

**Q1. Currently, we have a customer who has provided a Naturalization document and has requested services through WIA Title I. We ran his name, social security number and date of birth through “sss.gov.” (Selective Service System), and it indicated that he has not registered for the draft. Policy Attachment E for Selective Service reads as follows:**

**“(B) Males not born in the United States, whose birth date is on or after January 1, 1960 and who entered the U.S. before their 26th birthday must have registered with the Selective Service System (must be able to document their date of entry and date of birth). Since a foreign born male who enters the U.S. as a student attending school on a full-time basis is not required to register with Selective Service, verification of the individual’s F1 Student Visa status when he was between the ages of 18-26 would be sufficient.**

**For non-U.S. born customers presentation of either a Certificate of Naturalization form or a valid United States Passport will indicate that an individual has met all Selective Service requirements, as Selective Service compliance is also a requirement of the naturalization process.”**

- Does the policy intend to state that we are not compelled to check draft registration and simply document possession of a U.S. Passport or Naturalization form?**
- Does the fact that the Selective Service System cannot verify compliance indicate a discrepancy?**
- Is it possible that the registration for the draft is documented differently for non-citizens who are naturalized and does not get recorded through the Selective Service System?**

**A1. This revised MassWorkforce Policy Issuance provides guidance with regard to acceptable documentation for determining a customer’s eligibility for One-stop Career Center services under Title I of the Workforce Investment Act. Nothing in the Communication either limits or waives the requirement that males of certain ages must provide proof that they are in compliance with, or are not subject to the requirement to register with the Selective Service System in order to access Title I services.**

In order to make such a determination for non-U.S. born males, One-Stop Career Center staff should first check with the Selective Service System, directly. If the search with the Selective Service System does not provide the necessary confirmation of compliance, other acceptable methods of documenting the individual’s compliance would be to determine if the individual possesses a valid Certificate of Naturalization form or a valid United States Passport. As the process of obtaining U.S. citizenship for all males of certain ages requires proof of compliance with all Selective Service requirements, possession of either document by a non-U.S. born male is sufficient evidence of said compliance.

It is beyond the scope of the policy as iterated in this Policy Issuance whether or not the inability to confirm an individual's compliance with the Selective Service registration requirements through a Selective Service System (sss.gov.) search indicates a discrepancy or that compliance is recorded through an alternate means. The policy sufficiently describes the forms of documentation that are acceptable in order to determine an individual's compliance with the Selective Service registration requirements.

**Q2. I'm still not completely clear about the definition of "State Custody Youth" and their income eligibility for WIA. In my experience there are two categories of youth who are involved with either the Department of Children and Families (DCF, formerly DSS) or the Department of Youth Services (DYS):**

**Removed from Family** -- Those youth who, because of their situations, have been physically removed from their families and placed in foster care, temporary housing, incarceration, etc. I believe that they are "automatically" eligible for WIA, since they are not supported by their families, but are instead supported by the state.

**Living with Family** -- Those youth who are under the supervision of a state agency such as DYS or DCF, but who, because of their situations, are allowed to remain with their families while their issues are being dealt with. I believe that these youth are not "automatically" eligible for WIA, since they are supported by their families; their family income must be taken into account for eligibility purposes, and, as a result, some of these types of applicants may be over-income and not eligible.

**The term "substitute care" seems to address this, but I want to be sure. It seems to mean someone who has been removed from a family for *some* reason, so I think the eligibility definition concurs with my thoughts, but I request clarification.**

**A2.** We agree, there needs to be more clarity as it pertains to the terms state custody youth and foster child. The term "state custody youth" is intended to be inclusive of "foster children", however both terms have different status when it comes to determining a youth's eligibility. We believe there should be a clearer definition of the terms and will act to clarify the language. The term "juvenile justice committed youth" has been added to the Policy and the Definitions (Attachment D) for clarification.

The commenter is correct in generally describing the type of youth involved with DYS and DCF. However, the commenter is incorrect in assuming that youth who are removed from the family are automatically eligible. There are two categories of youth who are automatically eligible in WIA, Homeless Youth and Foster Youth (WIA §101(25)). Guidance from the Department of Labor to Massachusetts affirms that juvenile justice youth who are not living with their parents can be treated as a family of one, whereby their own income can be used to determine eligibility, but are not automatically eligible.

