

Task Force on Eliminating Subminimum Wages - November consultation to DHS results

Jan. 18, 2023

Background

This document summarizes advice the Task Force on Eliminating Subminimum Wages provided to the Minnesota Department of Human Services (DHS) on how the department could limit the use of subminimum wages in Minnesota's waiver programs. This advice was part of the responsibilities of the task force, outlined in [Laws 2021, First Special Session chapter 7, article 17, section 14](#):

(2) consult with and advise the commissioner of human services on statewide plans for limiting subminimum wages in medical assistance home and community-based services waivers under Minnesota Statutes, sections 256B.092 and 256B.49;

DHS collected task force advice through a survey distributed to task force members in November 2022. There were 13 responses to the survey from the 16-member task force.

Questions

DHS asked the task force for advice on three topic areas.

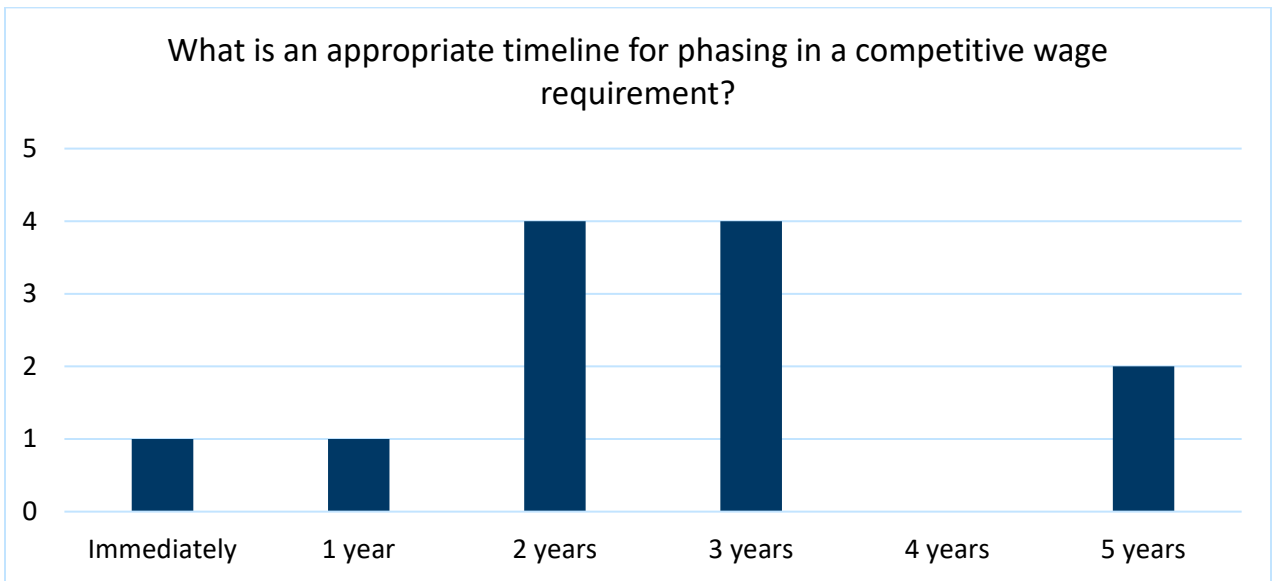
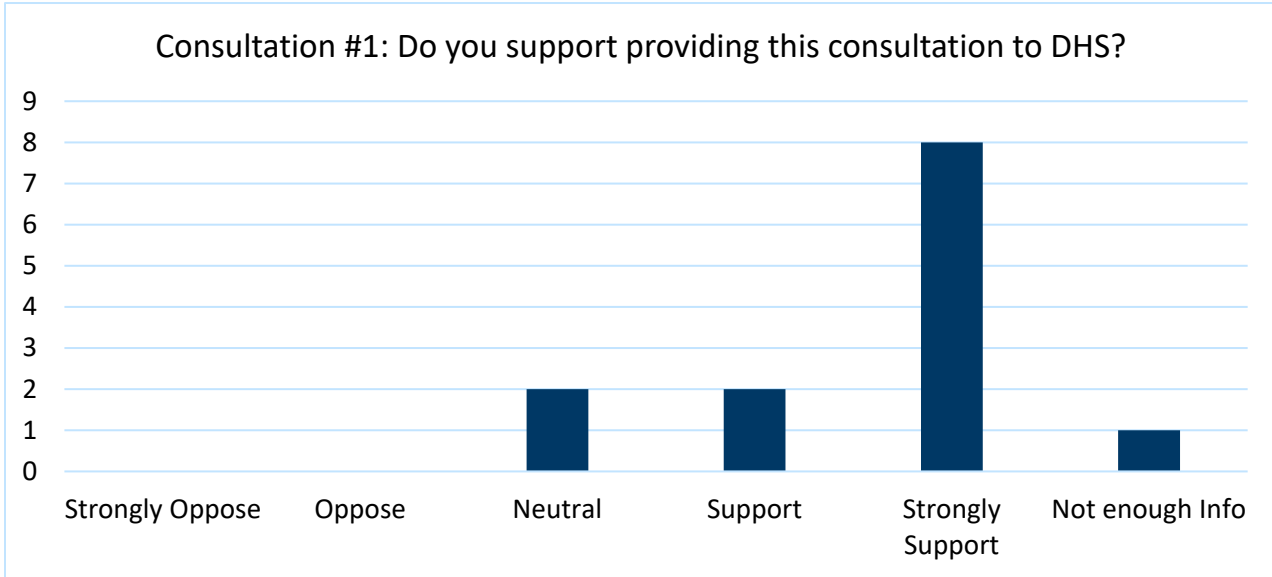
- **Consultation #1:** DHS should pursue changes to Minnesota's waiver plans to require competitive wages in any job position for which a person is receiving employment support services.
- **Consultation #2:** DHS should pursue changes to Minnesota's waiver plans to require competitive wages for any wages earned while a person is receiving prevocational services.
- **Consultation #3:** DHS should increase monitoring efforts to ensure employment service providers adhere to waiver policy requirements in the payment of subminimum wages as part of waiver employment services.

