimum wage so they can find ways to do so while ensuring that everyone who is currently paid less than minimum wage can continue to work or spend their time in meaningful and satisfying ways

We are very supportive of promoting independence and increasing opportunities for people with disabilities to earn competitive wages—the language proposed in House File 4071. But our state has spent extensive time and resources promoting employment opportunities, including the Employment First policy in 2014, setting goals in our Olmstead Plan, provider transformation grants through MN-TAP, Section 511 counseling through Vocational Rehabilitation, and more. These are just a few of the efforts we've undertaken as a state, and yet we still have one of the highest numbers of people earning subminimum wage for our state's population across the nation. We are not confident that with the proposed purpose in House File 4071 that this task force will promote changes toward more competitive, integrated employment than the outcomes we've achieved so far with our various efforts.

The task force began its work in February and has a substantial amount of work to do to gather information and make recommendations about how all people who have disabilities in Minnesota can be paid minimum wage, while ensuring access to jobs they love. We urge the committee to continue with the purpose of the task force as enacted.

Thank you for your leadership and your commitment to people who have disabilities in Minnesota and for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Hulden', with a long horizontal line extending to the right.

Maren Hulden
Staff Attorney
Legal Services Advocacy Project