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DEPARTMENT OF LABOR AND EMPLOYMENT WORKFORCE DEVELOPMENT PROGRAMS

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Category: Workforce Investment Act
Subject#: Guidelines for Implementing Colorado HB 1023
Source: Federal/State
Revise/Replace:
Contact: Workforce Development Programs Director
Distribution: Managers, Workforce Development Staff, Workforce Region Directors, Fiscal
Colorado One-Stop System Policy Guidance Letter#: 06-07-WIA
Date: August 7, 2006

I. REFERENCE(S):

Title I of the Workforce Investment Act (WIA) of 1998, Section 136 (d); WIA Final Rules – 20 CFR Parts 667.300, published at 65 Fed. Reg. 49429 (August 11, 2000); Wagner-Peyser Act of 1933 and related regulations; Trade Adjustment Assistance Act and related regulations; and Colorado House Bill 06-S – 1023.

II. PURPOSE:

To provide guidelines for the implementation of HB1023 requiring the determination of citizenship or legal immigration status for provision of program services to individuals 18 years of age or older.

III. BACKGROUND:

During July 2006, a Special Session of the Colorado Legislature passed HB1023 for the purpose of restricting non-emergency public benefits to individuals who are lawfully present in the United States. This legislation applies to the Wagner-Peyser, WIA, and TAA program services delivered by the workforce regions and their subcontractors. In addition, the Colorado Department of Labor must implement this legislation for all other workforce programs it administers such as Unemployment Insurance benefits, Trade Readjustment Allowance benefits, WOTC, etc. Local governments are similarly responsible for implementing this legislation for other locally operated programs.

The provisions of HB1023 apply to all individuals who are newly enrolled for program services after August 1, 2006, and who are 18 years of age or older at the time of the enrollment. Requirements of this law are not retroactive to currently registered or enrolled participants. The following section details the procedures and processes for insuring compliance with the new law.

IV: POLICY/ACTION:

A. WIA Adult, Dislocated Worker, Youth, and Discretionary Program Participants; State Displaced Homemaker Grant Participants

Beginning with the issuance of this PGL, all new WIA applicants must complete and sign the “Affidavit of Immigration Status” form (**PGL attachment 1**) during the intake process. The intake worker or case manager should:

- Instruct the applicant that the Affidavit must be completed and signed (**and one of the specified forms of documentation provided**) before WIA services can be provided.
- Inspect the documentation presented by the Applicant and verify that the identifying number (*e.g.*: valid Colorado driver’s license number) is correctly entered on the Affidavit.
- Upon acceptance of the signed Affidavit, make a copy for the Applicant. Retain the original in the Applicant’s case file. There is no requirement to retain a copy of the ID documentation, although a copy may be required for WIA eligibility purposes.
- Proceed with entry of the WIA application and ES registration (if necessary) in JobLink, insuring that the applicant name in JobLink matches the name on the documentation provided with the Affidavit of Immigration Status.
- Forward the Affidavit to the State MIS Unit via FAX (303 318 8930). **NOTE:** Affidavits can be batched and faxed once a week on Fridays.
- Once changes to JobLink are made to incorporate information from the affidavit, it will no longer be necessary to FAX the hard copy to the State MIS Unit.

B. TAA Participants

Beginning with the issuance of this PGL, all new TAA applicants must complete and sign the “Affidavit of Immigration Status” form (PGL attachment 1) at the first meeting with the TAA counselor. TAA counselors should:

- Instruct the applicant that the Affidavit must be completed and signed (**and one of the specified forms of documentation provided**) before TAA services can be provided.
- Inspect the documentation presented by the Applicant and verify that the identifying number (*e.g.*: valid Colorado driver’s license number) is correctly entered on the Affidavit.
- Upon acceptance of the signed Affidavit, make a copy for the Applicant. Retain the original in the Applicant’s file. There is no requirement to retain a copy of the documentation.
- Proceed with entry of the TAA application and ES registration (if necessary) according to the “initial contact” procedures in the TAA eHandbook, Desk Aid 2.02.a. Insure that the applicant name in JobLink matches the name on the ID documentation provided with the Affidavit of Immigration Status.
- If applicable, proceed with the application process for TAA benefits according to the TAA eHandbook, Desk Aids 2.02a, .04, .06, .07, .08, .10 and .11.
- Forward the Affidavit to the TAA Coordinator via FAX (303 318 8932). **NOTE:** Send TRA Waivers with the Affidavit to the TRA Coordinator via FAX (303 318 8849). Do not record the waiver in JobLink.

The TRA Coordinator will verify receipt of the Affidavit before paying TRA or ATAA.

The applicant will be advised in a decision (with appeal rights) by the TRA Coordinator or TAA Coordinator of cessation or suspension of benefits resulting from the applicant's having provided unverifiable documentation of lawful presence.

An Interstate TAA Applicant is subject to the laws of the liable State (the State responsible for TRA/ATAA; see TAA eHandbook Desk Aid 2.02.g), and the requirement, if any, to produce proof of status will be imposed by the liable State.

C. Wagner-Peyser Participants

Once system changes are made, all job seekers (including Unemployment Insurance claimants) will need to provide the information required on the "Affidavit of Immigration Status" form (PGL attachment 1). This information need only be gathered once for each Wagner-Peyser client, either through JobLink or Connecting Colorado. For those whose data will be entered through JobLink, additional fields will be added to the screens so that the information can be collected. For those entering their information via Connecting Colorado, an additional page will be added to collect this information. More specific information on procedures required will be provided once system changes are made.

D. State Responsibilities for Verification

Beginning with the issuance of this PGL, information collected on the Affidavit of Immigration will be matched against data on file with the agency issuing the ID provided by the applicant. Individuals whose data do not match will be denied further services until the discrepancy is resolved. The State has the responsibility for the entire verification process.

To help minimize issues on matching, care should be taken to enter the client's name in JobLink as it appears on the ID used, whenever possible. For example, if Joseph is shown on the ID, Joe should not be entered on Job Link.

E. Procedures for Appeal of Denial of Services (Wagner-Peyser and WIA)

If a client has been denied access to services, he/she will be asked to provide documentation confirming they are the person named on the ID. For example, a client who still has her maiden name on the driver's license can provide documentation of the name change. If documentation is rejected by the state staff assigned to this process, that decision can then be appealed to the unit staff authority. If the client wishes to appeal the staff authority's decision, they can then appeal to the unit supervisor. A final appeal may be made to the Director of Workforce Development Programs, whose decision shall be final. The State has responsibility for the entire appeal process.

V. IMPLEMENTATION DATE:

Upon issuance of this PGL for all WIA and TAA participants that are 18 years of age or older, and upon completion of enhancements to JobLink and Connecting Colorado for all Wagner-Peyser participants that are 18 years of age or older.

VI. INQUIRIES:

Please direct all inquiries to your Workforce System Specialist or Larry Lemmons at Workforce Development Programs.

Thomas J. Looft, Director
Workforce Development Programs

Attachment