

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULES I through III, related to ) PROPOSED ADOPTION  
workforce development activities for )  
Montana HELP Act participants )

TO: All Concerned Persons

1. On February 12, 2016, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the basement auditorium of the Sanders Building (DPHHS building), 111 North Sanders Street, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on February 8, 2016, to advise us of the nature of the accommodation that you need. Please contact the Department of Labor and Industry, Attn: Tanner Woodward, Workforce Services Division, P.O. Box 1728, Helena, MT 59626-1728; telephone (406) 444-1620; fax (406) 444-3037; Montana TTD (406) 444-5549; or e-mail TWoodward@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS For the purposes of [this chapter], the following definitions apply:

(1) "Active participant" means a HELP Act participant that has obtained a reportable service within 90 days.

(2) "DLI" means the Department of Labor and Industry provided for in 2-15-1701, MCA.

(3) "DPHHS" means the Department of Public Health and Human Services provided for in 2-15-2201, MCA.

(4) "HELP Act" means the provisions of Title 39, chapter 12, MCA, and Title 53, chapter 6, part 13, MCA.

(5) "Job Service office" means any of the various employment offices around the state that are operated by DLI, which are open to the public for the purpose of facilitating the exchange of labor between job seekers and job offerors.

(6) "Services and assistance" means help from activities, whether delivered in person at a Job Service office or remotely, related to the participant making use of the workforce development program, and in finding suitable employment.

(7) "WIOA" means the federal Workforce Innovation and Opportunity Act, 29 USC 3101, et. seq.

(8) "Workforce development program" means the full range of assistance and services provided by Job Service offices to job seekers, potential job seekers, and

participants in order to allow the individual to obtain long-term, meaningful employment that improves the individual's quality of life.

AUTH: 39-12-107, 53-5-1318, MCA  
IMP: 39-12-101, 39-12-103, MCA

NEW RULE II WORKFORCE DEVELOPMENT ACTIVITIES FOR HELP ACT PARTICIPANTS (1) DLI delivers HELP Act services and assistance to participants through its Job Service offices.

(a) The types of services and assistance available to participants generally fall in to one of the following four categories:

- (i) job search services;
- (ii) workforce information services;
- (iii) career guidance services; and
- (iv) intensive services.

(b) Participants may also be eligible for referral to WIOA partners and qualified training providers.

(2) A participant's initial reportable service must consist of an assessment, performed by a Job Service employee. An assessment is a formal evaluation of the participant's:

- (a) occupational talents, skills, and potential for increasing economic self-sufficiency; and
- (b) probable barriers to employment.

(3) After having obtained an assessment, in order to remain an active participant, the individual must access a reportable service, as defined in NEW RULE III, at least once every 90 days.

(4) An active participant enrolled in an approved educational or training program is considered to remain active as long as the individual continues to remain enrolled and actively participating in the educational or training program.

(5) DLI shall promptly report to DPHHS whenever:

- (a) a participant becomes an active participant; or
- (b) an active participant loses that status due to that individual's failure to obtain any reportable service for more than 90 days.

(6) An individual who has lost the status of being an active participant may regain the active participant status by obtaining an assessment as provided in (2).

AUTH: 39-12-107, 53-5-1318, MCA  
IMP: 39-12-101, 39-12-103, MCA

NEW RULE III REPORTABLE SERVICES (1) The reportable services for job search purposes are:

- (a) obtaining resume assistance from a Job Service office;
- (b) obtaining cover letter assistance from a Job Service office;
- (c) receiving interview tips and guidance from a Job Service office;
- (d) receiving application instruction and guidance, including how to use the ATS (Applicant Tracking Systems) from a Job Service office;