It is the Commonwealth's position that Congress was intentionally specific in their language about income eligibility. Had Congress wanted to determine juvenile justice involved youth as low income individuals it would have specifically included that cohort in WIA 101 (25). However, only foster and homeless youth are named as income eligible based on their condition. WIA provides no explanation for this differential treatment. However, it is reasonable to assume that foster and homeless youth may face significantly more difficulty in achieving stable family reunification than other youth. We do not discount however that other youth face similar challenges. Nonetheless, federal law (PL 105-220, (WIA)) and Massachusetts law (MGL chapters 119, 120 (Public Welfare)) differentiates foster youth from juvenile justice committed youth.

**Q3. I have run into situations where state agency representatives have tried to get youth applicants from the "Living with Family" category into WIA programs, believing they are automatically eligible, simply because they are "assigned" to a state counselor for services. But I have argued that they are not supported income-wise by the state, but by their families, and have to have the whole family income documented to determine eligibility. Am I correct or not on that? I can't completely tell from this definition.**

A3. Yes, the commenter is correct. Because the youth is living with the family at the time of registration, the *family* income must be considered. If the youth was placed outside of the home at the time of registration he/she would be eligible for streamlined eligibility processing in which he/she could be considered a family of one for purposes of income eligibility determination.

With regard to assuring an appropriate knowledge base for all parties and entities working with these specific youth cohorts, programs that target or prioritize these populations for service, must develop strong relationships with local area offices of the various state agencies and with the local case workers and supervisors to gain and articulate a mutual understanding of shared practices for referral and timing of the enrollment of foster and juvenile justice youth that meets the requirements of WIA, and should provide alternative service referrals for those that do not qualify as eligible for Title I services. Local areas are strongly encouraged to develop formal memoranda of agreement to address these issues.

**Q4. Are there instances where a youth who is involved with DCF or DYS would not be automatically eligible, but where the total family income would have to be taken into account?**

A4. Yes, when a youth who is involved with DYS or DCF does not meet the criteria in the definitions in Attachment D at the time of registration. DYS involved youth, who are in substitute care settings, can have their own income used to determine eligibility. DCF involved youth, who are in substitute care settings, are automatically income eligible.

**Q. 5 If an individual seeking Title I intensive and/or training services is disabled, does the individual's full family income level need to be established and reviewed for low-income status before he/she can be determined eligible for Title I services?**

- A. 5 No. As part of the definition of "Low Income Individual" under the Workforce Investment Act, §101(25)(F) states that a low income individual is "an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) [see below] or of subparagraph (B) [see below], but who is a member of a family whose income does not meet such requirements."

§101(25)(A) and (B) state:

A) receives, or is a member of a family that receives, cash payments under a federal, state or local income-based public assistance program;\

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved [exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)] that, in relation to family size does not exceed the higher of:

- (i) the poverty line, for an equivalent period; or
- (ii) 70 percent of the lower living standard income level, for an equivalent period.

§663.640 of the Regulations also specifically addresses the issue and states:

"Even if the family of an individual with a disability does not meet the income eligibility criteria, the individual with a disability is to be considered a low income individual if the individual's income meets the criteria established in WIA..."

The Commonwealth interprets this language to mean that in determining Title I eligibility for an individual for whom it is *known* that he/she is disabled, a staff person need only determine if the *individual's* income meets the requirements described in §101(25)(A) and/or §101(25)(B) and that there is *no need* to determine the full "family" income first as it is the case that under WIA, for a disabled person who is determined to be of "low income", him or herself, the family's income level becomes moot.

**Q. 6 Is accepting and viewing the social security cards of the members of a family a valid and appropriate means of documenting the family's size for purpose of determining Title I eligibility?**

- A. 6 No. An individual's Social Security card provides no information relevant to indicating either the person's relationship to other individuals or the size of the individual's family and cannot, therefore be used as documentation for that purpose. As such, there is no reason to view, accept or copy any individual's social security card as documentation of family size, even when offered.

Further, the social security card has no purpose related to verification or documentation of eligibility for WIA Title I services.

