



DWD Issuance 09-2008

Issued: Jan. 20, 2009
Effective: Jan. 19, 2009

Subject: Priority of Service to Veterans

1. Purpose: To implement new procedures regarding the priority of service for veteran customers of Missouri Career Centers.
2. Background: The Jobs for Veterans Act (JVA) of 2002 created a priority of service requirement for all qualified DOL job-training programs. “Qualified job training programs” are defined by the law as “any workforce preparation, development or delivery program or service that is directly funded, in whole or in part, by the Department.” While the regulations and data collection is new, priority of service has been a requirement since 2002. The rule becomes effective January 19, 2009.
3. Substance: This Issuance provides initial guidance regarding Priority of Service. More information will be forthcoming from the U.S. Department of Labor and updates will be provided accordingly. The attachment is a statement of current federal guidance that serves as an implementation plan for applying veterans priority in Career Center operations and service delivery.
4. Action: Effective January 19, 2009, all Missouri Career Center staff and other program operators must begin to plan actions to ensure full compliance with the guidance provided.
5. Contact: Direct questions or comments regarding this issuance to Rodney Henry, DWD Veterans Service Coordinator, at 573.526.9762 or rodney.henry@ded.mo.gov.
6. Reference: The Jobs for Veterans Act of 2002; Title 38 U.S.C. 101(2)§ 1010.110
7. Rescissions: None
8. Attachments: Veterans Priority of Service Plan

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DWD Issuance 09-2008, Attachment 1: Veterans Priority of Service Plan

Priority of Service Defined

Priority of Service is defined as the right of eligible covered persons to take precedence over eligible non-covered persons in obtaining DOL-funded services. This means:

- The covered person receives access to the service or resource earlier in time than the non-covered person; or
- If the service or resource is limited, the covered person receives access to the service or resource instead of or before the non-covered person.

It is important to understand that Priority of Service does not change the intended function of a program or service. Covered persons must meet all statutory eligibility and program requirements for participation in order to receive priority for a program or service.

Terminology

- *Covered person* – The regulations adopt and apply this statutory term, which includes *eligible spouses*, as defined by the statute, and *veteran*, as defined by the regulations.
- *Veteran* – The regulations specify that the definition for *veteran* specified at 38 U.S.C. 101(2) apply across all qualified job-training programs for the purpose of priority of service. That definition includes two key criteria:
 - Service in the active military, naval, or air service; and,
 - Discharge under conditions other than dishonorable.
- The definition of *veteran* specified by the regulations for priority of service is functionally equivalent to the definition enacted by the Workforce Investment Act (WIA) and codified at 29 U.S.C. 2801(49)(A).

Identifying and Informing Covered Persons

The regulations require all recipients of funds for qualified job training programs to identify at the *point of entry* those covered persons who physically access service delivery points or who access virtual service delivery programs or Web sites in order to provide covered persons with timely and useful information on priority of Service at the point of entry. That information includes:

The regulations require all recipients to implement policies to ensure that covered persons are aware of the following:

1. Their entitlement to priority of service;
2. The full array of programs and services available to them; and,
3. Any applicable eligibility requirements for those programs and/or services. Only statutory requirements are applicable.

Eligibility

Veterans' Priority of Service applies to both veterans and certain eligible spouses. To qualify as a veteran an individual must have served in "active military, naval or air service and been released with other than a "dishonorable" discharge.

Active duty for training, and inactive duty for training relevant to National Guard and Reserve members does not fit the definition of veteran. Full-time National Guard and Reserve duty, other than full-time duty for training purposes, qualifies as active duty. For DOL programs other than the LVER/DVOP programs, there is no length of service requirement for qualification as a veteran.

Eligibility for LVER/DVOP programs services require 181 days or more on active duty for other than training purposes to qualify for services; or that the individual was released because of a service connected injury or was called up under Title 10 authority.

A spouse may qualify as a covered person if they are the spouse of one of the following:

1. Any veteran who died of a service connected disability;
2. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
 - (i) Missing in action;
 - (ii) Captured in line of duty by a hostile force; or
 - (iii) Forcibly detained or interned in line of duty by a foreign government or power;
3. Any veteran who has a total disability resulting from a service connected disability, as evaluated by the Department of Veterans Affairs;
4. Any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence. For a spouse whose eligibility is derived from a living veteran or service member, that eligibility is lost upon divorce from the veteran or service member.

