

**Strengths and Limitations of Emergent Employment
Models for People with Mental Illnesses:
The Changing Role of Section 14(c)**

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Abstract

People with disabilities report high levels of poverty and unemployment nationwide. One potential factor in disabled poverty is the payment of subminimum wages to workers with disabilities, legal in most states under section 14(c) of the Fair Labor Standards Act. While section 14(c) was initially conceptualized as a tool to promote the employment of people with disabilities, recent research suggests that it is of limited usefulness and that placement in competitive, community-based, living-wage jobs better supports people with disabilities. This study uses ethnographic fieldwork in a section 14(c) program and interviews with providers, advocates, and government agents to explore factors in and obstacles to providers' successful transitions away from section 14(c). I find that economic barriers inhibit the pivot away from section 14(c): many providers use subminimum wage programs to generate revenues which fund their other rehabilitation services, and many work out of facilities designed for sheltered work which will require substantial renovations to better promote community employment. Furthermore, communication and collaboration between programs currently reliant on section 14(c) and programs which have successfully transitioned away from section 14(c) is limited. This research illuminates opportunities for government agencies, including the Social Security Administration, to fund the transition away from section 14(c) and facilitate collaboration and training among programs.

Introduction

One in five Americans has a disability, yet people with disabilities report employment rates below 50% nationwide and poverty rates over twice the national average (Brault, 2012; Center for Poverty Research, 2015). These high poverty rates among people with disabilities have been widely recognized as a major social problem (Brucker, Mitra, Chaitoo, and Mauro, 2014; Elwan, 1999; Minkler, Fuller-Thomson, and Guralnik, 2006; Palmer, 2011). This association between poverty and disability is especially pronounced and intractable for people with mental illnesses (Perese, 2007; Saraceno & Barbui, 1997; Sylvestre, Notten, Kerman, Polillo, & Czechowki, 2017). The causes of disability-poverty links are complex, but causality is widely presumed to flow in both directions, with disability contributing to poverty (e.g., by making paid work less accessible) and poverty contributing to disability (e.g., by limiting access to preventative care) (Lustig and Strauser, 2007). Ameliorating poverty among people with disabilities, including people with mental illnesses, is central to the mission of the Social Security Administration (SSA).

One factor in disabled poverty may be the federal-level legality of the payment of subminimum wages to workers with disabilities. Department of Labor regulations require these subminimum wages to be “commensurate” to “individual productivity” as assessed by employers (United States Department of Labor Wage and Hour Division, 2008). In 2007, wages paid under section 14(c) averaged \$1.36 per hour after declining relative to the minimum wage for decades (Beckwith, 2016). Workers might receive subminimum wages based on developmental disabilities, cerebral palsy, substance addiction, mental illnesses, blindness, or disabilities “related to age or injury” (US DOL WHD, 2008). In 2018, approximately two thousand organizations nationwide paid over 320,000 disabled workers subminimum wages under section 14(c) (NCD, 2018). Detailed demographic data on the workers paid subminimum wages are not available, but a significant number are believed to have mental illnesses specifically.

At the level of policy regimes, the subminimum wage is closely connected to sheltered work. Most people paid subminimum wages work in segregated environments, earning piece rates or subminimum hourly rates in workshop or centers manned entirely by client-workers with disabilities. Debates about the subminimum wage thus often overlap with debates over segregated versus integrated employment. Many employment reform programs target both policy regimes at once (for instance, Rehabilitation Services Administration regulations which seek to limit placements in sheltered, subminimum wage work). Therefore, while this report focuses on the subminimum wage itself, it necessarily touches on issues of sheltered versus competitive employment.

Advocates of the subminimum wage argue that the subminimum wage increases access to work among people with disabilities. These advocates believe that many people with disabilities are unable to obtain work at living wages, even with support, so repealing section 14(c) would reduce the employment rate among people with disabilities. Furthermore, as the data presented in this report show, many vocational rehabilitation programs rely economically on section 14(c). Therefore, advocates of section 14(c) argue that repealing this law might force vocational rehabilitation programs to close their doors.

On the other hand, critics suggest that subminimum wage programs raise human rights concerns. Given that minimum wage work is typically impoverishing (Zipperer, 2018), it is difficult to imagine that someone could survive on of the subminimum wage levels that section 14(c) permits. Therefore, consensus opposition to section 14(c) has developed in both legal scholarship and the disability studies literature. For instance, Gill (2005) draws on his own

experiences as an employee in a sheltered workshop to denounce the transitional nature of workshop employment as “a myth” and critique the long-term segregation of people with disabilities in workshops. Pendo (2016) critiques segregated environments for rendering the labor of people with disabilities invisible. Legal analysts identify section 14(c) as in tension with the broader goals of American civil rights legislation, such as the ADA (Hoffman, 2011; Kuo, Levine, and Kosciulek, 2020; Preedy, 2014).

Additionally, a growing scientific consensus supports these criticisms of the subminimum wage on efficacy grounds. Though advocates of the subminimum wage argue that it increases access to employment, these claims are contradicted by rising employment rates among people with disabilities in states that have banned the payment of subminimum wages (US CRC, 2020, p. 143). Sheltered workshops have much lower job placement rates than alternative models of vocational rehabilitation, such as supported employment (Hoffman, Jäckel, Glauser, and Kupper, 2011). Client-workers who have previously worked in sheltered workshops report lower employment rates, wages, and work hours after moving into competitive employment than matched client-workers who have not worked in sheltered workshops (Cimera, 2011; Cimera, Wehman, West, and Burgess, 2016), undercutting program managers’ claims that sheltered work and the subminimum wage facilitate effective training. Historical accounts by Beckwith (2016), Kaur (2019), and Crandell (2022) identify sheltered workshops and the subminimum wage specifically as tools for the exploitation of people with disabilities by disability service providers.

