

Fact Sheet #39H: Limitations on the Payment of Subminimum Wages under Rehabilitation Act Section 511

This fact sheet provides general information concerning the impact of section 511 of the Rehabilitation Act of 1973 (section 511) on the payment of subminimum wages (SMWs) to workers with disabilities under section 14(c) of the [Fair Labor Standards Act \(FLSA\)](#). See [Fact Sheet #39H\(a\)](#) for additional information about section 511 youth requirements and [Fact Sheet #39H\(b\)](#) for additional information about section 511 requirements for all employees being paid SMWs. Section 511 places important limits on the ability of employers to pay SMWs to workers with disabilities under section 14(c). These limits are designed to ensure that workers who are paid SMWs under section 14(c) have access to necessary support and resources, which enhance access to competitive integrated employment. Importantly, an employer that has not complied with the requirements of section 511 does not have authority to pay SMWs to workers with disabilities under section 14(c).

Section 511 was created by the Workforce Innovation and Opportunity Act (WIOA). WIOA is a comprehensive federal law enacted on July 22, 2014, which was intended to improve workforce development and training services for various groups, including youth and workers with disabilities. Section 511 limits the ability of employers to pay SMWs to workers with disabilities, even when the employer holds a certificate under section 14(c) that would otherwise allow the payment of such wages. Such requirements help ensure that workers receive critical information and services in a timely fashion, which helps maximize opportunities to obtain competitive integrated employment.

Section 511 requires that individuals with disabilities who are age 24 or younger (youth) complete requirements designed to improve their access to competitive integrated employment, including transition services, vocational rehabilitation, and career counseling services, before they are employed at SMWs. Section 511 also requires that all workers with disabilities who are paid SMWs, of any age (including youth), receive regular career counseling and information about self-advocacy, self-determination, and peer mentoring training opportunities in their local area. Employees must receive these services twice in the first year they are hired at SMWs and at least one time every year after. These requirements are in addition to and do not replace the requirements of section 14(c). For more information about the Wage and Hour Division's enforcement of section 511, see Field Assistance Bulletin Nos. [2016-2](#), [2019-1](#), and [2022-4](#).

Enforcement Authority

The Wage and Hour Division (WHD) is responsible for the administration and enforcement of both section 14(c) and section 511. Section 14(c) authorizes employers who hold a certificate from WHD to pay SMWs to workers who have disabilities for the work being performed. The certificate also allows the payment of wages that are less than the prevailing wage to workers who have disabilities for the work performed on contracts under the [McNamara-O'Hara Service Contract Act \(SCA\)](#) and the [Walsh-Healey Public Contracts Act \(PCA\)](#).

Section 511 applies to employers paying subminimum wages that are less than the FLSA Federal minimum wage, currently \$7.25 per hour. Section 511 does not apply when wages paid are above the Federal minimum wage, such as may be case under the SCA. For more information about section 511's definition of subminimum wages, see [Field Assistance Bulletin No. 2019-1](#).

Youth with Disabilities Hired After July 22, 2016

Beginning July 22, 2016, section 511 does not allow section 14(c) certificate holders to pay SMWs to any individual with a disability who is 24 years of age or younger, unless the employer has first obtained, reviewed, and verified documentation that the youth has completed three requirements before paying SMWs:

- 1) Transition services under the Individuals with Disabilities Act (IDEA) and/or pre-employment transition services under section 113 of the Rehabilitation Act;
- 2) Vocational rehabilitation (VR), as follows:
 - a) The youth applied for VR services and was found ineligible, OR
 - b) The youth applied for VR services and was found eligible, AND
 - i) had an individualized plan for employment (IPE), AND
 - ii) worked toward an IPE employment outcome for a reasonable period without success, AND
 - iii) the VR case was closed; and
- 3) Career counseling, and information and referrals to Federal and State programs and other resources in the individual's local area.

The Designated State Unit (DSU), which is the VR agency in the State, is required to provide these services (or ensure that they are provided) and to provide individuals with documentation of the services provided. The employer is required to keep a copy of the documentation for each youth paid SMWs.

See [Fact Sheet #39H\(a\)](#) for more information about section 511's youth requirements.

All Workers, Regardless of Age, Who Are Employed at a Subminimum Wage

Section 511 also does not allow section 14(c) certificate holders to pay SMWs to any employee with a disability, of any age, unless the DSU provides them with career counseling, information and referrals ("CCIR"). Employees must receive CCIR twice in the first year they are hired at SMWs and at least one time every year after.

