

# Washington State Trade Readjustment Allowances Policy

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**Policy Number:** 3100 (2015)

**Policy Title:** Trade Readjustment Allowances (TRA)

**Effective Date:** June 24, 2016

## **1. Purpose:**

To communicate the policy on Trade Readjustment Assistance (TRA) for petitions certified under 2015 rules (petition numbers TA-W 90,000 – 97,999).

## **2. Background:**

The Trade Adjustment Assistance for Workers Program (TAA program) was established in the Trade Act of 1974 as a tool to retrain trade-affected workers and help them find suitable employment. The TAA program has a two-step process:

1. A group of workers, an employer, a union, or the state, file a petition for certification of eligibility with the Office of Trade Adjustment Assistance (OTAA).
2. Workers, who are part of a group covered by a certified petition, individually apply to a state for benefits and services.

Since its enactment in 1974, the Trade Act has been amended numerous times. Likewise, TAA program rules and requirements have evolved with each new law. Four sets of laws are currently in use: the 2002, 2009, 2011 Amendments with the 2014 Reversion, and the 2015 Amendments.

The Trade Adjustment Assistance Reauthorization Act (TAARA) of 2015 was signed into law on June 29, 2015. The TAARA reauthorized the TAA program through the June 30, 2021, sunset provision.

The 2015 Reauthorization returned the program to the services and benefits available under the 2011 Amendments. The 2014 Reversion was also retroactively modified, providing a 90-day transition period for Reversion 2014 program participants to move to the 2015 program.

### **90-day transition period for the 2014 Reversion**

Program requirements for transition

- Provide notice of program benefits and services to all workers covered under petitions numbered 85,000 – 89,999, to include:

1. Information about 2015 program benefits and services
  2. Notification of and explanation about the transition from the Reversion 2014 program to the 2015 program.
  3. Information about adversely affected incumbent worker benefits, sent to an expanded list of workers who are threatened with separation.
  4. Notification of and information about the Reemployment Trade Adjustment Assistance (RTAA) benefits available to older workers.
- Review all determinations denying individual eligibility for Trade Readjustment Allowance (TRA) and Alternative Trade Adjustment Assistance (ATAA) and issue new determinations based on the 2015 program requirements.

### 3. **Policy:**

Trade Readjustment Allowance (TRA) provides financial support to participants while enrolled in TAA-approved training or conducting a work search. TRA is **not** available until all eligibility for unemployment insurance (UI) benefits and federal extensions are exhausted.

There are three types of TRA:

- Basic TRA is payable if the participant is either enrolled in TAA approved training or looking for work and has either not yet reached the waiver of training deadline or has obtained a waiver of training requirement. Basic TRA can also be paid to participants who are conducting a work search following the completion of TAA approved training.
- Additional TRA is payable only if the participant is actively attending TAA approved training and has exhausted all rights to Basic TRA. Additional TRA cannot be paid during a break from training that is more than 30 days.
- Completion TRA is payable only if the participant is attending TAA approved training, has exhausted all rights to Additional TRA and has met specific training benchmarks. Completion TRA cannot be paid for any week the participant isn't attending training.

#### a. **TRA eligibility requirements**

- i. To be eligible for TRA benefits, adversely affected workers must meet the following requirements:
  - Certification –
    - Must be an adversely affected worker covered by a certification and be laid off because of lack of work.
  - Separation –
    - Must have a qualifying layoff.
    - The first qualifying layoff must have occurred on or after the impact date of the certification; and on or before the expiration date of the certification.
  - Wages and Employment –
    - Must have had at least 26 weeks of employment with the certified employer at wages of at least \$30 or more per week during the 52-week period ending with the week of their first qualifying separation, or any subsequent qualifying layoff under the same certification.
  - Entitlement to UI –
    - Must be monetarily eligible for unemployment insurance (UI) benefits at the time of the first qualifying layoff, on or after the impact date.

