



January 15, 2025

Daniel Navarrete
Director, Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W., Room S-3502
Washington, DC 20210
<https://www.regulations.gov>

Re: Employment of Workers with Disabilities Under Section 14(c) of the Fair Labor Standards Act, 29 CFR Part 525, Notice of Proposed Rulemaking, RIN 1235-AA14

Dear Director Navarrete:

PayrollOrg (PAYO) supports the U.S. Department of Labor's (DOL) proposed rulemaking to eliminate the subminimum wage for workers with disabilities under Section 14(c) of the Fair Labor Standards Act. The proposed phase-out approach is greatly appreciated.

While hiring and wage determinations are not traditionally payroll management issues, payroll professionals play an important role in managing their employers' employment needs and fair wages. Payroll professionals also have an added burden of calculating subminimum wages and tracking federal and state requirements.

The DOL's proposed rulemaking follows recent trends at the state level to eliminate subminimum wage requirements. According to the National Council of State Legislatures, at least 16 states have eliminated their subminimum wage laws.¹ For example, effective January 1, 2025, Nevada A.B. 259 prohibits job and day-training service providers from entering a contract that pays employees less than the state minimum wage.

About PAYO

PAYO, formerly the American Payroll Association, is a nonprofit association representing more than 20,000 payroll professionals throughout the United States. PAYO's Government Relations Task Force partners with government agencies to help payroll professionals with

¹ *Trends in Disability Employment Legislation*, National Council of State Legislatures (Sept. 7, 2023): <https://www.ncsl.org/labor-and-employment/trends-in-disability-employment-legislation>.

compliance, while minimizing the administrative burden on government, employers, and individual workers. PAYO members are directly responsible for calculating wages and withholding for their employers across all industries and employer types.

Support for the Proposed Rulemaking

The DOL's Wage and Hour Division correctly identified the purpose of the subminimum wage to encourage the hiring of workers with disabilities. Yet, these workers are performing important tasks no differently than any other worker based on employer needs and worker qualifications. Disabled workers deserve to be paid wages based on their skills, hours worked, and the labor market for the jobs they are performing, not their disabilities.

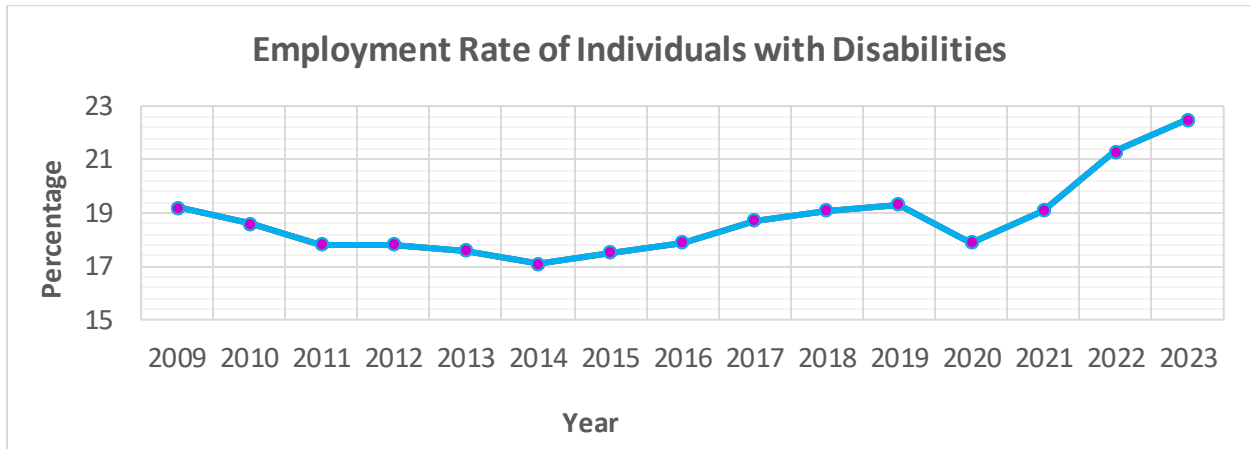
According to data collected by the U.S. Chamber of Commerce, the largest minority group across the globe are people with disabilities.² Studies show that businesses hiring disabled workers were, on average, twice as likely to have higher total shareholder returns than those of their peer group. Other research shows that the Gross National Product (GDP) could increase by \$25 billion if just 1% more persons with disabilities joined the U.S. labor force. In addition, employees with disabilities are often more loyal meaning less turnover. This data does not identify a difference in minimum wages in comparison to non-disabled workers.

The U.S. Bureau of Labor Statistics identified an increase in hiring workers with disabilities, ages 18 to 64, from 19.2% in 2009 to 22.5% in 2023.³ While the data hovers from 2009 to 2020, the hiring of individuals with disabilities has steadily increased since then. PAYO would like to see the trend of increasing the number of individuals with disabilities in the workplace continue. This requires fair wages.

The following shows the employment rate of individuals with disabilities. The recent trend may be associated with remote employment opportunities in which accommodation is more readily available, especially when the rate has increased without a change to the federal subminimum wage.

² Strove, Jenna, *Six Things for Employers to Consider When Hiring Individuals with Disabilities*, U.S. Chamber of Commerce (Aug. 25, 2022): <https://www.uschamber.com/workforce/six-things-for-employers-to-consider-when-hiring-individuals-with-disabilities#:~:text=Amid%20the%20ongoing%20workforce%20shortage,when%20hiring%20those%20with%20disabilities.>

³ U.S. Bureau of Labor Statistics (BLS), *Persons with a Disability; Labor Force Characteristics — 2023* (Feb. 22, 2024): <https://www.bls.gov/news.release/pdf/disabl.pdf>. See same title of BLS data from 2009 to 2022, e.g., *Persons with a Disability; Labor Force Characteristics — 2009* (Aug. 25, 2010): https://www.bls.gov/news.release/archives/disabl_08252010.pdf.



Conclusion

As newly appointed leadership joins the DOL, PAYO will continue to partner with the Wage and Hour Division on important workplace issues. PAYO supports the phase-out of the subminimum wage for workers with disabilities. PAYO can be reached at 202-669-4001 or ajacobsohn@payroll.org.

Sincerely,

Alice P. Jacobsohn, Esq.
Director, Government Relations

For: Government Relations Task Force
Federal Issues Subcommittee
Chairs Rebecca Harshberger, CPP; Mindy Mayo, CPP; and Jon Schausten, CPP