CHILD ELIGIBILITY

Q. Please explain the difference between #4a and #4b on the Certificate of Eligibility (COE). If a worker actively sought new qualifying work soon after a qualifying move AND has a recent history of moves for qualifying work, we would just select #4a, as the recent history of moves for qualifying work implies that the worker engaged in new qualifying work soon after a move sometime in the past 36 months, making him/her a migratory agricultural worker. Why would one document this worker under #4b on the COE?

It might help to clarify that the information documented in #4 is generally the date and locations of the individual's most recent qualifying move which establishes (or re-establishes) him or her as a migratory agricultural worker/migratory fisher on the date of the recruiter's interview. For example, consider an individual who made a qualifying move (i.e., change of residence, due to economic necessity, one school district to another) to Idaho on September 1, 2017:

- If he engaged in new qualifying work soon after September 1, 2017 (based on the Department's interpretation of "soon after," this would mean he or she engaged in the new qualifying work before November 1, 2017), the recruiter should check "a."

- If the individual did NOT engage in new qualifying work soon after September 1, but did actively seek such work AND has a recent history of moves for agricultural work or fishing, the recruiter should check "b". Based on the Department's guidance, the individual should have actively sought qualifying work within 60 days of the qualifying move. In the comments section, the recruiter should describe the individual's attempts to actively seek work within 60 days of the September 1, 2017 move, and the individual's recent history (e.g., individual moved from California to Idaho in September 2016 and harvested potatoes, and moved from Idaho to California in April 2017 and picked strawberries).

There may be circumstances in which the recruiter would document a previous qualifying move in #4, and not the most recent qualifying move. For example, if the individual made a qualifying move to Idaho on September 1, 2017, but has not yet actively sought work, the recruiter may choose to document the April 2017 move from Idaho to California in #4 and select "a". This is assuming the individual can provide the date and locations for the April 2017 move (to demonstrate that the move meets the current definition of a "qualifying move"), and that he engaged in the qualifying work "soon after" that April 2017 move.

Q. A family made a qualifying move *within State A* on 9/15/14. Two weeks after that move, the child's father began seasonal work picking onions. On 7/15/17, the family made another qualifying move *within State A*, and the child's parents found work in a restaurant. On 8/15/17, a Migrant Education Program (MEP) recruiter *in State A*

determined the child is eligible for the MEP with a Qualifying Arrival Date (QAD) of 7/15/17. On 11/1/17, the family moved *from State A to State B*. Immediately after that move, the father began work in his cousin's pizzeria. On 11/15/17, a recruiter in *State B* identifies the family.

Should the MEP recruiter *in State B* complete a Certificate of Eligibility (COE) for the child based on the 11/1/17 move? Can the MEP in State B honor the most recent eligibility determination made by State A (7/15/17 QAD), and consider the child eligible through 7/14/20?

Based on the information provided, State B should not complete a COE for the child on 11/15/17. A COE cannot be completed and approved for a child that does not meet all of the program eligibility criteria. When the recruiter in State B identifies the family on 11/15/17, the child no longer meets the definition of a "migratory child" because the child did not make a qualifying move within the preceding 36 months with a parent who **is** a migratory agricultural worker [emphasis added]. As of 11/15/17, the child's parent is no longer a "migratory agricultural worker" because he did not make a qualifying move within the preceding 36 months soon after which he engaged in new qualifying work (nor does he have a recent history of moves for qualifying work). We note the present-tense used on the National COE's "Eligibility Data Certification" section. The recruiter (interviewer) and the designated SEA reviewer signatures are attached to a dated statement that indicates "… I am satisfied that these children **are** migratory children… and **thus eligible** as such for MEP services… [emphasis added]." Therefore, we consider each individual's signature to be indicative of the circumstances on the date the form is signed. If the child is not eligible on the date that the COE is completed and/or reviewed, the recruiter and reviewer cannot sign and approve the COE.