- Exhaustion of UI –
  - Must have exhausted all rights to unemployment insurance benefits or federal extensions.
- Work search –
  - Must meet stricter work search requirements (EB work test) to receive Basic TRA, except when participating in an approved TAA training program.
- Participation in TAA training –
  - Must be enrolled in or participating in TAA approved training, have completed TAA training following the qualifying separation (only Basic TRA), or have received a waiver from the TAA training requirements (only Basic TRA).

ii. Exceptions:

If a worker does not meet the minimum 26-week wage and employment requirement –

- A week of employment will be added, up to a maximum of 7 weeks, for each week that one of the following conditions exists:
  - The certified employer authorized leave for vacation, sickness, injury, maternity or inactive duty or active duty military service or training, or
  - A worker's employment was interrupted to serve as a full-time representative of a labor organization in the affected firm or subdivision.
- A week of employment will be added, up to a maximum of 26 weeks, for each week that one of the following conditions exists:
  - An inability to work for the adversely affected employer due to a disability compensable under state or federal worker's compensation laws, or
  - Being called for active duty in reserve status in the US armed forces.

iii. TAA eligible workers who are not eligible for TRA benefits because they did not meet the qualifying requirements are still eligible to apply for training, job search allowances, relocation allowances, Reemployment Trade Adjustment Assistance (RTAA) wage subsidy for older workers program and reemployment services.

**b. Determining the parent claim**

- i. The first qualifying layoff is the first layoff of at least seven consecutive days after the impact date and before the expiration date of the petition.
  - The unemployment claim in effect at the time of the first qualifying layoff is the TRA parent claim.
  - The weekly benefit amount for Basic and Additional TRA is the same as the weekly benefit amount of the TRA parent claim.
- ii. The most recent claim is not always the TRA parent claim.
  - When determining eligibility for TRA, the State TRA Coordinator determines which UI claim meets the requirements to be the TRA parent claim.

Example 1: On a claimant's first claim between the impact and expiration date, the claimant only claimed and received waiting week credit. During the waiting week, the claimant reported 8 hours of holiday pay (viewable on Q12 in GUIDE). Since the claimant received pay from the employer for a portion of this period, and there were no other weeks claimed, this claim wouldn't be the parent claim. If there is no subsequent claim with a separation date between the impact and expiration date, with a full week of unemployment then the claimant won't be eligible for TRA.

Example 2: Same situation as above, but the claimant didn't have any holiday pay to report. Since the claimant received waiting week credit and was unemployed for a full week, this would be the claimant's parent claim.

#### **a. TRA deadlines**

- i. To receive Basic TRA, either:
  1. Participants must be enrolled in TAA approved training by the later of:
    - The last day of the 26th week after their most recent qualifying layoff; or
    - The last day of the 26th week after the week that the Department of Labor issued the certification;
  - Or
  2. The participant must have been approved for a waiver of the TAA training requirements by the later of:
    - The last day of the 26th week after their most recent qualifying layoff; or
    - The last day of the 26th week after the week that the Department of Labor issued the certification.
- ii. Exceptions

TAARA provides for additional justifiable cause exceptions for TAA eligible workers who miss application and enrollment deadlines. The State TRA Coordinator makes all determinations regarding any of the following extensions:

1. 45 day extension for extenuating circumstances:

Circumstances beyond the control of the worker allow an extension of the deadlines up to 45 days. This includes situations where training programs are abruptly cancelled as well as when a worker suffers injury or illness preventing participation in training.

2. 60 day extension after actual notification of the exception to the enrollment deadlines:

Circumstances deemed to be beyond the worker's control, such as failure of the state agency to notify the worker, justify an extension of the eligibility periods. This is a worker-centric exception. The worker must be enrolled in training by Monday of the first week occurring 60 days after the date that the worker was properly notified of his or her eligibility to apply for TAA training and the requirement to enroll in training absent a waiver of the training requirement.

Example 1: If the 60<sup>th</sup> day following notification is a Sunday, the participant must be enrolled before Monday, so Friday of the previous week is the deadline.

