

CHAPTER 25

AN ACT concerning microenterprise development, amending P.L.1992, c.48 and P.L.1992, c.43, and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 4 of P.L.1992, c.48 (C.34:15B-38) is amended to read as follows:

C.34:15B-38 Counseling requirement.

4. a. No individual shall receive employment and training services paid for with federal job training funds other than counseling unless the individual first receives counseling pursuant to this section. The counseling shall be provided by a job counselor hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, or hired and employed by a political subdivision of the State, or be provided by a qualified job counselor hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or be provided by a qualified job counselor hired and employed by an approved community-based or faith-based organization to provide counseling which the organization entered into an agreement to provide before the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or be provided by a qualified business counselor hired and employed by an approved community-based or faith-based organization to provide counseling for individuals seeking to embark upon a microenterprise self-employment venture. The purpose of any job counseling provided pursuant to this section is to assist each individual in obtaining the employment and training services most likely to enable the individual to obtain employment providing self-sufficiency for the individual and also to provide the individual with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The purpose of any business counseling provided pursuant to this section is to assist each individual seeking to embark upon a microenterprise self-employment venture with counseling by qualified business counselors determined to be necessary and appropriate for the success of the microenterprise self-employment venture. The counseling shall include:

(1) Testing and assessment of the individual's job skills and aptitudes, including the individual's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the individual unless information is provided regarding the individual's educational background and occupational or professional experience which clearly demonstrates that the individual's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the individual is already participating in a remedial instruction program which meets those standards;

(2) An evaluation by a qualified job counselor of what remedial instruction, or by a qualified business counselor of what microenterprise self-employment training, if any, is determined to be necessary for the individual to advance in his current career or occupation, or microenterprise self-employment venture, or to succeed in any particular occupational training which the individual would undertake under the program, provided that the remedial instruction shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

(3) The provision of information to the individual regarding the labor demand occupations, including the information about the wage levels in those occupations, the profitability of self-employed microentrepreneurs in those occupations, and information regarding the effectiveness of approved service providers of occupational training or

microenterprise training in labor demand occupations which the individual is considering, including a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment, or establishing a microenterprise self-employed business and increasing earnings over one or more time periods following the completion or other termination of training, including a period of two years following the completion or other termination of training;

(4) The timely provision of information to the individual regarding the services and benefits available to the individual, and all actions required of the individual to obtain the services and benefits, under programs supported by federal job training funds or the provisions of P.L.1992, c.47 (C.43:21-57 et al.), and the provision to the individual of a written statement of the individual's rights and responsibilities with respect to programs for which the individual is eligible, which includes a full disclosure to the individual of his right to obtain the services most likely to enable the individual to obtain employment providing self-sufficiency and the individual's right not to be denied employment and training services for any of the reasons indicated in section 5 of P.L.1992, c.48 (C.34:15B-39), including the individual's right not to be denied training services because the individual already has identifiable vocational skills, if those existing skills are for employment with a level of earnings lower than the level of self-sufficiency;

(5) Discussion with the counselor of the results of the testing and evaluation; and

(6) The development of a written Employability Development Plan identifying the training and employment services or other workforce investment services, including any needed remedial instruction, to be provided to the individual.

b. Federal job training funds shall be used to provide training and employment services, microenterprise self-employment training, or other workforce investment services to an individual identified in an Employability Development Plan developed pursuant to this section only if the counselor who evaluates the individual pursuant to this section determines that the individual can reasonably be expected to successfully complete the training and instruction identified in the plan.

c. All information regarding an individual applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the individual shall be confidential and shall not be released to an entity other than the individual, the counselor, the department, the commission or partners of the One-Stop system as necessary for them to provide training and employment services or other workforce investment services to the individual, unless the individual provides written permission to the department for the release of the information or the information is used solely for program evaluation.

2. Section 7 of P.L.1992, c.43 (C.34:15D-7) is amended to read as follows:

C.34:15D-7 Counseling.

