



March 19, 2021

To: Members of the House Labor, Industry, Veterans and Military Affairs Finance and Policy Committee  
RE: House File 439

Dear Chair Ecklund and Committee Members,

We write in support of House File 439. Thank you to Representative Xiong and co-authors for your leadership on this important bill.

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, and, along with every other state and territory, is the largest network of legally based advocacy services for people with disabilities in the United States. MDLC provides free legal services to children and adults with disabilities. 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.

Ensuring that people who have disabilities have access to competitive, integrated employment is a top priority for our office and has been for years. As Minnesota's Employment First Policy states, "Employment First means raising the expectation that all working age Minnesotans with disabilities can work, want to work, and can achieve competitive integrated employment; and each person will be offered the opportunity to work and earn a competitive wage before being offered other supports and services."<sup>1</sup> (Adopted by Minnesota's Olmstead Subcabinet, September 29, 2014). We know that people who have disabilities bring so many skills and talents to our state and we would be wise and fortunate to find ways to benefit from those skills being used in meaningful work.

Right now, Minnesota permits people who have disabilities to be paid less than our state and than the federal minimum wage. Doing so inherently treats people who have disabilities differently than people who are not disabled. We see this as a civil rights issue. Minnesota's current law is inconsistent with the direction set out by the Olmstead Subcabinet in the Employment First Policy statement in 2014.<sup>2</sup> The United States Commission on Civil Rights agrees – in September, 2020, it issued a report and recommendation that "Congress should repeal Section 14(c) with a planned

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<sup>1</sup> Employment First: Minnesota's Plan for Competitive, Integrated Employment, adopted by the Minnesota Olmstead Subcabinet September 29, 2014, available at <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/employment-first/employment-first-policy.jsp>

<sup>2</sup> *Id.*

phase-out period to allow transition among service providers and people with disabilities to alternative service models prioritizing competitive integrated employment.”<sup>3</sup>

Eliminating subminimum wage through a planful transition is a good approach, and one that has been done and worked well in other states. Our office has been connecting with Protection and Advocacy organizations in those states to learn what has worked well for their transitions. Here are some of the things that we have learned are important to support a transition:

1. Support for Providers. It is essential to support providers, ideally with grants and technical assistance, to make changes to their models to move away from subminimum wage. Vermont, Oregon and Maine used grants to assist providers in shifting their approach.
2. Person-Centered Approaches. People who have disabilities want to choose their work, just like people who do not have disabilities. Employment services should support people to find jobs that are truly person-centered and the jobs that people want to have, rather than the jobs that have been traditionally considered for people who have disabilities seeking supported employment. Three things can be helpful in ensuring this: (a) incentives for providers, (b) accountability measures, and (c) evidence-based approaches. Expanded post-secondary options can help young people build skills and expand career options.
3. Support for Individuals. We must provide assistance with transportation to and from work, and flexible day services programming so that people have access to community-based options when they are not working. We will need to provide comprehensive benefits planning for people who have disabilities pursuing employment options, particularly for people who use other public assistance options.
4. Systems Efforts: As we transition away from subminimum wage, we will need to track outcomes, including hours worked and wages earned to be able to track the progress of the transition and outcomes for individuals.

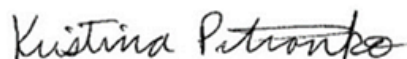
All of these pieces can be incorporated into the phase-out and transition plan advanced by HF 439. The phase-out, timeframe, and task force outlined in HF 439 will allow for deliberative planning for people with disabilities, their families and support network, providers and state agencies to ensure effective, flexible supports once subminimum wage is phased out.

HF 439 addresses an important issue and we are so grateful to the advocates and legislators who are bringing it to the attention of the legislature. Thank you again to Representative Xiong for your leadership on this bill.

Sincerely,



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Legal Services Advocacy Project



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Minnesota Disability Law Center

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<sup>3</sup> 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>.