The definition of a qualified spouse is identical to the definition utilized for the LVER/DVOP and such individuals are eligible for services from the LVER/DVOP.

Implementing Priority of Service

- The regulations provide that priority of service mean the right of eligible covered persons to take precedence over eligible non-covered persons in obtaining services. They further specify that taking precedence may mean:
 - The covered person receives access to the service or resource earlier in time than the non-covered person; or
 - If the service or resource is limited, the covered person receives access to the service or resource instead of or before the non-covered person.
- The regulations specify how priority of service is to be applied across three different types of qualified job training programs:

- Universal access programs that do not target specific groups;
- Discretionary targeting programs that focus on certain groups but are not mandated to serve target group members before other eligible individuals; and,
- Statutory targeting programs that are mandated by federal law to provide priority or preference to certain groups.
- State and local program operators do not have the discretion to establish further priorities within the overall priority established by the regulations. For instance, a disabled veteran does not take priority over non-disabled veterans or an honorable discharge over a bad conduct discharge, etc. Priority of Service does not permit establishing tiers of veterans.

Application

The regulations specify how priority of service is to be applied across three different types of qualified job training programs:

Universal access programs that do not target specific groups include such programs as WIA Adult State Formula Funded Grants and Wagner-Peyser State Formula Funded Grants. Veterans and eligible spouses receive the first level of priority in universal access programs.

1. Discretionary targeting examples include National Emergency Grants, Prisoner Reentry Grants, High Growth and Community Job Training Grants, Office of Disability Employment Program Grants, and Women’s Bureau Grants. Priority of service is applied by:
 - a. Covered persons receive the highest priority, then
 - b. Non-covered persons within the discretionary targeted group, then
 - c. Non-covered persons outside of the discretionary targeting

When the program has discretionary target groups, priority is applied before the discretionary factor is applied.

2. *Statutory targeting programs* that are mandated by federal law to provide priority or preference to certain groups: Such programs include Senior Community Service Employment Program, WIA Dislocated Worker Formula Funded Grants, WIA Youth Formula Funded Grants, National Farm worker Job Training Grants (NFJP), Indian and Native American Program Grants and Job Corps. Under these programs, priority goes first to:
 - a. Covered persons who meet program’s mandatory priorities, then
 - b. Non-covered persons who meet program’s mandatory priorities, and finally
 - c. Covered persons outside the program’s mandatory priorities

For those programs that have income guidelines, it is important to remember that regulations at 20 CFR 667.255 states that, “any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded. This applies when determining if a person is a ‘low-income individual’ for eligibility purposes.”

Under the regulation, we have the responsibility to ensure that DWD, contractors and any sub-contractors implement priority of service. This means that funding recipients must include priority of service and its associated data collection and reporting requirements in all requests, awards, sub-grants, sub-contracts, or MOU's.

For a service such as classroom training, priority of service applies to the selection procedure, as follows. First, if there is a waiting list for the formation of a training class, priority of service is intended to require a veteran or eligible spouse to go to the top of that list. Second, priority of service applies up to the point at which an individual is both: a) approved for funding; and, b) accepted or enrolled in a training class. Therefore, once a non-covered person has been both approved for funding and accepted/enrolled in a training class, priority of service is not intended to allow a veteran or eligible spouse who is identified subsequently to "bump" the non-covered person from that training class.

Responsibilities of States and Localities

States must develop policies for the delivery of priority of service by the State Workforce Agencies, Local WIBs, and One-Stop Career Centers for all qualified job-training programs delivered through the State's workforce system. State policies must require Local Workforce Investment Boards to develop and include in their strategic local plan, policies for service delivery by local One-Stop Career Centers and for service delivery by local workforce preparation and training providers.

Local WIBs must implement policies to ensure that covered persons are aware of the following:

- Their entitlement to priority of service;
- The full array of programs and services available to them; and,
- Any applicable eligibility requirements for those programs and/or services.

