# **12 DEPARTMENT OF LABOR**

**597 BUREAU OF EMPLOYMENT SERVICES**

**Chapter 1: RULES GOVERNING IMPLEMENTATION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM**

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**PURPOSE**

The *Trade Act of 1974* (“Trade Act”) established the Trade Adjustment Assistance Program, which provides re-employment services hereafter referred to as Trade Adjustment Assistance (TAA) and monetary benefits, Trade Readjustment Allowances (TRA). TAA includes re-employment services such as counseling, testing, training, placement and other supportive services for workers adversely affected. TRA provides monetary allowances while in training, job research and relocation allowances.

**SECTION 1: DEFINITIONS**

1. For the purposes of the Trade Adjustment Assistance program, the following definitions apply:

A. **Adequate Financial Resources** means the financial capacity of an individual to support himself or herself while in training and if the approved training will continue beyond the exhaustion of all monetary allowances payable under the Trade Act Program.

B. **Adversely affected incumbent** worker means a worker who is a member of a group of workers who have been certified as eligible to apply for TAA based upon a TAA petition filed on or after May 18, 2009, who has not been totally or partially separated from adversely affected employment, and who is threatened with total or partial separation as documented by a notice of termination or layoff or other reliable documentation of the threat of total or partial separation.

C. **Average Weekly Wage** means one-thirteenth of the total wages paid to an individual in the individual’s high quarter. The high quarter for an individual is the quarter in which the total wages paid to the individual were highest among the first four of the last five completed calendar quarters preceding the individual’s appropriate week.

D. **Certification** means a certification of eligibility to apply for TAA issued under the Trade Act with respect to a specified group of workers of a firm or appropriate subdivision of a firm.

E. **Commuting Area** means the area in which an individual would be expected to travel to and from work on a daily basis as determined under the applicable state law. Commuting area is defined as a 50-mile radius from the trade affected individual’s place of residence. This definition does not apply to transportation payments.

F. **Customized Training** means training that is (1) designed to meet the special requirements of an employer or group of employers; (2) conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and (3) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training.

G. **Individual Services Strategy** means an ongoing strategy jointly developed by the individual and the CareerCenter Case Manager that identifies the individual’s employment goals, the appropriate achievement objectives, and the appropriate combination of services for the individual to achieve the employment goals.

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

I. **Suitable Employment** means work of substantially equal or higher skill level than the individual’s past adversely affected employment, and wages for such work at not less that 80 percent of the individual’s average weekly wage. Suitable work does not in any case include self-employment .

J. **Supportive Services** include school supplies, mileage assistance, subsistence payments, and training costs which are necessary to complete training and required of all students enrolled in a training program such as tools, medical insurance, immunizations, physicals and uniforms.

Services such as childcare, car repairs, car insurance, car registration, eyeglasses and eye exams, housing maintenance, food, clothing, dental assistance and state licensing are not funded under the Trade Adjustment Assistance program. These may be supported through other community resources or federal grants.

K. **Training-Related Costs** includes tuition, books, tools, academic fees, travel or transportation expenses and subsistence expenses. All other expenses to be included in this must meet the following criteria:

(1) The item must be necessary for the trainee to undertake and complete the program under consideration; and

(2) The item must be required for all students to participate in the proposed program.

L. **Unforeseen Need** means a circumstance that is beyond the individual’s or training provider’s control that prevents the completion of the Individual Service Strategy. Such circumstances include, but are not limited to, the closing of a training facility or the individual’s inability to complete training due to physical or mental capabilities unknown at the time of plan development.

M. **Wages** means all compensation for employment for an employer, including commissions, bonuses, and the cash value of all compensation in a medium other than cash (including health benefits and retirement benefits).

**SECTION 2: ASSESSING AN INDIVIDUAL FOR TRAINING**

1. Suitable re-employment in the most reasonable period of time is the ultimate goal of TAA. Individuals shall participate in the following process when being assessed for training under the TAA program:

A. An assessment shall be conducted to define the individual's current and potential skills, knowledge, interests, aptitudes, and/or capabilities as they relate to the needs of the current labor market. The individual shall be given preferred assessment tools such as the O’Net Career Exploration Tools, the Test of Adult Basic Education (“TABE”) and the General Aptitude Test Battery (“GATB”).

B. Throughout the assessment process the individual shall be provided assistance on how to define what his/her transferable skills are and how to write effective resumes and cover letters. The individual shall be shown how to use labor market information and how to search for employment opportunities. The CareerCenter Case Managers shall also provide assistance with interview techniques, job referrals and development.

C. The assessment shall summarize the information about an individual’s current skills, work and educational history, financial resources, physical and mental capabilities, interests, and aptitudes; and how this information relates to the demands of the current labor market.

D. During the development of the Individual Service Strategy (employment plan), a determination shall be made regarding whether the individual has the effective skills, physical and mental capabilities and education to obtain suitable employment in the current labor market. Labor market information shall be used to support documentation that justifies if the individual has the existing transferable skills to find suitable employment in the current labor market area.

E. If it is determined that some training is necessary for the individual to obtain suitable employment, the CareerCenter Case Manager and individual shall review what occupational categories are in high demand and discuss how these expanding occupations relate to the individual’s interest, skills and capabilities.

F. The CareerCenter Case Manager shall work with the individual to define what skill level and specific training is needed and to identify the shortest program available that provides the desired skill level to assist the individual in returning to suitable employment. Labor market information shall be used to support documentation that justifies that there is a reasonable expectation of suitable employment at the completion of training.

G. The individual must meet the six conditions for approval of training referred to in this Chapter before training can be approved. The CareerCenter Case Manager shall document in the assessment how the individual meets these six criteria for approval of training. The state administrative agency shall be responsible for determining if an individual meets all the criteria.

