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February 22, 2024

Senate Finance Committee

SB 513 – Employment Discrimination – Use of Cannabis Products

Position: Favorable with Amendment

The Maryland Association of Community Services (MACS) is a non-profit association of over 125 agencies across Maryland serving people with intellectual and developmental disabilities (IDD). MACS members provide residential, day and supported employment services to thousands of Marylanders, so that they can live, work and fully participate in their communities.

MACS is in support, with an amendment, of SB 513, which would prohibit an employer from discriminating against an individual based on their use of cannabis products under certain circumstances.

The staff of community providers of services to Marylanders with intellectual and developmental disabilities work with people to support them in any aspect of their life in which they need assistance. This ranges from supporting someone to get and keep a job, to driving them to volunteer opportunities, to passing medications, to providing personal care. The work of direct support professionals is challenging and requires a combination of skills that both promote independence and support health and safety.

Because of the sensitive nature of the work done by direct support professionals, most if not all IDD community providers conduct drug tests to ensure the safety of the people they support. For some staff who drive as part of their work, this is a federal requirement from the Department of Transportation. SB 513 addresses this group by clearly stating that the bill does not preempt federal law.

However, there are many direct support professionals who would be included under this bill. In light of the sensitive nature of the work that they do supporting people with intellectual and developmental disabilities, MACS respectfully requests an amendment to remove staff serving in these positions from the legislation.

DRAFT AMENDMENTS

On page 5, after line 7, insert:

“SAFETY-SENSITIVE POSITION” MEANS A POSITION, AS DESIGNATED BY THE EMPLOYER, WHERE IT IS REASONABLY FORESEEABLE THAT IF THE EMPLOYEE PERFORMS THE POSITION’S ROUTINE TASKS OR DUTIES WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL, THE EMPLOYEE WILL LIKELY CAUSE ACTUAL HARM, BODILY INJURY, OR LOSS OF LIFE TO SELF OR OTHERS.

On page 7, line 20:

(2) UNLESS:

(I) THE INDIVIDUAL IS EMPLOYED IN A SAFETY-SENSITIVE POSITION; OR

(II) THE EMPLOYER HAS ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT AN UNLAWFUL USE OF CANNABIS HAS IMPAIRED AN INDIVIDUAL'S ABILITY TO PERFORM THE INDIVIDUAL'S JOB RESPONSIBILITIES, TAKE AN ADVERSE EMPLOYMENT ACTION AGAINST THE INDIVIDUAL BECAUSE OF:

Respectfully Submitted,

Laura Howell
Chief Executive Officer
LHowell@macsonline.org