



WORKFORCE SYSTEM POLICY (WSP) No. 05-2015, December 23, 2015

TO: PENNSYLVANIA WORKFORCE DEVELOPMENT BOARD
BUREAU OF WORKFORCE DEVELOPMENT ADMINISTRATION
BUREAU OF WORKFORCE PARTNERSHIP AND OPERATIONS
CENTER FOR WORKFORCE INFORMATION AND ANALYSIS
LOCAL ELECTED OFFICIALS
LOCAL WORKFORCE DEVELOPMENT BOARD CHAIRS AND EXECUTIVE DIRECTORS
PA CAREERLINK OPERATORS AND PARTNERS

FROM: Diane Bosak
Deputy Secretary for Workforce Development

SUBJECT: Priority of Service – Initial Implementation of the Workforce Innovation and Opportunity Act

- I. **Purpose.** The purpose of the workforce system policy is to provide guidance to local workforce development boards for the implementation of priority of service for WIOA title I Adult program customers.
- II. **Action Required.** This policy requires a new or updated local Priority of Service policy be submitted for review within 90 days of issuance of this policy. Local workforce boards must provide the aforementioned policy to the following resource account: RA-LI-BWDA-Policy@pa.gov
- III. **References.**
 - Workforce Innovation and Opportunity Act of 2014 (WIOA or Opportunity Act), Public Law (Pub. L.) 113-128, enacted July 22, 2014
 - Training and Employment Guidance Letter (TEGL) No. 3-15, *Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services*
 - Training and Employment Guidance Letter (TEGL) No. 26-13, *Impact of the U.S. Supreme Court's Decision in United States vs Windsor on Eligibility and Services Provided Under Workforce Grants Administered by the Employment and Training Administration*
 - Training and Employment Guidance Letter (TEGL) No. 06-14, *Program Year (PY) 2013/Fiscal Year (FY) 2014 Data Validation and Performance Reporting Requirements and Associated Timelines*
- IV. **Transition.** Commonwealth Workforce Development System (CWDS) data entry-related communications necessitated by the issuance of this guidance are forthcoming.

V. **Background.** The Workforce Innovation and Opportunity Act (WIOA) requires priority be given to public assistance recipients, other low-income individuals, and individuals who are basic skills deficient, when providing individualized career services and training services using WIOA title I Adult program funds. In addition, Training and Employment Guidance Letter (TEGL) No. 3-15 specifies that priority should also be applied to individuals that are both underemployed and low-income. WIOA provides a focus on serving individuals with barriers to employment, and the intent of this priority in the law is to ensure access to these populations on a priority basis. Under WIA, priority was required for public assistance recipients and other low-income individuals when funds were limited. Under WIOA, priority of service is required regardless of the funding levels and also is expanded to include individuals who are basic skills deficient.

VI. **Definitions.**

- A. ***“Individuals with barriers to employment”*** includes: displaced homemakers; low-income individuals; Indians, Alaska Natives, and Native Hawaiians; individuals with disabilities; older individuals; ex-offenders; homeless individuals; youth who are in or have aged out of the foster care system; individuals who are English language learners, have low literacy levels, or face substantial cultural barriers; eligible Migrant and Seasonal Farm Workers; individuals within two (2) years of exhausting lifetime eligibility under TANF; single parents (including pregnant women); long-term unemployed individuals; and members of other groups identified by the Governor.
- B. The Adult priority of service applies to individualized career services and training services. ***“Individualized career services”*** include comprehensive and specialized assessments, development of an individual employment plan, group and individual counseling, career planning, short-term prevocational services, internships and work experiences, workforce preparation activities, financial literacy services, out-of-area job search and relocation assistance, and English language acquisition and integrated education and training programs.
- C. There are four (4) groups of individuals targeted for priority when providing individualized career services and training services in the WIOA title I Adult program: public assistance recipients; other low-income individuals; individuals who are basic skills deficient; and individuals who are both underemployed and low-income.
1. ***“Recipients of public assistance”*** includes individuals who receive, or in the past six (6) months have received, or are a member of a family that is receiving or in the past six (6) months has received, assistance through one (1) or more of the following:
- Supplemental Nutrition Assistance Program (SNAP);
 - Temporary Assistance for Needy Families (TANF)
 - Supplemental Security Income (SSI); or
 - State or local income-based public assistance.

