

New Jersey

Workforce Innovation Notice 23-16(A)

TO: Workforce Development System

FROM: John Bica, Chief,
Office of WIOA Technical Assistance and Capacity Building

DATE: May 10, 2017

Purpose

To inform all one-stop career center staff of clarifications to the criteria used for determining eligibility of customers for the Opportunity Partnership Grant Program.

Background

The Workforce Development Partnership Program (WDP) is a state program that provides various services to one-stop career center customers. NJAC 12:23-1.1 states an “eligible individual” includes a qualified displaced worker. This guidance is intended to update the terms used in the definition of a qualified displaced worker to align with the definitions provided under the Workforce Innovation and Opportunity Act (WIOA). Previously, eligibility had aligned with the definition of Dislocated Worker as provided under the Workforce Investment Act, which has been superseded by WIOA.

This guidance is for the purposes of determining eligibility for the Opportunity Partnership Grant only; Employment Service staff are not to co-enroll these customers into WIOA Title I.

For the purposes of eligibility for the Opportunity Partnership grant, a participant must be someone who:

1. Is unemployed; **and:**
 - i) Is currently receiving unemployment benefits or any Federal or State unemployment benefit extension; or
2. Has exhausted eligibility for benefits during the preceding 27 weeks; **or**
3. Meets the criteria set by the Workforce Innovation and Opportunity Act to be regarded as a “dislocated worker.” (see below)

There are five categories of dislocated workers under WIOA. A customer must meet all required criteria of any **one** category.

Dislocated Worker—The term “dislocated worker” means an individual who—

Category 1-(i) Has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; **or**

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 121(e), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for

an employer that were not covered under a State unemployment compensation law; **and**

(iii) is unlikely to return to a previous industry or occupation;

Determining Customer is Unlikely to Return to Previous Industry or Occupation

The following are examples of reasons a customer may be determined the criterion specified in WIOA Sec. 3(15) (A) (iii): (Unlikely to Return to Previous Occupation or Industry). The determination must be recorded in America's One-Stop Operating System (AOSOS). A customer only needs to meet one of the criteria. Any documentation provided to verify this criterion must be kept in the customer folder and cited in AOSOS case notes in Comments.

- **Skill Oversupply**—Based on LMI, it is determined that state or local supply of persons with the specific skills of the applicant exceeds current demand for those skills;
- **UI Profiling Score**-A probability of exhaustion score of 80% or higher;
- **Separation from Service**-Documentation (such as a DD-214) verifying separation or imminent separation from the Armed Forces.
- **Obsolete Skills** – Based on assessment of customer's skills, it is determined that the applicant can no longer meet the minimum requirements of jobs available in their occupation (e.g., clerical worker without word processing skills, etc.); or
- **Local Layoff Impact** - A local plant or business closing or layoff has had a significant negative impact on the availability of jobs in the applicant's primary occupation and accustomed wage/hour/skill level; or
- **No Job Offers Received** - Applicant has been available and looking for work for a number of weeks and has not received an offer for work; "number of weeks" might range from 6 to 12 weeks, depending upon the occupation, economy, and/or applicant's verified job search efforts;
- **Physical Limitations or Disabilities** - Newly acquired physical limitations or injuries occurring which limit the individual's ability to perform the job from which they were dislocated may make an individual unlikely to return to the previous occupation. Such individuals are eligible if they fit one of the categories of the WIOA dislocated worker program eligibility, but shall have a doctor's release to work; or
- **Other Factors**-Factors that can be recorded in the customer's AOSOS record, including local policies based on labor market information, indicating "unlikely of returning to the previous industry or occupation.

Temporary and Seasonal Workers- Individuals laid off or terminated because of the cyclical, intermittent, or seasonal nature of their employment may be eligible for individualized career services and training services as Category 1 Dislocated Workers. However, such services can only be made available to those individuals who are currently unemployed and have indicated that they are seeking full-time non-temporary/seasonal work. This does not apply to workers who are on a temporary *layoff* with a specific return to work date; these workers do not meet this criterion

Service members exiting the Armed Forces with a discharge that is **anything other than dishonorable** qualify for dislocated workers services and are eligible for such services based on the following criteria:

- a) The Separating service member has received a notice of separation, DD-214 from the Department of Defense, or other documentation showing a separation or imminent separation from the Armed Forces to satisfy the termination or layoff part of the dislocated worker eligibility criteria.

