

March 12, 2015

**TO: Representative Shemia Fagan, Chair  
House Committee on Consumer Protection and Government Effectiveness  
And Members of the Committee**

**FROM: Nan Heim  
Representing the Oregon Rehabilitation Association**

Chair Fagan, Vice Chairs and Members of the Committee:

Thank you for the opportunity to testify on employment for Oregonians with disabilities and Qualified Rehabilitation Facilities.

Before I begin, I want to share Donzella's story with you to put a name and face to the QRF program and its benefits. We need to remember that we are talking about more than a program, a percentage or a wage, but about people. She works at Garten in Salem and the story below is shared by a long-time employee of Garten who knows Donzella well. I hope you will remember her story and her face.

*"When Donzella first came to Salem in the 1980's she was transported in a cage from Eastern Oregon. When she came to Garten, she could only work for about five minutes at a time before becoming too upset to continue. She would become very agitated and grip onto people so hard that she caused injuries. For the rest of her shift, she'd come sit with us (Garten staff) in the office and liked to tear up magazines and "gift" us pictures. As time went on, she got better and better at her work and relating to coworkers. Over several years, and a lot of training, she left many of her anxiety related behaviors behind. Now she works five hours a day in Recycling and loves coming to work. Even after all this time, I still marvel at how someone who had such debilitating disabilities is now able to have a job, joke with coworkers and look forward to payday."*



It was the consistent availability of work through the Qualified Rehabilitation Facilities contracts and consistent training support that allowed this to happen for Donzella. Would someone get that same chance today if the requirement to pay the person minimum wage and their productivity determines whether they have the opportunity to work?

Our Association and our members' employment activities go back nearly half a century. At a time when most Oregonians with developmental disabilities were sequestered in a large state institution, small groups around the state began to explore other possibilities for their sons and daughters. These parents created local programs, small to begin with, that offered activities, training and sometimes jobs. In 1967, these local programs joined together to form the Oregon Rehabilitation Association.

Today the Association's primary members are 49 nonprofit organizations in communities throughout the state that provide support, jobs and housing for adult Oregonians with disabilities. Members include organizations serving people in your districts, such as Cornerstone Associates in Corvallis the Opportunity Foundation of Central Oregon, Southern Oregon Aspire, Eastco Diversified Services, and Mid-Valley Rehabilitation.

The mission of our Association is to support and advocate for our members as they work to help individuals with disabilities lead full and inclusive lives.

Twenty-one of our member organizations have met the requirements to be designated as Qualified Rehabilitation Facilities under Oregon's Products of Individuals with Disabilities Law. Some of our members provide housing only but work closely with the Qualified Rehabilitation Facilities to find employment for the individuals they serve.

We estimate that today between 4,000 and 4,500 Oregonians with a wide range of disabilities are employed through the Products of Individuals with Disabilities Law, with Qualified Rehabilitation Facilities. We are proud of this, but it truly is a drop in the bucket. Unemployment among individuals with disabilities runs as high as 68% -- far higher than the rest of the population.

Behind these numbers are thousands of personal stories – like Donzella's. Some individuals employed at Qualified Rehabilitation Facilities have intellectual and developmental disabilities. Others have suffered injuries. The majority of people served by the State QRF Program are not persons with intellectual/developmental disabilities. They are individuals living with mental health issues, disabled veterans or have other physical disabilities. 70-75% of the people receiving services in this program have no long term funding providing stability should they lose a job. They are not individuals with developmental disabilities that are covered under the Employment First initiative or the former Governor's Executive Order relating to community integration.

It is important to understand that employment for individuals with disabilities is not all the same. A person who experiences mental health issues loses his or her job and there is no security net. The frequent job loss and rehiring process can destroy these individuals' career path, leave them homeless or leave them without essential medications to control their illness.

When a person with intellectual/developmental disabilities loses a community job, he or she at least has long term funding that will provide food, medical care, prescriptions, shelter, and all essential needs. The QRF program provides a consistent and dependable environment for people experiencing challenges to grow, enhance their skills, work and have regular lives.

I remember meeting a young man employed at a Qualified Rehabilitation Facility who had a brain injury from a motorcycle accident, but could speak well enough to tell me how much he loved his job. Still others have a mental illness that has prevented them from regular employment. Finally, some people who find jobs through this wonderful program have physical disabilities that have prevented them from finding regular employment.

It can be challenging to find jobs for people with disabilities. I am continually impressed by the diligence and creativity that our members have in finding employment opportunities for the people they serve. The Products of Individuals with Disabilities Law has been an absolutely invaluable tool in employing these individuals.

I want to share some facts about how the Qualified Rehabilitation Facilities in our Association function.

One, a Qualified Rehabilitation Facility is first a non-profit organization that puts Oregonians with disabilities to work. It must be a training facility as well as an employer. This isn't just because our members have good intentions; training is a requirement. A Qualified Rehabilitation Facility seeks to help the individuals they serve achieve self-confidence and self-sufficiency. These programs may have other businesses to employ individuals with disabilities, such as Cornerstone's bakery and book binding stores in downtown Corvallis.

Two, in order to qualify for employment with a Qualified Rehabilitation Facility, a person must have proof of disability. That can come from a medical or mental health professional, the Department of Human Services, the Commission for the Blind, the Veterans Administration and the Social Security Administration. Unless an individual receives federal Supplemental Security Income, that person must have on file and renew every two years a statement documenting his or her ability to achieve integrated employment. Again, the reason for this is that a job with a Qualified Rehabilitation Facility must include training and that training must be designed to help the employees achieve integrated employment.

