

KEY IMPLEMENTATION DECISIONS AFFECTING LOW-INCOME ADULTS UNDER THE WORKFORCE INVESTMENT ACT

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During the next year, states will be submitting plans to receive federal workforce development funds under the Workforce Investment Act of 1998 (WIA). Implementation of the new law at the state and local levels will have a significant impact on the availability and quality of job training and other employment-related services for low-income adults. This paper is intended to provide a brief overview of how to become involved in the new decision making process at both the state and local levels, and of some of the key elements of the law and how they may affect access to services by low-income adults.

STATE AND LOCAL PLANNING

Many key decisions about the use of federal job training funds made available under WIA are left to state and, particularly, to local officials. At the state level, the governor will appoint a statewide Workforce Investment Board that will assist in the development of a statewide plan governing the use of WIA funds. The proposed state plan must be submitted to the U.S. Department of Labor (DoL) for final approval. As described below, in a number of programmatic areas the statewide plan will significantly affect service delivery at the local level.

Among the many state responsibilities is the designation of local *Workforce Investment Areas*. These designations will be critically important because roughly 85% of all the federal funds that come to a state will be distributed to the various local areas. In each local area, the chief elected local official, (or officials in areas that include more than one government jurisdiction) will select individuals to form a local *Workforce Investment Board (WIB)*, similar to the Private Industry Councils (PIC) that have existed under JTPA. Each WIB must be composed of a majority of business representatives. In addition to business representatives, other government agencies which have a role in workforce development will be represented on the WIB, as will organized labor, and community-based organizations. These WIBs will work with the local elected official(s) to design a local plan for how federal WIA funds are to be used, and how they will be coordinated with other employment-related programs. Proposed local plans must be submitted to the governor for approval.

At both the state and local levels, the planning process is required to provide for public review and input on proposed plans. At the state level, there must be an opportunity for

public comment on and input into the development of the state plan before it is submitted to DoL for approval, and the state plan must describe the state's process and time line for ensuring a meaningful opportunity for public comment. In addition, there is an open-ended "sunshine provision" in the law that requires the state board to conduct business in an "open manner" by making available to the public, on a regular basis through open meetings, information about its activities, including information about the state plan prior to its submission.

At the local level, the federal requirements are more specific, and they include the following steps:

- There must be an opportunity for public comment on and input into the development of the local plan prior to its submission;
- Copies of the proposed local plan must be available to the public (through such means as public hearings and local news media);
- A period of at least thirty (30) days for comment must be available, beginning on the date on which the proposed plan is made available, prior to the submission of the plan to the governor; and
- The local board must submit any comments that express disagreement with the plan to the governor along with the plan.

In addition, there is an open-ended "sunshine provision" in the law (similar to the provision applicable to the state board described above) that requires the local board to conduct business in an "open manner" by making available to the public, on a regular basis through open meetings, information about its activities, including information about the local plan prior to its submission.

KEY POLICY ISSUES AFFECTING LOW-INCOME ADULTS

In the following sections several key policy questions are addressed:

- How will *individual eligibility for services* be determined?
- To what extent will training resources will be *targeted to low-income adults*?
- How will the new *Individual Training Account* system work?
- How will the *eligibility of training providers* be determined?

HOW WILL INDIVIDUAL ELIGIBILITY FOR SERVICES BE DETERMINED?

Under the Act, each Local Board will be responsible for providing access to three categories of services—*core services*, *intensive services*, and *training services*—for adults and dislocated workers.

Core Services must include:

- initial assessment of skill levels, aptitudes, abilities, and supportive service needs;
- job search and placement assistance, and where appropriate, career counseling;
- provision of labor market information;
- provision of information about the performance and program cost of education and training providers in the area;
- information relating to the availability of supportive services, including child care and transportation;
- information regarding filing claims for unemployment compensation;
- assistance in establishing eligibility for welfare-to-work activities and other programs offering financial aid assistance for training and education; and
- follow-up services, including counseling for not less than 12 months after someone becomes employed.

Intensive Services may include:

- comprehensive and specialized assessments of an individual's skill levels and service needs;
- development of an individual employment plan;
- group, or individual counseling and career planning;
- case management for individuals seeking training services;
- short term job readiness activities, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct;
- literacy activities related to basic workforce readiness; and
- paid or unpaid work experience.

