



Montana Department of LABOR & INDUSTRY

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

7 Migrant and Seasonal Farmworker (MSFW) Policy

8 **Background:** In 1972, litigation was begun in the National Association for the Advancement of Colored People
9 (NAACP) v. the Secretary of Labor. In this suit farmworkers and MSFW groups alleged repeated violations of the
10 rights to the provision of employment services by state employment security agencies. U.S. District Court Judge,
11 Charles Richey, rendered a declaratory judgment in 1973 that farmworkers' civil rights had been violated.
12 Judge Richey entered a consent order in 1974 requiring the Department of Labor (DOL) to provide farmworkers
13 with equitable services, benefits, and protections. One of the results of these actions was to establish the
14 position of Monitor Advocate. In 1976, DOL proposed for Title 20, Code of Federal Regulations, Part 651, 653,
15 and 658 regulations under the Wagner-Peyser Act. These regulations governed services to MSFWs by the
16 federal/state public employment service system. In July 1979, both parties signed an agreement to suspend
17 further litigation pending the outcome of settlement negotiations. An agreement was reached in December
18 1979 and signed by Judge Richey in January 1980. In the agreement, U.S. DOL was required to publish
19 regulations on employment services to MSFWs and establish a mechanism to coordinate farm labor
20 enforcement activities among the Employment and Training Administration, Employment Standards
21 Administration, and Occupational Safety and Health Administration. Final regulations were published on June
22 10, 1980. This policy replaces ES Policy Manual policies B3.10, Services to Migrant and Seasonal Farmworkers
23 and B3.20 State Migrant and Seasonal Farmworker (MSFW) Monitor Advocate.

24 **Scope:** This policy applies to Agricultural Outreach staff and Workforce Consultants assisting MSFWs; Job
25 Service office managers and supervisors, State Monitor Advocate, WSD fiscal officers and the Program
26 monitoring team. This policy is effective December 27, 2017.

27 **Policy:**

28 **Local Office Responsibility:**

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- 30 • The Job Service is to ensure MSFWs receive qualitatively equivalent and quantitatively proportionate
31 services to those provided to non-farmworkers. This includes all services, protections and benefits,
32 including the full range of referral to services, counseling, testing, training, job referral and job
33 development services. These activities shall be monitored to ensure service is provided to farmworkers,
34 which meets or exceeds the equity ratio indicators for the labor market. The indicators are:
 - 35 ○ Individuals referred to jobs;
 - 36 ○ Individuals provided a countable service;
 - 37 ○ Individuals referred to supportive services;
 - 38 ○ Individuals provided employment counseling; and
 - Individuals provided job development.

- 1 • Outreach to MSFWs shall be conducted as an active effort to contact those farmworkers who do not
2 come to the Job Service through their own initiative. Outreach seeks out workers in their living areas or
3 work places to extend employment, training and supportive services.
- 4 • Outreach must also involve developing and improving relationships with minority advocacy groups and
5 other public and community agencies. Cooperation with these groups is necessary in providing a
6 comprehensive range of services to MSFWs.
- 7 • Farm labor contractors must be registered in compliance with the U.S. Department of Labor. Before
8 providing services, staff will ask to see a valid Certificate of Registration or a valid Farm Labor
9 Contractor Employee Certificate. If a farm labor contractor refuses to show their certificate of
10 registration, services will be denied. If they claim they are registered but are unable to show their
11 certification Job Service staff shall contact the Monitor Advocate.
- 12 • Reports must be prepared for agricultural activity and service to MSFWs. The MSFW quarterly Report
13 and Outreach Log must be submitted by the tenth working day following the end of the quarter to the
14 Monitor Advocate. Though there may be no reportable activity, a report must be filed indicating so.

15 **Monitor Advocate Responsibility:**

- 16 • The State Monitor Advocate reviews the Indicators of Compliance listed above and submits a report
17 quarterly to the regional office. The report monitors the provision of services to MSFWs.
- 18 • The State Monitor Advocate shall prepare an annual report for the Division Administrator and Regional
19 Monitor Advocate per the instructions from the Regional Monitor Advocate.

20 **Monitoring and Evaluation:**

- 21 • An ongoing review of services and protections afforded to MSFWs is conducted annually. Where
22 deficiencies, problems, or improper practices are identified, Job Service Managers, Regional Directors
23 and the Monitor Advocate are notified, and recommendations are made to improve the service. Such
24 review includes onsite monitoring of Job Services.

25 **References:**

- 26 • [20 CFR 653 Subpart B and F - Services for Migrant and Seasonal Farmworkers](#)
- 27 • [20 CFR 652.207 - Requirement for Universal Access](#)