

PRACTICE MAKES PERFECT: APPLYING BASIC TO ADVANCED MIGRANT EDUCATION PROGRAM (MEP) ELIGIBILITY SCENARIOS

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National Identification and Recruitment
(ID&R) Forum

September 29, 2020



The mission of the Office of Migrant Education is to provide excellent leadership, technical assistance, and financial support to improve the educational opportunities and academic success of migratory children, youth, agricultural workers, fishers, and their families.

OBJECTIVES

- Improve or refresh understanding of what makes a child eligible for the MEP and how to document eligibility determinations
- Apply understanding of MEP eligibility to hypothetical scenarios
- Share eligibility and ID&R challenges and successes with colleagues during post-session open discussion

REFERENCES

- Statute

Sections 1115(b) and (c), 1304(c)(2), and 1309 of the *Elementary and Secondary Education Act (ESEA)* of 1965, as amended by the *Every Student Succeeds Act (ESSA)* of 2015

- Code of Federal Regulations

34 C.F.R. §§ 200.81, 200.103(a), and 200.89

National Certificate of Eligibility (COE) Instructions (OMB Control Number 1810-0662)

- Guidance and Technical Assistance Materials

- Chapter II of the *Non-Regulatory Guidance for the Title I, Part C Education of Migratory Children*

- New Directors Orientation Tutorial #2

- MEP Policy Questions and Answers – search topic: “Child Eligibility”

see <https://www.RESULTS.ed.gov>

MEP ELIGIBILITY CRITERIA

ELIGIBILITY: THE BASICS

A child is eligible for the MEP (and thereby eligible to receive MEP services) if the child:

- Meets the definition of “migratory child”; and
- Has the basis for the State’s determination that the child is a “migratory child” properly recorded on the national Certificate of Eligibility (COE).

DOCUMENTING ELIGIBILITY

- States and their local MEPs must use the national COE to document the eligibility determinations of migratory children.
- States may add State-specific information, within parameters of instructions.
- COEs must be completed based on the known facts at the time of the interview.
- COEs must be signed by the interviewee, the recruiter/interviewer, and at least one SEA-designated reviewer.

(see 34 C.F.R. § 200.89(c) and *National Certificate of Eligibility (COE) Instructions* (OMB Control Number 1810-0662))

FLEXIBILITY DURING COVID-19 PANDEMIC

- Recruitment interviews by phone, video conferencing, and other electronic methods
- May proceed without interviewee signature on the COE
 - This limited exception only applies to the interviewee signature. The recruiter/interviewer and SEA-designated reviewer must continue to sign and date the COE to certify the eligibility determination (electronic signatures continue to be acceptable).