Training Services may include:

- occupational skills training, including training for nontraditional employment;
- on-the-job training;
- programs that combine workplace training with related instruction, which may include cooperative education programs;
- training programs operated by the private sector;
- skill upgrading and retraining;
- entrepreneurial training;
- job readiness training;
- adult education and literacy activities provided in combination with services listed above; and

The Act mandates that there be *universal access* to core services. This means that every adult should be able to access core services, without any more limiting eligibility requirements. For those individuals who want access to intensive or training services, the law envisions that individuals will participate in activities or programs in each category in sequence—core, intensive, and training. As discussed below, local WIBs will have broad flexibility in designing and implementing this new sequential eligibility system.

Intensive Services will be available to individuals:

- who are unemployed, are unable to obtain employment through core services, and are determined by a one-stop operator to be in need of more intensive services in order to obtain employment; or
- who are employed, but are determined by a one-stop operator to be in need of intensive services in order to obtain or retain employment that allows for *self-sufficiency*.

Training Services will be available to individuals who:

- receive intensive services and are still unable to obtain or retain employment; and
- are determined by a one-stop operator (or one-stop partner) to be in need of training and to have the skills and qualifications to successfully participate.

The development of specific policies to implement these federal requirements appears to be primarily an area of local rather than state authority. Neither the statute nor the regulations specify any role for the governor or the statewide WIB in development of the specific standards that should be used by Local WIBs and one-stop systems in implementing this new system. Although these provisions of the Act are sometimes referred to as “work first” requirements, the federal regulations reflect an intention to provide broad discretion to local boards to develop more detailed policies to determine who is eligible for intensive and training services.

Federal regulations clarify that an individual must participate in at least one core service before a determination is made that the individual is unable to find employment through core services, or unable to move from one job to another that “allows for self-sufficiency.” The one core service might be, for example, an assessment, at which it is determined that the individual will be unable to find employment, or it might be job search. Nothing in the statute nor regulations precludes a local board from establishing wage standards, fringe benefit standards, or both, in determining the type or quality of employment that will be considered in implementing this eligibility rule. Federal policy also makes clear there is no minimum amount of time that must pass while an individual receives core services before the individual can be found eligible for intensive services. Local policy might provide that if an assessment indicates that the individual will be unable to find a job, that the individual can begin receiving intensive services on the same day.

WIBs will have similarly broad discretion in determining who will be allowed to move from intensive services to receive training. The federal regulations specify that an individual receive at least one intensive service, for example, development of an individual employment plan with a case manager or individual counseling and career planning. In addition, federal policy makes clear that there is no minimum amount of time that must pass while an individual receives intensive services before the individual can be found eligible for training services.

In developing local policy to implement this new system of sequential eligibility, WIBs will have to balance the need to spread limited training funds among the large group of individuals who seek services, with the need to assure that low-income adults are not blocked from receiving training for better jobs simply because they might be able to find low-wage employment. Public participation into the development of local plans, and oversight of the plan's implementation will be critically important in assuring that these competing demands are fairly balanced.

Ultimately, the statute provides that any individual who needs training to obtain stable employment that provides for "self-sufficiency" should, subject to the availability of resources, be eligible for training. The regulations establish the "lower living standard income level" as the national minimum standard for self-sufficiency" as it is used in the statute.

Region	1999 Lower level Standard Income level (family of four)	Percentage of Poverty Level Income
Northeast ¹ - Metro	\$28,670	172%
Northeast - Non-Metro	\$28,320	170%
Midwest ² - Metro	\$26,580	159%
Midwest - Non-Metro	\$25,150	151%
South ³ - Metro	\$25,140	151%
South - Non-Metro	\$24,050	144%
West ⁴ - Metro	\$28,270	169%
West - Non-Metro	\$27,770	166%

TO WHAT EXTENT WILL TRAINING RESOURCES BE TARGETED TO LOW-INCOME ADULTS?

A significant change in the Act concerns priorities for services among adults. Under Title IIA of JTPA, at least 90% of the funds made available for adults (who do not qualify as dislocated workers) had to be used to provide services to individuals who were low-income. Under WIA, there are no explicit targeting requirements, but the Act

¹Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virgin Islands.

²Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

³Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Oklahoma, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

⁴Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

does specify that if funds for employment and training activities are “limited” in any local area, priority for services must be given to low-income individuals⁵ for intensive services and training services. In the federal regulations, DoL has specified that funding is generally limited and therefore has directed states and local areas to develop systems to assure that low-income adults receive priority, unless a decision is made at the local area level, based upon the availability of other employment and training funds and the service needs of specific groups in the local area, that such a priority system is unnecessary.

