



# Workforce Issuance

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☒ Policy ☐ Information

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**To:** Chief Elected Officials  
MassHire Workforce Board Chairs  
MassHire Workforce Board Directors  
MassHire Career Center Directors  
MassHire Fiscal Officers  
MDCS Operations Managers

**Cc:** WIOA State Partners

**From:** Alice Sweeney, Director  
MassHire Department of Career Services

**Date:** January 10, 2022

**Subject:** **Overpayments related to Trade Adjustment Assistance Program Benefits (TAA Benefits)**

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**Purpose:** To provide guidance to MassHire Workforce Boards, MassHire Career Center Operators and partners regarding the establishment and recovery of overpayments related to TAA benefits, including but not limited to TAA approved training.

**Background:** The Trade Adjustment Assistance (TAA) program provides benefits and support to U.S. workers who become unemployed due to the impact of international trade. The Employment and Training Administration (ETA) published a Final Rule implementing the Trade Adjustment Assistance Reauthorization Act of 2015 on August 21, 2020, (85 FR 51896). The TAA Final Rule is codified at 20 CFR part 618 and became effective on September 21, 2020. Overpayments are addressed specifically at 20 CFR 618.832.

**Policy:** Overpayments may be established for TAA benefits under the Trade Programs including Training (and all training related costs; i.e. Travel Allowances), Reemployment Trade Adjustment Assistance (RTAA), Alternative Trade Adjustment Assistance (ATAA), Job Search or Relocation Allowances. Any overpayment established must be recovered or waived.

## **Training/Job Search and Relocation**

If a trade-affected worker fails, without good cause, to complete training, a job search, or a relocation, then the portion of a payment for the non-completed component of the benefit is an overpayment.

If a trade-affected worker fails, with good cause, to complete training, a job search, or a relocation, any payment or portion of a payment made to such person or individual properly and necessarily expended in attempting to complete such training, job search, or relocation is not an overpayment.

Costs for the completed portions of the training program, job search, or relocation are not an overpayment.

***Good cause** exists if the worker acted diligently yet was unable to complete training, a job search, or relocation because of exigent circumstances. MDCS will issue a determination of good cause on a worker-by-worker basis.*

## **A/RTAA**

An individual meets the “earns not more than \$50,000 each year in wages from reemployment” requirement for a given month if the monthly determination of annualized wages is accurate and complete at the time it is made. Payments derived from the annualized wage projections based on complete and accurate information at the time are valid payments that the individual was entitled to and are not overpayments.

## **Overpayment Establishment and Determination Process**

Job Seekers will have the opportunity to provide information to demonstrate good cause to MDCS. MDCS will review the good cause justification and issue a determination to the jobseeker.

If the justification is accepted, then an overpayment will not be established. The jobseeker will be issued a determination.

If the justification is determined non-justified an overpayment will be established. The jobseeker will be issued a determination with appeal rights. If the jobseeker wishes to appeal the determination, the rest of the process will be halted until such appeal is heard and a determination is issued. Appeals will follow the required process via the Department of Unemployment Assistance (DUA) Hearings Department. The TAA Hearing Request form will be provided as part of the determination.

If the jobseeker accepts MDCS’ determination of overpayment, the opportunity to request a Waiver of the overpayment will be made available.

A Waiver request of the overpayment will be reviewed on a case by case basis.

**MDCS** must waive such repayment if it is determined that:

- A.** The payment was made without fault\* on the part of such person;  
**and**
- B.** Requiring such repayment would cause a financial hardship\*\* for the person (or the person's household, if applicable).

\*Fault exists if any of the following criteria are determined to be true:

- Whether a material statement or representation was made by the person or individual in connection with the application for TAA that resulted in the overpayment, and whether the person knew or should have known that the statement or representation was inaccurate;
- Whether the person 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 the person knew or should have known that the fact was material;
- Whether the person knew or should have known that the person or individual was not entitled to the TAA payment;
- Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the person or of which the person or individual had knowledge, and that was erroneous or inaccurate or otherwise wrong; or
- Whether there has been a determination of fraud under paragraph (b) of this section.

\*\*A financial hardship exists if recovery of the overpayment would result in the person's (or the person's household's) loss of, or inability to pay for ordinary and necessary living expenses. This determination must consider the income and resources (including liquid financial resources) reasonably available to the person (and the person's household).

MDCS will review the Waiver request and issue a determination on the request for the Waiver of the overpayment.

- A. If accepted, the overpayment is waived and a final determination will be issued to the jobseeker.
- B. If denied, notice will be provided to the jobseeker and the jobseeker can:
  - 1. Appeal the determination following the required process via DUA's Hearings Department. (TAA Hearing Request form will be provided) or

2. MDCS will work with the jobseeker on repayment via a lump sum or payments.

MDCS's next steps regarding overpayments or waivers from overpayments will be followed in accordance with the DUA Hearings Department determinations, as applicable.

**Action**

**Required:** Please assure that all appropriate staff are informed of the content of this issuance.

**Effective:** Immediately

**Inquiries:** Questions related to this policy should be directed to [PolicyQA@detma.org](mailto:PolicyQA@detma.org). Please reference the correct WIOA Communication issuance number with the inquiry.

**Attachments:** Request for a Waiver of TAA Overpayment Form