

Trade Act of 1974, as Amended with provisions of the Trade Reform Act of 2002

This law created a program of Trade Adjustment Assistance (called TAA) to help individuals who become unemployed as a result of increased imports to return to suitable employment. This law was amended in 1993 to contain special provisions for workers of companies adversely affected by competition from Canada or Mexico, NAFTA/TAA (NAFTA). It was again amended on August 6, 2002 creating the Trade Reform Act of 2002. The provisions reviewed below are based on the Trade Reform Act of 2002 and apply ONLY to those petitions FILED on or after November 4, 2002.

The Trade Programs provide for reemployment services and allowances for eligible individuals. These services and allowances may include:

Employment Counseling
Vocational Testing
Job Placement
Supportive Services
Paid Retraining Programs
Additional Weekly Benefit Payments (TRA)
Job Search Allowances
Relocation Allowances

Services provided under the Trade Act are administered by the Division of Employment & Training.

Employment Counseling, Vocational Testing, Job Placement and Supportive Services

Career Centers all across the state offer these services. Trade eligible individuals who would like help in finding a new job may be referred to a Career Center to develop a Career Plan. If needed, this may include a plan for the worker to attend a training program to gain new skills which will help the worker find a new job at a salary comparable to the worker's previous job.

Training

You may be approved to attend full-time vocational and remedial education tailored to your specific needs. Tuition, books, school fees, tools and uniforms are paid according to State/Federal TAA or NAFTA/TAA guidelines.

To be eligible for TRA cash benefits while in training the worker must be enrolled in a training program approved by the later of (to be eligible for **ANY** TRA):

- The last day of the 16th week after such worker's most recent separation; or
- The last day of the 8th week after the week in which the U.S. Secretary of Labor issues a certification covering such worker.

This training must then begin within 30 days of being approved.

- Workers have 210 days from their separation date or the certification date of the company (whichever is later) to apply for training to be eligible for additional TRA. (This is obviously negated if the 8/16 week rules are missed)

The least expensive full-time training programs may consist of a single course or group of courses which is designed to meet specific occupational goals. Each client may be approved for only one (1) occupational training. For a worker to be approved for a TAA paid training program, the worker must meet the six (6) criteria for approval listed below:

1. There is no suitable employment (which may include technical and professional employment) available for the adversely affected worker.

This means that training is being considered for you because no suitable employment is available at this time for you, either in the commuting area or outside the commuting area in an area in which you desire to relocate with the assistance of a relocation allowance, and there is no reasonable prospect of such suitable employment becoming available to you in the foreseeable future. The term "suitable employment" means work of a substantially equal or higher skill level than your past adversely affected employment, and wages for such work at not less than 80% of your average weekly wage.

2. The worker would benefit from appropriate training.

This means that there must be a direct relationship between your need for skills training or remedial education and what would be provided by the training program under consideration for you, and that you have the mental and physical capabilities to undertake, make satisfactory progress in, and complete the training. This includes the further criterion that you will be job ready upon completion of your training program.

3. There is a reasonable expectation of employment following completion of such training.

This means that, given the job market conditions expected to exist at the time of completion of the training program, there is, fairly and objectively considered, a reasonable expectation that you will find a job using the skills and education acquired while in training, after completion of the training.

4. Training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include vocational education schools and employers.)

This means that training is reasonably accessible to you within your commuting area at any governmental or private training (or education) provider, particularly including on the job training with an employer. Whether the training is inside or outside the commuting area, **the training must be available at a reasonable cost.** In determining whether or not training is reasonably available, first consideration must be given to training opportunities available within your normal commuting area. Training at facilities outside your normal commuting area should be approved only if such training is not available in the area or the training to be provided outside the normal commuting area will involve less charges to TAA funds.

5. The worker is qualified to undertake and complete such training.

This emphasizes you must have the personal qualifications to undertake and complete approved training. Evaluation of your personal qualifications must demonstrate that your physical and mental capabilities, educational background, work experience and financial resources are adequate to undertake and complete the specific training program being considered. Evaluation of your financial resources shall include an analysis of the remaining weeks of UI and TRA payments in relation to the duration of the training program. If your UI and TRA payments will be exhausted before the end of the training program, it must be

determined whether personal or family resources will be available to you to complete the training.

6. Such training is suitable for the worker and available at a reasonable cost.

“Suitable for the worker” means that the training is appropriate for you given your capabilities, background and experience. The rules of the Trade program say that the lowest cost training must be chosen. It also means that training may not be approved when the costs of the training are unreasonably high in comparison with the average cost of training other workers in similar occupations at other providers. In determining whether the costs of a particular training program are reasonable, first consideration must be given to the lowest cost training which is available within the commuting area. When training substantially similar in quality, content and results is offered at more than one training provider, the lowest cost training shall be approved. Training at facilities outside your normal commuting area that involves transportation or subsistence costs which add substantially to the total cost shall not be approved if other appropriate training is available.