7. Counseling shall be made available by the department to each qualified displaced worker or qualified disadvantaged worker applying to participate in the Workforce Development Partnership program and, in the case of a qualified disadvantaged worker who is a recipient of, or eligible for, benefits under the Work First New Jersey Program, to participate in the Workforce Development Partnership program or in any of those employment-directed workforce development programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) which provide employment and training services as defined in section 3 of

P.L.1992, c.43 (C.34:15D-3), including the services indicated in paragraphs (11) through (16) of subsection b. of section 2 of P.L.2004, c.39 (C.34:1A-1.3). Counseling may also be made available to a qualified employed worker who seeks remedial instruction or is selected to participate in a customized training program, if the worker's employer requests the counseling. The counseling shall be provided by a job counselor hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, or hired and employed by a political subdivision of the State, or be provided by a qualified job counselor hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or be provided by a qualified job counselor hired and employed by an approved community-based or faith-based organization to provide counseling which the organization entered into an agreement to provide before the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or be provided by a qualified business counselor hired and employed by an approved community-based or faith-based organization to provide counseling for individuals seeking to embark upon a microenterprise self-employment venture. In the case of a qualified disadvantaged worker who is a recipient of, or is eligible for, benefits under the Work First New Jersey Program, the counseling provided pursuant to this section shall be the counseling for the provision of employment and training services either under the Workforce Development Partnership program or under programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3), but the counseling provided pursuant to this section shall be provided in conjunction and in coordination with counseling provided in connection with any services, other than training and employment services, made available to the disadvantaged worker under programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3). The purpose of any job counseling made available pursuant to this section is to assist each worker in obtaining the employment and training services most likely to enable the worker to obtain employment providing self-sufficiency for the worker and also to provide the worker with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The purpose of any business counseling provided pursuant to this section is to assist each individual seeking to embark upon a microenterprise self-employment venture with counseling by qualified business counselors determined to be necessary and appropriate for the success of the microenterprise self-employment venture. The counseling shall include:

a. Testing and assessment of the worker's job skills and aptitudes, including the worker's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the worker unless information is provided regarding the worker's educational background and occupational or professional experience which clearly demonstrates that the worker's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the worker is already participating in a remedial instruction program which meets those standards;

b. An evaluation by a qualified job counselor of what remedial instruction, or by a qualified business counselor of what microenterprise self-employment training, if any, is determined to be necessary for the worker to advance in his current career or occupation, or microenterprise self-employment venture, or to succeed in any particular occupational training which the worker would undertake under the program, provided that the remedial instruction shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

c. The provision to the worker of information regarding any of the labor demand occupations for which training meets the requirements of section 4 of P.L.1992, c.43 (C.34:15D-4) in the worker's case, including information about the wage levels in those occupations, the profitability of self-employed microentrepreneurs in those occupations, and information regarding the effectiveness of approved service providers of occupational training, or microenterprise training, in occupations which the worker is considering, including a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment, or establishing a self-employed microenterprise business, and increasing earnings over one or more time periods following the completion or other termination of training, including a period of two years following the completion or other termination of training;

d. The timely provision of information to the worker regarding the services and benefits available to the worker, and all actions required of the worker to obtain the services and benefits, under the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.) and P.L.1992, c.47 (C.43:21-57 et al.), and under the Work First New Jersey program in the case of a qualified disadvantaged worker receiving or eligible for benefits under that program; and the provision to the worker of a written statement of the worker's rights and responsibilities with respect to programs for which the worker is eligible, which includes a full disclosure to the worker of the worker's right to obtain the services most likely to enable the worker to obtain employment providing self-sufficiency and the workers' right not to be denied training services for any of the reasons indicated in subsection d. of section 6 of P.L.1992, c.43 (C.34:15D-6), including the worker's right not to be denied training services because the worker already has identifiable occupational skills, if those existing skills are for employment with a level of earnings lower than the level of self-sufficiency;

e. Discussion with the counselor of the results of the testing and evaluation; and

f. The development of a written Employability Development Plan identifying the training, employment and other workforce investment services, including any needed remedial instruction, to be provided to the worker pursuant to this act. In the case of a qualified disadvantaged worker, the Employability Development Plan will be, to the greatest extent possible while remaining in compliance with any applicable federal requirements, coordinated and made consistent with any individual responsibility plan developed for the worker under the Work First New Jersey program. In the case of a qualified disadvantaged worker who is or was receiving, or who is eligible for but not receiving, benefits under the Work First New Jersey program, and who does not have a marketable bachelor's degree, the counselor may approve, as part of the workers' Employability Development Plan, the replacement of Work First New Jersey program benefits by Supplemental Workforce Development Benefits paid to the disadvantaged worker for full-time educational activity without, or with insufficient, other work activity from available resources for employment-directed and workforce development programs and activities transferred from the Department of Human Services pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) or from the account of the Workforce Development Partnership Fund reserved for qualified disadvantaged workers pursuant to subsection b. of section 9 of P.L.1992, c.43 (C.34:15D-9), for any period of time for which the counselor determines that:

