**WorkforceGPS**

**Transcript of Webinar**

**Subpart C: Employment and Case Management Services**

**Monday, August 31, 2020**

*Transcript by*

*Noble Transcription Services*

*Menifee, CA*

GRACE MCCALL: And welcome to "Subpart C: Employment and Case Management Services." So without further ado, I'd like to turn things over to one of our speakers for today, Julie Baker, supervisor, OTA (sic), ETA. Take it away, Julie.

JULIE BAKER: Thank you, Grace. Greetings, everyone. As we get started I want to let you know that the speakers' notes for each of these slides are included in today's PowerPoint in the file share window, if you'd like to download that PowerPoint and review or follow along. Also as Grace said, please use the chat window during the presentation to ask your questions. And also, you may want to consider having the Final Rule open so you can follow along during our presentation.

I'm Julie Baker. I'm supervisor over the Office of Trade Adjustment Assistance in the Employment and Training Administration. And my colleague, Frankie Russell, will also be presenting Subpart C, employment and case management services today.

FRANKIE RUSSELL: Hello, everyone.

MS. BAKER: Today's objectives will be major provisions, Trade as a One-Stop partner, required services, integrated services/co-enrollment, assessments, individual employment plans, staff skills, and provision of services to training participants.

Subpart C sets forth the requirements under Section 235 of the Trade Act for states to provide employment and case management services to trade-affected workers.

The 2002 program required states to make every reasonable effort to provide case management services to trade-affected workers through programs other than the TAA program. The 2009 program enacted and funded a requirement to offer case management services to trade-affected workers.

And the 2015 program, through this Final Rule, continues these provisions and requires states to provide employment and case management services, either through TAA program funding, through programs other than the TAA program, or through a combination of both.

Subpart C emphasizes the integration of the TAA program into the One-Stop delivery program under WIOA.

And our major provisions, essentially an entire new subpart of the rule that makes significant changes to what we had previously had under 20 CFR 617.20 and 20 CFR 617.21. It'll clarify the provision of required case management services. It codifies the role of the TAA program as a One-Stop partner; requires WIOA dislocated worker co-enrollment for adversely-affected workers; strongly encourages other partner program enrollment, as appropriate; requires an initial assessment of trade-affected workers; and provides requirements for individual employment plans that we will refer to as IEPs.

More major provisions are that it defines: initial assessment; comprehensive and specialized assessments; individual employment plan; and expectations of knowledge, skills, and abilities of staff providing services. It also codifies employment and case management services for participants participating in training.

Section 618.300 discusses the scope of this Subpart C. This section describes the TAA program benefits that states must make available and their required integration with the re-employment and career services provided through the One-Stop delivery system established under WIOA.

States must provide trade-affected workers with seamless delivery of services and benefits described in Subpart C to help them return to employment as quickly as possible. Providing timely employment and case management services is important for improving the efficiency and effectiveness of the TAA program. Immediately conducting an assessment improves participation rates, gives trade-affected workers more time to consider their options, and leads to better employment, retention, and post-program earnings outcomes.

The Trade Act requires states to provide services to two groups of workers. One, members of a group of workers covered by a petition for TAA; and remember from the Subpart A training that a group of workers refers to a petition filed by, or on behalf of, such group of workers. And two, members of a worker group covered by a petition that the department has certified. And again, from Subpart A, a worker group are the workers who are the subject of a certified petition. So the Trade Act requires states to provide services to both of these groups.

The governor must provide Rapid Response services and appropriate WIOA career services to groups of workers for whom a petition has been filed under. States must provide those services at the time of filing, whether or not the petition has been, or eventually will be, certified or denied.

And once covered by a certification, states must offer trade-affected workers employment and case management services, including counseling, testing and placement services, and information on supportive and other services.

This requirement is based on language in Sections 235 and 239(a), (e), and (g) of the Trade Act; and the Congressional Declaration of Policy in Section 125(a) of the 2002 program, which states that trade-affected workers "are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor."

Section 239(f) of the act requires that these services be coordinated with workforce activities and services under Title I of WIOA and provides the department with the authority to establish the responsibilities and requirements for such coordination. Those requirements are not new.

MS. RUSSELL: OK. Hi, everyone. Let's talk about –

MS. BAKER: Apologies. I'm trying to advance the slide, but it's not appearing on my screen. But over to you, Frankie, for Trade at the One-Stop.

MS. RUSSELL: OK. Trade at the One-Stop, 20 CFR 618.305.