Example 2: If the 60<sup>th</sup> day following notification is a Wednesday, the deadline is Friday of the same week.

Example 3: If the 60<sup>th</sup> day following notification is a Monday, the participant has until Friday of that week.

3. 30 day extension after the termination of a waiver:

To maintain eligibility for Additional TRA, workers with a training waiver must be enrolled in training prior to the first Monday, 30 days following the termination of the waiver, either by expiration (end of Basic TRA) or waiver revocation.

Example 1: If the 30<sup>th</sup> day following the termination of the waiver is a Sunday, the participant must be enrolled before Monday, so Friday of the previous week is the deadline.

Example 2: If the 30<sup>th</sup> day following the termination of the waiver is a Wednesday, the deadline is Friday of the same week.

Example 3: If the 30<sup>th</sup> day following the termination of the waiver is a Monday, the participant has until Friday of that week.

These deadline extensions apply for eligibility for any TRA payment, including Basic TRA, Additional TRA and Completion TRA.

i. Special rules

TAARA provides for an extension of the eligibility period that TRA (Basic and Additional) is payable. The State TRA Coordinator issues all determinations regarding any of the following extensions:

1. For calculating separations - Judicial or Administrative Appeal

In the event a DOL certification is issued as a result of an appeal of an earlier denial of certification, the 104-week eligibility period for Basic TRA will begin the week following the week the group was certified. In this case, the applicable enrollment in training deadline will be 26 weeks after the certification is issued.

2. For justifiable cause to extend the eligibility periods for TRA

This rule allows for an extension for justifiable cause of periods that TRA (Basic and Additional) are payable. Justifiable cause means circumstances determined to be beyond the worker's control. Washington Unemployment Insurance laws, regulations, and policies regarding good cause apply to this determination.

### 3. For military service

Veterans are given priority of service. The 2015 TAARA continues with the 2011 rules for returning service members. Members of the armed forces and National Guard called to active duty while a participant are considered "whole," as if the period of military service had not occurred.

The provision allows workers called up for active duty for 30 days or more to restart the TAA enrollment process after completion of military service. This includes workers who had begun, but had not completed, a training program before being called up for active duty, and those workers whose company is certified for Trade Act while the workers are serving on active duty.

If participants begin training prior to active duty call-up, they are allowed to complete that training. However, they need not have been enrolled in nor begun training before the period of duty for this provision to apply. When separated, these individuals are eligible to receive TRA, training and other benefits under the 2015 amendments in the same manner and extent as if they had not served the period of duty.

The state pauses all deadlines for all TAA, and RTAA benefits and services, as well as TRA eligibility periods, during a service member's period of duty that occur before the individual completes TAA-approved training. The state first consults with and receives DOL's permission before waiving any other TAA requirement.

#### ii. Federal good cause provision

TAARA establishes a Federal Good Cause provision allowing a good cause waiver of deadlines to file an application for TRA or enroll in training. This provision supersedes the state justifiable cause provision for deadlines under the 2011 Amendments.

The TRA Coordinator waives the time limitations of an application for TRA benefits or enrollment in training at any time after determining there is good cause for issuing a waiver in accordance with the federal standard.

The federal standard requires states to consider the following factors, if relevant, before waiving these time limitations. These factors are whether or not:

- The worker acted in the manner that a reasonably prudent person would have acted under the same or similar circumstances.
- The worker received timely notice of the need to act before the deadline passed.
- There were factors outside the control of the worker that prevented the worker from taking timely action to meet the deadline.
- The worker's efforts to seek an extension of time by promptly notifying the state were sufficient.
- The worker was physically unable to take timely action to meet the deadline.

