

Washington State Trade Readjustment Allowances Policy

Policy Number: 3100 (2021)

Policy Title: Trade Readjustment Allowances (TRA)

Effective Date: January 4, 2022

1. Purpose:

To communicate the policy on Trade Readjustment Allowances (TRA) for petitions certified under Reversion 2021 rules (petition numbers TA-W 98,000 +).

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.

The Trade Act of 1974 (Public Law No. 93-618), as amended (codified at 19 U.S.C. §§ 2271 et seq.), Title II, Chapter 2, established the Trade Adjustment Assistance (TAA) for workers, Reemployment Trade Adjustment Assistance (RTAA), and Alternative Trade Adjustment Assistance (ATAA) programs. These programs are collectively referred to as the Trade Adjustment Assistance Program (TAA Program).

The TAA program seeks to provide individuals who have been adversely affected by foreign trade with opportunities to obtain the skills, credentials, resources, and support necessary to rebuild skills for future jobs.

The U.S. Department of Labor (USDOL) Employment and Training Administration (ETA) has oversight of the program and determines if a company receives a petition certification. Any member of a certified group may be eligible to receive TAA case management and services, including income support in the form of Trade Readjustment Allowances (TRA) or wage supplements for reemployed older workers in the form of RTAA or ATAA.

These benefits are payable under state UI laws in accordance with applicable [federal rules and regulations](#).

3. Policy:

Trade Readjustment Allowances (TRA) are an extension of weekly benefits that are payable to individuals who have been determined eligible to receive these benefits under the TAA Program. With some limitations, it provides financial support to individuals conducting work search or while enrolled in full-time TAA approved training.

Before receiving TRA benefits, individuals must have exhausted all UI eligibility, including extensions (except for state training benefits), combined wage claims or claims against other states.

There are three types of Trade Readjustment Allowances (TRA) – Basic, Additional, and Completion.

a. Applicable state law

- i. The applicable state law for the TAA Program is the state law of the state in which individuals:
 - Are entitled to UI (even if they have not filed a claim) immediately following their first separation from Trade-affected employment; or
 - Had their first separation from Trade-affected employment, if they are:
 - Not entitled to UI under any state law immediately following their first separation; or
 - Entitled to UI under the Railroad Unemployment Insurance Act (RRUI).

Example: Dan is receiving unemployment benefits from Washington. Washington's state UI law applies.

Example: Wendy separates from the Trade-affected employer in Washington and begins working full-time in Idaho, so hasn't filed an unemployment claim. Her first separation was in Washington, so our UI laws apply.

- ii. The state law will remain the applicable state law for individuals until they become entitled to UI under the state law of another state (even if they have not filed a claim). The applicable state law changes when:
 - Individuals satisfy the base period employment and wage qualifying requirements of another state;
 - In the case of a combined-wage claim, individuals become entitled to UI as determined under the law of another paying state; or
 - In the case of a federal UI claim or a joint state and federal UI claim, individuals become entitled to UI as determined under the law of another state.

Example: Joy was receiving unemployment benefits from Washington but now meets the eligibility requirement for a claim in Oregon. Oregon's state UI law applies from the point she met the eligibility requirements, even if Joy doesn't file a claim in Oregon.

Example: Norma separates from the Trade-affected employer and begins working full-time in Idaho. She is temporarily laid off and qualifies for an Idaho claim. Idaho's state UI law applies from the point she met the eligibility requirements, even if Norma doesn't file a claim in Idaho.

- iii. The state whose UI laws apply is the liable state. All non-monetary issues of the liable state apply to TRA entitlements. Any state that provides benefits or services to individuals is an agent state. A state can be both an agent state and a liable state.

a. Liable and agent state

- i. Liable state.

The liable state is the one whose state UI laws apply.

The liable state is responsible for:

- Making all determinations, redeterminations, and decisions;
- Providing individuals with general program information;
- Providing rapid response assistance and appropriate career services;
- Providing a list of eligible TAA recipients and eligible RTAA or ATAA recipients to the IRS for HCTC purposes; and
- Providing information and assistance to trade-affected workers, including:
 - Reemployment services,
 - Information after issuance of a certification, and
 - Specific benefit assistance.
- Cooperating fully with the agent state by providing information needed to carry out its responsibilities, activities, and functions.

- ii. Agent state.

The agent state is the state that provides benefits or services to a trade-affected worker.

An agent state is responsible for:

- Providing interstate individuals with general program information and assistance;
- Cooperating fully with the liable state in carrying out its responsibilities, activities, and functions; and
- Cooperating with the liable state by providing information needed to make determinations, redeterminations, and decisions.

Note: A state can, and in most instances will, be both the agent and liable state for individuals. When this happens, the state is responsible for all the activities and functions cited for both the agent and liable state. A state remains both the agent and liable state until individuals enroll and receive services in another state or qualify for a UI claim in another state.

Example: Greg was receiving unemployment benefits from Washington but now meets the eligibility requirement for a claim in Oregon. Oregon's state UI law

applies, even if Greg doesn't file a claim in Oregon, and they become the liable state from the point he met the eligibility requirements.

Example: Gary is receiving unemployment benefits from Washington but is receiving case management services from Hawaii. Washington is the liable state and Hawaii is the agent state.

Example: Scott is receiving unemployment benefits from Alaska but is receiving case management services from Washington. Alaska is the liable state and Washington is the agent state.

Example: Tim is receiving unemployment benefits and case management services from Washington. Washington is both the liable state and agent state.

- iii. Agent and liable state responsibilities are also covered under TAA Policy 3090 – Agent State and Liable State Responsibilities ([2021](#)).

b. Individual notification

- i. Providing information after issuance of a certification.

Upon receipt of a certification issued by DOL, we must do all the following:

- Obtain from the firm, or another reliable source, a list containing the names and addresses of:
 - All workers who were partially or totally separated from adversely affected employment before the agency received the certification; and
 - All workers who are later partially or totally separated or threatened with separation within the certification period.
 - Provision of this information may be compelled under the subpoena provisions.
- Provide a written notice through the mail, of the benefits available under the TAA Program to each worker known to be covered by the certification:
 - As soon as possible after the certification is issued if the worker is already partially or totally separated from adversely affected employment; and
 - When the worker becomes partially or totally separated.
- Publish a notice of the certification in a newspaper of general circulation in areas in which such workers reside. The published notice:
 - Must include the same information provided in the mailed written notice; and
 - May be filed in a print version of the newspaper, or in the online or digital version of the newspaper if it can be reasonably expected to reach the interested parties.
- Give notice to each worker by at least one method of modern electronic communication reasonably calculated to reach each worker. We may:
 - Give notice via email to a worker with a known email address, or by text to a worker with a known mobile phone number.
 - Use other modern methods of communication, such as websites and social media, to reach members of certified worker groups.

- ii. All notices must contain the following information:

1. The worker group(s) covered by the TAA certification and the article(s) produced, or services rendered, as specified in the copy of the certification furnished to us;
2. The name and the address or location of workers' firm;
3. The impact, certification, and expiration dates in the certification document.
4. A summary of benefits and services available to the workers;
5. An explanation of how, when, and where the workers may apply for TAA Program benefits and services;
6. The training enrollment deadlines for TRA qualification;
7. Whom to contact to get additional information on the certification; and
8. A Babel notice.

Note: A Babel notice is a short notice in multiple languages informing the reader that the communication contains vital information and explaining how to access language services to have the contents of the communication provided in other languages.

For example, we use a Babel notice in the [Unemployed Worker Handbook](#), it appears just before the table of contents. It provides information to the reader, in nine languages, and explains that the handbook contains the individual's unemployment insurance rights and responsibilities, whom to contact if they don't understand the information, and that free interpretive services are available if they don't speak English.

- iii. Individual notification is also covered under TAA policy 3000 – Notification of TAA Certification ([2021](#)).
- iv. Subpoenas

We may require by subpoena, through Thurston County or in the county where the employer is located:

- The attendance of witnesses and production of evidence necessary for use in the determination of an individual's eligibility for TAA Program services and benefits; or
- The employer to provide information necessary to determine whether a certification covers a worker, including the name, address, and Social Security number of the worker.