**SECTION 3: DEVELOPING THE INDIVIDUAL SERVICE STRATEGY**

A specific training plan shall be developed for those TAA participants for whom training is necessary to become re-employed in suitable employment. Such training plan shall include the following:

1. **A Statement of Purpose/Employment Goal**, which shall identify the employment goal that leads the individual to suitable re-employment in the most reasonable period of time. This shall be developed after a review of transferable skills, potential and past wages, available training options, labor market conditions and employment marketability.

2. **Job Prospects/Labor Market Information**. Job prospect/labor market information shall be analyzed in order to develop the training plan. The CareerCenter Case Manager shall work with the individual in order to record the activities required to be performed and completion dates for performance, based upon the skills, abilities, and education identified in the individual’s assessment. Such activities shall include:

A. Attending workshops to define his/her transferable and marketable skills, writing resumes and cover letters, learning interview techniques, learning how to use labor market information and learning how to search for employment;

B. Researching and applying for available suitable employment opportunities in the local market area that match his/her current skills, abilities and education;

C. Working with the CareerCenter Case Manager on job development with businesses, receiving referrals and following through with applying for the employment opportunities identified as suitable;

D. Providing to the CareerCenter Case Manager, on a monthly basis, a copy of the job search tracking form (individuals may use either the UI work search log or a job search log provided by the CareerCenter) that identifies the employment opportunities for which he/she has applied; and

E. If the individual does not have the skills to return to suitable employment, the CareerCenter Case Manager and the individual shall develop and record the Individual Service Strategy (employment plan) that prepares him/her for suitable re-employment in an occupation which shows a projection of growth and minimizes his/her time separated from the workplace;

F. The Individual Service Strategy shall also document for which items TAA funds will pay. Such items may include tuition and related expenses such as books, academic fees, tools, medical insurance, immunizations, physicals, uniforms and travel, supportive services, relocation allowances, job search allowances, or subsistence. Generally TAA is the payer after financial aid and grants have been subtracted from the training costs. All items must be pre-approved in writing.

(1) If the individual’s weekly benefits have been exhausted and Pell grants are available, the BES CareerCenter Manager may authorize TAA funds to pay for remaining tuition and related expenses per semester so that the Pell grant may be released to cover living expenses of the individual.

3. **Identification of individual needs**, which shall identify any difficulties to re-employment and referral to appropriate providers for assistance.

**SECTION 4: SELECTION OF TRAINING METHODS**

1. Suitable training methods may include:

A. On-the-job training that includes related education necessary to acquire skills needed for a position with a particular occupation in the firm or elsewhere, including training for which the firm pays the costs. This ensures that on-the-job training provides the skills necessary for the individual to obtain employment in an occupation rather than a particular job at a specific site. On-the-job training may be approved only if the agency determines that:

(1) No currently employed individual is displaced by such eligible worker, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits;

(2) Such training does not impair existing contracts for services or collective bargaining agreements;

(3) In the case of training which would be inconsistent with the terms of a collective bargaining agreement, written concurrence has been obtained from the concerned labor organization;

(4) No other individual is on layoff from the same or any substantially equivalent job for which such eligible worker is being trained;

(5) The employer has not terminated the employment of any regular employee or otherwise reduced the workforce with the intention of filling the vacancy so created by hiring the eligible worker;

(6) The job for which the eligible worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals;

(7) Such training is not for the same occupation from which the worker was separated and with respect to which such worker’s group was certified pursuant to section 2 the Act;

(8) The employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training

(9) The employer has not received payment under the TAA program or under any other federal law for any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1) through (6) of this section or such other federal law; and

(10) The employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) of this section made by the employer with respect to any other on-the-job training provided by the employer for which the employer has received payment under the TAA program.

(11) On-the-job training shall not be approved for an adversely affected incumbent worker.

B. Institutional training, with priority given to providing the training in public area vocational education schools, if it is determined that such schools are at least as effective and efficient as other institutional alternatives. These programs may include:

(1) Programs approved by the Maine Department of Labor established under the Workforce Investment Act;

(2) Any program of remedial education:

(a) The duration of remedial/basic education courses must relate directly to the individual's occupational goal as developed through assessment and the Individual Service Strategy. The correlation between the duration of remedial/basic education and the individual's occupational goal must be documented in the Individual Service Strategy;

(b) Full time training for remedial programs must include nine (9) hours of classroom training;

(3) Proprietary schools approved by the Department of Education;

(4) Any other training program approved by the Department of Labor, such as apprentice programs, community college associate and certificate programs, trade school programs, and degree programs, if appropriate;

C. Any training program for which all or any portion of the costs of training are paid under any other federal or state program (other than under the Trade Act), or from any other source, including scholarships, but not including sources personal to the individual, such as self, relatives, and friends

 2. **Location of Training** shall be a factor in selecting training methods.

A. Preference shall be given to training that is offered within the individual's normal commuting area. If more than one training provider exists offering similar, available training within the commuting area, than the least expensive training institution will be chosen. When suitable training is not available within the commuting area, training outside the area may be authorized if available at a reasonable cost pursuant to this Chapter.

B. Training at facilities outside the normal commuting area that involves transportation or subsistence costs that add substantially to the total costs shall not be approved if other appropriate training is available.

C. Any training program conducted in total, or in part, at a location outside the United States is not allowed.

D. Generally, training programs located outside of Maine for individuals residing in Maine shall not be approved unless appropriate training is not available within the state.

