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**Dislocated Worker (WIOA & State)**

**Dislocated Worker Eligibility Policy and Definitions**

Summary   
The Dislocated Worker Program offers employment and training services for eligible workers who are unemployed through no fault of their own. Minnesota operates both a state Dislocated Worker program and a federal (WIOA) Dislocated Worker (DW) program. Documentation verifying the eligibility of participants is mandatory. Eligibility determination must be made prior to enrollment in the Dislocated Worker program and receipt of any career, training or supportive services.

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Policy

**Local Policy Required?** Yes. Local providers are required to have an updated policy on file that includes, at minimum, the information required by this policy. Local policies must be made available to DEED upon request, either in hard copy or electronic formats.

**General Eligibility Requirements**

Unless specifically stated (“federal only” or “state only”), the eligibility requirements for the federal and state Dislocated Worker programs are identical. To be eligible for either DW programs, an individual must meet all general eligibility requirements and must meet at least one of the eight definitions of a dislocated worker.

Individuals must meet the following eligibility criteria for the Minnesota Dislocated Worker program and/or the WIOA Dislocated Worker program:

* U.S. citizen or otherwise legally entitled to work in the United States;
* Complies with the Selective Service Registration requirements (see DEED's Selective Service Registration policy);
* Age 18 or older;
* Resident of Minnesota at the time employment ends, or was working in Minnesota at the time employment ended (state DW Program only). There are no residency requirements for the WIOA Dislocated Worker Program;
* Meets one or more of the following 8 definitions of a Dislocated Worker;
* An individual does not need to be employed full-time at the time of dislocation to be eligible for the program. This includes individuals employed at the worksite through a temporary agency contract, as a consultant, or as a seasonal worker whose employment was prematurely ended due to a closure or layoff. An applicant cannot be automatically disqualified from the Dislocated Worker Program because their job of dislocation was not considered a permanent or full-time position. Seasonal, temporary, and/or contract workers whose assignments end according to a pre-determined contract end date or who reasonably anticipate returning to the same position are not considered eligible for the program because these circumstances are not considered dislocation events.

**Definitions of a Dislocated Worker**

To be eligible for the DW program, an individual must also meet at least one of the following 8 definitions of a dislocated worker.

Additionally, under definitions #1 or #2, the individual must be laid off through no fault of their own from the “job of dislocation”. The job of dislocation is the job from which the individual lost their primary employment, and that any subsequent jobs held after that time are considered interim/stop-gap employment. The primary employment is the job the applicant has worked for at least six of the last thirty-six months (in a single occupation). If the applicant has held more than one occupation in that time period, he or she must choose which occupation the program will establish in its records. For purposes of program eligibility, a “previous occupation/industry” relates directly to the job of dislocation, not the most recent job if it is considered interim/stop-gap employment. See the Definitions section of this policy for more information on interim/stop-gap employment.

1. Traditional Layoff/General Dislocation - The individual:

* Has been terminated or laid off, or has received a notice of termination or layoff from employment; AND
* Is eligible for or has exhausted entitlement to unemployment compensation, or has been employed for a duration sufficient to demonstrate long attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under Minnesota's Unemployment Insurance law; AND
* Is unlikely to return to a previous industry or occupation; AND
* Demonstrates a long attachment to the workforce (was employed, at twenty or more hours per week, for at least six of the most recent thirty-six months in a single/primary occupation)

Local providers must define "unlikely to return to a previous industry or occupation" in local policy or adopt DEED’s definition below. Providers must cite and include the information supporting the determination of "unlikely to return" to either industry or occupation in the participant's case file. Supporting information may include, but is not limited to:

* Labor market information projections for occupation/industry;
* Analysis of limited job openings;
* Comparison of individual qualifications required for similar positions;
* Unable to perform tasks, duties in current occupation or industry; and/or
* Evidence of large numbers of layoffs in occupations/industries which create competition for few job openings.

Note: Individuals laid off on a temporary basis, with a specific recall date to return to work for 180 days or less only (i.e. the return to work is time-limited, and the individual will be permanently laid off after that time) are still eligible under this definition. In a temporary recall, the employer still clearly intends to terminate the worker after the recall period has ended. This does not apply to seasonal workers who intend to return to the same occupation when the season work resumes on an ongoing basis (i.e. the layoff would never be considered permanent, only seasonal).

2. Mass Layoff or Closure - The individual:

* Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; OR
* Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; OR
* For purposes of eligibility to receive only basic career services, is employed at a facility at which the employer has made a general announcement that such facility will close. Individuals cannot access individualize career services, training services or support services under this criteria.

Local providers must define the term "general announcement" of a plant closing in local policy. A general announcement may include, but is not limited to, a WARN notice.