OK. So Trade at the One-Stop. TAA is a required partner under WIOA. TAA must support One-Stop infrastructure costs and TAA must be a signatory on the memorandum of understanding established by 20 CFR 678.500 under WIOA.

So Section 618.305 requires states to ensure that their TAA programs, as a required partner in the One-Stop delivery system, complies with One-Stop partnership requirements such as sharing staff, materials, and financial resources. Coordination with the broader public workforce system is already required.

This section expands upon the existing rules and updates them to reflect the requirements established under WIOA. The partnership activities help ensure the seamless delivery of necessary services, including a comprehensive array of appropriate services not funded under the TAA program, to groups of workers covered by filed petitions and to members of worker groups for whom a certification has been issued.

Julie just reminded you of the definitions of Subpart A for a definition for – (inaudible) – workers and worker group.

The cost of services provided under the certification of a petition for TAA cannot be charged to the TAA program. Services provided by partner programs must not be duplicated using TAA program funds. However, there may be a need to supplement the previous services provided, if they do not meet the requirements of the TAA program.

Section 618.305 paragraph (a) reiterates that the TAA program is a required partner under WIOA. Paragraph (b) requires that the TAA program meet the WIOA One-Stop partner requirements, including paying infrastructure costs in areas where the TAA program is being carried out.

Paragraph (c) provides that, for locations where the TAA program is being carried out, states must ensure that their administration of the TAA program complies with the One-Stop partnership requirements, including appropriate cost allocation for infrastructure and operating costs of the One-Stop centers, and the terms and conditions of the MOU established under the WIOA Final Rule at 20 CFR 678.5.

MS. BAKER: OK.

MS. RUSSELL: Apologies. Let me just back up. OK. So for slide 9 – that's where we are. Apologies, guys.

If the TAA program is carried out in a local workforce development area, or local area, the state must provide access to the TAA program – (pause).

Julie, I'm sorry. It's your – those are your slides. Are those your slides?

MS. BAKER: OK. Yes. I'm over on delivery of services. Apologies for all of this.

MS. RUSSELL: Apologies.

MS. BAKER: I think we're just getting a little bit ahead of ourselves. So delivery of services, Section 618.310, responsibilities for the delivery of employment and case management services.

Section 618.310 explains the state's responsibilities for delivering and making available employment and case management services. Paragraph (a) of this section explains that the state is responsible for providing information to workers about the TAA program, as required in Subpart H at Section 618.816.

Paragraph (b) lists the state's specific responsibilities for delivering employment and case management services. Paragraph (b) does not significantly change the activities and services that states must provide or make available to trade-affected workers.

States must: one, conduct intake, interview and review training opportunities for each trade-affected worker; two, inform trade-affected workers of the services and allowances available; states must three, help them secure suitable employment; four, accept applications for training; five, help them secure appropriate training; six, monitor their training progress; seven, devise a training waiver process; eight, provide access to workshops and other employment resources; and nine, coordinate other employment benefits that workers may be eligible for.

So we have a question here on the screen. How do states meet the mandate of performing intake for "every" trade-affected worker, since many trade-affected workers will choose not to participate in the TAA program?

The answer here is the department emphasizes that intake requires an application of enrollment. Therefore, the intake requirement is applicable only to those trade-affected workers who apply to the TAA program for receipt of TAA program benefits and services.

And before moving on, we did get a question in from the chat. The question is, "Who signs the MOU for TAA?" And the answer to that will be it's very specific state-by-state. It really – the MOUs generally are signed by the local board with the state, and it really just depends who is a member who is representing TAA on the local boards, the state boards, et cetera.

So this is a question that if you are a state Trade coordinator, you probably want to speak to your state administrator about. If you're in a local – if you're representing a local One-Stop, you probably want to ask your state Trade coordinator about it because it could be specific for each state.

OK. Over to you, Frankie, required services. Let me advance your slide.

MS. RUSSELL: OK. Required services. (Pause.)

OK. Section 618.310 paragraph (c) requires states to provide, if appropriate, specific employment and case management services to trade-affected workers. Paragraph (c)(1) requires states to assess workers' skills and service needs through assessments and by identifying appropriate employment goals and barriers to employment.

These goals should be based on a realistic assessment of available training; the worker's knowledge, skills, and abilities; and the gap between them and those required for worker's identified employment goal.

Paragraph (c)(2) requires states to inform trade-affected workers of availability of an IEP to identify employment goals and objectives, and appropriate training and services needed to achieve those goals and objectives.