Therefore, policymakers, practitioners, and disability rights activists identify phasing out section 14(c) as a political priority. The chair of the nonpartisan National Council on Disability testified in 2020, “there isn’t a topic I feel more strongly about than ending subminimum wages for people with disabilities” (US CRC 2020, p. 13). Over 80 organizations including disability rights groups, labor unions, and bipartisan government agencies such as the United States Civil Rights Commission and the National Council on Disability formally oppose the law (NFB, 2016; NCD, 2018; US CRC, 2020). Ten states have passed legislation to eliminate the payment of subminimum wages to workers with disabilities (APSE, 2022).

However, analysis of the current operation of section 14(c) is needed to identify pathways to phase-out. What are the benefits and drawbacks of section 14(c) as perceived by program staff and client-workers? What are the barriers to the transition away from section 14(c)? Why have some programs phased out the subminimum wage successfully, while others have not? What resources are needed to facilitate this transition? This paper investigates these questions through qualitative comparisons between several employment programs for people with mental illnesses and other disabilities, some of which pay subminimum wages under section 14(c) and others of which do not. I also interview other actors in the disability employment field (including representatives of state agencies, advocacy groups, and labor unions) to place these programs’ operations in sociohistorical context. All programs are grappling actively with the questions outlined above, and their disparate practices may illuminate some strengths and weaknesses of different approaches to the transition away from section 14(c). This research may provide guidance for practitioners seeking to transition from the subminimum wage and government agencies, including SSA, which seek to facilitate this transition.

Methods

This paper uses an in-depth ethnography of a single site and interviews with representatives of many sites to investigate the payment of the subminimum wage. This combination of ethnographic research and interviews is in line with recommendations of the methodological literature (Flick, Cardoff, and Steinke 2004; Smith 2006). DeVault and McCoy

argue that interviews can provide insight into “empirical linkages among local settings of everyday life, organizations, and translocal processes of administration and governance” (2006, p. 15). Indeed, in policy research, DeVault and McCoy specifically recommend that ethnographic research at a single site be conducted first, then interviews with staff, managers, and administrators at a broader set of sites be conducted second (2006, p. 30). This project carries out this recommendation in the disability employment sphere. In the course of my research, comparison between ethnographic and interview findings and close attention to factors which differentiate my ethnographic site from other sites enable continuity between the two phases of the project. Both project phases were approved by UC-Berkeley’s Committee for the Protection of Human Subjects.

Phase I: Ethnographic Case

I conducted eight months of ethnographic fieldwork in and around “Disability Works,” a nonprofit job training program for people with mental illnesses. Disability Works employs or provides case management services to an estimated 300 people each year and maintains a staff of approximately 25. The organization is based in major city with a high cost of living and funded primarily through contracts with the state, which in addition to supplying operating funds obligate Disability Works to provide labor to local government agencies and mental health clinics. More limited funds come from Disability Works’ contracts with for-profit businesses. Most client-workers are referred by therapists, psychiatrists, or other front-line representatives of the welfare state.

Disability Works maintains four in-house programs in specific industries. These programs provide labor on contract to mental health clinics and for-profit businesses, and the client-workers they employ are typically hired for six months to one year at a time. Since client-workers are employed through contracts between agencies, they are excluded from unions at their work sites. Many of these jobs are part-time and pay minimum wage or above, but client-workers in one program are paid subminimum wages under section 14(c) of the Fair Labor Standards Act, the focus of this paper. In addition to these in-house work programs, Disability Works’ job placement team provides case management services to client-workers, consulting about their personal and career goals and supporting their applications to in-house jobs and to jobs beyond the organization.

I identified Disability Works from Department of Labor records on section 14(c) and pitched an ethnographic research project in April 2019. Between June and August 2019, I spent approximately twenty hours per week in the field, conducting fieldwork nearly every business day. From September 2019 through March 2020 (with approximately a month away in December-January), I returned to the field one or two days each week for 2-8 hours at a time. This research was disrupted by the COVID-19 pandemic, which led the organization to suspend all in-person operations in mid-March.

During fieldwork, I participated in activities including: in-house work programs; one-on-one case management sessions between caseworkers and client-workers; information sessions, job fairs, and other public presentations of these programs; job interviews for new staff positions and new client-worker positions; staff and management meetings; meetings with external funders; parties to mark events including client-worker and staff departures; and summit meetings between Disability Works and related employment programs or mental health agencies. I also interacted casually with staff and client-workers throughout each day. When possible, I jotted handwritten notes in real time, then filled in gaps during respites or during my commute home. I typed detailed narratives of each day over the afternoons, evenings, and weekends after

returning home, eventually producing around 800 single-spaced pages of typed field notes in addition to several hundred pages of handwritten notes.

I supplemented this fieldwork with sixteen ethnographic interviews with key informants. I conducted three interviews with program managers, five with front-line staff, seven with client-workers, and one with a former client-worker who had been hired into a staff position. These interviews were conducted in private rooms on Disability Works' premises or the premises of contracting employers and typically lasted about an hour. Interview questions were guided by my prior interactions with these informants in the field and by their respective roles in the organization (i.e., as managers, front-line staff, or client-workers). All direct quotations in this paper were recorded in real time or are drawn from tape-recorded interviews. Field notes and transcripts were analyzed recursively over the course of research.

Phase II: Interviews

I conducted interviews with representatives of other sites in the employment programs industry to place Disability Works in national context. In total, I conducted 24 interviews. Fifteen interviews were conducted with individuals, and at respondent request, one group interview was conducted with nine staff members employed at a specific large organization. The sample included 16 representatives of vocational rehabilitation providers, two representatives of government agencies, four representatives of national advocacy organizations, and two representatives of labor unions. To enable comparison with Disability Works, I targeted respondents whose work focused on mental illness in particular, but since many organizations serve cross-disability populations, not all respondents' work focused exclusively on mental illness.

