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Policy: PY20-02 CHANGE 1 DISLOCATED WORKER STATUS
To: Local Workforce Boards; Chief Elected Officials; Title IB and Title III Service Providers
From: Kimberley Moore, Bureau Director
Issued On: 11-08-2022
Status: ACTIVE
Authority: WIOA Secs. 3(15), 3(16), 134(c)-(d) and 170; 20 CFR §680.130, §680.200-230, & §687
TEGL 19-16, TEGL 04-18, TEGL 16-21 and TEGL 22-19
Acronyms: DW: Dislocated Worker NDWG: National Dislocated Worker Grant

✓ Please refer to PY22-02 for guidance on the QUEST DWG, which is separate from this policy.

Purpose: To provide updated guidance to program administrators, one-stop operators, and service providers regarding determining participant status as dislocated workers and types of eligibility for the formula-funded Dislocated Worker program and both types of National Dislocated Worker Grants (NDWGs).

Background: Eligibility criteria for dislocated workers as defined in WIOA Sec. 3(15) is restated below. This definition pertains to all dislocated worker funding streams; however, some National Dislocated Worker Grants allow for expanded participant eligibility criteria to ensure those most severely impacted by the disaster can receive services. Such grants may refer to the expanded participants as “other eligible populations.”

FORMULA DISLOCATED WORKER PROGRAM

Dislocated workers who meet the following are eligible for the formula funded Dislocated Worker program and all NDWGs.

A dislocated worker is an individual who:

1. Has been terminated or laid off, or has received a notice of termination or layoff from employment
and
 - a. is eligible for or has exhausted entitlement to unemployment compensation; **or**
 - b. has been employed for a duration sufficient to demonstrate attachment to the workforce but is not eligible for unemployment compensation due to insufficient earnings (*i.e.: did not work long enough with the company to establish a benefit year*) or worked for an employer not covered under State unemployment compensation law (*i.e.: employed in certain agricultural positions*); **and**
 - c. is unlikely to return to a previous industry or occupation.

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2. Has been terminated or laid off, or has received a notice of termination or layoff from employment:
 - a. as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; **or**
 - b. is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; **or**
 - c. for the purposes of eligibility to receive career services, is employed at a facility at which the employer has made a general announcement that such facility will close.
3. Was self-employed (including employment as a farmer, rancher, or fisherperson) but is unemployed as a result of general economic conditions in the community in which the individual resides, **or** because of natural disasters;
4. Is a displaced homemaker; **or**
5. Is the spouse of a member of the Armed Forces who is on active duty, **and**
 - a. 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**
 - b. who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment;

Determining a DW is unlikely to return to their previous industry or occupation:

The list below identifies **some** factors Local Boards and service providers may consider when determining whether an individual is unlikely to return to a previous industry or occupation:

- The individual is likely to enter a new job that is different structurally or organizationally than his/her previous job.
- The individual is likely to enter a new job with lower seniority compared to his/her previous position.
- The individual has a gap in employment that decreases his/her chances of returning to the same level of occupation or type of job.
- There are limited employment opportunities in the occupation or industry within the local area.
- There is an excess number of workers with similar skill sets and experience in the local area.
- The individual has out-of-date or inadequate skills.
- The individual has adequate skills, but lacks a credential required by most employers.
- The individual has a barrier to employment such as a disability, medical condition, or legal issues that could prevent a return to employment in the same industry or occupation.
- An unsuccessful job search suggests the individual is unlikely to regain employment in his/ her previous occupation or industry.

Displaced Homemaker

A displaced homemaker is an individual who has been providing unpaid services to family members in the home and who:

- a. has been dependent on the income of another family member but is no longer supported by that income; **or**
- b. is the dependent 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 whose family income is significantly reduced because of a deployment (*as defined in section 991(b) of title 10, United States Code*), a call to order to active

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duty (pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code), a permanent change of station, or the service-connected death or disability of the service member; **and**

- c. is unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.

Underemployed

For the purpose of eligibility for the dislocated worker program, an underemployed individual is one who:

- a. Has been determined to be a dislocated worker as defined in WIOA Sec. 3(15);
- b. Has been dislocated from full-time employment;
- c. Is currently employed:
 - a. Part-time, seasonal, temporary; or
 - b. In a short-term survival position;
- d. Whose current earnings are below 80 percent of the earnings of their primary employment or whose current employment is not commensurate with past work experience or education level, and
- e. Is actively seeking regular full-time employment.

Staff must **document** the following information to determine “underemployed” status:

- Current employer name/location, hire date, rate of pay and hours worked; and
- Previous employer name/location, hire date, separation date, previous rate of pay and hours worked.

Self-Employed now Substantially Underemployed

An individual who is self-employed and who has experienced a 20% or greater loss of earnings from previous earning periods. Staff must document a 20% difference in current earnings versus prior earnings.

