

**State of Montana  
Waiver Request  
Workforce Investment Act  
Subsequent Eligibility Determination of Eligible Training Providers**

The Montana Department of Labor and Industry (MDLI), the State administrative entity for the Workforce Investment Act (WIA), is requesting a waiver to:

- A. Permanently waive performance in subsequent eligibility determination process for eligible training providers to begin in PY2007; and
- B. Waive the eligibility determination process for a State University, Community or Tribal College or College of Technology (Center of Applied Technology) who is adding new programs to their training curriculum.

A. Permanently Waive Performance in the Subsequent Eligibility Determination for Eligible Training Providers

Montana is fortunate to have been consistently successful in having subsequent eligibility determination waived since 2002 with the last waiver request in place through June 30, 2007. However, with the waiver period nearing its end, current Eligible Training Providers will once again begin expressing their concerns over performance tracking.

Montana markets the Workforce Investment Act's (WIA) concept of Eligible Training Providers (ETP) and for the most part, has experienced success. However many of Montana's training providers are finding that the reporting requirements are not realistic, based on the limited number of enrollments and the cost of developing a reporting system that would gather information relating to wages and/or placement of those individuals participating in their programs. Data for those participants who received assistance through an Eligible Training Provider under WIA is available at this time; however, data for all individuals participating in educational programs is not easily captured by the Eligible Training Providers. MDLI is concerned that performance tracking requirements have the potential of causing Eligible Training Providers to opt out of the Eligible Training Provider List (ETPL). This could create limited training choices for rural areas and threaten the Individual Training Account System (ITA). Permanently waiving the reporting requirements for Eligible Training Providers would keep previously approved providers on the ETPL and provide customers with training option choices.

In 2005, MDLI conducted a survey to collect performance data from Eligible Training Providers. Over 100 surveys were mailed to Eligible Training Providers. MDLI received 58 responses of which only 24 were complete. Most Eligible Training Providers that are on Montana's list do not have the capability to collect the required performance data.

Some of the concerns expressed by training providers are noted below:

- ◆ Creating and maintaining a system that would collect required WIA data would be costly and burdensome, especially for smaller training providers.
- ◆ For many providers, the relatively small number of WIA-eligible participants accessing training services through their ITAs would not justify the resources that would have to be committed to collect required data.
- ◆ Many training providers do not have systems in place or the staff available to produce required performance information.

- ◆ The majority of training providers on the Eligible Training Provider List do not have production data available to meet subsequent eligibility requirements.
- ◆ There may be potential violations of data privacy especially related to the Family Educational Rights Privacy Act (FERPA).
- ◆ WIA data requirements might present an additional burden to the amount of data already being collected from students at a time when most businesses, schools, and colleges are trying to streamline processes to be more customer friendly and cost efficient.

Montana has moved to a single statewide planning area and the State Workforce Investment Board (SWIB) assumed all Local Workforce Investment Board responsibilities. Currently the SWIB does not have sufficient data to make informed decisions about which training providers should be re-certified. Since information on employment and earnings come from the unemployment insurance wage system, there is a tremendous delay in obtaining wage information for the quarter after exit and three quarters after exit. A provider denied subsequent eligibility could consider any decisions made by the SWIB regarding provider's eligibility arbitrary and open to challenge.

MDLI as administrative entity makes all decisions regarding which providers are on the Eligible Training Provider List.

Montana understands the need for accountability and supports efforts to ensure that customers are making informed decisions based on quality data. However, when the ability to effectively collect required data is severely limited, the resulting chaos could destroy customer choice and severely limit the use of Individual Training Accounts (ITAs). The primary goal of this request to permanently waive subsequent eligibility determination is to ensure that WIA participants are able to continue to choose a wide variety of effective and quality training opportunities.

### **Waiver Plan**

Section 189(i)(4) of the Workforce Investment Act permits a state to seek waivers of statutory or regulatory requirements, as well as setting forth what information must be provided in seeking such a waiver. The waiver request format follows WIA Section 189(i)(4)(B) and WIA Regulation at 20 CFR Part 661.420.

#### **1. Statutory Regulations to be waived:**

WIA Regulations at Section 663.530-540 (WIA Section 122(c)(5)), specifies the time limits for initial eligibility and/or subsequent eligibility.

#### **2. Describe action the State has undertaken to remove State or local statutory or regulatory barriers:**

Montana has implemented the Eligible Training Provider process as required under WIA laws and regulations. No additional State requirements have been added to impede this process; therefore, there are no additional State regulatory barriers that need to be removed.

#### **3. Waiver goals and measurable programmatic outcomes, if the waiver is granted:**

- a. Continue to increase the number of Eligible Training Providers and retain those already approved to ensure maximum customer choice. A measurable outcome would be the monitoring of the number of Eligible Training Providers. Montana currently has over 100 approved

training providers. Of those training providers, about 30 are based at a state university, community or tribal college or college of technology (center of applied technology). These providers have expressed their concern about the type, amount and cost of data collection for subsequent eligibility and would choose not to participate or not re-apply for the ETPL.

