



New Dislocated Worker Eligibility Definitions

Purpose:

- To expand upon statutory eligibility in order to create maximum flexibility in service delivery
- Leverage federal funds to provide service to more unemployed and underemployed individuals throughout the state
- Decrease administrative burden on One Stop staff, Real Jobs Rhode Island counsellors, and other program managers.

What is a “dislocated worker?”

Generally, this refers to an individual who has lost a job due to a substantial change or permanent closure of an industry or industry-specific site.

Summary:

This new policy expands upon the statutes definitions in a way that upholds the laws intent for accountability in the use of program funds, but also tailors eligibility to meet Rhode Island’s needs. This new definition will assist programs like Real Jobs Rhode Island in finding a continuous flow of participants for partner programs, and will decrease the burden of determining and documenting eligibility for One Stop counselors.

Highlights:

- Specifies the duration that an individual must have been employed to receive services as a dislocated worker
- Utilizes a national perspective of the economy by recognizing the effect of supply chains on individuals who are self employed
- Establishes a wage-comparison formula that utilizes LMI data and UI wage data to determine eligibility based on current versus former wages

Timeline:

Action	Date
Presentation to Full Board (Vote)	December 2016
Operationalize	January-February 2017



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WORKFORCE INVESTMENT NOTICE: 15-17

TO: WORKFORCE INVESTMENT AREAS

Approved By: Governor's Workforce Board

DATE: December 14, 2016

SUBJECT: Dislocated Worker Eligibility Determination Policy

WIOA Section 3[15] lays out the federal definition for a dislocated worker in terms of determining eligibility for training and career services within the One Stop American Job Centers, and other programs in which dislocated workers are a targeted population. The following state policy further defines a dislocated worker in order to expand access to services for the state's unemployed and underemployed populations.

The state has interpreted the federal Dislocated Worker definition as follows:

DISLOCATED WORKER [WIOA sec. 3(15)] – The term “dislocated worker” means an individual who:

(A)(i) Has been terminated or laid off, or who has received a notice of termination or layoff, from employment; and

(ii)(I) Is eligible for or has exhausted entitlement to unemployment compensation; or

(II) Has been employed for a **duration sufficient to demonstrate, to the appropriate entity at a one-stop center, attachment to the workforce** but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that was not covered under a State unemployment compensation law; and

Interpretation: Rhode Island interprets “**Duration sufficient to demonstrate...an attachment to the workforce**” as any labor performed in any occupation where the employee has worked for two full pay periods or one month, whichever is less.

(iii) Is **unlikely to return** to a **previous industry or occupation**; or (B)(i) Has been

terminated or laid off, or has received a notice of termination or layoff from employment as result of any permanent closure of, or any **substantial layoff** at, a plant, facility, or enterprise; or

Interpretation: Client certification is sufficient to determine if the client is unlikely to “**return to a previous industry or occupation.**” Self-Certification must include a “reasonable” explanation of why the individual would be unable to return to the previous occupation. This explanation shall include an analysis of LMI data around the economic outlook of the occupation or a personal reason why the individual would be unable to return to a previous occupation.

Rhode Island interprets “**Industry**” as any industry identified in the North American Industry Classification System (NAICS). When applying a NAICS code local areas may use the most specific classification to reference the industry that the client is unlikely to return to.

Rhode Island interprets “**Occupation**” as any occupation identified in the Standard Occupational Classification System (SOC). When using the SOC system, Local Areas may use the most specific classification to reference the occupation the client is unlikely to return to.

Rhode Island interprets “**Substantial Layoff**” as the layoff of 5 people or 10% of that employer’s workforce, whichever is less.

(ii) Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) For purposes of eligibility to receive services other than training services described in section 134(c)(3), career services described in section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close; or

(C) Was self-employed (including employed 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; or

Interpretation: Rhode Island interprets “**the community in which the individual resides**” as the geographic boundaries of the state **or** as the industry, sector, or occupational community not bound by physical location which may be affected by general economic conditions. An individual’s economic community may extend beyond the geographical location of that person and/or their business or source of income. Conditions that affect general economic conditions may include the logistical supply chain or location of product/service delivery. An individual is defined as a resident of Rhode Island.