Additional steps required before WIOA can fund Dislocated Worker training services:

Dislocated workers determined to be eligible for career services must meet additional requirements to receive training funded under WIOA. To receive WIOA-funded training the following must be addressed:

- a. A one-stop center or partner has determined, after an interview, evaluation or assessment and career planning guidance, that the individual:
 - 1. is unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services alone;
 - 2. is in need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment;
 - 3. has the skills and qualifications to successfully participate in training services; **and**
- b. Has selected a program of training services that is directly linked to in-demand employment opportunities in the local area or planning region, or in another area to which the individual is willing to commute or relocate; **and**

- c. Is unable to obtain grant assistance from other sources to pay the costs of such training, including sources such as state-funded training programs, Trade Adjustment Assistance, TANF, federal PELL Grants established under title IV of the Higher Education Act of 1965, **or**
- d. Requires WIOA assistance in addition to other sources of grant assistance. Providers must coordinate funding sources in accordance with 20 CFR §680.230.

NATIONAL DISLOCATED WORKER GRANTS

NDWGs provide time-limited, discretionary funding to states and local areas impacted by major economic dislocations who can demonstrate the need for additional funds to provide services to affected workers. There are two types of NDWGs: Employment Recovery and Disaster Recovery.

EMPLOYMENT RECOVERY DWGs

Employment Recovery DWGs provide additional resources to states and other eligible applicants to address large layoff events for which the financial need exceeds available formula funds. A minimum of 50 affected workers requiring career and training services must be included in the application. Qualifying events include plant closures, mass layoffs, industry-wide layoffs, and community-impact situations where multiple small layoffs over a period of 12 months have resulted in significantly increased numbers of unemployed individuals in the region.

Eligible Participants for Employment Recovery DWGs:

- A dislocated worker as defined in WIOA Sec. 3(15);
- A civilian employee of the Department of Defense or Department of Energy employed at a military installation that is being closed or realigned within the next 24 months;
- An individual who is employed in non-managerial position with a Department of Defense contractor and who is determined by the Secretary of Defense to be at risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or
- A member of the Armed Forces who:
 - a. Was on active duty or full-time National Guard duty;
 - b. Is involuntarily separated (as defined in section 1141 of title 10 U.S.C.); or is separated pursuant to a special separation benefits program under 10 U.S.C. 1174a, or the voluntary separation incentive program under section 1175 of that title;
 - c. Is not entitled to retired or retained pay incident to the separation described in (b) above; and
 - d. Applies for employment and training assistance within 180 days of that separation.

DISASTER RECOVERY DWGs:

Disaster Recovery DWGs provide resources to states to deliver humanitarian assistance services necessary to minimize the employment and economic impact of declared disasters and emergency situations. Qualifying events include major disasters declared by FEMA as eligible for public assistance and/or emergencies and disaster situations of national significance that could result in potentially large loss of employment as declared in writing by the chief official of a federal agency with jurisdiction over the federal response to the disaster or emergency. Unless otherwise identified in USDOL guidance, disaster recovery grants require the hire of disaster relief workers.

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Eligible Participants for Disaster Recovery DWGs:

An individual eligible to receive services through a Disaster Recovery DWG must be:

1. A dislocated worker as defined in WIOA Secs. 3(15) or 3(16);
2. Temporarily or permanently laid off as a result of the disaster;
3. A long-term unemployed worker; or
4. A self-employed individual who became unemployed or significantly underemployed as a result of the disaster or emergency.

Long-Term Unemployed*

A long-term unemployed individual, is a dislocated worker who:

1. Was once employed (i.e.: once in the labor force);
2. Has been unemployed for 27 consecutive weeks or longer; *and*
3. Is actively seeking employment; or
4. Had been actively seeking employment at time of initial dislocation but became discouraged.

**Note: Veteran's Program Letter 3-14 Change 1 – cites the definition of LTU for veterans as a veteran who has been unemployed for 27 weeks within a 12-month period -whether consecutive or not.*

Dislocated workers affected by **COVID-19** also include those laid off, let go, or left employment because:

- a. Of a quarantine;
- b. They had to miss work to care for a family member;
- c. They cannot come to their regular workplace due to social distancing requirements;
- d. Their place of employment closed due to disruptions caused by the outbreak and efforts to contain it.

Documenting DW Status

Status	Method of Documenting Status
Actively seeking employment	Active in Maine JobLink, Job Search Log, Self-Attestation
Displaced Homemaker	Spouse Layoff Notice, Spouse Death Record, Divorce Records, Self-Attestation
Layoff Notice	Employer Letter, Closure Notice, Rapid Response List, Trade Determination, UI Fact Finding, Staff-Attestation, Self-Attestation
Long-term Unemployed	UC Benefits Statement, Staff-Attestation, Self-attestation
Military Separation	DD214
Military Spouse DW	Marriage license, Military Orders-change in Station, Military ID, DD-215, Self-Attestation
Self-Employed no longer due to economy or disaster	Quarterly or Annual Tax Statements or Returns, Business Permit/License, Declaration of Disaster, Self-Attestation
UC Eligible	UC Benefits Statement, BUC Determination, Staff-Attestation confirmed w/ BUC
Underemployed	Documentation of: Current employer, hire date, rate of pay and hours worked; and prior employer, hire date, separation date, previous rate of pay and hours worked. For self-employed now significantly underemployed, documentation of prior earning and current earnings showing a minimum 20% loss of income via Quarterly or Annual Tax Statements or Returns, Self-Attestation

Submit questions to: virginia.a.carroll@maine.gov

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