3. For workers covered by TAA petitions numbered 70,000-79,999, the maximum duration of approved training shall be 130 weeks of actual training for a single certification. In cases where the individual requires remedial education, the approved training may be extended to a maximum of 156 weeks. For workers covered by petitions filed before May 18, 2009 and numbered 80,000, the maximum duration of approved training shall be 104 weeks, or, if an individual requires remedial education, 130 weeks. For workers covered by TAA petitions numbered 81,000 + or 80,000 choosing the 81,000 rules, the maximum duration of approved training shall be 130 with the last 13 weeks only available if needed for completion of training and if training benchmarks are met.

4. At no time shall post-secondary programs be approved for the sole purpose of furthering education.

5. Full-time is defined by the training institution based upon the number of weeks of classroom and any clinical training required. Some examples of short-term training may be CDL Truck Driving, Certified Nurse’s Aide, and Personal Care Attendant, which are a specific number of weeks as defined by the training institution.

6. For workers covered by TAA petitions filed on or after May 18, 2009, workers may choose either part-time or full-time training. Workers receiving TRA must be in enrolled in full-time training. Workers receiving RTAA may choose part-time training. Part time training must also meet the six criteria for approval of training.

**SECTION 5: TAA TRAINING APPROVAL PROCESS**

The following information shall be considered in the training approval process and documented in the Assessment and Individual Service Strategy:

1. **Background Information**. Information about the individual's previous job, title, skills, specific duties including any supervision of staff, wages , length of tenure, layoff date, and all other supporting information that explains the individual’s work history;

2. **Education/Training**. Information about the individual's educational attainment, highest academic grade completed, other work related or professional training undertaken to enhance or upgrade occupational skills;

3. **Assessment and Labor Market Information**. Information shall be analyzed in order to relate the process and results of the individual's assessment to the development of the occupational goal and to determine if the occupation shows projected growth. In making this determination, the following factors shall be considered:

A. The types of interest and aptitude tests that were administered. Preferred assessment tools include the O’Net Career Exploration Tools, TABE, and GATB;

B. What the results from these assessment tools revealed;

C. How the results relate to occupational categories;

D. What skills the individual possesses and how these skills relate to the employment opportunities in the local labor market area;

E. Specific difficulties to employment that were identified;

F. The data utilized in the labor market analysis, such as job search listings, specific labor market publications, and industry projections; and

G. If current skills are not in demand in the local labor market, whether the individual explored possible relocation to an area where demand for his/her current skills exists.

4. **Training Needs**. Identification of the specific training requirements the individual must meet to obtain the minimal skill level necessary to gain suitable employment and minimize his/her time separated from the workplace.

5. **Employment Goal**. The employment goal should be identified in the following terms:

A. The individual's occupational goal;

B. The expected entry wage/salary;

C. Whether the expected salary meets 80 percent of the individual’s average weekly wage and is otherwise suitable employment;

D. Whether the occupational goal matches the needs of the anticipated local job market area; and

E. The expectation for long-term viability in this occupation.

6. **Financial Statement**. Documentation of the individual’s financial ability to support him/herself while in the approved training shall be provided by the individual.

A. The individual must complete a review of his/her financial information to identify the income and expenses for him/herself while in training;

B. The CareerCenter Case Manager shall review the financial information with the individual and document the sources of income in the assessment;

C. If it is determined, based on information provided by the individual pursuant to subsection (A), that sources of income are not sufficient to carry the individual through the training period, the training program shall be denied, and other shorter term training opportunities shall be explored with the individual.

7. **Review of Documentation**. The BES CareerCenter Manager or his/her designee shall review the assessment, Individual Service Strategy, case notes, financial information, the job search tracking forms and the supporting documentation to ensure that the six criteria for approval of training, as outlined specifically in this Chapter, are met. If the documentation demonstrates that the recommended occupational goal is appropriate for the individual, and there is a reasonable expectation of employment for the occupation in the labor market, and the individual has the capacity to successfully complete the training program, the BES CareerCenter Manager or his/her designee will approve the requested training. An individual’s approved training program may only be amended by the State agency to add a course designed to satisfy unforeseen needs of the individual, as defined in this Chapter, such as remedial education or specific occupational skills, as long as the length of the amended training program does not exceed the 104, 130 or 156 week(whichever applies) training limitation.

**SECTION 6: REASONABLE COST LIMIT FOR TRAINING**

Approved training must be provided at a reasonable cost. Approval requires that the training be “at the lowest reasonable cost.”

1. The total cost of any TAA training shall be considered unreasonable if it exceeds $25,000.

A. A training plan for an individual must be at the lowest reasonable cost available to the individual within the commuting area. The training must allow him/her to gain suitable employment in the workforce in the shortest time period (taking into account that part-time training is permitted for workers covered by petitions #70,000; 81,000+ or 80,000 choosing the 81,000 rules) and offer a reasonable expectation of prolonged employment.

B. Training that involves transportation or subsistence costs that add substantially to the total training costs present the basis for not approving the training, when other appropriate training is available.

C. The TAA Coordinator may consider those training plans that exceed the reasonable cost limit, if there is an extenuating circumstance and if funding is available.

(1) An extenuating circumstance may exist when the individual resides in a rural part of the State that has few or no training options available within the commuting area, and the travel costs increase the overall cost of the plan beyond $25,000

(2) The CareerCenter Case Manager shall document that other less expensive training options were explored within the commuting area and clarify why this more expensive training is more appropriate for this individual.

D. An application for training shall not be approved if the training is in an occupational area which requires an extraordinarily high skill level and for which the total costs of the training are substantially higher than the costs of other training that is suitable for the individual.

E. An application for training shall not be approved if the average costs of training are unreasonably high in comparison with the average costs of training of other individuals in similar occupations at other institutions or facilities providing training substantially similar in quality, content and results within a similar time frame.