Interviewees were recruited through a combination of purposive and snowball sampling. First, I used Internet research to identify prospective interviewees at relevant organizations. In particular, given my focus on the subminimum wage, I used Department of Labor records on section 14(c) to identify organizations currently authorized to pay subminimum wages. I researched specific organizations and contacted representatives via email and phone. At the end of each interview, I asked respondents if they had any colleagues who might be willing to speak with me; willing respondents then connected me to these colleagues via email. In total, seven interviewees were recruited directly and seventeen were recruited through respondents' networks.

Interviews were semi-structured and guided by participants' own career histories. I conducted basic Internet research about each respondent prior to the interview and developed an individualized interview guide tailored to their career history and position. Questions covered some consistent domains, including respondents' career histories, their current positions, and their experiences with specific policies of interest, such as section 14(c) and SSI/SSDI benefits. Additional questions were tailored to individual respondents (e.g., representatives of labor unions were asked about coalitions between disability rights groups and labor unions). Finally, during interviews, I asked follow-up questions based on interviewees' responses.

Respondents were given the opportunity to be deidentified. Since many respondents work in public-facing positions and spoke about well-known events or experiences, some declined deidentification, granting permission to have their statements attributed to them by name. These respondents were informed that they could change their mind subsequently and/or request that specific statements be deidentified. Other respondents did choose to be deidentified, so I alter or mask identifying details for these respondents. These procedures are in line with recent

recommendations against the universal deidentification of qualitative subjects and calls for direct consultation with subjects about their preferences (Murphy, Jerolmack, and Smith, 2021).

Results

This section of the paper summarizes findings of this qualitative study. First, drawing on interviews, I provide a history of conflict over section 14(c) to contextualize the current use of section 14(c) certificates. Second, I summarize the barriers some providers report to paying minimum wage or above. Finally, I describe the work of providers which have successfully transitioned away from the subminimum wage, illuminating some opportunities and challenges for collaboration between these providers and those struggling to undertake this transition.

Historical Overview

Respondents suggested that over the last ten to fifteen years, a major shift has occurred in the use of the subminimum wage. These respondents pinpointed five events as especially determinative: the Henry's Turkey Service case, which broke publicly in 2009; major institutional investigations of section 14(c) in the early 2010s; the Goodwill boycotts of the early 2010s; Obama's 2014 executive action banning federal contractors from the payment of subminimum wages under section 14(c); and the emergence of section 14(c) as a campaign issue in the 2016 election. These accounts are supported by secondary histories of section 14(c).

Section 14(c) was established in 1938 with the passage of the Fair Labor Standards Act. Throughout its history, grassroots disability rights groups have agitated against the law, beginning with protests by the League of the Physically Handicapped in the 1930s (Longmore and Goldberger, 2000) and continuing through mid-century with the opposition of the National Federation of the Blind (Matson, 1990), Disabled in Action (Campbell, 1984), and other activist groups. However, these critiques of the law generally failed to penetrate the public consciousness. For example, amendments to deregulate the subminimum wage were passed by Congressional consensus in 1986, illustrating the perception of section 14(c) as a technical issue related to disability service provision rather than a political matter meriting democratic debate. These amendments, and other aspects of the section 14(c) program, received limited popular coverage during the mid-to-late twentieth century. However, the apolitical status of the subminimum wage began to shift in the late 2000s.

Ari Ne'eman, the founder and former executive director of the Autistic Self-Advocacy Network, identified the Henry's Turkey Service case as an instigator of interest in section 14(c). He reported, "There was sort of a sea shift on the issue of subminimum wage that took place about ten years ago or so...[ASAN] certainly opposed subminimum wage for a long time. But we started to see a lot of interest from many other disability groups around then, prompted by the Henry's turkey farm case and things of that nature." The Henry's Turkey Service case refers to the highly-publicized 2009 discovery that an Iowa turkey plant kept 21 men with intellectual disabilities in captivity for over thirty years, paying each man approximately \$65 a month for decades of full-time manual labor beginning at 3am each morning (Barry, 2014, 2016; Crandell, 2022). These wages were authorized under section 14(c). The Henry's Turkey Service case resulted in a multimillion-dollar settlement and received massive journalistic attention, including investigative journalism from local papers (Kaufman, 2014) and a major *New York Times* story later expanded into a book (Barry, 2014, 2016). Recent scholarship suggests that the Henry's Turkey Service case brought the subminimum wage into the public consciousness more vividly than in previous decades (Crandell, 2022).

Subsequent nonprofit and government investigations of the subminimum wage drove policy conversations towards abolition. Ne'eman identified as especially important the National

Disability Rights Network's 2011 report *Segregated and Exploited*. This report, produced by Congressionally mandated overseers of the disability services system, represented a major call to action to end the subminimum wage (NDRN, 2011). Alongside the NDRN report, nonpartisan government agencies such as the National Council on Disability (NCD) came out against the subminimum wage around the same time (NCD, 2012). Ne'eman served on the NCD 2010-2015 and helped develop its 2012 report. Ne'eman stated that because the NCD was perceived as less radical than some of the disability groups which had long agitated for the abolition of section 14(c), its report swayed centrist groups and politicians towards repeal. "I think it helped legitimize the issue of sheltered workshop closure and 14(c) phase out...NCD kind of brought the middle over and put the imprimatur of the federal government's leading disability policy think tank behind it...it really it helped shift the center of gravity in the conversation." In summary, major nonpartisan investigations of the subminimum wage in the early 2010s mapped out a policy path away from the subminimum wage.

In the meantime, direct action against section 14(c) from grassroots organizations shifted the Overton window for section 14(c) repeal. This action targeted Goodwill as an especially visible provider paying subminimum wages. The National Federation of the Blind and the Autistic Self-Advocacy Network co-organized boycotts, petitions, and major journalistic exposes of Goodwill's practices. As Ne'eman summarized,

So we worked very closely, ASAN and NFB... we made up kind of the radical front in this discussion. We were pushing for elimination of subminimum wage...And we were willing to take the fight to sheltered workshop providers and engage in very public calling them out in the media, protests, things of that nature...And over time, that had a really significant impact, largely because it shifted the window of what it was acceptable for some of the other disability groups to do. Right, when we're going out there and we're calling out the CEO of Goodwill by name, we're doing protests [laughs], really getting in people's faces, all of a sudden, a lot of the other groups, it becomes a lot more comfortable for them to become more aggressive. But also it made it more feasible, I think, for elected officials to start taking a position against subminimum wage, even recognizing that that was going to be controversial.