As to whether State B would be able to honor State A's determination that the child was eligible with a QAD of 7/15/17, maintaining eligibility through 7/14/20: MEP eligibility determinations do not automatically transfer from State to State. Each State is responsible for making its own eligibility determination for the children it enrolls in the MEP (see MEP Non-Regulatory Guidance, Ch. II, H13). A State may base its determination of a child's eligibility on a qualifying move that occurred in another State within the past 36 months (see MEP Non-Regulatory Guidance, Ch. II, H12). However, in this scenario, even though it is within 36 months of the qualifying move that occurred in State A, State B cannot make its own independent determination that the child **is** eligible based on the earlier qualifying move, and complete its own State COE on 11/15/17, for the reasons stated above.

Q. When a worker is determined to be a "migratory agricultural worker" under #4b on the Certificate of Eligibility (COE) , it resets his/her eligibility as a migratory agricultural worker for 36 months from their last move date, correct?

For example, Roberto is interviewed by the Migrant Education Program (MEP) on 8/15/17. Roberto and his family moved from Salinas, CA to Buckeye, AZ on 8/1/17.

Roberto applied at ABC Farms on 8/2/17 but was told that work would not start until 11/1/17. Roberto states that he has a history of two moves that resulted in qualifying work. On 1/15/15 he moved from Yuma, AZ to Buckeye, AZ and soon after the move, engaged in seasonal work picking melons. On 7/15/15 he moved from Buckeye, AZ to Salinas, CA and soon after the move, engaged in seasonal work picking strawberries. Roberto meets the requirements of #4b, so the MEP may document Roberto as a migratory agricultural worker, with a qualifying move date of 8/1/17. He will retain his status as a migratory agricultural worker for the following 36 months, until 8/1/20.

An individual determined to be a migratory agricultural worker based on #4b of the COE does not automatically retain this status for 36 months from that qualifying move. Each time an individual is identified for the purpose of completing a new COE with new qualifying arrival date (QAD) for a migratory child, the recruiter and reviewers of the COE must determine if, at the time they are reviewing the information, the individual documented in #4 *is* (current tense) a "migratory agricultural worker".

In accordance with section 1309(2) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, an individual may be considered a "migratory agricultural worker" if he or she made a qualifying move within the preceding 36 months, and:

1. Engaged in new qualifying work "soon after" the qualifying move; OR
2. Did not engage in new qualifying work "soon after" the qualifying move, but did actively seek such work, AND has a recent history of moves for such work.

Applying this concept to the example provided in the question above:

If the State determined on 8/15/17 that Roberto made a qualifying move on 8/1/17 and did not engage in new qualifying work soon after that move, but did actively seek such work soon after the move and he has a recent history of two moves that resulted in qualifying work on 1/15/15 and 7/15/15, Roberto may be documented as a "migratory agricultural worker" under #4b of the COE with a qualifying move date of 8/1/17. Keep in mind that in accordance with the Department's guidance, "recent history" is 36 months preceding the date of the recruitment interview. Therefore, if Roberto is identified on or after 1/15/18, a new COE could not be completed using #4b because Roberto no longer meets the "recent history" criteria.

Alternatively, it's possible that Roberto may still be considered a "migratory agricultural worker," by applying the criteria under #4a to his move on 7/15/15. The recruiter must be able to determine that Roberto's move on 7/15/15 meets the definition of a "qualifying move" (i.e., from one residence to another residence, due to economic necessity, from one school district to another school district), and that Roberto engaged in new qualifying work "soon after" that move. If that is the case, in the absence of subsequent qualifying moves that would renew his status as a migratory agricultural worker, Roberto may be considered a migratory agricultural worker based on the 7/15/15 move through 7/14/18.

Once a COE is approved, it is not necessary to determine the duration of the individual's status as a "migratory agricultural worker." The key is to determine whether the individual *is* a "migratory agricultural worker" at the time of the interview and COE review.

PROVISION OF SERVICES

Q. A Migrant Education Program (MEP) subgrantee is proposing to start a night school program for migratory students, once a week for approximately 3 hours each week. May the MEP provide food/dinner for students participating in the night classes?

