

North Central Workforce Development Area

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LOCAL ONE STOP GUIDANCE

Guidance #: <u>LOG 10-01</u> Date: <u>March 11, 2011</u>
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TO: Recipients (and sub-recipients) of DOL funds for qualified job training programs. They include: Wagner-Peyser, Trade Act, and the Workforce Investment Act and any program receiving funds directly or indirectly from the Department of Labor. (See TEGL 10-01)

SUBJECT: Priority Service for Veterans and Eligible Spouses

REFERENCE: WorkSource Service Delivery System Policy # 1009: Revision 1

Effective Date: April 1, 2011

Background:

On December 19, 2008, the Department of Labor (DOL) issued new regulations (20 CFR 1010) implementing the Jobs for Veterans Act (JVA 2002) and the Veterans' Benefits, Health Care, and Information Technology Act (2006). The regulations went into effect on January 19, 2009 and do three basic things:

1. Set forth requirements for each "qualified" program to provide priority of service for veterans and eligible spouses and require all grantees to have policies providing priority of service whether provided on-line or in-person;
2. Require that, for purposes of implementing priority of service, the broad definition of "veteran" meaning a person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable be used (38 U.S.C. 101(2)0); and
3. Add new requirements related to persons who physically access service delivery points or who access virtual service delivery programs on websites (See 20 CFR 1010.300):

- Applicants to any "qualified" DOL programs and services must be able to learn about priority of service and to indicate whether they are veterans etc.;
- Program staff must initiate data collection for any person claiming priority at point of entry; and
- Entities that provide services funded by USDOL programs covered by these regulations are required to have user-friendly processes by which individuals at the point of entry to the service system can identify themselves as veterans and eligible spouses eligible for priority of service. Self-registration systems are not to require veterans to produce documents (e.g., a DD-214 Discharge Form) to verify their status at this stage, unless the point of entry is also the point at which program eligibility determination and registration or enrollment also takes place. (per TEGL 10-09)

Guidance: In accordance with the standards and measures of WorkSource System policy 1009: Revision 1, all applicable partner programs will provide the WDC a copy of their Priority of Service for Veteran's and Eligible Spouses procedures.

WorkSource Service Delivery System

Washington State Policies

EFFECTIVE DATE: December 21, 2009
SYSTEM POLICY NUMBER: 1009, Revision 1
SUBJECT: Priority of Service for Veterans and Eligible Spouses

SCOPE

This policy applies to “qualified” programs administered by Workforce Development Councils (WDCs) and by the Employment Security Department (ESD) that receive funding from the Department of Labor. They include, but are not limited to, Wagner-Peyser, Trade Act, and the Workforce Investment Act.

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BACKGROUND

On December 19, 2008, the Department of Labor (DOL) issued new regulations (20 CFR 1010) implementing the Jobs for Veterans Act (JVA 2002) and the Veterans’ Benefits, Health Care, and Information Technology Act (2006). The regulations went into effect on January 19, 2009 and do three basic things:

1. Set forth requirements for each “qualified” program to provide priority of service for veterans and eligible spouses and require all grantees to have policies providing priority of service whether provided on-line or in-person;
2. Require that, for purposes of implementing priority of service, the broad definition of “veteran” meaning a person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable be used (38 U.S.C. 101(2)0; and
3. Add new requirements related to persons who physically access service delivery points or who access virtual service delivery programs on websites (See 20 CFR 1010.300):
 - Applicants to any “qualified” DOL programs and services must be able to learn about priority of service and to indicate whether they are veterans etc.;
 - Program staff must initiate data collection for any person claiming priority at point of entry; and
 - Applicants who are veterans must be given the menu of programs and services to which the priority applies, and any additional program eligibility requirements.

POLICY

As the state priority of service policy for veterans, all “qualified” programs administered by ESD come under its jurisdiction. It provides policy and standards to:

- WDCs as WIA subrecipients and as overseers of one-stop service delivery; and
- Employment and Career Development Division (ECDD) as the statewide operator of Wagner-Peyser and Trade Act programs.

- A. **Compliance:** Grantees and subrecipients must comply with federal law, regulations, and guidance on priority of service, using the broad definition for veterans and eligible spouses (20 CFR 1010.110).

Priority of service entitles veterans or spouses to precedence over eligible non-covered persons in accessing service. The veteran or spouse is given enrollment or services earlier in time than others who are waiting for the same assistance. If program and service resources are limited, then the veteran or spouse is given access instead of others. NOTE: This does not mean that the veteran or spouse is given “bumping rights” over others who are already enrolled and/or receiving services.

Priority of service guidelines can appear inconsistent given the Jobs for Veterans Act and local program requirements. When multiple priorities for a given program or service arise giving the appearance of conflicting priorities, local policy and procedure must respond by defining a hierarchy of priorities that resolves the conflicts. For example, if the United States Congress has established eligibility for a program, then the veteran or eligible spouse must meet the requirement for entry into the program. After meeting the eligibility requirement for the program, the veteran must be given priority over all non-veterans who also meet the requirement. Priorities set by federal statute are at the top of the hierarchy. Federal law sometimes allows targeting at the state or local level, but in these cases, priority of service for veterans takes precedence over state and local level targeting.