- The worker’s failure to meet the deadline was because of the employer warning, instructing or coercing the worker in any way that prevented the worker’s timely filing of an application for TRA or to enroll in training.
- The worker’s failure to meet the deadline was because the worker reasonably relied on misleading, incomplete, or erroneous advice provided by the state.
- The worker’s failure to meet the deadline was because the state failed to perform its affirmative duty to provide advice reasonably necessary for the protection of the worker’s entitlement to TRA.
- There were other compelling reasons or circumstances which would prevent a reasonable person under the circumstances presented from meeting a deadline for filing an application for TRA or enrolling in training including:
  - Neglect, a mistake, or an administrative error by the state
  - Illness or injury of the worker or any member of the worker's immediate family
  - The unavailability of mail service for a worker in a remote area
  - A natural catastrophe such as an earthquake or a fire or flood
  - An employer’s failure or undue delay in providing documentation, including instructions, a determination or notice of pertinent and important information
  - Compelling personal affairs or problems that could not reasonably be postponed such as an appearance in court or an administrative hearing or proceeding, substantial business matters, attending a funeral, or relocation to another residence or area
  - The state failed to effectively communicate in the worker’s native language and the worker has limited understanding of English
  - Loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation of the availability of the records includes a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

When the worker’s failure to meet the deadline for applying for TRA or enrolling in training was the worker’s own negligence, carelessness, or procrastination, a state may not waive these time limitations.

**b. Special rules for TRA payments**

TAA counselors should consult with the State TRA Coordinator to seek clarification of the earnings disregard and election options between UI and TRA.

Special TRA payment rules include the following:

i. Earnings disregard

Wages less than or equal to the participant’s TRA weekly benefit amount are not deductible from TRA when participating in full-time TAA training other than OJT. A participant may work full-time and not be denied under state law as being “not unemployed.” Only the wages above and beyond the TRA weekly benefit amount are deductible from TRA benefits. These wages are deducted using the standard earnings deduction chart.

**Note:** The computation for the earnings deduction on the Washington State standard earnings deduction chart is gross earnings minus \$5 times 75% (0.75). All deductions are rounded up to the next higher dollar.

**Example 1:** A participant attending full-time TAA training has a TRA weekly benefit amount of \$400. He works 20 hours and earns \$17.50 per hour for a total of \$350. The \$350 is less than his TRA weekly benefit amount, so nothing is deducted from his TRA benefits. He receives the full \$400 in TRA benefits.

**Example 2:** The same participant above works 30 hours and earns \$17.50 per hour for a total of \$525. The \$525 is greater than his TRA weekly benefit amount by \$125. Using the standard earnings deduction chart for \$125, his TRA benefits are reduced by \$90. He receives \$310 in TRA benefits.

ii. Election between TRA and UI –

If they qualify for subsequent UI claims, TAA participants may elect to receive TRA instead of the new UI claims as long as the following two conditions are met:

1. They are entitled to receive UI as a result of a new benefit year based on part-time or short-term employment after their most recent total separation from adversely affected employment; and
2. They are otherwise entitled to TRA.

This option must be provided to TAA participants along with a full explanation of their TRA and UI benefit rights, in writing, and their choice must be documented in case notes.

**c. Waiver of TAA training requirements to receive Basic TRA benefits**

Prior to the waiver deadline, individuals may receive Basic TRA while looking for work. After the waiver deadline, to be eligible for Basic TRA the individual must either have a waiver of the deadlines or be enrolled in TAA approved training. Unless enrolled in training, individuals on Basic TRA must be issued a directive by their TAA counselor to conduct a more enhanced job search using federal Extended Benefits (EB) work search criteria.

i. Waiver conditions

The 2015 amendments kept three training waiver conditions. An individual must meet one of the three waiver conditions before being issued a waiver of training. If a participant qualifies under more than one reason, only select the one, most applicable reason for issuing a waiver. Participants on waiver must still be able, available and actively seeking work using an EB work search criteria. The three conditions are:

1. Health –
  - Training can be waived if an individual is unable to participate in training due to health issues.
  - A letter from a doctor or other appropriate medical documentation is required.
2. Enrollment unavailable –
  - When an individual is seriously considering a specific training plan but



they cannot enroll in the program right away, or if training will begin later than 60 days after the date of waiver approval, the reason for the delay in enrollment must be noted.

