



Systems Transformation Guide to Economic Justice for Disabled People:

Jobs and Employment

JULY 2022


national partnership
for women & families



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Executive Summary



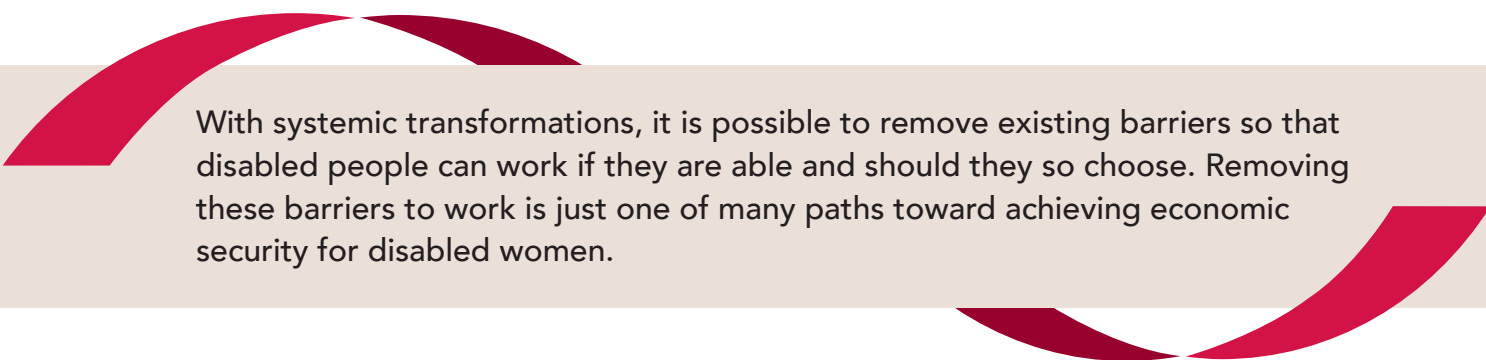
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The intersection of disability and gender justice has long been ignored in framing economic policy.

At the National Partnership for Women & Families, we recognize the deep history of interactions between disability and gender justice through institutionalization, stripped autonomy and further marginalization. Ultimately, ableism, racism, sexism and other forms of eugenic thinking have framed economic policies.

Our country's economic system was not designed to allow disabled people, particularly disabled women of color, to survive and secure basic needs, let alone to thrive. Barriers to employment, among numerous other concerns, make it difficult for disabled women to achieve economic security.

While a person's ability to work should not affect their ability to live comfortably, the nation's labor and public benefits laws and systems must be completely transformed to allow disabled women to work if they are able and should they so choose. Discrimination, public benefit disincentives, subminimum wages, barriers to competitive integrated employment and inadequate paid leave and paid sick policies are among the numerous barriers to work for disabled people. Disabled women, and disabled women of color in particular, experience discrimination unique to their identities, compounding on their experiences as disabled people. They are also more likely to serve as caretakers and work in lower wage jobs.



With systemic transformations, it is possible to remove existing barriers so that disabled people can work if they are able and should they so choose. Removing these barriers to work is just one of many paths toward achieving economic security for disabled women.

The National Partnership recommends that federal policymakers do the following:

- **The federal government must prioritize the creation of good, high-paying union jobs for disabled people**—disabled women and disabled women of color in particular—in implementing the bipartisan infrastructure law (Infrastructure Investment and Jobs Act), the Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act and the Inflation Reduction Act.
- **Congress must significantly increase funding** for the Equal Employment Opportunity Commission (EEOC), Department of Labor and Department of Justice (DOJ) Civil Rights Division to support increased enforcement of civil rights and employment discrimination laws. While the National Partnership supports President Joe Biden's proposal to increase the EEOC budget by \$26 million, the DOL budget by \$1.5 billion and the DOJ Civil Rights Division budget by \$62 million, it recommends a steeper increase in the EEOC budget.

- **Congress must pass the Paycheck Fairness Act** to ensure that women, including disabled women, can hold employers accountable for wage discrimination.
- **Congress and the administration should strengthen existing protections against all forms of discrimination and harassment** in the workplace.
- **To address occupational segregation, Congress should pass legislation to ensure equal pay** for comparable work and consider disability in addition to race and national origin in addressing discrimination.
- **Congress should incentivize remote and flexible work** through employer tax credits, grants and other programs to expand work for disabled employees.
- **Congress should pass the Raise the Wage Act**, which would raise the minimum wage and eliminate the subminimum wage for tipped workers, lifting up disabled workers who disproportionately work in lower-wage jobs. It would also ensure that domestic workers receive fair compensation.
- **Congress should eliminate the subminimum wage for disabled workers** by passing the Transformation to Competitive Integrated Employment Act. Alternatively, the Centers for Medicare & Medicaid Services should issue additional regulations to phase out the subminimum wage. While the latter is not the preferred solution, it is a solution that would hopefully help phase out the subminimum wage in the event of a hostile Congress.
- **The Rehabilitation Services Administration (RSA) of the U.S. Department of Education, which manages and provides funds to state VR programs, must ensure that the extensive VR funding for states is appropriately steered toward staffing and programs** intended to support the employment of disabled people.
- **The RSA must also work with states to address inconsistencies** among application processing procedures and service delivery that create racial disparities.
- **Additional amendments to WIOA in this upcoming reauthorization may be necessary to address concerns related to barriers** to competitive integrated employment and ensure continued agency collaboration, such as adjusting the percentage of allocated federal funds that must go toward workforce investment; adjusting one-stop delivery system guidelines and requirements; and instituting requirements, beyond plan assurances, pertaining to relationships with other programs and agencies.
- **In the event that Congress does not, the Social Security Administration (SSA) must increase income and substantial gainful activity (SGA) limits** for all Social Security benefits by indexing them to inflation.



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- **Congress must update for inflation** and index the earned and unearned income disregards.
- **Congress must eliminate, or at least increase, asset limits** for SSI beneficiaries.
- **The SSA must completely overhaul its wage reporting system** to prevent and resolve overpayments as a result of the SSA's delayed processing.
- While state Medicaid buy-in programs exist for disabled workers who still need the wraparound services provided through Medicaid, these programs have various requirements, inconsistencies and access barriers. **Congress must ensure access to long-term services and supports (LTSS) for workers with disabilities** through a national Medicaid buy-in program with generous income and asset limits.
- **Congress must eliminate the five-year waiting period** preventing qualified disabled noncitizens from accessing the Medicaid benefits they need.
- **Congress must increase HCBS funding**, including investment in and training for the direct care workforce, by passing the Better Care Better Jobs Act and the HCBS Access Act.

- **Congress should establish a national paid family and medical leave** by enacting the Family and Medical Insurance Leave (FAMILY) Act.
- **Congress should establish a national paid sick leave program** by enacting the Healthy Families Act.
- **Congress should pass the Caring for All Families Act** to expand family and medical leave protections in the FMLA for extended and chosen family.
- **Congress should pass the Child Care for Working Families Act.** This would ensure that families have access to affordable, high-quality child care. It would also support the needs of families with disabilities, including both disabled parents and children, and make critical investments in higher wages for child care workers, as well as invest in Head Start and Early Head Start.
- **Congress must adequately fund IDEA, such as through the Funding Early Childhood is the Right IDEA Act,** to ensure that students and children with disabilities receive the support and services they need, with particular efforts to support Part C of IDEA, which establishes grants to assist states establishing comprehensive early intervention services and programs for infants and toddlers.
- **Congress must pass the Protecting the Right to Organize (PRO) Act,** which would strengthen the right to form a union and collectively bargain for all workers.

The National Partnership recommends that states do the following:

- **State legislatures must fully fund VR programs** as part of their cost-sharing responsibilities.
- **State governments must also prioritize the creation of good, high-paying union jobs for disabled people**—disabled women and disabled women of color in particular—in implementing the bipartisan infrastructure law (Infrastructure Investment and Jobs Act), the Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act and the Inflation Reduction Act.
- **States must invest in enforcement of discrimination and labor-related claims.** Agencies must be appropriately staffed and funded to process and investigate claims.
- **While federal laws are helpful tools, states may also expand the protections available to disabled workers.** States may phase out subminimum wage and expand anti-discrimination and labor protections.

Introduction



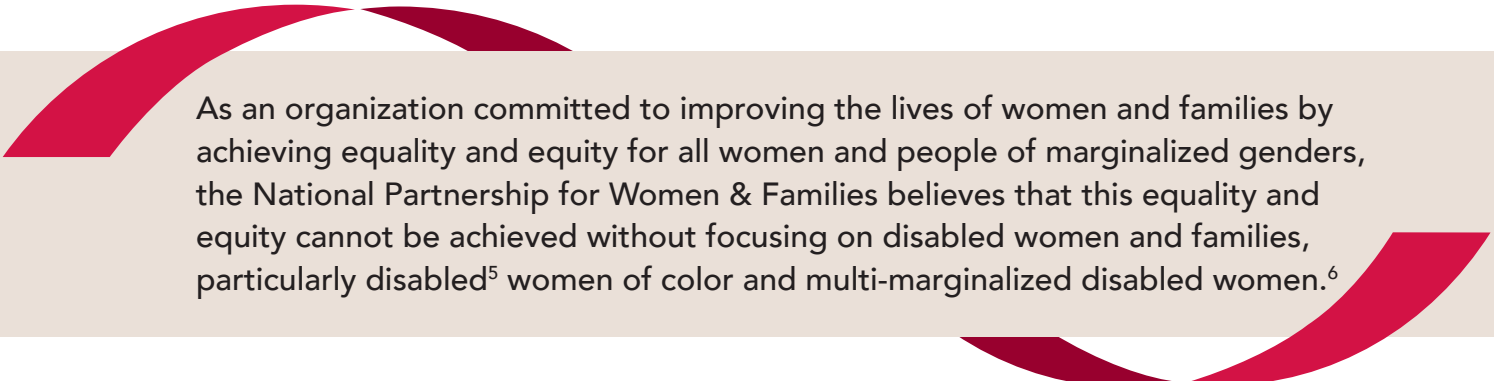
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In the United States, there are an estimated 42,485,034 people with a disability, or 13 percent of all people.¹