**Q7. Can a career center accept a birth document for a person who was born in another state if the document was obtained through a private company called VitalCheck? Is such a document valid for determining WIA eligibility?**

- A7. VitalCheck Network, Inc., a subsidiary of ChoicePoint, Inc., is based in Nashville, TN and provides a web-based service allowing individuals to request official government certificates of birth, death, marriage and divorce. The company has formal agreements with the agencies that administer the vital records and statistics for each of the fifty states, the District of Columbia, Puerto Rico (but not other U.S Territories at this time) and more than 350 other U.S. government units (counties, cities, etc.). The service enables an individual residing in one state to conveniently request and obtain official government certificates without having to travel to the state of record.

All certificates requested through VitalCheck's service are *official government-issued documents*. The service provided by VitalChek covers only an individual's on-line request for an official document and the processing of the request for a minimal fee. Once processed, the official document, itself is sent by the government vital statistics agency/office directly to the individual who requested it. The document *is not* provided to the individual through VitalChek.

In Massachusetts, VitalChek works with the MA Executive Office of Health and Human Services Department of Public Health Registry of Vital Records and Statistics. In other states, it works with the appropriate state, county or local government entity responsible for maintaining citizens' vital records.

For purposes of WIA eligibility determination, an individual, in order to establish eligibility under a specific eligibility criterion (age, citizenship, family size, etc.) who provides a government document related to birth, marriage or divorce from another state and is identified as having been processed through VitalChek, is to be considered a valid, government-issued document and accepted as an appropriate and valid source of documentation.

**Q8. What, if any, requirement (please cite applicable guidance) is there to verify the income for a youth who does not qualify for WIA Title I services because of being over income and upon being qualified to participate via the 5% Window (which allows for 5% percent of participants to be non-economically disadvantaged provided they meet the other eligibility and selective service requirements)?**

A8. WIA requires that for *any* youth seeking WIA-funded services a determination of the family's income must be made in order to ascertain WIA eligibility as a "low-income individual" as required by the definition of an "eligible youth" described in WIA §101(13). Should the eligibility process determine that the youth's family income exceeds the allowable minimum eligibility threshold the youth may still be served with WIA funding through the exception mechanism of the 5% window [allowable under WIA §129 (c)(5)] as long as the 5% level of "over-income youth" has not yet been reached and the youth falls within at least one of the following categories:

- A school dropout;
- Is skill deficient;
- Is an individual with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individual;
- Is pregnant or parenting;
- Is a person with disabilities, including learning disabilities;
- Is a homeless or runaway youth;
- Is an offender; or
- Is a youth that faces serious barriers to employment as identified through established policy by the local WIB.

The WIA Youth eligibility requirements are described in MassWorkforce Issuance No. 09-20, Title I Eligibility Requirements, Revised (4/8/09). Attachment F specifically covers the appropriate documentary evidence that can be used to determine the youth's family income level. Additionally, as specified in WIA Communication No. 04-07, Systems Certification (2/15/04) family income must be determined in accordance with the area's certified eligibility system that includes the area's income calculation policy.

**Q9. Is there any provision in guidance that limits the completion of an Applicant Statement to a specific locale (i.e. Career Center)? Further, does the corroborative witness to the signature of the applicant making the statement have to be witnessed by an Intake/Staff member?**

A9. The Commonwealth's policy guidance with regard to the use of an Applicant Statement as described in MassWorkforce Issuance No. 09-20, Title I Eligibility Requirements, Revised (4/8/09) requires the Applicant Statement to be used "in a limited way" and that local boards "must develop policies that describe how applicant statements are used in conjunction with *practicable attempts to secure recommended documentation* (italics

added). Applicant statements should be supported by a documented corroborative contact or reliable witness attesting to the accuracy of the statement.”

While there is no specific language in either the Act or the WIA regulations with respect to where an Applicant Statement may be completed (including where it is signed), the statutory and otherwise implied fiduciary responsibility of those entities that oversee and administer the use of WIA funds, particularly as it applies to the determination of individual eligibility for the receipt of benefits and services under WIA, mandates that all due diligence be taken to assure the integrity of the eligibility determination process for any individual seeking services under the Act.

In that regard, WIBs are advised to ensure appropriate policy and process safeguards, such as a requirement that to every practicable extent (without unduly penalizing a family or individual with a valid extenuating circumstance) the signature on the Applicant Statement form, including that of a corroborating witness, be made in the presence of an appropriately designated staff person.