

WIAPL 10-07.3 (Priority of Service for Veterans and Eligible Spouses)

Workforce Investment Act Policy Letter No. 10-07.3

March 9, 2015

To: Workforce Investment Act (WIA) Local Workforce Investment Boards (WIBs), Fiscal Agents, Administrative Entities, OhioMeansJobs Center Operators, and Department of Labor (DOL) Funded Partner Programs (Wagner- Peyser, Trade Adjustment Assistance, Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farmworkers, Workforce Innovation in Regional Economic Development Grants, and National Emergency Grants)

From: Cynthia C. Dungey, Director

Subject: Priority of Service for Veterans and Eligible Spouses

I. Purpose

The purpose of this policy is to outline requirements of the local WIBs and OhioMeansJobs Centers for implementation of priority of service to veterans and eligible spouses for all DOL funded training programs.

II. Effective Date

Immediately

III. Background

On November 7, 2002, the Jobs for Veterans Act (JVA), Public Law (P.L.) 107-288 was signed into law. One provision of the JVA, codified at 38 U.S.C. 4215, establishes a Priority of Service requirement for covered persons in qualified job training programs. While recipients of DOL funds for qualified job training programs have been required to provide priority of service since 2002, the publication of 20 C.F.R. Part 1010, Priority of Service for Covered Persons; Final Rule, which took effect on January 19, 2009, signaled that recipients of DOL funds for these job training programs should review and, if necessary, enhance their current policies and procedures to ensure that adequate protocols are in place.

IV. Definitions

The following are definitions of terms used throughout this policy:

Caregiver : With respect to an eligible veteran, an individual who provides personal care services to the veteran.

Covered person : A veteran or his/her eligible spouse.

Disabled Veteran : A veteran who is entitled to compensation (or who, except for the receipt of military retired pay, would be entitled to compensation) under the Department of Veteran Affairs, or a veteran who was discharged or released from active duty, because of a service-connected disability.

Disabled Veterans' Outreach Program (DVOP) Specialist : The individual who provides intensive services and facilitates placements to meet the employment needs of veterans.

Eligible spouse : An individual who is one of the following:

- a. The spouse of any person who died of a service-connected disability.
- b. The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:

- Missing in action;
- Captured in the line of duty by a hostile force;
- Forcibly detained or interned in the line of duty by a foreign government or power for a total of more than 90 days; or
- The spouse of any person who has a total (100%) disability permanent in nature resulting from a service connected or the spouse of a veteran who died while a disability was so evaluated was in existence.

Eligible Veteran (for Jobs for Veterans State Grant (JVSG) Program) : A person who:

- Served on active duty for a period of more than 180 days and was discharged (or) released with other than a dishonorable discharge;
- Was discharged or released from active duty because of a service-connected disability; or
- Is a member of a reserve component under an order to active duty pursuant to section 12301 (a), (d), or (g), 12302 or 12304 of U.S.C. Title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge was authorized, and was discharged or released from such duty with other than dishonorable discharge.

Family caregiver : With respect to an eligible veteran, a family member who is a caregiver of the veteran.

Family member : With respect to an eligible veteran, an individual who

1. Is a member of the family of the veteran, including:

- a. A parent;
- b. A spouse;
- c. A child;
- d. A step-family member; and
- e. An extended family member; or

2. Lives with, but is not a member of the family of the veteran.

Homeless Individual (McKinney Act (P.L. 100-77, section 103(2)(1), 101 stat. 485 (1987)) : An individual who:

1. Lacks a fixed, regular, adequate nighttime residence; and

2. Has a primary nighttime residence that is:

- a. A supervised, publicly or privately owned shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
- b. An institution that provides temporary residence for individuals intended to be institutionalized; or
- c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Local Veterans' Employment Representative (LVER) : A representative who:

- Conducts outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and
- Facilitates employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery systems.

