



Montana Department of LABOR & INDUSTRY

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2 **Division: Workforce Services Division**
3 **Category: Wagner-Peyser**
4 **Original Effective Date: 12/27/2017**
5 **Last Revised: 07/01/2024**
6 **Policy No.: 12-17**

7 Migrant and Seasonal Farmworker (MSFW) Policy

8 **Background:** The U.S. 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 (JSM), so they may improve their living and working conditions. This
11 policy covers workforce development services to U.S. farmworkers and differs from the requirements and
12 process for 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 This policy is updated to reflect recent USDOL revisions to Employment Service (ES) regulations intended to
18 strengthen the provision of services to MSFWs and enhance protections afforded by the Monitor Advocate
19 System.

20 **Scope:** This policy applies to Agricultural Outreach staff and Workforce Consultants assisting MSFWs; JSM
21 office managers and supervisors, Montana Department of Labor & Industry's (MTDLI) State Monitor Advocate,
22 and WSD fiscal officers. This policy is effective July 8, 2024.

23 **Policy:**

24 **Definitions:**

- 25 • Migrant Seasonal Farmworkers – individuals who are or were employed during the previous 12 months
26 at an orchard, ranch, site, or structure used primarily for raising or processing agricultural or
27 horticultural commodities. MSFWs cannot be employed year-round by the same employer.
- 28 • Seasonal Farmworker – an individual engaged in temporary work and not required to be absent
29 overnight from his/her residence.
- 30 • Migrant Farmworker – an individual engaged in seasonal work and reasonably unable to return to
31 his/her residence at night.
- 32 • Full-time Students – who otherwise meet the criteria set forth above and are therefore eligible for the
33 same benefits and protections.

34 **Monitor Advocate System Requirements:**

- 35 • Ensure that local JSM staff conduct outreach to MSFWs at their working, living, and gathering places to
36 provide information on career services, training, and workforce protections;
- 37 • Review of services provided to MSFWs to evaluate for equitable access;

- 38 • Promote the ES and MTDLI's complaint system which identifies, addresses, and resolves employment-
39 related complaints and apparent violations ; and
- 40 • Promote the recruitment of U.S. workers to connect job seekers with employers who need workers.

41 Local Office Responsibility:

42 JSM provides universal access to an integrated range of labor exchange services for MSFWs, job seekers, and
43 employers.

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

55 Monitor Advocate Responsibility:

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

70 References:

- 71 • [20 CFR 653 Subpart B and F - Services for Migrant and Seasonal Farmworkers](#)
- 72 • [20 CFR 652.207 - Requirement for Universal Access](#)
- 73 • [20 CFR 651.10 - General Provisions Governing the Federal-State Employment Service System](#)
- 74 • [TEN 27-23 - Improving Protections for Workers in Temporary Agricultural Employment](#)