Additional Training Information

- ◆ The maximum duration of any approvable TAA training is 104 weeks (during which training is conducted). This means that a training program may actually last longer than 104 weeks if there are any scheduled “breaks in training”. If remedial education (ESOL, ABE and/or GED) is needed/required as part of the training plan the maximum total weeks of approvable training may be up to 130 weeks.
- ◆ Important: TRA benefits cannot be paid for any week which begins and ends with a scheduled break that is longer than 30 days (not including Saturdays, Sundays and State or National holidays). Your counselor may advise you to investigate training programs at schools that do not have these breaks.
- ◆ TAA training **must be full time**. The hours in a day and days in a week of attendance in training must be full time in accordance with established hours and days of training of the training provider. The training must also be of suitable duration to achieve the desired skill level in the shortest possible time.
- ◆ Training outside the United States cannot be approved. Training which requires you to pay a fee or tuition cannot be approved. Training for occupations where there is a lack of employment opportunities, or the occupation provides no reasonable expectation of permanent employment, cannot be approved.
- ◆ Training of Re-employed Workers: If you obtain new employment which is not suitable employment, and have already been approved for training, you may elect to: 1) terminate your job, or, 2) continue in full or part-time employment while you undertake such training, and you will not be subject to ineligibility or disqualification for UI or TRA as a result of such termination or reduction in employment. However, your wages may affect the amount of UI or TRA you receive.
- ◆ The State Agency shall approve training in occupations for which an identifiable demand exists either in the local labor market or in other labor markets for which relocation planning has been implemented. If practical, placement rates and employer reviews of curriculum shall be used as guides in the selection of training institutions.
- ◆ Entrepreneurial training programs/job goals are not allowable under the Trade Program.

Travel While In Training

You may apply to receive assistance with travel costs if needed to enable you to attend training. The amount paid will be based on the least expensive means of getting to training. Payments are made on the basis of actual days of approved TAA training attendance. Holidays, breaks in training, weekends and all days of non-attendance of approved TAA Training Programs will not be payable. In addition, all approved TAA training you are attending must be outside your normal commuting area to qualify for a travel allowance. Travel Payments are made according to State/Federal TAA guidelines.

Job Search Allowance

If you cannot find a new job in your local area that is similar to your last job, and your job search takes you out of your local commuting area to other areas of the state or country, TAA may help cover some of your expenses. You may receive 90% of the transportation and living costs you incur, up to \$1,250, while you look for permanent employment in a new area. For the allowance to be granted, you must be registered with one of the Career Centers for employment services and must file your application **before** the job search begins. In addition, the application must be filed:

- Within 365 days after the date of your company's certification, or within 365 days after the date of your last total layoff, whichever is later; or
- Within 182 days after the date you finish your TAA or NAFTA/TAA approved training; and,
- The Job Search must be completed within 30 days.

Relocation Allowance

If you find a new job outside your local commuting area and must move your family and household goods to that new area, you may receive 90% of the reasonable and necessary costs of your move. You are also eligible for a lump sum payment equal to three (3) times your former average weekly wage, up to \$1,250, to help you get settled in your new community. For these allowances to be granted, you must be registered with one of the Career Centers for employment services and file your application **before** the relocation begins. In addition, the application must be filed:

- Within 425 days after the date of your company's certification, or within 425 days of your last total layoff, whichever is later; or
- You must begin your move within 182 days after filing the application for the allowance, or within 182 days of completing your TAA or NAFTA/TAA approved training.

Please remember that Training, Travel While In Training, Job Search Allowance and Relocation Allowance cannot be paid unless approved *in advance* by DCS's Trade Unit.

Trade Readjustment Allowance (TRA)

If you are in an approved TAA training, or you have just finished TAA approved training, you may qualify for TRA cash benefits. Your TRA benefits will be determined based on your initial separation from the company, that is, your first qualifying separation after the impact date. The Division of Unemployment Assistance (DUA) administers TRA benefits.

Please see the attached list of DCS phone centers for the one nearest you.

In Massachusetts, you may receive up to 30 weeks of regular unemployment (UI) insurance benefits. If you are enrolled in TAA approved training, or you have just finished TAA approved training, and you have exhausted your UI benefits, you may be eligible to collect additional weekly benefits, called TRA.

There are two types of TRA benefits, Basic and Additional. Both types are usually at the same weekly rate as regular UI benefits.

- **Basic TRA:** Basic TRA is combined with your UI benefits to extend the number of weeks you may collect benefits to a total of 52. For example, if you are determined to be eligible for 28 weeks of regular UI benefits, then you may be eligible for up to 24 weeks of Basic TRA – total: 52 weeks.

