

# Subminimum Wage Program: DOL Could Do More to Ensure Timely Oversight

GAO-23-105116

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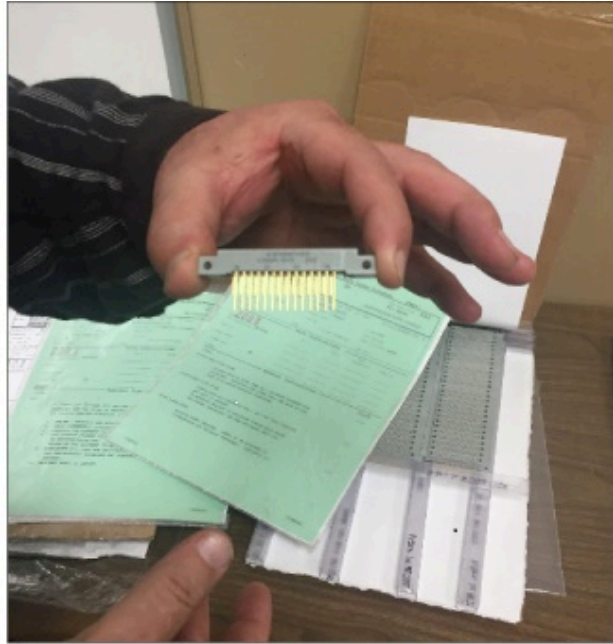
## Fast Facts

Employers that hold a special certificate from the Department of Labor can pay people with disabilities wages below the federal minimum wage. We found that about 120,000 workers were employed under these certificates, with half earning less than \$3.50 an hour.

DOL oversees the certificate program, in part, by reviewing employers' applications and ensuring that they pay workers the correct wages. However, DOL has no timeliness goals for processing applications and has taken over a year to process some of them.

We [recommended](#) that DOL set and track timeliness goals for processing these applications to improve oversight of this program.

**Worker Assembling Electronic Circuit Pieces for Airline Manufacturing**



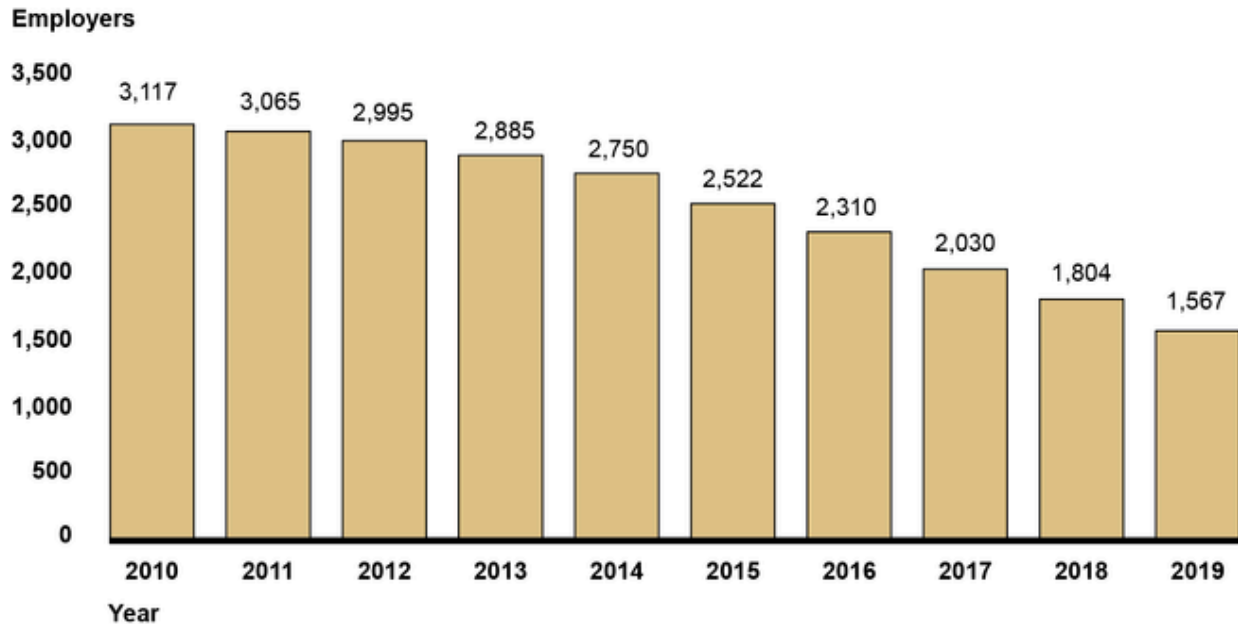
Source: GAO. | GAO-23-105116

## Highlights

### What GAO Found

Through the 14(c) program, the Department of Labor (DOL) certifies employers to pay individuals with disabilities wages below the federal minimum—also known as subminimum wage. Employer participation in this program decreased by about half from 2010 to 2019, according to GAO's analysis of DOL data. During this period, the number of 14(c) workers also fell from about 296,000 to 122,000. Officials GAO interviewed from DOL and four stakeholder organizations attributed this decline, in part, to federal and state policies restricting the payment of wages below the federal minimum. Since August 2019, most 14(c) workers earned less than \$3.50 per hour, while about 14 percent earned at or above the federal minimum of \$7.25. Representatives from two of the four stakeholder organizations said these earnings patterns may reflect differences in workers' skills and abilities, employment opportunities, and state minimum wage laws.

