

2012 OME Conference

Many Roads, One Destination: Sharing the Road to Success

Making the Tough Eligibility Determinations



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OME Mission

To provide excellent leadership, technical assistance, and financial support to improve the educational opportunities and academic success of migrant children, youth, agricultural workers, fishers, and their families.

Objectives

- Share strategies for resolving eligibility questions.
- Collaborate with peers to develop correct and complete responses to eligibility scenarios
- Gain a better understanding of OME's policy on difficult eligibility scenarios



Authorities for MEP Eligibility

Child Eligibility: Children are eligible to receive MEP services if they meet the definition of “migratory child” and if the basis for their eligibility is properly recorded on a certificate of eligibility (COE).

Statute

Elementary and Secondary Education Act (ESEA) of 1965, Title I, Parts A and C, Sections 1115(b)(1)(A) and 1309(2) respectively

Regulation

Code of Federal Regulations, 34 CFR 200.81

Guidance

Non-Regulatory Guidance, Chapter II (August 2010)

Eligibility Factors

AGE:

The child is younger than 22 years of age.

SCHOOL COMPLETION:

The child is eligible for a free public education (no HS diploma or GED).

***MOVE:**

The child and worker “moved.”

***IN ORDER TO OBTAIN:**

**One purpose of the worker’s move was to seek
or obtain “qualifying work.”**

***QUALIFYING WORK:**

**Temporary or seasonal employment in agricultural or
fishing work.**

Activity

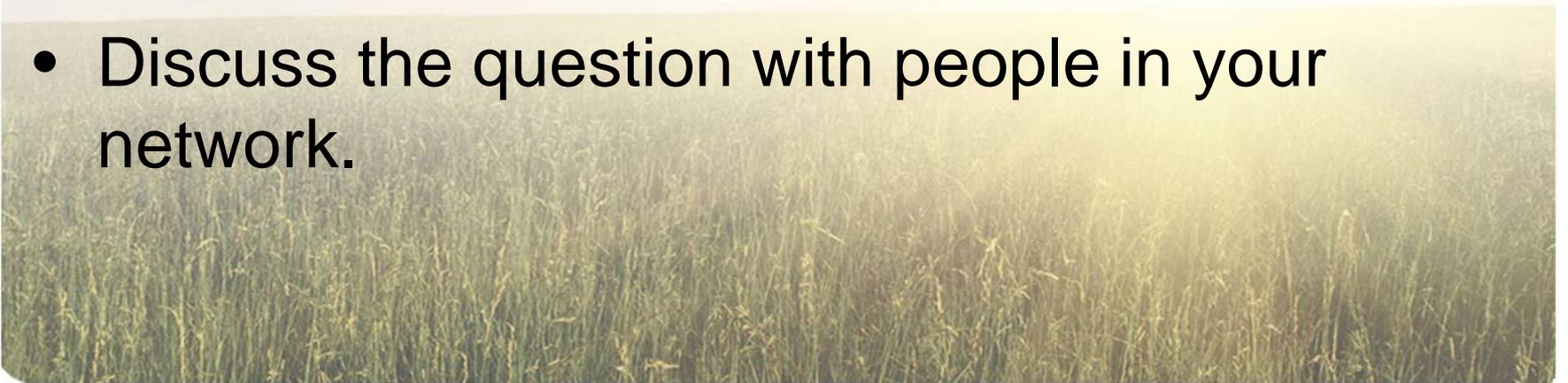
- At your tables, spend 15 minutes discussing the strategies you use to answer tough eligibility questions.
 - What materials do you refer to?
 - Who do you consult with?
 - What questions do you ask yourself?
- Each table will present one strategy they discussed.

Tips for Answering Tough Questions

- Gather available information about all of the factors.
- Review the statute and regulations to understand what the laws say about (if anything) about the question.
- Review the guidance and the policy Q&As posted on the RESULTS website to see if the same question has been asked and answered.

