CAP

Center for American Progress
1333 H Street NW, Suite 100E
Washington, DC 20005
202.682.1611
americanprogress.org

January 16, 2025

Director Daniel Navarrete
Division of Regulations, Legislation, and Interpretation, Wage and Hour Division,
U.S. Department of Labor, Room S-3502,
Attention: Disability NPRM, (RIN) 1235-AA14
200 Constitution Avenue NW,
Washington, DC 20210
Submitted via: www.regulations.gov

Re: WHD-2024-0001-0001

Dear Director Daniel Navarrete,

The Center for American Progress (CAP) is grateful to be given the opportunity to comment on the Department Labor's (DOL) Notice of Proposed Rulemaking (NPRM) for *Employment of Workers with Disabilities under Section 14(c) of the Fair Labor Standards Act*

(Docket ID number WHD-2024-0001-0001), which was released on December 4, 2024. This proposed rule will have a huge positive impact on the disability community by finally undoing the archaic policy of allowing employers to pay disabled people subminimum wages.

The Center for American Progress is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans through bold, progressive ideas, as well as strong leadership and concerted action. We applaud DOL's proactive engagement with the community to develop these adjusted rules. At CAP, we are uniquely qualified to comment on the issue of pay disparities and disability due to our multi-issue research and advocacy teams. We have published numerous policy papers discussing disabled people's employment concerns and economic stability.

Supporting Phaseout of Section 14(c)

The 14(c) provision from the Fair Labor Standards Act passed in 1938, a time before most of the major disability rights employment protections and services were written into law. The intention, while done in good faith to help disabled people obtain employment, was established on a false assumption that disabled people's labor was less valuable than their non-disabled peers. Research now suggests that eliminating 14(c) may actually improve disabled people's ability to obtain competitive integrative employment. In New Hampshire, people with cognitive disabilities saw a statistically significant increase in employment after the phase out of 14(c). This refutes the initial reasoning behind the 14(c) program, which explicitly states that the DOL Secretary could certify employers to pay subminimum wages to "prevent curtailment of opportunities for employment."

Extension Provisions

The Wage and Hour Division requests comments on whether an extension should be given in the phaseout for certain businesses and, if so, how it would be provided. The Center for American Progress believes that three years should be a sufficient amount of time to allow the last 736 employers to move positions to competitive integrated employment with the usage of Vocational Rehabilitation services, Disability Innovation Fund Programs, Medicaid Home-and Community-Based funding, and other programs. The phaseout is already occurring in many states across the country. At least 16 states have already passed laws to eliminate 14(c), with Illinois being the most recent. Several other states and the District of Columbia have phased out 14(c) without legislation. DOL reports that the number of employees under 14(c) has decreased by 90 percent. As of January 1, 2025, less than 36,000 workers are currently paid subminimum wages. While the timelines to phase out 14(c) across states varies, Colorado shows it is very possible to eliminate it in three years. Originally its legislature gave their employers five years to phase off of 14(c). It took only three.

Conclusion

The Center for American Progress appreciates DOL's commitment to ensuring disabled people's fair pay standards. Thank you for considering our recommendation to keep the current proposed rule without extensions.

Sincerely,

Mia Ives-Rublee, MSW
Senior Director, Disability Justice Initiative
Center for American Progress
mivesrublee@americanprogress.org