3. Training not available –

- When an individual is not able to find training at a reasonable cost, distance learning options may be available and should be explored; but are not appropriate for all individuals or training programs.

ii. Reasons to deny a waiver

- A denial of the waiver of TAA training requirements to receive Basic TRA must be written to provide the participant appeal rights whenever the participant requests waiver but doesn't meet the requirements to receive a waiver.

Example 1: Participant requests a waiver for health, but doesn't provide appropriate medical documentation showing he or she is unable to participate in training or indicates not being able, available and actively seeking work.

Example 2: Participant requests a waiver since enrollment at the school he or she prefers isn't available, but training at a comparable school is available, and the participant isn't willing to take the other available training.

Example 3: Participant requests a waiver due to training not being available at a reasonable cost, where training is available, or distance learning is available; and appropriate for the participant in the desired training program.

- Waivers cannot be approved if the participant is past the deadline to request a waiver, unless the 45 day extension for an extenuating circumstance applies. Requests after the deadline and not meeting the extenuating circumstances should be denied waiver in writing.

iii. Reviewing and duration of waivers

- The first waiver review is done within 90 days of the waiver issue date and subsequent reviews are done every 30 days thereafter.
- Waivers are effective for not more than 6 months from the date issued.
- To preserve the participant's eligibility for TRA, the state TRA Coordinator may approve extending the waiver for another 6 months and for the time necessary to protect the participant's eligibility for Basic TRA.

iv. Revoking a waiver

- Waivers from training must be revoked anytime the conditions of the waiver are no longer applicable.
- Participants must be notified of the revocation in writing.
- To be eligible for Additional TRA, participants must be in TAA approved training by the Monday of the first week occurring 30 days after the date of the revocation.

v. Waiver expiration

At the end of the 6 month waiver period, if a reassessment of the participant's case does not indicate a need to extend the waiver period, the waiver will expire and must be revoked.

**c. Basic TRA**

- i. To be eligible to receive Basic TRA, participants must exhaust regular UI, all extensions, or have an expired claim.
- ii. The eligibility period for Basic TRA is the 104-week period following the week of the participants' last total qualifying layoff from trade-affected employment.
  - A total qualifying layoff for TRA purposes is a layoff of 7 days or more.
  - The eligibility period is reset following each subsequent qualified layoff, provided the TAA participant meets the criteria for a valid TRA claim.
  - The TRA weekly benefit amount is always the same as the UI weekly benefit amount from the parent claim, even if the 104-week eligibility period is reset.
  - The Basic TRA eligibility period could end before the actual Basic TRA maximum amount is received.
- iii. The maximum Basic TRA amount payable is 52 times the TRA weekly benefit amount from the parent claim minus the total sum of unemployment insurance the TAA participant was entitled under that claim and, if applicable, any benefit extensions, regardless of whether or not the TAA participant actually received the benefits.
- iv. To receive Basic TRA under the 2015 TAARA certifications, the TAA participant must:
  - Be enrolled in TAA approved training by the later of:
    - The last day of the 26th week after their most recent qualifying layoff; or
    - The last day of the 26th week after the week the Department of Labor issued the certification.
  - Or
  - Be actively seeking work and on a training waiver by the later of:
    - The last day of the 26th week after their most recent qualifying layoff; or
    - The last day of the 26th week after the week the Department of Labor issued the certification.
  - Or
  - Have completed a TAA approved training plan and be actively seeking work.
- v. TAA participants must be fully registered in the state case management system and TAA counselors must take an active role to help participants secure employment.

**d. Additional TRA**

To accommodate breaks in training, the participant may collect 65 weeks of Additional TRA benefits during a span of 78 weeks.