- (e) obtaining assistance with job matching in Seeker Profile or jobs.mt.gov from a Job Service office;
  - (f) obtaining a job development – employer contact from a Job Service office; and
  - (g) attending a Job Seeker Workshop conducted or approved by a Job Service office.
- (2) The reportable services for workforce information purposes are:
- (a) studying labor force supply and demand information from a Job Service office or Job Service web site;
  - (b) studying short and long term industry and occupational projection information from a Job Service office or Job Service web site; or
  - (c) identifying applicable jobs with high growth and high demand using information from a Job Service office or Job Service web site.
- (3) The reportable services for career guidance purposes are:
- (a) completing a Montana Career Information System Assessment/Profile from a Job Service web site;
  - (b) obtaining a personalized employment plan from a Job Service office or Job Service web site; or
  - (c) obtaining career testing from a Job Service office or Job Service web site, including testing or interpretation using any of the following programs:
    - (i) Provelt;
    - (ii) CAPS/COPES/COPS;
    - (iii) Career Scope (replaces CAPS, COPES, COPS for veterans);
    - (iv) TABE;
    - (v) CareerOneStop.org;
    - (vi) MyNextMove;
    - (vii) interest profiler – ONET;
    - (viii) Career Assessment Inventory; or
    - (ix) Career Interest Inventory (JIST Pub).
- (4) The reportable services for intensive services purposes are:
- (a) obtaining a comprehensive assessment and description of skill level from a Job Service office; or
  - (b) obtaining a specialized assessment and description of skill level from a Job Service office.

AUTH: 39-12-107, 53-5-1318, MCA

IMP: 39-12-101, 39-12-103, MCA

Reasonable necessity: There is reasonable necessity to adopt NEW RULES I through III in order to implement portions of the Montana HELP Act, enacted as Chap. 365, Laws of 2015. On or about November 2, 2015, the waivers required for the Montana HELP Act to become effective were issued. The Montana HELP Act programs began enrolling program participants for coverage to be effective January 1, 2016. In order for program participants to engage in the Montana workforce development program, the Department of Labor and Industry has concluded that it is necessary to adopt rules so that program participants know what is required to be considered an "active participant" in the workforce development program.

The services identified as "reportable services" are all services currently provided by Montana Job Service offices to its customers. The Department of Labor and Industry already has existing computer software and systems to track a person's activities and participation in Job Service programs, including when that individual received reportable services. Job Service offices currently track reportable services furnished to individuals, in fulfillment of operational funding requirements under the federal Wagner-Peyser Act. The Department of Labor and Industry has concluded that it is an efficient use of resources to use existing programs and services to fulfill the workforce development provisions of the Montana HELP Act.

In addition, Montana HELP Act program participants are typically eligible to receive services under the federal Workforce Innovation and Opportunity Act, 29 USC 3101, et. seq. (WIOA). The Department of Labor and Industry has concluded that it is reasonable and efficient to leverage federal funding available under WIOA to assist Montana HELP Act participants in obtaining education, training, and job placement assistance so that program participants can fulfill a purpose of the Montana HELP Act, namely to improve the earning capacity, economic stability, and self-sufficiency of program participants. The rules are designed to harmonize the entry of program participants into WIOA services.

The Department of Labor and Industry concludes that there is reasonable necessity to adopt the Job Service's existing 90-day program participation guidelines under the Wagner-Peyser Act and to use the existing list of reportable services as a tracking method, in order to implement the Montana HELP Act in a cost-efficient manner.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Tanner Woodward, Workforce Services Division, P.O. Box 1728, Helena, MT 59624-1728; fax (406) 444-3037; or e-mail TWoodward@mt.gov, and must be received no later than 5:00 p.m., on February 19, 2016.

5. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

6. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been complied with. The primary bill sponsor was initially contacted by e-mail on September 29, 2015.

7. Pursuant to 2-4-111, MCA, the department has determined that NEW RULES I through III proposed in this notice do not have a significant and direct impact upon small businesses.

8. The department intends to adopt NEW RULES I through III to be effective March 19, 2016, and to be applicable to Montana HELP Act participants enrolled effective on or after January 1, 2016. The department reserves the right to adopt some or all of the proposed new rules at a later date, or not at all.

9. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 11, 2016.