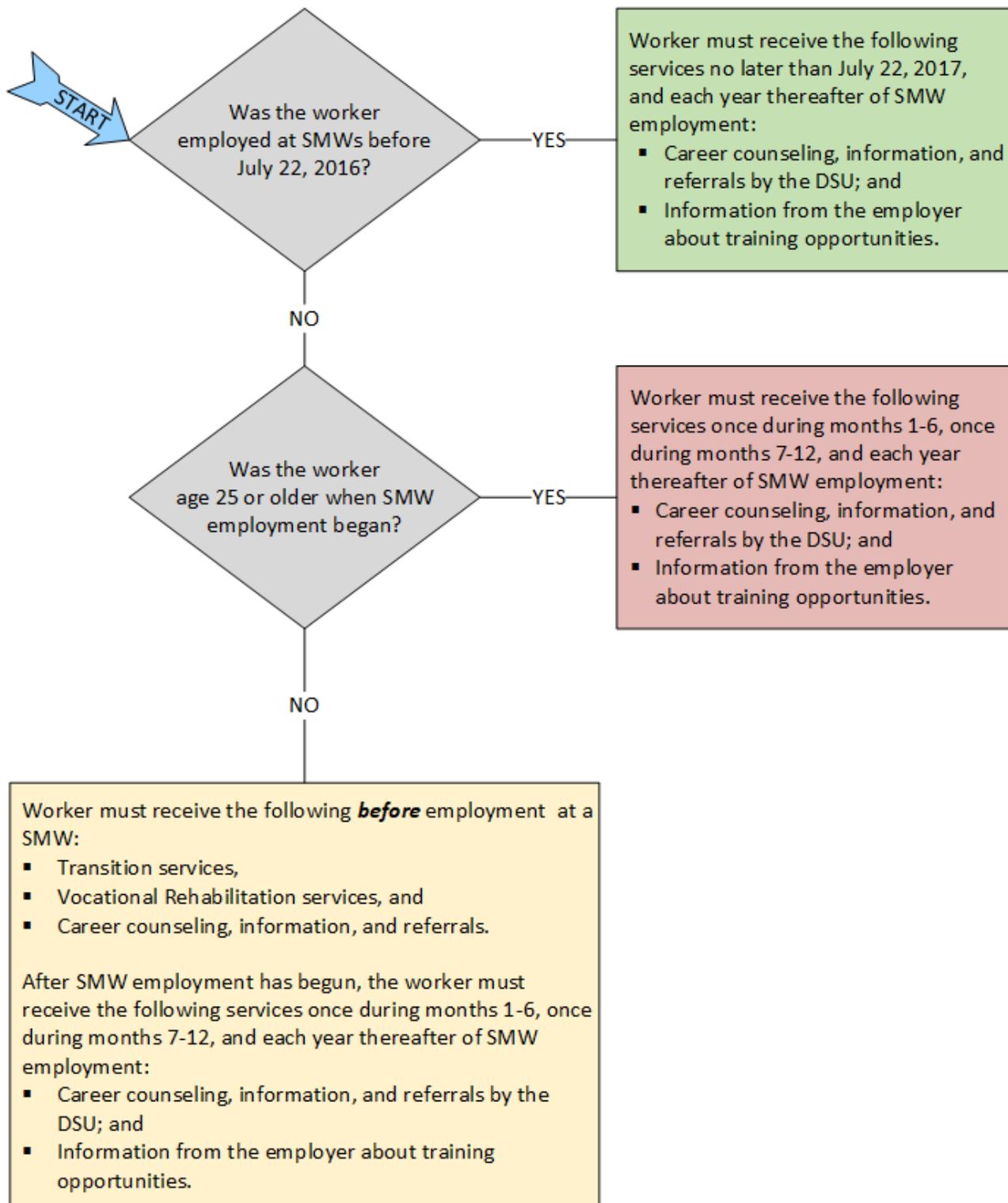
An employer may refer employees to the DSU for this mandatory counseling, or the employer may contact the DSU directly to request the DSU provide the needed counseling to their employees. The employer must confirm that employees complete this requirement. Employers should review and keep any relevant documents that an employee may provide to them.

In addition, the employer must inform employees about self-advocacy, self-determination, and peer mentoring training opportunities ("training opportunities") available in their local area. The employer must provide this information to each employee twice in the first year they are hired at SMWs and at least one time every year after. The training opportunities may be from a variety of sources, including Federal or State programs. The training opportunities cannot be provided by anyone that has any financial interest in the employees' future job choice, including an employer who has a section 14(c) certificate.

See [Fact Sheet #39H\(b\)](#) for more information about section 511's requirements for all employees paid SMWs.

The following two charts show how the section 511 requirements apply.

What Services Must an Employer Ensure are Provided for a Worker with a Disability Being Paid SMWs under Section 511?



Which Section 511 Service Requirements Apply and When?

Requirements		All employees employed at a SMW <i>before</i> July 22, 2016.	All employees employed at a SMW <i>on</i> July 22, 2016.	Employees employed at a SMW <i>after</i> July 22, 2016, and age...		
				... 25 or older.	... 24 or younger.	
Pre-Subminimum Wage Employment	Transition services				✓	Provided by DSU
	Vocational Rehabilitation services				✓	
	Career counseling, information, and referrals				✓	
During Subminimum Wage Employment	Career counseling, information, and referrals	✓	✓	✓	✓	Provided by Employer
	Information about training opportunities	✓	✓	✓	✓	
Timing of Requirements						
During Subminimum Wage Employment	Once during first six months		✓	✓	✓	
	Once during months 7-12		✓	✓	✓	
	Once per year after 1st year	✓	✓	✓	✓	

Regulations by the U.S. Department of Education

The Department of Education has published regulations about the roles and responsibilities of DSUs, schools, and state and local educational agencies under section 511. These regulations can be found at [34 C.F.R. Part 397](#). Individuals may contact the DSU in their State about services that may be available to workers and youth with disabilities.

Other Federal or State Laws May Apply

Employers are responsible for complying with all labor laws that apply, including the Americans with Disabilities Act and any state or local requirements. Note that many states restrict whether or how an employer may pay SMWs to workers with disabilities.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website:

<https://www.dol.gov/agencies/whd> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not an official statement of position contained in a regulation.

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