Nothing About Us, Without Us: Maryland Passes Legislation to Phase out Subminimum Wage for Workers with Disabilities

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Background
- In 1938, section 14(c) of the Fair Labor Standards Act provided for a subminimum wage exemption where employers could legally pay less than the minimum wage to their employees with disabilities.
- 14(c) certificates allow certain employers to pay employees with disabilities based on their productivity, rather than a fixed hourly rate.
  - Productivity is measured by a time trial:
    - Employees with a disability are timed completing job-related tasks.
    - The employee with a disability’s wage is set by comparing the time it took to complete a task against the average time of non-disabled workers.
- As of July 1, 2016, there were approximately 3,200 Maryland residents with disabilities paid subminimum wages by 40 organizations (United States Department of Labor).
  - In 2016, 20 percent of individuals with developmental disabilities worked in facility-based settings where they were paid an average of $3.88 per hour (National Federation of the Blind of Maryland).
  - Some individuals with disabilities were paid as little as pennies per hour.
- A 2001 study conducted by the government accountability office found that only approximately five percent of people in 14(c) placements transition into community-based jobs (United States Government Accounting Office).
- Subminimum wage is an unfair and discriminatory practice. Employees without disabilities do not have their pay measured based on their productivity.

Defining the Problem
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References
- United States Department of Labor, Wage and Hour Division, Community Rehabilitation Programs (CRPs) List, retrieved October 18, 2016, from https://www.dol.gov/whd/specialemployment/CRPlist.htm.

Vignette
- Ken Capone, Public Policy Director of People On The Go (POG), spent time in a sheltered workshop shortly after graduation from rigorous computer programming courses.
- Ken wanted to work in the computer field; however, he was instead sent to a sheltered workshop where he did assembly work.
- Ken describes the experience as demeaning, especially after completing a difficult program.

The Legislative Process
- POG worked with EEC groups to draft legislation that would eliminate the practice of paying people with intellectual and developmental disabilities subminimum wages in Maryland.

Outcomes
- Phase-out of sheltered workshops.
- Beginning October 1, 2016, the Maryland Commissioner of Labor and Industry could no longer authorize new organization certificates to pay their workers a subminimum wage.
- Allows companies that received a 14(c) certificate before October 1, 2016, to continue paying subminimum wages with a four-year phase-out.
- By October 1, 2017, the Maryland Developmental Disabilities Administration and the Maryland Department of Disabilities must submit a plan to the governor and the General Assembly outlining the transition away from subminimum wages.
  - Each individual currently paid under a 14(c) certificate will receive an individual plan.
  - Transition away from subminimum wages becomes final on October 1, 2020.
- Maryland is the second state to eliminate subminimum wage.

People On The Go is a key partner of:

Maryland Center for Developmental Disabilities
at Kennedy Krieger Institute


For more information, visit our website at PeopleOnTheGoMaryland.com