- B. **Program Operational Requirements:** ECDD and the WDCs must implement processes for the “qualified” programs they administer to allow applicants who physically or virtually access services to learn of veterans priority and to indicate whether they are entitled to priority of service. Instructions for data collection will be issued when available. In addition to allowing applicants to claim entitlement to priority, applicants claiming priority are to be given a menu of programs and services to which the entitlement applies, and eligibility requirements for those programs.

All “qualified” programs must use the broad definitions for veterans and eligible spouses at point of entry into their programs. They will be required to collect, retain and report data in accordance with the Act, regulations and DOL program guidance to be issued (20 CFR 1010.320). “Qualified” programs do not have to verify the status of an individual as a veteran or eligible spouse at the point of entry unless they immediately undergo eligibility determination and enrollment into the program (20 CFR 1010.300(a)).

“Qualified” programs that have served an average of 1,000 or more covered persons over the three most recent years of operation, are additionally required to collect and report data on covered entrants (covered persons at point of entry are referred to as

covered entrants). Six programs currently meet the size threshold for reporting on covered entrants: 1) WIA Adult; 2) WIA Dislocated Worker; 3) National Emergency Grants; 4) Wagner-Peyser State Grants; 5) Trade Adjustment Assistance; and 6) Senior Community Service Employment Program (listed for completeness).

- C. **System/Site Operational Requirements:** WDCs must develop policies implementing priority of service for the WorkSource One-Stop Centers and for local workforce providers. The local policies must require processes at WorkSource sites to be established that shall ensure all covered persons are:
- Identified at the point of entry so they can take advantage of priority of service;
 - Made aware of their entitlement to priority of service; and
 - Provided information on the full array of employment, training and placement services available; and any applicable eligibility requirements for those programs or services.

STANDARDS AND MEASURES

Standard: Notification: All applicants must be made aware of priority of service and given the opportunity to claim veteran status. If claiming such status, then the applicants must be given the menu of programs and services to which the priority applies. This must be done at first contact with any program or service (whether physical or virtual) funded by DOL.

Measure: 100 percent of applicants were given notification of the priority of service and the menu of programs and services to which it applies.

Standard: Policies: Under the policy guidance of Workforce Development Councils (WDCs), WorkSource Centers and affiliate sites, and applicable providers, shall have written processes that ensure that all points of entry into their programs or services, whether physical or virtual, provide the required information.

Measure: Each WDC shall have written policies or processes providing priority of service to veterans and eligible spouses at each of their WorkSource sites.

Standard: Policies: Policies and operational processes will be developed and made available to appropriate WorkSource Partners, contractors, or other service providers to ensure all points of entry into their program or services, whether physical or virtual inform veterans and their spouses of their entitlement to priority of service.

Measure: Each WDC and the ECDD shall have policies and operational processes for each “qualified” program available for review.

Standard: Training: All front line staff in Centers and affiliate sites must receive training on priority of service and its documentation, as well as, information on qualified programs to which the priority applies.

Measure: 90 percent of front line staff are informed on priority of service and can demonstrate knowledge of the processes for providing this service, applicable to their work responsibilities.

Standard: Data Collection: WDCs and ESD as grantees, subrecipients, and applicable service providers must collect report and retain, for all qualified programs they administer, the required data elements on covered applicants, regardless of the numbers of covered persons served. Programs that meet the size threshold must collect, report, and retain the data elements for covered entrants as required by DOL in directives to be issued.

Measure: Data records and reports on covered participants and entrants are available at the local level and reported into SKIES.

DEFINITIONS

Qualified Job Training Program means any program or service for workforce preparation, development, or delivery that is directly funded, in whole or in part, by the Department of Labor.

Covered Persons means veterans or their eligible spouses.

Covered Entrants are covered persons at point of entry into a program to receive services.

Veteran means a person who was in active military service, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2). Active service also includes full-time duty in the National Guard or a Reserve component, other than full time duty for training purposes.

Eligible Spouse as defined in section 2(a) of JVA (38 U.S. C. 4215(a)) means the spouse of any of the following:

- (1) Any veteran who died of a service-connected disability;
- (2) 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;
- (3) Any veteran who has a total disability resulting from a service connected disability, as evaluated by the Department of Veterans Affairs;
- (4) Any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence.

REFERENCES

- Jobs for Veterans Act, Public Law (Pub. L.) 107-288 (Nov. 7, 2002).
- Veterans' Benefits, Health Care, and Information Technology Act (Pub. L. 109-461) (Dec. 22, 2006).
- Priority of Service for Covered Persons (20 CFR 1010) Issued: Dec. 19, 2008; Effective: Jan. 19, 2009.

- Training and Employment Guidance Letter (TEGL) No. 10-09 Issued Nov. 10, 2009.
- Veterans Program Letter (VPL) No. 07-09 Issued Nov Nov. 10, 2009.

SUPERCEDES

WIA Policy Number: 3641: Jobs For Veterans Act Priority of Services.

WEBSITE

<http://www.wa.gov/esd/policies/systems.htm>

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