# 12-168 DEPARTMENT OF LABOR - GENERAL

Chapter 11: RULES FOR MAINE ENTERPRISE OPTION PROGRAM

Summary: This Chapter outlines the procedures and rules to implement and guide the administration of the self-employment assistance program which is to be known as the Maine Enterprise Option (MEO).

1. Definitions

A. "Commissioner" shall mean the Commissioner of the Department of Labor or designee.

B . "Establishing a business" shall mean organizing the production, marketing and sale of products or services. This includes enterprises operated with the intention of creating a profit or of generating income for the owners if organized as a legal not-for profit venture.

C. "Full-time" shall mean forty hours per week.

D. "Worker profiling system" shall mean a system established by the Maine Department of Labor that attempts to predict the likelihood that an individual will exhaust his or her unemployment benefits. The characteristics of individuals who exhausted benefits in the past are analyzed to determine which of these characteristics were predictors of exhaustion for the group. These predictors are then combined into a "profile" and individuals who match the profile are deemed to be "likely to exhaust benefits." Individuals who are on recall status or who obtain employment through a union hiring hall agreement are deemed to not be likely to exhaust benefits. Other data elements to be studied (along with potentially others in the future) are: previous industry, total unemployment rate, declining industry code, separation reason, the individual's weekly benefit amount and maximum benefit amount, and job tenure.

E. "Allowable business activity" shall mean:

a) the proposed business shall have its principal place of business in Maine;

b) the proposed business, when established, shall meet all legal requirements involving licenses, taxes, zoning etc.;

c) the proposed business may be a sole proprietorship, partnership, corporation, franchise or pre-existing business provided that the applicant has both financial investment and decision-making authority in the business;

d) the proposed business shall be suitable for support by a public agency.

Examples of unsuitable businesses shall include but are not limited to: businesses that involve the speculative purchase and/ or sale of real estate, (though real estate development involving construction or renovation are permitted), gambling activities or pyramid selling (also known as multi-level marketing).

F. "Qualified business counselor" shall mean counselors approved by the commissioner to provide one-one assistance under the MEO self-employment assistance program.

G. "Local Enterprise Coordinator" shall mean the designated staff at each Department of Labor office responsible for coordinating Orientation and applications for MEO applicants.

H. "Self-employment Assistance Allowance" (SEA) shall mean an allowance payable in lieu of regular benefits, from the Unemployment Compensation Fund, to an individual who meets the requirements of and has been accepted into MEO.

I. "Approved Training" shall mean seminars, workshops and training approved by the commissioner for purposes of providing assistance to MEO participants.

2. Eligibility requirements for acceptance into MEO

A. Eligibility requirements. To be eligible for acceptance into the MEO, an applicant must meet the following criteria:

(1) be a resident of the state of Maine;

(2) have been identified as likely to exhaust regular benefits through a worker profiling system;

(3) have a balance of regular benefits equal to at least 18 times the applicant's weekly benefits amount at the time of application;

(4) have attended an "Orientation to the MEO" program;

(5) have completed and submitted to the Local Department of Labor Office a written application form containing information the commissioner may prescribe, including, but not limited to, the following:

(a) The type of business contemplated.

(b) Business location.

(c) Target market for product or service and plan for reaching the market

(d) Anticipated start-up expenses.

(e) Proposed sources of initial financing.

(f) Personal interest, experience or training in operating the type of business proposed;

(6) be willing and able to work full-time at self-employment assistance activities; and

(7) be proposing to enter a type of business which is an allowable business activity as defined in section 1(E).

B. Application review. Written applications will be reviewed by the Review Board to insure that the applicant meets all of the above eligibility requirements.

(1) During the interval between filing an application and notification of acceptance or non-acceptance, applicants shall continue to file for and meet the eligibility requirements for regular benefits.

C. Enrollment limitation. Enrollment into The MEO shall be carefully monitored by the Department of Labor on a monthly basis. Monthly notification shall be provided to the Review Board of the percentage of claimants receiving regular benefits who are enrolled in The MEO.

(1) When the Review Board determines that acceptance of additional participants is likely to cause enrollment to exceed 5% of the claimants receiving regular benefits, acceptance of applicants into The MEO shall be deferred. Applicants who do not meet the requirements for eligibility for The MEO, other than the 5% limitation, shall continue to receive notification of nonacceptance. Applicants who do meet the eligibility requirements shall be given written notification that acceptance into The MEO has been deferred until such acceptances would no longer be likely to cause the percentage to exceed 5%.

