



Hennepin-Carver

Workforce Development Board

WDA 09 WIOA Dislocated Worker, MN Dislocated Worker Policy: Dislocated Worker Eligibility Policy WIOA

Policy Summary

The Dislocated Worker Program offers employment and training services for eligible individuals. Eligibility determination must be made by the program operator prior to a person's enrollment in the Program. All applicants must be allowed to receive an eligibility determination. *This local policy adopts that of the MN Department of Employment & Economic Development.*

Relevant Laws, Rules, or Policies

[WIOA Section \(3\)\(15\)](#)

[WIOA Section 133 \(b\)\(2\)\(B\)](#)

[TEGL 19-16](#)

[20 CFR 1010](#)

[WIOA Final Rule](#)

[WIOA Sec. 188\(a\)\(2\) and \(5\)](#)

[20 CFR § 680.110\(c\)](#)

[WIOA Sec. 188\(a\)\(5\)](#)

[TEGL 02-14](#)

[TEN 28-16 Change 2](#)

[20 CFR 682.305](#)

[20 CFR Part 639](#)

[20 CFR § 680.130\(b\)\(3\);](#)

[20 CFR 404.1068](#)

[20 CFR § 675.300](#)

[20 CFR § 680.660](#)

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Policy:

The Dislocated Worker Program offers employment and training services for eligible individuals. Eligibility determination¹ must be made by the program operator prior to a person's enrollment in the Program. All applicants must be allowed to receive an eligibility determination.

Individuals must meet the following criteria to be eligible:

- Eligible to work in the United States²; **and**
- Registered with Selective Service if applicable (see DEED's Selective Service Registration policy); **and**
- Meet **at least one** of the following categories:

Category 1 – Individual or Small Group Layoff³

An individual who meets the following:

1. Has been terminated or laid off, or who has received notice of termination or layoff; **and**
2.
 - i. Is eligible for or has exhausted unemployment compensation; **or**
 - ii. Has been employed long enough to demonstrate to the service provider attachment to the workforce, but is not eligible for unemployment compensation because earnings were not enough to qualify or the job from which the participant was laid off was with an employer that was not covered under a state unemployment compensation law; **and**
 - iii. Is unlikely to return to a previous industry or occupation

NOTE:

- Employment loss may be from a physical or virtual site.
- An individual does not have to be residing in MN at the time employment ends.
- An individual does not need to be employed full-time or *permanently* at the time of dislocation to be eligible. This includes individuals employed through a temporary agency contract, as a consultant, or as a seasonal worker whose employment prematurely ended due to a closure or layoff.
- 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.
- 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).

- The previous occupation or industry relates directly to the job of dislocation, not the most recent job if the most recent job is considered interim or stopgap employment. The job of dislocation is the job that qualifies the individual under one of the dislocated worker definition eligibility categories.

Category 2 – Mass Layoff⁴ or Permanent Closure

An individual who meets **ONE** of the following:

1. Has been terminated or laid off, or has received a notice of termination or layoff, as a result of a permanent closure of, or mass layoff at, a plant, facility, or enterprise; **or**
2. Works at a site/facility at which the employer has made a general announcement that such site/facility will close within 180 days; **or**
3. Works at a site/facility at which the employer has made a general announcement that such site/facility will close, and the closure will take place in **more than 180 days or with no specific date of closure**. In this case, the individual may only receive basic career services that do not cause participation** until the scheduled closure is to occur within 180 days.

NOTE:

- **An individual described above will meet DW eligibility, but because the individual is only able to access basic career services that do not cause participation, the individual would be a reportable individual and not a program participant.
- **Once a closure date that is within 180 days is identified, the individual can begin to receive all basic career services, individualized career services, and training. The individual then becomes a DW participant and factors into performance measures.
- 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 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.

Category 3 – Self Employed⁵

The individual was self-employed (including employment as a farmer, a rancher, fisherman, independent contractor or consultant but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.

Category 4 – Displaced Homemaker⁶

An individual who has been providing unpaid services to family members in the home **and** meets **ONE** of the following:

1. Has been dependent on the income of another family member but is no longer supported by that income; **and**
 - is unemployed or underemployed and experiencing difficulty obtaining or upgrading employment; **or**
 - Is the dependent spouse of a member of the U.S Armed Forces on active duty whose family income has been significantly reduced because of a deployment, a call or order to active duty, permanent change of station, service-connected death or disability of the service member; **and**
2. Is unemployed or underemployed and experiencing difficulty obtaining or upgrading employment.

Category 5 – Military Spouse⁷

A spouse of a member of the U.S Armed Forces on active duty, and who meets ONE of the following:

1. Has lost employment as a direct result of relocation to accommodate a permanent change in the service member's duty station; **OR**
2. Is unemployed or underemployed and having trouble obtaining or upgrading employment.

Category 6 – Separating or Separated Members of the U.S Armed Forces (including National Guard Veteran, or Armed Forces Reserves Veteran)⁸

- The individual is separating or has separated from the U.S Armed Forces with a discharge other than dishonorable **AND**
- has received a DD-214 or other documentation (see acceptable documents list) showing separation or imminent separation.

Disaster Recovery DWG Specific Eligibility Requirements

An individual eligible to receive services through a Disaster Recovery DWG must be one of the following:

1. temporarily or permanently laid off as a consequence of the disaster;
2. a dislocated worker as defined at 29 U.S.C. 3102(3)(15);
3. a long-term unemployed worker (as defined by the State); or

4. a self-employed individual who became unemployed or significantly underemployed as a result of the disaster or emergency.

Trade Adjustment Assistance Priority

Any individual receiving a notice of termination from a work site certified for Trade Adjustment Assistance is generally eligible for DW services. If a TAA-eligible customer seeks DW services, the service provider must enroll the individual so that they receive immediate services. Even if an individual is already working again, if they were 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 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);
 - 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).

The priority of service must be applied at all times, not just when funding is limited. 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 if they are already enrolled and receiving services.

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 always in place.

Participant File Documentation

Service providers must document 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, etc.). 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.

¹WIOA Sec. 188(a)(2) and (5); 20 CFR 680.110(c);

²WIOA Sec. 188(a)(5); TEGL 02-14; TEN 28-16 Change 2

³WIOA Sec. 3(15)(A); 20 CFR 682.305; 20 CFR Part 639

⁴WIOA Sec. 3(15)(B); 20 CFR 682.305; 20 CFR Part 639

⁵WIOA Sec. 3(15)(C); 20 CFR ? 680.130(b)(3); 20 CFR 404.1068

⁶WIOA Sec. 3(15)(D) and 3(16); 20 CFR 675.300; 10 usc 101(d)(1)

⁷WIOA Sec. 3(15)(E)

⁸20 CFR 680.660

Related Links

[Dislocated Worker and Federal Adult Programs \(DWFAP\) Terms and Definitions](#)

[Dislocated Worker Acceptable Documentation List](#)