Indigenous and Black adults are more likely to have a disability: Three in 10 American Indian/Alaska Native adults have a disability, while one in four Black adults have a disability.² Women are more likely than men to have a disability, according to Census Bureau data.³ Disabled women are more likely than white nondisabled men to live

¹ Systems Transformation Guide to Economic Justice for Disabled People: Jobs and Employment

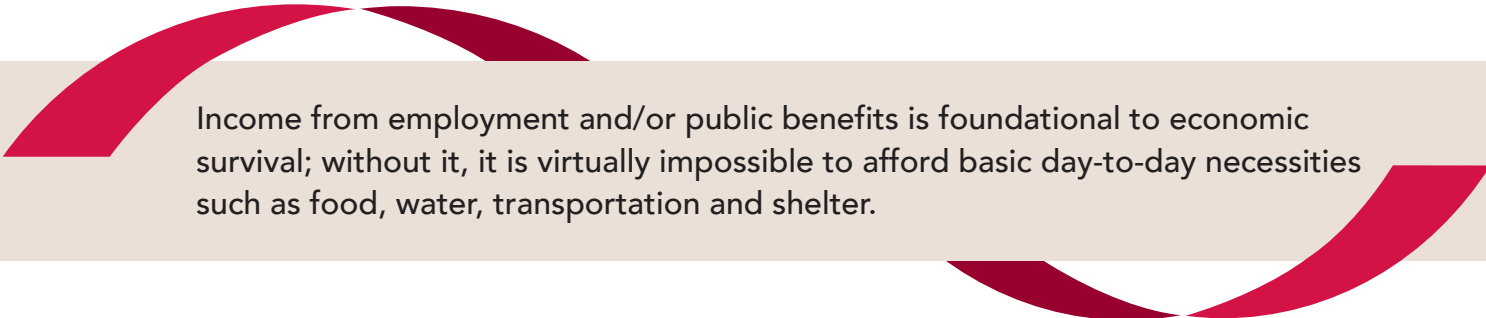
in poverty, with disabled women of color experiencing particularly high rates of poverty.⁴ These disparities are the result of deliberate policy choices that are designed to keep disabled people, particularly disabled women and disabled women of color, in poverty.



As an organization committed to improving the lives of women and families by achieving equality and equity for all women and people of marginalized genders, the National Partnership for Women & Families believes that this equality and equity cannot be achieved without focusing on disabled women and families, particularly disabled⁵ women of color and multi-marginalized disabled women.⁶

In order to plot a more intentional course toward systemic change that achieves the inclusion, access, liberation and economic health and well-being of disabled women and families, the National Partnership has developed “systems transformation guides” for disability economic justice public policy. Our goal is to shape economic policy decisions and discussions among federal, state and local legislators; fellow advocates; think tanks; and other partners to ensure that the needs of disabled women, particularly disabled women of color, are not only considered but also prioritized. This guide provides legislative and administrative proposals primarily for federal audiences but also for some state and local audiences. It also affirms the National Partnership’s commitment to prioritizing and centering disabled women, particularly multi-marginalized disabled women, in our work. The scope of these guides is broad and stretches across a number of areas, based on an understanding that concerns that may be seen as unrelated are truly all interconnected and that disability affects all aspects of women’s lived experiences. While these guides propose many possible solutions, they are not exhaustive.

This piece is the first in a series and focuses on jobs and employment. It discusses issues related to caregiving, discrimination, public benefits, barriers to competitive integrated employment, labor violations and costs associated with employment for disabled workers. Upcoming reports in this series will include public benefits, wealth building, transportation, housing and food insecurity. The National Partnership will continue to address and explore the ways disabled women are disproportionately criminalized, incarcerated and unhoused, as well as analyze the stark inequities within the U.S. health care system, in advocacy efforts and research.



Income from employment and/or public benefits is foundational to economic survival; without it, it is virtually impossible to afford basic day-to-day necessities such as food, water, transportation and shelter.

This report examines the systemic barriers that disabled women of color and their families face when attempting to obtain and maintain employment.⁷ Some of the barriers disabled people face include discrimination, being paid lower wages than nondisabled peers, inability to save assets as a result of strict asset limits associated with public benefit programs, and inability to pursue additional income as a result of strict income and “substantial gainful activity” requirements for certain public benefit programs. For disabled women, these challenges are compounded.

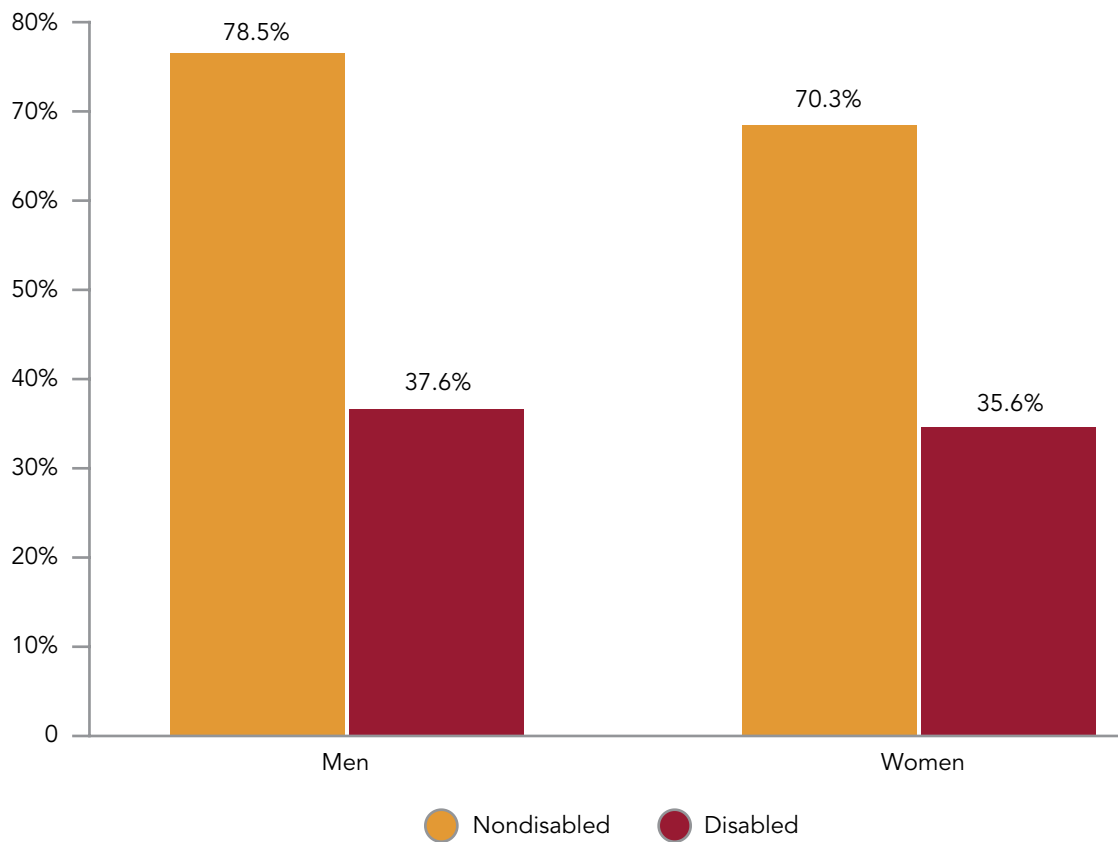
The National Partnership’s future work will also explore the need for better data on people with disabilities, particularly women of color. Inequities can only be eliminated when high-quality data are available to identify them, craft solutions and monitor progress. Too often, data are incomplete or obscure the realities experienced by people with disabilities, especially when those data are not comprehensive or disaggregated by race, ethnicity and gender. Policymakers must prioritize the collection and use of data on disability status as a fundamental strategy to achieve disability economic justice.

Jobs and Employment

Disabled women, particularly disabled women of color, face unique barriers to achieving equity in the workforce. In 2022, disabled people ages 16 to 64 were only about half as likely to be in the labor force as nondisabled people.⁸ Disabled women of the same age group are even less likely to be in the labor force, with participation rates below those of disabled men.⁹ The unemployment rate for disabled people (8.2 percent) is also more than double that of nondisabled people (3.5 percent).¹⁰

Disabled women are less likely to be employed than disabled men or nondisabled women or men. New analysis by the National Partnership for Women & Families finds that there are 3.8 million employed disabled women ages 16 to 64. This represents just 36 percent of all disabled women in this age group, the lowest rate compared with disabled men (38 percent), nondisabled women (70 percent) and nondisabled men (79 percent).¹¹