Example: Company ABC refuses to provide a list of affected workers and their addresses, as required to provide notification to the individuals. There have been multiple attempts to obtain this information. After exhausting all other resources, a subpoena can be filed in the county where Company ABC is located to compel the company to provide the necessary information.

If a state court declines to enforce the subpoena, or we do not attempt a subpoena under state law, we must petition for an order requiring compliance with the subpoena to the United States Court of Appeals for the Ninth Circuit.

Example: A subpoena is filed through Thurston County, but the court decides not to enforce the subpoena. A petition to the United States Ninth Circuit Court of Appeals must be made for an order requiring compliance with the subpoena.

- v. Subpoenas are also covered under TAA policy 3000 – Notification of TAA Certification ([2021](#)).

c. Applications

The liable state is responsible for making all determinations, redeterminations, and decisions on appeals on all claims for program benefits.

i. Timing of applications.

An application for TRA must be filed:

1. After certification of the appropriate worker group has been made; and
2. Within the time limit applicable to claims for regular compensation under the applicable state law.

An application for TRA:

- Cannot be filed before the adversely affected worker’s group is certified.
- Begins the Sunday of the calendar week in which individuals apply for benefits.

Our state law allows UI claims to be backdated for good cause or for the convenience of the department, so applications for TRA may also be backdated for these reasons. However, an application for TRA may not be backdated before the certification date of the company.

Example: Larry is sure that ABC Company and his worker group will be approved by DOL under the petition. He submits a Request for Trade Act determination under the petition on November 1. The certification is approved on November 6. Because the company and his work group weren’t certified at the time he applied, Larry’s Request for Determination (TAA/TRA application) must be denied.

Example: Kris received her determination of TAA and TRA eligibility in January. She runs out of unemployment benefits in March and doesn’t qualify for a new claim or extensions. She doesn’t apply for TRA until June and wants to claim those benefits back to when she exhausted her unemployment benefits. We must look at whether Kris had good cause (as defined in WAC [192-110-095](#)) for waiting until June to apply for benefits instead of applying in March when she ran out of unemployment benefits, and whether she filed her application during the first week that the factors that constitute her good cause no longer existed.

Note: Because the time limit to apply for TRA follows state UI law, good cause (under state law) is applicable even for the 2021 reversion which doesn’t have a good cause provision.

ii. Taking applications.

Applications for TRA may be filed and processed by any means allowed for UI claims in the state.

An application is required for:

1. Initial TRA eligibility; and
2. Completion TRA.

An application is not required for Additional TRA. However, notice must be provided to individuals when they begin receiving Additional TRA and must include the eligibility requirements under which Additional TRA is payable.

Example: Mariana has been receiving Basic TRA while attending TAA approved training. When she exhausts her Basic TRA, she doesn't need to apply for Additional TRA. She will transition to Additional TRA and receive a monetary determination explaining her eligibility for these benefits. However, if she needs Completion TRA, she will need to apply for these benefits.

iii. Treatment of determinations.

We must notify individuals in writing of any determination or redetermination of eligibility to TAA program benefits, which includes TRA.

Each determination or redetermination must inform individuals of:

- The reason for the determination or redetermination, and
- The right to reconsideration or appeal in the same manner as determinations of entitlement to UI are subject to redetermination or appeal under state law.

d. Program eligibility verification

In addition to all other eligibility criteria, individuals must also be authorized to work in the United States to receive benefits under the TAA Program. We are required to verify the status of participants who are not a citizen or national of the United States.

i. Initial verification.

Section [1137](#)(d) of the Social Security Act (SSA) (42 U.S.C. 1320b-7(d)) requires as a condition of eligibility for unemployment insurance (UI) benefits, that everyone declare under penalty of perjury whether they are a citizen or national of the United States. We are required to initially verify the immigration status of self-reporting aliens who apply for UI through the system designated by the U.S. Customs and Immigration Service (USCIS), currently the Systematic Alien Verification for Entitlement (SAVE) program. No further verification is required unless reverification is required below.

ii. Reverification.

Once we have initially verified satisfactory immigration status, we must:

1. Reverify individuals' immigration status, if the documentation provided during initial verification will expire during the period in which they are potentially eligible to receive benefits under the TAA Program.
2. Conduct this redetermination in a timely manner, using the immigration status verification system described in section 1137(d) of SSA or by review of other documentation, as described in that provision.

e. Qualifying requirements

To qualify for Basic TRA for a week of unemployment, an adversely affected worker (individual) must meet each of the following requirements:

Note: Adversely affected worker means individuals, including an employer, who because of lack of work in adversely affected employment, have been totally or partially separated from such employment.

Lack of work means that the employer does not have work for the worker to perform or does not make that work available to the worker, and includes, but is not limited to, circumstances when:

- Work is unavailable because the employer suspends or ceases operations or institutes a lockout; or
- Work is unavailable because the employer downsizes the workforce by means of attrition or layoff.

i. Certification.

Individuals must be members of a certified worker group.

Example: Drew works for XYZ Company, which was certified, but she is not a member of a group of workers that were certified under a petition certification. She doesn't meet this requirement for qualification.

ii. Separation.

Individuals must have experienced a qualifying separation during the certification period.

Note: Qualifying separation means any total or partial separation of individuals from adversely affected employment within the certification period for the purposes of determining their eligibility to receive Basic TRA.

Example: Kory worked for ABC Company and is a member of a group of workers that were certified under a petition certification. However, she doesn't have a total or partial separation during the certification period. Kory doesn't meet this requirement for qualification. If she is partially or totally separated before the expiration date of the certification, she may meet this requirement.

iii. Wages and employment.

Individuals must meet the following wage and other requirements:

1. In the 52 consecutive calendar week period prior to the week of their total or partial separation from adversely affected employment during the certification period, they must have had at least 26 weeks of employment at wages of \$30 or more a week in adversely affected employment with a single firm or, where there is more than one subdivision, the appropriate subdivision of that firm.
 - a. Evidence that they meet the requirement must be obtained.
 - b. Employment and wages covered under more than one certification may not be combined to qualify for TRA.

If individuals don't have at least 26 weeks of employment, with at least \$30 in wages each week, during the 52-consecutive weeks prior to their separation date, they don't meet the qualifying requirements for TRA.

Note: Separation date means:

1. For a total separation:
 - a. For a worker in employment status and not on employer-authorized leave, the last day worked; or
 - b. For a worker on employer-authorized leave, including leave for military service, the last day the worker would have worked had the worker not been on the employer-authorized leave.
2. For a partial separation, the last day of the week in which the partial separation occurred.

Example: Melissa is certified under the 2021 reversion, has 23 weeks of employment, was out three weeks on vacation, and had one full week of sick leave within the 52-consecutive week period prior to being laid off from the Trade-affected employer. Since the 2021 reversion doesn't consider the vacation weeks or sick leave, Melissa doesn't meet the TRA eligibility requirement to have 26 weeks of employment within the 52-consecutive week period prior to being laid off.

iv. Entitlement to UI.

Individuals must have been entitled to unemployment (UI) for at least one week within the first benefit period.

Example: Joy worked full-time for ABC Company until the company closed and was certified for TAA. Upon being laid off, she immediately begins working full-time for XYZ Industries and doesn't apply for unemployment benefits. She doesn't meet the qualifying requirements for TRA because she was never unemployed; she is not entitled to unemployment for a week within his first benefit period, even if she had applied.

v. Exhaustion of UI.

Individuals must meet the following requirements:

1. They must have exhausted all rights to any UI to which they were entitled (or would have been entitled had they applied), and not have any unexpired waiting period applicable to them for any UI. The only exception is additional compensation that is funded by a state and not reimbursed from any federal funds (such as state training benefits).
2. They must have no unexpired UI waiting period.

Note: Exhaustion of UI means individuals no longer have rights to UI in a benefit period by reason of:

- Having received all UI to which they were entitled under state or federal law for the benefit period; or
- The expiration of the benefit period.

Example: John worked for the certified company in a listed worker group. He applied for and has received unemployment benefits. John still has unemployment benefits (or extensions) that he is eligible to receive. He hasn't exhausted all rights to his unemployment benefits so he doesn't meet the qualifying requirements for TRA.