An IEP is a combination of the training program – also called training plan – contained in 20 CFR 617.2(b)(8) – and the re-employment plan in 20 CFR 617.20(b)(13). The requirement to periodically review the re-employment plan in 20 CFR 617.20(b)(13) is carried forward as a requirement for an IEP.

For workers seeking training or job search allowances, Section 618.350(a) requires states to provide workers with an IEP, though this is not a requirement for eligibility for benefits.

So back to the slide, Section 618.310 paragraph (c)(3) requires the state to provide information to trade-affected workers on how to apply for financial aid, including referring workers to educational opportunity centers under the Higher Education Act of 1965, as amended.

In addition, states must notify workers that they may request financial aid administrators to use the current data – current year income data, rather than preceding year income data, to determine the worker's financial need. This is required by Section 235(4) of the act.

Paragraph (c)(4) requires states to provide, if appropriate, certain services to trade-affected workers, including short-term, prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare workers for employment or training. These are commonly referred to – referred to commonly as soft skills within the public workforce system. These services are required by Section 235(a) of the act.

Paragraph (c)(5) requires states to provide, if appropriate, individual and group counseling, including job search and placement counseling. These services can be provided in one-on-one counseling sessions or in workshops at a One-Stop center. The provision to provide these services is not new.

Paragraph (c)(6) requires states to provide various types of employment statistics, including local, regional, and national labor market information, to ensure trade-affected workers make informed decisions about their employment goals and training needs. Section 235(7) of the act requires states to provide this information.

Lastly, paragraph (7) – I'm sorry, lastly, paragraph (c)(7) requires states to inform trade-affected workers about the supportive services available through partner programs. The TAA program reimburses limited travel and subsistence costs for training outside of the worker's commuting area and provides for all training-related expenses – see Subpart F.

However, the TAA program does not pay for vehicle repairs, local travel costs, childcare, or other supportive services traditionally paid for under WIOA.

So to make –

MS. BAKER: OK.

MS. RUSSELL: OK. Go ahead.

MS. BAKER: I think that you are not seeing the questions. So I'm going to go back and we're going to ask and answer one question. Frankie, do you have this? Can states meet the requirements?

MS. RUSSELL: I'll go – unfortunately, I don't.

MS. BAKER: I'll go ahead and read it. I'll go ahead and read it answer it.

MS. RUSSELL: Yeah, I don't have it.

MS. BAKER: OK. So the question here is, can states can meet the requirements at both 20 CFR 618.310(c)(1) and (2) by combining the initial assessment with an IEP to identify barriers to employment?

The answer to this is, the department is not establishing a sequence of services. Intake, assessment, and the development of an individual employment plan – or IEP – can all occur in the same session with a career counselor.

OK. Moving on, we have another question. OK.

(Cross talk.)

MS. RUSSELL: OK. I see this one.

MS. BAKER: OK. Great. Go ahead and take it away.

MS. RUSSELL: OK. Sure. Why isn't RTAA on the list of services about which states must notify workers at 20 CFR 618.310(c), despite its low usage among TAA program recipients?

States are required to notify workers about RTAA under Section 618.816 of the Final Rule. The department does, however, strongly encourage that information – that information about benefits of RTAA be relayed to potentially eligible workers, including information on flexibility of receiving training and RTAA concurrently.

OK. The next slide. (Pause.) To make available. States must inform the worker of the full suite of services available. State must offer and provide appropriate services. Document each service provided and reason why any service was not provided. (Pause.)

I don't have the notes for this, Julia. I don't know what happened. Can you see it?

MS. BAKER: OK. Great. And we seem to having some technical difficulties on my end as well. So let me just go ahead and read this through, if somebody can make sure to advance the slides.

So to make available. Section 618.310 paragraph (d) further defines what it means to "make available" the employment and case management services described in this subpart. TEGL number 16-16, "One-Stop Operations Guidance for the American Job Center Network," discussed the requirement that career services under WIOA be made available.

The department concluded that this phrase had the same meaning as "provided." The department reaches the same conclusion under the act. While not all employment and case management services will be appropriate for all trade-affected workers, they must be made available to them.

This requires informing trade-affected workers of the available services; providing those services if requested, or if the services are deemed appropriate for the worker; and documenting the services that they offered, any that were not offered, and why those services were not offered.

Moving on to integrated services and co-enrollment. Section 618.325, integrated service strategies and Workforce Innovation and Opportunity Act co-enrollment, does not have a comparable section in 20 CFR Part 617.

