



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: 04/01/2020**
6 **Policy No.: 12-17**

7 Migrant and Seasonal Farmworker (MSFW) Policy

8 **Background:** In 1972, the National Association for the Advancement of Colored People (NAACP) v. the
9 Secretary of Labor lawsuit included allegations by farmworkers and MSFW groups of repeated violations of their
10 rights to employment services by state employment security agencies. In 1973, U.S. District Court Judge
11 Charles Richey rendered a declaratory judgment that farmworkers' civil rights had been violated. Judge Richey
12 entered a consent order in 1974 requiring the U.S. Department of Labor (DOL) to provide farmworkers with
13 equitable services, benefits, and protections. The position of Monitor Advocate was established. In 1976, DOL
14 proposed Title 20, Code of Federal Regulations, Part 651, 653, and 658 under the Wagner-Peyser Act to govern
15 services to MSFWs by the federal/state public employment service system. In 1979, both parties signed an
16 agreement to suspend further litigation pending the outcome of settlement negotiations. Signed by Judge
17 Richey in January 1980, the agreement required U.S. DOL to publish regulations on MSFW employment services
18 and establish a mechanism to coordinate farm labor enforcement activities among the Employment and
19 Training Administration, Employment Standards Administration, and Occupational Safety and Health
20 Administration. Final regulations were published on June 10, 1980.

21 **Scope:** This policy applies to Agricultural Outreach staff and Workforce Consultants assisting MSFWs; Job
22 Service Montana office managers and supervisors, Montana Department of Labor & Industry's State Monitor
23 Advocate, WSD fiscal officers and the Program monitoring team. This policy is effective April 1, 2020.

24 **Policy:**

25 **Definitions:**

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

34 **Local Office Responsibility:** Job Service Montana provides universal access to an integrated range of labor
35 exchange services for Migrant Seasonal Farm Workers, job seekers, and employers.

- 36 • Job Service Montana ensures that MSFWs receive workforce development services, protections, and
37 benefits qualitatively equivalent and quantitatively proportionate to those provided to non-farmworkers.

- 38 Monitoring will safeguard service to farmworkers, which meets or exceeds the equity ratio indicators for
39 the labor market. The equity indicators include :
- 40 ○ Individuals referred to jobs
 - 41 ○ Individuals referred to career and supportive services;
 - 42 ○ Individuals provided job development.
- 43 ● Outreach to MSFWs is conducted as an active effort to contact farmworkers who do not come to the Job
44 Service Montana offices through their own initiative. Outreach staff contact workers at their place of
45 residence or at their workplace to offer workforce development services.
 - 46 ● Outreach staff develop and improve relationships with minority advocacy groups and other public and
47 community agencies. Cooperation with these groups is necessary in providing a comprehensive range of
48 services to MSFWs.
 - 49 ● Reports must be prepared for agricultural activity and service to MSFWs. The MSFW quarterly Report
50 and Outreach Log must be submitted by the tenth working day following the end of the quarter to the
51 Monitor Advocate. Though there may be no reportable activity, a report must be filed indicating so.

52 Monitor Advocate Responsibility:

- 53 ● The State Monitor Advocate reviews the Indicators of Compliance listed above and submits a report
54 quarterly to the regional office. The report monitors the provision of services to MSFWs.
- 55 ● The State Monitor Advocate will prepare an annual report for the Division Administrator and Regional
56 Monitor Advocate per the instructions from the Regional Monitor Advocate.

57 Monitoring and Evaluation:

- 58 ● An ongoing review of services and protections afforded to MSFWs is conducted annually. Where
59 deficiencies, problems, or improper practices are identified, Job Service Managers, Regional Directors
60 and the Monitor Advocate are notified, and recommendations are made to improve the service. Such
61 review includes onsite-monitoring of Job Service Montana.

62 References:

- 63 ● [20 CFR 653 Subpart B and F - Services for Migrant and Seasonal Farmworkers](#)
- 64 ● [20 CFR 652.207 - Requirement for Universal Access](#)
- 65 ● [20 CFR 651.10 - General Provisions Governing the Federal-State Employment Service System](#)