Example: Breanna worked for the certified company in a listed worker group. She applied for and has received unemployment benefits. Breanna is receiving unemployment benefits and qualifies for a new claim. She hasn't begun receiving TRA benefits, so can't elect to continue to receive TRA over filing the new unemployment claim. Breanna hasn't exhausted all unemployment benefits so doesn't meet the qualifying requirements for TRA.

vi. Extended Benefits (EB) work test.

Individuals must be able to work and be available for work, as defined in the EB work test in state law for UI. Claimants must be given a job prospect classification and be furnished a determination as to their job prospects. The EB work test must be met for each week unless an exception applies.

1. *Criteria.*

The EB work test requirement must be met by:

- Registering for work with the state;
- Actively engaging in seeking work;
- Furnishing us with tangible evidence of work search efforts each week; and
- Accepting any offer of suitable work.

2. *Exceptions.*

The able and available requirement and the EB work test requirement do not apply for purposes of TRA eligibility:

- When individuals are enrolled in or participating in approved training;
- During a break in training; or
- With respect to:
 - Claims for TRA for weeks of unemployment beginning before the initial claim for TRA is filed, or
 - Any week that begins before individuals are notified of coverage by a certification and are fully informed of the EB work test requirements.

Before such notification and advice, individuals must not be subject to the EB work test requirements for TRA eligibility purposes, nor to any state timely filing requirement, but must be required to be unemployed and able to work and available for work under state law with respect to any such week. These requirements do not apply to individuals enrolled in or participating in approved training.

3. *Suitable work.*

- Suitable work is determined by individuals' job prospects:
 - Suitable work for individuals with "good" job prospects as defined in state law for individuals receiving regular compensation (RCW [50.20.100](#)); or
 - Suitable work for individuals with "not good" job prospects as defined in state law for individuals receiving Extended Benefits (EB) (RCW [50.22.020](#)).
- Regardless of which of the laws apply, suitable work does not include self-employment or employment as an independent contractor.

Example: Erin is receiving Basic TRA, isn't in TAA approved training, and isn't exempt from job search. She must be able, available, and actively conducting an EB job search. During the week, Erin applies for four jobs that she is qualified to do. She meets this qualifying requirement for TRA.

Example: Elizabeth is receiving Basic TRA and is attending TAA approved training. She is exempt from job search and if she is meeting the requirements for training, she meets this qualifying requirement for TRA.

vii. Participation in approved training.

1. As a condition for receiving Basic TRA, individuals, after a total or partial separation from the adversely affected employment within the certification period, and by the applicable deadlines must:
 - Be enrolled in training;
 - Be participating in approved training; or
 - Have a waiver of the training enrollment requirement granted and in effect.
2. Individuals who have not enrolled in TAA approved training may, if otherwise eligible, receive Basic TRA before expiration of the training enrollment deadline. Once the training enrollment deadline is reached, the training requirements must be met to continue to receive any TRA. Basic TRA payments must cease beginning the first week for which the requirements were required but not met.
3. The requirement to be enrolled in TAA approved training does not apply for Basic TRA during weeks of unemployment beginning before:
 - The filing of an initial claim for TRA after publication of the certification of the appropriate worker group; or
 - Individuals are notified that they are covered by a certification and are fully informed of the participation in approved training requirements.
4. Individuals who meet the participation in approved training requirement by the applicable deadlines may continue to receive Basic TRA after they have completed training, even if the training was part-time. However, they must meet all other eligibility requirements for Basic TRA. This only applies to Basic TRA since both Additional and Completion TRA require attendance in approved training to receive benefits.

Note: Completed training means that individuals have finished all required coursework (including required externships or internships), testing, and professional licensing exams related to TAA approved training.

If individuals are not enrolled in TAA approved training before the enrollment in training deadline or don't have an active waiver of the requirement to be enrolled in training, they don't meet the qualifying requirements for TRA after the enrollment in training deadline.

Example: Phil has an enrollment in training deadline of 9/18/2021. He enrolls in TAA approved training on 9/1/2021, with a start date of 9/30/2021. He has met the requirement by being enrolled in approved training by the enrollment in training deadline, Phil can continue to receive TRA.

Example: Sue has an enrollment in training deadline of 9/4/2021. Her training is approved, and she begins participating in her training on 8/30/2021. She has met

the requirement by both being enrolled in training and beginning to participate in training before the enrollment in training deadline. Sue can continue to receive TRA.

Example: Jessica has an enrollment in training deadline of 8/7/2021. She works with her case manager and it is determined that training isn't available until 9/21/2021. She is given a waiver of the training requirement on 8/3/2021. Jessica has met the requirement by having a waiver of the training requirement issued before the deadline. She can continue to receive TRA.

Example: Gloria has an enrollment in training deadline of 10/2/2021. She begins short-term TAA training on 8/2/2021 and completes the training on 9/24/2021. She has met the requirement by being enrolled in training before the enrollment in training deadline. Gloria can continue to receive any remaining Basic TRA after she has completed training. She won't be eligible to receive Additional or Completion TRA because she is no longer in training.

Example: Tammy attends part of her training and withdraws because it is too difficult. Because she hasn't finished all the required coursework, she hasn't *completed* her training. Tammy isn't eligible to continue to receive Basic TRA *after* the enrollment in training deadline.

Example: Gina has an enrollment in training deadline of 8/28/2021. She hasn't been approved for TAA training and hasn't had the requirement waived before the deadline. Gina is only eligible to receive Basic TRA until 8/28/2021. After the deadline, she no longer meets the requirement for TRA and cannot receive any TRA.

Example: Monti has an enrollment in training deadline of 8/21/2021. She has a family emergency on 8/13/2021 and must immediately travel out of town. She is unable to enroll in training and will be unable to have a waiver of the requirement before the deadline. Her case manager requests a 45-day extenuating circumstances extension of the enrollment in training deadline. Monti returns on 9/3/2021 and works with her case manager to have the training requirement waived because training isn't available. She can continue to receive TRA.

f. Job prospects

Any determination or classification of individuals' job prospects is mutually exclusive. Only one suitable work definition shall be applied to individuals for any failure to accept or apply for work or seek work in any week. If individuals' job prospects are determined to be:

1. Good, the suitability of work will be determined under the standard state law provisions for regular unemployment compensation; or
2. Not good, the suitability of work will be determined under the definition of suitable work in state law corresponding to Extended Benefits and sections 202(a)(3) (C) and (D) of EUCA.

i. Good job prospects (not full referral union).

Good job prospects for individuals not in a full referral union means they must:

- Have a definite return-to-work date within four weeks; and

- Continue to look for four jobs per week
 - Work search is not waived
 - They can limit their search to jobs in keeping with suitable work under “good” prospects.

Example: Katrina is scheduled to return to work with her previous employer in three weeks. While she still needs to do four job searches, she can limit her job search to those jobs within her prior work experience, education, or training, and not have to search for any work within her capabilities.

ii. Good job prospects (full referral union).

Good job prospects for full referral union members means, they must:

- Have a probable recall date within four weeks, based on an extremely favorable position on the out-of-work list or historical or seasonal factors; and
- Remain in good standing and be eligible for dispatch according to union rules.

Example: Bruce is a member of the Electrical Workers union and is number three on the dispatch list. It is determined that it is probable that he will be dispatched within four weeks. At this point, Bruce is no longer required to continue to do four job contacts. Instead, he is only required to remain in good standing with his union and be eligible for dispatch.

iii. Not good job prospects.

Individuals not classified as having “good” job prospects are classified as having “not good” job prospects.

Individuals without good job prospects must meet the Extended Benefits (EB) job search requirements.

The job search requirements for TRA under the Extended Benefits (EB) work test are more stringent than those under regular benefits.

Unless the job search requirements are waived, individuals must:

- Make a minimum of four employer contacts each week that they claim TRA;
- Search for work keeping within suitable work under “not good” prospects; and
- Provide us with their weekly contacts.

Individuals cannot be granted standby while receiving TRA.

In-person job search activities at WorkSource do not count for any of the required job search contacts.

