

COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM

WORKFORCE INVESTMENT ACT

VIRGINIA WORKFORCE LETTER (VWL) 14-15

TO: LOCAL WORKFORCE INVESTMENT BOARDS
FROM: WORKFORCE DEVELOPMENT SERVICES
SUBJECT: DEFINITION OF FAMILY AND FAMILY INCOME

DATE: April 25, 2014
REVISION DATE: June 23, 2014
REVISED EFFECTIVE DATE: December 1, 2014

RESCINDS: VWL 13-05

Rescinds Virginia Workforce Letters No. 02-07 and 02-08. This VWL combines those two VWLs into one VWL.

VWL is revised based on guidance in Training and Employment Guidance Letter No. 26-13.

REFERENCES:

Workforce Investment Act of 1998, Section 101 (15) Definitions (Family);
Workforce Investment Act of 1998, Section 101 (25) Definitions (Low Income Individual);
Workforce Investment Act of 1998 regulations, 20 CFR Part 652 et al;
Training and Employment Guidance Letter No. 26-13; Subject: Impact of the U.S. Supreme Court's Decision in *United States v. Windsor* on Eligibility and Services Provided Under Workforce Grants Administered by the Employment and Training Administration;
38 U.S.C. 4215, Priority of service for veterans in Department of Labor training programs;
20 CFR Part 1010, Application of Priority of Service for Covered Persons;

PURPOSE:

The purpose of this Virginia Workforce Letter is to combine the Family and Family Income VWLs into a single document. The Family Income VWL has been updated to meet the existing requirements specified in the WIA Eligibility documents. These definitions are to be used in the definition of **Low Income** for Adults and Youth under the Workforce Investment Act (WIA).

GUIDANCE:

What is a “family” for WIA eligibility purposes?

The term “family” means two or more person related by blood, marriage or decree of court, who are living in a single residence, and are included in one or more of the following categories:

A husband, wife, and dependent children

A parent or guardian and dependent children

A husband and wife.

Workforce Investment Act: TITLE I--WORKFORCE INVESTMENT SYSTEMS Subtitle A--Workforce Investment Definitions; SEC. 101. DEFINITIONS (15).

Amended Definition:

“Consistent with the Supreme Court’s *Windsor* decision and with ETA’s policy of treating all individuals equally, regardless of sexual orientation, ETA interprets gender-specific terms of marriage such as “widow,” “widower,” “husband,” and “wife” to include married same-sex spouses. We find that such gender-specific terms in Section 101 (15) Workforce Investment Act of 1998 (WIA) in the definition of “family,” codified at 29 U.S.C. Section 2801 (15):

(15) FAMILY-

The term ‘family’ means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- (A) A husband, wife, and dependent children.
- (B) A parent or guardian and dependent children.
- (C) A husband and wife.”

For purposes of this VWL, the definition of family and the phrase “husband and wife” includes same-gender married couples.

LOW-INCOME INDIVIDUAL- The term ‘low-income individual’ means an individual who--

- (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;

(C) is a member of a household that receives, or has been determined within the 6-month period prior to application for the program involved to be eligible to receive food stamps (SNAP) pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.;

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.
Workforce Investment Act: TITLE I--WORKFORCE INVESTMENT SYSTEMS
Subtitle A--Workforce Investment Definitions; SEC. 101. DEFINITIONS (25).

Family Income

Family income is the income received from included sources of income for all members of the "family," as defined above under "What is a "family" for WIA eligibility purposes. Income is defined by the Department of Health and Human Services in connection with the annual poverty guidelines with the exceptions noted under "Exclusions to Family Income."

Self-employment income must be determined on the basis of the most recently submitted federal income tax return or on the basis of annualized proceeds posted in more up-to-date acceptable accounting records. All other income is to be annualized based on receipts during the past six months.

Family size is the maximum number of family members during the income determination period. For a separated or divorced applicant, income shall be prorated

depending on the length of time during the last six month the applicant lived with the other wage earner.

