

Public Policy to Practice: Making a Difference in Employment

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What is public policy?



- System of laws, rules, regulations, actions, and funding decisions from a government entity or its representatives

Who creates public policy?

- Legislators
- Executive branches
 - *Governors, Presidents, cabinet secretaries, etc.*
- Courts
- Public Agency Directors and Staff



How is public policy created?

- Legislation
- Rules and regulations to implement legislation
- Other rules and regulations
- Executive Orders
- Court rulings
- Policy directives



Why is Public Policy Important?

Public policy creates the structure for the

- *Availability*
- *Quality*
- *Success*
- *Failure*



of community inclusion of people with disabilities including employment.



Public Policies That Made This a Reality



- **ADA:** non-discrimination in employment, right to accommodation; essential function
- **RSA regulation:** no successful public VR closures in sheltered workshop
- **Public Vocational Rehabilitation:** funds job development & placement
- **Medicaid waiver:** allows funding for long-term supports
- **Social Security Work Incentives:** allows individual to maintain Medicaid coverage while working
- **State policies:** Policy directives on community employment; funding support and incentives for community employment; staff competency requirements
- **Court rulings & settlement agreements:** deinstitutionalization, shift resources to community

Proposed Federal Legislation



Transformation to Competitive Employment Act

- **State Grant Program:** Assists states to transition all sub-minimum wage service providers to competitive, integrated employment
- **Ends Subminimum Wage:** Discontinues issuance of sub-minimum wage (14c) certificates, and phases out sub-minimum wages over six years
- **TA Center:** Establishes a national technical assistance center on transition to competitive integrated employment



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The Hon. Robert C. "Bobby" Scott • Chairman

Fact Sheet

COMMITTEE ON EDUCATION & LABOR

Transformation to Competitive Employment Act

The *Transformation to Competitive Employment Act* provides states, services providers, subminimum wage certificate holders, and other agencies with the resources they need to create competitive integrated employment service delivery models and the inclusive wraparound services that some individuals with disabilities will need. This legislation is designed to strengthen and enhance the disability employment service delivery systems throughout the states while the subminimum wages that are currently allowed under Section 14(c) of the *Fair Labor Standards Act* are phased out over a six-year period.

To reach the goal of improving and expanding the service delivery system to support individuals with disabilities in work settings, this legislation will:

- Create a competitive state grant program to assist states to transition all 14(c) certificate holders to models that support competitive, integrated employment for individuals with disabilities. States will be able to apply for these transformation grants and must establish an advisory committee that includes employers, organizations specializing in employment for individuals with disabilities, Medicaid agencies, AbilityOne contractors, individuals with disabilities, and vocational rehabilitation agencies.
- Create a competitive grant program for current 14(c) certificate holders, located in states that do not apply for the state grant, to transition their business models to support individuals with disabilities in competitive, integrated employment.
- Immediately freeze the issuance of any new 14(c) certificates by the Department of Labor (DOL), and phase out the use of existing 14(c) certificates over 6 years until employees are paid the federal minimum wage.
- Establish a technical assistance (TA) center to support all entities, even those not receiving the transformation grants, to transition to competitive integrated employment. The TA center, which will be funded by DOL, is tasked with disseminating information about best practices, lessons learned, and models for transition to all entities transitioning to competitive, integrated employment.
- Require reporting and evaluation on the progress of creating and expanding the service delivery structure to support workers with disabilities in competitive integrated settings and the inclusive wraparound services they receive when not working. States and 14(c) certificate holders will also be required to report on their grant activities, evaluate changes in employment for individuals with disabilities, report average wage information, and evaluate employer actions taken to comply with the phase out of 14(c) and transformation grants.

CMS HCBS Final Rule - January 2014

- Setting is integrated in and supports **full access of individuals to the greater community**, including opportunities to seek **employment and work in competitive integrated settings**, engage in community life, control personal resources, and receive services in the community, **to the same degree of access as individuals not receiving Medicaid HCBS.**



FEDERAL REGISTER

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Part II

Department of Health and Human Services

Centers for Medicare and Medicaid Services
42 CFR Part 430, 431 et al.
Medicaid Program; State Plan Home and Community-Based Services,
5-Year Period for Waivers, Provider Payment Reassignment, and Home
and Community-Based Setting Requirements for Community First Choice
and Home and Community-Based Services (HCBS) Waivers; Final Rule

What This Means



- States required to transition services to comply with this rule by 2021
- Transition plans were submitted to CMS by each state and currently under review
- ***www.hcbsadvocacy.org***

Raise the Wage Act

- Raises the federal minimum wage to \$15 per hour over five years
- Would discontinue issuance of sub-minimum wage (14c) certificates, and phase out sub-minimum wage over six years

RAISE *the* WAGE

SECTION BY SECTION

Raise the Wage Act of 2019

Section 1. Short Title

The *Raise the Wage Act* (the Act).