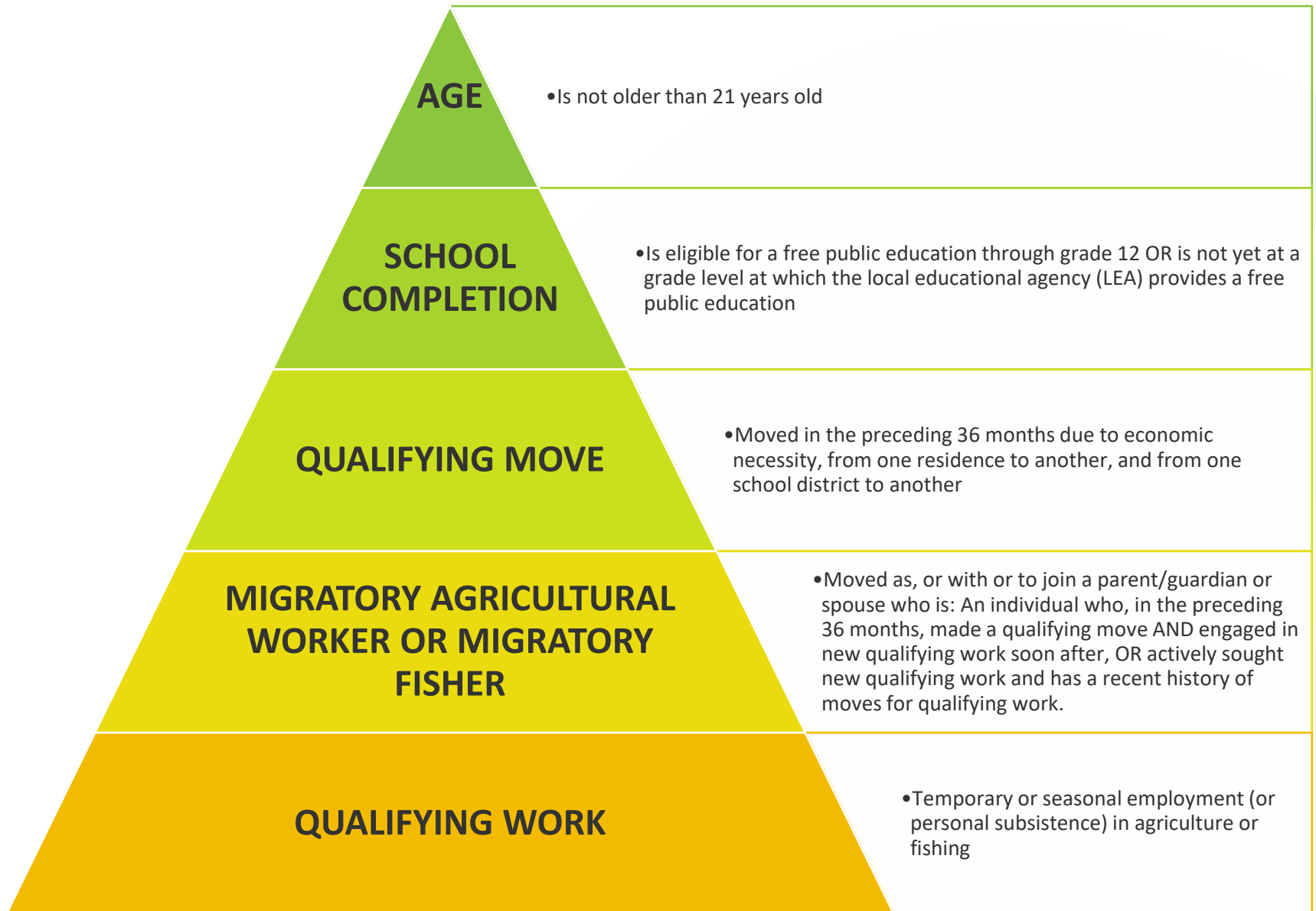
*(Fact Sheet: Addressing the Risk of COVID-19 While Serving Migratory Children:
<https://oese.ed.gov/files/2020/05/COVID-19-MEP-Fact-Sheet-final.pdf>)*

MIGRATORY CHILD

- Is not older than 21 years of age; and
- Is entitled to a free public education (through grade 12) under State law, *or* is not yet at a grade level at which the local educational agency (LEA) provides a free public education; and
- Made a qualifying move in the preceding 36 months:
 - As a migratory agricultural worker or migratory fisher, *or*
 - With or to join a parent/guardian or spouse who is a migratory agricultural worker or migratory fisher

((see section 1115(c)(1)(A) of the ESEA (incorporated into the MEP by sections 1304(c)(2), 1115(b), and 1309(3)), 34 C.F.R. §§ 200.103(a) and 200.81(g), and Chapter II, A1-A7 of *MEP Non-Regulatory Guidance (NRG)*)

MIGRATORY CHILD: FIVE KEY FACTORS



“QUALIFYING MOVE”

- Due to economic necessity; and
- From one residence to another; and
- From one school district to another school district, with specific exceptions:
 - For single-district States, must be from one administrative area to another
 - For districts of 15K+ square miles, must be a move of 20+ miles to a temporary residence

(see section 1309(5) of the ESEA and Chapter II, D1-D15 of MEP NRG)

KNOWLEDGE CHECK 1

Miguel made a qualifying move last month as a migratory agricultural worker. He is 21 years old and dropped out of high school in 10th grade. In the State where Miguel currently resides, children are entitled to a free public education (through grade 12) through the age of 20. Can the State consider Miguel eligible for the MEP? (Yes/No)

No. The statute defines a “child” in two parts: a) not older than 21 years of age and b) entitled to a free public education (through grade 12) under State law or not yet at a grade level at which the LEA provides a free public education.