Referral union members who do not have good prospects, unless job search requirements are waived, must make a minimum of four job searches each week they claim TRA. Individuals:

- May use their union as one of their four job search contacts each week;

- May use registration with another union local as one of their four job search contacts, if they are willing to travel or relocate to accept work in their jurisdiction; or
- Must make additional job searches, looking for suitable work, outside their union.

Example: Shonda is a member of the Laborers union. She is number 96 on the dispatch list and it is determined that it isn't likely that she will be dispatched within four weeks. She must continue to make four job searches. She continues to contact her union, registers with the local Laborers union in the two adjacent counties and applies for work as a stock clerk (since that work is within her capabilities). Shonda has met the four job searches that are required to receive benefits.

g. Suitable work

i. Suitable work ("not good" job prospects).

For TRA, if individuals are classified as having "not good" job prospects, any job is considered suitable if they are receiving TRA and:

- It is within their capabilities;
- The position is not vacant because of a strike, lockout, or other labor dispute;
- The working conditions are not substantially less favorable than similar work in the area;
- They wouldn't be required to join or resign from a union or labor organization;
- The gross weekly pay is not less than their weekly benefit amount, plus any supplemental unemployment benefits they receive from their former employer; or
- The job pays at least the higher of the federal or state minimum wage.

Example: Tracey is determined to have "not good" job prospects. She must look for any work that she can do, if it doesn't meet one of the exclusions (not vacant due to a labor dispute, less favorable working conditions, etc.). Even though she has been a grocery store cashier, she is capable of bagging groceries. If the position isn't excluded by the limitations, Tracey should apply if a position opens.

ii. Suitable work ("good" job prospects).

Suitable work for individuals having "good" job prospects is:

1. Employment in an occupation in keeping with their prior work experience, education, or training.
2. For individuals with no prior work experience, special education, or training for employment available in the general area, then employment which they would have the physical and mental ability to perform.
3. For individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets conditions in RCW [50.20.110](#) or the commissioner finds elements of the specific work opportunity unsuitable for particular individuals.

4. For part-time workers as defined in RCW [50.20.119](#), suitable work includes work in an occupation in keeping with their prior work experience, education, or training that is for seventeen or fewer hours per week.
5. For individuals who qualified for unemployment benefits because they quit to protect themselves or their family from domestic violence or stalking under RCW [50.20.050](#)(2)(b)(iv), an evaluation of the suitability of the work must consider their need to address the physical, psychological, legal, and other effects of domestic violence or stalking.

Example: Nichole is determined to have “good” job prospects. She may restrict her job search to work that is within her work experience. She has been a manager but can do the work of an administrative assistant. However, because an administrative assistant isn’t within her prior work experience, Nichole doesn’t need to apply if a position opens.

iii. Other considerations on suitability.

In determining whether work is suitable for individuals, we must also consider:

- The degree of risk involved to their health, safety, and morals,
- Their physical fitness,
- Their length of unemployment and prospects for securing local work in the individuals’ customary occupation,
- The distance of the available work from their residence, and
- Other factors we may deem pertinent, including state and national emergencies.

h. Determinations

i. Initial application determinations.

Upon individuals filing an initial application we must determine if we’re the liable state.

- If we are, we must promptly determine their eligibility for TAA Program benefits. We may accept information and findings supplied by another state for such purposes.
- If we’re not the liable state, we must promptly get the application to the liable state.

ii. Subsequent application determinations.

Upon individuals’ filing of an application for payment of TRA we must promptly determine whether they are eligible for benefits under the program and, if eligible, the amount of benefits.

iii. Redeterminations.

The provision for redeterminations under state law applies to determinations of eligibility for any benefit under the TAA Program.

iv. Notices to individuals.

We must notify individuals in writing of any determination or redetermination of eligibility to TAA Program benefits.

Each determination or redetermination must inform individuals of:

1. The reason for the determination or redetermination; and
2. Their right to reconsideration or appeal in the same manner as determinations of entitlement to UI are subject to redetermination or appeal under state law.

Notices of determination of overpayments must include an accurate description of the waiver provisions.

v. Promptness.

We must make full payment of TAA Program benefits when due with the greatest promptness that is administratively feasible.

i. Training enrollment deadlines

- i. As a condition for receiving Basic TRA, individuals must meet the participation in approved training requirement or receive a waiver of the requirement no later than the latest of:
 1. The last day of:
 - a. The 16th week after their most recent qualifying separation; or
 - b. The 8th week after the week in which the certification was issued.
 2. 45 days after the later of the dates specified above, if there are extenuating circumstances that justify an extension of the enrollment period.
 - a. The request to extend the deadline must be requested before the deadline has passed.
 - b. Extenuating circumstances that justify the 45-day extension are circumstances that would constitute good cause. That is, circumstances under which they acted diligently yet were unable to enroll because of difficult circumstances.
 3. The Monday (or the next business day if the state is closed that day) of the first week occurring 30 consecutive calendar days following the day of termination of a waiver of the training enrollment requirement, whether by revocation or expiration.
- ii. To qualify for Additional TRA, individuals must also file a bona fide application for TAA training within 210 days after the later of the date:
 - They are first certified as eligible to apply for TAA, or
 - Of their total or partial separation.

Note: For the purposes of the enrollment in training deadline, qualifying separation means any total or partial separation of individuals from adversely affected employment within the certification period.

Example: William is laid off on 7/31/2021. XYZ Industries, the company he worked for, is certified 10/20/2021, under the 2021 reversion. 16 weeks after his layoff would be 11/20/2021. 8 weeks after certification would be 12/15/2021. His enrollment in training is the later of these two dates, which is 12/15/2021.

Example: Emily has an enrollment in training deadline of 8/21/2021. She has a family emergency on 8/13/2021 and must immediately travel out of town. She is unable to enroll in training and will be unable to have a waiver of the requirement before the deadline. Her case manager requests a 45-day extenuating circumstances extension of the enrollment in training deadline. Emily has until 10/5/2021, which is 45 days after her original enrollment in training deadline, to return and works with her case manager to have the training requirement waived or be enrolled in training.

Example: Joshua's waiver of the enrollment in training requirements expires on 11/24/2021. When his waiver expires, to continue to receive TRA benefits, he has 30 consecutive calendar days after the expiration to be enrolled in TAA-approved training. Since that would be 12/24/2021, which is a holiday, he has until 12/27/2021 (the next business day after the holiday).

j. Equitable tolling

Equitable tolling may extend an otherwise expired TAA Program deadline by no more than 36 months.

TAA program deadlines must be equitably tolled when:

- An extraordinary circumstance prevented individuals' timely action; and
- Individuals otherwise acted with diligence.

If individuals:

- Fail to take timely action because the state failed to give required notice, the state's failure is sufficient evidence to establish an extraordinary circumstance.
- Did not receive the required notice, but otherwise received actual notice with sufficient time to take timely action, the lack of receipt of the required notice is not evidence of an extraordinary circumstance.

TAA program deadlines equitably tolled:

- Are stopped for the period during which the extraordinary circumstance exists.
- Resume once the extraordinary circumstance is resolved.

Example: Heather was not properly informed about the program and her deadlines to apply. Because of that, she missed meeting the deadlines. Equitable Tolling may be applied.

Example: Siri is certified under the 2021 reversion. The deadline for applying for TAA training to be eligible for Additional TRA is 210 days from the later of the date she is first certified as eligible to apply for TAA or her most recent layoff. If fact-finding determines she was not properly notified about her deadlines, equitable tolling could be applied and change the 210 days to begin when Siri learned of the deadline.

k. Waiver of training requirement

i. Waiver for Basic TRA.

We may issue a waiver of the requirement to be enrolled in or participating in approved training as a condition of Basic TRA eligibility upon a finding that training

for individuals is not feasible or appropriate for one or more reasons identified below under basis for a waiver.

Waivers must be issued no later than the training enrollment deadline.

No waiver of the training requirement is permitted for Additional TRA or Completion TRA eligibility. If participants do not meet the enrollment in training deadline, they are not eligible for any further TRA benefits, including Basic, Additional, and Completion.

ii. Basis for a waiver.