Priority of service requirements apply to all DOL employment and training service delivery programs. Data collection and reporting is required for those programs serving 1000 or more covered persons per year over the three most recent years. Those programs are identified as Wagner-Peyser, WIA Adult, WIA Dislocated Worker, WIA National Emergency Grant, and Senior Community Service Employment Programs.

State and Local Plans

All recipients of DOL funding are required to ensure that all sub-recipients apply priority of service. All program activities, including those obtained through requests for proposals, solicitations for grant awards, sub-grants, contracts, sub-contracts, and (where feasible) memoranda of understanding or other service provision agreements, issued or executed by qualified job training program operators, must be administered in compliance with priority of service.

At the State level, we are required to address priority of service in our strategic plan for the State's workforce investment system. Specifically, we must develop policies for the delivery of

priority of service by the State Workforce Agency or Agencies, Local Workforce Investment Boards, and One-Stop Career Centers for all qualified job-training programs delivered through our workforce system.

Our policy or policies must require Local Workforce Investment Boards to develop and include in their strategic local plan, policies implementing priority of service for the local One-Stop Career Centers and for service delivery by local workforce preparation and training providers. These policies must establish processes to ensure that covered persons are identified at the point of entry so that covered persons are able to take full advantage of priority of service. The processes must ensure that covered persons are aware of the following:

- (1) Their entitlement to priority of service;
- (2) The full array of employment, training, and placement services available under priority of service; and
- (3) Any applicable eligibility requirements for those programs and/or services.

Written copies of local priority of service policies will be maintained at all service delivery points and, and to the extent practicable, should be posted in a way that makes it possible for members of the general public to easily access them.

Priority does not apply to Career Centers only. Program operators are required to ensure that priority of service is applied throughout their respective service delivery systems, including service delivery points maintained by all sub-recipients. It is expected that program operators will monitor local service delivery operations to ensure that their internal policies and procedures result in compliance with the priority of service requirements.

Proof of Status

Verification of the status of a veteran, or eligible spouse, will not be required at the point of entry, unless the individual who self-identifies as a veteran or eligible spouse: a) is to immediately undergo eligibility determination and be registered or enrolled in a program; and, b) the applicable federal program rules require verification of veteran or eligible spouse status at that time. Even in those instances in which eligibility determination and enrollment occur at the point of entry, a veteran or eligible spouse should be enrolled and provided immediate priority and then be permitted to follow-up subsequently with any required verification of his or her status as a veteran or eligible spouse. For programs or services that cannot rely on self-attestation (e.g. classroom training), verification only needs to occur at the point at which a decision is made to commit outside resources to one individual over another. In contrast, the commitment of program staff effort does not require verification of status by a veteran or eligible spouse. For example, if a veteran or eligible spouse self-identifies, program staff will any appropriate intensive services, while permitting the veteran or eligible spouse to follow-up subsequently with verification of his or her status.

Monitoring Compliance with Priority of Service

- DOL will monitor recipients of funds for qualified job training programs to ensure that covered persons are made aware of and provided priority of service.
- The Veterans' Employment and Training Service (VETS) and the DOL agency responsible for administering the program will perform monitoring jointly.
- If monitoring identifies non-compliance with priority of service, the results of the monitoring: 1) will be handled in accord with each program's compliance review procedures; and, 2) may lead to imposition of a corrective action plan.

Data Collection and Reporting on Priority of Service

- The regulations refer to covered persons at the point of entry as *covered entrants*.
- Those qualified job-training programs that have served an average of 1,000 or more covered persons per year over the three most recent years of operation are required to collect and report data on covered entrants.
- Six programs currently meet the size threshold for reporting on covered entrants: 1) WIA Adult; 2) WIA Dislocated Worker; 3) National Emergency Grants; 4) Wagner-Peyser State Grants; 5) Trade Adjustment Assistance (TAA); and, 6) Senior Community Service Employment Program.
- The Information Collection Request (ICR) accompanying the regulations provides that those programs that meet the size threshold will be required to: a) implement reporting on covered entrants; and, b) apply the new definitions for veterans and eligible spouses in their existing reporting on covered participants.
- The ICR further provides that programs below the size threshold will be required to apply the new definitions for veterans and eligible spouses in their existing reporting on covered participants.