(see section 1115(c)(1)(A) of the ESEA (incorporated into the MEP by sections 1304(c)(2), 1115(b), and 1309(3)), 34 C.F.R. §§ 200.103(a) and 200.81(g), and Chapter II, A1-A7 of MEP NRG)

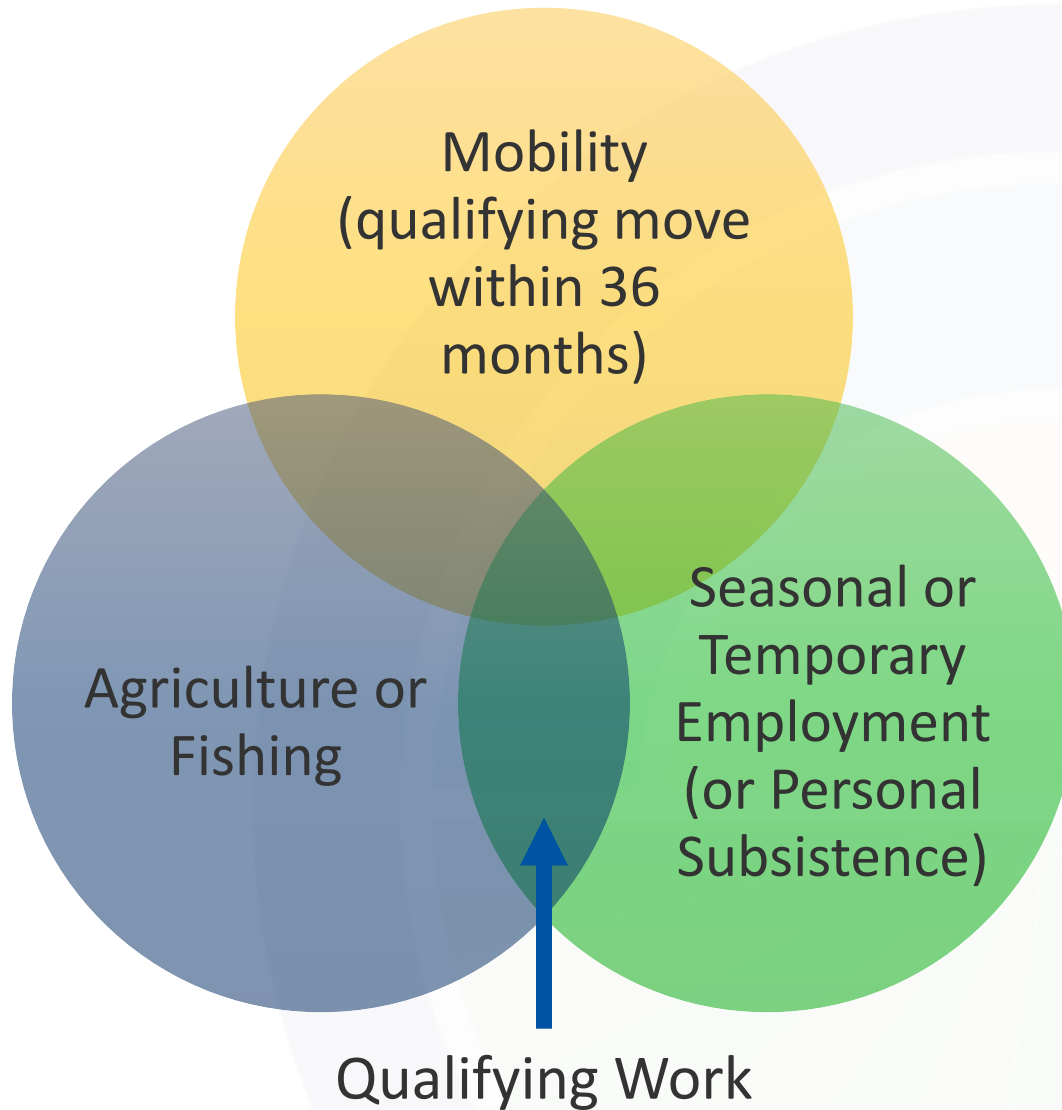
KNOWLEDGE CHECK 2

Which of the following is not a required component of a MEP qualifying move?

- A. Economic necessity
- B. Educational interruption
- C. From one residence to another
- D. From one school district to another

(see section 1309(5) of the ESEA and Chapter II, D1-D15 of MEP NRG)

MIGRATORY AGRICULTURAL WORKERS AND MIGRATORY FISHERS



“MIGRATORY AGRICULTURAL WORKER” OR “MIGRATORY FISHER”

An individual who made a qualifying move in the preceding 36 months and:

- Soon after doing so, engaged in new qualifying work.

OR

- Actively sought qualifying work and has a recent history of moves for qualifying work.