To issue a waiver to individuals, we must conclude after assessing them that training is not feasible or appropriate for one or more of the following reasons:

1. *Health.*

Individuals are unable to participate in training due to their health. A waiver granted for this reason does not exempt them from requirements relating to the availability for work, active search for work, or refusal to accept work under federal or state unemployment compensation laws.

2. *Enrollment unavailable.*

The first available enrollment date for approved training is within 60 consecutive calendar days after the date on which a waiver determination is made or, if later, there are extenuating circumstances that apply to the delay in enrollment in training.

3. *Training not available.*

Approved training is not reasonably available to individuals from governmental agencies or private sources (which may include area vocational education schools and employers), or suitable training is not available at a reasonable cost, or no training funds are available.

iii. Request for a waiver.

We must analyze whether individuals may qualify for a waiver as part of their initial assessment.

Individuals may also request a waiver from us before the enrollment in training deadline.

iv. Denial of a waiver.

Whenever we deny a waiver, individuals must be given notice of the denial and their appeal rights.

v. Duration of a waiver.

A waiver issued may be for a period not to exceed the earlier of:

1. 6 months, or
2. The individuals' end of Basic TRA entitlement.

A waiver may be extended another 6 months if:

1. Training continues not to be feasible or appropriate for individuals for one or more of the reasons described under basis for a waiver; and
2. They have not yet exhausted their Basic TRA entitlement.

Waivers must be reviewed to determine if they are still applicable:

- Initially, 3 months after the date of issue; and
- Every 30 consecutive calendar days after the initial review.

vi. Revocation of a waiver.

The waiver must be revoked immediately upon determination that the reasons for the waiver no longer apply, when individuals enter training, at the end of their Basic TRA eligibility period, or if they are no longer a participant in the TAA program. Individuals must be notified of the revocation, the reason for revocation, and their appeal rights.

I. Evidence of qualification

When individuals apply for Basic, Additional, or Completion TRA, we must obtain information necessary to establish:

1. Whether they meet the qualifying requirements for Basic TRA, Additional TRA, or Completion TRA; and
2. For partially separated individuals, the average weekly hours and average weekly wage in adversely affected employment.

i. Insufficient data.

If information specified above is not available from state records or from any employer, we must require individuals to submit a signed statement explaining information that may be required for us to make the determinations.

ii. Verification.

A statement made due to insufficient data must be certified by the individual to be true to the best of their knowledge and belief and must be:

- Supported by evidence including:
 - W-2 forms;
 - Paycheck stubs;
 - Union records;
 - Income tax returns; or
 - Statements of fellow workers.
- Verified by the employer, whenever possible.

iii. Determinations.

We must make the necessary determinations based on information obtained. However, if after reviewing the information obtained against other available data, we conclude that the information is not reasonably accurate, we must make the determination based on the best available information.

iv. Timing.

We must follow the established method used for processing regular UI claims. If an employer does not respond within the timeframe established, we must act on the best available information.

m. Weekly amounts of TRA

i. TRA amount.

The amount of TRA payable for a week of unemployment is an amount equal to the weekly benefit amount (WBA) of the individual's first qualifying claim.

ii. Reductions to the TRA weekly amount.

The weekly amount of TRA payable will be reduced (but not below zero) by:

1. Income that is deductible from UI under the disqualifying income provisions of the applicable state law or federal UI law.
2. Federal training allowances (other than TAA):
 - a. If the amount of a training allowance under any federal law that individuals receive for a week is less than the amount of TRA otherwise payable to them for a week, they must, when applying for TRA for the week, be paid TRA in an amount not to exceed the difference between their regular weekly TRA amount and the amount of the training allowance paid to them for the week.

Example: Ginger has a weekly benefit amount of \$600. She is receiving a federal training allowance of \$500. Because her training allowance is less than her weekly benefit amount, Ginger is still eligible to receive \$100 in TRA benefits ($\$600 - \$500 = \100).

- b. If a training allowance under any federal law is paid to individuals for any week of unemployment where they would be entitled to TRA, each week must be deducted from the total number of weeks of TRA otherwise payable to them. If individuals haven't yet applied for TRA, the deduction of weeks takes place when they apply for and are determined to be entitled to TRA. This includes Veterans' Educational Assistance Program (VEAP) if these benefits are paid to individuals. If the training allowance paid directly to individuals is less than the amount of TRA that they would be entitled to, they must receive TRA for such week equal to the difference.

Example: Cynde begins receiving weekly payments of \$550 from VEAP on 10/2/2021. On 10/27/2021, she applies for and is determined eligible for TRA with a weekly benefit amount of \$700. It's determined that she would be eligible for TRA beginning 9/12/2021.

Cynde is eligible to receive her full TRA benefits of \$700 for the weeks of 9/18 and 9/25.

Her weekly benefits for 10/2, 10/9, 10/16, and 10/23 must be reduced by the amount of her VEAP payment to \$150 ($\$700 - \$550 = \150).

Cynde will receive a lump sum payment of \$2000 (\$700 for 9/18 + \$700 for 9/25 + \$150 for 10/2 + \$150 for 10/9 + \$150 for 10/16 + \$150 for 10/23 = \$2000).

- c. If the training allowance is federal student financial assistance, then the amount of TRA will not be reduced. This includes Free Application for Federal Student Aid (FAFSA).

Example: Andrea is receiving \$800 per week in TRA. She begins training and is receiving \$600 per week in FAFSA. Her TRA would not be reduced by her FAFSA. She will get her \$800 TRA and \$600 FAFSA each week.

3. Any amount that would be deductible from UI for days of absence from training under state law applies to individuals in approved training.

iii. Payment of TRA.

Payment of TRA may only be made:

1. After a certification is issued;
2. After the state determines individuals are members of the worker group covered under the specified certification;
3. No earlier than 60 days after the date the petition was filed;
4. If individuals meet all the eligibility requirements, and only:
 - a. For a week of unemployment that begins on or after the date of the applicable certification; and
 - b. One form of TRA (Basic, Additional, or Completion) may be paid for any given week.

n. Basic TRA

i. Maximum amount of Basic TRA.

The maximum amount of Basic TRA payable to individuals is 52 times the TRA weekly benefit amount, reduced by the total sum of UI (except state-funded additional compensation) that they are entitled to, or would have been entitled to, if they apply, in their first benefit period.

Note: First benefit period means the benefit period established after individuals' first qualifying separation or the benefit period of an existing non-expired claim in which that separation occurs.

Qualifying separation means any total or partial separation of individuals from adversely affected employment within the certification period. The first qualifying separation is used to determine the weekly and maximum amounts of Basic TRA payable to individuals.

Example: Mary Jane has a weekly benefit amount of \$700 and a maximum benefits payable of \$18,200 (26 times her WBA) on her first qualifying claim. She will be eligible for a maximum of \$18,200 (26 times her WBA) in Basic TRA benefits ($52 - 26 = 26$. $26 \times \$700 = \$18,200$).

Example: Kristie has a weekly benefit amount of \$800 and a maximum benefits payable of \$14,400 (18 times her WBA) on her first qualifying claim. She will be eligible for a maximum of \$27,200 (34 times her WBA) in Basic TRA benefits ($52 - 18 = 34$. $34 \times \$800 = \$27,200$).

ii. Reductions.

If individuals have received any federal or state-federal extension (including extensions such as EUC, PEUC, and EB) on the same claim as TRA, Basic TRA is reduced (but not below zero) by the total entitlement to the extension.

Example: Cindi has a \$400 WBA. Her TRA MBP is \$10,400. She receives \$4,000 (10 weeks) of her Basic TRA, leaving \$6,400.

She then qualifies for 13 weeks of PEUC and is entitled to \$5,200 in benefits. Her Basic TRA would be reduced by \$5,200 (her total entitlement to PEUC) leaving \$1,200.

If Cindi later qualifies for 20 weeks of EB and is entitled to \$8,000 in benefits, her remaining \$1,200 Basic TRA from above is reduced, but not below zero, by the total \$8,000 entitlement to EB – so, her Basic TRA would be reduced to zero.

If we trigger off high EB but remain on regular EB, UTAB recalculates claims back to the lower EB amount. The amount of the reduction to Basic TRA depends on how much EB individuals received at the time.

