

Governor's Workforce Investment Division Policy No. 31-04

OBJECT: Implementation of Veterans Priority under the 'Jobs for Veterans Act'

EFFECTIVE: December 15, 2004

Purpose: To provide policy to local workforce investment boards (LWIBs) and other affected entities regarding implementation of the priority of service provisions of the 'Jobs for Veterans Act'

Reference: 'Jobs for Veterans Act', PL 107-288; United States Department of Labor Training and Employment Guidance Letter 5-03; 20 CFR Sections as noted

Background: The 'Jobs for Veterans Act' calls for priority of service to be given to veterans (and certain qualifying spouses) who otherwise meet eligibility requirements for participation in training programs administered by the United States Department of Labor (DOL). These programs include, but are not limited to, all Workforce Investment Act (WIA) adult, dislocated worker, and youth programs, Wagner-Peysner services, Trade Act programs, and National Emergency Grants.

Many DOL programs have only general program eligibility requirements and do not target specific participant groups. However, for programs such as WIA-funded Adult and Youth programs, the veterans priority will compete with existing statutory priorities that favor certain population groups that must still be taken into consideration when applying priority of service rules. Application of priority of service rules is discussed in more detail below.

Policy: The 'Jobs for Veterans Act' provides for priority of services for 'covered persons' for DOL-funded programs. A 'covered person' is entitled to and must be given priority over non-covered persons for the receipt of employment, training and placement services if the person otherwise meets the eligibility requirements of a particular program. Covered individuals are given priority over non-veterans for all available services if they otherwise meet the eligibility requirements of a particular program.

The term 'covered person' includes anyone who is a veteran. The term 'covered person' also includes spouses of veterans that fall into the following categories:

1. any veteran who died of a service-connected disability;
2. any member of the armed forces on active duty who, at the time of the spouse's application, is listed in one or more of the following categories and has been so listed for more than 90 days: a) missing in action, b) captured in the line of duty by a hostile force, or c) forcibly detained or interned in the line of duty by a foreign government or power;
3. any veteran who has a total disability resulting from a service-connected disability; or
4. any veteran who died while a disability so evaluated was in existence.

For programs that have existing statutory priorities that target certain groups, such as WIA Adult and Youth programs, veterans priority is applied to covered persons that meet program criteria. Thus, an individual meeting both the veterans priority and the program requirements would receive the highest priority for WIA Youth or Adult services over a non-covered person satisfying the program requirements.

For programs that do not target specific groups, such as the WIA Dislocated Worker program, the veterans priority is given to those that first meet the program's existing eligibility requirements. Thus, a covered person would receive priority for services over a non-covered individual only after satisfying the Dislocated Worker program's eligibility requirements.

In cases where targeting of a particular group is discretionary and not required by law, such as in the case of local policy, veterans priority takes precedence over the discretionary priority group.

Specific issues for all three WIA funding streams (Adult, Dislocated Worker, and Youth) are addressed in more detail below. First, however, it should be noted that local programs are not required to change their allocations among services to reserve funds for veterans, but are required to ensure that eligible veteran workers (covered persons) are given priority over non-veterans for available services.

Adult Programs

All services provided under the adult funding stream will provide for priority of service to covered persons. Currently, the WIA (Section 134(d)(4)(E)) and its accompanying regulations (20 CFR Section 663.600) requires that when funds allocated to the local area for adult activities is limited, priority for intensive and training services funded with title I adult funds must be given to recipients of public assistance and other low-income individuals in the local area. The application of the veterans priority, however, requires that when local adult funds are limited and it is necessary to implement "priority of service" policies for the provision of intensive and training services (including Individual Training Accounts) to program-eligible adults, veterans priority as well as priority for public assistance recipients and low income individuals will be considered. Thus, the following sequence of services will apply:

1. First priority will be provided to recipients of public assistance and other low-income individuals in the local area who are also covered persons with respect to veterans priority;
2. Second priority will be provided to recipients of public assistance and other low-income individuals in the local area;
3. Third priority will be covered persons (these would be covered persons not considered to be recipients of public assistance or low-income);
4. Other local discretionary target population groups.

In the event a LWIB claims that adult funds are not limited, all services, including intensive and training services, must still be provided such that covered persons receive priority of non-covered persons.

Dislocated Worker Programs

All services provided under the dislocated worker funding stream will provide for priority of service to covered persons. The WIA and its accompanying regulations (20 CFR Section 663.610) hold that dislocated worker funds are not subject to the same requirements as adult funds with regard to priority of service to public assistance recipients or low-income individuals. However, the veterans priority must be considered. Thus, covered individuals will receive priority over non-covered individuals for the provision of services funded under the dislocated worker funding stream.

Youth Programs

All services provided under the youth funding stream will provide for priority of service to covered persons. The WIA and its accompanying regulations (see especially 20 CFR Part 664) generally provides youth funds to service low-income youth age 14 to 21 with one or more barriers to employment. At least thirty percent (30%) of local area funds must be used to serve out-of-school youth. The application of the veterans priority does not change these requirements. Thus, in providing services to both in and out of school youth priority must be given to any covered individuals who qualify under the WIA eligibility requirements.

Other Information Regarding Veterans Priority

There are other items that must be addressed with regard to veterans' priority. These are addressed below.

Currently, it does not appear that DOL performance standards will be developed regarding services to veterans. However, the 'Jobs for Veterans Act' requires DOL to report annually on issues such as whether veterans are receiving priority of service in DOL programs and whether the representation of veterans in such programs is proportional to the number of veterans in the labor market. Thus, even if performance standards are not developed, collecting additional information on veterans may be a part of this effort. Any actions necessary on the part of LWIBs or other affected parties with regard to these data collection procedures will be addressed as needed.

Another issue to be addressed is the impact of veterans priority on non-DOL federal funds or non-federal funds used in workforce development initiatives. The veterans priority applies to any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the DOL. To the extent these programs are funded at least in part by DOL funds, the veterans priority applies.

It should also be noted that there are instances where co-enrollment of WIA participants may be impacted. For instance, there may be some federal programs (those not funded by DOL and thus not subject to the 'Jobs for Veterans Act') where individuals to whom these programs refer to WIA must defer to covered individuals who are first in line. Conversely, there may be covered individuals referred by WIA to other programs must defer to statutory or policy mandates not subject to the 'Jobs for Veterans Act'. While it is expected that most co-enrollments can be accommodated locally, there may be rare situations where this ability is negatively impacted.

The implementation of the 'Jobs for Veterans Act' will have an impact on contracts and other documents. All Requests For Proposals (RFPs), Solicitations of Grant Awards (SGAs), sub-grants, sub-contracts and (where feasible) memoranda of understanding (where feasible) or other service provision agreements must be administered in compliance with the veterans priority provisions.

Another issue is that of outreach efforts, written materials and other methods of communication. All such outreach efforts, written materials, and web sites must express and implement a priority of service to covered individuals.

Finally, there is the issue of state and local plan modification. The implementation of the veterans priority will constitute a significant change such that it may be necessary to request a modification of both state and local workforce investment plans where these provisions are not currently included. These modifications will be subject to the public comment requirements typical of all such plan modifications.

Action: LWIBs should take whatever action is necessary to comply with this policy. This policy should be placed with other policies promulgated by the GWID and /or its predecessors in the binder or other filing mechanism used to maintain an updated collection of state policy issuances.

Questions: Contact the Governor's Workforce Investment Division, 1900 Kanawha Blvd. East, Building 6, Room B-617, Charleston, WV 25305. Toll free telephone number is 877-967-5498.

Expiration: Effective until rescinded by the West Virginia Workforce Investment Council.