Recent historical accounts of activism against section 14(c) identify ASAN and NFB's confrontation with Goodwill as determining the course of debate in subsequent years (Crandell, 2022). An advocate working in a more centrist organization stated of this confrontational activism by ASAN and NFB, "It's an Overton window policy issue where you take an extreme position to get us to a more moderate position, like a more center of the road position. And I think those groups are doing exactly what they should be doing." She suggested that this grassroots activism had enabled other, more moderate groups to come out in opposition to section 14(c) in the mid-2010s.

In 2014, an executive action to raise the minimum wage for federal contractors emerged as a watershed in the section 14(c) debate. Obama announced during the 2014 State of the Union address that he intended to raise the minimum wage for federal contractors to \$10.10 per hour. The initial version of this executive order excluded workers with disabilities. In response, Ne'eman stated, "We embarked on a campaign to make the administration's life as difficult as possible [laughs] until they agreed to include disabled workers in the EO." ASAN, other disability rights groups, and partnering labor unions arranged to question Obama administration representatives about the exclusion of disabled workers from the executive order at every public appearance in the following weeks. This exclusion thus emerged as a central part of news

coverage of the executive order. As the battle dragged on, Ne'eman stated, "The administration realizes they do not want the headline out of their signing ceremony for the EO to be, 'Why aren't disabled workers included?' [laughs] So we basically we got them to cave." Ne'eman suggested that the support of labor unions was particularly important in this historical moment. He stated, "What we found was we got support from unions, and that proved a useful tiebreaker...Disability groups versus disability groups, policymakers don't know who to listen to. Disability groups and labor versus other disability groups, least in a Democratic administration, that changes the valence pretty significantly." As he elaborated,

The reason why that was important was because it really sent a message...First, progressive disability advocates, especially when we teamed up with labor, were able to really move the needle and beat the sheltered workshop lobby in a straight-up knock-down, drag-out battle. And it really sends a message...it really tells people you can do this...you can just go up against them, you actually do have a pathway to winning. So that was significant. Number two, I think, lot of visibility on the issue. And again, it communicated to some pretty senior Democrats that there was a pathway to trying to move the ball forward...And there was some controversy, but the presence of labor kind of signals to Democrats where the right side of that controversy is in a way that maybe they don't intuitively understand when it's just disability versus disability...Now, senior Democrats all support ending subminimum wage, or almost all. What we succeeded in doing this campaign and with others was we gave them permission on this. We established what the progressive position on disability was. And we established that even a Democratic administration could get in trouble if they took the wrong position on it.

The 2014 battle over the executive order thus shifted the progressive consensus on the subminimum wage and demonstrated that the abolition of the subminimum wage was a real political possibility. These dynamics intensified during the 2016 and 2020 presidential campaigns, where the abolition of section 14(c) emerged not only as a political possibility, but as a potential source of political advantage.

The 2016 presidential campaign cemented "the progressive position" on section 14(c), as Ne'eman termed it. At a Wisconsin campaign event, a disability activist asked Hillary Clinton for her position on section 14(c), and she spontaneously stated her opposition to the subminimum wage. Other elected Democrats fell in line behind her, and at the 2016 convention, the repeal of section 14(c) was adopted as a plank of the Democratic party platform ("2016 Democratic Party Platform," 2016). As Ne'eman explained, "That really is the first time you have a Democratic presidential candidate taking an official position against subminimum wage. And once that happens, it's not like there can't be dissent once the nominee says something, but on an issue like this, the media narrative, and I think the public narrative had settled in at that point." In subsequent election cycles, Democratic candidates emphasized their opposition to section 14(c) as a way of signaling their progressive bona fides. Leftist candidates including Sanders and Warren placed particularly strong emphasis on section 14(c) in campaign speeches and public writings, and centrist candidates including Joe Biden stated their intent to repeal section 14(c).

These developments have made the subminimum wage politically unpopular in recent years, inhibiting the issuance of new 14(c) certificates and encouraging many providers to transition away from the subminimum wage. Ne'eman, another activist at a major disability rights organization, labor organizers, and nearly all vocational rehabilitation providers interviewed for this study identified the repeal of section 14(c) as a political inevitability. As Ne'eman stated,

If there wasn't a filibuster, we would have done it already, because it was incorporated into the Democrats minimum wage increase bill...At this stage, the obstacle is that you can't pass a change to minimum wage law in the US Congress for love or money. But it has very little to do with the disability community. I think the lowering and the ratcheting down of the use of subminimum wage reflects that, right. If you're a service provider and you've relied on subminimum wage for a while, you see the writing on the wall, right. And you kind of think to yourself, 'Okay, at some point, the United States is going to be able to govern itself again, and at that point it's probably on the chopping block. [laughs] So let me adjust my strategy now. Let me make some changes now.'

An activist at a national organization concurred with these accounts: "I actually think the biggest barrier is getting Congress to actually bother to do anything. I think it's a lot more likely that what we're going to see is states pass laws. And we're going to see providers make the proactive decision that they know this is coming, and they're going to go ahead and shut it down." Indeed, as I will describe, interviews with providers support this trend of proactive elimination of section 14(c) usage in advance of its inevitable repeal.