(2) Applicants who are deferred shall be placed on a waiting list in the order in which they applied, with the applicants who applied first and who are still on the waiting list being given the first openings for acceptance into The MEO. Applicants who are deferred shall remain on a waiting list until one of the following occurs: 1) they have been on the waiting list for five weeks following the week in which they submitted their application, or, 2) their remaining balance of regular benefits is less than 14 times the applicant's weekly benefits amount, or, 3) less than 14 weeks remain in their benefit year. Applicants shall be given written notification that their status has changed from deferral to not accepted.

D. Notice of eligibility to participate in MEO. Applicants must receive written notification of acceptance from the MEO Review Board prior to submitting a claim for a self-employment assistance allowance. Notice must be made within a reasonable time frame. Participation takes effect with the week following notification. Participants shall begin filing an SEA weekly claim form as of the week following notification of acceptance into MEO.

3. Standards for approval of self-employment assistance activities.

The following standards shall be used in determining which self-employment assistance programs will be approved:

A. The emphasis of training shall be of a practical, non-academic, nature.

B. A participant's training needs will be determined after an assessment of his or her application for the MEO. The program which is developed for the participant will provide training which will give the participant a reasonable opportunity of succeeding in self-employment.

4. Claims for self-employment assistance allowances

A. Requirements while filing weekly claims

To continue receiving a self-employment assistance allowance, MEO participants shall:

(1) File a weekly SEA claim form providing information on self-employment activities that include, but are not limited to:

(a) Participation in approved training.

(b) Technical assistance or counseling.

(c) Attendance at workshops and seminars.

(d) Market research.

(e) Product development.

(f) Inventory or equipment acquisition.

(g) Sales activity.

(h) Development of promotional and marketing materials.

(2) Be actively engaged on a full-time basis in self-employment assistance activities.

B. Failure to meet participation requirements. Having an unexcused absence from a training session, or failure to meet other requirements under Subsection 4, without good cause, shall result in the loss of benefits only for the week in which such absence or failure occurred.

(1) For purposes of this Rule, "good cause" shall have the same definition as is used in Maine Unemployment Insurance Commission Rules Governing the Administration of the Employment Security Law, Chapter 1(l)(T).

5. Program participation requirements.

To be eligible for continued participation in the MEO, participants shall meet the following requirements:

A. Attend an MEO approved "Introduction to Business" Seminar, as scheduled, after acceptance into the MEO. The introductory seminar is a three to five hour session that provides technical assistance and information on developing a business plan and information and referral to additional business assistance resources. As a minimum, this seminar shall cover the following topics: Developing a Business Mind Set - personal qualities required for business, personal financial requirements, setting long and short term goals for business; Forms of Business Organization - sole proprietorship, partnership, corporation; Overview and Review of the Business Plan - ­contents and purpose; Resources and Information on getting started -- next steps.

(1) If a participant does not attend an "Introduction to Business" Seminar as scheduled, he or she will be subject to possible denial of a self-employment assistance allowance for the week in which the Seminar was scheduled. If a participant fails to attend a second Seminar as scheduled, he or she will be subject to possible termination from the MEO; and

B. Meet at least two times with a qualified business counselor during the course of participation in MEO. Participants must meet initially within six weeks of acceptance into the program. This initial meeting is intended to assist MEO participants in setting out a "plan of action" for their self-employment assistance activities, and to guide the participant in developing a written business plan that includes at a minimum: Statement of purpose or mission; Business description; Marketing plan; One year cash flow projections; Operations plan.

(1) If the participant is unable to meet with a qualified business counselor within six weeks of acceptance, after having made a good faith effort to do so, and such failure to meet was due to factors beyond the participant's control, such failure shall not subject the participant to possible termination from the MEO; and

C. Participate in approved training as described in section 1(I). Attendance at training must be verified in writing by the instructor, the responsible training coordinator/attendant if training is delivered via ITV (Interactive television), or by the Local Enterprise Coordinator if training is received through self-directed video or other electronic delivery system; and

(1) If a participant does not attend a Business Training class as scheduled, he or she will be subject to possible denial of self-employment assistance allowance for the week in which the class was scheduled. If a participant fails to attend a second class as scheduled, he or she will be subject to possible termination from the MEO; and

NOTE: Business training for MEO participants should contain the following objectives and topic areas:

Marketing - how to develop a marketing plan, completion of first draft of a marketing plan

Personal Effectiveness and Selling - understanding the importance of effective selling and the key factors involved in selling; improving personal effectiveness, sustaining motivation and a positive outlook