(see sections 1309(2) and (4) of the ESEA, 34 C.F.R. § 200.81(f) and (h), and Chapter II, C1-C18 of MEP NRG)

TEMPORARY, SEASONAL, AND PERSONAL SUBSISTENCE

- **Temporary employment:** Lasts for a limited period of time, usually a few months, but no longer than 12 months.
- **Seasonal employment:** Occurs only during a certain period of the year because of the cycles of nature and that, by its nature, may not be continuous or carried on throughout the year
- **Personal subsistence:** The worker and the worker's family, as a matter of economic necessity, consume, as a substantial portion of their food intake, the crops, dairy products, or livestock they produce or the fish they catch.

(see 34 C.F.R. § 200.81(p), (o), and (m), and Chapter II, G1 – G12 and F28 of MEP NRG)

AGRICULTURE OR FISHING

- **Agricultural work or employment** means the production or initial processing of raw agricultural products such as crops, trees, dairy products, poultry, or livestock. It consists of work performed for wages or personal subsistence.

(see section 1309(2) of the ESEA, 34 C.F.R. § 200.81(a), and Chapter II, F1 – F15, F20 – 22, F24 – F26 of MEP NRG)

- **Fishing work or employment** means the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages or personal subsistence.

(see section 1309(4) of the ESEA, 34 C.F.R. § 200.81(c), and Chapter II, F16 – F20, F23 – F25 of MEP NRG)

KNOWLEDGE CHECK 3

Qualifying work does not include the production or initial processing of which of the following animals?

- A. Beef cattle
- B. Dairy cows
- C. Chickens
- D. Bison
- E. Race horses

(see section 1309(2) of the ESEA, 34 C.F.R. § 200.81(a), and Chapter II, F6 and F8 of MEP NRG)

KNOWLEDGE CHECK 4

If an individual performs a series of jobs for the same employer and each job only lasts a few months, but the individual is employed for two years total, this can be considered temporary employment for purposes of the MEP. TRUE or FALSE?

False. Workers who are hired to work for more than 12 months by the same employer, regardless of how many different jobs they perform, are not “engaged in new temporary or seasonal employment” as provided in the definitions of migratory agricultural worker and migratory fisher.

(see sections 1309(2) and (4) of the ESEA, 34 C.F.R. § 200.81(o) and (p), and Chapter II, G7 of MEP NRG)

“QUALIFYING ARRIVAL DATE” (QAD)

- The QAD is the date that the child’s eligibility for the MEP begins.
- Children are eligible for the MEP in that State for 36 months from the QAD, unless their eligibility ends for another reason (e.g., over age 21, earns a high school diploma).
- When the child and worker do not move together (i.e., a “to join” move), the QAD is the date that both the child and worker completed the move.
- The QAD is not affected by subsequent non-qualifying moves or qualifying moves made with a parent/guardian or spouse who is no longer a migratory agricultural worker or migratory fisher.

POP QUIZ!

Due to the COVID-19 pandemic, some currently eligible migratory children approaching the end of their MEP eligibility might not make another qualifying move. Can a State extend a child's MEP eligibility beyond 36 months, due to the pandemic? (Yes/No)

No. The 36-month period of eligibility is established by Federal law and may not be extended by States.

However, States may continue to provide MEP services to formerly eligible migratory children:

- Until the end of the school term in which their eligibility ended;
- For one additional school year, if comparable services are not available through other programs.
- Through credit accrual programs until graduation, for those migratory students who were eligible for the MEP in secondary school.

(see sections 1309(2) and 1304(e) of the ESEA and Chapter V, A8 and A9 of MEP NRG)

CHILD'S MOVE WITH OR TO JOIN THE MIGRATORY AGRICULTURAL WORKER OR MIGRATORY FISHER

- A child's qualifying move with his or her parent/guardian or spouse does *not necessarily* need to be to the same location where the parent/guardian or spouse engaged in qualifying work.
- For example, the parent/guardian or spouse may have, in the preceding 36 months, made a qualifying move and soon after, engaged in new qualifying work (or actively sought new qualifying work and has a recent history of moves for qualifying work). This would establish the parent/guardian or spouse as a migratory agricultural worker or migratory fisher.

If the child then makes a qualifying move with or to join that parent/guardian or spouse within 36 months to another location, the child would be moving with a parent/guardian or spouse who is a migratory agricultural worker or migratory fisher.

