

West Virginia RECEIVED DEPT. OF LABOR
USA P.O. Box 10000 West Virginia Development Office
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June 23, 2004 2004 JUN 28 A 11:54

Ms. Lenita Jacobs-Simmons
Regional Administrator
United States Department of Labor
Employment and Training Administration
The Curtis Center
170 S. Independence Mall West
Suite 825 East
Philadelphia, PA 19106-6315

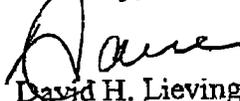
Dear Ms. Simmons:

In July 2002, pursuant to a Training and Employment Guidance Letter, the State of West Virginia submitted the attached letter requesting waivers under applicable provision of the Workforce Investment Act. In a letter dated January 21, 2003, copy attached, Assistant Secretary Emily Stover DeRocco responded to Governor Wise and granted the waiver.

Since WIA reauthorization has not occurred and consistent with the rationale used in granting the State of West Virginia a waiver of the 18-month requirement at 20 CFR 663.530, I respectfully request extending the period of initial eligibility of training providers in West Virginia through June 30, 2005. Thank you for your consideration on this important matter for our state's workforce investment system.

If you have questions or require additional information, please do not hesitate to contact me.

Sincerely,



David H. Lieving
Director
Governor's Workforce Investment Division

DL/ssm

Attachments

West Virginia

West Virginia Development Office
LNA

Tom Dowd
Regional Administrator
U.S. Department of Labor
Employment and Training Administration
The Curtis Center
170 S. Independence Mall West
Suite 825 East
Philadelphia, PA 19106

Dear Mr. Dowd:

Enclosed please find two separate waiver requests related to the Workforce Investment Act. The first request involves the eligible training provider provisions of the Act. The second request deals with the twenty percent (20%) limitation placed on the transfer of funds between the adult and dislocated worker funding streams. Each waiver has been provided in hard copy and on a formatted computer disk using Microsoft Word.

If after you and your staff have had the opportunity to review these waiver requests you have questions or comments, or require additional assistance or information, please do not hesitate to contact me.

Thank you for the opportunity to make this application.

Sincerely,



David H. Lieving
Director

Governor's Workforce Investment Division

2004 JUL 28 10 11 AM

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



JAN 21 2003

The Honorable Bob Wise
Governor of West Virginia
Charleston, West Virginia 25305-0370

Dear Governor Wise:

It is with pleasure that I respond to the State of West Virginia's request for a waiver of statutory and regulatory requirements under the Workforce Investment Act (WIA), in accordance with the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and sections 8-10 of the Wagner-Peyser Act. This authority is granted to the Secretary by section 189(i)(4)(A) of the Workforce Investment Act (WIA or the Act), and in the implementing regulations at 20 CFR 661.420.

These waivers grant states flexibility in program design for seamless program delivery and improved customer service, in exchange for accountability and agreed-to programmatic outcomes. We hope that these changes will assist your state in meeting its workforce needs and improving programmatic outcomes at the local level and statewide. The following is the disposition of the state's waiver requests:

Waiver 1: Subsequent Eligible Training Provider (ETP) Requirements; All student reporting requirement (WIA Sec. 122(d)(1)(A)(i), 122(c)(5) and 20 CFR 663.535(c)(1))

The state is requesting a waiver of certain provisions of WIA sections 122(c) and (d) of the Workforce Investment Act of 1998 (WIA). WIA section 122 (d)(1)(A)(i) requires training providers to submit verifiable program specific information on the outcomes of "all individuals" and "WIA participants" who attend the training program. WIA section 122 (c)(5) stipulates that training programs must annually meet minimum acceptable levels of performance established by the Governor, as demonstrated utilizing quarterly wage records consistent with WIA section 136, to maintain subsequent eligibility for WIA funding.

West Virginia is seeking waivers on two provisions of subsequent eligibility:



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1. Removal of the WIA section 122(c)(5)(B) requirement that training programs must meet the "all individual" performance level established by the Governor to retain eligibility; and
2. Elimination of the WIA section 122(d)(1)(A)(i) performance verification requirement for "all individuals."

