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Workforce Development Agency, State of Michigan (WDASOM)
Policy Issuance (PI): 04-26, Change 2

Date: September 8, 2011

To: Michigan Works! Agency (MWA) Directors

From: Liza Estlund Olson, Director, Direct Talent Strategies, WDASOM **(SIGNED)**

Subject: Implementation of the Veterans' Priority Provision of the Jobs for Veterans Act

Programs

Affected: All U.S. Department of Labor (USDOL) Funded Programs Including, But Not Limited to: Workforce Investment Act (WIA), Trade Adjustment Assistance (TAA), National Emergency Grants (NEG), and Wagner-Peyser

References: BWP PI 07-16, issued September 13, 2007, and subsequent changes

BWT PI 10-19, issued December 20, 2010

BWP PI 09-34, issued February 25, 2010, and subsequent changes

OWD PI 02-19, issued May 23, 2002

The WIA of 1998

Jobs for Veterans Act (Pub. L.107-288)

BWP PI 07-18, issued December 22, 2008, and subsequent changes

U.S. Department of Labor - Veterans' Employment and Training Service, 20 CFR Part 1010 Priority of Service for Covered Persons; Final Rule

Training and Employment Guidance Letter No. 10-09



Workforce Development Agency, State of Michigan

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Rescissions: None

Background: The USDOL has issued new regulations requiring implementation of priority of service for veterans and eligible spouses, as provided by the Jobs for Veterans Act (JVA), and as specified by the Veterans' Benefits, Health Care, and Information Technology Act of 2006. The JVA calls for priority of service to be implemented by all "qualified job training programs," defined as "any workforce preparation, development or delivery program or service that is directly funded, in whole or in part, by the Department of Labor." Since enactment of the JVA in 2002, priority of service has been implemented under policy guidance issued by the Employment and Training Administration. The purpose of the new regulations is to further articulate how priority of service is to be applied across all new and existing qualified job training programs. The 20 CFR Part 1010 Priority of Service for Covered Persons; Final Rule appeared in the December 19, 2008, edition of the Federal Register and became effective as of January 19, 2009.

Key Definitions

- *Covered Person* – The regulations adopt and apply this statutory term, which includes *eligible spouses*, as defined by the statute, and *veteran*, as defined by the regulations.
- *Eligible Spouses* – The regulation specifies spouses of any of the following veterans:
 - a) Any veteran who died of a service-connected disability;
 - b) Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
 - i) Missing in action
 - ii) Captured in line of duty by a hostile force; or
 - iii) Forcibly detained or interned in line of duty by a foreign government or power;
 - c) Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; or
 - d) Any veteran who died while a disability was in existence. A spouse whose eligibility is derived from a living veteran or service member (i.e., categories b. or c. above) would lose his or her eligibility if the veteran or service member were to lose the status that is the basis for the eligibility (e.g. if a veteran with a total service-connected disability were to receive a revised disability rating at a lower level). Similarly, for a spouse whose eligibility is derived from a living veteran or service member, that eligibility would be lost upon divorce from the veteran or service member.

Eligible Spouse Clarification

Can an Eligible Spouse Lose Eligibility Under Any of These Conditions?			
Basis of Spouse Eligibility	Loss of Status	Divorce	Remarriage
a) <u>Veteran died of service-connected disability</u>	N/A	N/A	No
b) <u>Service Member is missing, captured or detained</u>	Yes	Yes	N/A
c) <u>Veteran has a total, service-connected disability, per VA evaluation</u>	Yes	Yes	N/A
d) <u>Veteran died while a disability as defined in c) was in existence</u>	N/A	N/A	No

- *Veteran* – The regulations specify that the definition for *veteran* specified at 38 U.S.C. 101(2) applies across all qualified job training programs for the purpose of priority of service. That definition includes two key criteria:
 - a) Service in the active army, marines, naval including coast guard, or air service; and,
 - b) Discharge under conditions other than dishonorable.
- The definition of *veteran* specified by the regulations for priority of service is functionally equivalent to the definition enacted by the WIA and codified at 29 U.S.C. 2801(49)(A). Under this definition, the term “veteran” means a person who served at least one day in active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C 101(2). Active service includes full-time Federal service in the National Guard or a Reserve component. This definition of “active service” does not include full-time duty performed strictly for training purposes (i.e., that which often is referred to as “weekend” or “annual” training), nor does it include full-time active duty performed by National Guard personnel who are mobilized by State rather than Federal authorities (State mobilizations usually occur in response to events such as natural disasters).