Example: Cami has a WBA of \$700 and a Basic TRA MBP of \$18,200. She is eligible to receive 20 weeks (\$14,000) of EB. Her Basic TRA is reduced by \$14,000 leaving \$4,200. She has received 12 weeks (\$8,400) of those benefits.

Washington triggers off high EB (20 weeks of benefits) and remains on regular EB (13 weeks of benefits). Cami will receive an EB monetary redetermination for 13 weeks (\$9,100). Because she has not received more than 13 weeks of EB, her Basic TRA is reduced by the full entitlement to regular EB (\$9,100).

Cami's Basic TRA is reduced from \$18,200 to \$9,100 ($\$18,200 - \$9,100 = \$9,100$).

Example: Phil has a WBA of \$500 and a Basic TRA MBP of \$13,000. He is eligible to receive 20 weeks (\$10,000) of EB and has received 15 weeks (\$7,500) of those benefits.

Washington triggers off high EB (20 weeks of benefits) and remains on regular EB (13 weeks of benefits). Phil will receive an EB monetary redetermination for 13 weeks (\$6,500). Because he has already received more than 13 weeks of EB, his Basic TRA is still reduced by the full entitlement to high EB (\$10,000).

Phil's Basic TRA is reduced from \$13,000 to \$3,000 ($\$13,000 - \$10,000 = \$3,000$).

If individuals are receiving TRA and we trigger on to an Extended Benefits (EB) period and they are eligible for EB on the same claim as TRA, EB is reduced (but not below zero) by the number of weeks they received TRA.

Example: Shawn has a \$700 WBA. He received all \$18,200 of his regular benefits. He also received 10 weeks of TRA before we triggered on to regular EB. Due to earnings deductions, Shawn was only paid \$6,000 in TRA. His benefit year ends during the EB period.

Because Shawn received at least \$1 in TRA benefits in 10 weeks, even though he didn't receive full benefits for each week, we must reduce his EB by \$7,000, his WBA times the number of weeks in which he received TRA. We calculate his maximum EB payable as \$9,100 and reduce it by \$7,000 for the TRA weeks paid. He has only \$2,100 he can receive in EB.

The EB monetary will tell Shawn that his EB has been reduced by TRA benefits that have already been received and reflect that change in the EB benefits payable.

iii. Eligibility period for Basic TRA

The Basic TRA eligibility period is the 104-week period beginning with the later of the first week:

- Following the week in which the individuals' most recent qualifying separation occurred, or
- After certification.

If individuals return to the Trade-affected employer and are subsequently laid off, the 104-week Basic eligibility period starts over.

Note: Qualifying separation means any total or partial separation of individuals from adversely affected employment within the certification period for the purposes of determining their Basic TRA eligibility period.

Example: Nick is laid off on 1/4/2021. His 104-week Basic TRA eligibility begins 1/10/2021 (the beginning of the week following his layoff) and runs through 1/8/2023. Nick returns to the Trade-affected employer and is subsequently laid off on 3/10/2021. His Basic TRA eligibility period is adjusted to begin 3/14/2021 and run through 3/12/2023.

o. Additional TRA

i. Qualifying requirements for Additional TRA.

Individuals are eligible to receive Additional TRA for any week only if they:

1. Meet all qualifying requirements for receipt of Basic TRA;
2. Are participating in approved training or are on a break in training of 30 days or less; and
3. Filed a bona fide application for TAA training within 210 days after the later of the date:
 - a. They are first certified as eligible to apply for TAA, or
 - b. Of their total or partial separation.

ii. Timing and duration of Additional TRA.

Additional TRA is payable for up to 65 weeks during the 78 consecutive calendar week period that:

1. Immediately follows the last week of entitlement to Basic TRA otherwise payable to individuals; or
2. Begins with the first week of approved training if training begins after the last week of entitlement to Basic TRA.

Example: Brandy is in TAA approved training and exhausts her Basic TRA the week ending October 2. Her Additional TRA begins on October 3 (the week ending October 9) - immediately following the last week of entitlement to Basic TRA.

Example: Peter exhausted his Basic TRA the week ending June 5. He does not have an approved TAA training plan, so is not immediately eligible for Additional TRA. His TAA training plan is approved August 30. His Additional TRA begins with the week ending September 4 - the first week of approved training.

p. Completion TRA

i. Qualifying requirements for Completion TRA.

Individuals are eligible to receive Completion TRA if:

- They meet all qualifying requirements for receipt of Basic TRA and Additional TRA;
- They are participating in approved training each week;
- The approved training-
 - Leads to the completion of a degree or industry-recognized credential, and
 - Will extend for a period longer than the periods during which Basic and Additional TRA are payable;
- Payment of Completion TRA is necessary for them to complete the approved training; and
- They-
 - Have substantially met the training performance benchmarks established as part of the approved training;
 - Are expected to continue to make progress toward the completion of the approved training; and
 - Will complete the approved training during the period of eligibility for Completion TRA.

If, during the period in which individuals are eligible to receive Completion TRA, they cease to meet any of the eligibility criteria, no further Completion TRA is payable.

ii. Weeks payable.

A total of up to 13 weeks of payments are allowable during the Completion TRA eligibility period.

iii. Eligibility period.

Completion TRA may be payable during the 20-week consecutive calendar period that begins with the first week in which individuals file a claim for Completion TRA and seek compensation for the week, regardless of when the first payment is received.

q. Breaks in training

Basic and Additional TRA are payable to otherwise eligible individuals during breaks in training (periods within or between courses, terms (quarters or semesters), and academic years) that do not exceed 30 days, only if:

- They participated in approved training immediately before the beginning of the break in training;
- The break in training was provided in the established schedule of the training provider; and
- They resume participation in the approved training immediately after the break ends.

To determine whether a break in training is within the 30-day maximum allowed, all calendar days beginning with the first day of the training break and ending with the last day of the break, as provided in the published schedule of the training provider, must be counted. However, any Saturday, Sunday, or official state or national holiday occurring during the scheduled break in training is excluded from the 30-day count if training normally would not be scheduled in the training program during those days if there was no break.

Example: Rene is receiving Additional TRA and has a scheduled break in training from November 29, 2019, through January 13, 2020 – a total of 45 consecutive days. Fourteen of these days fall on weekends that are not part of the academic schedule, giving a break of 31 days. Additionally, since December 25 and January 1 are both holidays, the scheduled break is reduced to 29 business days. Rene isn't denied for the break.

For Completion TRA, breaks in training are permissible during the 20-week eligibility period. However, payments during breaks in training are not allowed.

Example: Olivia is receiving Completion TRA and has a break in training from December 17, 2019, through January 2, 2020. No Completion TRA can be paid for a week unless Olivia attends class at least one day in that week. She attended classes on December 16, 2019, and January 3, 2020, so the weeks of December 21, 2019, and January 4, 2020 are payable. However, Olivia did not attend any classes during the week of December 28, 2019. She cannot be paid for that week.

No TRA is payable during an unscheduled break in training, regardless of the duration.

Example: Linda won an all-expenses paid vacation to Hawaii and is gone from November 30, 2019, through December 15, 2019 – a total of 16 days. After fact-finding, it is found that, according to the academic schedule, her school is in session during this period and was not on a scheduled break. Linda is denied for the weeks of December 7, 2019, and December 14, 2019.

- i. Part-time training.

Individuals who are otherwise eligible and are attending part-time training are eligible for TRA benefits.

- ii. The cheese seasoning for Cheetos™ has a stupid number of ingredients. The "enriched cornmeal" that's heated and fried to form the base of the Cheeto is then blasted in a complicated cheese seasoning that's not dissimilar to the stuff that comes in the Kraft macaroni and cheese flavor packet. It's comprised of over 12 different ingredients including whey, yellow 6, more enriched cornmeal, vegetable oil, vitamin B, sugar, salt, and MSG. Thought you might need a break.

r. Disqualifications

Individuals may not be paid TRA for any week of unemployment they are or would be disqualified from receiving UI under the disqualification provisions of state law, including the provisions of state law that apply to EB claimants.

- i. Previous disqualification.