2. Costs of a training program shall include tuition and related expenses such as books, academic fees, tools, medical insurance, immunizations, physicals, uniforms, and travel or subsistence expenses.

3. In determining what training-related costs are covered, two factors shall be considered:

A. The item must be required, rather than recommended or suggested, for the trainee to undertake and complete the training program; and

B. The item must be required for all students in order to participate in the proposed program.

4. Documentation identifying required costs of all participants in that training program or a list of required items shall be provided by the individual. Acceptable documentation may include a letter printed on official school stationary and signed by a school authorized representative.

5. End-of-training costs such as licenses, starter tools, and additional uniforms are considered “job search related expenditures,” and are not covered under the Trade Act.

6. Individuals in TAA approved training are allowed a maximum of $100 for school supplies for a 2-year program. School supplies such as spiral bound notebooks, three ring binders, paper, pens, pencils, highlighters, report covers and/or a backpack are items that may be purchased within this maximum allowance. Additional funding may be available depending on the need of the individual. School supplies do not include books, tools, tuition or academic fees.

7. The CareerCenter Case Manager shall communicate to both the individual and the training institution at the beginning of the training that any charges to the bookstore for incidental expenses will be paid for by the participant, unless approved by the CareerCenter Case Manager.

**SECTION 7: SIX CRITERIA FOR APPROVAL OF TRAINING**

In developing an Individual Service Strategy (employment plan) the CareerCenter Case Manager shall ensure that the following criteria are met and documented:

1. There is no suitable employment available for the adversely affected individual.

A. The assessment, Individual Service Strategy, case notes, financial information and job search activities report forms shall completely summarize the information regarding the individual’s current skills, work and educational history, current financial status, physical and mental capabilities, interests, aptitudes, and capabilities and how this information relates to the demands of the current labor market.

B. At the time of the request for training for an individual, there is no suitable employment available for that individual, either in the commuting area, or outside the commuting area in which the individual desires to relocate with the assistance of the relocation allowance. In addition, there is no reasonable prospect of suitable employment becoming available for the individual while he/she is receiving unemployment benefits.

2. The individual would benefit from appropriate training.

A. There must be direct correlation between the needs of the individual for skills training or remedial education and what would be provided by the training program under consideration, and that the individual has the mental and physical capabilities to undertake, make satisfactory progress and complete the training. Further, this implies the individual will be job ready on completion of training.

B. Approval of training will only be made for occupations in which an identifiable demand is expected to exist in the labor market at the completion of training.

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

A. Given the job market conditions expected to exist at the time of the completion of the training program, there is a reasonable expectation that the individual will find a job, using the skills acquired while in training. The following factors may be considered in determining whether a reasonable expectation exists regarding the likelihood of gaining suitable employment:

(1) a comparison of past wages and the forecast of earnings upon completion of training;

(2) labor market analysis of projected employment potential of stated job goal;

(3) assessment of present skills and the potential of training success; and

(4) a review of available training options.

B. This rule does not require that employment opportunities for the individual be available or offered immediately upon the completion of the approved training.

C. The training shall be of suitable duration to achieve the desired skill level in the shortest possible time.

4. Training approved by the CareerCenter Case Manager is reasonably available to the individual from eligible training providers.

A. The training approved should be reasonably available to the individual from either government agencies or private sources.

B. Suitable training should also be reasonably accessible to the individual within the individual's commuting area, including on-the-job training with an employer. Although the emphasis is on training within the commuting area, it does not preclude training outside the commuting area, if none is available at the time within the individual's commuting area. Whether the training is available within or outside the commuting area, the training must be available at a reasonable cost.

C. Consideration shall always first be given to the lowest cost training that is available within the commuting area if more than one program is available that offers training of substantially similar quality, content and results and can be completed within a similar time frame. If similar training for suitable employment is offered at more than one training facility, the lowest cost training shall be approved.

5. The individual must be qualified to undertake and complete such training. In making this determination, the individual’s personal qualifications shall be assessed, including the individual's own physical and mental capabilities, educational background, work experience and financial resources in relation to the specific training program being considered.

A. The individual shall be evaluated to determine qualification to undertake the specific training program being considered and to complete the training successfully. Preferred evaluation tools include assessment tools such as the O’Net Career Exploration Tools, CASIS, Accuplacer, TABE, and GATB.

B. Evaluation of the individual's financial ability to complete training should include an analysis of the individual's remaining weeks of unemployment benefits and TRA payments in relation to the duration of the training program. If the individual's unemployment benefits and TRA payments are exhausted before the end of the training program, the CareerCenter Case Manager shall ascertain whether personal or family resources or other resources are sufficiently available to enable the individual to complete the training. This includes a consideration of financial aid resources that may be available if TAA assists with tuition and fees. The individual shall be given the opportunity to demonstrate that personal, family or other resources are reasonably available to the individual to allow him/her to complete the training.

(1) The CareerCenter Case Manager shall document in the individual’s record what financial resources were identified to carry the individual through the training program before the training is approved.

(2) If adequate financial resources will not be available to the individual to complete the training program being considered the training shall not be approved, and other shorter term training opportunities shall be discussed with the individual.

6. Training is available at a reasonable cost. If the training is determined to be suitable for the individual, a determination must also be made as to whether it is available at a reasonable cost, as defined in this Chapter, in order for the training to be approved.

**SECTION 8: TRANSPORTATION PAYMENTS**

1. Transportation payments must be computed when determining whether training is available at a reasonable cost. A transportation allowance shall not exceed the lesser of:

A. The actual cost of travel, including tolls, by the least expensive means of transportation (bus, train, etc.) reasonably available between the trainee’s home and the training facility; or

B. The cost per mile, between the trainee’s home and the training facility and back, at the prevailing mileage rate authorized under the federal travel regulations, and the cost of tolls.