Low-Income Individual (Section 101(25)(B) of WIA) : For the purposes of this policy, the term "low income individual" means an individual who received income, or is a member of a family that received a total family income, for the six (6)- month period prior to application for the program involved (exclusive of unemployment compensation, child support payments described in subparagraph (A), and old-age and survivors insurance benefits under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of:

- (i) The poverty line, for an equivalent period; or
- (ii) 70 percent of the lower living standard income level, for an equivalent period.

Non-covered person : Any individual who meets neither the definition of "veteran," nor the definition of "eligible spouse."

Offender (Section 101(27) of WIA) : An individual who:

- Is or has been subject to any stage of the criminal justice process, for whom services under WIA may be beneficial; or
- Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Priority of service : With respect to any qualified job training program, a covered person shall be given priority over a non-covered person in obtaining all employment, training, and placement services provided under the program.

Recently-Separated Service Member : Any veteran during the three year period beginning on the date of such veteran's discharge or release from active duty.

Service-connected disability : A disability resulting from disease or injury incurred or aggravated during active military service.

Special Disabled Veteran : A Veteran who is entitled to compensation under laws administered by the U.S. Department of Veterans Affairs for:

- Disabilities rated at 30 percent or higher; or
- Disabilities rated at 10 to 20 percent, if the individual has a serious employment disability; or
- A veteran who was discharged or released from active duty because of a service-connected disability.

Transitioning service member : an individual in active duty status (including separation leave) who registers for employment services and is within 24 months of retirement or 12 months of separation.

Veteran (for Priority of Service) : Any 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." Active service includes full-time Federal service in the National Guard or a Reserve component, other than full-time duty for training purposes.

V. Requirements

Priority of service means that covered persons are given priority over non-covered persons for the receipt of employment, training, and placement services funded in whole or in part by DOL, including Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Investment Act, Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farmworkers, Workforce Innovation in Regional Economic Development Competitive Grants, and National Emergency Grants. All DOL funded grant recipients must implement and comply with locally developed priority of service policies. All program operators are required to ensure that priority of service is applied to all subrecipients of DOL funds.

A. Development of a Local Priority of Service Policy

Each local area is required to develop a priority of service policy that includes, but is not limited to, the following criteria:

- How the local area will ensure veterans and eligible spouses are notified of their entitlement to priority of service, the full array of employment, training, and placement services available, and applicable eligibility requirements for programs and services.
- How the local area will assist individuals in identifying themselves as veterans or eligible spouses at the point of entry to the system or priority.
- How the local area will monitor the area's implementation of priority of service, including how monitoring is a shared responsibility between the Ohio Department of Job and Family Services (ODJFS) veterans' program managers, local area, and OhioMeansJobs Center's operator.

Physical copies of the local Priority of Service policy shall be maintained at all service delivery points, including the OhioMeansJobs Center, and to the extent practicable, must be posted in a way that makes it possible for members of the general public easy access to them. Furthermore, OhioMeansJobs Center staff must be trained on the implementation of priority of services for veterans and eligible spouses.

Notification of Priority of Service

Within the local priority of service policy, areas must develop and implement processes to notify covered persons who physically access the OhioMeansJobs Centers or who access the program through the internet with timely and useful information on priority of service. This is accomplished in a number of ways:

- Awareness through posters and handouts strategically placed at the OhioMeansJobs Centers to alert covered persons of their priority of service rights.
- Notification of priority of service rights should be addressed on the local area's and/or the OhioMeansJobs Center's websites or other portals by which job seekers remotely access resources, including self-service resources.
- Orientations, both in-person or electronically (including local websites) must include a reference to priority of service rights.
- Assurances that labor exchange activities and services, including posting of and searching for resumes and jobs and job matching are completed in OhioMeansJobs.com per WIAPL No. 13-04 and are given priority of service.
- Descriptions of how partner program staff within the OhioMeansJobs Centers and at other service delivery points are made aware of priority of service requirements. This must be accomplished at both the state and local levels through partner meetings, trainings, and other types of communication such as information sheet or desk aid, self-service kiosks, and information bulletin boards.

It should be noted that a clause pertaining to priority of service is included in the OhioMeansJobs Center's Memorandum of Understanding template and must be utilized by all local workforce investment areas. Priority of service is also and will continue to be addressed in all DOL funded employment and training program grant agreements.