Providers manage this inevitability in widely varied ways. Steven Howard, the executive director of a vocational rehabilitation organization called WACOSA, stated, "There is no place that [section 14(c)] is not under attack right now...I think the Republicans here have been a little more open to it, the Democrats have probably been a little more concerned about its exploitation...[but] they're under such pressure as legislators, by so many groups, to get rid of it, that it becomes something that they can't duck after a while." He identified 2025 as the likely end date of section 14(c), at least in his state of Minnesota. Providers throughout the country posited similar timelines. Some providers viewed the transition away from section 14(c) positively – indeed, some had long since raised wages to livable levels – while others struggled significantly to implement section 14(c) phase-out. The next sections of this report document these varied approaches.

Less Successful Transitions Away from Section 14(c)

Research in programs currently using section 14(c) certificates reveal a discursive gulf between these programs and those which have successfully eliminated the subminimum wage. Carol Carr, the director of Achieve Human Services, summarized the situation effectively: "And there still is a lot of resistance from a lot of providers, even though they see the writing on the wall, because they're not seeing that there's alternative solutions for serving the population." Disability Works, the site of my ethnographic fieldwork, is among the organizations struggling to pivot away from section 14(c). I discuss Disability Works' model, then place it in the context of other struggling organizations encountered in interviews.

Disability Works has maintained a sheltered workshop paying subminimum wages since the 1990s. In this workshop, housed in a large warehouse on the premises, people with mental illnesses conduct packaging and kit assembly work under the supervision of a nondisabled staff member. They are paid piece rates calculated by timing a nondisabled staffers' completion of tasks. Additionally, significant time each day is devoted to unpaid activities, including group mindfulness meditation and wellness exercises like positive affirmations. Between the program's low piece rates and the time devoted to these activities, workers' wages averaged under \$4 per hour on the days I participated in Disability Works' workshop.

According to staff, the number of client-workers served in Disability Works' warehouse and the number of external contracts obtained has declined in recent years. A longtime staff member told me that when she was hired in the mid-2000s, this warehouse employed

approximately 60 client-workers at a time. However, during my fieldwork, under ten client-workers at a time worked in the warehouse. Furthermore, contracts have dried up since the 1990s. While Disability Works obtains occasional contracts with external partners, much of client-workers' time is devoted to "make-work" activities including origami and jewelry-making, which draw no revenue for Disability Works.

The decline of the warehouse program has been accompanied by growth in Disability Works' other services. Disability Works has established training programs in other industries which paid minimum wages or above and involved on-site work throughout Disability Works' home city. Additionally, Disability Works' team of case managers work one-on-one with client-workers to place them in competitive, community-based jobs. As a senior manager summarized, "The reason it just transitioned from there [Disability Works' earlier emphasis on the warehouse program] is because as vocational services for mental health has been more and more researched, the model that we all follow now is called IPS, Individualized Placement Support, and the idea is to really do a quicker integration rather than the set-aside support that people would call like a sheltered workshop." Therefore, Disability Works recognizes the necessity of a transition away from a section 14(c) workshop to an alternative model, namely IPS. They have initiated this transition by reducing the size of their warehouse program and channeling many client-workers to other programs. Yet their section 14(c) program persists as a relic. Why?

Fieldwork suggests that costs associated with wage increases and the reorganization of Disability Works' physical space inhibit the transition away from section 14(c). Managers stated that the costs of raising wages within the warehouse program to the local minimum wage would be prohibitive. One manager stated that Disability Works had considered raising wages to an hourly minimum, but "Financing it would be a challenge...the [government] funds that we receive don't pay for client wages. They barely pay for our staffing." Indeed, the supervisor of the warehouse program told me that this program was "hemorrhaging money" due to its difficulty obtaining external contracts. In principle, these revenue losses could be addressed by abolishing Disability Works' warehouse program and focusing exclusively on community placements, but the longstanding organization of Disability Works' physical facilities introduces additional obstacles to this shift.

Disability Works' subminimum wage program operates out of a warehouse large enough to house the population of 60-plus client-workers employed at this program's peak. However, as the program has shrunk in size, the operating costs for this warehouse have developed into a significant financial burden. During my fieldwork, Disability Works strove to ameliorate this burden by renting part of the warehouse space to other local businesses, but struggled to find consistent tenants. Sheltered employment at subminimum wages may have required a large warehouse, but as Disability Works transitions away from this model and towards competitive placements across the city, its warehouse has become a financial drain rather than an asset. The transition away from section 14(c) requires reorganization, and in some cases renovation, of employment programs' physical facilities. Disability Works' contracts with the state do not provide for this renovation, incentivizing the continuation of its subminimum wage program in an attempt to recoup at least some of this program's costs.

These barriers were mirrored in many programs represented in the national interview sample. Indeed, in many programs, financial hurdles were even more significant than at Disability Works. I have indicated that Disability Works' 14(c) program represented a net revenue loss, yet a number of programs in the interview sample relied on revenue-generating section 14(c) programs to fund their operations. At five programs, this generation of revenue in

section 14(c) workshops was part of programs' basic business model. Managers of these programs generally saw this as a creative method of balancing their books: one advocated, "being very creative in your approach, capitalizing, and re-educating staff that, although we're nonprofit, doesn't mean we can't make a profit. Because the profit that we make gets tied back into the programs and services and we're able to grow and expand because of that." Management at Disability Works expressed economic concerns about the transition away from section 14(c) because this transition would *increase the revenue loss* associated with their program, a financial loss which could in principle be addressed by abolishing the warehouse program entirely and moving client-workers into alternative jobs. Management at other programs feared that this transition would *eradicate the revenue gain* associated with their programs, a more significant hurdle given the importance of these revenues to many programs.

A number of managers anticipated mass layoffs and cuts to hours following the abolition of section 14(c). For instance, a manager at one program stated, "Just being candid here with you, so we're just starting now to phase it out for our workshop. And the sad reality is that we're going to have to reduce hours for folks working...I think we'd all love to say like, 'Okay, well, let's just give everybody the minimum wage.' To do that, the reality for us, at least, is that with the jobs that we have, at the productivity level of the of the workers it's not feasible, because it would be really five times the pay, but kind of the 20% [production]." This manager stated that his program had committed to keep all current client-workers employed, but intended to cut hours in order to reduce overall costs. His program also intended to streamline production and undertake new fundraising to further manage costs. On the whole, however, the transition away from section 14(c) would reduce this program's revenues with limited alternative sources available to replace these losses, so management attempted to reduce this revenue loss through cuts to client-workers' hours.

