



Montana Department of LABOR & INDUSTRY

1
2 **Division: Workforce Services Division**
3 **Category: Wagner-Peyser**
4 **Original Effective Date: 12/27/2017**
5 **Last Revised: 04/01/2022**
6 **Policy No.: 12-17**

7 Migrant and Seasonal Farmworker (MSFW) Policy

8 **Background:** The US Department of Labor (USDOL) established a framework to ensure migrant and
9 seasonal farmworkers (MSFWs) receive equitable access to career services, skill development, and workforce
10 protections offered by Job Service Montana, so they may improve their living and working conditions. This policy
11 covers workforce development services to U.S. farmworkers and differs from the requirements and process for
12 the Foreign Labor Certification program.

13 Each state workforce agency has a State Monitor Advocate (SMA) who reviews state MSFW services on an
14 ongoing basis. At the federal level, the Employment & Training Administration (ETA) regional offices have
15 Regional Monitor Advocates who provide support to SMAs; and one National Monitor Advocate, who oversees
16 the entire system. The Wagner-Peyser Act funds the Monitor Advocate System.

17 **Scope:** This policy applies to Agricultural Outreach staff and Workforce Consultants assisting MSFWs; Job
18 Service Montana office managers and supervisors, Montana Department of Labor & Industry's (MDLI) State
19 Monitor Advocate, and WSD fiscal officers. This policy is effective April 1, 2022.

20 **Policy:**

21 **Definitions:**

- 22 • **Migrant Seasonal Farmworkers** – individuals who are or were employed during the previous 12 months
23 at an orchard, ranch, site, or structure used primarily for raising or processing agricultural or
24 horticultural commodities. Migrant Seasonal Farm Workers cannot be employed year-round by the same
25 employer.
- 26 • **Seasonal Farmworker** – an individual engaged in temporary work and not required to be absent
27 overnight from his/her residence.
- 28 • **Migrant Farmworker** – an individual engaged in seasonal work and reasonably unable to return to
29 his/her residence at night.

30 **Monitor Advocate System Requirements:**

- 31 • Ensure that local Job Service Montana staff conduct outreach to MSFWs at their working, living, and
32 gathering places to provide information on career services, training, and workforce protections;
- 33 • Review of services provided to MSFWs to evaluate for equitable access;
- 34 • Facilitate the Employment Service and MDLI's employment-based Complaint System which helps resolve
35 labor-related complaints; and
- 36 • Promote the recruitment of U.S. workers to connect job seekers with employers who need workers.

37 **Local Office Responsibility:**

38 Job Service Montana provides universal access to an integrated range of labor exchange services for Migrant
39 Seasonal Farm Workers, job seekers, and employers.

- 40 • Job Service Montana ensures that MSFWs receive workforce development services, protections, and
41 benefits qualitatively equivalent and quantitatively proportionate to those provided to non-MSFWs.
- 42 • Outreach to MSFWs is conducted as an active effort to contact migrant workers or MSFWs who do not
43 come to the Job Service Montana offices through their own initiative. Outreach staff contact workers at
44 their place of residence or at their workplace to offer workforce development services.
- 45 • Outreach staff develop and improve relationships with minority advocacy groups and other public and
46 community agencies. Cooperation with these groups is necessary in providing a comprehensive range of
47 services to MSFWs.
- 48 • Reports must be prepared for agricultural activity and service to MSFWs. The MSFW quarterly Report
49 and Outreach Log must be submitted by the tenth working day following the end of the quarter to the
50 Monitor Advocate. Though there may be no reportable activity, a report must be filed indicating so.

51 **Monitor Advocate Responsibility:**

- 52 • The SMA must review the equity ratio indicators and submit a report quarterly to the LEARS on-line
53 system. The report monitors the provision of services to MSFWs.
- 54 • Monitoring will safeguard service to MSFWs, which meets or exceeds the equity ratio indicators for the
55 labor market. The equity indicators include:
 - 56 ○ Individuals referred to jobs;
 - 57 ○ Individuals referred to career and supportive services; and
 - 58 ○ Individuals provided job development.
- 59 • The SMA will prepare an annual report for the Division Administrator and Regional Monitor Advocate per
60 the instructions from the Regional Monitor Advocate and TEGL guidance. This report summarizes
61 MDLI's compliance related to the equitable provision of services to MSFWs.
- 62 • An ongoing review of services and protections afforded to MSFWs is conducted annually. Where
63 deficiencies, problems, or improper practices are identified, Job Service Managers, Regional Directors
64 and the SMA are notified, and recommendations are made to improve the service. Such review includes
65 onsite-monitoring of Job Service Montana.

66 **References:**

- 67 • [20 CFR 653 Subpart B and F - Services for Migrant and Seasonal Farmworkers](#)
- 68 • [20 CFR 652.207 - Requirement for Universal Access](#)
- 69 • [20 CFR 651.10 - General Provisions Governing the Federal-State Employment Service System](#)