TO: Workforce Development System Partners

FROM: Gary Kamimura, Workforce Policy Director

SUBJECT: Changes to Trade Adjustment Assistance (TAA) Policies

**Purpose:**

To provide notice to Trade Adjustment Assistance (TAA) supervisors and counselors of changes that need to be implemented immediately and maintained until associated state TAA policies are formally revised and reissued.

**Action Required:**

Employment Security Regional Directors and WorkSource Administrators must distribute this guidance to TAA supervisors and counselors specifically and to WorkSource system partners more broadly to ensure that all are familiar with its content and requirements.

TAA supervisors and counselors must promptly comply with this guidance until such time as it is superseded or affirmed by formally revised and reissued TAA policies.

**Content:**

**Relocation Allowances**

Use federal General Services Administration (GSA) per diem calculations, which can be found [here](#). Do not use state Office of Financial Management (OFM) per diem calculations.

2002, 2011, 2014 and 2015 Programs: This monetary benefit is available to reimburse participants for approved expenses when they must move to a new area to earn family-sustaining wages in employment outside of their normal commuting areas. Relocation allowances may include 90% of the reasonable and necessary expenses involved in moving participants, their families, and their household goods to a new area following re-employment outside of their normal commuting area. In addition, they may receive a lump sum payment equal to three times their average weekly wage, up to a maximum payment of $1,250. They must submit an application for relocation allowances
before their relocation begins and within 425 days of their layoff or certification (whichever is later) or within 182 days of the conclusion of training.

2009 Program: This monetary benefit is available to reimburse participants for approved expenses when they must move to a new area to earn family-sustaining wages in employment outside of their normal commuting area. Relocation allowances may include 100% of the reasonable and necessary expenses involved in moving participants, their families, and their household goods to a new area following their re-employment outside of their normal commuting area. In addition, they may receive a lump sum payment equal to three times their average weekly wage, up to a maximum payment of $1,500. They must submit an application for a relocation allowance before their relocation begins and within 425 days of their layoff or certification (whichever is later) or within 182 days of the conclusion of training.

Health Coverage Tax Credit (HCTC)

ESD launched a new unemployment insurance benefit payment system in January 2017 that will electronically notify the Internal Revenue Service (IRS) of potentially eligible participants from that month forward. Employment System Policy is developing a policy for the reinstated program.

How are individuals made aware of the program and potential eligibility?

The IRS conducted an outreach effort to inform individuals about HCTC and posted program information on its website. In addition, TAA staff will advise individuals about the program.

Who determines eligibility?

Only the IRS can determine an individual’s eligibility.

Who is eligible?

Eligible TAA Recipients:

- Individuals who received Trade Readjustment Allowance (TRA) for any day of the reference month.
- Individuals who would have been eligible to receive TRA in the reference month except for not having exhausted their unemployment compensation entitlement.

Eligible ATAA/RTAA Recipients:

- Individuals who participated in the Alternative Trade Adjustment Assistance (ATAA) or Reemployment Trade Adjustment Assistance (RTAA) programs in the reference month and received a payment in that month (equal to 50 percent of the difference between their wages at the time of separation and the time of reemployment).
- Individuals whose ATAA or RTAA program eligibility lapsed in the prior calendar month.

Special Rule Recipients:
• Individuals who are in a break exceeding 30 days while in approved training where the break exists within the eligibility period for receiving TRA.

• Individuals receiving unemployment compensation in the reference month and who would have been eligible to receive TRA in that month except for not having exhausted their unemployment compensation entitlement despite not yet being enrolled in training.

Eligible recipients for calendar year 2014, 2015, and 2016 must apply. The IRS requested states provide documentation as proof of eligibility.

**Documentation**

The IRS requires that the state provide proof of eligible TAA or ATAA/RTAA recipient status for 2014 and 2015, separately for each tax year. The documentation must only confirm that the individual received a payment for any one week in any one month during the calendar year.

These links will provide references for HCTC:

• [Training and Employment Notice (TEN) 25-15](#) and [Unemployment Insurance Program Letter (UIPL) 1-17](#)
• Department of Labor’s (DOL), [Questions & Answers](#)
• [IRS information page](#)

What do you do if a recipient requests documentation? Employment System Policy is working with Employment Connections on the procedures for generating a written document when it is requested. Employment Connections has also developed a slide presentation to orient staff to HCTC as well as a one-page HCTC flyer for staff to hand out to TAA participants.

**Denial of Trade Adjustment Assistance**

Individuals have a right to appeal TAA determinations that result in denials. Appeals of denials are to be reviewed locally by TAA supervisors in consultation with their WorkSource Administrators and TAA operational leads.

