



U.S. Department of Labor Employment and Training Administration

Priority of Service for Veterans and Eligible Spouses

Overview

- Background and Basics
- Implementation
- Monitoring and Reporting



U.S. Department of Labor Employment and Training Administration

Background and Basics

History of Priority of Service

- Jobs for Veterans Act – 2002
- TEGL 05-03 – 2003
- P.L. 109-461 – 2006
- Proposed regulations – August 2008
- Final rule – January 19, 2009
- Joint Guidance – November 10, 2009

Key Definitions - I

- *Qualified Job Training Program* – a workforce program funded in whole or in part by DOL
- *Veteran* [38 USC 101(2)]
 - Discharged under “other than dishonorable” conditions
 - Active military service:
 - ❖ National Guard and Reserve – weekend and summer training does *not* qualify
 - ❖ National Guard – mobilization by a governor for state service (e.g., for a natural disaster) does *not* qualify

Key Definitions - II

- *Eligible Spouse*

- Eligibility derived from a living veteran
 - ❖ Service member is missing in action, captured or forcibly detained
 - ❖ Veteran has total service-connected disability, per VA evaluation
- Eligibility derived from a deceased veteran
 - ❖ Veteran died of a service-connected disability
 - ❖ Veteran died while a total service-connected disability, per VA evaluation, was in existence

Key Definitions - III

- *Covered Person*

- *A Veteran*
- *An Eligible Spouse*

- *Covered Entrant*

- *A Veteran or an Eligible Spouse who is;*
- *At the “point of entry” to the workforce system or a qualified job training program (i.e., at the initial point of contact, prior to receipt of any services; e.g., an applicant, not a participant)*

Two Definitions of Veteran

- The Solicitor's Office determined that the definition of veteran that appears at 38 U.S.C. 101(2) applies for *priority of service*
- This definition is functionally equivalent to the definition that appears at 29 U.S.C. 2801(49)(A) and applies to *WIA program eligibility*
- Both definitions differ from the Wagner-Peyser definition of "eligible veteran" that appears at 38 U.S.C. 4211(4)(A), includes a "180 day" criterion and applies to *DVOP/LVER program eligibility* and *Wagner-Peyser reporting*

Two Definitions of Veteran (Cont.)

- Several comments stated a preference for a “standardized” definition for both priority of service and program eligibility purposes
- The Preamble responded by pointing out:
 - DOL lacks the authority to revise statutory definitions through regulations
 - GAO recently recommended that Congress consider standardizing the veteran definition applicable for workforce program eligibility

Priority and Program Eligibility

- For the purpose of *priority of service*, the regulations establish the definitions that apply for Veteran and Eligible Spouse
- For the purpose of *program eligibility*, other sources establish the definitions that apply for those same two categories
- Applying the definitions correctly for these two different purposes will create *challenges* for the workforce system

Recognizing the Challenges

- The One-Stops are to apply the *priority of service definition* to all veterans who *access* the workforce system through the One-Stops
- The One-Stops also are to apply the *Wagner-Peyser definition* to DVOP/LVER *eligibility* and to *all reporting* on Wagner-Peyser services
- Although this duality of veteran definitions is awkward, it could be resolved by Congress

Extent of Priority of Service

- Priority of Service applies to *every* qualified job training program funded, in whole or in part, by DOL
 - An agreement to implement priority of service is a condition for receipt of all DOL job training funds
 - Priority of service applies to all sub-recipients, including sub-grantees, subcontractors, and those delivering services under other types of agreements
- Priority of Service *cannot* be waived



U.S. Department of Labor Employment and Training Administration

Implementation

The Spirit of Priority of Service

- A legal requirement
- A moral imperative
- A way of doing business
- Something we want every workforce professional in our system to own

State and Local Planning

- Priority of service is to be addressed in:
 - States' Strategic Plans
 - Local Workforce Boards' Strategic Plans
- Policies apply to:
 - State Workforce Agencies
 - Local Workforce Investment Boards
 - One-Stop Career Centers