Under each of these areas, DHS asked task force members if they supported advising DHS to take these actions as well as questions on timing and other implementation considerations.

Responses

This section summarizes task force member responses in each of the consultation areas.

Consultation #1: DHS should pursue changes to Minnesota’s waiver plans to require competitive wages in any job position for which a person is receiving employment support services



How do we support people in transitioning to competitive wages instead of stopping work?

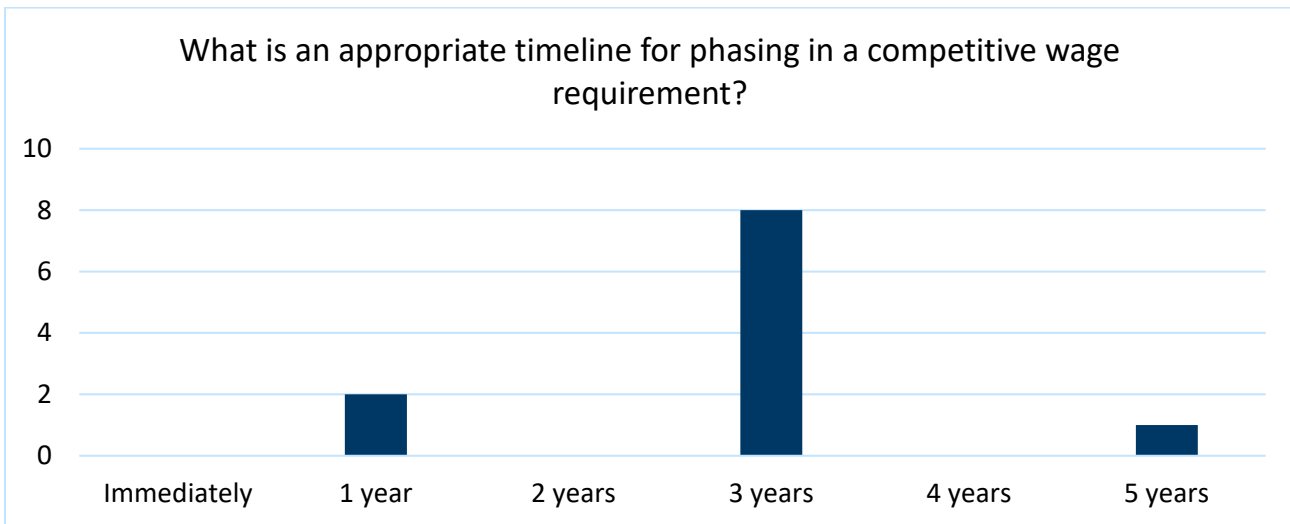
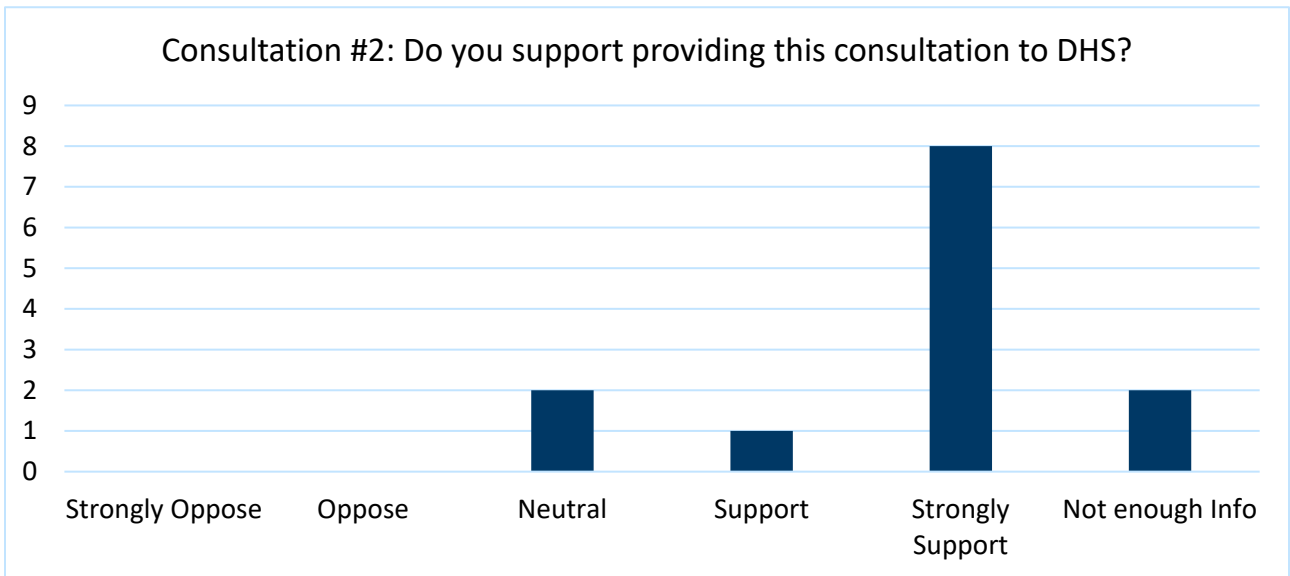
- You listen to people who have been involved with this issue.
- Provide opportunities to help people try competitive, integrated employment. Let them try different types of jobs to help them make informed decisions about where they want to work.

- Staff training on how to do job placement in the community, business engagement, working with employers, benefits counseling and reasonable options for people who are interested in work (day activities, etc.)
- Continue to offer people options to earn competitive wages or make exceptions for special minimum wages for certain people.
- Educate employers, people accessing services, providers, families, educational systems.
- Increase training and support for customized employment. Increase rates for all employment services to increase staff wages and bring in more staff. Offer disability accessibility training to businesses in the state to make workplaces more accommodating.
- Strengthen training and support regarding customized employment. Shift contracts with employers to require minimum wage. Historically this has been incredibly successful for other groups that have transitioned.
- Have the contracts require those working to be paid minimum wage. Renegotiate the contracts so DT&H providers get paid at least minimum wage. Strengthen training for customized employment. Have more ACRE-certified employment staff.
- Eliminate it in employment support services and prevocational services. Redo contracts to include subminimum wage.
- Providers need to renegotiate contracts. People don't have to lose their jobs – providers who have switched to paying minimum wage have been very successful in renegotiating contracts with businesses to pay them minimum wage or higher. Use the experts in the MTI grant project, and other SMEs and providers who have already stopped using subminimum wages/14c. Use customized employment practices to ensure jobs are based on skills and interest and will be successful.
- I have been learning a lot about this through the work on the task force, but by no means can consider myself an expert and do not feel I have the information necessary to comment on how this work should be done.
- We support the task force's good work and believe that the following recommendations will be key to transitioning people to competitive wages:
 - Provide work and benefits education and supports to every person currently receiving subminimum wages.
 - Strengthen day support services.
 - Provide information and education about services and supports.
 - Communicate and educate to build belief that people currently receiving subminimum wages can work in community jobs earning competitive wages.
 - Allocate transition resources to support people and providers to make the transition.