DoL has effectively created a presumption that every area should have a priority for services to low-income adults. The priority systems which are developed will be the product of both state and local policy, as this is an area of shared decision making authority under the statute. The federal regulations offer little in the way of specific guidance about how a priority system should be structured. The only clarification included in the regulations specifies that the priority system adopted need not preclude services for adults who are neither low-income or recipients of public assistance. Implicit in this provision is that a locality need not meet the needs for training of every low-income individual before allocating some of its training resources to individuals with higher incomes. Thus, it will be up to states and localities to determine what portion of WIA training resources will be earmarked for low-income individuals and public assistance recipients, and what portion may be used for individuals who meet other eligibility criteria but who may be at higher income levels. It will be extremely important at the local level to assure that an appropriate priority system is developed to target resources to those who are most in need.

HOW WILL THE NEW INDIVIDUAL TRAINING ACCOUNT SYSTEM WORK?

Marking a significant shift in policy, WIA requires that training services generally be provided through the use of Individual Training Accounts, often referred to as vouchers.⁶ The Act envisions a system in which once an individual has been determined to be eligible

⁵Under the Act, the term Low-Income Individual is defined to include, among others, an individual who:

- cash payments under a public assistance program; or
- has income that does not exceed the higher of:
 - < the poverty line; or
 - < 70 percent of the lower living standard income level.

⁶The current system has predominantly relied on contracts in which training programs are established under a contract between a JTPA service delivery area and a provider, and individuals are referred to an appropriate program with an existing contract.

for training, a listing of eligible providers together with the performance and cost information developed through the provider certification process will be made available. Based on that information, the individual will select a provider and program, and the costs for the program will be paid, in whole or part, through funds made available in an Individual Training Account (ITA).

Several exceptions have been established, under which a local board will be allowed to provide training services through contracts rather than ITAs, although even under these exceptions, providers will still be required to meet generally applicable provider eligibility standards. These exceptions include:

- on-the-job training provided by an employer, or customized training,
- when a local board determines that there are an insufficient number of providers in the local area “(such as in a rural area)” to provide meaningful consumer choice, or
- when a local board determines that there is a training program of demonstrated effectiveness offered by a community-based organization or another private organization to serve special participant populations that face multiple barriers to employment—e.g., a population of low-income individuals that is included in one or more of the following categories:
 - Individuals with substantial language or cultural barriers
 - Offenders
 - Homeless individuals
 - Other hard-to-serve populations as defined by the governor.

The new ITA system offers the potential for individuals to have far greater control and a wider range of options in selecting from among a number of eligible providers. However, many details about the new ITAs are left to state and local decisions. Most significantly, the value of the ITA is not established under federal policy, and both state and local decisions may affect how the ITA is structured. The federal regulations specify that limits on ITAs may be established in several different ways, including either a limit on the value of the ITA provided to an individual based on the needs identified in his or her individual employment plan, or the state or local board may establish a range of amounts, or a maximum amount applicable to all ITAs. It will be important to participate in both the state and local planning processes to assure that ITAs will be of sufficient value to cover the full cost of high quality training programs.

A further area of concern about the use of ITAs is their potential impact on community-based training providers. Many community-based providers are relatively small organizations with limited financial resources. These groups may have a difficult time sustaining their programs without access to stable contracts, even though they offer high quality programs. The third exception noted above concerning contracts for programs of

demonstrated effectiveness in working with individuals with significant barriers to employment may be useful in arranging contracts in some of these instances, but not all high quality programs offered by smaller organizations may fit within the required focus on individuals with “multiple barriers.” It will be important at the state level to attempt to assure that the governor identifies other groups with barriers for whom contracted services from community-based providers will provide important access to services. At the local level, it will be important to assure that the local board makes appropriate use of the flexibility available to use contracted services as necessary to supplement the ITA system. Failure at the state or local level to implement the exception for community based providers is likely to have the perverse result of decreasing rather than increasing consumer choices, exactly the opposite result from that intended under the Act.

HOW WILL THE ELIGIBILITY OF TRAINING PROVIDERS BE DETERMINED?

One of the most significant provisions of the Act requires that each state establish a performance-based certification system to determine which training providers will be allowed to receive reimbursement with funds made available for adult and dislocated worker training. This provision is important for several reasons: it allows states to establish a floor of performance that every provider can be required to meet, it shifts substantial authority away from localities and to the state, because the state will determine the minimal performance levels that will be required, and because it will provide the cornerstone of the Individual Training Account system. As discussed in the preceding section, these accounts are designed to provide consumer choice in the selection of training providers based on comprehensive performance information that will be made available through the one-stop systems.