2. Any participant who travels 20 miles or more from his/her home to the training facility will receive the transportation payment for those days when he/she participates in scheduled classes.

3. No mileage shall be paid if transportation has been arranged as part of a group, except if the group members alternate driving on a periodic basis with other group members. In that case, the driver who drives for the specific period shall be reimbursed at the rate shown above. If group travel is reasonably available (which means that times, distance and days of travel are acceptable to all parties) to the individual, but he/she declines to accept it, individual travel shall not be approved.

4. If a less expensive means of transportation is reasonably available (bus, train, commuter van, etc.) such means shall be utilized.

5. Transportation payments may be made in advance upon request of the individual if deemed appropriate. An adjustment shall be made if the amount of the advance is less or more than the amount to which the individual is entitled under the Act.

**SECTION 9: SUBSISTENCE PAYMENTS**

Any individual who is participating in TAA approved training outside the commuting area is entitled to receive subsistence payments while in training. The assumption is that the participant is staying overnight, therefore, needing supplemental assistance for lodging and meals. The participant will be paid subsistence payments based on the following criteria:

1. Subsistence payments shall not exceed the lesser of:

A. The individual’s actual expenses for subsistence; or

B. 50 percent of the per diem rate authorized under current federal law for the location of the training facility.

2. Subsistence consists of:

A. **Transportation**. The individual shall be entitled to receive a subsistence payment for one trip to the training facility at the start of the training and one trip back to the individual’s residence at the completion of the training by the least expensive means;

B. **Meals and incidental expenses**. The cost of meals and incidental expenses will be covered for the days the individual is scheduled for training at the rate of 50 percent of the per diem authorized under current federal law for the location of the training facility;

C. **Housing/lodging**. The cost of lodging will be covered if scheduled training requires an overnight stay at the rate of 50 percent of the per diem authorized under current federal law for the location of the training facility. This category of subsistence may be waived if the individual is able to stay with family or friends located in the area of the training facility;

3. Subsistence payments for transportation, meals and incidental expenses may not be waived to make the training plan more affordable.

4. Subsistence begins on the day the participant leaves his/her home for the training and ends the day he/she returns. The individual is paid subsistence for each day he/she has classes. If the participant has classes on Friday and again on the following Monday, he/she is paid subsistence for Saturday and Sunday. If he/she chooses to return home on the weekend, he/she shall not receive a subsistence payment for Saturday and Sunday, nor the travel cost for the additional trip.

5. **Variations of Subsistence payments**

A. If a participant travels over 50 miles one way to the training facility and chooses not to stay overnight and commutes daily in lieu of subsistence, the cost of travel versus subsistence shall be considered and the participant shall be paid the lesser of the two amounts.

B. Payments for subsistence under these circumstances shall not exceed the lesser of:

(1) The individual’s actual expenses for subsistence; or

(2) 50% of the per diem rate for the area of the training facility; or

(3) Payment for travel expenses at the prevailing mileage rate authorized under the federal travel regulations for purposes of subsistence.

6. Subsistence payments may be made in advance upon request of the individual if it is determined that such advance is necessary to enable the individual to accept training. An adjustment shall be made if the amount of the advance is less or more than the amount to which the trainee is entitled under the Act.

**SECTION 10: JOB SEARCH ALLOWANCES**

A job search allowance shall be granted to an adversely affected individual to assist the individual in securing a job within the United States, including Alaska, Hawaii and Puerto Rico.

1. An application shall be submitted to a CareerCenter Case Manager before the job search begins for the job search allowance to be granted. The job search may not be approved until after the individual who has been totally or partially separated is covered under a certification, as defined in this Chapter.

2. A job search allowance application may be approved only if submitted before:

A. The 365th day after the date of the certification under which the individual is covered, or the 365th day after the date of the individual’s last total separation, whichever is the later; or

B. The 182nd day after the concluding date of approved training.

3. If the individual has a valid job interview set up outside the commuting area, a job search may be approved to the suitable employment opportunity provided the following conditions are met:

A. The commuting area for approval of a job search allowance is more than 50 miles from the individual’s home to the location (company/business) where the interview is scheduled using the most direct route;

B. A timely application is filed;

C. There has been a total separation from adversely affected employment at the time job search begins;

D. Registration is made with the CareerCenter Case Manager which shall furnish the individual with reemployment services;

E. There has been a determination by the CareerCenter Case Manager that the individual has no reasonable expectation for securing suitable employment in the commuting area and has a reasonable expectation of obtaining suitable long-term employment in the area where the job search will be conducted;

F. Completion of the job search is done within a period of time not to exceed 30 days after the day on which the job search began;

G. The CareerCenter Case Manager has received written verification from the employer about the type of employment and the specific interview date and time for the individual.

H. If the job search is approved, the individual will generally be allowed up to three days to search the area for other employment. He/she must have at least one scheduled interview prior to the approval of the job search allowance. Job searches beyond the 3-day limit may be approved if it is deemed the most practical and efficient course by the BES CareerCenter Manager.

I. The individual must document all contacts with employers. All contacts must be submitted with a travel log. All items of the travel itinerary must be documented on the log. These items shall include start and stop times, dates for each day of travel, and starting mileage and ending mileage. All motel/hotel, meal charges and any other travel related costs will be considered only if original receipts are presented.

J. The total job search allowance for any individual for the entire certification period shall not exceed $800 (pre-2002 certifications) or $1250 (post-2002 certification & 80,000+ certifications) or $1500 (#70,000- 79,999 certifications), Reimbursement for any one trip may be for up to 90 percent or 100 percent (for workers covered by petitions 70,000-79,999)of the allowable cost (not to exceed the total cost allowance of $800 or $1250 or $1500).