Cash Flow Projections and Financial Statements - learning how to determine start-up capital needs, break even point, understanding financial terminology and evaluating financial return and feasibility

Financing - Examining sources of financing, understanding lending requirements and the relationship of business planning to financing

Record Keeping and Taxes - Understanding fundamentals of record keeping, establishing initial accounting system, understanding the types of taxes that pertain to small business

Legal and Insurance Issues - Understanding legal requirements for establishing a business, criteria for selecting legal forms of business ownership, understanding areas of liability and risk, developing an awareness of insurance requirements, understanding contracts

D. Participate in a periodic eligibility review process as scheduled by the Review Board. The purpose of the review is to assess progress towards business start-up and compliance with self-employment assistance activities and other MEO requirements; and

E. Demonstrate progress towards business start-up. Benchmarks indicative of progress include but are not limited to: established business bank account, developed record-keeping system, acquired necessary equipment, supplies or inventory, developed promotional materials, developed a written business plan, including financial projections, cash flow, break even analysis, profit and loss and balance sheet statements, established pricing structure, provided for insurance and other liability issues.

6. Termination from MEO program

A. Voluntary termination. MEO participation is voluntary and may be terminated at the request of the individual claimant at any time. To withdraw from the program, an individual shall indicate his or her desire to withdraw on the weekly self-employment assistance allowance claim form. Voluntary termination shall be effective with the Sunday of the week following the claim week on which voluntary termination is elected.

B. Termination by Review Board. An MEO participant may be removed from the MEO program if found to be in non-compliance with the program participation requirements contained in this Rule and in 26 M.R.S.A. Section 1197. Notification of termination shall be made in writing and shall be effective as of the week following the week in which such notification is mailed to the participant.

(1) The following may result in termination from the MEO program:

(a) Failure to attend two scheduled "Introduction to Business" or "Business Planning" Seminars.

(b) Having two or more unexcused absences from training sessions.

(c) Failure to attend two or more scheduled meetings with a business counselor.

(d) Failure to meet program participation requirements contained in Section 5.

(e) Failure to pursue self-employment assistance activities as defined in 26 M.R.S.A. Section 1197.

C. Continued eligibility for regular unemployment benefits. The eligibility for benefits of an individual who either withdraws voluntarily from the MEO program or who is terminated by the Review Board will be determined in accordance with the provisions of 26 M.R.S.A. Chapter 13 (other than Section 1197) effective with the week following either voluntary termination or the mailing of notification of termination.

7. Program operations

A. Review Board. The commissioner shall appoint a Review Board consisting of two members. The Review Board shall include a representative of the Department of Labor and a representative of a community based organization with knowledge and experience in small and micro‑enterprise development, or a representative of a private financial institution.

Review Board members shall serve without remuneration for three year terms renewable at the request of the commissioner. Duties of the Review Board include:

(1) to review individual applications for conformance with individual eligibility criteria contained in section 2(A) and criteria established for allowable business activity as defined in section 1 (E).

(2) to forward written notice of acceptance or non-acceptance into MEO to the applicant and to the Department of Labor.

(3) to conduct periodic reviews of MEO participants' progress towards establishing a business or becoming self-employed and compliance with program requirements for continued eligibility. Reviews shall be based in part on information supplied on the weekly claim form, but may include other information provided by the participant, such as elements of a business plan.

(4) to determine non-compliance on the part of MEO participants and to inform them in writing of the reasons for non-compliance and the effective date of their removal from the MEO program in accordance with section 6.

B. Self-Employment Assistance Program Services: The commissioner of the Department of Labor may contract for services that include all or part of the following components: coordination and management, outreach and orientation to MEO; Introduction to Business Planning Workshops; Business Training; individual business counseling; other workshops and seminars.

C. Local Enterprise Coordinators: Each local Department of Labor office shall have a staff representative designated and trained as the Local Enterprise Coordinator (LEC). The LEC at each office shall be responsible for presenting the MEO Orientation, and making the application and other information available to UI claimants who may meet the profiling requirements of the program. LEC's shall also serve as the local contact for program participants.

8. Appeal procedure

An individual who is not accepted into the MEO program can file an appeal. Such appeals shall be processed under the appeal procedures specified in 26 M.R.S.A. section 1197, sub-section 8-B. The commissioner may contract with the Division of Administrative Hearings or another qualified organization to hear appeals related to nonacceptance into the MEO.

9. Other appeals

Any other appeals under this Rule other than an appeal as described in Section 8 shall be processed under 26 M.R.S.A. Section 1194(2).

STATUTORY AUTHORITY: 26 M.R.S.A. Section 1197

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