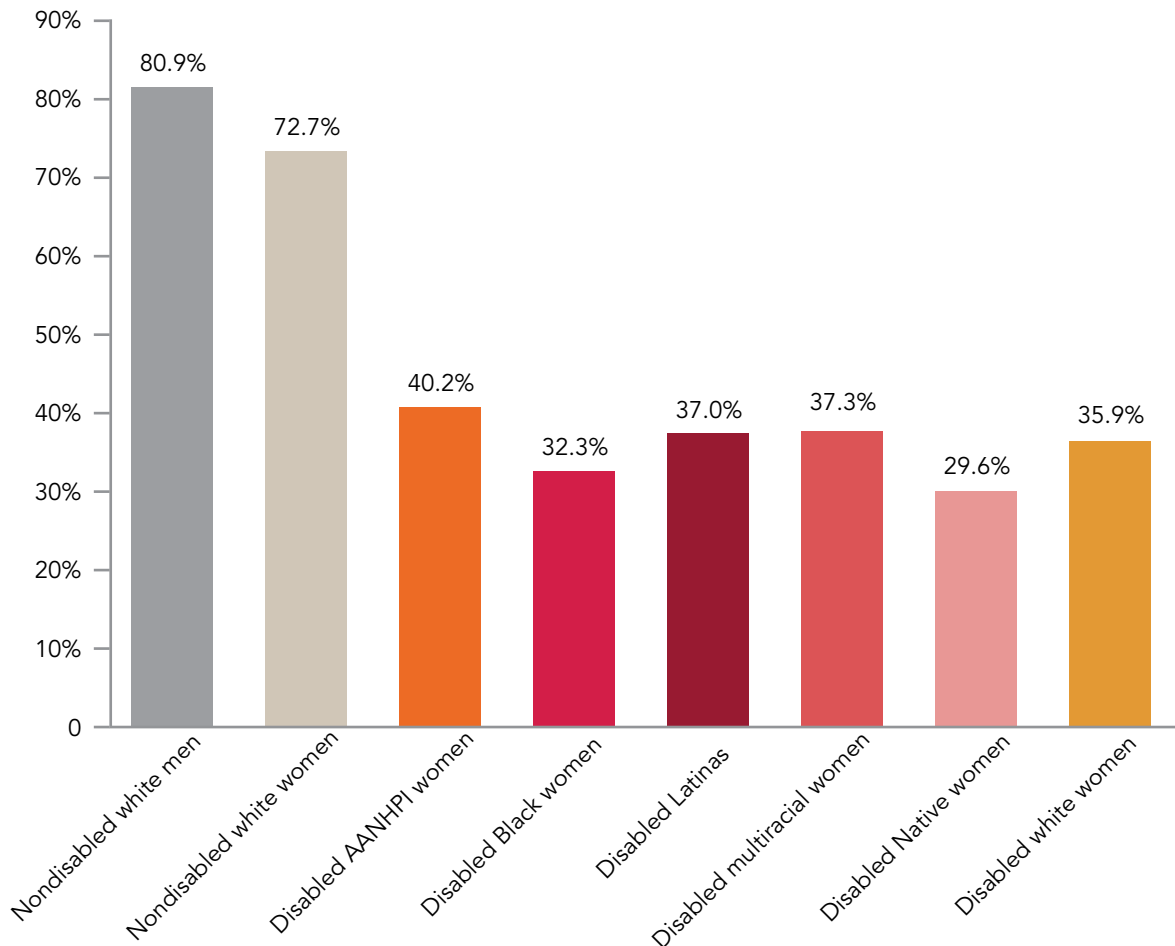
Share of People Ages 16–64 Who Are Employed, by Gender and Disability Status



Source: National Partnership analysis of 2017–2021 American Community Survey via IPUMS for adults aged 16–64. 2017–2021.

Employment rates among disabled women vary by racial and ethnic group, but all groups of disabled women of color are much less likely to be employed than nondisabled white women or men. Among disabled women by race and ethnicity, Asian American, Native Hawaiian and Pacific Islander (AANHPI) disabled women are the most likely to be employed; 40 percent of all disabled AANHPI women ages 16 to 64 are employed, followed by disabled Latinas at 37 percent. American Indian/Alaska Native and Black disabled women are the least likely to be employed at 30 percent and 32 percent, respectively. Meanwhile, 73 percent of white non-Hispanic nondisabled women are employed, as are 81 percent of their male counterparts.

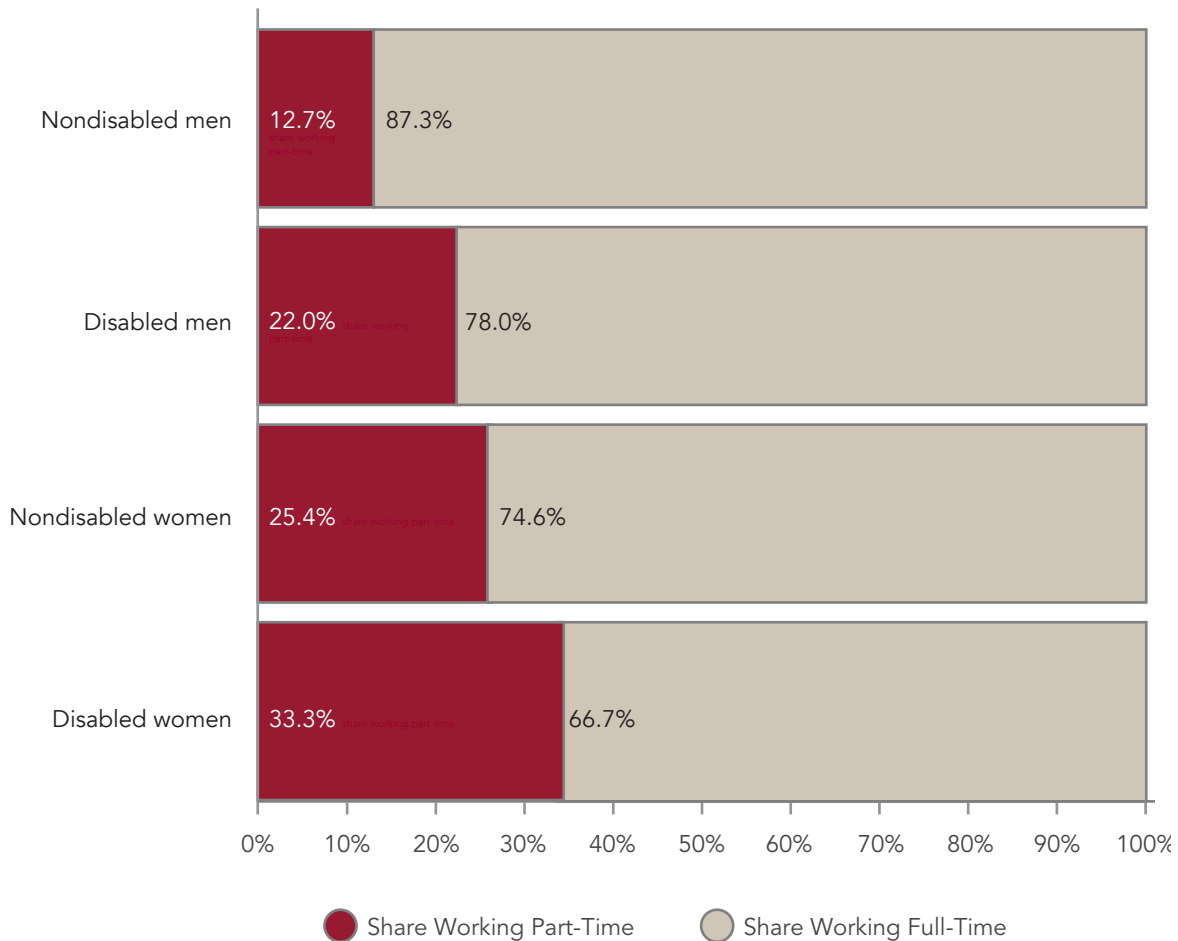
Share of Adults Ages 16–64 Who Are Employed by Race/Ethnicity, Gender and Disability Status



Source: National Partnership analysis of 2017–2021 American Community Survey via IPUMS for adults aged 16–64. 2017–2021.

Employed disabled women are substantially more likely to be working part time than are employed disabled men, employed nondisabled women and employed nondisabled men. About one-third of employed disabled women ages 16 to 64 work part time, compared with 25 percent of employed nondisabled women, 22 percent of employed disabled men and 13 percent of employed nondisabled men.

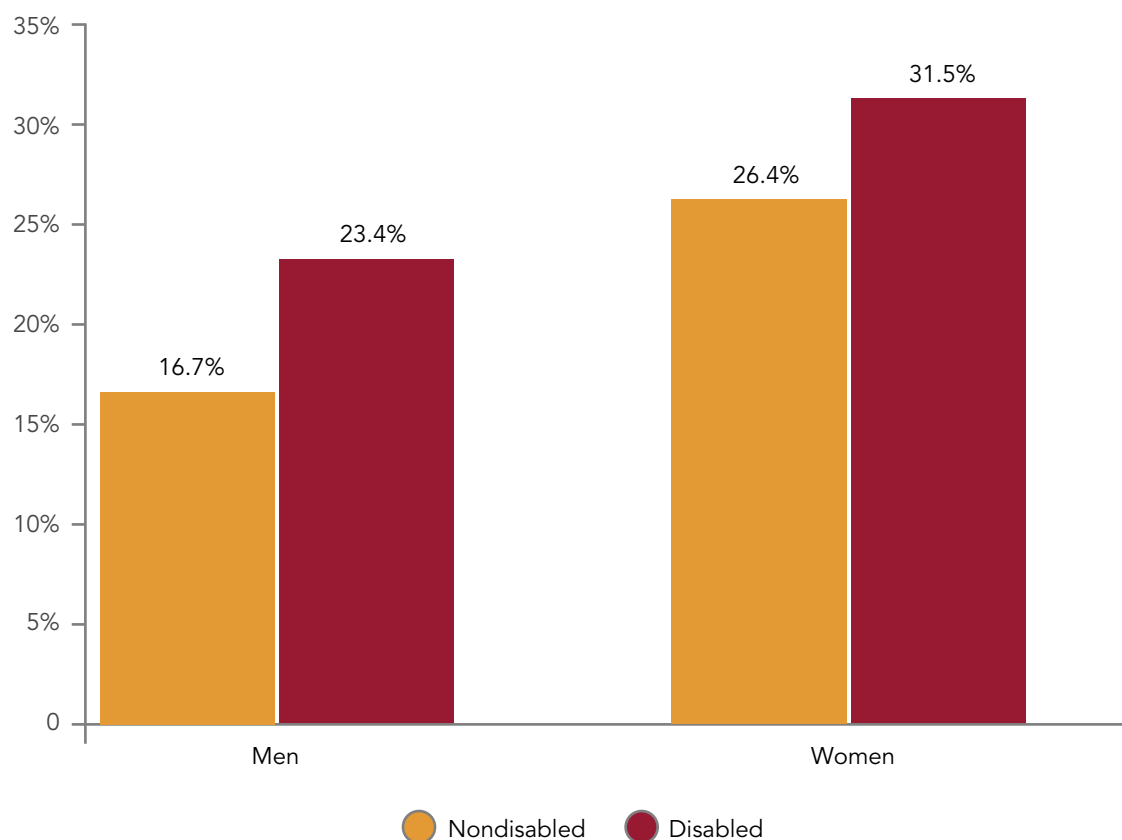
Adults Ages 16–64 Who Are Employed Part-Time and Full-Time, by Gender and Disability Status



Source: National Partnership analysis of 2017–2021 American Community Survey via IPUMS for adults aged 16–64. 2017–2021.