Based on the state's current request (copy enclosed), we are not approving the request to waive the "all student" performance requirements for subsequent eligibility at WIA sections 122(c)(5)(B) and 122(d)(1)(A)(i) and 20 CFR 663.535(c)(1), at this time. These particular requirements are subsumed in the broader policy determination with regard to the overall eligible training provider impediments to full implementation of the states' five-year strategic plans, and are undergoing review within the context of the impending WIA Reauthorization. Pending the national resolution of these issues, we are not prepared to waive such a critical component of the WIA key principles of increased accountability and customer choice.

Although we are not now prepared to waive this particular provision, we wish to assist the state in addressing the issue of declining eligible training providers, which directly impacts on customer choice in accessing training services, one of the key reform principles of WIA. Accordingly, the state is granted a waiver of the 18-month requirement at 20 CFR 663.530 to extend the period of initial eligibility of training providers through June 30, 2004. The effect of this waiver is to extend the period of initial eligibility of providers through FY 2003.

Waiver. Waive the title I 20% transfer authority at WIA section 133(b)(4)

The state's waiver submission (copy enclosed) requests a general waiver of the 20% transfer authority provision at WIA section 133(b)(4) to provide more flexibility in the transferring of funds between WIA Title I-B funding streams for dislocated workers and adults in order to meet local needs. The state believes that allowing local areas greater flexibility in fund transfers between the adult and dislocated worker funding streams will increase the effectiveness and efficiency of workforce investment services in West Virginia. The state reports that, to date, local boards have been constrained in the delivery of services by the restraints placed against the transfer of funds between the adult and dislocated worker funding streams. The waiver submission states that in many cases, local areas have obligated all adult training funds and been forced to place qualified individuals on a waiting list for services while at the same time having significant amounts of dislocated worker funding available but unused. The state believes allowing larger transfers of funding between the adult and

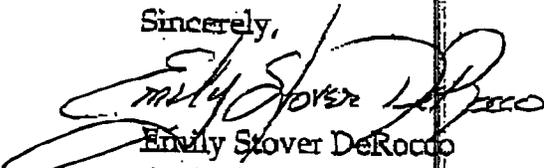
dislocated worker funding streams would allow local areas to extend services to additional qualified applicants in one stream when demand dictates.

To address this issue the state is requesting a waiver to increase the transfer authority at WIA section 133(b)(4) between the adult and dislocated funding streams from 20% to 50%. The state's request appears to meet the requirements for waiver requests at WIA section 189(i)(4)(B) and 20 CFR 661.420(c) and the standard for waiver of requirements relating to key reform principles, as specified at 20 CFR 661.410(c). Accordingly, the state's request, to waive the 20% transfer at WIA section 133(b)(4) to permit an increase in the transfer authority between the adult and dislocated worker funding streams to a maximum of 50% at the local level is approved, consistent with the state's waiver submission.

The granted waivers are incorporated by reference into the state's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and also constitute a modification of West Virginia's approved five-year Strategic Plan. A letter is being sent to your state WIA Liaison, which supplements this notification letter and spells out the terms and conditions that apply to the granted waivers. A copy of each letter should be filed with the state's WIA Grant Agreement and the state's approved five-year Plan, as appropriate.

We look forward to continuing our partnership with you and to the achievement of better workforce development outcomes and the improvement of the lives of many of the residents of West Virginia. We are prepared to entertain other state and local-level waiver requests that the state may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,



Emily Stover DeRocco
Assistant Secretary

Enclosure

Linda A. Avila
Manpower Development Specialist
USDOL/ETA
170 South Independence Mall West, Suite
825 East
Philadelphia, PA 19106

facsimile transmittal

To: *Sharon Kelly*

Fax: *(202) 693-3015*

From: Linda A. Avila

Date:

Manpower Development Specialist

USDOL

215-861-5227

FAX: 215-861-5261

Re: *West Virginia Waiver*

Pages: *6*

CC: [Click here and type name]

Urgent

For Review

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