Section 618.325 discusses co-enrollment between the TAA program and WIOA and other programs, to ensure the availability of a comprehensive array of services for trade-affected workers and the integration of workforce development programs.

The department long ago concluded that co-enrollment of trade-affected workers in the dislocated worker program under WIOA, WIA, and Title III of JTPA before that, is the best way to integrate services and ensure successful re-employment of trade-affected workers. And states have been co-enrolling in accordance with administrative guidance.

The State also should explore partnerships with community-based organizations, including organizations not directly affiliated with the broader WIOA system, to ensure the provision of appropriate, holistic services to trade-affected workers, their families, and their trade-affected communities.

This integration of service strategies arises from the requirement in Section 239 of the act to make available employment and case management services, such as counseling, testing, placement services, and supportive and other services for trade-affected workers.

OK. So back to the correct slide, actually. So WIOA co-enrollment, 20 CFR 618.325.

This section, co-enrollment of TAA program participants in the WIOA dislocated worker program, drastically improves the quality of service to trade-affected workers and improves participant outcome.

Based on data reported by the states between fiscal years 2009 and 2017, TAA participants who are co-enrolled in the dislocated worker program under WIA or WIOA have superior post-program employment results by a consistent margin, in comparison to TAA participants who were not co-enrolled.

Moreover, these data show no adverse impact on outcomes under the dislocated worker program as a result of co-enrolling TAA program participants.

Additionally, TAA Program participants co-enrolled in the dislocated worker program have: higher training participation, 75 percent versus 51 percent for those not co-enrolled; higher training completion rates, 78 percent versus 71 percent for those not co-enrolled; and higher credential attainment, 73 percent versus 62 percent for those not co-enrolled. All of these outcomes are correlated with higher performance outcomes and are statistically significant.

Section 618.325 paragraph (a)(1) requires co-enrollment of trade-affected workers in WIOA's dislocated worker program. Co-enrollment allows for more efficient use of public workforce system resources and reduces barriers to program integration. A trade-affected worker may decline co-enrollment, which has no effect on eligibility for benefits and services under the TAA Program.

In implementing the co-enrollment requirement, states must make trade-affected workers aware that they are being co-enrolled in the WIOA program.

Paragraph (a)(2) requires that states make available to eligible trade-affected workers co-enrollment in: Wagner-Peyser Act employment service activities, vocational rehabilitation services, and veterans' programs, such as the Jobs for Veterans state grants program, and other One-Stop partner programs, if appropriate.

When trade-affected workers are co-enrolled properly in other one-stop programs, provided timely Rapid Response services, and given appropriate career services, they return to work as quickly as possible.

Co-enrolled trade-affected workers also can receive supportive services that may help them complete TAA approved training and then return to employment. The department expects the TAA program, in general, to pay for all training and related costs and the majority of the employment and case management services. However, trade-affected workers often also benefit from WIOA's supportive services and post-employment follow-up services, which cannot be funded through the TAA program.

Paragraph (b)(1) emphasizes that most trade-affected workers are dislocated workers as defined at WIOA Section 3(15). Most trade-affected workers have been laid off, are likely to be eligible for unemployment compensation or are otherwise attached to the workforce, and are unlikely to return to a previous industry or occupation, which are the primary eligibility criteria for the dislocated worker program. There are only a few barriers to WIOA eligibility.

Paragraph (b)(2) recognizes that adversely-affected incumbent workers – or AAIWs – will generally not be eligible for the WIOA dislocated worker 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 dislocated worker program.

Paragraph (b)(3) describes that the broader requirement under WIOA that certain males be registered under the Selective Service provisions can be a barrier to co-enrollment. There is no Selective Service registration requirement under the TAA program. If an individual knowingly and willfully fails to register for Selective Service, he cannot co-enroll in WIOA; and therefore, the co-enrollment requirement does not apply.

OK. We have a question here and then I believe we may have some questions in chat. Will the Department mandate such co-enrollment in the WIOA regulations to ensure equivalent expectations across the two programs?

So the answer to this is the states, under the Governor-Secretary Agreement, are bound to the implementation of the TAA Final Rule. The agreement binds the entire executive branch of the state governments to the terms and conditions of the agreement and the implementation of the TAA program. This includes the implementation of the co-enrollment requirement.

The governor, through the state workforce development board, has the authority and responsibility to enforce the co-enrollment requirement at the state and local area levels. In addition, WIOA itself requires a state to enroll an eligible individual who applies for the dislocated worker program, though the receipt of services will be contingent on funding availability.