An individual does not need to wait until their last day of work in order to receive Dislocated Worker program services. Once the individual has been given an individual layoff letter/notice and has been determined eligible for the program, they are eligible for all DW services. If a worker does not have an individual layoff letter/notice, but is employed at a facility where the employer has made a general announcement of a planned closure within 180 days, the worker is also eligible for all services. If the employer has made a general announcement that does not include a specific closure date, or the closure date is more than 180 days in the future, the worker is eligible to receive basic career services only. See DEED’s Allowable Activities Policy for more information on available services.

3. Self-Employed - The individual:

* Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters. This includes individuals working as independent contractors or consultants and as such are not technically employees of a firm.

Local providers may develop policies for determining the eligibility of self-employed individuals, including family members and farm workers or ranch hands, using DEED’s acceptable documentation list and/or other reasonable documentation.

4. Displaced Homemaker - The individual is:

* An individual who has been providing unpaid services to family members in the home and who—
  + Has been dependent on the income of another family member but is no longer supported by that income; or is the dependent spouse of a member of the Armed forces on active duty and whose family income is significantly reduced because of a deployment, a call or order to active duty pursuant to a provision of law, death or disability of the member and
  + Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment
  + Is a displaced homemaker (see DEED's "Homemakers Returning to Work" webpage for more information). To be eligible for the state program, the support must have ended while the individual resided in Minnesota.
  + See the definitions section below for moreinformation on state versus federal displaced homemaker eligibilityrequirements.

5. Armed Services Spouse - The individual:

* Is the spouse of a member of the Armed Forces on active duty, and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in 12 duty station of such members; OR
* Is the spouse of a member of the Armed Forces on active duty and who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

6. Armed Forces Veteran, National Guard Veteran, or Armed Forces Reserves Veteran - The individual:

* Is a separated service member with a discharge other than dishonorable in the last 36 months, who has received a notice of separation from the Department of Defense and is therefore unlikely to return to a previous industry or occupation, and is:
  + Unemployed;
  + Underemployed; or
  + Employed in a job than pays less than 80% of the individual’s active duty armed forces salary

7. Long-term Unemployed (State Only) - The individual:

* Can demonstrate a long attachment to the labor force (see definition below), but is now long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides. This may include older individuals who may have substantial barriers to employment by reason of age (State only)

8. Underemployed/Interim Employment - The individual:

* Is otherwise eligible for the Dislocated Worker program, but meets the definition of "underemployed" outlined in a local provider's policy. For instance, an individual who is dislocated from a full time job who has found part-time employment may still be considered a dislocated worker.
* Is otherwise eligible for the Dislocated Worker program, but accepted a job that provides essential, transitory income while a person participates in the DW program. Interim employment must not be with the employer that originally dislocated the worker, nor with that employer via third party contract or any other basis. Interim employment must be temporary, with a clear intent to leave the work at the completion of the program, in favor of permanent, unsubsidized employment. Interim employment does not have to be part-time; but service providers must be cautious in allowing participants to engage in employment that may preclude effective program participation, particularly if training is involved.

**Trade Adjustment Assistance Priority**

Any individual receiving a notice of termination from a work site certified for Trade Adjustment Assistance is automatically eligible for DW services. If a TAA-eligible customer seeks DW services, the service provider must enroll him/her so that they receive immediate services. Even if an individual is already working again, if s/he was laid off from a trade-certified site, is 50 or older, and is making less than his/her previous wage and no more than $50,000, that individual would be eligible for RTAA (Reemployment Trade Adjustment Assistance) and would be eligible for co-enrollment in the Dislocated Worker program. Please see DEED's TAA policy on co-enrollment for additional detail.

**Dislocated Worker Eligibility Exclusions (State Only)**

Individuals who were, at the time employment ceased, employees of a political committee, political fund, principal campaign committee, or party unit, as defined in Minn. Stat. Chapter 10A, or who were working for an organization required to file with the federal elections commission, are not eligible for the state-funded Dislocated Worker program. Individuals that fall under this category may still be served under the WIOA Dislocated Worker or WIOA Adult programs if they are otherwise eligible for those programs.

**Dislocated Worker Eligibility Disqualifications**

1. General presumption of continuing eligibility: Unless a customer takes a specific action listed in this section, he or she remains eligible for the program until he or she completes the program, exits voluntarily (e.g., relocates and chooses not to continue participating), or exits due to circumstances beyond the customer’s control (e.g., death). Providers may pre-emptively exit a customer only for the reasons stated in this policy, or after consultation with state or federal authorities.

2. Compulsory reasons for disqualifying an eligible DW customer: A service provider must immediately exit a customer if it discovers any of the following:

* The customer no longer meets one or more of the general requirements (right to work, military special service act compliance, age);
* The customer has undertaken full-time work that does not fall under a reasonable interpretation of interim/stop-gap employment or temporary recall;
* The customer, prior to layoff, accepts a buyout package that essentially qualifies the individual as a voluntary quit (can be confirmed using UI eligibility determination where the individual would be ineligible to receive UI due to a voluntary quit);
* The customer has provided false or intentionally misleading information that served as the basis for an eligibility determination;
* The customer is not in training yet but has verifiably stopped a serious search for permanent, full-time work.

