

## **MNFAC Findings & Recommendations**

### **MNFAC Findings**

#### Movement for CHOICE

- The brief history section in the MNFAC paper demonstrates a policy and advocacy movement of CHOICE on the part of the individual with I/DD and in many cases with the guidance of parents, family members and/or legal guardians.
- The history of education and day/employment services for people with I/DD establishes a policy movement in the general direction toward integration into community-based living and employment where and when it is determined to be preferred and appropriate.
- DHS 2019 Report to the Legislature states that its goal is CHOICE for people with disabilities.
- Existing work, day programs, integrated employment including 14(c) employment settings offer a variety of choices. An individual with I/DD can choose what he/she desires and what is most integrated and most appropriate per his/her person-centered planning.
- MNFAC paper provides evidence that people with I/DD as described by CDC, WHO, medical, educational and I/DD service providers is tremendously diverse in terms of the range of developmental cognitive abilities and in terms of added forms of disabilities. There is no one kind of program that fits all. Choices provide options.
- Parents and families of people with I/DD have firsthand knowledge and broad experience about the realistic potential abilities of their adult child with I/DD. They understand the multiple disabilities within an individual and how to best influence them with a measure of success. They understand they have to live with decisions made with and/or on behalf of their adult child. They seek advice of a variety of professionals. They feel a substantial responsibility that is not being acknowledged by those seeking to reduce service options.
- The Employment First Policy has been exaggerated to the point that it is more like “Employment Only.” It is not realistic that every individual with Intellectual and Developmental Disabilities wants to work, can work, and can earn competitive wages.
- DSP – Direct Support Staff. These are employees hired to give support to I/DD individuals in work related and day program activities as well as group homes and other residential setting requiring support. The 2020 DHS DWRS report concludes that the labor market has notably low wages, lacks access to affordable benefits, and is highly unstable due to turnover.
  - 2020 was a year of a national and international pandemic that forced several reductions in work environments for non-disabled and certainly for disabled persons and in particular I/DD. The reality of state budget reductions is unknown for the future.
  - With the increase of minimum wage to \$15/hour, we are concerned about the effects of that increase on employment opportunities and the success of people with I/DD in integrated employment.

### Civil Rights Commission Report Findings

- The September 2020 Civil Rights Commission Report (“Report”) and some advocates that provided testimony state that: All people with I/DD should be integrated into competitive minimum wage employment and that they are not categorically different in level of disability from people with I/DD currently working in competitive integrated employment. They lack evidence to support this statement. The Report does not delve into describing and defining the range of disabilities. Their interviews focused on individuals at a higher range of cognition within I/DD definition.
- The Report findings point out persistent failures in regulations and oversight of 14(c) programs by government as a reason to eliminate this choice for people with I/DD instead of the harder option to better regulate.
- The Report recommends the repeal of section 14(c) of the Fair Labor Standards Act and elimination of congregate types of employment for people with I/DD through a phased process. The Report lacks credible evidence to support this recommendation.
- The Report notes that the amount of public comment received during its hearings and receipt of public comments is the largest it has seen in 13 years at 9,700 submissions and that 98% of comments received - support the continuation of Section 14(c). The Report recommendations ignore these public comments.
- The Report recommendations do not include CHOICE. Its recommendation eliminates a choice of employment that is proven successful for people with I/DD for whom a congregate setting provides appropriate supports for identified disabilities, a predictable activity with a financial reward, and a feeling of safety.
- The Report does not address the competition for federal and state dollars that provides housing, medical and employment and other support services for people with I/DD. The Report states that integrated employment supports add costs but does not calculate a projection of costs to federal and state funding sources.
- Report data and analysis of the states that eliminated 14(c) services is very limited and lacks consistency. The Commission made only one site visit for this report – Vermont.
- Data and Analysis does not support Commission recommendations. The Report states: “Failure to collect sufficient data about employment outcomes for people with disabilities is a persistent issue across federal and state government agencies. Estimates of the number of people with disabilities earning a subminimum wage vary widely, as there is no reliable, national census of the exact number of people with disabilities working in 14(c) workshops. Employment rates can vary depending on the type of disability. “
- MNFAC was not able to locate available data to answer its questions about the states that eliminated 14(c) services. That said, it appears all 4 states that eliminated the 14(c) option did so as part of a court settlement and not because of an ethical or moral philosophy.

### **MNFAC Recommendations**

- CHOICE. Section 14(c) is proven to meet the employment choice for a significant portion of the population with I/DD.
- Do not eliminate Section 14(c) as a choice for those who need those opportunities to feel safe and a productive worker in their community.

- Elimination of Section 14(c) services will have the effect of violating the civil rights of individuals with I/DD.
- As the only option for people with I/DD to earn wages in a center-based setting, there should not be a life-time limit on being eligible for prevoc services
- Refocus the Employment First Policy to keep employment as the first and default direction for services and supports, but remove the language that does not apply to the more severely disabled individuals.
- Thorough data collection and analysis of the data from states that eliminated 14(c) services, must be conducted before making decisions about the future of Section 14(c). Take time to study the outcomes and any unintended consequence.
- MNFAC recommends adding its list of research questions to the collection and analysis.
- Conduct thorough data collection and analysis of current Minnesota 14(c) services to individuals with I/DD. Include information related to a range of cognitive functioning abilities and range of multiple disabilities.
- Conduct cost analysis of 14(c) services in Minnesota. Conduct total cost of services of Minnesota I/DD population – housing, medical, day program and employment services, etc.
- Use a business approach to services for I/DD individuals.
- Develop a business plan that outlines goals, a market analysis and a plan of services for I/DD populations that includes a financial analysis of costs related to implementation of the business plan. In addition, the sources of funding the plan should be clearly identified.
- Build an infrastructure of appropriate supports before making new and expanded policies intended to serve adults with I/DD.
- Infrastructure includes developing education and training requirements within state post-secondary vocational certification and college degree programs for people to be hired to provide support to people with I/DD. There are currently no such programs that provide a quality and standard for education and training. DHS in partnership with the U of M offers some online classes through College of Employment Services.
- Increase financial supports dedicated to increasing salary and benefits of DSP's.
- Federal government must conduct an operations review of federal agencies to identify persistent failures in regulations and oversight of 14(c) and to identify corrective actions.
- Federal government agencies must collaborate in an effort to collect consistent and reliable state by state data related to employment of people with disabilities. It must collect and sort the data according to separately defined disability categories to make it useful to policymakers, service providers, and families of people with I/DD.
- MNFAC supports written statements of dissention by Civil Rights Commissioners Gail Heriot and Peter Kirsanow. See these in the MNFAC paper.
- The state best serves its citizens with disabilities through efforts to make services uniformly available across the state.