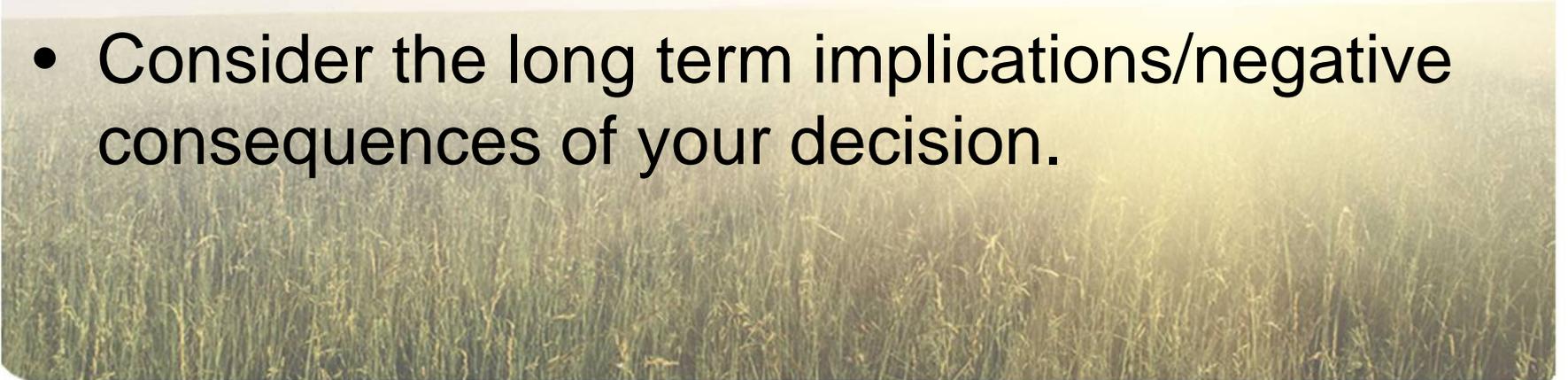
Tips for Answering Tough Questions

- If the question has not been answered, try applying the thinking about another question to your question.
- Do research. Look up information about possible employers and possible work.
- Discuss the question with people in your network.



Tips for Answering Tough Questions

- Consider whether your decision is a reasonable interpretation of the statute and regulations.
- Consider if your decision is in line with the intent of the statute.
- Consider the long term implications/negative consequences of your decision.



Tips for Responding to Tough Questions

- Describe the facts as you understand them.
- Provide a complete answer – address all of the eligibility factors or establish necessary assumptions.
- Provide a reference to current statute, regulation, or guidance.
- Provide a statement or two that explains why/how you came to your decision.
- Provide an example if one would be helpful.

Activity

- Spend 20 minutes discussing the questions assigned to your table.
- Be prepared to provide your table's response if called upon.



Question 1

A dog treat processing facility hires temporary workers to perform the following activities: "eviscerating; splitting carcasses; hanging; cutting; trimming; deboning; and enclosing the raw product in a container." The dog treats are produced solely for pet consumption. More specifically, the workers debone and cut beef that has already been cut and boxed elsewhere.

Question 1 (cont.)

The plant produces products that include, but are not limited to, "a natural steer muscle that is formed into a spiral shape", "natural pig ears and pork slices that are roasted"; and "white, cut femur bones stuffed with a wholesome meaty mixture."

Could this be considered "agricultural work" for purposes of the MEP?

Question 2

Is bee-tending considered qualifying work for purposes of the MEP? The work includes: keeping the bees alive, pollinating the bees, and splitting the bees into additional colonies.



Question 3

Is work on horse farms considered qualifying work for purposes of the MEP? Does the Department not consider this work to be qualifying because “we do not grow or eat horses as we do cows or other agricultural products”?



Question 4

A child traveled between two school districts to accompany her father in search of qualifying work. She travelled approximately 67 miles from her home base in District A to District B, with her grandparents and father. Her father found qualifying work in District B. The following day, the girl returned to District A with her grandparents, while her father stayed in District B to work. Is this considered a qualifying move for purposes of the MEP?

Question 5

Two school-aged children moved with their aunt from their father's residence Oregon to their grandparents' residence in Washington. The children stayed with their aunt and grandparents for two weeks. The grandparents then took the children back to their father in Oregon. The grandparents sought and obtained qualifying work in Oregon. Can the children qualify under the grandparents move to Oregon?

