

Restoration of Employment Choice for Adults with Disabilities Act

Rep. Glenn Grothman (WI-06)

PROBLEM #1: Current law purposefully limits young adults with disabilities' employment options.

In 2014, Congress passed the *Workforce Innovation and Opportunity Act* (WIOA). As part of WIOA, Congress amended the *Rehabilitation Act of 1973* to include limitations on the use of the subminimum wage, known commonly as "Section 511". While Section 511 helps ensure that young adults with disabilities (24 and under) and their families are aware of opportunities for competitive employment, it also treats young adults with disabilities as if they are incapable of making their own employment choices.

Section 511 places significant limits on when adults with disabilities 24 and under are legally allowed to work under a certificate under Section 14(c) of the *Fair Labor Standards Act* (FLSA), also known as the subminimum wage. In effect, the law forces many individuals with disabilities to fail in competitive employment multiple times before they can accept employment under a 14(c) certificate. This has long-lasting impacts on the emotional well-being and self-confidence of these individuals. Many individuals with significant disabilities may also end up in day services until they are old enough to be employed under a 14(c) certificate and finally have the opportunity to gain skills and experience the dignity of work.

Young adults with disabilities should have the same right to choose their place of employment that every other young adult in America has. The *Restoration of Employment Choice for Adults with Disabilities Act* achieves this by treating individuals with disabilities aged 24 and under like the adults they truly are. Specifically, the bill makes changes to Section 511 to ensure that adults with disabilities, regardless of age, can choose their place of employment, including employment under a 14(c) certificate.

PROBLEM #2: Annual counseling requirements under Section 511 put individuals with disabilities' employment under 14(c) certificates at the behest of their state's willingness or ability to conduct the counseling.

Under Section 511, employers may not pay an individual at a subminimum wage unless that individual has received annual career counseling from a designated state unit, usually known as a vocational rehabilitation (VR) agency. However, nothing under Section 511 requires the state VR agency to actually provide the counseling. In a worst-case scenario, if a state wanted wipe out the use of 14(c) in their state, their VR agency could elect to not provide counseling for these individuals. In other scenarios, like under the current pandemic, state VR agencies may not be able to provide the required counseling by the deadline. Employers would then not be able to pay individuals under a 14(c) certificate, which would in turn harm employment opportunities for individuals with disabilities.

To ensure that individuals with disabilities' jobs are not impacted when a state intentionally or unintentionally does not offer the required annual counseling, the *Restoration of Employment Choice*

for Adults with Disabilities Act allows employers to continue paying their employees, regardless of age, under a 14(c) certificate if their state does not provide the required counseling.

BILL SUMMARY

The *Restoration of Employment Choice for Adults with Disabilities Act* makes significant changes to Section 511 of the *Rehabilitation Act of 1973* to ensure employment choice and access for adults with disabilities, regardless of age.

- The bill amends Section 511 to ensure that all adults with disabilities have the freedom to choose where they want to work.
- The bill updates counseling requirements under Section 511 to ensure that employers can continue to pay their employees, regardless of age, under a 14(c) certificate if their state does not provide the required counseling. It also ensures employers are provided with documentation that the counseling has been completed, which is not required under current law.