- b) The separating service member qualifies for the criteria on eligibility for or exhaustion of unemployment compensation.
- c) As a separating service member, the individual meets the criterion of being and “individual who is unlikely to return to a previous industry or occupation.”

Note: While documentation of veteran status is not required for Labor Exchange services, documentation is required when an element of eligibility for funded services. A DD 2-14 or other documentation showing separation from the Armed Forces can be used to verify all three of these criteria (see Eligibility Desk Aid). When recording their Employment Status field on the Customer Detail screen in AOSOS, select “Employed – Rcvd Notice of Termination.”

Military Spouses-The definition of dislocated workers (Category1) includes military spouses who have lost employment as a direct result of a relocation to accommodate a permanent change in duty station of the spouse. Military spouses may also qualify if they are a dependent spouse of a member of the Armed Forces on active duty whose family income is significantly reduced, as determined by the State or local area, because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the service member. (An exception would be a spouse who *voluntary* leaves work to relocate somewhere other than the spouse’s new duty location). Military spouses also can qualify if they are unemployed or underemployed and are experiencing difficulty in obtaining or upgrading employment.

The spouse’s Permanent Change of Station Orders would document their eligibility, although case notes should also be used. Other military spouses may qualify as Displaced Homemakers (See Category 4).

Category 2-(i) Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services other than training services career services or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close

Category 3-Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;

Self-Employed but Unemployed As a Result of General Economic Conditions—The following are conditions that can cause an individual to lose a business include, but are not limited to:

- Failure of one or more businesses to which the self-employed individual supplied a substantial proportion of products or services; or
- Failure of one or more businesses from which the self-employed individual obtained a substantial proportion of products or services; or
- Substantial layoffs, or permanent closure(s) of one or more plants or facilities that support a significant portion of the State or local economy; or
- Depressed price(s) or market(s) for the article(s) produced by the self-employed Individual

The determination that a person has become unemployed due to these conditions **must** be recorded in AOSOS. Any documentation provided to verify this criterion **must** be kept in the customer folder and cited in AOSOS case notes in Comments.

Category 4- Displaced Homemaker;

Displaced Homemaker.—The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who—

- (A)(i) has been dependent on the income of another family member but is no longer supported by that income; or
 - (ii) is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of a deployment, a call or order to active duty pursuant to a provision of law a permanent change of station, or the service-connected death or disability of the member; and
- (B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Category 5-(i) is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

(ii) is the spouse of a member of the Armed Forces on active duty and who meets the criteria described in paragraph (16)(B).

Underemployed Individuals

Underemployed Individuals-May include:

- Individuals employed less than full-time who are seeking full-time employment (this can include seasonal/temporary worker)
- Individuals who are employed in a position that is inadequate with respect to their skills and training
- Individuals who are employed who meet the definition of a low-income individual (See below)
- Individuals who are employed but whose current job’s earnings are 80% or less than their previous position.

Employability Development Plan

Each person to be served through the Opportunity Partnership Grant must have Employability Development Plan (EDP). The EDP must be recorded in the customer’s America’ One-Stop Operating System (AOSOS) record and include the following elements:

1. A specific career objective that is in a field in which there are employment opportunities.
2. Identification of the services(s) that will be provided to assist the customer meet their employment goal.
3. Identification of any barriers and a plan for addressing these barriers, including referral to other agencies as appropriate.
4. A planned end date for activities.