2. **“Low-income”** includes:

- Recipients of public assistance (defined above);
- Individuals in a family with total income below the poverty line or 70% of the lower living standard income level;
- Homeless;
- Foster youth; and
- Individuals with disabilities with individual income below the poverty line or 70% of the lower living standard income level.

Note: The following category may be added to the “low-income” definition, pending US Department of Labor approval: Youth in-school up to age 21; or parents of such a youth, who are eligible to receive a free or reduced price lunch. This policy will be updated as additional federal guidance is issued.

Local workforce development boards may adopt a more stringent definition for “low-income” or include additional criteria (specifically for the purposes of determining Adult program priority) that may be applied to one or more of the low-income categories listed above and is consistent with local economic conditions and other criteria determined by the local board.

A youth 18 or older, who was determined low-income for the WIOA title I Youth Program, may be co-enrolled in the WIOA title I Adult Program without an eligibility re-determination, and be counted as an individual who meets Adult priority of service, if the original determination was made no more than six (6) months prior to the date of co-enrollment.

3. **“Basic skills deficient”** is defined as an adult who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the participant’s family, or in society.

In assessing basic skills, local workforce staff may only use assessment instruments that are valid and appropriate for this target population, and must provide reasonable accommodation in the assessment process, if necessary, for individuals with disabilities. Standardized assessments must be administered following published guidelines and locators/appraisals must be used to determine the appropriate level of use of such assessments.

An adult may be assessed as basic skills deficient through case manager observations and documented in case notes. For example, the career planner may observe that the adult is not able to read or fill out an application form, or does not have basic computer literacy. A case manager may also document basic skills deficient using any one (1) of the following:

- Basic skills assessment questions or test results
- School records
- Referral or records from a title II Adult Basic Education program
- Referral or records from an English Language Learner program

Case notes must provide an auditable trail back to the source of the verified information. The career planner does not need to keep a hard copy of the information verified in the participant's case file. For example, a career planner verifies an individual is basic skills deficient by viewing school records, specifically, enrollment in a WIOA title II Adult Education/Literacy program. The case notes must include auditable information, such as the name of the school and the date of enrollment, which could allow an auditor/monitor to later retrieve this information.

If a standardized test is used to assess basic skills, the test should include reading, writing, or computing skills. Lacking soft skills or specific skills needed for a particular job may not be used to determine otherwise high-functioning individuals as basic skills deficient.

A youth 18 or older, who was determined basic skills deficient for the WIOA title I Youth Program, may be co-enrolled in the WIOA title I Adult Program without an eligibility re-determination, and be counted as an individual who meets Adult priority of service, if the original determination was made no more than six (6) months prior to the date of co-enrollment.

Local policy may further define the criteria that will be used to identify and document basic skills deficient individuals.

4. **"Underemployed"** individuals are employed full-time or part-time and must also meet the definition of a low-income individual in order to be eligible for the Adult priority of service.

VII. What It Means to Provide Priority of Service. Priority of service means that individuals in the targeted groups (public assistance recipients, other low-income individuals, individuals who are basic skills deficient, and underemployed who are also low-income) are given priority over other individuals for receipt of individualized career services and training services funded by the WIOA title I Adult program. Veterans within these groups receive priority over non-veterans. Adult priority is determined for the targeted groups during eligibility and enrollment.

Local workforce development boards may add additional requirements or discretionary priorities to give priority to other individuals for the Adult program.

A. Local requirement. A local area may add a requirement (e.g., that an individual receiving priority has to be a resident of the county) in combination with the required priority of service category criteria. For example, a local board may require residency be considered in determining an individual's priority of service. In this instance residency would need to be considered along with the individual satisfying at least one (1) of the following barriers/criteria to meet priority of service: the individual is a public assistance recipient, is a low-income individual, is basic skills deficient, or is low-income and underemployed.