Individuals who wish to be eligible as a Dislocated Worker under Section (C) need to provide a description of their business and the economic conditions or natural disaster that contributed to the individual’s unemployment. Individuals must provide One Stop staff with supporting documentation of the economic events. Supporting documentation may include, but is not limited to, financial statements, business correspondence, press announcements or any other documentation that supports this explanation.

(D) Is a **displaced homemaker** (*See Definition Below*); or

(E)(i) Is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10 United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member, or

(ii) 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.

DISPLACED HOMEMAKER [WIOA sec. 3(16)] – An individual who has been providing **unpaid services** to **family members** in the home and who:

(A)(i) has been **dependent on the income** of another family member but is **no longer supported by that income**; or

Interpretation: Rhode Island interprets “**unpaid services**” as any service provided without an employer/employee relationship between family members.

The term “**family members**” is defined as a spouse, child, spouse's child, daughter-in-law, son-in-law, brother, sister, mother, father, grandparents, grandchild, step-brother, step-sister, step-parents, parents-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, guardian, ward, or domestic partnership.

The term “**dependent on the income**” is defined as receiving financial or other form of assistance from a family member to meet any **basic need** of the individual.

The term “**basic need**” means food, shelter, clothing, transportation or any other need necessary for self-sufficiency.

The term “**no longer supported by that income**” is defined as the removal of financial or other form of assistance that is provided to meet any basic need of the individual. This definition is not limited to the removal of the total assistance received by the individual, rather the assistance received per basic need.

(ii) is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code) and whose family income is **significantly reduced** because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member;

and (B) is unemployed or **underemployed** and is **experiencing difficulty** in obtaining or upgrading employment.

Interpretation: Rhode Island interprets “**significantly reduced**” as any reduction in family income due to deployment.

Rhode Island interprets “**underemployed**” as an individual making less than the sum of

the average quarterly wage rates for the most recent year, based on data published by the Labor Market Information division; or is earning less than their projected earnings (as defined in the Continuing Dislocation Section).

Rhode Island interprets “**experiencing difficulty**” as being unsuccessful in finding employment or upgrading employment, as determined by self-certification.

CONTINUING DISLOCATION

Rhode Island recognizes the continuing effect of dislocation events across the state, and therefore does not dictate a time frame in which a person must have been dislocated in order to be deemed eligible as a dislocated worker. The following methodology shall be used to determine eligibility in addition to other accepted methods.

The base rate of pay of the highest unemployment insurance claim shall be adjusted for industry growth over time and compared to the individual’s current earnings. If the current earnings of the individual are less than the adjusted base rate of pay on the UI claim, then the individual is considered a dislocated worker due to the continuing effect of the dislocation event. The methodology is as follows:

1. Identify:
 - Benefit Year Ending Date (for each claim)
 - Earnings at time of lay-off – i.e. Base Period of Wages (for each claim)
 - Industry sector (two-digit NAICS) associated with the employer on the claim with the **highest** base period wages
 - Current Earnings – total of last four quarters from Wage Record
2. Obtain annual wage for the industry sector (based on NAICS code identified above) at the time of layoff from the Quarterly Census of Employment and Wages Report for Rhode Island
 - Use the average wage for the industry sector associated with the employer on the claim for the year associated with the most recent base period quarter used on the claim
 - Annual Average Earnings for the most recent year for the industry sector associated with the employer on the claim. – Currently 2015 Quarterly Census of Employment and Wages Report for Rhode Island.
3. Calculate **percent change in earnings**
 - Calculation: (2015 annual average wage for industry sector – annual average wage at time of layoff for industry sector)/ annual average wage at time of layoff for industry sector
4. Calculate **Projected Earnings**
 - Calculation: Base Period Earnings + (Percent change in earnings * Base Period Earnings)
5. Compare Earnings
 - If Current Earnings are less than Projected Earnings, the individual is a Dislocated Worker

Methodology Equations:

Percent Change in Earnings:

$$F(IE) = \frac{IE_{cy} - IE_{dy}}{IE_{dy}}$$

Projected Earnings:

$$F(BP) = BP[f(IE)] + BP$$

Compare Earnings:

If $F(BP) > E$, then the individual IS a Dislocated Worker

If $F(BP) \leq E$, then the individual is NOT a Dislocated Worker

KEY

IE = Annual Average Earnings for the Industry Sector

CY = Current Year

DY = Dislocation Year

E = Current Earnings

BP = Base Period of Earnings

T = time not worked during a calendar year (unit = years)