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EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

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**Applicability of Massachusetts' Minimum Fair Wage Law to Work Assignments
Performed by Individuals Participating in Rehabilitation Programs**

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Work performed “by persons being rehabilitated or trained under rehabilitation or training programs in charitable, educational, or religious institutions” is not subject to the minimum wage requirements of G.L. c. 151, § 1 because it is not included in G.L. c. 151, § 2’s definition of “occupation.” DLS has previously adopted the seven-part test used by the U.S. Department of Labor (“USDOL”) to determine whether a program in an educational or charitable institution qualifies as a “training program” within the meaning of G.L. c. 151, § 2. DLS has not, however, yet adopted a test to determine the conditions under which a work program in a charitable, educational, or religious institution can qualify as a “rehabilitation program” under G.L. c. 151, § 2. In determining the narrow question of whether work performed by persons in a rehabilitation program is subject to Massachusetts’ minimum wage requirements, DLS adopts a totality of the circumstances approach that considers the following factors:

1. The program participant’s formal rehabilitation program or treatment plan, and the extent to which the related work assignments are tied to such program or plan;
2. If there is no formal rehabilitation program or treatment plan, the extent to which the work assignments or tasks provide program participants with the essential functions and benefits of rehabilitation programs;
3. The extent to which the program participant and the organization clearly understand that there is no expectation of compensation for the work performed;
4. The extent to which the program participant has an expectation of receiving in-kind benefits (for example, room and board) in exchange for the work assignments, and the value of such benefits;
5. The length of each work assignment, any minimum hours, quotas, or other requirements for each work assignment, and the extent to which the work assignment’s duration is limited to the period in which the assignment provides the program participant with rehabilitative value;
6. The extent to which the program participant’s work complements, rather than displaces, the work of paid employees while providing significant rehabilitative benefits to the program participant;

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7. Who the work assignments primarily benefit and to what extent; and
8. The extent to which the work assignment is voluntary versus mandatory.

Interested parties who have questions regarding this opinion should contact DLS at DLSfeedback@mass.gov.