3. Discretionary reasons for disqualifying an eligible DW customer: A service provider may exit a customer, at its own discretion, if it determines either of the following:

* The customer presents a direct threat to the health or safety of any employees of the service provider, or any other customers present at the service provider’s location;
* The customer is uncooperative with all reasonable attempts to work with him or her on a successful transition to permanent, full-time work

4. Documenting disqualifications: The service provider must carefully document any and all cases of disqualification.

**Priority for Services**

Priority of service must always be given to veterans and eligible spouses (including widows and widowers) for the state and federal Dislocated Worker programs.

Under WIOA, the priority of service must be applied at all times, not just when funding is limited. This applies to the State Dislocated Worker Program as well. Priority of service should be determined on an individual basis.

Local service providers must have a policy outlining how the priority of service is implemented at the local level. The criteria should apply to all dislocated workers served and ensure availability of program services throughout the program year for those who meet the priority of service.

Participants who are not in a priority of service category but who are actively enrolled in a career or training service should be allowed to complete the activity. It is not expected that non-priority of service participants must give up their place to an individual who is in a priority of service category and beginning a career and/or training service.

Individuals with Barriers to Employment (see definition below) are not included in the Dislocated Worker Priority of Service category. However, across all WIOA programs there is a focus on serving these populations. DEED encourages providers to enact local policies and processes that ensure access to quality services for Individuals with Barriers to Employment, so long as the veterans priority of service is in place at all times.

**Participant File Documentation**

Service providers must document in the individual’s case file the basis for their Dislocated Worker eligibility. Official government documentation must exist in the individual’s file for all general requirements (right to work, military special service act compliance, and age). Per DEED's policy, self-certification of citizenship or right to work is not an acceptable form of verification. For more information on what is considered acceptable documentation for the requirements in this policy, see the "Acceptable Documentation for Program Eligibility" attached to this policy.

Providers must also adhere to all of the case management and data entry requirements outlined in DEED's Case Management and Data Entry Timeliness policies.

**Definitions**

Displaced Homemaker: A displaced homemaker has slightly different definitions, depending on whether the service provider plans on using federal or state funding.

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

* has been dependent on the income of another family member but is no longer supported by that income; AND
* is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment

A displaced homemaker (state only) is an individual who has spent a substantial amount of years in the home providing homemaker services AND:

* has been dependent upon the financial support of another; and now due to divorce, separation, death, or disability of that person, must find employment to self-support; OR
* derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support.

Eligible for Unemployment Insurance: An individual who has applied for unemployment insurance and has received confirmation that they will receive benefits under state or federal unemployment insurance laws. An individual does not need to actually draw down benefits to be considered eligible. Individuals who have exhausted unemployment insurance have already proven eligibility for unemployment insurance, and are included in this definition. To document UI eligibility in a participant’s file, a case manager should provide a document showing specific benefit amounts with a reference to the participant’s name or other identifying information. For example, a “determination of eligibility letter” and/or a payment history printout establish UI eligibility.

The intent of including unemployment insurance terminology in DW eligibility policy is to ensure service to those who have truly lost their job through no fault of their own, rather than those voluntarily leaving employment or those discharged from employment for cause.

An exception may be made to allow DW eligibility even if the individual is not eligible for unemployment insurance, if the worker meets all other criteria in this definition and is not eligible for unemployment insurance due to either (a) insufficient earnings in the relevant time period or (b) having worked for an employer not covered by unemployment compensation law.

Individual with Barrier to Employment: A member of one or more of the following populations:

* Displaced homemakers;
* Low-income individuals;
* Indians, Alaska Natives, and Native Hawaiians;
* Individuals with disabilities;
* Older individuals;
* Ex-offenders;
* Homeless individuals or homeless youth;
* Youth who are in or have aged out of the foster care system;
* Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
* Eligible migrant and season farm workers;
* Individuals within 2 years of exhausting lifetime TANF eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);
* Single parents (including pregnant women);
* Long-term unemployed individuals;
* Such other groups as the Governor involved determines to have barriers to employment.

Interim/Stop-Gap Employment: A job that provides essential, transitory income and is accepted by the individual prior to and/or during participation in individualized career services or training services with the intention of ending such employment at the completion of the career or training services in favor of permanent, unsubsidized employment. Interim/stop-gap employment must not be with the employer that originally dislocated the worker, or with that employer via third party contract or any other basis, except for temporary recalls. Interim/stop-gap employment does not have to be part-time; but service providers must be cautious in allowing participants to engage in employment that may preclude effective program participation, particularly if training is involved.

