

## **Navigating the Murky Waters of MEP Eligibility: Scenarios & Determinations**

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1. *A 16 year old young man, Jose, leaves his home in Columbia, fearing for his life due to increased gang violence in his neighborhood. He intends to move to the U.S., as he feels he will be safer there, and he has a cousin in New York with whom he can live, at least temporarily. Shortly after crossing the U.S. border in Texas, Jose is detained by Immigration and Customs Enforcement (ICE). Jose is considered part of the growing number of unaccompanied youth crossing the U.S. border, and he is temporarily placed in a shelter run by the Department of Health and Human Services (HHS). While he is awaiting immigration proceedings, Jose is allowed to live with his cousin in New York. His cousin helps him get a seasonal job in the apple orchards where is works. Is Jose now eligible for the MEP?*

### **OME's Determination:**

Although Jose did obtain qualifying work after moving to New York, he is not eligible for the MEP due to the reasons for his move. It is not clear that his move was due to economic necessity, nor was his intent in moving to seek or obtain work. Rather, Jose described his reasons for moving as safety-related, and his move to New York appears to be based on having a relative with whom he can live, with no mention of the availability of work, or the desire to seek employment.

2. *A recruiter in Maine encounters a family— two parents and their 12 year old son— that moved together from Florida one month ago, in search of any type work. The mother has not been able to find work, but the father is currently employed picking blueberries. He just started the job a week ago. Immediately after the move, he worked a short-term construction job at an apartment complex. Based on the information provided, is their child eligible for the MEP?*

### **OME Determination:**

Yes, the child is eligible for the MEP. Even though the father performed non-qualifying work immediately after the move, he still moved to seek or obtain any work, and obtained qualifying work (seasonal employment in agricultural work) “soon after” the move. As a general rule of thumb, OME considers “soon after” the move to be 30 days, but we recognize that there might be extenuating circumstances that cause a delay in obtaining qualifying work more than 30 days after a move. If the recruiter believes that such circumstances exist, and he/she still reasonably concludes that the worker obtained work “soon after the move”, the rationale should be clearly explained in the Comments section of the COE.

3. *An 18 year old, pregnant woman moves across school district boundaries, in search of qualifying work. She obtains qualifying work (seasonal employment in agricultural work), and gives birth to a son four months after the move. The young woman does not have a high school diploma or its equivalent. Are both mother and son eligible for the MEP?*

**OME's Determination:**

The mother is eligible for the MEP, assuming she obtained the work soon after the move, but her son is not. Children who were born after a move occurred are not considered eligible for the MEP. The son may be eligible if he and his mother make a subsequent qualifying move.

4. *A father and his two school-age sons move across school district boundaries in search of qualifying agricultural work. The father has a history of such moves, and is usually able to find seasonal work picking various crops. On the most recent move, the father is unable to find work picking crops, but he is offered temporary employment at one farm doing various odd jobs. These tasks include mowing the lawn around the owner's farmhouse, cleaning out the stalls of the dairy cows, and feeding the chickens. Are the children eligible for the MEP based on this most recent move?*

**OME Determination:**

Yes, the children are eligible based on the most recent move. The father is temporarily employed in agricultural work. OME considers at least some of the tasks to meet the MEP's definition of agricultural work. Although some of the tasks— e.g., mowing the lawn around the owner's home— would *not* meet the MEP's definition of agricultural work, the fact that the worker performs non-qualifying work in addition to qualifying work has no impact on his children's MEP eligibility.

5. *A recruiter in Florida identifies an out-of-school youth who does not have a high school diploma or equivalent, and is currently employed in seasonal agricultural work. The young man moved on his own to Florida in search of work, three months ago at the age of 21. By the time the recruiter identifies this young man however, he has since turned 22. Should the recruiter proceed with completing a Certificate of Eligibility (COE) for this young man?*

**OME Determination:**

No, the recruiter should not complete a COE for the young man in the above scenario. Although the young man was likely eligible for the MEP at one time, the young man is not eligible for the MEP on the date that the recruiter identifies the young man, and therefore, the recruiter should not proceed with recruiting him for the program. We note the present-tense used on the section of the National COE under the "Eligibility Data Certification" section. The interviewer's (recruiter's) signature is 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 the Interviewer's signature (and Designated SEA Reviewer's signature) to be indicative of the circumstances on the date the form is signed.

6. *A mother and her two school-age children left their home in California with the intent of obtaining qualifying work in Washington. On the way to Washington, their car broke down in Oregon. Unable to afford the necessary repairs, the mother decided to remain in Oregon and find some sort of temporary work. Within a couple of weeks, she was able to obtain qualifying work (picking grapes) and tells the recruiter the family plans to stay just until she can afford to repair their car, estimating 3 months. Are the children eligible for the MEP?*

**OME's Determination:**

Yes, the children are eligible for the MEP. Although the family did not make it to their original destination, the move to Oregon was a change in residence due to economic necessity. Although she did not specify that she was looking for seasonal or temporary employment *in agricultural or fishing work* in Oregon, the fact that she was looking for any type of work, and obtained qualifying work (temporary employment in agricultural work) soon after the move does meet the requirement for MEP eligibility.

7. *A recruiter has over 20 years of experience working for the state MEP. He visits a meat processing facility and interviews workers on their lunch break. One worker appears to meet all of the MEP eligibility criteria- she is 18 years old; does not have a high school diploma or its equivalent; moved to the area (from out of state) a month ago in search of any type of work; and found a job at the processing facility within a week of her move. When asked how long she plans to stay employed by the company, the worker responds that she plans to stay as long as possible. She would like to enroll in night classes, and the job pays more than any job she's had in the past. The nature of the work and the turnover he's seen at this work site lead the recruiter to believe that despite what she says now, the worker has been on the job for less than a month, and will likely end up staying maybe six months at the most. Should the recruiter to qualify this worker for the MEP?*

**OME Determination:**

No, the recruiter should not qualify this worker based on the facts provided. Although the worker appears to meet most of the MEP eligibility criteria, the recruiter's experience is not enough to support a determination that the employment is temporary. There are three ways to determine that employment is temporary: worker's statement, employer's statement, or the State's documentation to support its determination that the employment is temporary. In this case, the recruiter does not have one of the three acceptable means to determine that the worker is employed temporarily.

8. *A mother with two young children (both under the age of five) moves across school district boundaries in search of seasonal agricultural work. She has moved several times for seasonal work in various crops. The owner of the first farm she visits tells her that the picking and sorting jobs have been filled, but he is interested in hiring someone to work in the on-site day care facility for the season. The day care facility is provided for children of workers, at reduced rates. The woman accepts the job, and her own children are allowed to enroll in the daycare. Do her children qualify for the MEP?*

**OME Determination:**

Yes, the children are eligible for the MEP. The mother's employment is seasonal, but it is not considered agricultural work because it is not the production or initial processing of crops, dairy products, poultry, or livestock, or the cultivation or harvesting of trees.

However, she still fits the eligibility criteria based on the fact that even though she was unable to obtain qualifying work, she moved with the intent of seeking qualifying work (seasonal employment in agricultural work), and has a prior history of moves to obtain qualifying work.