Inclusions to Family Income

1. ***Gross wages and salaries before deductions:*** Total money earnings received from work performed as an employee. If a family's only source of income was from wages and salary payments, family income would be equal to gross wages and salary received.
2. ***Income from non-farm self-employment:*** Net income (gross receipts minus operating expenses) from a business or other non-farm enterprise in which a person is engaged on his/her own account. If the business or enterprise has suffered a loss, this loss will be allowed to offset wage earnings.
3. ***Income from farm self-employment:*** Net receipts from farm self-employment (receipts from a farm which operates as an owner, renter, or sharecropper, after deductions for farm operating expenses). If the farm has suffered a loss, this loss will be allowed to offset wage earnings. Money received under the Agricultural Crop Stabilization Program is considered income.
4. ***WIA and Title V Older Americans Act Program Participation:*** Wages paid to participants in WIA OJT and the Title V Older Americans Program placements count as income.
5. ***Social Security Disability Income (SSDI):*** pays benefits to the applicant and certain members of his or her family if "insured", meaning that they worked long enough and paid Social Security taxes.
6. ***Money received from such sources:***
 - Net rents;
 - Governmental and non-governmental pensions;
 - Railroad retirement benefits;
 - Strike benefits from union funds;
 - Worker's compensation;
 - Training stipends;
 - Alimony;
 - Military family allotments or other regular support from an absent family member or someone not living in the household; (except for military payments indicated below which are excluded from family income calculations)
 - Regular insurance or annuity payments;

- College or university scholarships, grants (excluding Pell grants), fellowships, and assistantships;
- Dividends and interest;
- Net royalties;
- Periodic receipts from estates and trusts; and
- Net gambling or lottery winnings.

Exclusions from Family Income

1. Unemployment Compensation; *WIA, Section 101(25)(B)*
2. Child support payments; *WIA, Section 101(25)(B)*
3. Old age and survivors' insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402) *WIA, Section 101(25) (B)*
4. *Military Pay or Allowances*: Are there special rules that apply to veterans when income is a factor in eligibility determinations? (Sec. 667.255) Yes, under 38 U.S.C. 4213, when past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded. This applies when determining if a person is a "low-income individual" for eligibility purposes (for example, in the WIA youth, Job Corps or NFJP programs) and applies if income is used as a factor in applying the priority provision under 20 CFR 663.600 when WIA adult funds are limited. Questions regarding the application of 38 U.S.C. 4213 should be directed to the Veterans Employment and Training Service.

US Code: Title 38, Section 4213. Eligibility requirements for veterans under Federal employment and training programs:

Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran, any amounts received by an eligible person under chapters 13 and 35 of such title, and any amounts received by an eligible person under chapter 106 of title 10, shall be disregarded in determining eligibility under any public service employment program, any emergency employment program, any job training program assisted under the Economic Opportunity Act of 1964, any employment or training program carried out under the Job Training Partnership Act or **title I of the Workforce Investment Act of 1998**, or any other employment or training (or related) program financed in whole or in part with Federal funds.

Title 38:

Chapter 11 - Compensation for Service-Connected Disability or Death
Chapter 13 - Dependency and Indemnity Compensation for Service-Connected Deaths
Chapter 30 - All-Volunteer Force Educational Assistance Program
Chapter 31 - Training and Rehabilitation for Veterans with Service-Connected Disabilities
Chapter 35 - Survivors' and Dependents' Educational Assistance
Chapter 36 – Administration of Educational Benefits

US Code: Title 10, Chapter 106 – Educational Assistance for Members of the Selected Reserve

Federal non-cash benefits such as: Medicare, Medicaid, food stamps (SNAP), school lunches, and housing assistance;

Capital gains and losses;

Assets drawn down as withdrawals from a bank;

Public Assistance payments: Payments received under TANF (Temporary Assistance to Needy Families), Supplemental Security Income, General Assistance, Refugee Cash Assistance;

The sale of property, house, or an automobile;

Tax refunds;

One-time gifts;

Loans;

Lump-sum inheritances;

One-time insurance payments, or compensation for injury;

Cash value of employer-paid or union-paid portion of health insurance or other employee fringe benefit;

Cash value of food or housing received in lieu of wages;

Cash value of food and fuel produced and consumed on farms;

Imputed value of rent from owner-occupied non-farm or farm housing;

Amounts received as pay or allowances by any person while serving on active duty;

Payments received under the Trade Readjustment Act of 1974;

Black Lung payments received under the Benefits Reform Act of 1977;

Financial assistance under Title V of the Higher Education Act, i.e., PELL Grants, BEOG grants, Federal Supplemental Education Opportunity Grants and Federal Work Study, PLUS, Stafford, and Perkins loans like any other kind of loan are debt and not income.

Terminal leave pay: Severance pay or a cash out of accrued vacation leave;

Stipends received in the following programs: any of the various AmeriCorps programs such as VISTA, Foster Grandparents Program, Retired Senior Volunteer Program; Youth Works, etc., and the Peace Corp.

Payments made by State and/or local governments on behalf of a foster child.

NOTE:

When a federal statute specifically provides that income or payments received under such statute shall be excluded in determining eligibility for the level of benefits received under any other federal statute, such income or payments shall be excluded in WIA eligibility determination.