

Washington State Trade Adjustment Assistance Policy

Policy Number: 3025, Revision 2 (2011)

Policy Title: Denial of Trade Adjustment Assistance and Appeals under the 2011 Amendments

Effective Date: December 11, 2020

1. **Purpose:**

To communicate policy on denial of Trade Adjustment Assistance (TAA), Trade Readjustment Allowances (TRA) and Reemployment Trade Adjustment Assistance (RTAA) entitlements and activities (job search allowances, relocation allowances and training) and appeals of those denials.

2. **Background:**

The U.S. Department of Labor (DOL) published TAA Final Rule 20 CFR part 618 on August 21, 2020. Through this final rulemaking, the Department modernizes the TAA Program, provides additional flexibility to states, and consolidates all applicable program regulations into a single section of the Code of Federal Regulations and continued to align the program with WIOA.

The Trade Adjustment Assistance for Workers Program (TAA program) was first established in the Trade Act of 1974 as a tool to retrain trade impacted workers and help them find suitable employment. The Trade Adjustment Assistance Extension Act (TAAEA) of 2011 (Public Law 112-40) was enacted on October 21, 2011. The TAAEA again reauthorized the TAA program with changes to benefits. The 2011 Amendments include a reduction in number of eligible groups qualified for TAA, elimination of three training waivers, and elimination of the additional 26 weeks of TRA for workers participating in prerequisite or remedial training, with the addition of a new Completion TRA component.

The 2011 amendments apply to petitions filed on or after October 21, 2011, and numbered TA-W 81,000 – 89,999. There is a special retroactive applicability for petitions numbered 80,000 – 80,999. Eligible workers with petitions in this range were able elect to receive benefits in accordance with either 2002 or 2011 amendments.

Upon the filing of an initial application for Trade Adjustment Assistance and Trade Readjustment Allowances, the Employment Security Department (ESD) will promptly determine the individual's entitlement to TAA and TRA. ESD will also promptly make determinations of any subsequent applications for any other Trade Act benefits or services.

3. **Policy:**

Approvals and denials of all benefits under Trade Act entitlements and activities must be issued in writing. The formal determination will inform the applicant of the reason for the determination or redetermination, and of the right to request reconsideration or appeal.

Redeterminations pertaining to Trade Act will use the provisions that apply to a redetermination on a claim for Unemployment Insurance (UI). However, no provision of state law or regulations on good cause for waiver of any time limit, or for late filing of any claim, will apply to any time limitations.

Proceedings for review of a determination or redetermination may be consolidated where convenient or necessary. Determinations and redeterminations are subject to review and appeal under Washington state law. Appeals must be decided promptly to provide for prompt payment of UI when due.

a. Trade Act Entitlements

The Special Programs TRA Unit must issue written determinations or redeterminations when allowing or denying TAA, TRA, or RTAA entitlements.

b. Trade Act Entitlement Appeals

Participants who receive written determinations or redeterminations denying TAA, TRA, or RTAA entitlements, and do not agree with the decisions, have the right to file appeals. Participants must file their appeal requests within 30 days after the date of notification or mailing of such determinations or redeterminations.

Appeals of entitlement denials are to be sent to the Special Programs TRA Unit using the following address or fax number:

ESD Appeals Request
PO Box 9046
Olympia, WA 98507
Fax: 800-301-1796

The TRA Unit will upload appeals with support documentation to the state Office of Administrative Hearings (OAH) within five days of the participant filing their appeal.

Note: If the person filing an appeal does not have an Unemployment Insurance (UI) claim send an email to Spokane-OAH@oah.wa.gov to alert them that a manual case has been filed.

c. TAA Activities

TAA Case Managers must issue a decision in writing when allowing or denying TAA activities (job search allowances, relocation allowances and training). Before TAA activity denials are finalized, they must be confirmed first by the TAA Supervisor and then by the TAA Program Operator.

d. TAA Activity Appeals

Participants who receive written determinations or redeterminations denying TAA activities, and do not agree with the decisions, have the right to file appeals. Participants

must file their appeal requests with a WorkSource office within 30 days after the date of notification or mailing of such determinations or redeterminations.

The TAA Case Manager, Supervisor, or Program Operator will prepare the appeal request with all the necessary documentation according to the TAA Procedure Manual. The Program Operator, or designee will email the appeal to the TRA Unit within three days of the participant filing their appeal, with all documentation necessary to support the denial decision.

Appeals of activity denials are to be sent to the Special Programs TRA Unit using the following email address:

UITRA@esd.wa.gov

The TRA Unit will upload appeals with support documentation to the state Office of Administrative Hearings (OAH) within five calendar days of the participant filing their appeal.

4. Definitions:

None.

5. References:

- 20 CFR 618.

6. Supersedes:

TAA Policy 3025, Revision 1 (2011 Amendments) dated December 5, 2018.

7. Website:

[Workforce Professionals Center](#)

8. Action:

Employment Security Department Regional Directors and WorkSource Administrators must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

None.

Direct Inquiries To:

*Employment System Administration and Policy
Employment System Policy and Integrity Division
Employment Security Department*

P.O. Box 9046
Olympia, WA 98507-9046
SystemPolicy@esd.wa.gov