## Employers Authorized under Section 14(c) to Pay Subminimum Wages, 2010-2019



Source: GAO analysis of the most recent available Wage and Hour Division certificate data. | GAO-23-105116

Community rehabilitation programs provide vocational rehabilitation and other services to individuals with disabilities and represent the vast majority of 14(c) employers. According to GAO's survey of these employers, almost all 14(c) workers had an intellectual or developmental disability, and most were White and of prime working age (25 to 54 years old). In addition, these employers reported few 14(c) workers engaged in competitive employment—which includes earning at least minimum wage in a work setting with individuals without disabilities.

DOL oversees the 14(c) program in part through its certification process, such as by ensuring employers calculate wages accurately. However, this oversight has been hampered by long processing times for some applications, including renewals. DOL's processing times varied from 2 days to over 2 years, with about 40 percent completed within 4 months, based on GAO's analysis of data from 2019 through 2021. DOL's application processing manual states that staff are to ensure timely processing, but the agency has not set or communicated timeliness goals. Employers with an existing certificate are allowed to continue paying workers subminimum wages while waiting for their certificates to be renewed. However, if the employer incorrectly calculated wages during this period, the employer may owe workers significant back pay to make up the difference between the correct wage and the wage paid.

## Why GAO Did This Study

Section 14(c) of the Fair Labor Standards Act of 1938 permits employers to pay wages below the federal minimum to individuals with disabilities if they hold a 14(c) certificate from DOL. In 2014, legislation amended the Rehabilitation Act of 1973 to call for maximizing opportunities for these individuals to earn competitive wages in the community. GAO was asked to examine the 14(c) program.

This report (1) describes trends in 14(c) program participation and the wages workers earn, (2) describes what 14(c) employers report about their workers' characteristics and movement to competitive employment, and (3) examines the extent to which DOL oversees the 14(c) program. GAO reviewed relevant federal laws, regulations, and guidance, and analyzed DOL data on 14(c) employment, wages, certificates, and investigations. GAO also surveyed a nationally representative sample of community rehabilitation program employers and received an overall response rate of 72 percent, allowing GAO to generalize results to the population. In addition, GAO interviewed officials from DOL and representatives from stakeholder organizations selected for their experience working with the 14(c) program.

## Recommendations

GAO is making three recommendations, including that DOL set and communicate timeliness goals for processing 14(c) certificate applications. DOL agreed with the recommendations.

### Recommendations for Executive Action

Agency Affected	Recommendation	Status
Wage and Hour Division	The Administrator of DOL's Wage and Hour Division should set and track timeliness goals for	<div><div></div>Open</div> <div>In April 2023, the Department of Labor's Wage and Hour Division</div>

Agency Affected	Recommendation	Status
	intermediate steps and overall duration for processing 14(c) applications. (Recommendation 1)	(WHD) stated that it will update its Certification Procedures Manual to set and track timeliness goals for intermediate steps and the overall duration for processing 14(c) applications. WHD estimates implementation by December 31, 2024. We will consider this recommendation closed when WHD sets and tracks timeliness goals for processing 14(c) applications.
Wage and Hour Division	The Administrator of DOL's Wage and Hour Division should externally communicate its goals for processing 14(c) applications to employers and other program stakeholders, and its progress toward meeting these goals. (Recommendation 2)	<div><div></div> Open <div></div></div> <p>In April 2023, the Department of Labor's Wage and Hour Division (WHD) stated that once it has set timeliness goals for processing 14(c) applications, it will ensure its goals and the progress toward meeting them are externally communicated to employers and other program stakeholders using appropriate communication tools for information sharing and dissemination. WHD estimates implementation by December 31, 2024. We will consider this recommendation closed when WHD externally communicates with employers and other program stakeholders its 14(c) application processing goals and progress toward meeting them.</p>
Wage and Hour Division	The Administrator of DOL's Wage and Hour Division should solicit feedback from 14(c) employers regarding the online application and take appropriate action	<div><div></div> Open <div></div></div> <p>In April 2023, the Department of Labor's Wage and Hour Division (WHD) stated that it plans to communicate and engage with employers holding section 14(c)</p>

Agency Affected	Recommendation	Status
	to address any limitations to help improve the overall timeliness of certificate application processing. (Recommendation 3)	certificates and invite their feedback on WHD's online 14(c) application through fiscal year 2024. WHD also stated that based on information received and available resources, the agency will determine the feasibility of implementing system modifications to facilitate increased use of the online application system and, correspondingly, increased timeliness of processing. WHD estimates implementation by December 31, 2024. We will consider this recommendation closed when WHD solicits feedback on its online application from 14(c) employers... <a href="#">View More</a>


## Full Report

<a href="#">Highlights</a>	<a href="#">Full Report</a>	<a href="#">Accessible</a>
<a href="#">Page (1 page)</a>	<a href="#">(100 pages)</a>	<a href="#">PDF (120 pages)</a>

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## Topics

- Worker and Family Assistance
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