Eligibility Documentation

Unemployed and receiving unemployment benefits or Long-Term Unemployed/has exhausted unemployment benefits

WIOA Dislocated Worker-See Attachment

Recording in AOSOS

1. Select Prgms/PA Tab
2. Select "Yes" next to Opportunities Partnership
3. Enter the date of enrollment in the Date field

The screenshot shows the AOSOS interface with the following details:

- Top navigation: CUSTOMER, PROVIDER, EMPLOYER, STAFF
- Sub-navigation: Customer Search, Cust Detail (highlighted), Comp Assess, Services
- Customer Info: Test, Second; SSN: ***-**-0042; OSOS ID: NJ001953252
- Tabbed interface: Gen. Info, Add'l Info, **Prgms/PA** (selected), Objective, Work Hist., Ed/Lic, Skills, Saved Searches, Activities
- Program List:
 - NDWG - Atlantic City
 - NDWG - DWT
 - NDWG - OJT
 - NJ BUILD
 - NJ Training on Demand
 - OARS
 - NI PC / Pathways
 - Older Americans Title V
 - Opportunity Partnership** (Yes) **05/02/017**
 - Other non-WIA Programs
 - Other WIA Programs

References and Links

NJAC 12:23 et al

Rescissions

None

Authority

New Jersey Department of Labor and Workforce Development	X
State Employment And Training Commission	

Questions

For questions regarding this guidance, contact John Bica, Chief, Office of WIOA Technical Assistance and Capacity Building, at john.bica@dol.nj.gov

Attachment

Attachment

Category 1) a) Terminated or laid off, or has received a notice of termination or layoff, b) Is eligible for or has exhausted entitlement to unemployment compensation; <u>or</u> , has been employed for a duration sufficient to demonstrate, to the appropriate entity, attachment to the workforce, (but is not eligible for unemployment compensation due to insufficient earnings or having performed services that were not covered under a State UI law; and c) Is unlikely to return to a previous industry or occupation.		
Documentation		
a) LOOPS Printout (Basic 1 Screen) Notice of Layoff. Statement from employer or union. Record of Date of Layoff. DD-214 or other documents showing separation or imminent separation from Armed Forces	b) LOOPS Printout (Basic 1 Screen) UI Pay Stub Pay Check Stubs W-2 and/or Tax Returns Statement from Employer or Union Self-Certification (attachment to workforce) DD-214	Labor Market Information Open Job Orders Job Search Logs RESEA profiling score of 80% or higher Case Notes DD-214
Category (2)_a) Has been terminated or laid off, or received a notice of termination or layoff, from employment as result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; b) Employed at facility at which employer has made general announcement that such facility will close within 180 days; or is employed at a facility at which the employer has made a general announcement that such facility will close;		
Documentation		
LOOPS Printout (Basic 1 Screen) UI Form "Claim for Unemployment Benefits During a Permanent Mass Layoff" Worker Adjustment and Retraining Notification (WARN) Act notice Employer Letter		Announcement of closing Newspaper Article Labor Market Information documented On-site certification at the employer
Category 3) Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.		
Self-Employment	General Economic Conditions:	Natural Disaster
Bank Statement Most recent IRS or NJ Form 1040 Evidence of most recent quarterly self-employment income Articles of Incorporation or Dissolution Advertisements County Clerk Records Accounting Records Self-Certification	Accounting Records Vendor Accounts Payable Records Bankruptcy Papers Newspaper Articles Government Economic Agency Reports Published Notice of Going Out of Business Local Labor Market Information	Insurance Claims Federal/State Disaster Claims Proof of disaster by means of other gov't records (Fire, police records) Media article
Category 4) DISPLACED HOMEMAKER: An individual who has been providing unpaid services to family members in the home who--(A)(i) Has been dependent on the income of another family member but is no longer supported by that income; OR (ii) Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of a deployment a call or order to active duty a permanent change of station, or the service-connected death or disability of the member*; and (B) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment		
Documentation		
Income Tax Returns Pay stub of family member Self-Certification		Alimony payments *Appropriate military records
(5) Individual was spouse of a member of the Armed Forces on active duty who :a) Has experienced a loss of employment as a direct result of relocation to accommodate permanent change in duty station of such member; OR b) Is unemployed or underemployed and experiencing difficulty finding or upgrading employment		
Documentation		
Permanent Change of Station Order		Case Notes

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