K. The amount of a job search allowance shall be 90 percent or 100 percent (for workers covered by petitions 70,000-79,999) of the total cost of each of the following transportation and subsistence items:

(1) Allowance for the most cost-effective mode of travel reasonably available shall be approved.

(a) Determination of most cost effective mode of travel is made by using the actual cost of round trip travel by the most economic public transportation that the individual can be expected to take from the individual’s home to the job search area; or the cost per mile at the prevailing mileage rate authorized under the federal travel regulations for round trip travel by the most direct route from the individual’s home to the job search area.

(b) Mileage payments shall be based on actual round trip mileage from the individual’s home to job search area plus a maximum of 20 miles of local travel per day (at the prevailing mileage rate authorized under the federal travel regulations).

(2) Lodging and meals shall not exceed the lesser of the actual cost to the individual of lodging and meals during the job search or 50 percent of the prevailing per diem allowance rate authorized by federal law for the area where the job search is conducted.

**SECTION 11: RELOCATION ALLOWANCE**

A relocation allowance shall be granted to an adversely affected worker to assist the individual and the individual’s family with relocation within the United States, including Alaska, Hawaii and Puerto Rico. Relocation shall not be granted to more than one member of a family with respect to the same relocation. A relocation allowance may be granted to an individual only once under a certification.

1. An application shall be submitted to the CareerCenter Case Manager before the relocation begins in order for the relocation allowance to be granted, and the relocation may not be approved until after the individual who has been totally or partially separated is covered under a certification.

2. An application for relocation allowance may not be approved unless submitted before:

A. The 425th day after the date of the certification under which the individual is covered, or the 425th day after the date of the individual’s last total separation, whichever is later; or

B. The 182nd day after the concluding date of approved training,

3. If the individual finds suitable employment outside of the commuting area and no suitable employment is available inside the commuting area, a relocation allowance may be approved to the suitable employment opportunity provided the following conditions are met:

A. The worker must travel more than 50 miles from his current home to the new place of employment, using the most direct route. No relocations shall be paid for moves of less than 50 miles;

B. A timely application is filed;

C. There must be a total separation from adversely affected employment at the time relocation begins;

D. Registration is made with the CareerCenter Case Manager which will furnish the individual with reemployment services;

E. A determination must be made by the CareerCenter Case Manager that the individual has no reasonable expectation of securing suitable employment within the commuting area, and the individual has obtained suitable long-term employment or a bona fide offer of suitable employment that is more than 50 miles from the individual’s home.

F. Relocation must be completed within a reasonable period of time. Factors that the CareerCenter Case Manager will consider in determining whether an individual’s relocation is completed in a reasonable time period are:

(1) whether suitable housing is available in the relocation area;

(2) whether the individual can dispose of his/her current residence;

(3) whether the individual or family member is ill; and

(4) whether the individual or family member is transferred to a school in the same area of relocation.

4. The CareerCenter Case Manager must receive written verification of suitable employment from the employer that the individual is employed or that a bona fide offer of employment has been made to the individual and he/she has accepted that offer.

5. Relocation allowable items include:

A. 90 percent or 100 percent (for workers covered by a TAA petitions 70,000‑79.9999) of the travel expenses for the individual and family from the individual’s home to the area of relocation, determined as follows:

(1) **Transportation**. The most cost effective mode of transportation approved, as determined by using the actual cost of transportation for the individual and family by most economical public transportation that the individual and family can take from the individual’s home to relocation area or the cost per mile at the prevailing mileage rate authorized under the federal travel regulations.

(2) **Lodging and meals**. The cost allowable shall not exceed the lesser of the actual cost to the individual and family member for lodging and meals while in travel status or 50 percent of the prevailing per diem allowance rate authorized under federal law for the locality to which the relocation is made.

(3) **Separate travel allowances for family members who cannot relocate at the same time as the individual receiving relocation** shall be computed at 90 percent or 100 percent (whichever applies) of the total cost of such separate travel and included with the total amount to which the individual is entitled. Reasons that may justify separate travel for family members include the family member’s health, schooling or economic circumstances.

B. 90 percent or 100 percent (for workers covered by a TAA petitions 70,000-79,999) of the expenses of moving household goods and personal effects of the individual and family, not to exceed the maximum number of pounds net weight authorized under federal law.

C. A lump sum payment equal to 3 times the individual’s average weekly wage, not to exceed $800 (pre-2002 certifications) or $1250 (post-2002 certifications, 80,000+) or $1500 (for workers covered by a TAA petitions 70,0000-79,999) . The lump sum payment shall be made when arrangements are completed for relocation, but not more than 10 days prior to the anticipated departure.

D. 90 percent or 100 percent (for workers covered by a TAA petition 70,000-79,999) of the total allowable cost for moving the household goods and personal effects of the individual and family utilizing:

(1) The most economical commercial carrier;

(2) **Trailer**. If the trailer is hauled by private vehicle, the cost per mile at the prevailing mileage rate authorized under the federal travel regulations, or if the trailer is rented, the rental fee for each day required to complete the move;

(3) **Rental truck**. The rental fee for each day required to complete the move and the necessary fuel for the rental truck paid by the individual; or

(4) **House trailer**, if the place of residence was a mobile home in the old area and will be moved to the new area.

(a) The allowable cost of moving such house trailer or mobile home shall include the commercial carrier’s charges to move, unblock and re-block the home, ferry charges, bridge, road and tunnel tolls, taxes, fees fixed by the State or local authorities for permits to transport. The cost of insuring the house trailer or mobile home and the personal effects against loss or damage in transit, and temporary storage for up to 60 days is also allowable costs. Private vehicles used to haul a trailer are not included under this section;

(5) For commercial carrier, rental trailer and truck, the individual shall submit at least two estimates of the rental cost, including the cost of insurance (for actual value or $10,000, whichever is less), from the rental agencies prior to approval of any relocation.