For employed disabled women, employment does not automatically create economic security, likely due to low wages and/or few hours. For example, employed disabled women ages 16 to 64 are substantially more likely than employed disabled men or employed nondisabled women or men to be economically insecure (defined as living below 200 percent of the federal poverty line). The National Partnership finds that nearly one-third (31 percent) of employed disabled women are economically insecure, compared with 20 percent of employed nondisabled women, 23 percent of employed disabled men and 17 percent of employed nondisabled men.

Share of Employed People Ages 16–64 Who Are Economically Insecure, by Gender and Disability Status



Source: National Partnership analysis of 2017–2021 American Community Survey via IPUMS for adults aged 16–64, income less than 200 percent of the federal poverty level.

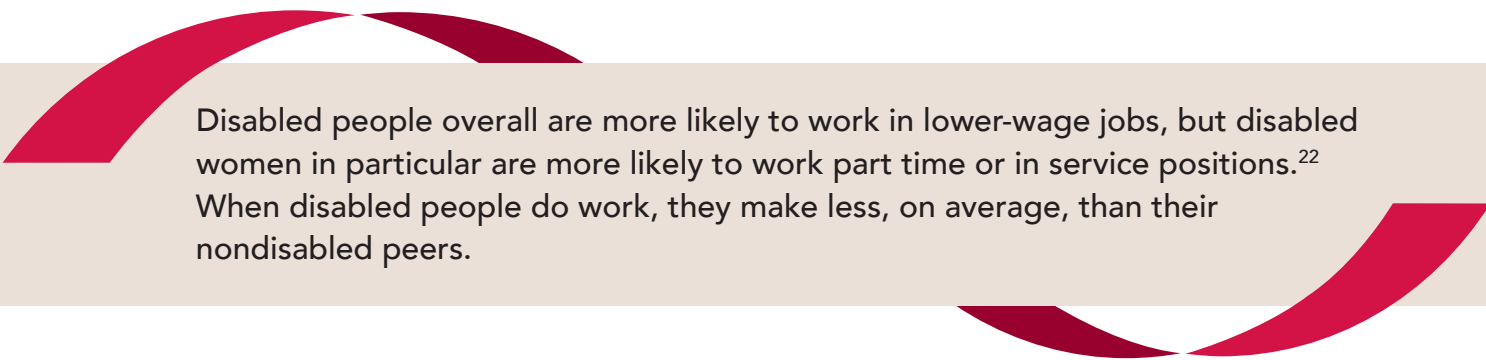
Black and Hispanic or Latino people with disabilities had higher unemployment rates than white disabled people.¹² Black people with disabilities had the highest rate of unemployment at 12.3 percent.¹³ While there have been some gains in employment for disabled workers, significant barriers to employment remain.¹⁴

Disability Discrimination, Occupational Segregation and Wages

There are many reasons for the low rates of workforce participation and employment among disabled workers. First, disabled people may experience disability discrimination in hiring, firing, promotion and other employment decisions. Disability discrimination may include difficulty receiving or denial of reasonable accommodations in the workplace.¹⁵ Disability discrimination was the second-most common type of claim that workers reported

to the U.S. Equal Employment Opportunity Commission in 2021, behind only retaliation.¹⁶ Discrimination is compounded for disabled women—and disabled women of color in particular—as they may face additional forms of discrimination on top of disability discrimination. A 2022 Gender Policy Report found that discrimination in the labor market was the leading cause of economic instability for disabled women.¹⁷ In fact, disabled women are more likely than nondisabled women to face sexual harassment at work: A study conducted in the United Kingdom found that seven in 10 disabled women (68 percent) had experienced sexual harassment in the workplace.¹⁸ In comparison, about 38 percent of all women in the United States report experiencing sexual harassment at their workplace.¹⁹ Disabled women also face unique forms of harassment given their identities as disabled women.²⁰

While disability discrimination remains prevalent, the COVID-19 pandemic has contributed to growing opportunities for disabled workers in some circumstances. Many employers have become more flexible and have expanded remote opportunities.²¹ Although this experience is not universal, and reasonable accommodations for remote and flexible work schedules may still be difficult for many disabled workers to secure, the pandemic has provided opportunities for some disabled workers that did not exist before. Continuing to address disability discrimination and expanding workplace flexibility will be critical for the future of work for disabled people.

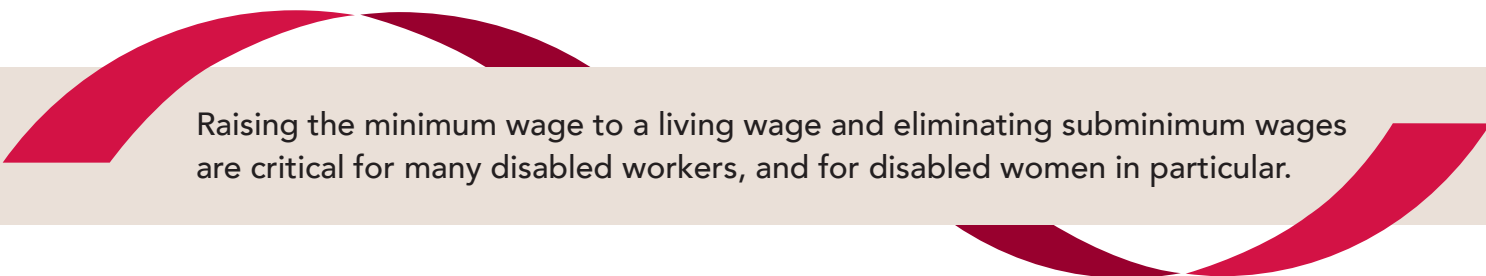


Disabled people overall are more likely to work in lower-wage jobs, but disabled women in particular are more likely to work part time or in service positions.²² When disabled people do work, they make less, on average, than their nondisabled peers.

In 2020, disabled workers were paid 74 cents for every dollar paid to their nondisabled peers.²³ Disabled women are paid even less: The 10 occupations employing the most disabled women pay, on average, \$41,200 per year—\$15,800 less than the average annual wage across the 10 most common jobs for nondisabled men.²⁴ The primary driver of the wage gap is “occupational segregation,” which is when women, people of color, disabled

people and people from other marginalized backgrounds are funneled into low-paying, undervalued occupations²⁵ as a result of deliberate policy choices and stereotypes rooted in sexism, racism and ableism.²⁶

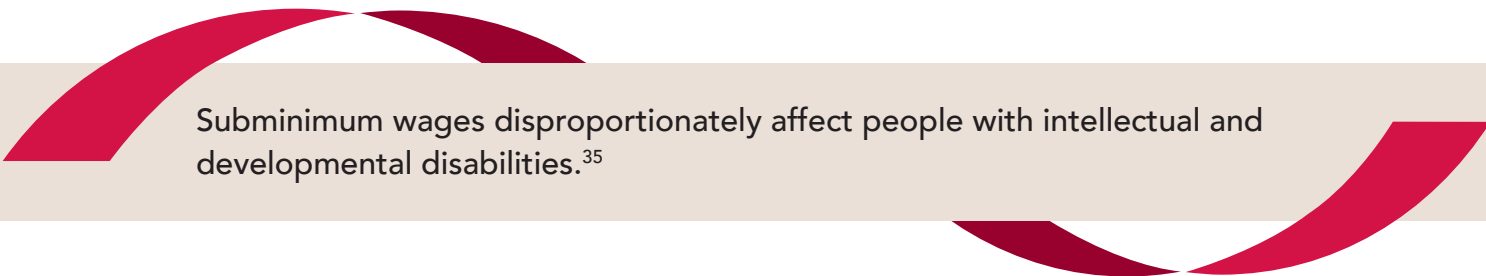
The roots of occupational segregation were laid with the colonization of Indigenous lands and the establishment of slavery.²⁷ Previously, disabled people were sent to institutions, where they were forced to work.²⁸ Conditions at these institutions were often substandard. With the deinstitutionalization movement came calls for community-based care. Yet even today, not all disabled people receive community-based care, nor do all disabled people have the opportunity to pursue competitive integrated employment in their communities. Subminimum wages and segregated employment are still a reality for many disabled workers. Further, while disabled people are forced into undervalued jobs deemed to be “for disabled people,” disabled women are also forced into undervalued jobs “for women,” compounding the effects of occupational segregation to limit potential earnings.²⁹ Undoing occupational segregation will require both enabling these groups to enter and remain in jobs where they are underrepresented and raising the wages for the jobs in which they are overrepresented.



Raising the minimum wage to a living wage and eliminating subminimum wages are critical for many disabled workers, and for disabled women in particular.

