



LauraLee Gillespie, Attorney

Overview

- Historical Understanding
- Workforce Innovation and Opportunities Act (WIOA)
- Home and Community Based Settings Rule (HCBS)

What is Happening Across the Nation

- Oregon Class Action
- Rhode Island Department of Justice Findings
- Employment First
- States prohibiting subminimum wage

WIOA Section 511

- No entity...which holds a special wage certificate as described in section 14(C) of the Fair Labor Standards Act... may compensate an individual with a disability who is age 24 or younger at a wage less than the Federal minimum wage unless 1 of the following conditions are met:
 - The individual before beginning work that is compensated at a subminimum wage has completed and can produce documentation of the following actions:

WIOA Section 511

- Pre-employment transition services under IDEA (Special Education)
- Applied for Vocational Rehabilitation Services
 - Documentation of ineligibility or
 - Eligible for VR Services
 - Individualized Plan for employment;
 - Working toward employment outcome with appropriate supports and services for a reasonable period of time;
 - Career counseling, information, and referrals; and
 - Counseling, information, and referrals are not for employment at a subminimum wage.

WIOA Section 511

Local and state education agencies may not enter into contract or other arrangement with an entity...for the purpose of operating a program for an individual who is age 24 or younger under which work is compensated at a subminimum wage.

WIOA for Adults

Proposed Regulation 34 C.F.R. § 397

Currently working a subminimum wage:

- Career counseling
- Information
- Referral Services

What are the new rules for Home & Community-Based Settings?

- On January 10, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule to define and describe the requirements for:
 - Home and community-based settings
 - Person-centered planning process
- The new requirements move away from defining HCBS settings by what they are not, and toward defining them by the nature and quality of individuals' experiences

Integration into the Community

- The rule requires HCBS be provided in and support full access to the greater community
- This includes opportunities to:
 - Work in competitive and integrated settings;
 - Engage in community life;
 - Control personal resources; and
 - Receive services in the community to the same degree of access as individuals not receiving HCBS

Individual Choice

- Under the new rule, people receiving HCBS must have choices about where they get services
- Individuals must have the option to receive services in settings that aren't disability specific
- The choices have to be based on the person's needs, preferences, and situation
- Even if a person has a choice of settings, the setting needs to meet all of the requirements of the new rule

Individual Rights

- Individuals who are receiving HCBS must have a right to privacy, dignity, and respect, and freedom from coercion and restraint
- For example, individuals should have the right to lock their bedroom door or talk privately with friends

Autonomy

- People receiving HCBS need to have the same kinds of choices and freedoms as individuals not receiving HCBS
- Even if someone needs help to make decisions, this cannot be used as a reason to take away options

Choices Regarding Services and Providers

- Under the new rule services are chosen through the person-centered service planning process
- Individuals should have the ability to choose what services they get and who provides them
- Individuals should have a meaningful choice about services

WIOA/HCBS Crossover

Practical Implications

- State agencies will need to work closely to help individuals to seek employment and work in competitive integrated settings.
- Cooperative agreements outlining administration will need to be created and implemented, consistent with WIOA and HCBS, with the first option of seeking employment and work in competitive integrated settings.
- Individuals working with people who have the most significant disabilities need to consider and comment on what it will take to implement these requirements.

WIOA
&



Utah State Office of Rehabilitation, Vocational Rehabilitation Program

Rachel Anderson, Transition Coordinator

What is WIOA?

Workforce Innovation and Opportunity Act

- To amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes.

WIOA

Title I

- Workforce Development Activities

Title II

- Adult Education & Literacy

Title III

- Amendments to the Wagner-Peyser Act

Title IV

- **Amendments to the Rehabilitation Act of 1973**

What's New in WIOA?

- WIOA places a greater emphasis on partnerships, labor market driven strategies and quality service delivery
- Calls for a Unified State Plan (Goes into effect 7/1/16)
- Strong focus on creating a highly skilled workforce
 - Career oriented, long term success
- Heavy emphasis in STEM industries
 - Science, Technology, Engineering, Math
- Targets specific disadvantaged populations

WIOA & Voc. Rehab. (not exhaustive)

- Defines 'student' and 'youth' with disabilities
- Emphasizes the need for youth with disabilities to have more opportunities for improving workplace skills
- Pre-employment transition services (15% of VR budget)
- Emphasizes the need for persons who are MSD having opportunities to achieve competitive integrated employment, including customized employment
- Supports employer engagement
- Changes program measures and outcomes

WIOA & Transition

"The new statutory provisions make significant improvements for individuals with disabilities, especially youth with disabilities as they make the transition from education to employment, by helping to ensure that these individuals have opportunities to acquire the skills and training they need to maximize their potential and enter competitive integrated employment."

Janet LaBreck, RSA Commissioner

WIOA & Transition in Utah

WIOA emphasizes the need for youth with disabilities to have more opportunities to practice and improve their workplace skills, to consider their career interests, and to get real world work experience

- Work based training/On the job training
- Summer work experiences
- Serving students who are 'potential' VR clients
- Individualized services
- Transition Disability Mentoring Days
 - Governors Committee on Employment of People with Disabilities, Business Relations with USOR, & local school districts

Supported Employment

VR Program services are designed to maximize the ability of individuals with disabilities, including individuals with the most significant disabilities, to achieve competitive integrated employment through customized employment, supported employment, and other individualized services.

- State VR Agencies must dedicate ½ of the Federal Supported Employment program funds to youth
- Employment First
 - Employment First State Leadership Mentoring Program, ODEP
 - School-to-Work Pilot Project
- Partnerships:
 - DSPD, USOE, DWS, DSAMH, USOR, Local School Districts, Community Rehabilitation Programs, etc.

Pre-Employment Transition Services

WIOA requires State VR agencies to set aside at least 15% of their Federal VR Program funds to provide "*pre-employment transition services*" to assist students with disabilities making the transition from secondary school to post secondary education programs and competitive integrated employment.

1. Job exploration counseling
2. Work-based learning experiences
3. Counseling on higher-ed opportunities
4. Work readiness and independent living skills
5. Instruction in self-advocacy and peer mentoring

Examples of Utah VR's Pre-Employment Transition Services

- Job Readiness Workshops (VR Counselors in schools)
- Increase the number of VR Counselors serving youth
- Contracts with local universities and community rehabilitation providers to provide work opportunities for youth
- Partnerships with Independent Living Centers to provide independent living and self-advocacy skills to students
- Providing training for counselors, educators, community rehabilitation providers, etc. in customized employment
- RFP's open to the community asking for assistance in providing pre-employment transition services

Continued Changes in VR

- VR regulations are expected to be finalized in June 2016
- USOR will be moving from under the Board of Education to the Department of Workforce Services October 1, 2016
- Order of Selection Waiting List (priority categories)
 1. Individuals with **Most Significant Disabilities (MSD)**- *Open*
 2. Individuals with **Significant Disabilities (SD)**
 3. Individuals with **Disabilities (D)**

VR Counselors assess:

- *Limitations in Functional Capacities*
- *Number of Services Required*
- *Length of Time Services are Required*

VR's Dedication to Youth

Our goal is to provide students and youth with disabilities (ages 14-24) with a smooth transition from the high school setting, utilizing a holistic team approach, and providing individualized activities and services to help each person prepare for, obtain, and maintain employment.