Three, any employer – not just a nonprofit – can apply to the U.S. Department of Labor to obtain what is called a commensurate wage or 14c certificate. Employers with this certificate may pay people less than the minimum wage if several conditions are met. The employer must conduct a prevailing wage survey every year in their community to find out what a worker without a disability earns for that job. Every six months, the employer must also review the employee's productivity compared to an individual without a disability. The employee's percent of the standard productivity is multiplied by the prevailing wage to determine the rate of pay.

For example, if a person with standard productivity earns \$12 an hour as a seamstress, an individual producing at 50% of that productivity working for an employer with a commensurate wage certificate would be paid \$6 an hour until the next study is conducted. The individual earning \$6 an hour would also receive Supplemental Security Income. In this scenario from the perspective of an employer, if required to pay minimum wage to a worker who works at 50% productivity, they would need to hire two people to fulfill that job and pay them both minimum wage, therefore doubling their labor cost to produce a product or provide a service.

An example would be Shangri La here in Salem, where individuals with disabilities make safety vests in a workshop under a Qualified Rehabilitation Facility contract with the Oregon Department of Transportation.

Finally, Qualified Rehabilitation Facilities and our members that find jobs for individuals with disabilities with private employers provide job coaches for these individuals. Job coaches are employees of the nonprofit who provide support services and assistance to the individuals with disabilities. I remember former Representative Kevin Cameron explaining to me that he loved hiring individuals with disabilities through Shangri La to work in his restaurant. He said his other employees ended up being enthusiastic about it too. However, he said he could not do it without the job coach that Shangri La provided to help.

Now I want to address some of the specific issues that have come up surrounding employment opportunities for individuals with disabilities.

First, minimum wage. I want to emphasize this: our members are NOT opposed to individuals with disabilities earning minimum wage. In fact, they are proud that many individuals employed at Qualified Rehabilitation Facilities earn minimum wage or more. Our members also work hard to find integrated employment opportunities at minimum wage or higher levels. They are heavily invested in expanding their capability to develop integrated community jobs for those they support.

The concern I have heard many of our members express over and over again is, if minimum wage is mandated for all employees of a Qualified Rehabilitation Facility, what happens to the individuals with the most challenging disabilities and the least productivity? How can we prevent these individuals from falling through the cracks?

We understand that on public contracts, the state or local government would be picking up the additional cost. And we also understand that, on paper at least, the Products of Individuals with Disabilities Law is mandatory for public agencies – if an agency decides to contract out for a service or product that a Qualified Rehabilitation Facility can provide.

In reality, some public agencies can and do figure out how to go in other directions, and our members fear that many will do so if the cost of public contracts under Products of Individuals with Disabilities Law goes up significantly.

We all want to believe that agencies will do the right thing, but it does not always work out that way. For example, over the last decade, the Legislature has turned some state agencies into semi-independent entities and, in so doing, has exempted some of them from several state laws, including the Products of Individuals with Disabilities Law. Unfortunately, this has resulted in the end of several contracts that employed many individuals with disabilities.

A second issue I want to address is the impact of former Governor Kitzhaber's Executive Order.

While ORA members are actively engaged in the transformation of employment services in compliance with new policies, training their staff on the new requirements, hiring new staff to find additional employment opportunities, they are finding there are significant unintended consequences so far in its rapid implementation.

A primary concern is that there has been little dialogue on what happens to the individuals with the most significant medical and behavioral challenges who do not find community employment right away. An ironic consequence of the Executive Order has been a "rush" to enter remaining workshops

before the July 1<sup>st</sup> deadline and the front door closes and the many individuals who have been exited from their workshop jobs by agencies closing pre-emptively. If those individuals are either not ready or have chosen to opt out of individual community employment they are very limited in their choices.

As providers seek to be even more creative about non-facility based job opportunities, many have spun off businesses in their communities that allow for engagement with the general public but also include the individual supports necessary for individuals to remain successful. However, if the provider agency controls the worksite and issues the payroll, this is deemed not a successful outcome by the state and supports are reimbursed at a lesser rate, which seems to be a dis-incentive instead of an incentive to create more jobs.

There has also been little direction or assistance to how providers on how they should utilize the buildings and physical plant resources developed and invested in over years of time to provide employment supports for those who are in the training phase of their quest for employment. This just adds to the overwhelming load of unfunded mandates, administrative burdens, disjointed communication and overall frustration of the provider agency community.

Many parents and families have been left confused and dissatisfied with the options that remain for their family members and the policy barriers that stymie progress. The transformation of the employment system to one that will fulfill the needs of all Oregonians is still a work in progress but seems to prioritizing the needs of some over the needs of others.

Legislators have begun to question the limitation of employment options. Last month, Senator Bates expressed concern that we could be eliminating any possibility of work for many individuals. As the physician for many of these individuals in southern Oregon, he understands the unique value of work and how that may look different depending on the needs of the individual at that point in time.

Decisions on these issues could have the unintended consequence of leaving individuals with the most challenging disabilities out in the cold. As you consider legislation affecting Qualified Rehabilitation Facilities and employment for individuals with disabilities, we ask you to help ensure that does not happen.

Thank you for the opportunity to testify on these critical issues.