The department will provide additional technical assistance in the form of issuing guidance. We plan to issue a TEGL. And we will provide additional training on co-enrollment to the workforce system. So this is not the only opportunity in training that we will talk about co-enrollment.

And again, I just have to say, co-enrollment of TAA program participants in the WIOA dislocated worker program drastically improves the quality of service to trade-affected workers and improves participant outcomes.

And I'm going to move on to another question here before getting to the chat. Will states include co-enrollment in WIOA's adult and youth programs also?

So the department is limiting the regulatory requirement to the WIOA dislocated worker program because those eligibility requirements most closely align with the TAA program. However, nothing prohibits a state or a local area from also co-enrolling the worker in the adult or youth program if he or she is otherwise eligible.

OK. WIOA staff do not currently meet merit staff criteria under the TAA program, and TAA Program funds cannot support the delivery of TAA program services by such staff; how does this work?

So the department's revision to the merit staffing requirements in Subpart H Section 618.890 addresses these concerns by allowing non-merit staff to be funded under the TAA program for the provision of employment and case management services.

And I have another question here before getting back to the participant chat. What documentation is required to demonstrate proof that a Rapid Response event occurred?

In many states, the provision of Rapid Response is recorded during the intake process, through a cross-match within the state's management information system, or through another record-keeping database. In other states, receipt of Rapid Response is self-reported during intake. This rule does not provide a specific documentation requirement.

OK. Before moving on to the next section I'm going to go through a few questions in the chat. We do have a question under, "Do IEPs have to be signed?" I do not have the reference right in front of me. I will refer you to the IEP section. What I'm going to do is I'll take a look and get – try to get back to you via the chat.

OK. Here's another question. "Documenting services and reason not provided makes it seem as if there is a fixed list of services to be provided to all TAA participants. Is there a fixed list?" No, there is no fixed list. What there are the required case management services, which is a fixed list that are all of the required case management services that must be made available under the TAA program. That's a statutory requirement.

And those eight required case management services are what must be documented. And if there is a reason that those services were not provided, that reason has to be given as well.

So there isn't a fixed list in terms of the whole range of case management services that there are to provide to a Trade participant. So in that respect, there's a lot of flexibility and variety of what can be given, and that's not a fixed list. But there is a fixed eight required case management services that must be documented and now we are saying you have to also document the reason why they weren't provided.

OK, "How will a customer's decline of co-enrollment be documented?" That is a great question that you have to answer in the state. So how you choose to document that a worker has declined co-enrollment should be something that is discussed within your state, possibly a policy or at the very least a procedure made, and you have a consistent way you're going to do that.

You can document it in a worker's case file. You can document in your MIS or case management system. There is – we have not told you exactly how to do that, so that is why you probably want to come up with a process or a policy so that everyone in your state does it the same way.

OK. There is a question here, "Will you please provide the reference for the WIOA DW requirement?" So what I'm going to do is ask the person who asked that question to go ahead and download the TAA Final Rule in the file share.

Now, what I will mention to all of you is that is 129 page long, so know that before you hit print. But all of the references for the WIOA DW requirement for co-enrollment are in Subpart C. You also may want to take a look at the preamble for Subpart C if you want a little bit more background. You're also welcome to download today's PowerPoint, which also has some questions there.

So I'm going to stop here. I know we still have some questions that came in through the chat, but I'm going to move it over to Frankie to start talking about assessments. Thank you and over to you, Frankie.

MS. RUSSELL: OK. Assessments, 20 CFR 618.330. Assessments of trade-affected workers requires states to design an assessment process.

Section 239(g)(4) of the act permits the department to require initial assessments for all trade-affected workers and requires states to perform outreach to, intake of, and orientation for workers covered by a certification under the act.

States must provide all trade-affected workers an initial assessment after determining that they are individually eligible for the TAA program as a part of the intake process. This meets the necessary component of the requirement at Section 239(g)(4) of the act that each state perform intake of trade-affected workers covered by a petition.

Intake includes these assessments but also the collection of demographic information for reporting purposes. The initial assessment must include an evaluation of a trade-affected worker's skill levels, including literacy, numeracy, and English language proficiency; abilities, including skills gaps; and supportive needs.