Is there any additional information you would like to provide regarding this consultation?

- We support phasing out subminimum wage for employment support services, but believe it would be a better policy choice to phase out the use of subminimum wage for all Medicaid HCBS service providers and services. This approach would be more equitable, better accomplish Minnesota's Employment First policy goals and would be less administratively complex.
- I feel as if we are taking away a viable choice for some people.
- No.

Consultation #2: DHS should pursue changes to Minnesota’s waiver plans to require competitive wages for any wages earned while a person is receiving prevocational services.



In 2021, as part of Waiver Reimagine and the statewide transition plan to meet HCBS Setting Final Rule requirements, DHS has publicly communicated and written into policy that people who received prevocational services before Jan. 11, 2021, will be allowed to continue to receive the service without a time limit. Given this information, what strategies do you see for requiring competitive wages and ensuring continued access to prevocational services?

- I don't feel that case management services fully understand the use of prevocational services. More education and time is needed to implement this plan.
- We should have chapters by county for people to come to seek help.

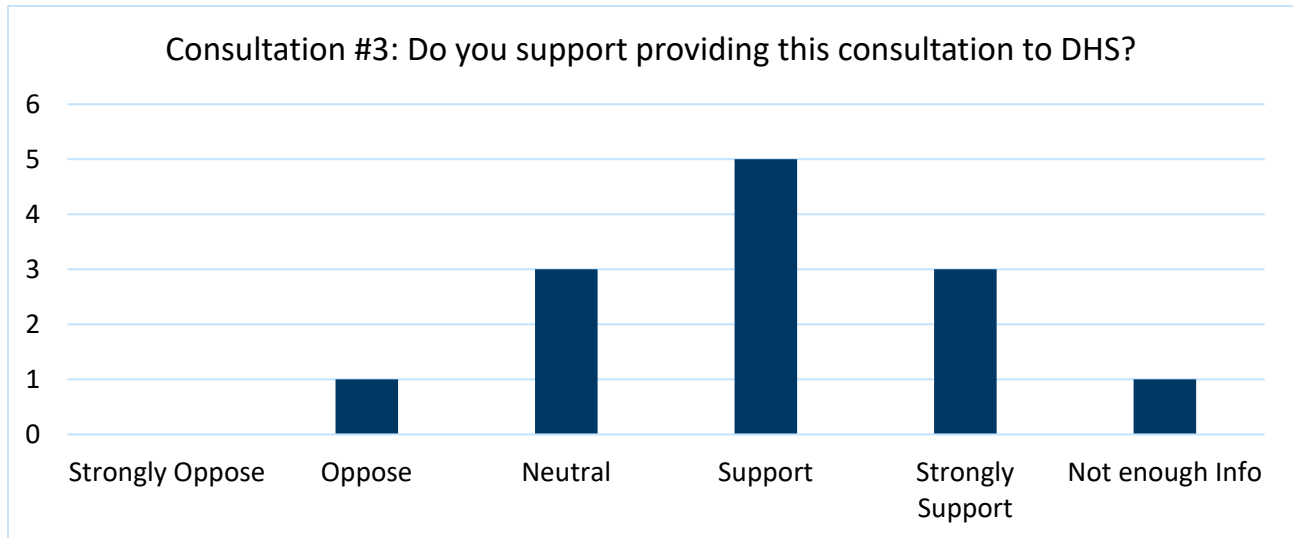
- Phasing out subminimum wage for prevocational services is really important and can be done consistent with the department's guidance on time limits. It seems important to be very clear about the distinction between a service that is helping to prepare a person for work, which can be an HCBS service, and work the person is actually doing, which should be paid at or above minimum wage. This is comparable to other sectors where internships must be paid if the person is doing work that would otherwise be done by paid staff, and requirements to pay new employees for training time. Eliminating subminimum wage is not inherently inconsistent with someone receiving prevocational services. Some people might benefit from ongoing training supports even while they are working in jobs making at or above minimum wage.
- Again, I don't feel I have enough knowledge in this area to comment on solutions.
- Create rules stating that all contracts must include wages at or above minimum wage, otherwise the same needs apply for both employment services and prevocational.
- Prevocational providers will need to reformat their business models to support in-house employment. Increased rates will support this as well as providers looking at other funding models such as grants and fundraising.
- Contracts that employers enter into need to state that staff/contractors need to be paid minimum wage. Increase customized employment training so more people have access to qualified trained staff. Providers have accommodated for different companies and have contracts that benefit them for work that needs to be completed. People with disabilities are an untapped workforce that deserve to be paid at least minimum wage. Prevocational services can exist while paying those that are receiving them at least minimum wage. They can do this by ensuring that the contracts that they have/renew will pay the workers at least minimum wage. Prevocational services is meant to help people move into competitive, integrated employment. There are no requirements for them to receive employment services. DHS should require that those receiving prevocational services also receive one of the three employment services in a meaningful way.
- Folks will need more access to staff who are trained in a culturally competent way. Contracts need to require that staff are paid subminimum wage. Business and service providers will need support to change business models to support folks making minimum wage or higher. Make employment services a requirement so folks can explore what they want to do for work. If we plan for people with disabilities to work and earn at least minimum wage, we need to set an equitable path for them to follow.
- Eliminating subminimum wages has nothing to do with receiving prevoc services. Prevoc is about teaching and training:
 - Prevocational services teach people essential work skills and strengthen their work capacity to meet the challenging demands of work. These services develop necessary and marketable work skills and abilities that lead to greater opportunities for competitive, community employment.
 - A person who receives prevocational services can:
 - Acquire resume-building work experiences and vocational training.
 - Develop needed work skills and strengthen their work capacity.
 - Establish their next steps for community employment goals.