Section 2. Minimum Wage Increases

Federal Minimum Wage. The Act increases the federal minimum wage for employees over a six-year period. In the first year (2019), the federal minimum wage will increase by \$1.30 from \$7.25 to \$8.55 per hour. This increase will occur on the first day of the third month that begins after the date of enactment of the Act (the effective date). One year after the effective date, the minimum wage will increase by \$1.30 to \$9.85; two years after the effective date it will increase by \$1.30 to \$11.15; three years after the effective date, it will increase by \$1.30 to \$12.45; four years after the effective date, it will increase by \$1.30 to \$13.75; and five years after the effective date, the minimum wage will increase by \$1.25 to \$15.00. Six years after the effective date (2025), the minimum wage will be indexed to median wages. This document cites this minimum wage as the “6(a)(1) wage.”

Annual Indexing of Minimum Wage Based on Median Wages. Six years after enactment, and each subsequent year, the minimum wage will increase based on the percentage increase, if any, in the median hourly wages of all employees. The Secretary of Labor, through the Bureau of Labor Statistics (BLS), will calculate this change by compiling data on the hourly wages of all employees.

Section 3. Tipped Employees

Tipped Wages. The Act increases the tipped wage from \$2.13 to \$3.60 in 2019. For each succeeding year, the Act increases the tipped wage by the lesser of either \$1.50 or the difference between the tipped wage and the 6(a)(1) wage. Once the tipped wage reaches the 6(a)(1) wage in 2027, the Act eliminates the tipped wage by stipulating that the tipped wage will be the 6(a)(1) wage.

Section 4. Newly Hired Employees Who Are Less than 20 Years Old

Youth Wages. The Act increases the minimum wage for youth under age 20 years from \$4.25 to \$5.50 in 2019. Each subsequent year, the Act increases the youth wage by the lesser of either \$1.25 or the difference between the youth wage and the 6(a)(1) wage. Once the youth wage reaches the 6(a)(1) wage in 2027, the Act eliminates the youth wage by stipulating that the youth wage will be the 6(a)(1) wage.

Section 5. Publication of Notice of Changes to the Minimum Wage

The Secretary shall publish in the Federal Register and on its website, announcements of the increases in the 6(a)(1), tipped, 14(c), and youth wages sixty days prior to each effective date.

Disability Employment Incentive Act

- **Work Opportunity Tax Credit:** Increases employer tax credit for hiring individuals with disabilities
- **Disability Access Expenditures Tax Credit:** Increases tax credit for small businesses from \$5,000 to \$10,000
- **Architectural and Transportation Barrier Tax Credit:** Raises tax credit from \$15,000 to \$30,000 annually for removing barriers.

U.S. SENATOR BOB CASEY

 RANKING MEMBER *Special Committee on Aging*

Disability Employment Incentive Act

The Disability Employment Incentive Act (DEIA) is designed to encourage employers to hire and retain employees with disabilities. It enhances three existing tax credits to support employers who hire individuals with disabilities and make workplaces more accessible to those employees.

The need to increase disability employment is great. While studies indicated that 60 to 80 percent of individuals with disabilities report they want to work^{1,2}, only 32.2 percent of people with disabilities are in the workforce according to a May 2018 report from the Bureau of Labor Statistics³, less than half the rate at which people without disabilities participate in the workforce.

Many barriers continue to exist, including prejudice about the abilities of people with disabilities and workplace barriers that make it more difficult for people with disabilities to conduct their work. The tax credits will provide incentives to small and large employers and not only encourage employers to hire but to retain individuals with disabilities as members of their workforce. A description of the three components of the DEIA follow.

Work Opportunity Tax Credit—The DEIA will increase the tax credit for employers who hire a person with a disability referred to them through a state Vocational Rehabilitation agency, a person who is receiving Supplemental Security Income (SSI) benefits, and a person who is receiving Social Security Disability Insurance (SSDI) benefits. The credit will continue to be 40 percent of the individual's salary for the first year of employment, but raise the amount of the salary considered for credit from \$6,000 to \$12,500, raising the maximum available tax credit from \$2,400 to \$5,000. The DEIA also provides a tax credit for any business that retains an employee for a second year of employment and permits the business to take a credit on 20 percent of the employee's salary up to \$12,500, which is a \$2,500 credit.