- b. Maintain the highest level of provider accountability and satisfaction by developing and implementing a customer friendly system. Satisfaction level and error rate monitoring are measurable outcomes.
- c. Research the potential of developing an online initial eligibility application process. Monitoring the use of online applications may be used to determine measurable outcomes.
- d. Add a feedback screen to the existing online ETPL application to enable MDLI to capture comments regarding the use of the system.

#### **4. Describe any individuals affected by the waiver:**

The waiver will impact either directly or indirectly all statewide participant training customers, training service providers, the Montana SWIB and the general business community. The largest direct impact is anticipated to affect individual training customers and training providers with the former experiencing either the greatest cost or benefit.

#### **5. Describe the processes used to:**

##### **(i) Monitor the progress in implementing the waiver:**

Progress will be monitored in two phases related to the system's design, development, and implementation. Progress will be measured by the number of ETPL approvals. Internet usage will be monitored by observing the number of provider users and other customers. Satisfaction will be monitored to ensure that all users have a quality experience. MDLI will monitor the ETPL site on a frequent basis.

##### **(ii) Provide notice to any Local Board affected by the waiver:**

Montana is a single statewide planning area and the SWIB has local board responsibilities. The draft waiver was posted on the SWIB website, and all SWIB members were notified it was available for review and comment.

##### **(iii) Provide any Local Board affected by the waiver an opportunity to comment on the request:**

Montana is a single statewide planning area and the SWIB has local board responsibilities. The draft waiver was posted on the SWIB website, and all SWIB members were notified it was available for review and comment.

##### **(iv) Ensure the opportunity for meaningful public comment, including comment by business and organized labor, on the waiver:**

A general public comment period was provided through posting the proposed Waiver request on the SWIB website for 14 days, and notifying all SWIB members and SWIB interested persons it was available for review and comment. After the public comment period, the proposed Waiver request was presented to the SWIB Executive Committee for approval, during a publicly noticed meeting. Committee members were presented with all public comments received during the public comment period, and asked for additional public comments during the meeting.

Comments approved by the Committee were incorporated into the final Waiver request. Formal action was taken by the SWIB Executive Committee to approve the proposed Waiver request for submittal to USDOL.

B. Waive the eligibility determination process for a State University, Community or Tribal College or College of Technology (Center of Applied Technology) who is adding new programs to their training curriculum.

We request this waiver so that Montana can better provide the most effective and efficient method of approving programs from a state university, community or tribal college or college of technology (center of applied technology) with the least amount of burden to the Eligible Training Provider. The training programs provided by these agencies are offered through an accredited institution and are of high quality.

The current process is for the Eligible Training Provider to apply for subsequent eligibility on the ETPL each time they add a new program or make changes to a program's curriculum. This process creates a burden for those Eligible Training Providers (state university, community or tribal college or college of technology) that are frequently adding or updating programs on the ETPL. This burdensome process also discourages ETP from being demand-driven and responsive to the workforce training needs of business and industry. Only for the institutions listed above.

The subsequent eligibility requirement for every program offered by an Eligible Training Provider could cause delays in providing training services to participants resulting in an individual not getting registered for a class. Ensuring that these providers are eligible and on the ETPL without requiring them to apply for eligibility for every program they offer will simplify the process and result in the availability of more training opportunities for participants in a timelier manner.

MDLI will continue to require that training providers are approved and placed on the ETPL before any WIA funds are spent for training. However, once it has been verified that the training provider is on the ETPL the participant would have the expectation that any program offered by the Eligible Training Provider is approved as well.

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#### **1. Statutory Regulations to be waived and goal:**

WIA Regulations at Section 663.530 (WIA Section 122(c) (5)), specifies the time limits for initial eligibility and/or subsequent eligibility. The goal is to eliminate the burden, to a state university, community or tribal college or college of technology (center of applied technology), of applying for each new program.

#### **2. Describe action the State has undertaken to remove State or local statutory or regulatory barriers:**

Montana has implemented the Eligible Training Provider process as required under WIA laws and

regulations. No additional State requirements have been added to impede this process therefore, there are no additional State regulatory barriers that need to be removed.

**3. Waiver goals and measurable programmatic outcomes, if the waiver is granted:**

- a. Streamline eligibility status of programs for a state university, community or tribal college or college of technology (center of applied technology).
- b. Retain Eligible Training Providers.
- c. Eliminate delays in enrolling a participant in a training program.
- d. Encourage the creation of demand-driven training programs that more quickly meet the workforce training needs of business and industry.

**4. Describe any individuals affected by the waiver:**

The waiver will impact either directly or indirectly all statewide participant training customers, training service providers, the Montana SWIB and the general business community. The largest direct impact is anticipated to affect individual training customers and training providers with the former experiencing either the greatest cost or benefit.

**5. Describe the processes used to:**

**(i) Monitor the progress in implementing the waiver:**

Stakeholders affected will have a reduced burden that is effective upon approval of the waiver.

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Montana appreciates the flexibility afforded to states through the waiver process and anticipates the waiver plan provides adequate accountability and improved performance for USDOL approval.