

# Information Memorandum Transmittal Developmental Disabilities Services



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**Number: APD-IM-19-064**

**Issue date: 9/20/2019**

**Topic:** Developmental Disabilities

**Due date:**

**Subject:** The Oregon legislature passed SB 494, prohibiting payment of subminimum wages to employees with disabilities. This requirement will be phased in between 2020 and 2023.

**Applies to (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> All DHS employees                              | <input type="checkbox"/> County Mental Health Directors   |
| <input type="checkbox"/> Area Agencies on Aging: {Select type}          | <input type="checkbox"/> Health Services  |
| <input type="checkbox"/> Aging and People with Disabilities             | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS)   |
| <input type="checkbox"/> Self Sufficiency Programs                      | <input type="checkbox"/> ODDS Children's Intensive In Home Services   |
| <input checked="" type="checkbox"/> County DD program managers          | <input type="checkbox"/> Stabilization and Crisis Unit (SACU)   |
| <input checked="" type="checkbox"/> Support Service Brokerage Directors | <input checked="" type="checkbox"/> Other ( <i>please specify</i> ): Information impacting employment service providers |
| <input type="checkbox"/> ODDS Children's Residential Services           |   |
| <input type="checkbox"/> Child Welfare Programs                         |   |

**Message: There is no action required. This is for your information only.**

Senate Bill 494 became law during Oregon's 2019 legislative session, under which Oregon will phase out subminimum wages paid on the basis of disability.

This requirement will be phased in under the following timeline:

- \$9.25 from July 1, 2020 to June 30, 2021. [This wage is still subminimum. In comparison, as of July 1, 2019, Oregon's minimum wage is \$11.00, \$11.24, or \$12.50 depending on the region of the state].
- \$10.75 from July 1, 2021 to June 30, 2022.
- \$12.50 from July 1, 2022 to June 30, 2023.
- **After June 30, 2023, an employer may not pay employees with disabilities at an hourly rate that is less than the Oregon State minimum hourly wage required under ORS 653.025.**

## **Background**

The Federal Fair Laborers and Standards Act allows the employment of persons with disabilities at a wage less than minimum wage under a special “14(c) certificate.” See 29 U.S.C. 214(c), ORS 653.030, and OAR 839-020-0015. Only a few states have outlawed subminimum wage.

In Oregon, most businesses paying subminimum wages under a 14(c) certificate are nonprofit organizations that provide ODDS and Medicaid-funded employment services. Since 2014, nearly all of these organizations have been in the process of transforming their services to support people in integrated community settings where individuals with disabilities earn competitive wages and benefits. This transformation has been required to bring ODDS and Medicaid-funded services into compliance with federal and state regulations as well the Lane v. Brown settlement agreement.

Many of these nonprofit organizations receive preference from state programs contract for products and services. This is through a state program for “qualified nonprofit agencies for individuals with disabilities” or “QRFs” as described in ORS 279 and OAR 125-055. Under SB 495, successor QRFs must also meet certain requirements with respect to hiring persons with disabilities employed to work under previous contract.

This legislation also impacts Vocational Rehabilitation Services. The WIOA (Work Innovation and Opportunity Act), federal law passed in July 2014, requires that Vocational Rehabilitation programs provide career counseling as well as information and referral services for individuals earning subminimum wages (See 34 CFR 397 regarding limitations on the use of subminimum wage).

**This transmittal is for information only. No action is required.**

*If you have any questions about this information, contact:*

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