Disabled people, women and people of color are more likely to work in low-wage jobs,³⁰ and the current federal minimum wage of \$7.25 per hour has not kept up with inflation, nor is it enough to cover basic expenses.³¹ Nationally, people with disabilities may still be paid below the minimum wage for their work. Section 14(c) of the Fair Labor Standards Act allows employers to seek certificates from the U.S. Department of Labor’s (DOL) Wage and Hour Division that allow them to pay less than the minimum wage to disabled workers whose “productivity” is “impaired.”³² The DOL approves applications that it believes comply with Section 14(c) and its regulations, including, for example, regulations requiring employer assurances that special minimum wage rates will be reviewed at least once every six months.³³ The U.S. Government Accountability Office found that about 120,000 workers are employed under 14(c) certificates, and half of these workers are paid less than \$3.50 per hour.³⁴

While this provision was initially intended to ensure that disabled people could enter the labor market, it is no longer relevant to present-day understanding of disability or work. The provision has evolved over time. The initial floor to the subminimum wage was eventually removed, and there is now no minimum amount that a disabled worker may be paid under a 14(c) certificate.



Subminimum wages disproportionately affect people with intellectual and developmental disabilities.³⁵

Additionally, disabled workers, particularly those working in 14(c) positions, are may be more susceptible to labor law violations, particularly wage theft for failure to pay the proper commensurate rate.³⁶ While disabled people are generally more susceptible to exploitation, manipulation and harm, certain aspects of the 14(c) program also increase the likelihood of wage theft and back wages owed. For example, employers are required to calculate appropriate wages based on the “productivity” of a given worker. These tests are not necessarily accurate or consistent measures of productivity,³⁷ and backlogs and delays in testing also lead to improper wage payments.

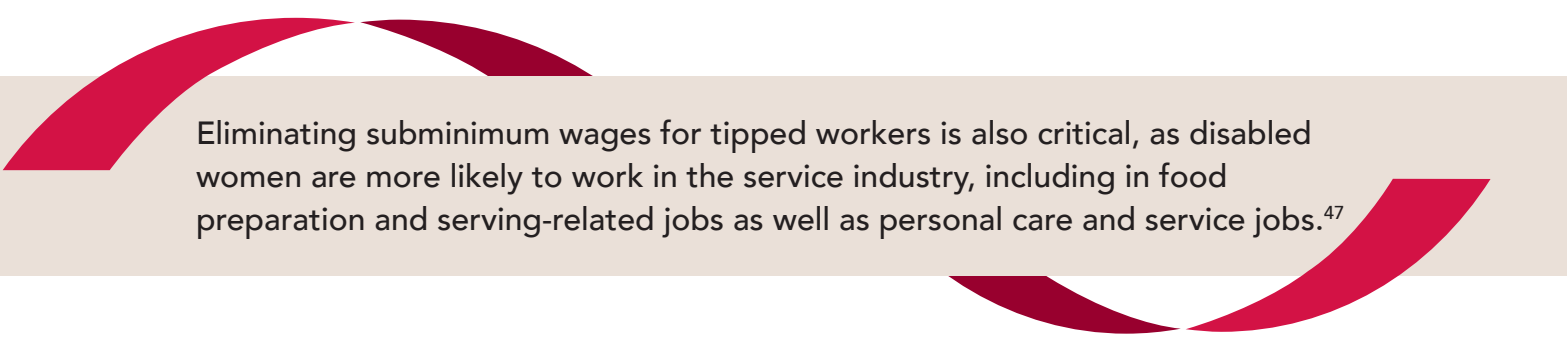
Most 14(c) violations are a result of paying the wrong wage.³⁸ In some cases—such as when the DOL is delayed in reviewing 14(c) renewal applications or when employer career counseling and information to move toward competitive integrated employment is not made available—an employer may also owe back wages for the full hourly minimum wage.³⁹ But because awarding of back wages happens after the fact, workers still have to wait months before receiving the pay they are owed.

The premise of subminimum wages for disabled workers in and of itself is problematic. Viewing disabled work as less valuable comes with implications about any given worker’s value based solely on output and is rooted in ableism, racism, colonialism, imperialism and capitalism. Subminimum wages also encourage literal segregation of disabled employees in sheltered workshops. This segregation has essentially buttressed institutionalization, allowing for abuse and neglect of disabled workers to occur and limiting opportunities for

disabled workers to prepare for jobs in the community.⁴⁰ Eliminating subminimum wages—and paying disabled people fair wages for their work—is an important step in improving the economic health and security of disabled people.

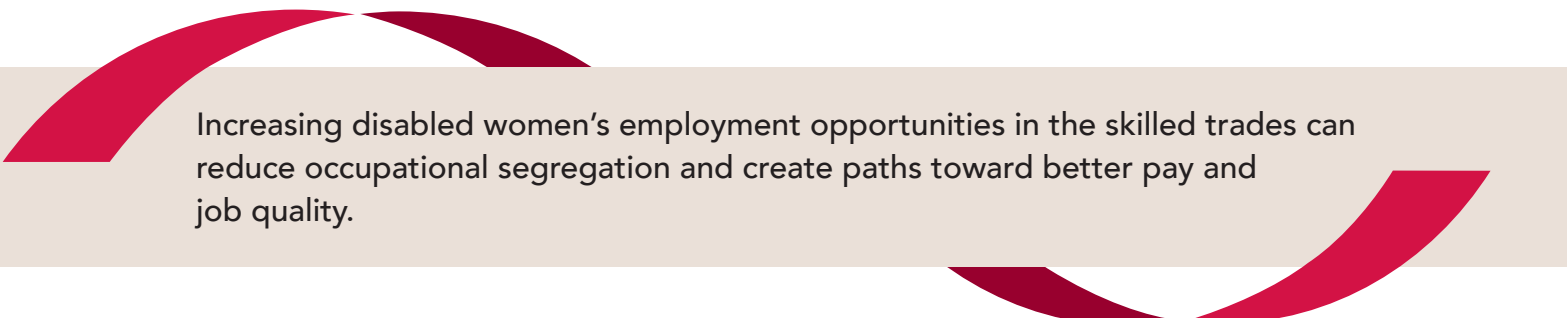
The U.S. AbilityOne Commission, a federal agency that provides employment opportunities for people who are blind or have significant disabilities, recently took the important step of requiring all contractors and subcontractors granted awards through the AbilityOne Program to pay disabled workers the federal minimum wage.⁴¹ However, as this rule is limited to employers who participate in the AbilityOne Program, it only covers about 40,000 disabled workers.⁴² Additionally, this rule does not address segregation of workers; simply paying an individual the minimum wage does not lead to competitive integrated employment. The AbilityOne Program has been critiqued for the ways in which it has continued to perpetuate segregated employment.⁴³ This report goes into more detail about the AbilityOne Program later.

If Congress cannot amend FLSA to phase out the subminimum wage for disabled workers, the Biden administration can take several steps. The administration can propose Medicaid regulations that require home- and community-based service (HCBS) providers to pay workers the minimum wage or higher in order to be reimbursed. It can also dictate that a setting not be a sheltered workshop to receive reimbursement. Several states and jurisdictions, including Washington, D.C., have effectively phased out the subminimum wage by requiring that employers pay workers the minimum wage or higher in order to be reimbursed through Medicaid.⁴⁴ While Obama-era regulations and guidance made marked improvements in ensuring that disabled workers could be integrated into their communities, the requirement to pay workers at or above the minimum wage was not a specific condition for Medicaid reimbursement.⁴⁵ Additionally, while the rule did not completely prohibit funding for sheltered workshops, it did limit where funding for sheltered workshops could be provided.⁴⁶



Eliminating subminimum wages for tipped workers is also critical, as disabled women are more likely to work in the service industry, including in food preparation and serving-related jobs as well as personal care and service jobs.⁴⁷

These kinds of service industry workers are often tipped employees, and tipped employees may also be paid hourly rates below the minimum wage. While the minimum wage for tipped workers may vary by state, federally, tipped workers need only be paid a base wage of \$2.13 per hour.



Increasing disabled women's employment opportunities in the skilled trades can reduce occupational segregation and create paths toward better pay and job quality.

Although disabled people, generally, are more likely to work in skilled trades than nondisabled people,⁴⁸ there is still a gender divide: Disabled and nondisabled men are more likely to work in skilled trades than disabled and nondisabled women.⁴⁹ By type of trade, the largest shares of disabled women working in skilled trades are in production (43 percent) and transportation (47 percent), while the largest shares of disabled men working in trades are in transportation (36 percent) and construction/extraction/agriculture (25 percent).⁵⁰ Disabled women are underrepresented in construction/extraction/agriculture and repair/installation/maintenance.⁵¹ Additionally, certain disabilities are better represented than others in skilled trades.⁵² Ensuring proper safety measures are in place and enforced is critical for disabled workers in skilled trade jobs, as well as for workers who become disabled. Greater inclusion of individuals, particularly women, with different types of disabilities in the skilled labor force is also critical to expanding the workforce. Providing trainings targeted toward disabled people, eliminating biases and misconceptions about disabled workers within the skilled workforce and incentivizing employers to hire disabled workers is crucial.