- This rule enables workers to participate in longer training, such as a two-year Associate's degree, a nursing certification, or completion of a college degree, advanced degree or certification.
- To receive Additional TRA payments, TAA participants must be participating in TAA-approved full-time training programs, have exhausted Basic TRA and meet all other requirements for TRA.
- Payments of Additional TRA may be made only for those weeks during the 78-week eligibility period following the last week of entitlement to Basic TRA and during the weeks in which TAA participants are actually participating in TAA-approved training.
- Additional TRA is not available after completing training or during waivers of training.

i. The 78 Week Eligibility Period

The 78-week eligibility period begins with the earlier of:

- The immediate week after participants exhaust Basic TRA and are participating in training; or
- The week that participants begin participating in full-time TAA-approved training (this occurs when training starts after all rights to Basic TRA are exhausted under a waiver).

**e. Completion TRA**

Completion TRA is payable **only if** participants are attending TAA approved training and have exhausted all rights to Additional TRA.

- i. Assuming all other requirements are met, participants may qualify for up to 13 weeks of Completion TRA, which is payable during the 20-week period that begins with the first week in which they file claims for Completion TRA. Participants may qualify for Completion TRA when all of the following five additional criteria are met:
1. The requested weeks are necessary for them to complete a training program that leads to completion of a degree or industry recognized credential; and
  2. They are attending training each week; and
  3. They have substantially met the performance benchmarks established (TAA Classroom Training Procedures – Extension Act of 2011) in the approved training plan (must have maintained satisfactory academic standing and be scheduled to complete training within a training plan's specified timeframe); and
  4. They are expected to continue to make progress toward completion of approved training; and
  5. They are able to complete training during the period authorized to receive Completion TRA.

**f. Breaks in Training**

- i. Eligibility for Basic and Additional TRA continues during scheduled breaks in training, but only if a scheduled break is no longer than 30 days (not counting weekends and holidays, unless these are included on the academic schedule) and

all of the following additional conditions are met:

- Participant were in TAA-approved training immediately before the beginning of the break,
- The break is pre-approved in the published academic schedule, or the previously established schedule of training issued by the training provider, or is indicated in the training program approved for participants; and
- Participants resume training immediately after break.

#### **g. Payment During A Break**

Use the following to determine participants' eligibility for payment during a break:

- i. The break begins on the day following the last day of scheduled training and up to the last day of the break preceding the next scheduled day of training.
  - Weekend days are not counted unless they are normally scheduled for training.
  - Official state and federal holidays are not counted.
  - If a training facility closes before a scheduled break because of an emergency situation, any days of closure due to the emergency are not be counted as part of the break.
  - If a TAA participant attends classes only two or three days in a week, the break is counted in the same manner outlined above.
    - The counting of break days is dependent on the schedule of the training facility and not the schedule of the participant in training.
    - However, a TAA participant can be paid for any week during which at least one day of training is scheduled and attended.
- ii. If the number of days is 30 days or less, the TAA participant can be paid during the entire break.
- iii. If the number of days is more than 30 days, the TAA participant cannot be paid Basic or Additional weeks of TRA during the full weeks of the break. This includes summer breaks.

#### **h. Extended Benefits (EB) Work Test**

- i. Participants receiving Basic TRA must meet the requirements of the Extended Benefits (EB) Work Test, as follows:
  - Be able to work;
  - Be available for work;
  - Register for work and be available for referral or accept referral to suitable work by the TAA counselor;
  - Apply for any suitable work the TAA participant is referred to by the TAA counselor;
  - Accept any offer of suitable work; and
  - Actively engage in seeking work and furnish the TRA unit with tangible evidence of four such efforts each week.
- ii. Job search requirements for TRA are stricter than regular unemployment benefits.

## Job Search Requirements

Participants are expected to look even harder for work than before. This means they must make a minimum of four employer contacts each week. Replacing their four employer contacts each week with approved in-person activities is NOT allowed while collecting TRA.

