

Waterman, Robert - WHD

From: Todd Stillings <todd@asnek.org>
Sent: Thursday, September 24, 2015 10:29 AM
To: WHDPRAComments
Subject: Comments re: Control Number 1235-0001
Attachments: DOL Comments proposed 226 226A changes Oct 2015.doc

Good day,

Attached are comments regarding the above referenced item with a respond date deadline of October 5, 2015. Thank you for the opportunity to provide feedback.

Todd Stillings

Day Services Director

Achievement Services for Northeast Kansas

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Achievement Services empowers persons with disabilities in their quest to live, work and pursue leisure activities as independently as possible.

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September 23, 2015

Helen M. Applewaite, Branch Chief
Family and Medical Leave Act and Other Labor Standards
Wage and Hour Division
United States Department of Labor
Re: Control Number 1235-0001
Comments Special Employment Under the FLSA [8/6/2015]
Federal Register Volume 80 Number 151

I have comments regarding the proposed changes to Form WH-226A. In reading your letter announcing the proposed changes to 14(c) first sentence of paragraph three, it stated this is an attempt to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995. In reading the "SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT" page 5 last paragraph "Moreover, while the proposed revisions to the forms will likely increase the burden on employers, the revised application forms and the accompanying revised instructions will provide clarity to employers regarding their application obligations and should improve the quality of information DOL receives". The inconsistency is clear. The attempted justification to ignoring the 1995 Act falls well short in its attempt to reconcile the additional time and paperwork this requires for us. Finding a solution that does not ignore this 1995 act is called for.

We operate a small Workshop and Day Services program in a small town in Kansas for persons with Intellectual and Developmental Disabilities. We serve approximately 40 Consumers with approximately 35 in a Workshop setting. Our Workshop has multiple jobs available to consumers that are performed daily. Each job also has several time studied piece rate tasks. Many Consumers perform a variety of these jobs and tasks each day. We also have some hourly pay work that we pay at a full unadjusted minimum wage rate. Paper work and staff requirements will increase greatly if we are required as stated in the proposed 226-A to track time spent on each individual job/task. This will now be required to determine the separated time devoted to a primary job vs the total worked hours without regard to the various jobs performed during each day. Our consumers in the Workshop currently are in a working status for the entire time they attend; again many involved in multiple product work each day (exceptions to work time include times such as lunch, physical therapy, or appointments that take them off site). It is much less paper and time for us to continue with current requirements to track only total work time and total pay received to derive the true holistic commensurate hourly wage rate. Currently the Consumers have a good deal of flexibility to move during the day within the variety of available jobs. In addition to the increased burdens of paperwork, staff time and thus added cost, this proposed rule will change that flexibility by our having to rigidly structure worktime for these 35 people solely to accomplish the tracking necessary required by the new proposed primary job reporting requirements.

I feel compelled to also comment on the direction and changes that are being made by the Department of Labor resulting from recent court action, partnering groups, and the WIOA. I applaud this direction to make fully integrated competitive employment the desired outcome for the disabled population. I worry that accomplishing this will require initiatives that do not occur and adequate funding that does not happen. In the meantime, to phase out work centers will leave many disabled people with nowhere that enables them to work and earn a paycheck. Here, the Consumer's paychecks, reflect the commensurate 14c piece rate. These consumers, none the less, take great pride in being able to go to their job and earn that paycheck no matter the size. To seek to end **all** work centers before **all** disabled groups in **all** states have the desired alternatives in place including **all** necessary funding to achieve this goal, is short sighted and its results callous. While it may be well intentioned, prematurely closing Workshops will eliminate an opportunity that currently exists for many persons with a disability. Currently they have a chance at an emotionally fulfilling (at least for most in the population we serve), while not optimally financially fulfilling circumstance, a job.

Sincerely,
Todd Stillings
Day Services Director
Achievement Services for Northeast Ks. Inc.