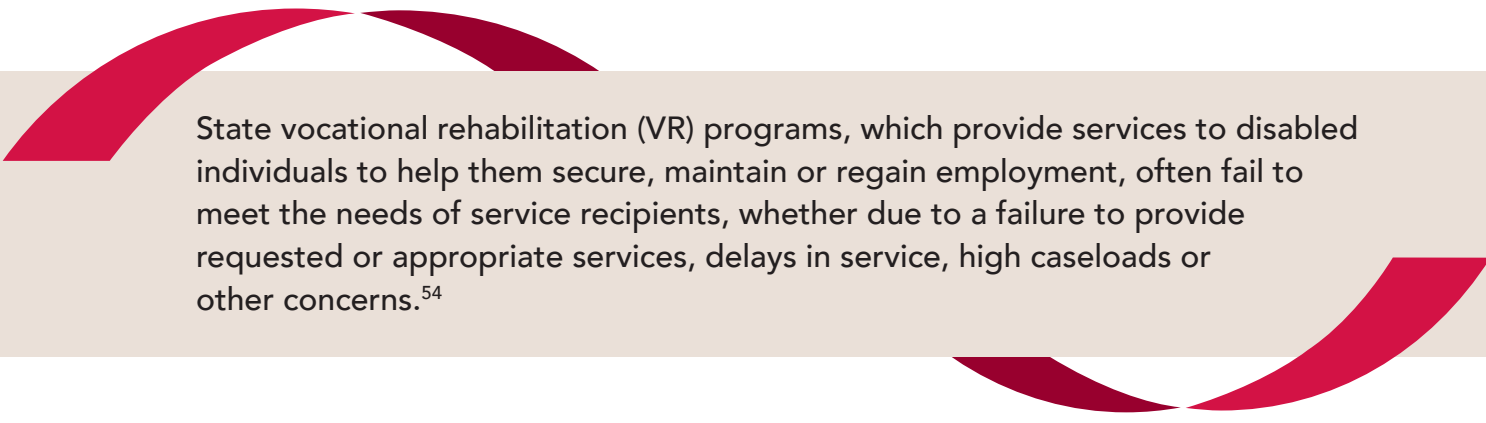
The National Partnership recommends the following:

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- **Congress should eliminate the subminimum wage for disabled workers** by passing the Transformation to Competitive Integrated Employment Act. Alternatively, the Centers for Medicare & Medicaid Services should issue additional regulations to phase out the subminimum wage. While the latter is not the preferred solution, it is a solution that would hopefully help phase out the subminimum wage in the event of a hostile Congress.

Barriers to Competitive Integrated Employment

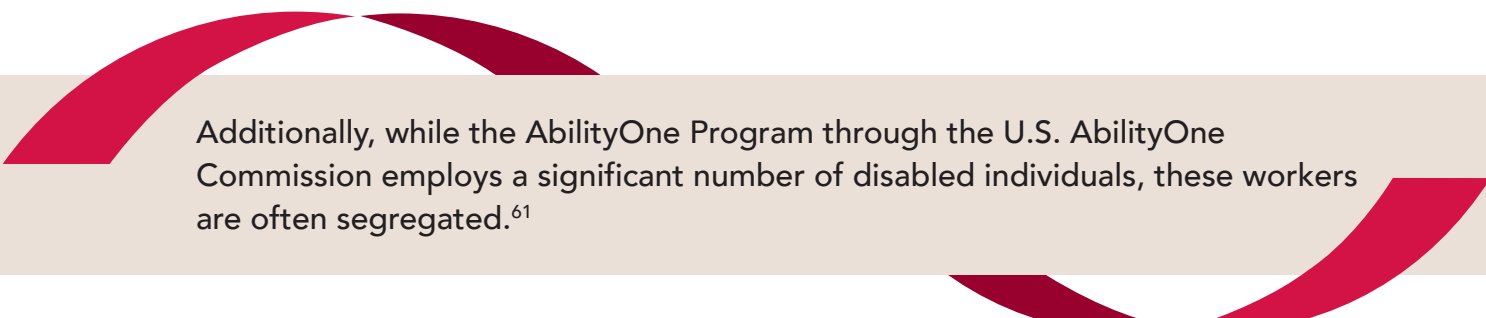
Second, there are barriers to competitive integrated employment. “Competitive integrated employment” is when disabled employees work alongside nondisabled employees, earning the same or comparable pay and benefits with opportunities for advancement. Some of these barriers include a lack of job supports; reliance on subminimum wage opportunities; and problems coordinating services available to disabled people, such as vocational rehabilitation, supported employment services and other services. Competitive integrated employment may also be more difficult to achieve when disabled people cannot access home- and community-based services that provide supported employment services. Many disabled people rely on Medicaid HCBS waivers to access long-term services and supports, including supported employment services. Supports through this kind of program may include on-site job coaching, transportation assistance, follow-along supports, co-worker supports and direct instruction, among others. Due to barriers to accessing Medicaid and HCBS,⁵³ these necessary services may not be available for disabled workers.



State vocational rehabilitation (VR) programs, which provide services to disabled individuals to help them secure, maintain or regain employment, often fail to meet the needs of service recipients, whether due to a failure to provide requested or appropriate services, delays in service, high caseloads or other concerns.⁵⁴

Certain programs are more efficient, and service quality may vary by location.⁵⁵ Service quality may even vary within a location depending on the assigned counselor. VR programs tend to serve more disabled men than women, even though women are more likely to be disabled.⁵⁶ Racial disparities also plague VR programs: Black, American Indian/Alaska Native and Hispanic individuals are more likely to apply for VR services,⁵⁷ while at the same time being less likely to be accepted for VR services, to receive higher-end services, to receive additional education and training or to attain competitive integrated employment.⁵⁸ While white VR clients were employed in competitive integrated employment settings at a rate of 60 percent, the rate was only 41 percent for Black clients and 46 percent for Hispanic clients.⁵⁹

The U.S. Department of Education is authorized to provide grants to state VR programs, although states are required to cover a portion of expenditures.⁶⁰ If a state fails to match this funding, federal funding may be lost. States' ability to fund therefore affects the amount of federal funding they can receive. The VR program is managed by the Education Department's Rehabilitation Services Administration (RSA). The Workforce Innovation and Opportunity Act (WIOA) made a number of critical changes to ensure that unemployed and underemployed disabled people can access training and education, as well as to provide pre-employment transition services. However, barriers to accessing these services and competitive integrated employment still exist.



Additionally, while the AbilityOne Program through the U.S. AbilityOne Commission employs a significant number of disabled individuals, these workers are often segregated.⁶¹

Significant changes to the program, or a phasing out and reimagining of the program, must occur to promote competitive integrated employment for disabled workers providing goods and services to federal agencies.

Subminimum wage positions, particularly those in sheltered workshops, are also a barrier to competitive integrated employment. While the AbilityOne Program's intentions were initially to ensure disabled people could enter the labor market, the program is outdated and ineffective. Fewer than 5 percent of individuals making subminimum wages will transition to competitive integrated employment in their lifetime.⁶² Most disabled individuals making subminimum wages are in segregated employment settings called sheltered workshops. Most subminimum wage employers are nonprofits that claim to serve disabled individuals; however, these employers exploit disabled work and, instead, disabled workers receive inadequate job training and are often given repetitive tasks to complete during their shifts.⁶³ These positions also lead to poor job matches, which are a major concern related to the employment of disabled people. Disabled workers may simply be placed in jobs that are not a proper match for their skills, which leads to assumptions related to productivity and ability that in reality are due to poor job matches.

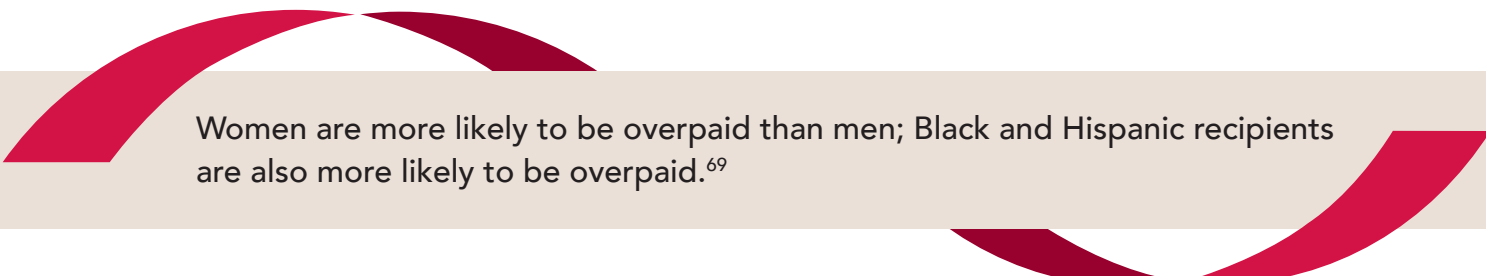
The National Partnership recommends the following:

- **The Rehabilitation Services Administration of the U.S. Department of Education, which manages and provides funds to state VR programs, must ensure that the extensive VR funding** for states is appropriately steered toward staffing and programs intended to support the employment of disabled people.
- **The RSA must also work with states to address inconsistencies** among application processing procedures and service delivery that create racial disparities.
- **State legislatures must fully fund VR programs** as part of their cost-sharing responsibilities. Congress should also adjust the federal share structure and amounts, as well as provide greater discretion for the commissioner who heads the Office of the Secretary in the RSA.
- **The RSA must conduct a thorough assessment** to understand how to best support state agencies and what specifically requires additional improvement and funding.
- **Additional amendments to WIOA in this upcoming reauthorization may be necessary** to address concerns related to barriers to competitive integrated employment and ensure continued agency collaboration, such as adjusting the percentage of allocated federal funds that must go toward workforce investment; adjusting one-stop delivery system guidelines and requirements; and instituting requirements, beyond plan assurances, pertaining to relationships with other programs and agencies.
- **The Department of Labor must increase and expand enforcement of labor laws** to ensure that disabled workers are not exploited, whether in 14(c) roles or competitive integrated employment.
- **Congress must either** 1) consistent with the AbilityOne Commission's strategic plan, amend the Javits-Wagner-O'Day Act to promote and allow for competitive integrated employment opportunities at nonprofit agencies contracting with the AbilityOne Program;⁶⁴ or 2) phase out the AbilityOne Program entirely and introduce requirements for federal contractors to hire the blind and "severely disabled" workers currently covered under AbilityOne.⁶⁵

Work Disincentives Connected to Public Benefits

Disabled Americans who choose to work often face cuts to important and life-saving benefits such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI) and Medicaid as a result.⁶⁶ Interviewees in a 2021 Government Accountability Office report expressed that fear of losing their benefits was one of the major barriers keeping

them from pursuing competitive employment with opportunities for higher wages.⁶⁷ SSI is a means-tested cash benefit program for disabled and aging Americans, while SSDI is a federal insurance program that provides cash benefits to those who have paid a payroll tax for a sufficient number of quarters prior to disability. SSI and SSDI eligibility are affected by “substantial gainful activity,” or a level of work that leads to a certain amount of earnings. In 2023, this amount is \$2,460 per month for blind individuals and \$1,470 per month for non-blind disabled people (Note that the substantial gainful activity limit for blind individuals does not apply to SSI, only SSDI). As little as \$20 of income from work while on SSI, for example, could lead to benefit cuts and even owing the government money due to overpayments.⁶⁸ Overpayments happen when benefits are paid to an individual but a government agency later claims the benefits should not have been paid. A benefit recipient may then owe money back to a government agency they cannot afford to pay.