OK. So Section – OK. Section 618.330 paragraph (a) provides an overview of assessments. Initial assessments must be scheduled timely to ensure compliance with enrollment deadlines; administered by the cooperation of the worker – I'm sorry, administered with the cooperation of the worker; results must be documented; partner program assessment may be used if compliant with 20 CFR 618.335 or 20 CFR 618.345; may be supplemented; components already completed do not need to be replicated; and a worker may refuse an assessment. This may be a result of a denial – this may result in a denial of certain benefits.

Section 618.330 paragraph (a) provides an overview of assessments. Paragraph (b) provides that states must ensure the scheduling of the assessment gives trade-affected workers enough time and information to consider, request, and enroll in training or obtain a waiver of the training requirement for TRA before expiration of the 26-week deadlines for enrollment in training provided under Section 231(a)(5)(A) of the act.

Paragraph (c) provides that assessments are created in cooperation with the trade-affected worker with their interests, skills, aptitudes, and abilities discussed.

Paragraph (d) requires that the results be documented in the worker's case file. An assessment requires more than a review of information available about the trade-affected worker, their education, and their previous employment. An assessment is an interactive process that includes the involvement of the trade-affected worker.

Paragraph (e) discusses what to do if a partner program conducts the assessment. The use of partner programs' assessments can increase efficiency, ensure that workers quickly receive appropriate re-employment services, and quickly identify those workers requiring a more comprehensive and specialized assessment of their skills.

The department recognizes that the lack of uniform requirements for assessments means that some assessments conducted by partner programs may not meet all TAA program requirements for an initial assessment. If so, the state must supplement those partner program assessments with additional information to comply with Section 618.335.

Paragraph (f) requires that states must explain the advantages of receiving an assessment to trade-affected workers, and also confirms that a worker may refuse an assessment. However, the worker must provide any information necessary, outside the assessment process, that enables states to determine eligibility for a benefit under this Part 618.

Question. Since an initial assessment will already have been completed as a part of the intake process prior to the establishment of an IEP, and as long as the worker's interests, skills, and capabilities are sufficiently documented, does this suffice, thus avoiding the need for additional forms and paperwork that would burden case managers unduly?

The – (pause) –

MS. BAKER: Frankie, do you need me to read the answer?

MS. RUSSELL: Yeah. Is this – I think I have it here. Oh, assessments of trade-affected workers require states to design an assessment process.

MS. BAKER: No, I'm sorry. That's not the answer to the question.

MS. RUSSELL: That's not the answer. Yeah, that's not the answer.

MS. BAKER: OK.

MS. RUSSELL: This slide – (inaudible) – not showing – I don't know.

MS. BAKER: OK. Yeah, we are – sorry, we are all having a little bit of technical difficulty behind the scenes. I'm not sure quite what's going on, but I do apologize to the audience.

So Frankie did read the question that you can see on the screen. The answer to that is, the development and enhancement of an integrated service model within the One-Stop delivery system reduces duplication of effort.

As stated earlier, it is possible for intake, initial assessment, and the establishment of an IEP to be developed at the same time, and may come from various partner programs. These efforts must be documented in a worker's case file, but the department has not prescribed standard forms or formats of those documentation requirements.

OK. Back over to you, Frankie.

MS. RUSSELL: OK. Initial assessments, section 20 CFR Section 618.335. Results of assessment used to determine best service strategy to assist the worker in obtaining re-employment includes: exploring labor market; knowledge, skills, and abilities; transferrable skills; evaluation of skill levels; barriers to employment.

Section 618.335, initial assessments, implements Section 239(g)(4) of the act. Section 618.335 aligns the TAA program with WIOA and provides the requirements for an initial assessment of trade-affected workers.

This first step in the process is to determine whether the worker will need employment and case management services and training. The state must provide TAA benefit information to trade-affected workers no later than at the time of the initial assessment, as discussed in Section 618.816(f). However, the state may provide this information to a worker even earlier, upon receiving a notice of a certified petition covering that worker.

OK. If suitable employment exists, provide worker employment and case management services to obtain re-employment. If worker disagrees, perform comprehensive and specialized assessment. If no suitable employment exists, perform comprehensive and specialized assessment and advise the worker to apply for training.

Section 618.335 paragraph (a) requires that states conduct an initial assessment for each trade-affected worker. If an initial assessment has been completed before the trade-affected worker enrolls in the TAA program, the state must use the previous assessment and not conduct a duplicate assessment.

Paragraph (b) lists factors that states must consider to find the best approach to re-employment for each participant worker – I'm sorry, for each particular worker. A review of local labor market conditions will help the state determine if any jobs are available in the local area for which the worker could apply.