Participants must look for work every week they want benefits even if they are:

- Working
- Returning to work shortly
- A union member

When participants file their weekly claim, they must report their job search contacts on the claim form. They need to tell us: date of employer (or union) contact, employer's name and place of business (union members may list the union name and place of business for one contact), how the contact was made (in person, phone, Internet, e-mail, mail), contact person or job reference number, and position applied for.

### iii. Suitable Work

Participants must seek and accept any offer of "suitable" work while collecting TRA. Because of the length of unemployment, participants are required to accept almost any work they can do – even if it is not in their normal occupation.

Therefore, any job is considered suitable if:

- it is within the participant's capabilities, and
- the gross weekly pay is greater than the participant's weekly benefit amount, and
- it pays at least minimum wage where the participant lives.

Participants do not have to accept work if the job is vacant due to a labor dispute, the working conditions are less favorable than similar work in their labor market, or they are required to join or resign from a union.

### iv. Failing to Actively Seek Work

We will deny benefits if the participant does not meet the job search requirements or does not report their job search contacts for any week they claim TRA. Unlike regular benefits, participants are not only denied for the week they do not look for work. The denial continues until they work in at least four weeks and earn four times their weekly benefit amount.

### v. Failing to Apply for or Accept Suitable Work

If a participant refuse to apply for suitable work when referred by the WorkSource office or their local employment center, or refuse to accept suitable work when offered during any week they claim TRA, we will deny their benefits until they work in at least four weeks and earn four times their weekly benefit amount.

If the work was suitable under regular benefit rules, and we decide they did not have good cause to not apply or accept it, we may also deny their benefits for at least seven weeks and until they earn seven times their weekly benefit amount.

vi. Member of a Full Referral Union

Unless a participant has an extremely favorable position on their union out-of-work list, they must now expand their active search for work. This means they must make a minimum of three employer contacts each week outside of their union. Participants do not have to look for work that will jeopardize their union standing. If the participant thinks they have an extremely favorable position on their union out-of-work list, contact the TRA unit.

vii. Previous Disqualification

If the participant was previously disqualified from receiving regular benefits, we will deny their TRA until they return to work and meet the requalification requirements as stated in the original denial.

**i. Overpayments**

If the state agency or a court determines that any individual received any TAA program benefits, including TRA benefits to which the individual was not entitled, the individual is liable to repay the amount of such benefits to the state agency.

- i. TRA overpayments may be recovered by deduction from any sums payable under TRA, federal unemployment compensation or other federal benefits paid with respect to unemployment under a program administered by the state agency and, if appropriate, state UI.
- ii. The TRA unit will generate and mail billing statements each month to all participants who have an existing overpayment balance.

**j. Waiver of recovery of TRA overpayments**

Unless an overpayment is due to fraud, recovery of overpayments of TRA are waived if it would cause a financial hardship for the individual or the individual's household, when taking into consideration the income and resources reasonably available to the individual or household and other ordinary living expenses of the individual.

**k. Appeals**

- i. Participants who receive a written determination denying benefits and disagree with the decision have the right to file an appeal. To be timely, participants must file their appeals within 30 days of the date of notification or mailing of one of the following decisions:
  - A redetermination of an Entitlement Determination to TAA/TRA; or
  - A determination notice and overpayment assessment of TRA.

- ii. Participant should file their appeals with the TAA service provider's office or the State Coordinator. TAA service providers should contact the State Coordinator for guidance on processing appeals. The State Coordinator sends the appeal request and supporting documentation to the Office of Administrative Hearings (OAH).

**4. Definitions:**

None.

**5. References:**

- [Public Law 93-618](#), Trade Act of 1974, as amended
- [Public Law 114-27](#), Trade Adjustment Assistance Reauthorization Act 2015
- [20 CFR Part 618](#), TAA Final Rule
- Information on TRA for unemployment insurance staff is contained in section 5925 of the internal, electronic UI Resource Manual (UIRM)

**6. Supersedes:**

None.

**7. Website:**

[Workforce Professionals Center](#)

**8. Action:**

Employment Security 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](mailto:SystemPolicy@esd.wa.gov)*