Women are more likely to be overpaid than men; Black and Hispanic recipients are also more likely to be overpaid.⁶⁹

The Social Security Administration encourages SSI and SSDI benefit recipients ages 18 to 64 to engage in its Ticket to Work program to help them “move toward financial independence.”⁷⁰ They are then connected to employment services and supports. SSDI recipients are permitted to engage in what is called a “trial work period.” For any nine months (they need not be consecutive) within a five-year period, an SSDI recipient can earn any amount of income without consequences to their benefits. Even with SSDI’s trial work period, most SSDI recipients who continue to engage in substantial gainful activity following the end of the trial work period, the extended period of eligibility and the available grace period owe overpayments.⁷¹ SSI recipients do not have this trial work period, and income may affect benefit amount and eligibility immediately. In addition, Medicaid and SSI eligibility may be at risk if a certain amount in assets is saved. For SSI, this amount is \$2,000 for an individual and \$3,000 for a couple. For Medicaid, this amount varies by state.

Social Security is a critical support for disabled people—both those who work to the extent that they can and those who are unable to do so—but there are essential ways to strengthen the programs that do not disincentivize work. These concerns are even more pronounced for disabled women of color. In 2020, about 55 percent of all adult Social Security beneficiaries were women.⁷² As of 2022, 45.6 percent of SSI beneficiaries and 50.5 percent of SSDI beneficiaries were women.⁷³ People who are Black and American Indian/Alaska Native are more than twice as likely to receive SSI as white people.⁷⁴ African Americans are also more likely to receive SSDI benefits.⁷⁵ Ensuring these policies work for disabled people is a matter of equity. The National Partnership recommends the following:

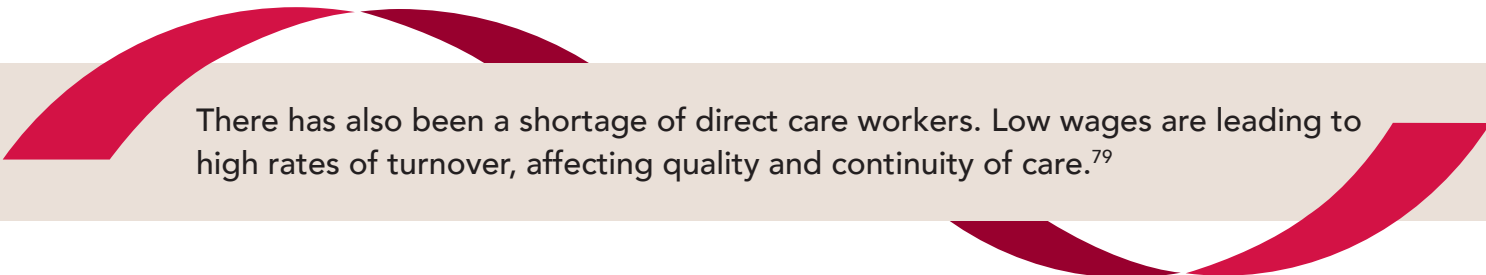
- **In the event that Congress does not, the Social Security Administration (SSA) must increase income and substantial gainful activity (SGA) limits** for all Social Security benefits by indexing them to inflation.
- **The SSA commissioner must analyze and issue new regulations on SGA** to reflect the current economic circumstances of disabled people.
- **Congress must update for inflation** and index the earned and unearned income disregards.
- **Congress must eliminate, or at least increase, asset limits** for SSI beneficiaries.
- **The SSA must overhaul its wage reporting system** to ensure that 1) wage reports are updated in a timely manner; 2) all overpayments that are a result of the SSA's reporting delays are automatically waived; 3) wage reporting requirements are always clear and consistent for all benefit recipients and 4) the definition of “without fault”⁷⁶ in overpayment waiver processes is broadened and clarified to take into account the vast number of disabled SSA benefit recipients.
- **The SSA must ensure that disabled benefit recipients are aware of the risk and likelihood of overpayment** when—and the effects to benefit eligibility of—engaging in a trial work period or returning to work if they participate in Ticket to Work.

A Broken Care Infrastructure

Home- and Community-Based Services and the Direct Care Workforce

Home- and community-based services allow disabled people to live and work in their communities. Many disabled people rely on Medicaid HCBS waivers to access the life-saving long-term services and supports (LTSS) they need. Without a waiver, Medicaid LTSS coverage is more limited to institutional settings. This care is not only important for the personal health of disabled people; it is also critical for expanding employment

opportunities. Support in the community allows disabled people to work in the community. As noted, HCBS also provide supported employment programming. Access to HCBS is a concern for many disabled people, and strict asset and income limits contribute to these concerns. There are also often waitlists to access HCBS. In 2021, the average waitlist for HCBS was 45 months.⁷⁷ Immigration status also plays a role in access. Undocumented immigrants are not eligible for Medicaid. There is also generally a five-year waiting period before qualified noncitizen immigrants become eligible for Medicaid benefits.⁷⁸



There has also been a shortage of direct care workers. Low wages are leading to high rates of turnover, affecting quality and continuity of care.⁷⁹

Because direct care workers' wages are tied to Medicaid reimbursement rates, they are often artificially low.⁸⁰ Investment in this workforce is critical for ensuring that direct care workers have the training and support they need and that disabled people have the support they require and deserve. The direct care workforce disproportionately comprises women of color, particularly Black and immigrant women.⁸¹ Ensuring that a path to citizenship is available for undocumented immigrants is therefore also a critical piece of addressing the direct care workforce shortage.⁸² A disproportionate number of personal care attendants are disabled themselves, underscoring the critical need for the safety nets and protections discussed in this systems transformation guide for all people.⁸³ While guaranteeing affordable, comprehensive universal health care coverage is critical, more in-depth health care recommendations will be covered in a future report. Here, the National Partnership recommends the following:

- **While state Medicaid buy-in programs exist for disabled workers who still need the wraparound services provided through Medicaid, these programs have various requirements, inconsistencies and access barriers.** Congress must ensure access to LTSS for workers with disabilities through a national Medicaid buy-in program with generous income and asset limits.
- **Congress must establish paths to citizenship and permanent residency for undocumented immigrants,** such as through the U.S. Citizenship Act or the Renewing Immigration Provisions of the Immigration Act of 1929.




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- **Congress must eliminate the five-year waiting period** preventing qualified disabled noncitizens from accessing the Medicaid benefits they need.
- **Congress must increase HCBS funding**, including investment in and training for the direct care workforce, by passing the Better Care Better Jobs Act and the HCBS Access Act.
- **Congress must increase the minimum wage** to a living wage by passing the Raise the Wage Act to ensure that domestic workers receive fair compensation for their work.

Lack of Established National Paid Leave Policies

The lack of national, comprehensive paid family and medical leave and paid sick days makes it difficult to guarantee that disabled workers have sufficient flexibility to take the leave they need to care for themselves and their loved ones without risking their economic survival.

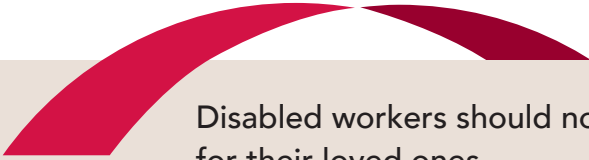


Disabled people are less likely to report access to paid leave than nondisabled people.⁸⁴

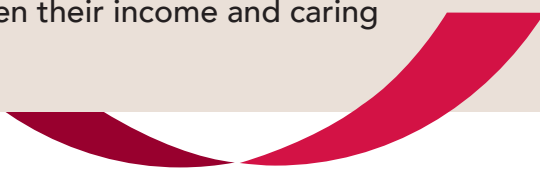


Disabled people, women and people of color are more likely to work in low-wage jobs,⁸⁵ which are the least likely to offer paid leave policies.⁸⁶ Meanwhile, disabled workers may be more likely to need leave to address their own health conditions.⁸⁷ At the same time, disabled workers generally do not have large savings and have lower incomes.⁸⁸ For example, disabled women and African American disabled people are at greater risk of being unable to come up with \$2,000 if an unexpected need arises requiring that amount.⁸⁹ As a result, the people who would be harmed the most by losing their income are the least likely to have access to the benefit that would prevent that loss.

This lack of access is compounded by the fact that many disabled people serve as caregivers for a wide range of loved ones, including other disabled people. Compared with people without disabilities, people with disabilities are more likely to request time off to care for chosen family,⁹⁰ making expansion of paid leave and leave protections even more critical. Currently, even the Family and Medical Leave Act (FMLA), which only guarantees unpaid leave for certain workers, does not cover extended or chosen family. It also generally does not cover siblings. In addition, many employer policies and public programs do not cover chosen or extended family.



Disabled workers should not have to choose between their income and caring for their loved ones.

