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**Workforce Development Agency (WDA)**  
**Policy Issuance (PI): 13-04, Change 2**  
E-mailed: 11/13/14 (tk)

**Date:** November 13, 2014

**To:** Michigan Works! Agency (MWA) Directors

**From:** Stephanie Beckhorn, Director (**SIGNED**)  
Office of Workforce Policy and Strategic Planning

**Subject:** Workforce Investment Act (WIA) Local Area Waiver Availability and Request Process for Program Years (PY) 2013 - 2015

**Programs**

**Affected:** WIA Adult, Dislocated Worker (DW), and Youth Programs Administered by MWAs

**References:**

The WIA of 1998

Training and Employment Guidance Letter (TEGL) No. 27-12

TEGL No. 21-11, and subsequent change

TEGL No. 30-09

Workforce Development Agency, State of Michigan (WDASOM) PI 12-02, issued June 20, 2012

WIA Final Rule 20 Code of Federal Regulations (CFR) Part 652, et al.

**Rescissions:** WDASOM PI 13-04, Change 1



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**Background:** The State of Michigan sought and has received from the U.S. Department of Labor (USDOL) approval of statutory waivers in accordance with the WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The purpose of each waiver is to provide flexibility in administering WIA programs, which will ultimately assist Michigan to further develop our workforce investment system while continuing to align our workforce development efforts.

On July 22, 2014, the Workforce Innovation and Opportunity Act was enacted. Existing WIA state and local plan provisions remain in effect through June 30, 2016. Current WIA waiver approval timelines have been adjusted in accordance with the expected end date of the existing WIA State Plan.

**Policy:** The State has received approval for the following local-level waivers for PY 2013 through PY 2015:

1. Waiver of WIA Section 133(b)(4) to increase the funds transfer limit between the Adult and DW programs. This waiver allows for the transfer of up to 50 percent of the funds between the two programs.
2. Waiver of the requirement for a 50 percent employer contribution for customized training, per WIA Section 101(8)(C). This waiver permits the use of a sliding scale when determining the mandatory contribution for small and medium size employers who receive customized training. Under the waiver, the following sliding scale is permitted:
  - a. No less than 10 percent match for employers with 50 or fewer employees, and
  - b. No less than 25 percent match for employers with 51-250 employees.
  - c. For employers with more than 250 employees, the current statutory requirement (50 percent contribution) continues to apply.
3. Waiver of WIA Section 101(31)(B) to increase employer reimbursement for On-the-Job Training (OJT). This waiver permits reimbursement on a sliding scale based on either of the following:
  - a. The size of the employer. The following reimbursement amounts will be permitted:
    - i. Up to 90 percent for employers with 50 or fewer employees, and
    - ii. Up to 75 percent for employers with 51-250 employees.

- iii. The current statutory requirement (50 percent reimbursement) continues to apply for employers with more than 250 employees.
- b. The length of the individual's unemployment. The following reimbursement amounts will be permitted:
  - i. Up to 90 percent for individuals who have been unemployed for 52 weeks or more, and
  - ii. Up to 75 percent for individuals who have been unemployed for a period of 16 to 51 weeks.
  - iii. The current statutory requirement (50 percent reimbursement) continues to apply for individuals who have been unemployed for a period of less than 16 weeks.

Subsection b of this waiver allows additional flexibility enabling reimbursement on an individual participant basis, which may be simultaneously applied with employers qualifying under Subsection a, or may stand alone.

For example: An employer with 250 employees may receive a maximum of 50 percent reimbursement; however, if that company is providing OJT to a participant who has been unemployed for 52 weeks, the allowable maximum reimbursement amount is increased to 90 percent for that particular participant.

MWAs who already have approval to provide OJT employer reimbursement using a sliding scale based upon the length of an individual's unemployment must submit a modified request for the WDA's approval if the MWA wants to utilize the revised reimbursement percentages outlined above in Subsection b.

- 4. Waiver of the WIA Regulations at Section 666.100 to exempt from inclusion in the credential performance measure calculations credential attainment outcomes for participants enrolled in OJT.
- 5. Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for eligible WIA Youth program participants. This waiver allows the use of ITAs for all WIA Youth program participants.

MWAs who already have approval to use ITAs for Older and Out-of-School Youth must submit a modified request for the WDA's approval if the MWA wants to use ITAs for all youth participants.

MWAs may seek any of the aforementioned statutory waivers by submitting a request consistent with Section 192 of the WIA and Section 661.430 of the WIA Final Regulations.

All requests for waivers one through five as listed above must clearly identify the following:

- A. The statutory or regulatory requirement to be waived.
- B. The outcome(s) to be achieved by obtaining the waiver.
- C. A description of the process MWA officials will implement to ensure accountability for federal funds through appropriate fiscal and programmatic monitoring of the waiver.
- D. A description of the process the local area used to ensure meaningful public comment was sought from any individual or group affected by the waiver request and the general public, including business and organized labor.

When outlining requirements A, B, and C above, the content must contain sound program design, delivery, and monitoring consistent with the key reform principles of the WIA. The WIA key reform principles are outlined in Section 661.400 of the WIA Final Regulations.

Additionally, the State has received approval for the following local-level waiver:

- 6. Waiver of WIA Section 134(a) to permit the use of up to 20 percent of local DW formula allocation to provide Incumbent Worker Training (IWT). IWT must be used as part of the MWA's overall layoff aversion strategy. All training delivered under this waiver is restricted to skill attainment activities. MWAs must submit a request consistent with the requirements outlined in PI 12-02, issued June 20, 2012, (or any policy that replaces PI 12-02).

The WDA will respond to MWA waiver requests on a case-by-case basis. Waiver requests that contain all of the required elements outlined in this policy will be reviewed and a decision will be made by the WDA within 30 days of their receipt. The MWAs will be notified in writing of the WDA's decision regarding the request. Requests that do not contain all of the required information, or contain elements that do not align with the key reform principles, will be returned to the MWA along with a request

for additional information. The 30-day review will begin once a complete waiver request is submitted.

All WDA approved waiver requests, including WDA approval of modified waiver requests, require the submission of an Approval Request Form (Signature Page) coupled with a modification to the WIA Comprehensive Five-Year Local Plan via a detailed addendum.

The WDA will entertain additional waiver requests to address impediments to the implementation of local strategic plans consistent with the key reform principles of the WIA.

The USDOL Web-site <http://www.doleta.gov/waivers>, which provides information regarding general waiver authority and examples of state waivers, may be used as a reference by MWA officials.

**Action:** MWAs that identify local-level statutory or regulatory requirements that, if waived, would allow the agency to improve their ability to deliver training and related services more strategically and expeditiously to address growing workforce challenges, should submit a waiver request consistent with this policy to the WDA.

Waiver requests should be submitted to:

Ms. Krista Johnson, Manager  
Workforce Investment Act Section  
201 N. Washington Square, 5<sup>th</sup> Floor  
Victor Office Center  
Lansing, MI 48913

**Inquiries:** Questions regarding this policy issuance should be directed to your WIA state coordinator.

This policy issuance is available for downloading from the Internet system. Please contact Ms. Teresa Keyton at (517) 335-5858 for details.

The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon request to this office. Please contact Ms. Keyton at (517) 335-5858 for details.

**Expiration**

**Date:** June 30, 2016

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