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e-mailed to MWAs on 03/14/08 (cg)

Bureau of Workforce Programs (BWP)

Policy Issuance (PI): 07-37

Date: March 14, 2008

To: Michigan Works! Agency (MWA) Directors

From: Janet Howard, Interim Director, Bureau of Workforce Programs **SIGNED**

Subject: Workforce Investment Act (WIA) Sanctions for Failure to Meet Negotiated Performance Levels

Programs Affected: WIA Adult, Dislocated Worker, and Youth Programs Administered by the MWAs

Rescissions: Michigan Department of Labor & Economic Growth/BWP PI 03-23, issued July 10, 2003

References: The WIA of 1998 and WIA Final Rule 20 CFR Part 652 et al.

Training and Employment Guidance Letter (TEGL) 9-07, issued October 10, 2007

Letter dated January 18, 2008, to MWA Directors from Deputy Director Levin

Background: The WIA and the WIA Final Regulations require governors to provide technical assistance should a local area fail to meet a standard's negotiated level of performance in any program year. Additionally, the Act and Regulations also require governors to take corrective action should a local area fail to meet a standard's negotiated level of performance for two consecutive years. TEGL 9-07 revised the performance standards utilized by the governors when applying federally required sanctions.

Policy: Beginning with Program Year 2006, the following performance indicators will be utilized to assess the effectiveness of local areas in achieving continuous improvement of workforce investment activities:

Adult Program Activities

1. Entered Employment Rate
2. Employment Retention Rate
3. Average Six-Month Earnings

Dislocated Worker Program Activities

4. Entered Employment Rate
5. Employment Retention Rate
6. Average Six-Month Earnings

Youth Program Activities

Youth Age 19 Through 21:

7. Entered Employment Rate
8. Employment Retention Rate

Youth Age 14 Through 18:

9. Diploma or Equivalent Rate
10. Retention Rate

Sanctions

Any local area that fails to meet the negotiated level of performance for at least one performance indicator listed above shall receive technical assistance. Failure to meet a local performance measure is defined as failing to achieve at least 80 percent of the negotiated level for a particular standard. The MWA's final program year performance is published in the state's WIA Annual Report each October.

Any local area that fails to achieve at least 80 percent of the negotiated level of performance for a specific indicator for two consecutive years shall be required to submit a corrective action plan. MWA directors, Workforce Development Board (WDB) chairs, and Chief Elected Officials will be notified when a performance standard(s) is failed. MWA officials will be required to submit corrective action plans within six weeks of notification that a performance standard has been failed for the second year in a row.

The MWA's corrective action plan must address why the MWA has failed the measure(s) and outline specific steps that will be taken to help ensure the measure(s) is met the following year. The MWAs may wish to address program design, goals, or service strategies that may inhibit performance,

including reporting problems, and appropriate technical assistance to improve such services, including continuous monitoring of the performance measures. A timeline outlining the steps to be taken must also be submitted.

Once a corrective action plan is submitted to the BWP, it will be reviewed and a determination will be made regarding its effectiveness in addressing the failed measure(s). If a corrective action plan is deemed acceptable, the MWA will be notified to proceed with the indicated action(s). The BWP will continue to monitor the MWA's progress throughout the year.

If a corrective action plan does not effectively identify and address the performance measure(s) in a manner likely to ensure future success in meeting the negotiated level for the measure(s), or a response is not submitted within the required timeframe, the MWA will be notified. The BWP will then begin to take appropriate steps to address and resolve the deficiencies.

Subsequently, the following steps could be taken:

- Prohibit the use of eligible providers and service center partners identified as achieving a poor level of performance;
- Decertify the local WDB and require that a new local board be appointed pursuant to a reorganization plan, as developed by the governor;
- Appoint an existing WDB, currently demonstrating successful performance and operating in close proximity to the MWA in question, to administer agency operations; and/or
- Other actions the state determines are appropriate.

Appeal by the Local Area:

A local area that is subject to a reorganization plan for failure to meet a local performance measure(s) for two consecutive years may, not later than 30 days after receiving notice of the reorganization plan, appeal to the governor to rescind or revise such plan. The governor shall make a final decision not later than 30 days after the receipt of such appeal.

The local area may, not later than 30 days after receiving a decision from the governor regarding the reorganization plan, appeal such a decision to the Secretary of Labor. In such cases, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

The decision made by the governor regarding the reorganization plan shall become effective at the time the governor issues the decision.

Such decisions shall remain effective unless the Secretary rescinds or revises such plan.

Action: MWA officials shall use this policy in developing local guidelines and procedures, as appropriate.

MWA officials that receive notification of failed performance for two consecutive years shall follow the procedures outlined in this policy.

Inquiries: Questions regarding this policy issuance should be directed to your WIA state coordinator.

This policy issuance is available for downloading from the Internet system. Please contact Ms. Cynthia Grostick at (517) 335-7418, for details.

The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon special request to this office. Please contact Ms. Grostick at (517) 335-7418, for details.

**Expiration
Date:**

Ongoing

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