



# **MIGRATORY AGRICULTURE WORKER**

*Recruiter Training Resource Series*

# WHO IS A 'MIGRATORY AGRICULTURAL WORKER'?

A migratory agriculture worker is:

1. A worker that made a qualifying move within the preceding 36 months, *and*
2. Soon after the move (usually within 60 days), he/she engaged in new temporary or seasonal employment or personal subsistence in agriculture (which may be dairy work or the initial processing of raw agricultural products). The work is performed only for wages or personal subsistence.



# WHO IS A "MIGRATORY FISHER"?

1. A “migratory fisher” is a person who, in the preceding 36 months, made a qualifying move, and after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing.
2. Individuals who did **not** engage in such new employment soon after a qualifying move may still be considered a “migratory fisher” if he or she meets both of the following criteria:
  1. The individual actively sought such new employment; *and*
  2. The individual has a recent history of moves for temporary or seasonal agricultural employment.







# SOON AFTER THE MOVE

While States may interpret the wording “soon after” to mean more or less than 60 days, each State should establish a written standard that all recruiters are to apply, and which the State can rely upon in the event of an audit or investigation questioning the reasonableness of the State’s policy.

# IF THE WORKER DOES NOT GET THE WORK RIGHT AWAY

Individuals who did not engage in such new employment soon after a qualifying move may still be considered a “migratory agricultural worker” if he or she meets both of the following criteria:

1. The individual actively sought such new employment;
- and*
2. The individual has a recent history of moves for temporary or seasonal agricultural employment.



**If it takes a while (over 60 days to get a job in agriculture) may the individual be considered a migratory agricultural worker without a recent history of moves for qualifying work?**

**No.** Under the definitions of “migratory agricultural worker” and “migratory fisher,” an individual who, for whatever reason, does not engage in new qualifying work soon after a qualifying move may only be considered a migratory agricultural worker or migratory fisher worker if that individual has both:

1. Actively sought new qualifying work; and
2. A recent history of moves for qualifying work.



# WHAT IS CONSIDERED A RECENT HISTORY OF MOVES?

The phrase “recent history of moves” means that the moves resulted in qualifying temporary or seasonal agricultural or fishing employment (*i.e.*, qualifying work).

An individual’s recent history of moves for qualifying work does not have to be from one school district to another. But each move must meet the definition of a “move” which requires a change from one residence to another residence that occurs due to economic necessity.

The recruiter should ask whether the worker has ever moved before and request information on the dates of the moves and whether the worker or his or her parent/guardian or spouse, engaged in qualifying work after those moves

# HOW FAR BACK CAN I LOOK FOR RECENT HISTORY OF WORK?

The “recent history” should not exceed 36 months prior to the date of the recruiter’s interview.

Given the plural form of the word “moves,” an individual must have made **at least two moves** for qualifying work within the time period the State establishes in which the “recent history of moves” must have occurred.





# REMINDER



A “migratory agricultural worker” is a person who, in the preceding 36 months, made a qualifying move and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture (which may be dairy work or the initial processing of raw agricultural products).

If an individual did **not** engage in such new employment soon after a qualifying move may still be considered a “migratory agricultural worker” if he or she meets both of the following criteria:

1. The individual actively sought such new employment; *and*
2. The individual has a recent history of moves for temporary or seasonal agricultural employment.