The system set out in the Act will require each state to establish procedures and standards that local boards will use to consider the applications of providers seeking to provide training. These procedures will include minimum required performance levels on several federally-mandated performance measures.⁷ In addition to program cost information, federally-mandated performance measures include:

⁷Providers of on-the-job and customized training will not be subject to these requirements. However, each Governor is authorized to establish performance measures and levels for such programs and implement a certification system comparable to the one applicable to providers of other sorts of training.

General Program Performance Information:

- the program completion rates for all individuals participating in the program;
- the percentage of all individuals participating in the program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in an occupation related to the program conducted; and
- the wages at placement in employment of all individuals participating in the program; and

Information about WIA Participants:

- the percentage of participants who have completed the program and who are placed in unsubsidized employment;
- the retention rates in unsubsidized employment of participants who have completed the program, six (6) months after the first day of the employment;
- the wages received by participants who have completed the program, six (6) months after the first day of the employment involved; and
- the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of the graduates of the program; and
- information on program costs (such as tuition and fees) for participants in the program.

A governor may also require that the following **additional performance measures** be included:

- retention rates in employment and the subsequent wages of all individuals who complete the applicable program;
- where appropriate, the rates of licensure or certification of all individuals who complete the program; and
- the percentage of individuals who complete the program who attain industry-recognized occupational skills in the subject, occupation, or industry.

Either the governor or a local board may require additional program specific information.

“Initial” and “Subsequent” Eligibility Requirements:

Two significantly different procedures are called for in certifying the eligibility of providers: an “Initial” eligibility procedure, and a “Subsequent” eligibility procedure. In determining Initial eligibility:

- Postsecondary educational institutions applying to provide degree or certificate programs will not be required to meet performance levels if they are eligible to receive student financial aid funds under the screening procedures established under Title IV of the Higher Education Act;
- Entities providing approved apprenticeship programs under the National Apprenticeship Act will also not be required to meet performance levels when applying for such programs;
- All other entities, including postsecondary institutions applying for nondegree, or noncertificate programs will be required to provide “an appropriate portion” (as specified in the state’s procedure) of the performance information and program cost information listed above, and meet minimum levels of performance specified by the governor.

Subsequent eligibility requirements differ in several important respects:

- all providers, including postsecondary institutions providing degree and certificate programs, will be required to meet established performance levels on all federally-mandated measures and any measures added by the state or the local board;
- Local boards may increase the level of performance required above the minimal established at the state level.

Two other provisions which will apply to this new certification system are significant. First, when developing both the initial and subsequent eligibility procedures at the state level, including the development of minimum performance standards, a public comment procedure must be undertaken to help inform the decisions that will be made. Second, if providers experience extraordinary costs in collecting required information, the state or the local board is required to provide access to cost-effective methods for collecting the information, or the state must provide additional resources to allow for the collection of required information. This will be most relevant and important in tracking post-program job retention and wage information.

Implementation of a performance-based system to identify and certify providers of training services offers a significant opportunity to increase the effectiveness of training services to the benefit of both participants and employers. Two potential areas of concern arise, however.

First, certain programs are exempt from meeting established performance standards in the Initial eligibility process, including postsecondary institutions seeking approval for degree or certificate granting programs that are currently approved to receive student financial aid under the Higher education Act. The standards and procedures used in the Higher Education Act system have frequently been criticized as unduly lax, and any such problems that currently exist in that system will now be imported into the new WIA system. The subsequent eligibility procedure will not offer such an exemption. The federal regulations specify that the initial eligibility period cannot last for more than 18 months for any provider.

State plans will need to include a description of the procedure and standards that will be used in certifying providers. It will be extremely important to monitor this portion of proposed state plans both with regard to the duration of the initial eligibility period, the performance levels that are established, and the use of any additional performance measures beyond those required under federal law.

Second, in developing standards for the subsequent eligibility period, the Act specifically requires that consideration be given to:

- the specific economic, geographic, and demographic factors in the local areas in which providers are located; and
- the characteristics of the populations served by providers, including the demonstrated difficulties in serving such populations.

Effective implementation of these considerations will be critically important in assuring fairness to providers given the particular labor market and participant-specific difficulties they may face in achieving expected levels of performance.