Other programs intended to undertake mass layoffs. These layoffs will be harshest in a program in a rural area employing several hundred client-workers, which uses its revenues to fund other disability services for the area. This program intended to lay off the vast majority of these client-workers, moving them into unpaid training, and hire nondisabled workers to replace the laid off client-workers. The manager I interviewed described his program as entirely caught by surprise by the upcoming repeal of section 14(c): "I got to tell you, we didn't pay attention. None of us followed it. None of us thought it was gonna happen. The gals that I work with that have been there for thirty years said this won't happen. They still believe it might not happen...Don't worry about it. We all didn't worry about it, just keep doing what we're doing, keep growing, keep doing this, and all of a sudden, bam. Do it now. We're not ready for this." He stated of the client-workers currently employed at subminimum wages, "They don't have any other programs around here for these people. We keep telling them that they're going to have to go into a different program. Well, there's no other programs but us. So I don't know where they're going to go. But the county and clients and parents are really upset...I know a lot of [client-workers] don't want to go to classes. They've been through that." Therefore, in this program the transition away from section 14(c) would bring mass layoffs, with no subsequent plan for client-workers' employment. This case suggests that the transition away from section 14(c) may have negative consequences in rural programs, especially if these programs lack alternative funding sources.

Though most intended layoffs were not as severe as those documented in the above program, other program managers expressed similar concern about potential layoffs. For instance, Steven Howard of WACOSA stated, "For many of the people that we serve, who are

medically fragile and may work at 2, 3, 4-percent productivity, they'll never be able to make minimum wage." Other staffers at WACOSA stated in a focus group that it would not be affordable to hire many client-workers without the use of section 14(c) certificates. These staffers critiqued the "myth" of section 14(c) as a tool of exploitation, believing it facilitated employment. While Howard recognized that the repeal of section 14(c) was inevitable, he and his staff believed that this might raise unemployment among client-workers.

Additionally, like Disability Works, WACOSA faced challenges adapting their built environment to alternative employment models. Howard told me, "We'll have to look at, how will we use our space? We have some large buildings that have housed sheltered employment programs. Well, now if we aren't gonna have employment programs like that, what else will we put in there?" He stated that WACOSA is considering renovations of its facilities to accommodate alternative employment models. Obstacles to wage increases at WACOSA thus mirror obstacles encountered at Disability Works: first, increased labor costs, and second, the need to renovate or reorganize facilities. This comparison thus illuminates linked financial barriers to the abolition of the subminimum wage.

Managers reported a need for state funding to address costs associated with a transition away from section 14(c). Carol Carr of Achieve Human Services, a program which had successfully eliminated the subminimum wage, stated, "I've gradually migrated out of [the subminimum wage]. But no matter what you do, you're still going to need funding for these individuals... This is where you get the balance of the moral service that you're offering, but also your bottom line and making sure you balance that." She advocated for "money follows the person" legislation, which enables the state to subsidize increased wages in community-based jobs. Indeed, she had worked with a number of other providers to draft a white paper advocating for this legislation. I elaborate on Achieve Human Services' transition away from the subminimum wage, and Carr's collaboration with other providers to achieve this transition, later in this report.

Models of Successful Transition

A number of interviewees had overseen successful transitions away from the subminimum wage. Representatives of programs which had eliminated 14(c) certificates often spoke about this decision in matter-of-fact terms, viewing the subminimum wage as an ethical non-starter. For example, Nanette Cohen of the Duman Opportunity Center in Chicago, IL stated, "We do have a 14(c) certificate. We're eliminating it. We don't use it... It's been an agency decision over the years that we're not going to be paying somebody subminimum wage. And it's just our philosophy and the way that we do work. We, years ago, had three or four sheltered workshops, and we eliminated them probably twenty years ago now. It's just not who we are." She repeated this last phrase, "It's not who we are," at each point in the interview where section 14(c) came up. When the Duman Opportunity Center decided to phase out section 14(c) certificates, they worked with each individual paid under these certificates to find them a new placement, either through Duman or through a new program. Cohen further stated of her organization's decision, "We believe that everybody should have a choice to what they want to do, and that everybody can work. And it was our job to figure out how to make that work and happen. So everybody has a meaningful day, everybody has a meaningful life and is a contributing member of the community... I don't think it was all that difficult to decide that this is the way we're gonna do it." This ethical decisiveness was common among interviewees who opposed the subminimum wage. These interviewees saw the abolition of 14(c) certificates as a moral obligation, rarely hedging about the difficulties of the transition away from 14(c).

Interviewees committed to the Individualized Placement and Support (IPS) model saw the payment of subminimum wages as out of the question. The Duman Opportunity Center was based in Illinois, where the IPS model has diffused effectively. Gene Oulvey of the Illinois Division of Rehabilitation stated, “Because Illinois, because we are, I mean, to be blunt about it, we’re a powerhouse in terms of particularly the IPS services... This IPS stuff is... kind of like a crown jewel, viewed as, in state government and so it tends to get drawn into a lot of conversations. And it’s always good news. Ever since its genesis, its inception in Illinois, it’s – and I made a point of making sure that people are aware that it’s always good news.” He reacted strongly against mentions of sheltered work and section 14(c). For instance, when I asked whether he ever worked with sheltered workshop, he stated, “No. IPS is all about competitive employment, there is no - and for that matter, state voc rehab in Illinois is now all about competitive employment. We are out of that business of sheltered employment.” He stated that the Illinois Division of Rehabilitation had worked with section 14(c) “in the distant past... for probably the last fifteen years, no... I believe, again, because of the WIOA, requirements, we don't fund sheltered at all anymore, and haven't for at least several years.” However, interviews and Department of Labor data reveal that some programs in Illinois do continue to use section 14(c) certificates (including at least one Division of Rehabilitation-funded program). Therefore, Oulvey’s perception that 14(c) certificates have been abolished in Illinois speaks to section 14(c) programs’ limited connections to epicenters of the IPS model, such as the Illinois Division of Rehabilitation.