MEP funds may be used to pay the costs of providing food to migratory students in a MEP-funded night school program. If there are no other resources available, MEP funds may be used to pay for the costs of food or a meal while the migratory children are participating in the night class, as long as the MEP abides by the criteria that all State educational agencies (SEAs) and local operating agencies (LOAs) must consider when determining if they may use MEP funds for a particular activity or (instructional or support) service:

1. The activity or service comports with the results of the State's Comprehensive Needs Assessment (CNA) and the strategies outlined in the State's Service Delivery Plan (SDP).

2. MEP funds must first be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

3. The activity or service meets the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs.

4. The MEP funds are used to supplement, rather than supplant, the use of non-Federal funds.

5. The costs of the service or activity must comport with the cost principles described in the Uniform Guidance (Subpart E of 2 CFR Part 200). The cost principles require, among other things, that costs of the service or activity be reasonable and necessary, and be allocable (or chargeable) to the MEP relative to the benefit received. See MEP Non-Regulatory Guidance, Chapter X Questions F1-F3 for additional information.

In terms of numbers 3 and 4 in the list above, documentation of efforts to investigate non-MEP resources is important for quality control. It also serves as evidence of compliance with the statute in case of a State or Federal monitoring or audit. For example, if you speak with service agencies, another Federal program director, or local educational agency officials, be sure to document the name and title of individuals you spoke with and the date of the conversation.

FISCAL REQUIREMENTS

Q. Are the costs of materials used for Identification and Recruitment (ID&R) and communications with migratory families, such as door hangers, posters, pens, or other office supplies that contain the Migrant Education Program (MEP) logo and contact information, an allowable use of MEP funds? My State Educational Agency (SEA) accounting office is concerned that these materials are not an allowable use of MEP funds because they are "promotional/marketing supplies."

The Office of Migrant Education (OME) considers the costs described to be an allowable use of MEP funds, provided the State ensures the actual costs of the products are "reasonable and necessary". We recognize that such materials can be useful tools in communicating with families about the program, for purposes of initial ID&R as well as follow-up contact. To address your accounting office's concerns regarding whether these materials used for ID&R and communication with families are "promotional/marketing supplies," OME, in consultation with our program attorneys, has determined that these materials may be classified under 2 CFR §200.421(b)(4): advertising costs for "program outreach and other specific purposes necessary to meet the requirements of the Federal award." If, by contrast, the State MEP were producing pens, door hangers, etc. for employee use, for purposes such as boosting employee morale, we believe the costs could fall under section 2 CFR § 200.445, "Goods or services for personal use", and would be categorically unallowable.

Q. **Our State Migrant Education Program (MEP) allows subgrantees to use MEP funds to support migratory children in dual credit/dual enrollment programs, when there is one fee for the class, for which the student receives both high school and college credit. One subgrantee has asked whether MEP funds may be used to pay the costs of college credit as a stand-alone fee. In this particular program, there is no cost for the student to enroll in the class and earn high school credit. The fee is only applicable for the student to earn college credit for the same class. The State has instructed the subgrantee that this is not allowable use of MEP funds, because the goal of the MEP is to support students in graduating high school. When college credit is earned along with high school credit, at no additional cost, this is a bonus. However, it goes beyond the purposes of the program to pay fees solely for college credit. Does the Office of Migrant Education (OME) agree that this is not an allowable use of MEP funds?**

OME agrees with your initial determination that MEP funds may not be used to pay for postsecondary credits when those credits incur a *separate fee* from secondary credit. Your rationale— that the focus of the MEP is to support migratory children to graduate from high school— is consistent with the program purposes in section 1301 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

We encourage your State to explore other resources that may be available to assist migratory children in securing postsecondary credit for dual enrollment course when those fees are charged separately. One question to ask districts is how they would address this cost for non-migratory children with similarly limited financial resources. Under the most recent reauthorization of the ESEA, the Every Student Succeeds Act of 2015 (ESSA), schoolwide programs and targeted assistance programs funded under Title I, Part A specifically allow for such funds to be used for dual or concurrent enrollment programs (see sections 1114(3) and 1115(f) of the ESEA, as amended.