

The Workforce Innovation & Opportunity Act (WIOA)

Adelante
DEVELOPMENT CENTER, Inc.

Changes are Coming to Disability Services: Take Action to Protect Your Choices!

Employment options for people with disabilities are changing due to the Work Force Innovation & Opportunity Act (WIOA). In the next year or two, **some choices may no longer be available to you and there are actions you must take soon to protect your job with Adelante.**

We can all appreciate the spirit of these changes. At Adelante, we have a preference and priority for individualized, integrated employment, and we operate the largest Supported Employment



programs in New Mexico for people with intellectual disabilities, so we appreciate that WIOA wants people to research their employment options. However, we also feel it is important to offer a full range of options. Adelante respects the

choices of the individuals we support and we understand that competitive employment is not everyone's choice. Please look over this information on WIOA and work with us to protect employment options for you and your loved ones.

What is WIOA?

The Workforce Innovation & Opportunity Act (WIOA) is a federal law, enacted on July 22, 2014, which is intended to improve workforce development and training services for various groups, including workers with disabilities.

WIOA requires that workers with disabilities who are age 24 years of age or younger complete various requirements designed to improve their access to competitive integrated employment, including transition services, vocational

rehabilitation and career counseling services, before they are employed at a subminimum wage.

WIOA also requires that all workers with disabilities, regardless of their age, who are paid a subminimum wage, receive regular career counseling and information about self-advocacy, self-determination, and peer mentoring training opportunities in their local area, every six months during the first year of employment and annually thereafter. These requirements are in addition to, and do not replace, requirements of section 14c of the Fair Labor Standards Act.

If an employee is not working at 100% of the competitive employment standard and is willing to be employed at less than minimum wage based on his/her productivity:

- **Adelante can no longer hire anyone 24 or under unless they have been to the NM Department of Vocational Rehabilitation (DVR) for career counseling and met these new requirements.**
- **New hires 25 years of age and older, must sign an agreement with Adelante and complete this DVR requirement within the first 6 months.**
- **If you already work for Adelante, regardless of your age, you must go to DVR and complete career counseling and other WIOA requirements on or before July 22, 2017.**
- Everyone will have to complete these requirements **annually.**

A Full Range of Employment Options

Adelante has a preference and priority for competitive employment in the community. We have been part of the solution to high



unemployment rates for people with disabilities for most of our 40 years as a nonprofit organization.

We also believe that if people want to work there should be a full range of options available, to ensure that everyone has an opportunity to enter the work force if and how they choose. Adelante also feels it's important to model to other employers that people with disabilities can improve skills, earn promotions, and be great employees. Adelante has a special 14c certificate from the Department of Labor that helps us to determine fair wages for everyone who wants to work.

What is 14c/Commensurate Wage?

Adelante and many nonprofits that employ people with severe disabilities have a special certificate from the Department of Labor that is dictated by section 14c of the Fair Labor Standards Act (FLSA). The FLSA authorizes employers, after receiving a certificate from the Wage and Hour Division to pay sub-minimum wages – wages less than the federal minimum wage – to workers who have disabilities for the work being performed.

There are very strict guidelines to make sure each person is paid according to the individual's actual productivity, based either on an hourly rating or on a piece rate. Even if a person is paid under a 14c certificate, because their pay is based on a **prevailing wage** (what the going rate in that community is for a given job), many people still earn over minimum wage. Minimum wage can also vary by city and state. **The WIOA legislation applies to everyone being paid through 14c who is earning under minimum wage.**

The Downsides of WIOA

- WIOA was enacted without warning to DVR, providers or families, and without sufficient resources to DVR to implement it.
- WIOA requires that people who have chosen to work in a group environment like Adelante Enterprises be certified and re-certified by DVR.
- Adelante believes the State of New Mexico and others are considering completely banning 14c work environments that pay less than minimum wage entirely, limiting options.
- **Adelante can no longer hire anyone 24 or under without certification from DVR** showing they have researched and learned about community employment options. This can be a barrier to

individuals seeking immediate employment.

- **People currently working for Adelante at our Enterprises** (Bargain Square, Document Destruction, Mailing Fulfillment Center, etc.) **MUST visit DVR as soon as possible to get these documents.** There will automatically be a glut of people who need this service and DVR has not committed fully to making sure everyone is able to complete the requirements by July. Adelante is working with DVR to providing training and services at Adelante work locations to help our employees and their families.
- **People choosing to work for Adelante and other nonprofits with a 14c certificate will have to do this every year going forward.** If their choice is respected and they complete this work initially, we feel this is **burdensome to the individual** and the disability support systems in our community.
- The regulations state that employees with disabilities must be provided with information about self-advocacy, self-determination, and peer mentoring training opportunities available in the local area **every six months** during the first year of employment, and **annually** thereafter. No such list of resources currently exists. WIOA dictates that Adelante cannot provide this information, and DVR is unclear who is responsible to create or provide it – leaving people in a confusing situation.

Where to Obtain Additional Information

Adelante will be providing letters to all individuals and families who need to act on this legislation and visit DVR for career counseling to meet WIOA requirements. We will also provide you with information as it is updated.

For additional information about WIOA and 14c, visit the Department of Labor Website: <http://www.wagehour.dol.gov> or call their toll-free information and help-line, available 8 am to 5 pm, 1-866-487-9243.

Your Voice & Your Choice Matters!

Adelante is advocating for a full range of options to be available, but your voice is more important to staff members at the State who are helping roll out these rules and who will make the decision to allow or disallow group work settings.

For questions about WIOA, contact Ellen Carpenter at DVR: (505)841-6450 or EllenK.Carpenter@state.nm.us