Identifying and Informing

- *Identifying* veterans and eligible spouses at the point of entry
- Implementing processes to ensure veterans and eligible spouses are *made aware of*:
 - Their entitlement to priority of service
 - Other employment, training and placement services available
 - The eligibility requirements for those programs or services

DVOP/LVER & Priority of Service

- Veterans and eligible spouses must be provided access to the *full range* of available One-Stop services
- DVOP and LVER services are *program-specific*, with their own eligibility requirements
- Therefore, referral to DVOP specialists or LVER staff members by itself does not meet the priority of service requirement

Clarifying Verification

- § 1010.300(b)(2) of the *Rule* states: “The processes for identifying covered persons are *not required 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 in a program.*”

Clarifying Verification (Cont.)

- The *Preamble* states: “Even in those instances in which eligibility determination and enrollment take place at the point of entry, the Department believes that the covered person should be enrolled and *given immediate priority* and then *be permitted to follow-up subsequently with any required verification* of his/her status as a covered person.”

Clarifying Verification (Cont.)

- For a service such as classroom training, outside resources may not be committed on a *priority basis* to a veteran or eligible spouse who only self-attests to his or her status
- While awaiting verification, program staff may serve veterans and eligible spouses on a *priority basis*, to include intensive services
- While awaiting verification, *services based on* outside resources may not be delivered on a *priority basis* to a veteran or eligible spouse

Priority of Service in Action

- *Universal Access Programs* - Do not target specific groups (e.g., Wagner-Peyser services)
 - Veterans and eligible spouses receive *first* level of priority
 - Non-covered persons receive *second* level of priority
- *Discretionary Targeting Programs* - Focus on special groups, but not mandated
 - Veterans and eligible spouses receive *first* level of priority
 - Non-covered persons who meet the discretionary target receive *second* level of priority
 - Non-covered persons who do not meet the discretionary target receive *third* level of priority
- “Veterans and eligible spouses first” applies to both

Priority of Service in Action (Cont.)

Statutory Targeting Programs - A mandatory priority or focus for certain groups:

- For persons who *meet* the mandatory priority:
 - ❖ Veterans and eligible spouses who also meet the mandatory priority receive the *first* level of priority
 - ❖ Non-covered persons who meet the mandatory priority receive the *second* level of priority
- For persons who *don't meet* the mandatory priority:
 - ❖ Veterans and eligible spouses who don't meet the mandatory priority receive the *third* level of priority
 - ❖ Non-covered persons who don't meet the mandatory priority receive the *fourth* level of priority

Statutory Priority Example

- *WIA Adult program* – statutory priority for low-income individuals and public assistance recipients, *if WIB determines funds are limited*:
 - First level: veterans or eligible spouses who also are low-income or public assistance recipients
 - Second level: non-covered persons who are low-income or public assistance recipients
 - Third level: veterans or eligible spouses who are *not* low-income or public assistance recipients
 - Fourth level: non-covered persons who are *not* low-income or public assistance recipients

Program Eligibility and Income

- Types of military income to be *excluded* when determining if a veteran or eligible spouse meets a “low income” criterion
 - Pay or allowances while on active duty
 - Service-connected disability compensation
 - VA educational assistance (e.g., “GI Bill”)
- Type of military income *not* to be excluded when determining if a veteran or eligible spouse meets a “low income” criterion -- pension for military retirees

Priority Defined

- The right to take precedence over non-covered persons – Depending on the type of service or resource being provided, taking precedence may mean:
 - Covered person gains access to service or resource *earlier than* the non-covered persons
 - Covered person receives service or resource *instead of* a non-covered person when resources are limited