(1) Full-time remedial instruction to obtain a high school diploma or G.E.D. or full-time post-secondary education in a two-year or four-year degree-granting educational program with a course of study related to work, even if the duration of the full-time education is longer than two years, is the training and employment service that is most likely to enable the worker to obtain employment providing self-sufficiency;

(2) The worker has responsibility during that period of time for the care of dependent children or other family members unable to care for themselves the magnitude of which, if added to the full-time instructional or educational activities indicated in paragraph (1) of this subsection, make it likely that any additional work activity will jeopardize the success of the instructional or educational activity; and

(3) Providing Work First New Jersey program benefits to the worker during that period of time for the full-time instructional or educational activity without, or with insufficient, work activities would result in a loss of benefits for the worker pursuant to section 9 of P.L.1997, c.38 (C.44:10-63) or would be counted toward the maximum limit of 60 cumulative months of Work First New Jersey program benefits provided to the worker pursuant to section 2 of P.L.1997, c.37 (C.44:10-72).

With respect to the use of the funds deposited during any fiscal year in the account of the Workforce Development Partnership Fund reserved for qualified disadvantaged workers pursuant to subsection b. of section 9 of P.L.1992, c.43 (C.34:15D-9), first priority shall be given for the payment of Supplemental Workforce Development Benefits pursuant to this subsection. Not more than 1,500 qualified disadvantaged workers shall receive Supplemental Workforce Development Benefits pursuant to this subsection at any one time. With respect to using available resources for employment-directed and workforce development programs and activities transferred from the Department of Human Services pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) for Supplemental Workforce Development Benefits, no federal funds which are part of those resources may be used for Supplemental Workforce Development Benefits which result in the imposition of conditions of participation other than those established by this subsection. If federal funds are used for childcare costs of a participant, the Department of Human Services may transfer the funds to the Child Care and Development Block Grant, as permitted by law and as needed to permit the use of the federal funds while preventing any loss of benefits to the participant and preventing the childcare time from being counted toward the participant's maximum limit of 60 cumulative months of Work First New Jersey program benefits. The counselor shall assist in facilitating the use, to the maximum extent possible, of Pell grants or other available educational grants to pay for tuition and other educational costs of a recipient of Supplemental Workforce Development Benefits provided pursuant to this section. The requirements for receiving Supplemental Workforce Development Benefits may include work-site experience which will enhance the participant's employability in the participant's field, provided that the required sum of class hours for a full-time class schedule, hours of study time at not less than one and one half times class time, and hours of work-site experience, shall not exceed 40 hours per week and that the commissioner shall adopt regulations for reasonable adjustments in participation requirements for good cause, including verifiable needs related to physical or mental health problems, illness, accident or death or serious personal or family problems that necessitate reduced participation, provided further that no individual shall receive Supplemental Workforce Development Benefits for a period of more than five years. The commissioner shall adopt regulations setting standards for satisfactory academic progress for continued participation. Participation may not be denied for any of the reasons which subsection d. of section 6 of P.L.1992, c.43 (C.34:15D-6) prohibits from being used to deny training grants. For the purposes of this section, "Work First New Jersey benefits" means benefits for which a worker and the worker's family would be eligible if the worker was participating in the Work First New Jersey program or any successor program to the Work First New Jersey program.

Counseling made available at the request of an employer participating in a customized training program may include only those components requested by the employer.

All information regarding a worker applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the worker shall be confidential and shall not be released to an entity other than the worker, the counselor, the department or partners of the One-Stop system as necessary for them to provide training and employment services or other workforce investment services to the individual, unless the worker provides written permission to the department for the release of the information or the information is used solely for program evaluation.

C.52:27D-495.1 Microenterprise programs, certain, emphasis on project applications.

3. a. In its determination of qualified projects proposed by nonprofit organizations, pursuant to section 6 of P.L.2001, c.415 (C.52:27D-495), the Department of Community Affairs shall give emphasis to project applications that involve the development or expansion of a microenterprise, benefit low and moderate income neighborhoods, and improve the quality of life for neighborhood residents.

b. As used in this section, "microenterprise" means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.

4. This act shall take effect immediately.

Approved February 10, 2017.