Identifying Veterans and Eligible Spouses

The local area must enable veterans and eligible spouses to identify themselves at the point of entry to the system or program. Point of entry may include reception through an OhioMeansJobs Center, as part of an application process for a specific program, or through any other method by which veterans and eligible spouses express an interest in receiving services, either in-person or virtually. The area's local policy must include processes to ensure that covered persons are identified at the point of entry for services, the full array of programs and services available to them, any applicable eligibility requirements for those programs and/or services, and given an opportunity to take full advantage of priority of service.

Monitoring Implementation of Priority of Services

The implementation of priority of service impacts most services at the OhioMeansJobs Centers. As such, it is the responsibility of multiple programs to ensure that veterans and eligible spouses are aware of the benefits of priority of services; that veterans and eligible spouses are identified at the point of program entry; and that priority of service is applied throughout their respective service delivery systems. At the local level, the ODJFS veterans' program managers, local areas, and OhioMeansJobs Centers' operators will coordinate and share monitoring responsibilities. These monitoring responsibilities include a review of the implementation of internal policies and procedures and how these procedures result in compliance with the priority of service

requirements. As such, the local priority of service policy must outline how this shared responsibility will be coordinated and administered.

B. Applying Priority of Service

The OhioMeansJobs Centers are to apply the priority of service definition to all covered persons who access the workforce system through the OhioMeansJobs Centers. A covered person is entitled to priority of services under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program. Priority of service gives veterans and eligible spouses the right to take precedence over non-covered persons in obtaining services. Depending on the type of service or resource being provided, taking precedence may mean:

- A veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person; or
- If the service or resource is limited, the veteran or eligible spouse receives access to the service instead of or before the non-covered person.

Determination of Veteran Status

The local area must have a policy outlining the procedure whereby veterans and eligible spouses are identified at the point of entry. During the initial intake processes with a customer, staff shall further explore the covered person's veteran status (e.g., number of days served and discharge status) and assess whether or not the covered person has a significant barrier to employment using the veteran intake form. A covered person is determined to have a significant barrier to employment if he or she attests to meeting one or more of the following criteria:

- A special disabled or disabled veteran (or has a disability claim pending with the Department of Veterans Affairs (VA);
- A homeless individual;
- A recently-separated service member who has been unemployed for 27 or more weeks in the previous 12 months;
- An offender who is currently incarcerated or has been released from incarceration;
- An individual who lacks a high school diploma or equivalent certificate; or
- A low income individual.

If the covered person has at least one significant barrier to employment and meets the definition of eligible veteran or eligible spouse for the Jobs for Veterans State Grant (JVSG) program, the OhioMeansJobs Center staff shall refer this individual to the JVSG program.

OhioMeansJobs Center staff shall also refer an eligible veteran age 18 to 24 years to the JVSG program as this population of veterans has experienced a higher rate of unemployment than other veterans as well as nonveterans of the same age. These eligible veterans may need and benefit from the intensive services provided by a DVOP specialist.

The Veterans' Employment and Training Service has also identified the following three categories of transitioning service members as eligible to receive JVSG services and a referral shall be made:

- Transitioning service members who are age 18 to 24 years old.
- Transitioning service members who have been identified as in need of intensive services because they were assessed as not meeting career readiness standards as documented on the DD-2958, Service Member Career Readiness Standards/Individual Transition Plan .
- Active duty service members being involuntarily separated through a service reduction-in-force.

Additionally, members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members are to be referred to the JVSG program.

If the covered person, transitioning services member, or wounded, ill, or injured member of the Armed Forces (or spouse or family caregiver of such) does not meet the criteria for the JVSG program as outlined above, then the individual may still be provided core, intensive, and/or training services through Wagner-Peyser or WIA funded programs, based upon eligibility and suitability.

Referral to the Jobs for Veterans State Grant (JVSG) Program

If the individual meets the definition of eligible veteran for the JVSG program or is an eligible spouse, has at least one significant barrier to employment, or is aged 18 to 24 years, the OhioMeansJobs Center staff shall refer this covered person to the JVSG program. A covered person should also be referred to the JVSG program if the covered person is later, after further assessment, determined by OhioMeansJobs Center staff to have a significant barrier to employment.