If you finish TAA approved training while you are collecting Basic TRA, you will still be able to collect Basic TRA provided you meet work search requirements. Basic TRA may also be paid, through a 'waiver' process (**Waiver from training**), in the circumstance that you meet one of the following:

- ♦ Worker is subject to recall within 6 months (must provide written notification of recall)
- ♦ Worker possesses marketable skills (must provide resume, assessment, etc.)
- ♦ Worker is in poor health (must provide Doctor's note)
- ♦ Worker is near retirement (must provide documentation that worker is within 2 years of meeting the requirements for Social Security **or** Privately Sponsored Pension)
- ♦ Delay in first available enrollment date for training (first available enrollment must be within 60 days after a determination (training approval) is made)
- ♦ Training funds are not available under TAA or other Federal Laws (training is not available at a reasonable cost or training funds are not available)

Please remember that the Waiver from training must also be filed by your 8 or 16 week deadline (whichever comes later) as described under the "Training" deadline within this packet.

- **Additional TRA:** The Trade Act allows for the payment of up to 52 weeks of Additional TRA if you have exhausted Basic TRA and you are still in approved TAA training. A period of 52 calendar weeks is established and, unlike Basic TRA, this benefit ends when TAA training ends.

Important: The maximum number of weeks of UI plus Basic TRA plus Additional TRA is 104 weeks. If you attended TAA approved remedial training you may be eligible for up to an additional 26 weeks of Remedial Education benefits (REB).

- **Remedial Education benefits (REB):** This benefit is available for those who need remedial education to facilitate reemployment. Remedial education must lead to employment or training. Remedial education can occur concurrently with other training (for example, basic math & writing skills & ESOL courses leading to a GED)
 - Maximum Benefit: an additional 26 weeks of TRA
 - Paid on the basis of one week of additional TRA for every one week of remedial education for up to 26 weeks maximum
 - All other TRA must be exhausted and this is only paid if NEEDED to complete training.

UI and Basic TRA	=	52 weeks	(this may also include any Federal Extensions that are in place)
Additional TRA (if in training)	=	52 weeks max.	(you must be <u>in training</u> to receive ANY Additional TRA)
	=	104 weeks (up to/MAX)	
up to			
Remedial Education TRA:	=	26 weeks (MAX)	(you must be <u>in training</u> to receive ANY Remedial Ed TRA)
	=	130 weeks MAX	

If TAA approved training will extend beyond this maximum, your employment counselor will ask you to provide a financial statement showing that you are able to complete the remaining weeks of training without TRA benefits. You may also be asked to look at training programs that are shorter in duration.

ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE **OLDER WORKERS PROGRAM**

The Alternative Trade Adjustment Assistance Older Workers Program (ATAA) allows older workers adversely affected by imports or a shift in production to receive a subsidy to help bridge any wage gap between their old and new employment if they find a job instead of enrolling in training.

ATAA certification was requested as part of the Trade Adjustment Assistance petition process.

❖ To be certified under the Alternative Trade Adjustment Assistance program:

- a significant number of adversely affected workers must be 50 years of age or older.
- the adversely affected workers' skills must not be easily transferred to other employment.
- the competitive conditions in the affected workers' industry must be adverse.

❖ To be eligible for Alternative Trade Adjustment Assistance an individual worker must:

- belong to a worker group that is both TAA *and* ATAA certified.
- find a new job within 26 weeks of his/her qualifying date of separation.
- be 50 years of age or older at the time of the new employment.

❖ The individual's new employment must:

- be full-time based upon state law where the worker is employed.
- pay less than the previous job on an annualized basis.
- not be expected to pay the worker more than \$50,000, annually.
- not be with the same division/facility from which he/she was separated.
- not be for the same or similar work if hired at a different division or facility of the prior employer.

❖ The Alternative Trade Adjustment Assistance wage subsidy:

- is equal to one half the difference between a worker's old and new wage (annualized).
- may not exceed a total of \$10,000.
- may not extend beyond a period of two calendar years from the qualifying date of reemployment.
- is not payable during periods of unemployment.

❖ Workers must choose to receive benefits and services under either TAA or ATAA, but not both:

- receipt of ATAA payments voids the worker's right to retraining, job search allowances and TRA.
- workers receiving ATAA payments remain eligible for relocation allowances.
- enrollment in training voids a worker's right to ATAA participation.
- ATAA participants are eligible for the Health Care Tax Credit only upon receipt of ATAA payments.

Workers' eligibility for continued receipt of the ATAA subsidy is reviewed monthly.

Summary

In order to access any of these services we have just described, you must first complete a form to apply for participation in the program. This is referred to as the *Application to Participate in the Trade Adjustment Assistance Program* or Form 1666. Forms are available at any local Career Center or by calling 617-626-6007. They are submitted to the Division of Unemployment Assistance (DUA) (formally DET) in Boston (address is at the bottom of the form). They will review your application to determine if you are eligible to participate in the program, and will issue an approval or denial as soon as possible. You will receive this form (1666) back in the mail, via certified mail, telling you whether or not you are entitled to participate in the program. If you are not approved, you may appeal this decision.

In the meantime, do not need to wait for this determination before you visit a Career Center. Due to time restraints, it is best to visit your local Career Center immediately.

Please note that this information is intended as a general description only and does not carry the force of legal opinion.