COE SECTION III: QUALIFYING MOVES AND WORK

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / City / State / Country to a residence in School district / City / State.
2. The child(ren) moved (complete both a. and b.):
 - a. as the worker, OR with the worker, OR to join or precede the worker.
 - b. The worker, [First and Last Name of Worker], is the child or the child's parent/guardian spouse.
 - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
3. The Qualifying Arrival Date was MM/DD/YY.
4. The worker moved due to economic necessity on MM/DD/YY, from a residence in School district / City / State / Country to a residence in School District/ City / State, and:
 - a. engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
 - b. actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,* describe agricultural or fishing work was (make a selection in both a. and b.):
 - a. seasonal OR temporary employment
 - b. agricultural OR fishing work

*If applicable, check:
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
 - a. worker's statement (provide comment), OR
 - b. employer's statement (provide comment), OR
 - c. State documentation for Employer.

ELIGIBILITY SCENARIOS

SCENARIO 1

Edwin is an 18-year old who dropped out of high school in 10th grade. After searching for employment for several months, he moved from Oklahoma to Nebraska on June 1, 2020. On June 15, 2020, he began a seasonal job cutting hay. Is Edwin eligible for the Nebraska MEP? (Yes/No)

Yes. Edwin is eligible for the Nebraska MEP because he is a child who made a qualifying move within the preceding 36 months as a migratory agricultural worker. He is a migratory agricultural worker because he made a qualifying move within the preceding 36 months, soon after which he engaged in new qualifying work (seasonal employment in agriculture).

SCENARIO 1 COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / City / Oklahoma / Country to a residence in School district / City / Nebraska.
2. The child(ren) moved (complete both a. and b.):
 - a. as the worker, OR with the worker, OR to join or precede the worker.
 - b. The worker, Edwin, is the child or the child's parent/guardian spouse.
 - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
3. The Qualifying Arrival Date was 06/01/20.
4. The worker moved due to economic necessity on 06/01/20, from a residence in School district / City / Oklahoma / Country to a residence in School District / City / Nebraska, and:
 - a. engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
 - b. actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,* cutting hay was (make a selection in both a. and b.):
 - a. seasonal OR temporary employment
 - b. agricultural OR fishing work

*If applicable, check:
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
 - a. worker's statement (provide comment), OR
 - b. employer's statement (provide comment), OR
 - c. State documentation for Employer.

SCENARIO 1: BONUS QUESTION!

If the hay is then used to feed race horses, sold to a pet food producer, or used for recreational purposes, would Edwin's employment still be considered qualifying work? (Yes/No)

Yes. Edwin was engaged in seasonal employment in the production or initial processing of hay. Hay meets the definition of crop: a plant harvested for use by people or livestock (see MEP NRG Chapter II, F3). The eventual use of that hay is not within Edwin's control, nor does it change the fact that he performed qualifying work.

SCENARIO 2

After his temporary job at a construction site ended, Mike moved from Arkansas to his brother's home in Louisiana on August 8, 2019 and sought work at several construction sites. After a few weeks, he expanded his job search and was able to find a temporary job cleaning and repairing traps at a crawfish farm. He began work at the farm on September 30, 2019. Mike's 17 year-old son, Ben, joined him in Louisiana on December 20, 2019, after the fall school term ended and their apartment lease expired. Is Ben eligible for the Louisiana MEP? (Yes/No)

Yes. Ben is eligible because he is a child who made a qualifying move in the preceding 36 months to join his father, who is a migratory fisher. Ben's father is a migratory fisher because he made a qualifying move in the preceding 36 months, soon after which he engaged in new qualifying work (temporary employment in fishing).

SCENARIO 2 COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / City / Arkansas / Country to a residence in School district / City / Louisiana.
2. The child(ren) moved (complete both a. and b.):
 - a. as the worker, OR with the worker, OR to join or precede the worker.
 - b. The worker, Mike, is the child or the child's parent/guardian spouse.
 - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on 12/20/19. The worker moved on 08/08/19. (provide comment)
3. The Qualifying Arrival Date was 12/20/19.
4. The worker moved due to economic necessity on 08/08/19, from a residence in School district / City / Arkansas / Country to a residence in School District/ City / Louisiana, and:
 - a. engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
 - b. actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,* cleaning crawfish traps was (make a selection in both a. and b.):
 - a. seasonal OR temporary employment
 - b. agricultural OR fishing work

*If applicable, check:
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
 - a. worker's statement (provide comment), OR
 - b. employer's statement (provide comment), OR
 - c. State documentation for Employer.