Interim/stop-gap employment may not exceed the higher or either:

* 80% of their wages at the date of the dislocation; or
* The self-sufficiency threshold established by the WDA

Long Attachment to the Labor Force: Was employed, at twenty or more hours per week, for at least six of the most recent thirty-six months in a single occupation. That occupation may be the applicant’s primary occupation. The six months need not be consecutive. See the military service exception for how to treat returning reservists serving in active duty.

An employee of a temporary employment agency, in order to demonstrate a long attachment to the labor force, must have worked on the same assignment for the hours and duration noted above.

Long-Term Unemployed: An individual who is unemployed for at least fifteen of the last fifty-two weeks, with limited opportunity in the individual’s local labor market for reemployment in a similar occupation. The individual must still be able to demonstrate a long attachment to the labor force, prior to being unemployed. The fifteen weeks can be consecutive or nonconsecutive.

Military Service Exemption: In this policy refers to military reservists returning from active duty within the last three years prior to program application. Such individuals shall not have any time spent on active duty counted against them, when calculating time parameters anywhere in this policy. For example, a reservist who spent the last four years in active duty, may look back as long as seven years (instead of the usual three) to determine their primary occupation and long attachment to the labor force.

Notice of Termination from Employment: A written notification from the employer, naming one or more individuals and indicating that employment will cease for the individual(s) at a specific future date.

Primary Occupation: The occupation the applicant has worked for at least six of the last thirty-six months (in a single occupation). If the applicant has held more than one occupation in that time period, they must choose which occupation the program will establish in its records, as long as he or she can establish a long attachment to the labor force in that occupation. The service provider must confirm official titles of occupations using labor market information.

Public Announcement: An official communication by an employer stating intent to close a business at a planned future date. This may be a written or verbal acknowledgement of the fact that the business will close. The closure may include a single site of employment, or one or more facilities or operating units within a single site of employment.

For such announcements, program providers must document the impending dislocation event and support a determination that the facility plans to close. State Rapid Response information resources are available for this purpose.

Self-Employed Individual: An individual who may not report to an authority that can lay him or her off, but whose business circumstances put the individual in a position similar to a termination of employment. Such circumstances may include, but are not limited to:

* Failure of one or more businesses to which the self-employed individual supplied a substantial proportion of products or services; and/or
* Failure of one or more businesses from which the self-employed individual obtained a substantial proportion of products or services; and/or
* Substantial layoff(s) from, or permanent closure(s) of, one or more plants or facilities that support a significant portion of the relevant state or local economy; and/or
* Failure of the self-employed individual’s farm or business due to general, relevant economic conditions.

Self-employed individuals may include both those leaving the enterprise permanently, and those who are in a transition period as a result of a prolonged effort to save the farm or business. A self-employed individual need not be physically removed from the enterprise, nor must he or she necessarily be in bankruptcy or foreclosure proceedings, in order to be considered under this definition. Family members (spouse or adult offspring) and farm or ranch hands who were active participants and derived their primary income from the enterprise may also fall under this definition.

Temporary Recalls: Requests from an employer for their former workers, who have either received a notice of termination or been terminated from employment, to return to work for 180 days or less. In a temporary recall, the employer still clearly intends to terminate the worker.

Termination of Employment: A permanent situation in which the employer lays off and does not plan to rehire the individual. For purposes of this policy, the following are not considered terminations of employment:

* Seasonal unemployment where the individual reasonably anticipates returning to the same job;
* A planned or pre-determined end to an assignment through a temporary employment agency, unless it is paired with an unemployment insurance eligibility notification; or
* A notice of termination that includes a certain or tentative recall date within 180 days of the initial layoff date. Any non-seasonal layoff projected to last 180 or more days is a termination of employment.

A retirement or other voluntary separation from the labor force does not constitute a termination of employment, for purposes of this policy. The intent of this definition is to include only those terminated workers who wish to return to permanent work.

Unlikely to Return to a Prior Occupation or Industry: an individual is unlikely to return to a prior occupation or industry if job opportunities in that occupation or industry are significantly diminished for that individual. The service provider must consider any or all of the following in determining likelihood of return:

* Official assessments of market demand for the products or services in that occupation or industry;
* Local labor market conditions for that industry or occupation;
* The evolution of skill requirements in that occupation or industry, and whether the individual’s skills have kept pace over time; (d) the impact of technology or trade on the industry or occupation;
* The impact of a military service exception (see below)
* Newly acquired physical limitations or disabilities that limit the individual’s ability to perform the job from which they were dislocated and make it unlikely that they can return to that occupation;
* No job offers received even when the individual has been available and looking for work for a number of weeks. “Number of weeks” might average 15 weeks, depending on other factors relevant to the individual’s job search.

A service provider must use all reasonable skill assessments, labor market information, and other reliable and established information sources in generating data to support their determination.



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