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FORMAL COMMUNICATION

TO: **Regional Operators**
Indianapolis Private Industry Council
Directors of Operations for Northern & Southern Indiana
All WorkOne Managers
All WorkOne Staff

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Technical Assistance Bulletin
TAB 2007-04

TAA Training Waivers, the Extension Process and Waiver Reviews

Content

During the week of October 22, 2007, staff from the Region V Department of Labor (DOL) monitored the Trade Adjustment Assistance (TAA) program in Regions 6, 8, and 10. The review identified a systemic problem of the TAA waiver extension process and the monthly TAA waiver review process. Guidance concerning both processes is provided.

Purpose of the TAA Waiver

TAA waivers are issued to workers for whom training is not feasible[1] or appropriate[2] because of one or more of the following reasons:

- Recall. – The worker has been notified in writing from the firm that the worker will be recalled.
- Marketable Skills. – The worker possesses marketable skills for suitable employment (determined by an assessment) and there is a reasonable expectation of employment at an equivalent wage in the foreseeable future.
    - DWD believes this criterion should be used as a means of encouraging more rapid reemployment and the use of up-front job search. Further, as part of the marketable skills test, workers in a petitioning worker group may receive core and intensive services using rapid response funding, before their petition is certified to encourage more rapid reemployment.

[1] "Feasible" means that training is available and has been approved; the worker can take full advantage of the training opportunity and complete the training; and, funding is available to pay the full costs of training, transportation, and subsistence.

[2] "Appropriate" refers to suitability of the training for the worker (including whether it is reasonably foreseeable that the individual will be reemployed by the firm from which he/she separated), and compatibility of the training for the purposes of the TAA Program.

- Retirement. – The worker is within two (2) years of qualifying for 1) Old-Age and Survivors Insurance (OASI) under Social Security, or 2) an employer's or labor organization's pension.
- Health. – The worker is unable to participate in training due to the health of the worker, except the worker is still held to the federal/state UI work search requirement.
- Enrollment Unavailable. – The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.
- Training Not Available. – Approved training is not reasonably available; no suitable training is available at a reasonable cost; or, no training funds are available.

Waivers to training are also issued to allow the worker to draw Trade Readjustment Assistance Basic (TRAB) benefits and to receive Health Coverage Tax Credit (HCTC) benefits.

Issuing a Training Waiver

- The waiver is issued in writing at the first face-to-face meeting between the local coordinator and the worker after the orientation meeting. This is usually the Next Steps meeting.
- Prior to issuing a waiver, the local coordinator must make an initial assessment of the worker. This pre-assessment helps the local coordinator determine the appropriate criteria for issuing the waiver.
- **The local coordinator must make the determination of the worker's reason for waiving training.** In most instances, the reason will be "marketable skills."
- The training waiver must be issued to the worker in writing and include:
  - Name and social security number of the worker.
  - Petition number.
  - A statement why training is not feasible or appropriate.
  - A statement that the waiver will be revoked at any time that feasible or appropriate training becomes available.
  - Signature block (with signature) of the local coordinator.
  - Signature block (with signature) of the worker.
- **The waiver must be reviewed and approved by the highest ranking state merit staff person in the WorkOne office.**
- It is the local coordinator's responsibility to ensure the waiver is issued by the later of eight (8) weeks of the certification date or sixteen (16) weeks of the worker's separation date. There may be a 45-day extension of this deadline if there are extenuating circumstances. **The highest ranking state merit staff person must approve all extensions.** Under no circumstances can a waiver be issued beyond the 8/16 week and 45-day extension. If that period has passed, no waiver can be issued regardless of any extenuating circumstances.
- The local coordinator must enter both the training waiver and HCTC into TrackOne. The enter date is the beginning date of the waiver; the proposed end date will be six months out. A case note must also be entered into TrackOne.

- Workers with a training waiver must still be required to search for work following the UI work search policy and the Extended Benefit (EB)[3] work search policy while on TRA.
- A comprehensive assessment should be completed within 30 days of issuing the training waiver.

Extending a Training Waiver

- This involves extending the end date of the training waiver (after the initial six month period) to the end of eligibility for basic TRA, not to exceed the 104-week qualifying period, on both the paper waiver form and into TrackOne. An extension occurs only if the reason for the waiver still exists and the worker has a remaining balance in TRAB. Remember that a worker who receives TRAB must participate in the EB work search.
- **The revised ending date on the training waiver must be clearly indicated on both the paper form and entered into TrackOne**. The training waiver form should be revised to indicate the revised date. A paper copy is kept in the worker's file. In TrackOne, enter the extended training waiver end date as the Planned End Date. A case note must also be entered into TrackOne that clearly includes the initial training waiver end date and the extended date. Also include the reason for the extension.
- A copy of the training waiver with the extended ending date must be provided to the worker.