- People can still do all of these things without earning subminimum wages. And, they can still do contract work in-house, they will just need to be paid minimum wages or higher. Providers will need to modernize their business models and fund services through the rates they are paid and other creative fund-raising models, and not off proceeds from contract work. Use the MTI grant experts, other SMEs and providers who have given up their 14c. It is doable and possible. And, again, providers need to renegotiate contract work. We have a labor shortage and there are not enough working age adults in the state to do all of the work we need done. Employers will pay market rate to get the work done because they have to. They need the work done and if the disability services field isn't available to supply subminimum wage labor, they will pay higher to get it done.
- Further, it is well known in the field of customized employment that work skills are most often not transferrable, and the best place for people with cognitive disabilities to learn a job is on the job. Conceptually, this service is antiquated and not in line with what really works to move people into competitive, community employment.
- Help 14c employers transform their business models to support competitive, integrated employment or supported employment that is in the community and paid at minimum wages or higher.
- Roll out implementation to allow people to develop a plan over the course of a few years: Jan. 1 – Dec. 31, 2024, develop plan for transition during annual plan development; Jan. 1 – Dec. 31, 2025, update on a rolling basis, depending on a person's renewal date, so everyone is updated by Jan. 1, 2026.

Is there any additional information you would like to provide regarding this consultation?

- No.
- We support phasing out subminimum wage for prevocational services, but believe it would be a better policy choice to phase out the use of subminimum wage for all Medicaid HCBS service providers and services. This approach would be more equitable, better accomplish Minnesota's Employment First policy goals and would be less administratively complex.
- DHS should eliminate the use of subminimum wages in both employment support services and prevoc, not one or the other.

Consultation #3: DHS should increase monitoring efforts to ensure employment service providers adhere to waiver policy requirements in the payment of subminimum wages as part of waiver employment services.



What are steps could DHS take to improve the monitoring and enforcement of this requirement?

- Allow provider-owned enterprises to benefit from waiver funds.
- Without more information about the current monitoring and enforcement practices, it is difficult to provide input on the steps DHS could take to improve. Consistency and transparency are very important – it could be helpful to make findings from monitoring and enforcement efforts available to interested parties.
- I would need more info on the current monitoring process. Could look at DEED's extended employment audit process as a model.
- Yearly audits of all programs.
- If the licensure requirements aren't being followed, then they should be investigated. The previous two ideas to be able to end subminimum wage are much more valuable to ending subminimum wages.
- Licensing review should already be done. It would take a lot of time and resources to be able to implement it though and our time is better spent on the other two consultations.
- Licensing reviews should already be catching this. That said, this will not give us much bang for our buck. It's not worth the time and energy. We should spend our time and resources on more impactful work, such as the previous two suggestions.
- Need additional staffing to increase monitoring efforts and to provide technical assistance and support to lead agencies.