6. Upon completion of relocation, whether payment was advanced or not, the individual shall certify the amount expended on the forms furnished by the CareerCenter Case Manager. The individual shall promptly submit to the CareerCenter Case Manager all receipts of the itemized expenses incurred in the relocation.

**SECTION 12: DETERMINATION/REDETERMINATION PROCESS**

1. An individual’s official eligibility determination to participate in the TAA program is initiated by completing a “Request for Determination of Initial Entitlement to TAA/TRA.” Upon completion of the Request for Determination, the individual shall also be advised of the services available through the TAA program, including supportive services, transportation allowances, subsistence payments, job search allowances and relocation allowances.

2. The completed form is submitted to the TRA Coordinator at the Bureau of Unemployment Compensation, who verifies employment information with the worker’s employer to determine if the individual meets the necessary separation criteria and then determines the program and monetary eligibility.

A. Assistance shall be provided for the completion of all TAA Program related forms. In most instances, group sessions will be held to assist individuals with completing the forms.

B. Once completed, the forms shall be forwarded to the TRA Coordinator. A determination of the Request for Determination of Initial Entitlement to TAA/TRA shall be made within 10 working days from the receipt date or separation date, whichever is later.

C. Once a determination is made, the TRA Coordinator shall mail to the individual a copy of his/her TAA and TRA approval or denial. Appeal rights in cases of denials shall be clearly designated on the determination forms sent to the individual.

3. An individual who has been laid off or who is an adversely affected incumbent worker covered by a TAA petition filed on or after May 18, 2009, seeking to participate in the TAA program must meet specific eligibility criteria as follows:

A There must have been a layoff or threat of total or partial separation from the firm for lack of work initiated by the employer and expected to be a definite or indefinite period of not less than seven (7) consecutive days;

B. The separation must have occurred or be expected to occur on or after the impact date stipulated in the certification;

C. The separation must occur or be expected to occur before the expiration or termination date of the petition, whichever is stipulated in the certification.

D. The individual is identified as a member of the group of workers approved under the certification.

4. The CareerCenter Case Manager shall notify the individual in writing of any decision as to entitlements for the Trade Adjustment Assistance (TAA) program, including, but not limited to, decisions with respect to eligibility for services, subsistence, transportation, re-employment services and allowances. Each decision shall inform the individual of the reason for the decision and of the right of appeal under the applicable Maine law. The individual shall have 15 days from the date of the decision to file a written appeal with the BES CareerCenter Manager. If no appeal is filed, the decision shall become final agency action.

5. If the individual appeals a decision, the BES CareerCenter Manager shall forward the notice of appeal and all other documentation regarding the decision to the TAA Coordinator at BES. The TAA Coordinator shall review the documentation and investigate the findings contained in the decision. The TAA Coordinator shall have the authority to reverse, modify or take other appropriate action regarding the decision. If the TAA Coordinator determines, after investigation, to take no action, he/she shall immediately provide the notice of appeal, along with all appropriate documentation to a BES representative, who shall track the request for appeal and forward all documentation to the Division of Administrative Hearings.

6. The individual and all parties shall be notified in writing of the date and time of hearing, which may be conducted by telephone. A hearing shall be conducted before an Administrative Hearing Officer, who shall render a written decision.

7. If a party is dissatisfied with the decision of the Administrative Hearing Officer, he/she shall have the right to appeal in writing within 15 days to the Unemployment Insurance Commission. If a hearing is held, the parties shall be notified in writing of the date and time of such hearing, which may be conducted by telephone. The parties shall receive written notice of the Commission’s decision.

8. If a party is dissatisfied with the decision of the Commission, he/she may request the Commission to reconsider its decision, but only if such request for reconsideration is filed in writing within 10 days of receipt of the original Commission decision. Unless an interested party appears at the hearing before the Division of Administrative Hearings or at the Commission hearing, if one was held, he or she may not request reconsideration of the Commission decision, unless such nonappearance was for good cause as determined by the Commission.

9. When the period during which an appeal may be filed under this Chapter ends on a Saturday, Sunday or holiday, the appeal period shall end on the next day which is not a Saturday, Sunday or holiday if the appeal is filed by delivery and is received in-hand by the agency. If the appeal if filed by mailing, however, the appeal period will not be extended, and the appeal must be postmarked within the statutory appeal period, unless the appeal period falls on a Sunday or a holiday, in which case the appeal period will be extended until the next day which is not a Sunday or holiday.

10. Any decision of the Commission becomes final 10 days after receipt of written notification and any person aggrieved by the decision may appeal by commencing an action pursuant to the Maine Administrative Procedure Act.

**SECTION 13: ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS (ATAA)** (applies to workers covered by TAA/ATAA petitions filed before May 18, 2009)

1. **Applicability**. This section applies to groups of workers certified by the United States Department of Labor as eligible to apply for ATAA pursuant to a TAA/ATAA petition filed before May 18, 2009 or numbered 80,000 – 80,999.

2. **Application and determination**. An application for ATAA must be filed within two years of the first day of qualifying reemployment. The TAA coordinator will make a written determination regarding eligibility within 5 business days of receipt of the application. A worker has the right to appeal an adverse determination in accordance with the procedure established in Section 12, paragraphs 4-10.

3. **Eligibility**. To be eligible for ATAA an individual must, at the time of reemployment:

A. Be a member of a group of workers certified to apply for ATAA under the Trade Act.

B. Be at least 50 at the time of reemployment.

C. Obtain reemployment by the last day of the 26th week after the worker's qualifying separation from the TAA/ATAA certified employment.

