

To: Indiana's Workforce System

From: Indiana Department of Workforce Development (DWD)

Date: 03/29/2022

Subject: DWD Policy 2020-06, Change 1
Trade Adjustment Assistance (TAA) Co-Enrollment in the Workforce
Innovation and Opportunity Act (WIOA) Dislocated Worker (DW) Program

Purpose

To provide guidance on the TAA Program's new regulatory requirements for WIOA DW Program co-enrollment.

Change 1 Summary

Key policy changes include the following:

- Clarification regarding co-enrollment timelines
- Addition of a federal reporting section

Rescissions

- DWD Policy 2020-06 *Trade Adjustment Assistance (TAA) Co-Enrollment in the Workforce Innovation and Opportunity Act (WIOA) Dislocated Worker (DW) Program*

References

- Trade Adjustment Assistance for Workers, 85 Fed. Reg. 51,896 (August 21, 2020).
- 20 CFR 618
- TEGL 1-19 *Trade Adjustment Assistance Data Integrity (TAADI)*

Background

On August 21, 2020, the Employment and Training Administration of the U.S. Department of Labor (USDOL) published the final rule for Trade Adjustment Assistance for Workers in the Federal Register at 20 CFR 618 (the TAA Final Rule). The TAA Final Rule amends 20 CFR parts 617 (Trade Adjustment Assistance for Workers under the Trade Act of 1974) and 618 (Trade Adjustment Assistance under the Trade Act of 1974, as Amended) and 29 CFR 90 (Certification of Eligibility to Apply for Worker Adjustment Assistance) to expand protection and support for U.S. workers adversely impacted by foreign trade. In addition to various changes to the TAA program, the TAA Final Rule codifies integrated service strategies and WIOA DW Program co-enrollment. The final rule is effective September 21, 2020.

Content

Improved Outcomes

As stated in the Federal Register, the co-enrollment of TAA program participants in the WIOA DW program drastically improves the quality of service to trade-affected workers and improves participant outcomes. Based on data States reported between FYs 2009 and 2017, TAA participants who were co-enrolled in the DW program under WIA/WIOA have superior post-program employment results, by a consistent margin, in comparison to TAA participants who were not co-enrolled in a WIA/WIOA DW program. Moreover, the data showed no adverse impact on outcomes under the DW program as a result of co-enrolling TAA participants.

Authority

The States, under the TAA Governor-Secretary Agreement, are bound to implement the TAA Final Rule. The Agreement binds the entire executive branch of the State governments to the terms and conditions of the Agreement and to the implementation of the TAA Program which includes the implementation of the co-enrollment requirement. The Governor, through the Governor's Workforce Cabinet, has the authority to enforce the co-enrollment requirement at the state and local area levels.

Co-enrollment

All TAA participants that are also WIOA DW eligible must be co-enrolled in the WIOA DW Program. WIOA DW services should be made available to trade-affected workers prior to the time of layoff or at the same time the worker is participating in the TAA program. In most cases, case managers should immediately begin the process of intake and initial assessment for dislocated workers services prior to a TAA certification. This practice ensures Indiana will meet the co-enrollment requirement in 20 CFR 618.325(a)(1). If a TAA petition subsequently results in a negative determination, or denial, the participant would not be eligible for the TAA program but would continue to be eligible under the WIOA DW program.

The TAA program is required to pay for all training and related costs and the majority of employment and case management services. However, trade affected workers often benefit from WIOA's supportive services and postemployment follow-up services, which cannot be funded through the TAA Program. The implementation of a co-enrollment requirement does not change this; WIOA funding should be used to provide services only when TAA funding may not be used for that service (i.e., supportive services, pre-vocational services, additional employment and case management services, and post-employment follow-up services).

Additionally, services from other programs must be made available to the trade-affected worker.¹ Programs such as, but not limited to, Wagner-Peyser Act Employment Services, Vocational Rehabilitation services, Veterans' programs, and other one-stop partner programs, should be provided to the participant, as appropriate.

¹ See DWD's *Co-Enrollment and Common Exit* policy for additional guidance.

TAA Data Integrity (TADDI) and Program Performance Reporting

Under TEGL 1-19,² the TAADI became a permanent component of reporting compliance for the TAA program. TAADI performance targets are established on an annual basis by USDOL. Each state is required to meet or exceed all TAADI targets.

In order to meet the co-enrollment target, TAA participants with a first benefit or service within the most recent four (4) quarters must also be co-enrolled in WIOA DW within the same four (4) quarters.

Participant Notification Requirement

Case managers must make trade-affected workers aware that they are being co-enrolled in the WIOA program. Evidence of the notification and when it was provided must be maintained in the participant's file.

Participant Right to Decline

A trade-affected worker may decline co-enrollment, which will have no effect on eligibility for benefits and services under the TAA Program. Evidence of the declination and when it occurred must be maintained in the participant's file.

Potential Barriers to Co-Enrollment

There are a few barriers to WIOA eligibility. Adversely Affected Incumbent Workers (AAIW) will generally not be eligible for the WIOA DW program, but in certain circumstances, such as the general announcement of a closure, they may meet those eligibility criteria and must also be co-enrolled. Similarly, some partially separated workers' wages and time on the job will have decreased, but they remain employed and do not meet any other eligibility requirements of the WIOA DW program.

Additionally, WIOA requires that certain males be registered under the Selective Service provisions. There is no Selective Service registration requirement for the TAA program. Furthermore, a trade-affected worker cannot be refused benefits and services offered through the TAA program due to lack of registering with the Selective Service. If a trade-affected worker knowingly and willfully fails to register with the Selective Service, the co-enrollment requirement does not apply to that individual.

The requirement of WIOA co-enrollment is not meant to create barriers to accessing TAA-funded training. TAA participants that are co-enrolled with WIOA are required to meet the TAA training requirements found in 20 CFR 618.600- 618.665. WIOA training requirements that are outside of the scope of the TAA program are not applicable and should not otherwise prohibit or delay access to TAA-funded training.

Action

Local Workforce Development Areas (LWDA) must implement appropriate procedures to operationalize the co-enrollment requirement for all WIOA DW eligible TAA participants.

² https://wdr.doleta.gov/directives/corr_doc.cfm?docn=7478

The contents of this policy will be subject to routine DWD monitoring.

Effective Date

Immediately.

Ending Date

Upon rescission.

Additional Information

Questions regarding the content of this publication should be directed to DWD Policy: policy@dwd.in.gov.