If a denial is upheld by the local TAA program and an individual wants to further appeal the TAA determination, it is to be forwarded to the state Office of Administrative Hearings (OAH) at the following address to be handled by an administrative law judge:

Office of Administrative Hearings  
16201 East Indiana Avenue, Suite 500  
Spokane Valley WA 99216

Phone: (509) 456-3975 or (800) 366-0955

**Trade Readjustment Allowances**

Follow the appropriate [TRA policy](#) for the application year.
Classroom (Occupational Skills) Training / Approval of Training / Reasonable Cost of Training

When considering these policies, Classroom (Occupational Skills) Training, Approval of Training, and Reasonable Cost of training:

The cap on classroom training costs and the Exception to Cost Limit policy requirement, for TAA counselors to obtain central office approval to go above the cap is eliminated. Local discretion will apply. There is no restriction or cap for personal computer and equipment required in the course syllabus for an approved program. Approved training must be within reasonable costs and are dependent upon funds available.

Subsistence and transportation allowances must be calculated using federal per diem rates, not state per diem rates.

Most importantly, when it comes to approval of TAA training, the following six criteria found at 20 CFR 627.22 must be satisfied and TAA counselors must ensure that all assessments have been completed and that participant case files thoroughly and accurately document the following:

1. No suitable employment available
2. Participant will benefit from training
3. Reasonable expectation of employment following completion of training
4. Training is reasonably available and accessible
5. Participant is qualified to undertake and complete the training
6. Training is suitable and available at a reasonable cost

The document must be signed by TAA counselors and the original signed document placed in participants’ files.

Entrepreneurial Training

Entrepreneurial training programs that support participants’ employment goals are permitted for petitions that fall under amendment year 2009 and after.

Section 236(a)(5)(B) of Chapter 2 of Title II of the Trade Act of 1974, as amended in 2009, provides that training programs approved include “any training program provided by a State pursuant to title I of the Workforce Investment Act.” Section 134(d)(4)(D)(vi) of the Workforce Investment Act of 1998 and subsequently Section 134(c)(3)(D)(vii) of Workforce Innovation and Opportunity Act of 2014 cite “entrepreneurial training” as an allowable training service for adults and dislocated workers. As such, entrepreneurship training is allowable for TAA participants whose petitions correspond to the Trade Act as amended in 2009, 2014, and 2015.

Apprenticeship Training

Service providers should continue to promote apprenticeship programs to the extent possible under TAA program guidelines. This policy applies to workers determined eligible to receive services and allowances under the Trade Act. Employment System Policy will be reviewing and updating the existing policy.
Assessment

A comprehensive assessment is required using WOWI while CASAS remains the tool for assessing basic skills levels and deficiencies. Employment System Policy will be reviewing and updating this policy.

Complaint and Appeal Process

Employment System Policy will be reviewing and updating the system complaint policy that covers, among other programs, TAA. For now, consistent with the desire to resolve all complaints at the lowest level possible, initial attempts to resolve TAA complaints must be made by locally by TAA supervisors in consultation with their WorkSource Administrators and TAA operational leads.

If complainants are dissatisfied with resolutions, appeals are to be forwarded to the state Office of Administrative Hearings (OAH) at the following address to be handled by an administrative law judge:

Office of Administrative Hearings  
16201 East Indiana Avenue, Suite 500  
Spokane Valley WA 99216

Phone: (509) 456-3975 or (800) 366-0955

Because TRA payments are a form of Unemployment Insurance (UI) compensation, TRA denials and appeals use the existing UI denial and appeal process, so TAA counselors and supervisors are to direct participants who want to appeal denials of TRA benefits to the on-line instructions. If you have participants who are unable or unwilling to use the on-line resource and want to submit written appeals, direct them to mail or fax the written appeal request to the following:

Claim Center Appeals  
P.O. Box 19018  
Olympia WA 98507-0018

FAX: (800) 301-1795

Eligible Training Provider List (ETPL)

Prior policy required training providers to be on the state’s ETPL for the TAA training plan to be approved. It is recommended, but not required, that providers be on the ETPL. Providers on the ETPL offering comparable training within a local area should be given strong consideration over providers not on the ETPL. This applies to all petition years.

That said, other programs (e.g., Training Benefits) require training programs to be on the ETPL as a condition of eligibility. It is essential that all TAA counselors advise participants that co-enrollment with other programs may be adversely impacted if they choose training programs that are not on the ETPL. For now, TAA counselors must enter case notes documenting that participants were advised of and acknowledged this issue if they chose non-ETPL programs. A standardized form to capture this acknowledgement will be developed for the ETO case management system.
TAA Education Expense Cap

A TAA service provider may authorize up to $40 for the purchase of incidental classroom supplies above and beyond the cost of training as defined by policy such as paper, pencils, pens, binders, dictionaries, calculators, cartridge ink, and non-edible supplies needed by participants to support classroom training. This list is not exhaustive and should not be factored into the determination of the cost of an approved training program.

References:

- Public Law 93-618, Trade Act of 1974, as amended through 2016
- 20 CFR 617 – Trade Adjustment Assistance for Workers Under the Trade Act of 1974

Website:

http://www.wa.gov/esd/1stop/policies/state_guidance.htm

Direct Inquiries To:

Employment System Administration and Policy Unit
Employment System Policy Division
Employment Security Department
P.O. Box 9046
Olympia WA 98506-9046
(360) 902-9666

Attachments:

None