Deborah Becker, the founder of the IPS model, also viewed section 14(c) as a relic of the past. Discussing tensions between the IPS model and sheltered work, she stated, “Well, I don't hear about too many tensions these days because there’s so much evidence, anybody who pays attention to evidence will see what's effective [i.e., IPS]... I’m sure there are employment programs out there that like what they do and do it differently, but we just haven’t seen the outcome showing that it helps more people get to work, which is what it's all about... I didn't really pay a whole lot of attention to [conflict]. I’m sure it was out there. But I just tried to focus on the research and doing a good job and see what happens.” When I asked whether she ever interacts with section 14(c) providers today, she responded bluntly, “No. This is all about competitive jobs.” She stated of the national conflict over section 14(c), “I don't know that much about it. My work is all been focusing on regular jobs, competitive wages, that that's what people want, and that’s what they deserve to be able to do.” Becker is entirely correct in her summary of the vast body of evidence identifying IPS as more effective than sheltered work. Her research and advocacy have done a great deal to prove and disseminate the IPS model. Additionally, the dismissal of the subminimum wage as ethically out of the question serves an important political purpose, highlighting the injustice of subminimum wages. However, by dismissing section 14(c) as a relic, some advocates may negate the ongoing scope of exploitation under section 14(c) and miss opportunities to guide programs away from the subminimum wage.

This research project demonstrates limited communication and collaboration between the professional community promoting alternatives to section 14(c) and the professional community which continues to make use of 14(c) certificates. Indeed, providers who had participated in collaborations described a discursive gulf between these groups. Carol Carr summarized one experience with collaboration:

I participated in four all-day sessions in Washington, DC, for the Office of Personnel Management. And there were all kinds of educators and people that were part of this, it was very enriching to participate. But at one junction, the last meeting we had was at

George Mason University. I was sitting next to the dean of special education services, you know, education. And we were talking about getting the individuals that we're talking about employed, the most significant[ly disabled individuals] that needs prompting, and I said, 'I worked in industry, so I understand this part of it, how do you make it successful in convincing the folks that own the business that they need to employ this person on their manufacturing line or whatever?' And so she shared with me that, 'Oh, it's easy.' And I was like, 'Good, explain it to me!' [laughs]

Carr's collaborator went on to advocate for one-to-one support in which a nondisabled staffer works alongside a staffer with a disability. For Carr's organization, this level of support was financially out of the question. She suggested that academics and activists working on the issue of section 14(c) were insufficiently familiar with the on-the-ground financial realities of vocational rehabilitation providers. This advocate's dismissal of Carr's concerns – "Oh, it's easy" – speaks to the gulf between different communities in the disability employment field. Other providers concurred with Carr's description of the gulf between discursive communities. Another director of a vocational rehabilitation program associated critiques of the subminimum wage with activists and "ivory tower" academics, bemoaning these groups' limited engagement with providers. Vocational rehabilitation providers securing jobs for client-workers at minimum wage or above, such as the Duman Opportunity Center and the providers working with IPS education centers, play a limited role in the education of providers struggling to raise wages.

Ultimately, Carr's organization had successfully phased out its use of the subminimum wage. Carr had been unusually involved in national conversations about section 14(c) relative to other providers interviewed. As she summarized, "One of my key things I did whenever I came on board to Achieve...was to understand policy, what was going on, where the legislators stood, so that I could appropriately prepare the organization. So when the conversations – when Rhode Island happened [an early confrontation over the subminimum wage], I really read everything I could, stayed on top of it. And then I was just really fortunate. I traveled all over the – actually, I've traveled globally and visited agencies that work with people with disabilities. And I watched and observed and understood what they were doing and how they were doing it so that I could meet that need here." Carr's summary of this process contrasts strongly to statements of providers struggling to move away from section 14(c), e.g., the manager of the long program planning mass layoffs who stated, "None of us were paying attention." Based on the different living-wage models Carr encountered in her travel and observations, Achieve Human Services spent eight years phasing out their section 14(c) program. This process involved one-on-one work with each individual client-worker paid subminimum wages to ascertain and achieve the job placement they desired. Ultimately, every single person entered employment at minimum wages or above, excepting one client-worker who decided that they did not wish to work. Carr's program thus represents a model of collaboration to move away from the subminimum wage. It demonstrates the importance of communication among programs for a successful transition away from section 14(c).

Discussion

This research illuminates characteristics of employment programs currently reliant on section 14(c) subminimum wages, as well as organizations which have successfully transitioned away from the subminimum wage. I focus on programs targeting client-workers with mental illnesses, though many programs in this sample work with people with many different disabilities, and in some cases with multiple disabilities. Prior research critiques the subminimum wage as a tool of exploitation (Crandell, 2022; Gill, 2005; Friedman, 2019; Friedman and

Rizzolo, 2020; Hoffman, 2011; Kuo, Levine, and Kosciulek, 2020; Pendo, 2016; Preedy, 2014), with limited efficacy for moving people with disabilities into the workforce (Cimera, 2011; Cimera, Wehman, West, and Burgess, 2016; Hoffman, Jäckel, Glauser, and Kupper, 2011; US CRC, 2020). However, this research has not been consistently grounded in empirical analysis of the subminimum wage as it is currently used. This report thus provides important data on the current workings of section 14(c), advancing policy conversations about the transition away from the subminimum wage.