Examples of Precedence

- In a training class that includes 30 trainee slots, 20 participants have been: a) *approved for funding*, AND, b) *enrolled*, but the training has not yet begun:
 - A veteran or eligible spouse who is on a waiting list to be *approved for funding* would move ahead of any non-covered persons in that queue
 - A veteran or eligible spouse who is newly approved for funding would be *enrolled* before a non-covered person approved at the same time
 - A newly approved veteran or eligible spouse is *not* entitled to “bump” a non-covered person who already was *approved and enrolled* in the class

Coordination with WIA Training

- The WIA statute and regulations require coordination of “other grant assistance” (e.g. Pell grants) with WIA training
- This has been interpreted to require veterans to exhaust VA benefits, like GI Bill, to become eligible for WIA training
- The guidance clarifies that veterans are *not* required to exhaust VA benefits as a pre-condition for receiving WIA training

Distinguishing Compliance

- Two initiatives require UI claimants to report in-person for compliance purposes:
 - Worker Profiling and Reemployment Services (WPRS)
 - Reemployment and Eligibility Assessments (REA)
- In prior guidance, the requirement to report was called a “referral” and, therefore, was considered to be subject to priority of service
- The current guidance clarifies that:
 - These compliance requirements are *not* services and, therefore, *not* subject to priority of service
 - Priority of service *does apply* if compliance leads to *referrals to services* for veterans or eligible spouses

Technical Assistance

- **Joint ETA-VETS Policy Guidance:**
 - **TEGL 10-09**
 - **VPL 07-09**
- **Workforce³ One Webinars:**
 - **September 24, 2008 for DOL Staff:**
www.workforce3one.org/view/3000723343405975486
 - **October 2, 2008 for the Workforce System:**
www.workforce3one.org/view/3000723343405975519
- **Priority of Service Protocol – under development**



U.S. Department of Labor Employment and Training Administration

Monitoring and Reporting

Monitoring of Compliance

- Joint monitoring of Priority of Service by:
 - The Veterans' Employment and Training Service (VETS)
 - The DOL agency responsible for the program's administration and oversight (typically ETA)
- If monitoring identifies a failure to comply:
 - To be handled in accord with the program's established compliance review processes
 - A corrective action plan also may be required

Reporting Requirements

- OMB has approved the new reporting requirements - Recipients will be required to implement DOL guidance
- All qualified job training programs will be required to apply the *new definitions* for veterans and eligible spouses from the regulations to their *existing reporting*
- The six programs serving the most veterans also will be required to *add new reporting on covered entrants*

Applying the New Definitions

- For those programs *not* reporting on covered entrants, the requirement to adopt the *new definitions* will take effect upon the *next OMB approval* of each program's Information Collection Request (ICR)

Reporting on Covered Entrants

- Programs that served an average of 1,000 or more covered persons/year during their three most recent years of operation are required to *report on covered entrants*, currently:
 - *Wagner-Peyser State Grants*
 - *WIA Adult*
 - *WIA Dislocated Worker*
 - *WIA National Emergency Grants*
 - *Trade Adjustment Assistance*
 - *Senior Community Service Employment Program*

Implementing Reporting

- For *SCSEP*, the *new definitions* have been adopted and reporting on *covered entrants* was implemented for *PY 2009*, starting July 1, 2009
- For *Wagner-Peyser* (including DVOP/LVER), *WIA* (including Adult & Dislocated Worker programs & National Emergency Grants), and *Trade Adjustment Assistance*, the reporting on *covered entrants*, which will be required in the future, has been *waived for PY 2009*

Implementing Reporting (Cont.)

- For *FY 2010*, *Trade Adjustment Assistance* will include the priority of service *definitions* in its new reporting system, but it is expected that reporting on *covered entrants* for *Trade* will be coordinated with *Wagner-Peyser* and *WIA*
- The burden of reporting on *covered entrants* for *Wagner-Peyser*, *WIA* and *Trade* will be minimized if the new requirements are applied in conjunction with implementing a “next generation” reporting system.
- If a new reporting system is not implemented in the near future, the new reporting will be implemented via a “back-up” approach already approved by OMB.



U.S. Department of Labor Employment and Training Administration

Questions and Discussion