Furthermore, transitioning service members who are 18 to 24 years old or who have been identified as needing intensive services on the DD-2958, or active duty service members being involuntarily separated through a service reduction-in-force will be referred to the JVSG program. Referrals to the JVSG program will also be made for those members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members.

Within the JVSG program, the DVOP specialist will provide intensive services to mitigate significant barriers to employment and transition these individuals into the civilian workforce. The DVOP specialist also coordinates with the LVER to match covered persons with job opportunities.

JVSG participants later found to be dishonorably discharged from the military, must be referred back to the OhioMeansJobs Center for further Wagner-Peyser employment services and/or WIA staff-assisted core, intensive and/or training services. These individuals do not qualify for priority of service.

Local areas must establish effective linkages with the State JVSG program staff, for two-way referrals of individuals for services.

Documenting Veteran Status

It is not necessary for OhioMeansJobs Center staff to require verification of the status of a covered person at the point of entry, unless the individual who self-identifies as a veteran or eligible spouse:

- Is to immediately undergo eligibility determination and be registered or enrolled in a program; and
- Is registering or enrolling in a program for which the applicable federal program rules require verification of veteran or eligible spouse status at that time.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a covered person must be enrolled, be provided immediate priority, and be permitted to follow-up subsequently with any required verification of his or her status as a covered person.

For programs or services that cannot rely on self-attestation, verification of veteran status (e.g., DD-214, cross match with veterans' data, or letter from Veteran Administration) must be provided prior to the provision of intensive services or the commitment to training services.

For a referral to the JVSG program, documentation of the significant barrier to service is preferred. However, customers may qualify through self-attestation. A self-attestation checklist identifying the significant barriers may be added as part of the intake or assessment process. Any written questionnaire used for identifying a significant barrier must make clear that the information requested is intended for use solely in connection with efforts to give priority to persons with disabilities. If written questionnaires are not used, this information must be made clear orally. The OhioMeansJobs staff seeking the information must state clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide the information will not subject the applicant or participant to any adverse treatment, and that it will be used only in accordance with law.

Priority of Service for Programs

The application of priority of service varies by program depending on the eligibility requirements of the particular program. Qualified job training programs fall into two basic categories:

- Universal access programs: For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, veterans and eligible spouses must receive priority of service over all other program participants (e.g., core services delivered through the OhioMeansJobs Centers under Wagner-Peyser and WIA programs).
- Programs with Eligibility Criteria: Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered eligible for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority of receipt of services.

When a program has statutory eligibility requirements, priority means that covered persons take precedence, with all other qualifying eligibility requirements being equal, over non-covered persons in obtaining services and program enrollment.

Programs with Statutory Priorities

In addition to eligibility criteria that all participants are required to meet, some programs also have priorities that establish a rank order to be observed in enrolling or serving participants.

Due to the continued reduction in federal funding allocations, WIA funding for adult services is generally limited. When the local area declares limited funds status, priority for WIA adult-funded intensive and training services is given to low-income individuals and for recipients of public assistance. When determining if a veteran or eligible spouse is a "low income individual" for eligibility purposes, any amounts received as military pay or allowances by any person who served active duty, and certain other specified benefits must be disregarded. A low income veteran or eligible spouse takes precedence, with all other qualifying requirements being equal, over a low income non-covered person in obtaining intensive and training services.

This does not allow for "bumping" of non-covered persons who had previously been accepted into a program prior to the covered person applying within the same program. However, if there is a waiting list, the veterans or eligible spouses receive access to the service instead of or before the non-covered person on the waiting list.

Programs with Discretionary Priorities

The local area may not apply additional arbitrary or discretionary conditions or requirements above the program's statutory mandated eligibility requirements to priority of service rights. Therefore, for covered persons, priority of service applies to discretionary targeting programs and services the same way that it applies to universal access programs (i.e., veterans and eligible spouses are served first).