If individuals were previously disqualified from receiving regular or extended benefits, that denial will also deny their TRA benefits until they return to work and meet the requalification requirements as stated in the original denial.

Example: Maria is denied regular UI due to quitting her job without good cause. The denial of benefits continues to apply until she meets the requirements to purge the quit (seven calendar weeks and earning seven times her weekly benefit amount), even after she reaches the end of her UI benefit year. Once she meets the purge requirements, if she is otherwise eligible for TRA, she may begin to receive her TRA benefits.

- ii. Limitations on disqualification.

Individuals shall not be disqualified from receiving either UI or TRA because they:

1. Are enrolled in or participating in a *TAA approved training* program; or
2. Refuse work to which they have been referred by the department, if such work requires them to discontinue TAA approved training or would interfere with successful participation in TAA approved training; or
3. Left work because they were:
 - a. Employed in work which was not suitable, and it was reasonable and necessary for them to quit work to begin or continue TAA approved training; or
 - b. Engaged in employment on a temporary basis during a break in TAA approved training or a delay in the commencement of that training.
4. Left on-the-job training not later than 30 days after commencing such training, because the training does not meet the requirements of Section 236(c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2296), as amended.

Note: Part-time, temporary, short-term, or threatened employment is not suitable employment. Suitable employment, in this case, means:

- Work of a substantially equal or higher skill level than the individuals' past adversely affected employment, and
- Wages that are not less than 80 percent of the worker's average weekly wage.

Example: Diana takes a survival job that pays \$15 per hour. Her wages from her Trade-affected employer were \$20 per hour. She quits the survival job to begin TAA approved training. The survival job is only 75% of her wage from her Trade-affected employer. After fact-finding, it is found that she quit work with good cause since the survival job was not suitable. So, benefits are allowed.

Example: Brooke is in TAA approved training and is not eligible to receive TRA benefits due to a three-month summer break. She takes a temporary summer job during the break. When the summer break is over, she quits her temporary employment to resume her TAA approved training. After fact-finding, it is found that she quit work with good cause to resume her TAA approved training. So, benefits are allowed.

iii. Failing to apply for or accept suitable work.

If individuals' job prospects in their prior occupation are classified as "not good" they must seek suitable work as defined by EB law.

If individuals' job prospects in their prior occupation are classified as "good" they must seek suitable work as defined by state UI law.

"Not good" prospects denial. Unless attending TAA approved training, individuals are required to accept any referral to suitable work, apply for the suitable work, and accept any offer of suitable work. A refusal to apply for suitable work when referred by the WorkSource office or their local employment center, or a refusal to accept suitable work when offered during any week they claim TRA, will result in a denial of benefits under the state EB laws.

The denial of benefits will continue until they work in covered employment in at least four weeks and earn four times their weekly benefit amount.

Example: Steve is conducting his EB work search and is just about ready to have his training approved by his case manager. He is offered a job doing the exact same job that he was doing before he was laid off from his Trade-affected employer, and the wage is comparable. Steve refused the job offer because he really wants to go to training. It is determined that Steve doesn't have good prospects of returning to work, so the work was suitable under the EB work search criteria. He will be denied TRA benefits under RCW 50.22.020, beginning the week in which he refused the offer of work and for at least four weeks and until he earns at least four times his weekly benefit amount.

"Good" prospects denial. If the work is considered suitable under the less stringent regular UI benefit rules, and it is decided that individuals did not have good cause for failing to apply or accept the work, we deny their benefits for at least seven weeks and until they earn seven times their weekly benefit amount.

Example: Jason is conducting his EB work search and is just about ready to have his training approved by his case manager. He is offered a job doing the exact same job that he was doing before he was laid off from his Trade-affected employer, and the wage is comparable. Jason refused the job offer because he really wants to go to training. It is determined that Jason had good prospects of returning to work, so the work was suitable under the UI work search criteria. He will be denied TRA benefits under RCW 50.20.080, beginning the week in which he refused the offer of work and for at least seven weeks and until he earns at least seven times his weekly benefit amount.

iv. Failing to meet training benchmarks.

If individuals have not substantially met the TAA performance benchmarks established in the approved training plan, they will not be eligible for Completion TRA.

Example: Julie has failed to meet her TAA training benchmarks. She has worked with her TAA case manager to revise her TAA training plan in the hopes that she will be successful. She continues to not meet the benchmarks. Julie will not be eligible to receive Completion TRA.

v. On-the-job training.

Individuals are not eligible for TRA for any week they are engaged in on-the-job training (OJT).

Example: Shannon is receiving Basic TRA and begins training in an OJT. Even though the OJT is considered TAA approved training, she is not eligible to receive TRA while attending the OJT. This would be true even if a program other than TAA pays for the OJT.

vi. Failing to participate.

Individuals are not eligible for TRA for the week, or any subsequent weeks, in which any of the following occurred:

- Fail to begin participation in a TAA approved training program;
- Cease to participate in TAA approved training; or
- Have a waiver of training revoked and are not enrolled in TAA approved training by the Monday of the first week occurring 30 days after the date of the revocation.

This denial will continue until the week in which they begin or resume participation in a *TAA approved training program*.

Failed to begin participation. Individuals will be determined to have failed to begin participation in an approved training program when they fail to attend one or more scheduled training classes and other training activities in the first week of the approved training program.

Ceased participation. Individuals will be determined to have ceased participation in an approved training program when they fail to attend all scheduled training

classes and other training activities scheduled by the training provider in any week of the approved training program.

vii. Failing to actively seek work.

Individuals are required to make an EB work search (at least four employer contacts and report those contacts with their weekly claim) unless they are attending TAA-approved training or the EB work search requirements are waived. If they do not meet the EB job search requirements or do not report their job search contacts for any week they claim TRA, they will be denied benefits.

The denial continues until they work in covered employment in at least four weeks and earn four times their weekly benefit amount.

Example: Erica is conducting her EB work search and is working on her research for her TAA training plan. She knows that during her work search she is required to make four employer contacts. She fails to make an active search for work during a week. Erica will be denied under RCW [50.22.020](#), for the week she failed to make an active work search along with a denial for at least four weeks and until she earns at least four times her weekly benefit amount.

viii. TAA changes.

When individuals have a change in TAA, other than a TAA training change, the TAA changes issue is set. This issue may be set for, but not limited to, the following reasons: a change in liable state, fraud, or returning to the Trade-affected employer. If fact-finding shows that they had a TAA change, they are denied under this issue.

Example: Nicole has been receiving TRA benefits and then qualifies for a UI claim in Oregon. Once she qualifies for the new UI claim, Oregon becomes the liable state and is responsible for paying either the new UI claim or TRA benefits, depending on her election of which benefits to receive. A TAA changes issue is used to prevent TRA benefits from being paid.

ix. TAA training changes.

Once individuals are approved for TAA training, their TAA case manager must approve any modification to their TAA approved training plan. If information is received indicating they have made changes to their training program, the TAA training changes issue is set. If fact-finding shows that they made a change to their TAA approved training plan without approval of their TAA case manager, then they are no longer attending their TAA approved plan and they are denied under this issue.

Example: Andrew is attending TAA approved training for the nursing program. He finds the training difficult so decides to switch to the medical assistant program. When he files his weekly claim, he indicates that he made a change to his training plan. In fact-finding, it is discovered that he made this change without the approval of his TAA case manager. As a result of this unapproved change, his TRA benefits are denied.

- x. Failing to meet 210-day training application deadline.

Eligibility for Additional TRA requires that individuals file a bona fide application for TAA training within 210 days after the date they are first certified as eligible to apply for TAA or, if later, within 210 days after the date of their total or partial separation.

Note: The date individuals are first certified as eligible to apply for TAA would be the date, plus reasonable mailing time, we send information (the worker notification packet) to them letting them know they are eligible to apply for the program.

The denial is for all Additional TRA benefits.