SCENARIO 3

On March 5, 2019, 19-year old Ray moved from Minnesota to Wisconsin because he heard several local dairy farms were hiring. A MEP recruiter identified Ray on March 31, 2019 and Ray stated that he had recently begun a temporary job milking cows at a dairy farm. As a young child, he had made several moves throughout his elementary school years with his parents for the same type of work. Ray dropped out of high school in 12th grade and began moving and working on his own. On September 1, 2020, Ray quit his job at the dairy farm and moved back to Minnesota from Wisconsin. The Minnesota MEP identified Ray on September 24, 2020. Is Ray eligible for the Minnesota MEP? (Yes/No)

No. When the Minnesota MEP identified Ray, his employment at the dairy farm was known to have lasted more than 12 months and therefore cannot be considered temporary. Also, he does not have a recent history of moves for qualifying work because the moves he made with his parents, who were migratory agricultural workers, occurred more than 36 months ago.

SCENARIO 4

Amelia and her parents moved from New York to Pennsylvania on September 10, 2019 because her father, Javier, had been unable to find work for several months. One week later, Javier began a seasonal job picking apples. When the apple harvest ended, Amelia's mother, Jessica, was able to find steady work as a bookkeeper for the farm. When coronavirus cases began escalating, the family moved back to New York on March 16, 2020 to take care of Amelia's grandparents. Due to lack of employment in New York, Javier moved to South Carolina to plant sweet potatoes on June 15, 2020. He returned to the family in New York on September 20, 2020. What is Amelia's QAD?

- A. September 10, 2019
- B. March 16, 2020
- C. June 15, 2020
- D. September 20, 2020
- E. None- she is not eligible for the MEP

SCENARIO 4 COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / City / New York / Country to a residence in School district / City / Pennsylvania.
2. The child(ren) moved (complete both a. and b.):
 - a. as the worker, OR with the worker, OR to join or precede the worker.
 - b. The worker, Javier, is the child or the child's parent/guardian spouse.
 - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
3. The Qualifying Arrival Date was 09/10/19.
4. The worker moved due to economic necessity on 09/10/19, from a residence in School district / City / New York / Country to a residence in School District / City / Pennsylvania, and:
 - a. engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
 - b. actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,* picking apples was (make a selection in both a. and b.):
 - a. seasonal OR temporary employment
 - b. agricultural OR fishing work

*If applicable, check:
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
 - a. worker's statement (provide comment), OR
 - b. employer's statement (provide comment), OR
 - c. State documentation for Employer.

SCENARIO 5

Maria and her daughters, Isabella and Sasha, moved from Fresno, CA to Gilroy, CA on July 1, 2020 in search of work during the garlic harvest. Maria applied for jobs at several garlic farms with no luck. She had worked at local garlic farms the previous two summers, having moved on June 30, 2018 and July 3, 2019. The girls enrolled in online classes at local schools and on September 28, 2020, Sasha transferred to another high school in a neighboring district that offered the online AP classes she needed. What is Sasha's QAD?

- A. June 30, 2018
- B. July 3, 2019
- C. July 1, 2020
- D. September 28, 2020
- E. None- she is not eligible for the MEP

SCENARIO 5 COE

1. The child(ren) listed on this form moved due to economic necessity from a residence in School district / Fresno / California / Country to a residence in School district / Gilroy / California.
2. The child(ren) moved (complete both a. and b.):
 - a. as the worker, OR with the worker, OR to join or precede the worker.
 - b. The worker, Maria, is the child or the child's parent/guardian spouse.
 - i. (Complete if "to join or precede" is checked in #2a.) The child(ren) moved on MM/DD/YY. The worker moved on MM/DD/YY. (provide comment)
3. The Qualifying Arrival Date was 07/01/20.
4. The worker moved due to economic necessity on 07/01/20, from a residence in School district / Fresno / California / Country to a residence in School District / Gilroy / California, and:
 - a. engaged in new qualifying work soon after the move (provide comment if worker engaged more than 60 days after the move), OR
 - b. actively sought new qualifying work AND has a recent history of moves for qualifying work (provide comment)
5. The qualifying work,* harvesting garlic was (make a selection in both a. and b.):
 - a. seasonal OR temporary employment
 - b. agricultural OR fishing work

*If applicable, check:
 personal subsistence (provide comment)
6. (Complete if "temporary" is checked in #5a) The work was determined to be temporary employment based on:
 - a. worker's statement (provide comment), OR
 - b. employer's statement (provide comment), OR
 - c. State documentation for Employer.

ELIGIBILITY DETERMINATIONS

- Eligibility determinations and COEs do not automatically transfer from State to State.
- Each State must have confidence in the accuracy of its eligibility determinations.
- If you are unsure or have questions about an eligibility determination, don't hesitate to ask!

THANK YOU

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