A review of the worker's knowledge, skills, and abilities gained from their education and previous employment helps the state determine whether the worker will be able to use those skills in new available jobs, or whether the worker's skills are too specialized to be transferred to another available – to other available employment.

A review of all barriers to the worker's employment will help the state identify training that may overcome those barriers, such as English-language training or remedial training or get a high school equivalency degree. Any feedback from the trade-affected worker, including disagreement with the assessment's conclusions, must be documented in the case file.

Paragraph (c) explains the state's options for service strategies based on the information gathered from the initial assessment. This involves first making a determination of whether or not there is suitable employment available to the trade-affected worker and the options for moving forward.

The language in Section 618.335(c)(1) states that after conducting the initial assessment, a state may already have sufficient information to determine whether suitable employment exists. If it does, training cannot be approved and the state should ensure that the individual – that the additional employment and case management services are provided to assist the worker to obtain suitable employment.

Paragraph (c)(2) would apply where the determination is made that there is no suitable employment available for the worker – to the worker. An initial assessment is required as part of the intake of trade-affected workers applying to enroll in TAA benefits and services. If a partner program has already conducted an assessment, it should not be duplicated. If a worker does not seek enrollment in the TAA program, then neither the intake nor the initial assessment is required.

With respect to staffing flexibility, these rules use the term "state" because it is the state, bound by the Governor-Secretary Agreement, that is ultimately responsible for the provision of services and benefits under the TAA program. That does not mean, however, that the services cannot be provided by other non-state entities.

Paragraph (d) explains that if suitable employment is not available, the state must advise the worker to explore available training under Subpart F.

The question. Won't requiring initial assessment for all trade-affected workers increase overall costs?

The explicit requirement for assessment is not a change from current operations. The statute requires the provision of employment and case management services to all trade-affected workers, and these requirements include intake and orientation activities.

The next slide is the question, would the initial assessment require – sorry, would the initial assessment requirement apply only to trade-affected workers interested in training or to all trade-affected workers?

The department clarifies that an initial assessment is required for all trade-affected workers, not just those interested in training. Initial assessments are also valuable to those workers who only will receive employment and case management services.

Next question is, can RTAA customers be exempted from a skill level assessment, since they are already employed full-time and may have to miss work to participate in literacy and numeracy assessments?

The department considered exempting RTAA from the initial assessment requirement; however, since RTAA also allows workers to participate in TAA approved training while re-employed and because assessments are generally conducted at intake, before RTAA eligibility has been established, this was not adopted.

In accordance with Section 618.330(f), a worker may refuse an assessment. The purpose of assessments is not to create barriers to training, but to ensure that training programs are appropriate for the worker and otherwise meet the criteria for approval of training.

The criteria for the approval of training in Section 618.610 are largely unchanged from the previous rules. The original proposal described the requirement for assessments to be conducted and for determinations on enrollment in training to be based on those assessments. This is not a barrier to enrollment in training, but an assurance that the selected training is appropriate for the worker and likely to lead to employment.

The department is not establishing a sequence of services or specific timelines. The initial assessment, comprehensive and specialized assessment, and IEP could be accomplished in the same case management session. In fact, some of these elements may have already been performed by partner programs. As these services are already being provided by states, these explicit requirements provide clarity to the states, not additional processes. So they provide clarity to the states, not additional processes.

Appropriately administered, these services will potentially shorten the duration of unemployment and result in better outcomes for trade-affected workers.

OK. Over to you, Julie. Oh, I'm sorry. Next slide.

Comprehensive and specialized assessments, Section 618.345.

Yep. I'm having technical issues here. Just one second.

OK. Section 618.345 implements section 235 of the act. WIOA Section 134(c)(2)(A)(xii) and its implementing regulation at 20 CFR 678.430(b)(1) require states to provide comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include diagnostic testing and use of other assessment tools; in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals, as an individualized career service, if determined to be appropriate in order for an individual to obtain or retain employment. Section 618.345 aligns the TAA program with WIOA.

Comprehensive and specialized assessments, 20 CFR 618.345, must explore goals and interests, expand upon the initial assessment, utilize diagnostic tests – diagnostic tools – testing tools, may include in-depth interviewing and evaluation, and may inform whether the six criteria for approval of training have been met.

Section 618.345 paragraph (a) requires the comprehensive and specialized assessment to be made available to all trade-affected workers. Paragraph (b) explains that the trade-affected workers' goals and interests must be taken into account, as well as their location as it relates to available local employment and whether or not it is inside their current commuting area.