B. Local discretionary priority. A local area may also identify one new priority of service category if it is consistent with the intent of the Adult priority to serve individuals with barriers to employment (see part **VI. Definitions.** of this policy for the definition of individuals with barriers to employment). For example, a local area may add a discretionary priority to serve individuals with a disability. As this priority targets individuals with a barrier to employment as defined in WIOA, it may be utilized instead of one (1) of the four (4) targeted groups identified above. As a discretionary focus of this type is not a statutorily mandated priority in the law, veterans and eligible spouses must still receive the highest priority in local areas that set a local discretionary priority.

Local requirements and discretionary priorities must be identified in local policy and/or in the local workforce development area's local plan, including data to support the need and how the local requirement and/or priority will be documented and implemented.

VIII. Interaction of the Adult Priority and Veterans' Priority of Service. The priority of service for veterans and eligible spouses applies across all qualified employment and training programs. The priority of service for public assistance recipients, other low-income individuals, and individuals who are basic skills deficient is a statutory priority that applies only to the receipt of individualized career services and training services in the WIOA title I Adult program. Local boards may establish a local discretionary priority that also gives priority to other individuals specifically for the receipt of individualized career services and training services in the WIOA title I Adult program. With regard to the priority of service for veterans and eligible spouses, priority of service for the WIOA title I Adult program must be applied in the following order:

1. Veterans and eligible spouses who meet the *statutory* priority (public assistance recipient, other low-income individuals including the underemployed, or basic skills deficient) and Adult program eligibility must receive the highest level of priority for services;
2. Other individuals (not veterans or eligible spouses) who meet the *statutory* priority (public assistance recipient, other low-income individuals including underemployed, or basic skills deficient) and Adult program eligibility then receive the second level of priority for services;
3. All other veterans and eligible spouses who meet Adult program eligibility, then receive the third level of priority for services;
4. Other individuals (not veterans or eligible spouses) who do not meet the statutory priority (public assistance recipient, other low-income individuals including underemployed, or basic skills deficient), but do meet a local discretionary priority and Adult program eligibility, then receive the fourth level of priority for services.
5. Other individuals (not veterans or eligible spouses) who do not meet the statutory priority (public assistance recipient, other low-income individuals including underemployed, or basic skills deficient) and do not meet the local discretionary priority, but do meet Adult program eligibility, then receive the fifth level of priority for services.

IX. Performance Goals. Each local workforce area’s success in achieving priority of service for the targeted groups within the Adult program will be measured by a state-established formula comparing the percentage of individuals in the four (4) statutory priority targeted groups (public assistance recipients, other low-income individuals, basic skills deficient, and both underemployed and low-income), adding those in the local discretionary priority group, who were enrolled in the Adult program versus the percentage of all other individuals who were enrolled in the program. The goal for each local area is to serve a greater percentage of Adult customers from the priority targeted groups than all other individuals (at least 51% of Adult participants from priority groups). Local areas are expected to conduct active outreach to recruit the priority groups if they are not meeting the goal. In Program Year (PY) 2015 and PY 2016, the percentage of new Adult customers from the targeted priority groups will be used to establish a baseline for each local area. The Department of Labor & Industry anticipates that PY 2017 will be the first compliance year for the 51% target for all Adult customers in each local area.

X. Local Policy Requirements. Local workforce areas are required to have Adult priority of service policies and procedures in place that include the following:

- Local procedures for determining priority during the eligibility process and enrollment;
- How the local area will define “low income” (it may be more stringent than the state definition in this policy) and the relevant data used to establish the definition;
- What criteria and procedures will be used to assess priority for basic skills deficient individuals;
- Any local requirements, such as residency, that will be established in relation to the four (4) priority groups;
- Any local discretionary priorities that will be established in addition to the four (4) targeted groups, the data to support the need for the local priority, and the documentation that will be required from an individual for the local priority; and
- Local procedures for internal monitoring of the goal to serve 51% of Adult participants from the priority targeted groups.

XI. Contact Entity. Technical assistance and/or inquiries regarding this guidance should be directed to the Pennsylvania Department of Labor & Industry, Director of the Bureau of Workforce Development Administration, 651 Boas Street, 12th Floor, Harrisburg, PA 17121.

XII. Rescissions. None