There are substantial limitations to the present research. First, the interview population does not represent a random sample of actors in this field. Therefore, findings are not generalizable to the full population of vocational rehabilitation providers, advocates, or state agents. As I suggest below, future quantitative research using publicly available data might address some of these limitations. Additionally, while this project focused on service providers targeting mental illness, I found that many service providers serve a cross-disability population and did not disaggregate practices targeting people with mental illnesses and people with other kinds of disabilities. Therefore, it is challenging to distinguish between the policy and economic needs of people with mental illnesses and people with other kinds of disabilities using the present data set. However, findings still provide meaningful insights into the history and current workings of the section 14(c) program.

Interviews with disability rights advocates, labor union representatives, and vocational rehabilitation providers identify the repeal of section 14(c) as a political inevitability. Over the last decade and a half, section 14(c) has gone from a technical provision with low political visibility to a major partisan concern. The 2009 Henry's Turkey Service, institutional investigations of section 14(c), organizing against Goodwill as a major subminimum wage employer, Obama's 2014 executive action limiting the subminimum wage, and the 2016 emergence of section 14(c) as a Democratic campaign issue drove this transformation. As a result, many states and localities have enacted or are expected to enact bans on the subminimum wage, and the repeal of section 14(c) has been incorporated into minimum wage legislation before Congress. These events necessitate a transition from subminimum wages to living wages in the coming years. However, providers vary widely in their preparation for this transition.

I find that disability employment programs currently rely on subminimum wage workshops to generate revenues. Many employment programs report chronic state underfunding, so they have developed in-house businesses which obtain high revenue levels by paying subminimum wages to workers with disabilities. Five providers in this sample of eight providers relied on section 14(c) for revenue generation. This economic function of the subminimum wage must be recognized and addressed by policymakers guiding the transition away from section 14(c). Alternative revenue sources, such as increased state funding, might replace revenues generated in subminimum wage programs and allow disability employment programs to focus on placement in competitive, community-based, living-wage jobs.

Additionally, state funds might subsidize facilities renovations to advance the transition away from section 14(c) sheltered work. Many employment programs own or rent large factory, warehouse, or workshop spaces in which they employ people with disabilities for sheltered work at subminimum wages. If programs are to reorient themselves towards competitive, integrated employment, these spaces may need to be redesigned. For instance, they might be sold or leased to other organizations as a cost-saving measure, or they might be converted into office space for one-on-one meetings between rehabilitation counselors and client-workers (critical to IPS and other competitive employment models). Agencies such as the Rehabilitation Services

Administration or the Social Security Administration might develop grant programs to incentivize these transformations in employment programs' built environments.

This report has focused on economic barriers to the transition away from section 14(c), but this research also encountered some cultural barriers, which these collaborations will necessarily address. Providers paying subminimum wages often expressed the view that some subset of people with disabilities will never be able to work in competitive, integrated jobs. These low expectations of client-workers have been a focus of much prior research on section 14(c) (Gill, 2005; Friedman and Rizzolo, 2020; Crandell, 2022) and may be explored in future analyses of these ethnographic and interview data. Combating these low expectations for client-workers should be a priority for future educational efforts by SSA, other government agencies, advocacy organizations, and providers which have successfully transitioned away from the subminimum wage.

Alternatives to the subminimum wage, such as the IPS model, are backed by decades of empirical research. A number of programs in this sample had implemented these models effectively. However, limited communication between programs working under these models and programs reliant on sheltered work at subminimum wages inhibits the national transition away from section 14(c). Federal agencies, including the Social Security Administration, might consider programs to facilitate communication and collaboration among these programs. For example, programs which have successfully transitioned away from section 14(c) might be "matched" with programs struggling to undertake this transition to share their insights. Funds might be awarded to national organizations such as the IPS Center to disseminate their model widely.

This research has documented limited communication and collaboration between organizations advocating a transition away from section 14(c) and those struggling to undertake this transition. Future research might explore concrete factors impeding collaboration. For instance, the Department of Labor releases data annually on current section 14(c) certificates. During the 2022-2023 academic year, I intend to explore whether these certificates are geographically clustered, suggesting that some states or localities have successfully raised wages while other localities' wages lag behind. This research will investigate what factors drive any geographic variation (e.g., poverty and unemployment levels, specific policy regimes). This research may help SSA and other agencies develop a plan to bring providers to the same level of preparation for the transition away from section 14(c).

In conclusion, this research is intended to help policymakers and government regulators design and implement reforms to the section 14(c) program. Given the high proportion of Americans who are or will at some point become disabled, a new national agenda must address the stark poverty seen among disabled people. The section 14(c) program has come under fire as a contributing factor in this poverty. This research finds that new funding for disability employment programs must replace revenues from subminimum wage programs, and support renovations of their physical facilities to advance competitive rather than sheltered employment. Furthermore, collaborations between programs which have successfully phased out the subminimum wage and programs struggling to do so may enhance these programs' efforts. These recommendations will help SSA and other agencies reduce disability-linked economic inequality.

Final Summary of SSA Recommendations

While SSA is not directly involved in the implementation of section 14(c), return-to-work programming and the amelioration of poverty among disabled people are secondary domains of

SSA interest (see especially Nichols, Hemmeter, & Engler, 2021). Therefore, the payment of living wages to vocational rehabilitation recipients is an important priority for SSA. This report has identified several recommendations for SSA programming, discussed above but summarized here in conclusion. First, SSA might develop grant programs (perhaps in partnership with other government agencies) to replace revenues generated by subminimum wage programs and/or incentivize renovations to vocational rehabilitation facilities' built environments. Second, SSA might engage in educational efforts to combat low expectations for client-workers with disabilities among vocational rehabilitation. Third, SSA might facilitate partnerships between programs which have successfully transitioned away from section 14(c) and programs struggling to undertake this transition. Fourth, and relatedly, SSA might encourage national organizations such as the IPS Center or ASAN to disseminate transition resources. These recommendations will encourage return-to-work at living wages among SSI and SSDI beneficiaries.

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