Policy: For all programs funded in whole or in part by the USDOL, priority of service must be implemented for those participants who meet the covered person eligibility criteria. The JVA provides that veterans and eligible spouses of

veterans are identified as covered persons and are entitled to priority over non-covered persons for the receipt of employment, training, and placement services. The purpose of this policy is to ensure that covered persons are made aware of: (1) their entitlement to priority of service; (2) the full array of employment, training, and placement services available under priority of service; and (3) any applicable eligibility requirements for those programs and/or services. Veterans' priority does not change the requirement that participants must qualify as eligible under **existing and new** USDOL funded programs and does not change local ability to budget funding among Core, Intensive, Training, and Supportive Services in the WIA programs. In order for priority of service to be implemented successfully, the Workforce Development Agency, State of Michigan (WDASOM) realizes that proper signage at the point of entry will play a dominant role in covered persons recognizing their status. As a result, the WDASOM has distributed signage to MWAs for one-stop service centers and satellite locations.

Identifying and Informing Covered Persons

The regulations require that all recipients of USDOL funds for labor force attachment services and job training programs identify covered persons at the point of entry to programs and/or services so they may take full advantage of priority of service. Point of entry includes physical locations, such as One-Stop Centers, as well as web sites and other service delivery resources.

Implementing Priority of Service

The regulations define priority of service as the right of eligible covered persons to take precedence over eligible non-covered persons in obtaining services. Implementation of priority of service applies both to physical in-house services, as well as virtual/electronic points of entry (several Michigan One-Stop Centers have virtual or electronic classes and/or presentations which have electronic sign-up and class capacity).

Taking precedence means:

- The covered person receives access to the service or resource earlier in time than the non-covered person; or
- If the service or resource is limited, the covered person receives access to the service or resource instead of or before the non-covered person.

Priority of service is to be applied across three different types of qualified job training programs:

1. Core services that are prepared through universal access programs that do not target specific groups (e.g., Wagner-Peyser services)

First level of priority – Veterans and eligible spouses

Second level of priority- Non-covered persons

One stop service center staff has primary responsibility for assisting with core services

The Disabled Veterans Outreach Worker (DVOW)/Local Veterans Employment Representative (LVER) should not be performing the initial core services.

2. Discretionary targeted programs that focus on certain groups but are not mandated to serve target group members before other eligible individuals; and,

First priority level - Veterans and eligible spouses who meet the program eligibility criteria

Second priority level – Non-covered persons who meet the program eligibility criteria

3. Statutory targeted programs that are mandated by federal law to provide priority or preference to certain groups.

For persons who meet the statutory priority:

First level of priority - Veterans and eligible spouses who also meet the statutory priority

Second level of priority - Non-covered persons who meet the statutory priority

Third level of priority - Veterans and eligible spouses who do not meet the program's mandatory priority

Fourth level of priority - Non-covered persons who do not meet the programs mandatory priority

Under all USDOL funded programs, when an MWA has determined that a limitation in program funding exists, and priority of service must be provided to recipients of public assistance and other low-income individuals, veterans' services priority must be applied as follows:

- 1) Veterans meeting income eligibility
- 2) Non-veterans meeting income eligibility
- 3) Veterans not meeting income eligibility

Data Collection and Reporting on Priority of Service

The regulations refer to covered persons at the point of entry as *covered entrants*. Data must be collected and maintained for qualified job training programs that have serviced an average of 1,000 or more covered entrants per year over the three most recent years of operation. This data must be captured and maintained from their information at the point of entry of the one-stop.

- Five programs currently meet the size threshold for reporting on covered entrants: (1) WIA Adult; (2) WIA Dislocated Worker; (3) NEG; (4) Wagner-Peyser State Grants; and (5) TAA.
- All MWAs must collect and maintain data on covered and non-covered persons who receive services, including individual record data for those programs that require establishment and submission of individual records for persons receiving services.

Action: MWAs must ensure one-stop personnel understand the basic roles and responsibilities of the DVOW/LVER in the Priority of Service process.

MWAs shall revise current local processes, procedures and train one-stop personnel to ensure compliance with the JVA, P.L. 107-288 and 20 CFR Part 1010 Priority of Service for Covered Persons; Final Rule for all workforce programs funded in whole or in part by USDOL. Local Workforce Development Boards are to develop and include in their strategic local plans, policies for implementation and delivery of priority of service by:

- Local One-Stop Centers; and,
- Local workforce development service and training providers.

Non-Compliance: Failure to comply with the “Priority of Service requirements” as determined through the USDOL and Veterans’ Services Division’s MWA self- assessment audits and other documented actions can result in the MWA being required to complete a Corrective Action Plan subject to monitoring by the USDOL.

Inquiries: Questions regarding this policy issuance should be directed to Mr. Ethan McCallum, Veterans’ Services Division, at (517) 241-1189.

This policy issuance is available for downloading from the Internet system. For details contact Ms. Jenny Lowe at (517) 241-8315. The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon special request to this office.

Expiration: Ongoing

LEO:RWS:jml