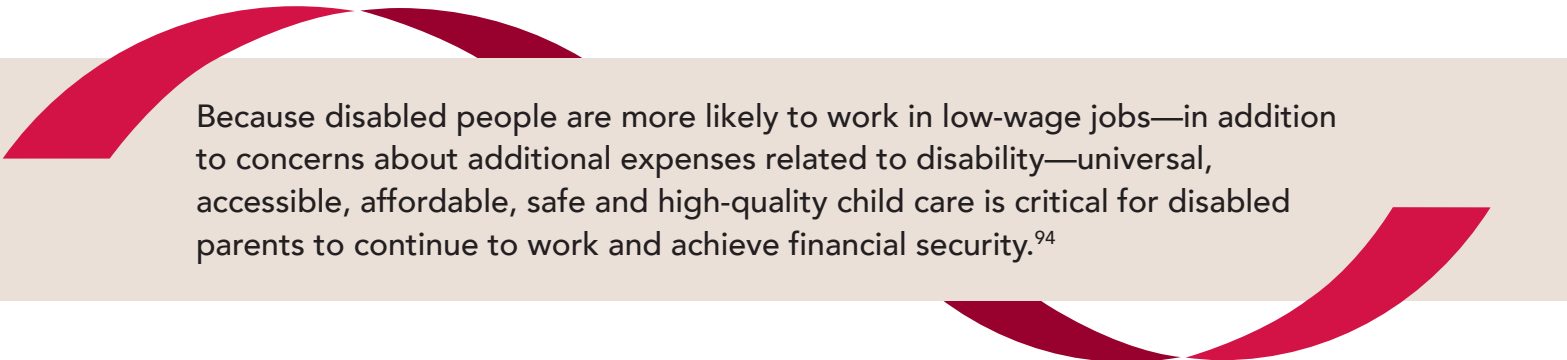


According to the Center for American Progress (CAP), LGBT individuals are more likely than non-LGBT individuals to request time off to care for chosen family.⁹¹ Members of the LGBT community are also more likely than the general population to have a disability,⁹² making this expansion particularly important for LGBTQ disabled people who may require this leave to care for chosen family. The National Partnership recommends the following:

- **Congress should establish a national paid family and medical leave** by enacting the Family and Medical Insurance Leave (FAMILY) Act.
- **Congress should establish a national paid sick leave program** by enacting the Healthy Families Act.
- **Congress should pass the Caring for All Families Act** to expand family and medical leave protections in the FMLA for extended and chosen family.

Universal Child Care

As discussed, disabled people are also caregivers, including to their own children. In fact, the National Partnership finds that 2.9 million disabled people ages 16 to 64 are parents, including 1.6 million disabled mothers.⁹³



Because disabled people are more likely to work in low-wage jobs—in addition to concerns about additional expenses related to disability—universal, accessible, affordable, safe and high-quality child care is critical for disabled parents to continue to work and achieve financial security.⁹⁴

Parents with disabled children experience even more difficulty finding child care.⁹⁵

While the Individuals with Disabilities Education Act (IDEA) establishes requirements for early intervention and free appropriate public education beginning in preschool, there is a gap in care for disabled infants and toddlers younger than age three.⁹⁶ Additionally, care provided may end at hours not feasible for working parents or may only be available during the academic year.⁹⁷ Shortages in affordable, high-quality care and slots available for child care remain a concern for many parents with disabled children; quality of care and experience working with disabled children also remain concerns.⁹⁸ CAP estimates that nearly one in five parents of disabled children leaves a job, does not take a job or makes a significant career change due to issues with child care.⁹⁹ At a minimum, high-quality, affordable care for children ages 0 to 13 and older children with disabilities should be universally available to support families and working parents, with an effort to serve disabled children and disabled parents, particularly disabled women of color. And these efforts to support families must be coupled with efforts to raise wages for child care workers.

Ensuring that disabled children receive the support and services they need is important for all parents, but particularly for disabled women and women of color, who may be less likely to have access to private services and diagnostic testing. IDEA, for example, requires school districts to provide students with what is known as a “free appropriate public education.”¹⁰⁰ It establishes requirements for covered schools to conduct disability evaluations and provide specific services and supports.



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The National Partnership recommends the following:

- **Congress should pass the Child Care for Working Families Act.** This would ensure that families have access to affordable, high-quality child care. It would also support the needs of families with disabilities, including both disabled parents and children, and make critical investments in higher wages for child care workers, as well as invest in Head Start and Early Head Start.

- **Congress must adequately fund IDEA**, such as through the Funding Early Childhood is the Right IDEA Act, to ensure that students and children with disabilities receive the support and services they need, with particular efforts to support Part C of IDEA, which establishes grants to assist states establishing comprehensive early intervention services and programs for infants and toddlers.¹⁰¹

The “Crip Tax” and Costs Related to Employment

There are additional costs associated with being disabled—also known as the “crip tax.” A 2020 National Disability Institute report estimated that these additional costs add up to about \$17,690 per year for a household at the median income level.¹⁰² Working can lead to these additional costs as well.¹⁰³ These costs may be for durable medical equipment such as a wheelchair, additional transportation needs, additional medical care costs and other costs that may not be necessary for nondisabled employees. For some disabled workers, the wages may not offset the costs—or the potential cuts in benefits. Although



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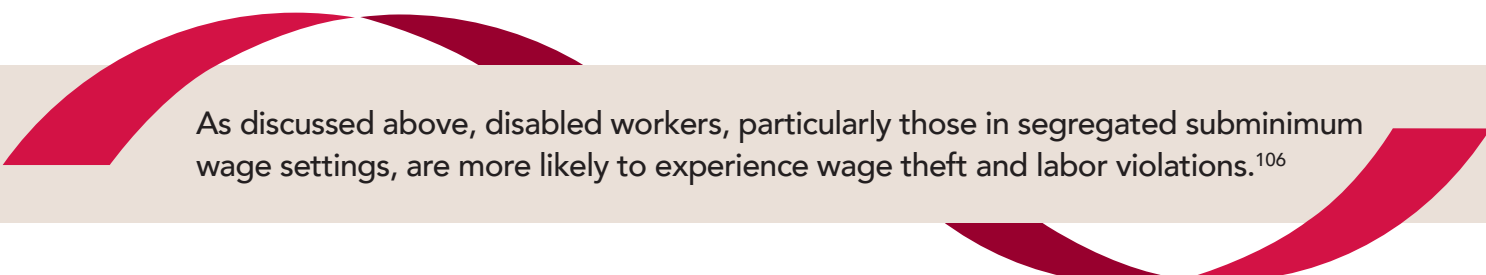
Social Security beneficiaries may deduct “Impairment-Related Work Expenses” from their income for the purposes of determining eligibility and calculating benefits,¹⁰⁴ costs related to employment may still pose a barrier.

The National Partnership recommends the following:

- **Additional support for these costs would be beneficial**, including through vocational rehabilitation programs and more expansive and inclusive assistive technology grant and loan programs.

Labor Violations

Disabled workers are more likely to be self-employed; therefore, misclassification as contractors, even when acting essentially as employees, is a greater concern for disabled workers.¹⁰⁵ Misclassification is when a person is labeled as the wrong type of worker. Often, this happens when employers misclassify employees as contractors. Employers may do this because contractors are not entitled to some of the same rights as employees, including under civil rights laws and wage and hour laws. Whether a significant number of self-employed disabled workers are correctly identified as contractors or should be classified as employees remains to be seen.



As discussed above, disabled workers, particularly those in segregated subminimum wage settings, are more likely to experience wage theft and labor violations.¹⁰⁶

Disabled women, disabled women of color and disabled immigrant women are at even more risk of these practices.¹⁰⁷ To achieve workplace equity, address workplace harms and eliminate misclassification concerns, the National Partnership recommends the following:

- **Congress must pass the Protecting the Right to Organize (PRO) Act**, which would strengthen the right to form a union and collectively bargain for all workers.

Conclusion



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While this report outlines the numerous obstacles that disabled women—particularly multi-marginalized disabled women—

face to achieving economic security in jobs and employment, it also highlights an opportunity. There is so much that can be done to address the systemic barriers and deliberate policy choices that have continued to ensure that disabled women, particularly disabled women of color, are unable to escape poverty. By addressing the

inequities that target disabled and multi-marginalized women, policymakers will uplift everyone. The only way that the U.S. economy can function is when it works for all.

This series will continue to shine a light not only on the specific issues that disabled women and multi-marginalized disabled women face but also on the need to

1. Center the perspectives of disabled women and multi-marginalized disabled women in policy discussions, and
2. Ensure that the National Partnership is prioritizing intersectionality in our work. The unique concerns that disabled women experience are often overlooked. However, we hope that this installment and the remainder of this series provide some helpful action items and initiate important and necessary conversations to ensure this work continues.



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Endnotes

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5 Overall, the disability community has reclaimed identity-first language (i.e., “disabled”) to acknowledge disability as a critical part of identity in which to take pride. However, not all members of the disability community prefer identity-first language. Others may prefer person-first language (i.e., “person with a disability”). Preferences may also vary by disability. This report uses identity-first and person-first language interchangeably. However, the Partnership will always honor the language a disabled person chooses for themselves.

There are also several definitions of disability. The Americans with Disabilities Act (ADA), for example, defines disability as “(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.” 42 U.S.C. § 12102. Major life activities also include major bodily functions. 42 U.S.C. § 12102(2)(B). This definition is quite broad. Different models of disability also affect the ways disability is defined and viewed. The medical model, for example, focuses on disability as an impairment and prioritizes a cure. The social model views disability as something constructed by the barriers that society establishes. Other models of disability also exist to address the complexities of the disabled experience. Disabled World. (2010, September 10). *Models of Disability: Types and Definitions*. Retrieved 28 June 2023. No one definition or model is perfect.

6 The Partnership often uses gendered language to acknowledge and communicate the disproportionate effect that specific policies have on women. However, gendered language has its shortcomings. Individuals of other marginalized genders, particularly nonbinary and transgender individuals, may also disproportionately experience the effects of certain policy decisions. This report recognizes those impacts and attempts to use both gendered language and language that is more inclusive of all marginalized genders. It is also important to recognize that data also are not always inclusive of transgender and nonbinary individuals. We are therefore limited to the often binary data sets that are not reflective of the entire disabled population.

7 We recognize that employment is not always possible or necessary for disabled people. Further, one's value is not, and should not be, based on their ability to work. Employment should not be required for economic

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