D. Be expected to earn no more than $50,000 annually in gross wages (excluding overtime pay) from the reemployment.

E. Be reemployed not less than 35 hours per week in one or more jobs, which may include self-employment.

F. Cannot return to work at the employment from which the individual was separated. This means the worker cannot return to the same division or facility from which he or she was separated, nor can the worker return to do the same or similar work for the employer that he or she was separated from in another division or facility.

4. **Eligibility period**. An individual who continues to meet the eligibility criteria will continue to be paid ATAA benefits until a total of $10,000 in benefits has been received or until two years have elapsed since the individual's first qualifying employment, whichever occurs first. ATAA benefits are not payable during weeks of unemployment. If the individual has a week or more of unemployment and becomes reemployed during the period of eligibility, he or she may complete a new application for ATAA upon being reemployed to determine whether they continue to meet the eligibility criteria.

5. **Benefit**. The ATAA benefit is equal to 50% of the difference between the annualized wages at separation that the individual earned from the qualifying employment and the annualized wages earned in the new employment that the worker has obtained paid for two years or until $10,000 is paid, whichever occurs first. Annualized wages at separation are computed by multiplying by 52 the individual's hourly rate received during the last full week of work times the number of hours worked during the last full week of work. Annualized wages earned in new employment are calculated using the same method with respect to the first full week of reemployment. These calculations exclude overtime wages and hours. If, during the worker's period of eligibility it is determined as a result of a review that the annualized wages at new employment have changed, the benefit will be adjusted accordingly.

6. **Ineligibility for TRA and TAA**. Individuals who choose to receive ATAA benefits as a result of a certification may not also receive TRA or TAA benefits for that certification.

**SECTION 14: REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE (RTAA)** (applies to workers covered by TAA petitions filed on or after May 18, 2009)

1. **Applicability**. This section applies to groups of workers certified by the United States Department of Labor as eligible to apply for RTAA pursuant to a TAA petition numbered 70,000-79,999 or 81,000+ or 80,000 choosing the 81,000 rules.

2. **Application and determination**. An application for RTAA must be filed within two years of the first day of qualifying reemployment. The TAA coordinator will make a written determination regarding eligibility within 5 business days of receipt of the application. A worker has the right to appeal an adverse determination in accordance with the procedure established in Section 12, paragraphs 4-10.

3. **Eligibility**. To be eligible for RTAA an individual must, at the time of reemployment:

A. Be a member of a group of workers certified to apply TAA under the Trade Act.

B. Be at least 50 at the time of reemployment.

C. Is employed in one or more jobs (which may include self-employment)

1. at least 35 hours per week and is not enrolled in a TAA training program, or

(ii) at least 20 hours per week and is enrolled full-time in an approved TAA training program, provided that a worker with justifiable cause for failing to participate in training for a week, but is working at least 20 hours may receive RTAA for that week. “Justifiable cause” means such reasons as would justify failing to participate for a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to participate in or complete an approved training program.

D. Be expected to earn no more than $55,000(certs 70,000-79,999) or $50,000(certs 81,000+ or 80,000 choosing the 81,000 rules)annually in gross wages (excluding overtime pay) from the reemployment.

E. Is not reemployed at the firm from which the individual was separated.

4. **Eligibility period**

A. An individual who continues to meet the eligibility criteria and who has not received TRA is eligible for RTAA benefits beginning the earlier of the date on which the individual obtains reemployment or the date on which the individual exhausts all rights to unemployment insurance based upon the most recent separation from adversely affected employment that qualifies the individual as an adversely affected worker; the benefit continues for two years or until $12,000 (certs 70,000-79,999) or $10,000 (certs 81,000+ or 80,000 choosing the 81,000 rules) in benefits have been paid, whichever is sooner.

B. An individual who continues to meet the eligibility criteria and who has received TRA is eligible for RTAA benefits beginning on the date on which the individual obtains reemployment and continuing for two years reduced by the total number of weeks for which the worker received TRA or until the individual's benefit maximum has been paid, whichever is sooner. The benefit maximum is determined by multiplying $12,000 (certs 70,000-79,999) or $10,000 (certs 81,000+ or 80,000 choosing the 81,000 rules)by the ratio of the maximum number of weeks in the individual's eligibility period to 104 weeks. [EXAMPLE: If a worker is eligible for a maximum of 78 weeks of RTAA under this paragraph, then the maximum benefit would be $12,000 \* 78/104 = $9,000.]

5. **Benefit**

A. For an individual reemployed at least 35 hours per week, the RTAA benefit paid during the eligibility period is equal to 50% of the difference between the annualized wages at separation that the individual earned from the qualifying employment and the annualized wages earned in the worker's new employment.

B. For an individual reemployed at least 20 hours per week and enrolled in training, the RTAA benefit is calculated pursuant to paragraph A, except substituting for 50%, a percent equal to ½ of the ratio of the number of weekly hours of new employment to the number of weekly hours of employment at the time of separation. In no case, however, may this exceed 50%. [EXAMPLE: If a worker works 20 hours per week in new employment and had worked 40 hours per week at the employment from which he or she was separated, then the percentage to be applied would be ½ \* 20/40 = 25%.]

C. For the purposes of subparagraphs A and B, annualized wages at separation are computed by multiplying by 52 the individual's hourly rate received during the last full week of work times the number of hours worked during the last full week of work. Annualized wages earned in new employment are calculated using the same method with respect to the first full week of reemployment. These calculations exclude overtime wages and hours. If, during the worker's period of eligibility it is determined as a result of a review that the annualized wages at new employment have changed, the benefit will be adjusted accordingly.

6. An individual who received RTAA may not later become eligible for TRA based upon the same certification.

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