Reviewing a Training Waiver

- The review of the training waiver is an integral part of the case management process with clients. During the review, the local coordinator checks on the worker's status toward the goals stated in the individual employment plan (IEP.) The review occurs every 28 days.
- The review of the training waiver is not a "paperwork compliance" requirement; rather, it is an opportunity to provide a review of a worker's progress toward reattaching to the workforce and to provide any needed case management services to support reattachment or to institute the provision of training services for workers who are not successful in obtaining employment after a reasonable search period.
- The next review date must be scheduled at the time of the review and that date must be conveyed to the worker in writing.
- A process to review the reason for the waiver must be implemented by the Region.
- The first review session must be in person. The Regional Operator will determine the number of subsequent sessions that must be done in-person.
- The results of the 28 day review must be indicated in the case note. The notation "waiver reviewed" is not acceptable documentation. The case note needs to contain documentation that determines whether or not the review validated the reason the waiver was issued or if those circumstances have changed. Also, any changes or modifications are noted and should be addressed in the IEP. Each 28 day review session must be entered into TrackOne.
- The 28th day date should be used as the scheduled interview date in the UI benefits system.

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[3] To meet the EB work test requirements, claimants must: 1) apply for and accept any offer of suitable work to which they are referred by the state workforce agency; 2) actively engage in seeking work and furnish tangible evidence of such efforts each week; and 3) register for work with the state workforce agency.

Revoking a Training Waiver

- A training waiver is revoked when the reason for the waiver is no longer valid or the worker is enrolled in training or is within 30 days of entering training.
- The notice of revocation must be given to the worker in writing.
- Intervening employment is not a factor with regard to issuing or continuing a waiver. Workers who are employed part- or full-time will not have their wavier revoked as a result of that employment.
- A waiver is automatically invalid once a worker is enrolled in training or ATAA. The local coordinator does not need to revoke the waiver.

Local coordinators are encouraged to review DWD's policy on assessment and case management processes, DWD Policy 2007-11, dated August 22, 2007.

Questions regarding this TAB should be directed to Jennifer Long, State Dislocated Worker Coordinator, Indiana Department of Workforce Development, 10 North Senate Avenue, Indianapolis, IN 46204 at telephone number 317.232.7186.

TAB Number	Subject Matter
2007-04	TAA Training Waivers, the Extension Process and Waiver Reviews
2007-03	UI Eligibility Determination Communications
2007-02	Expansion of Technical Assistance through TABs
2007-01	Revision to Employment Eligibility Verification Form I-9
2006-08	Military Service Members/Spouses as WIA Dislocated Workers
2006-07	Guidance from the U. S. Department of Labor
2006-06	Out-of-School Youth Definition
2006-05	WorkKeys Certificates under the Youth Common Measures
2006-04	Repeating classes or tests funded by the Workforce Investment Act
2006-03	Discontinuation of the Certificates of Technical Achievement Program
2006-02	Trade Adjustment Assistance - Qualifying Separation Date for Worker's Compensation
2006-01 Change 1	Clarification on DWD Communication 2005-26 (rescinded 8-22-07)
2006-01	Clarification on DWD Communication 2005-26 (rescinded 8-22-07)
2005-008	Youth as Displaced Homemakers
2005-007	Documentation Requirements – Katrina Victims
2005-006	Modifying Indiana's Eligible Training Provider List
2005-005	Special Endorsement for Indiana School Bus Drivers
2005-004	General Studies Degrees
2005-003	High School Diplomas for Individuals with Disabilities
2005-002	Incumbent Worker Councils
2005-001	Incentive Payments to WIA Participants
2004-001	WorkKeys Certificates
2003-007	Basic Skills Deficiency
2003-006	CPR or First Aid as a Credential
2003-005	Driver's License as a Credential
2003-004	"Temporary" Employee Eligibility for WIA Services
2003-003	Service Tiers & Partner Services
2003-002	Intensive and Training Services
2003-001	WIA Citizenship and Registration for Selective Services
2003-000	Workforce Investment Act Technical Bulletins