Priority of Service for Programs Administered by State Merit Staff

For DOL funded employment and training programs administered by state merit staff (i.e., TAA, REA, UCRS), eligibility for priority of service should be determined at the initiation of services or upon referral of services, whichever occurs first.

VI. Data Collection

Training and Employment Guidance Letter (TEGL) No. 10-09 provides direction regarding the collection of data for serving veterans and eligible spouses and the implementation of priority of service. The local areas must ensure that all appropriate information regarding identified veterans or eligible spouses has been entered in Ohio Workforce Case Management System (OWCMS).

VII. Monitoring

At the local level, the area's priority of service policy must contain criteria for local monitoring of the implementation of priority of service to ensure that covered persons are made aware of and afforded priority of service.

Through the state's monitoring system, program monitors will review the area's implementation of priority of service during the annual onsite monitoring review for compliance with the local policy as well as federal laws and regulations. Any compliance issues will be handled through the state's findings resolution process.

VIII. Technical Assistance

Requests for additional information or questions regarding this policy may be directed to the Office of Workforce Development by e-mailing: WIAQNA@JFS.OHIO.GOV.

IX. References

Workforce Investment Act of 1998, Pub. L. 105-220, § 168.

Workforce Investment Act; Final Rules, 65 FR 49409 (Aug. 11, 2000) (codified at 20 CFR 663.600).

Jobs for Veterans Act, Pub. L. 107-288, § 2(a), (November 7, 2002) (codified at 38 USC 4215).

Priority of Service for Covered Persons; Final Rules, 73 FR 78142 - 78144 (December 19, 2008).

20 CFR §§ 1010.110 - 1010.200 (2008).

38 U.S.C. § 4211.

Consolidated Appropriations Act, 2014, Pub. L. 113-76, Division H, Title I.

USDOL, Training and Employment Guidance Letter No. 10-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2009).

USDOL Veterans' Program Letter No. 07-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in Whole or in Part by the U.S. Department of Labor, (November 10, 2009).

USDOL, Training and Employment Notice No. 15-10, Protocol for Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2010).

USDOL, Training and Employment Guidance Letter No. 20-13, Designation of Additional Population of Veterans Eligible for Services from the Disabled Veterans' Outreach Program Specialist - Veterans Ages 18 to 24, (April 10, 2014).

USDOL Veterans' Program Letter No. 04-14, Designation for Additional Population of Veterans Eligible for Services from Disabled Veterans Outreach Program Specialist - Veterans Ages 18-24, (April 10, 2014).

USDOL, Training and Employment Guidance Letter No. 19-13, Jobs for Veterans' State Grants (JVSG) Program Reforms and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans, (April 10, 2014).

USDOL Veterans' Program Letter No. 03-14, Jobs for Veterans State Grants (JVSG) Program Reforms and Roles Responsibilities of American Job (AJC) Staff Serving Veterans, (April 10, 2014).

USDOL Veterans' Program Letter No. 08-14, Designation for Additional Populations Eligible for Services from Disabled Veterans' Outreach Program (DVOP) Specialists: Transitioning Service Members in need of Intensive Services; and Wounded, Ill, or Injured Service Members Receiving Treatment at Military Treatment Facilities or Warrior Transition Units (MTFs - WTUs); and the Spouses and Family Caregivers of such Wounded, III or Injured Service Members, (September 26, 2014).

USDOL, Training and Employment Notice No. 10-14, American Job Center (AJC) Participation in Capstone Activities and Other Outreach to Transitioning Service Members, (September 29, 2014).

USDOL, Training and Employment Guidance Letter No. 19-13, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment and Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).

USDOL, Veterans' Program Letter No. 03-14, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).

ODJFS, Workforce Investment Act Policy Letter No. 13-04, Mandate Use of OhioMeansJobs.com for Job Placement and Referral Activities in Ohio, (December 19, 2013).

Rescission

ODJFS, [Workforce Investment Act Policy Letter No. 10-07.2](#), Priority of Service for Veterans and Eligible Spouses (Covered Persons), (November 19, 2014).