Disability Access Expenditures Tax Credit—The DEIA will increase this credit, available to small businesses with gross receipts of less than \$3 million annually or with no more than 60 full-time employees. The maximum tax credit will be raised from \$5,000 to \$10,000.

Architectural and Transportation Barrier Tax Credit—The DEIA will increase this tax credit to \$30,000 for expenses incurred during a single year by a business in removing existing physical barriers in qualified facilities or transportation vehicles. Businesses will also be able to take the credit for expenses for making their telecommunications and on-line business operations accessible. This tax credit has been available since 1976. The current limit \$15,000. The credit may not be used for new structures, only for existing structures where the expenses are used to create accessible spaces to the standards of the U.S. Access Board.

For more information or to cosponsor, please contact michael.gamel@mcconnick@aging.senate.gov.

¹ <https://hhr.fordfoundation.org/sites/default/files/ffmccar%20Survey%20Results%20secured.pdf>

² <https://www.pewresearch.org/fact-tank/2018/05/01/disability-in-work-how-similar-job-performance-often-are-people-with-disabilities-in-work-how-similar-job-performance-often-are-people-with-disabilities-in-work/>

³ <https://www.bls.gov/news.release/disabl.nr001.pdf>

⁴ <https://www.bls.gov/news.release/disabl.nr001.pdf>

Disability Integration Act

FOCUS: Medicaid funded long-term services and supports



INTENT: Ensure that individuals with disabilities have the right to live and receive services in their own home

The Disability Integration Act



Over 25 years after the signing of the Americans with Disabilities Act (ADA), institutionalization seriously interferes with the liberty of people with disabilities and seniors. The Senate HELP Committee report "Separate and Unequal: States Fail to Fulfill the Community Living Promise of the Americans with Disabilities Act" documented the failure of States to secure and protect the liberty of people with disabilities and seniors by refusing to provide community-based services. That report recommended that Congress strengthen the ADA integration mandate to clarify that States and private insurers cannot interfere with every American's right to liberty by failing to provide Long Term Services and Supports (LTSS) in the community.

Summary of Legislation

The **Disability Integration Act** is bipartisan, bicameral legislation that ensures that **disabled Americans have a right to live and receive services in their own homes**. The DIA further secures our Constitutionally-protected right to liberty by preventing people with disabilities from being forced into costly institutional settings by unnecessary government regulations. DIA was first introduced in the 114th Congress. Senate Minority Leader Schumer has reintroduced the bill (S.910) in the 115th Congress with minor changes that have strengthened the bill. Representative Sensenbrenner (R-WI), who was a cosponsor during the 114th Congress, has introduced DIA (HR.2472) in the House of Representatives.

Legislative Approach

The **Disability Integration Act** creates a comprehensive solution, assuring the full integration of disabled people in the community by:

- clarifying that **every individual who is eligible for LTSS** has a federally protected right to a **real choice** in how they receive services and supports;
- assuring that states and other LTSS insurance providers **deliver services** in a manner that allows disabled individuals to **live in the most integrated setting**, have maximum control over their services and supports, and lead an independent life;
- articulates the **right to live in the community** without creating unnecessary or wasteful Government programs; **States have broad latitude** to determine how they will secure that right;
- establishing a **comprehensive planning requirement** that includes enforceable benchmarks;
- requiring public entities to address the need for **affordable, accessible, integrated housing that is independent of service delivery**; and establishing **stronger, targeted enforcement** mechanisms.

ABLE Age Adjustment Act

- Increases age limit for tax-free ABLE savings accounts for individuals with disabilities from age 26 to age 46



116TH CONGRESS
1ST SESSION

S. 651

To amend the Internal Revenue Code of 1986 to increase the age requirement with respect to eligibility for qualified ABLE programs.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2019

Mr. CASEY (for himself, Mr. MORAN, Mr. VAN HOLLEN, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to increase the age requirement with respect to eligibility for qualified ABLE programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ABLE Age Adjust-
5 ment Act”.

6 **SEC. 2. MODIFICATION OF AGE REQUIREMENT FOR QUALI-**
7 **FIED ABLE PROGRAMS.**

8 (a) IN GENERAL.—Section 529A(e) of the Internal
9 Revenue Code of 1986 is amended by striking “age 26”

Discussion

- State issues



Discussion

- Effective policy advocacy



“If they don’t give you a seat at the table, bring a folding chair.”



■ Shirley Chisholm

“We need hustlers
with heart.”



• Dr. Allen Crocker