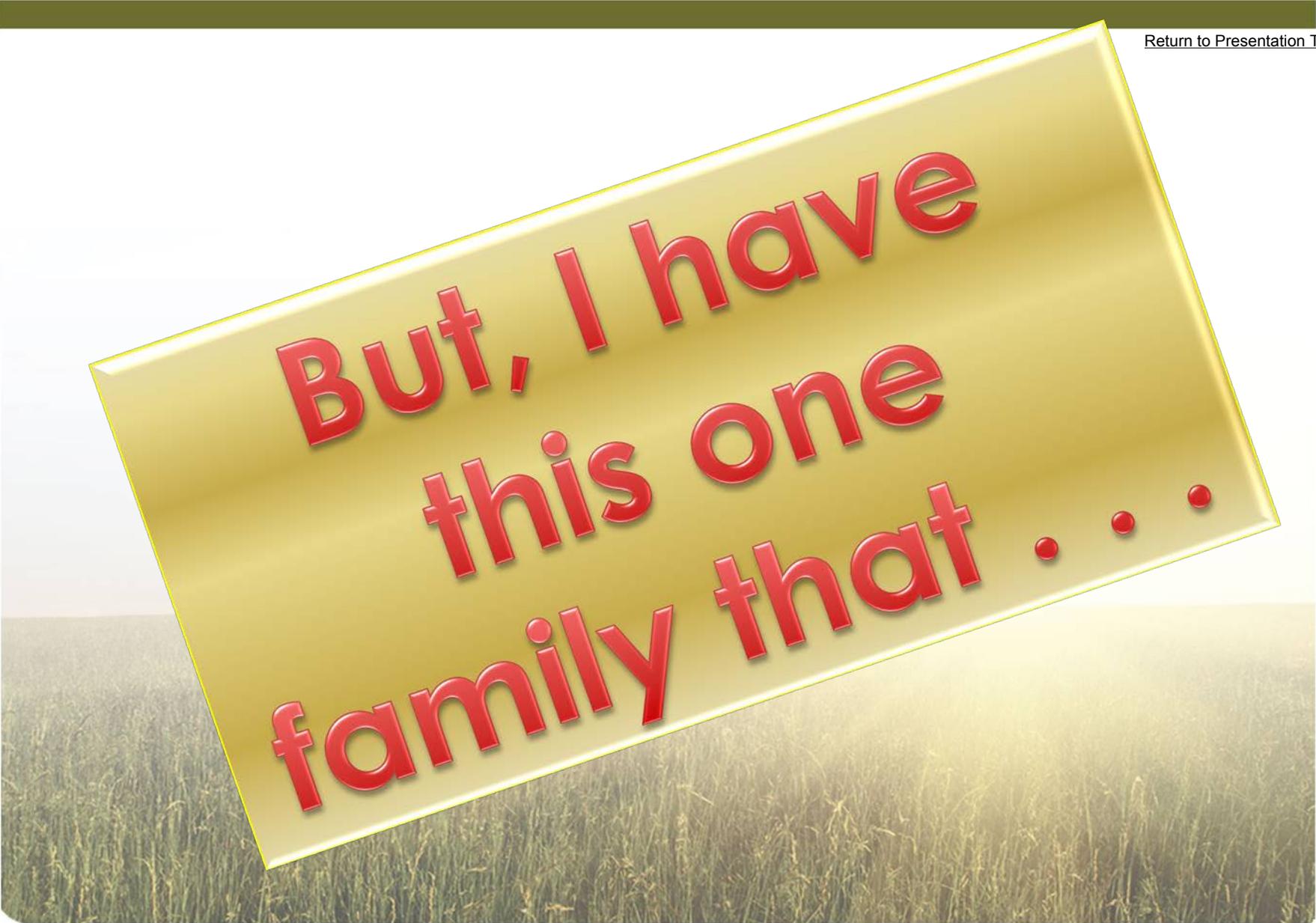
Question 6

Could a family who moves (a) to visit family for the holiday season, (b) for vacation while the children are out of school, or (c) for other personal reasons (i.e., to visit a sick relative, etc.), ever be considered eligible upon returning? Is there a specific amount of time that a family should be gone in order for the move to constitute a change of residence?

Question 6 (cont.)

Would it be prudent to consider moves to Mexico for reasons (a) through (c) qualifying if the family is in Mexico for more than 2-4 weeks and then they return to the US in search of qualifying work?





**But, I have
this one
family that . . .**

Sending Questions to OME

We are happy to look at scenarios or address eligibility questions; however:

1. First, follow your State's process for resolving eligibility questions
2. In correspondence with us, please include all relevant facts, the # of children affected, your analysis of the situation, the response you would provide.



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