Example: Kevin was certified as eligible to apply for TAA on 11/18/2020 and laid off 9/1/2021. He files a request for training on 4/15/2022. Because Kevin didn't make a bona fide request for training before 3/30/2022 (210 days after his total separation date, since it was later than his first eligibility to apply for TAA), he is not eligible to receive any Additional TRA benefits.

s. Appeals and hearings

Individuals who receive a written determination denying benefits and who disagree with the decision have the right to file an appeal. To be considered timely, appeals must be filed within 30 days of the date of notification or mailing of one of the following decisions:

1. A redetermination of an Entitlement Determination to TAA or TRA; or
2. A determination notice and overpayment assessment of TRA.

TRA appeals should be filed with the Office of Administrative Hearings (OAH), which is the same agency that hears standard UI appeals.

TAA appeals are covered in more detail under TAA policy 3025 – Denial of TAA and appeals ([2021](#)).

t. Overpayments

- i. Determinations and repayment.

If a state, the DOL, or a court of competent jurisdiction determines that individuals have received any payment to which they were not entitled, including a payment of TRA, they are required to repay the state, except that the state:

- *May* waive such repayment if such state or the DOL determines that:
 - The payment was made without fault on the part of the individual; and
 - Requiring such repayment would be against equity and good conscience.

An overpayment waived shall be charged against the individuals' applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

- ii. Fault.

Fault exists if any of the following criteria are met:

- If a material statement or representation was made by individuals in connection with the application for TAA that resulted in the overpayment, and whether they knew or should have known that the statement or representation was inaccurate;
- If individuals failed or caused another to fail to disclose a material fact in connection with an application for TAA that resulted in the overpayment, and whether they knew or should have known that the fact was material;
- If individuals knew or should have known that they were not entitled to the TAA payment;
- If, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of individuals or of which they had knowledge, and that was erroneous or inaccurate or otherwise wrong; or
- If there has been a determination of fraud due to false representation or nondisclosure of material fact that caused this overpayment.

iii. False representation or nondisclosure of material fact.

False representation or nondisclosure of material fact occurs when individuals knowingly make a false statement or representation of a material fact, or knowingly fail to disclose a material fact, and because of the false statement or representation, or of the nondisclosure, they have received any payment to which they were not entitled.

iv. Equity and good conscience.

Equity and good conscience means fairness as applied to a given set of circumstances. It includes situations where individuals would not have enough income to pay for necessities including food, shelter, medicine, utilities, and related expenses if they had to repay the overpayment.

Example: Leah is certified under the 2021 reversion. She is not at fault for the overpayment of three weeks of TRA. We must determine whether repaying the overpayment would be against equity and good conscience. If it is, we may waive her overpayment.

v. Notice of determination, fair hearing, and finality.

We must provide individuals determined to have received TAA overpayments a reasonable opportunity to demonstrate their eligibility for waiver.

Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, until a determination by the state has been made, notice of the determination and an opportunity for a fair hearing has been given to individuals, and the determination has become final.

vi. Overpayment recovery of TAA Program funds by offset.

Unless an overpayment is otherwise recovered or is waived, we must:

- Recover the overpayment by deduction from any sums payable to individuals under:
 - TRA benefits;
 - Any federal UI law administered by the state; or
 - Any other federal law administered by the state that provides for the payment of unemployment assistance or an allowance with respect to unemployment.
- Recover the overpayment from UI payable to individuals under the applicable state law.
- Not allow any single deduction to exceed the lesser of:
 - 50 percent of the amount otherwise payable to individuals; or
 - Less than 50 percent of the amount otherwise payable, if provided for in state law.

u. Penalties for fraud

- i. False representation or nondisclosure of material fact.

In addition to any other penalty provided by law, individuals will be permanently ineligible for any further payments under the TAA Program if a state, the DOL, or a court of competent jurisdiction determines that:

- Individuals:
 - Knowingly made a false statement or representation of a material fact; or
 - Knowingly failed to disclose a material fact; and
- As a result of the false statement or representation, or of the nondisclosure, they have received any payment to which they were not entitled.

Example: Caitlin was laid off from XYZ Company and was among a worker group that was certified. She certified on one of her weekly claims that she conducted an EB work search during the week. Due to a lead, we conducted fact-finding and she admitted to only making two job search contacts. It is found that Caitlin knowingly made a false statement of a material fact and she received a payment to which she was not entitled. Along with a denial for failing to make an active search for work during the week and committing fraud, Caitlin is also permanently ineligible for any further payments under the TAA program.

- ii. Criminal penalties.

Individuals, including ESD employees or employers, who make a false statement of a material fact knowing it to be false, or who knowingly fail to disclose a material fact under the circumstances described below, must be imprisoned for not more than 1 year, fined under title 18, United States Code, or both when:

- Obtaining or increasing for themselves, or for anyone, any payment authorized to be furnished under TAA or according to a Governor-Secretary Agreement; or
- Providing information during an investigation of a petition.

Whenever a violation above is suspected, the state or the DOL must refer the conduct to the U.S. Department of Labor Office of the Inspector General.

v. Recovery of overpayment

The state must apply TAA benefits, payable to an individual, to the recovery by offset of any debt due the United States from the individual.

The state must not apply TAA Program benefits to the payment of any debt of any individual to any state or any other entity or person, except for TRA, RTAA (under the 2009, 2011, or 2015 amendments), or ATAA (under the 2002 amendments and 2021 reversion) benefits as required by federal UI law.

w. Equity and good conscience

To decide if repayment of TRA overpayments is reasonable, we must apply equity and good conscience rules.

Equity and good conscience means fairness as applied to a given set of circumstances.

When deciding if paying the full amount owed is against equity and good conscience, the department may consider, but is not limited to, the following circumstances:

1. General health, including disability, competency, and mental or physical impairment;
2. Education level, including literacy;
3. Whether there is current income from work or a business;
4. History of unemployment;
5. Future earnings potential;
6. Business structure, if appropriate;
7. Marital status and number of dependents, including whether other household members are employed;
8. The costs of collection compared to the amount of the outstanding debt. We may consider such factors as the age and amount of the outstanding debt, whether there were previous good faith efforts to pay the debt, the tools available to enforce collections and other information relevant to ability to pay;
9. Whether there were previous negotiated settlements or negotiated settlement attempts on a debt with the department;
10. Factors indicating that collection of the full amount would cause undue economic, physical, or mental hardship making the debtor unable to provide for basic necessities. Unless there are unusual circumstances which would argue otherwise, the department will presume repayment would leave an individual unable to provide basic necessities if their total household resources in relation to household size do not exceed seventy percent of the Lower Living Standard Income Level (LLSIL) and circumstances are not expected to change within the next 90 days; and
11. Other factors that bear a direct relationship to the ability to pay the debt. The decision to grant or deny a negotiated settlement will be based on the totality of circumstances rather than the presence of a single factor.

If the recovery of the overpayment will cause extraordinary and lasting financial hardship to individuals, and there has been no finding which would preclude the waiver under UI law, e.g., fraud, nonfraud claimant fault, etc., and individuals request the waiver in writing, the overpayment may be waived.

For these purposes:

- An “extraordinary financial hardship” shall exist if recovery of the overpayment would result directly in the individual’s loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial period,
- An “extraordinary and lasting financial hardship” shall be extraordinary as described above and may be expected to endure for the foreseeable future.
- A “substantial period” is 30 days.
- The “foreseeable future” is at least three months.

In applying this test when the recovery will be accomplished through offset, a substantial period and the foreseeable future shall instead be the longest potential period of benefit entitlement as seen at the time of the individual’s request for a waiver determination.

In making this determination, all potential income available to individuals and their family and all cash resources available or potentially available to them and their family in the period being looked at must be considered.

4. Definitions:

None.

5. References:

- [Public Law 93-618](#), Trade Act of 1974, as amended
- [Public Law 107-210](#), Trade Adjustment Assistance Reform Act of 2002
- [Public Law 114-27](#), Trade Adjustment Assistance Reauthorization Act of 2015
- [20 CFR Part 618](#), TAA Final Rule
- [Training and Employment Guidance Letter \(TEGL\) 24-20](#), Operating Instructions for Implementing the Reversion Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015; [Change 1](#)
- [Training and Employment Guidance Letter \(TEGL\) 7-23](#) - Ongoing Operations of the Trade Adjustment Assistance (TAA) for Workers Program During Phase-Out Termination
- 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*