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DIVISION OF WORKFORCE SERVICES
ISSUANCE NUMBER PY 20-05

October 16, 2020

FROM: Charisse Childers, Ph.D., Director

TO: Local WIOA Workforce Development Area Administrators/Service Providers

SUBJECT: ADWS Policy No. WIOA I-B – 3.4, Change 1 (On-the-Job Training)

1. **Purpose:** To modify ADWS Policy No. WIOA I-B, Change 1 (*On-the-Job Training*):
 - a) To include a waiver to allow the OJT reimbursement rate to be up to 90% in certain situations;
 - b) To add specific business sizes to consider when increasing the reimbursement rate from 50% to 75%;
 - c) To add that Adult OJT Participants are included in the Milestones Measurable Skills Gain performance indicator;
 - d) To correct confusing wording and typographical errors.
2. **Reference:**

Arkansas State Plan 2020-2023
3. **Background:** Under the Workforce Innovation and Opportunity Act of 2014 (WIOA), local areas generally may pay up to 50% of the wage rate of a participant to compensate an employer for the extraordinary costs of providing the training and supervision and the decreased productivity of the participant who is participating in an on-the-job training contract with the employer. This rate may be increased to an amount of up to 75% under certain conditions approved by the local Workforce Development Board (LWDB). In addition, a waiver may be requested by the State to increase that amount. Waivers and any other guidance concerning factors to be considered when increasing the rate of reimbursement must be included in the State Plan, which is approved by the State Workforce Development Board.

On May 29, 2020, Arkansas received approval for a waiver of the 75% restriction for employer reimbursement for OJT contracts. Reimbursement of up to 90% of the wage rate was approved for businesses with 50 or fewer employees. Details of the waiver request, the waiver procedure for the local area, and guidelines for the 75% reimbursement were included in the Arkansas State Plan 2020-2023 and were approved by the Arkansas Workforce Development Board.
4. **Policy:** The following information is added to the Reimbursement Guidelines portion of ADWS Policy No. WIOA I-B – 3.4, Change 1 (*On-the-Job Training*), to reflect the approved waiver and guidance

information included in the State Plan 2020-2023. The section now reads as follows, with substantive changes underlined and bolded.

Reimbursement Guidelines

Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50% of the wage rate of the participant, to compensate for the extraordinary costs of providing the training and supervision and the decreased productivity of the participant [WIOA § (3)(44); 20 CFR 680.700(a); 20 CFR 680.720; TEGL 19-16]. The employer does not have to document the extraordinary costs [20 CFR 680.720(c)]. This rate may be increased to an amount of up to 75% if the LWDB approves the increase, taking into account the following factors [WIOA § 134(c)(3)(H); 20 CFR 680.700(a); 20 CFR 680.720(b); 20 CFR 680.730(a); TEGL 19-16]:

1. The characteristics of the participants, especially individuals with barriers to employment. See WIOA § 3(24), ADWS Policy No. WIOA I-B – 1.2 (*Definitions*), or ADWS Policy No. WIOA I-B – 2.8 (*Priority for Individuals with Barriers to Employment*) for more information concerning individuals with barriers to employment;
2. The size of the employer, with an emphasis on small businesses **(The State specifies a business size of 51 – 250 employers for this level of reimbursement.) [Arkansas State Plan 2020-2023];**
3. The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and
4. Other such factors as the LWDB may determine to be appropriate, which may include the number of employees participating in the training, wage and benefit levels of those employees (comparing pre-participation and post-participation earnings), and relation of the training to the competitiveness of a participant.

LWDBs must document the factors used when deciding to increase the wage reimbursement levels above 50% up to 75% [20 CFR 680.730(b); TEGL 19-16]. Documentation may be made in the form of LWDB minutes or similar documents.

Under a waiver requested by the State of Arkansas and approved by the U.S. Department of Labor until June 30, 2022, local areas may increase the reimbursement rate to up to 90% of the wage rate of the OJT participant(s) for businesses with 50 or fewer employees. If a local area wished to exercise this increased percentage, the local area must:

1. **Adjust or provide an addendum to the local plan explaining the planned use of the waiver and**
2. **Provide an annual “outcome report,” due September 30 of each year that describes how the waiver was used and how effective the change was.**

Such actions will allow the ADWS to monitor progress under this waiver, as required by the U.S. Department of Labor and the Arkansas State Plan [Arkansas State Plan 2020-2023].

5. **Additional Information**: Other non-substantive changes were made as described above.
6. **Attachment**: ADWS Policy No. WIOA I-B – 3.4, Change 1
7. **Action Required**: Please provide this information to all appropriate staff.
8. **Inquiries**: Email WIOATA@arkansas.gov
9. **Expiration**: Ongoing