Paragraph (c) reiterates WIOA's regulations and is meant to ensure that states have information needed to help workers select appropriate training and a viable future career, thus increasing their chances of successfully completing training and finding sustainable employment.

Finally, paragraph (d) provides that states can design their comprehensive and specialized assessments to gather the information necessary for determining whether the six criteria for training approval has been met under Subpart F.

The department reiterates that states are required to ensure that every trade-affected worker has an initial assessment, and that a comprehensive and specialized assessment has been made available to him or her.

As discussed in Subpart F, a state may have sufficient information available to approve training under Subpart F without a comprehensive and specialized assessment or developing a full – development of a full IEP.

The department considered requiring a comprehensive and specialized assessment, as well as requiring an IEP, prior to the state providing training under Subpart F. However, alignment with WIOA, however, took precedence and it is a primary goal of these regulations.

OK. Julie?

MS. BAKER: Great. Individual employment plans. I do know we had quite a few questions come in via the participant chat on assessments. I think that we are looking to answer a lot of those in chat.

One thing I did want to address, though, is we've had numerous people ask, are RTAA individuals required to be dual-enrolled in WIOA? And is a skill level assessment required for RTAA participants or not?

So yes, all TAA participants are required to be dual enrolled in WIOA. That's what we're saying. That includes RTAA participants.

But when we're talking about skill level assessments, are they required for RTAA participants or not? Yes. But again, we have made the point of saying that participants may refuse both co-enrollment, they may refuse taking the assessment. We are saying this is the best thing for the participant is co-enrollment; that's why we're requiring it. It's the best thing for the participant to have an assessment; that's why we're saying, give everybody an assessment.

That said, RTAA is its own thing. It's employment. It's re-employment. So the best thing for the majority of our participants might not be the best thing for the one or two or three RTAA participants you have that are already working, and they may find it difficult to take time off from work to go get an assessment. They might find it really cumbersome to do that. They're already where they need to be.

What this rule does is it gives the case managers a tool to say, are you declining taking the assessment? Or are you declining co-enrollment? And if the participant declines, you can mark that in their case file and say that the participant declined. And not force them to have to go through those hoops.

On the other hand, if you have a participant who is in RTAA and maybe they have declined these services, but if they're struggling – maybe they lose that job or maybe they have a hard time finding another job that takes that place. If you see them bouncing around a lot between jobs, you may want to go back and revisit that whole assessment with them, because maybe they do need some help getting sustainable re-employment.

So that is why we are making it a requirement. But at the same time, the individual can say we don't want to do that.

OK. So I think I've answered those questions. There's one more I wanted to just pop in on before I get to IEPs. The question is, "The slide 33/34 says 'utilizing diagnostic testing.' The language says 'may.' Please clarify. Is some form of a testing tool, like TABE, required as part of the comprehensive assessment?

And I just want to take a minute to address the word "required." One thing that the TAA program and the department acknowledges is that there's a lot of variety amongst all of the states. So we none of these things are really new. This is not a new process. What we are doing is making it a new checkbox you have to complete that this was done.

So we want you to stick with whatever policies that your – (inaudible) – or your local area already is doing to provide assessments to participants. What we're also having you do is taking a look at is there a difference or a distinction between what the WIOA program assessment that they're doing for their participants, and the TAA program assessments that you're doing for the Trade participants, and doing away with that silo. We want to make sure that there's no duplication.

So however – we want you to be able to serve all the participants really in the same way. So if you are giving initial assessments – if you're giving a diagnostic test like a TABE under an initial assessment to your WIOA folk, and you have a Trade participant who comes in and has not been to WIOA, has not had an assessment, then get them whatever is required under WIOA. We want to streamline that so we don't see a division.

Then of course, if you have a participant who may need some additional assessments – and we look into the comprehensive and specialized assessment process – you may need to have some kind of unique assessment, maybe because someone is going into a unique occupation and there might be a more comprehensive assessment required to see if they're suited for maybe a high-tech manufacturing position. And maybe there's an assessment available for that that you want to give them.

But I hope that answers your questions. Keep them coming. We want you to keep entering those questions into chat. If we run out of time today, we will be talking at the end of this presentation about regulations.taa@dol.gov, which is an email that you can send questions to.

So let me just go back to IEPs. This is Section 20 CFR 618.350. The individual employment plans for trade-affected workers revises and combines two separate sections of 20 CFR Part 617: a training plan at 20 CFR 617.20(b)(8) and a re-employment plan at 20 CFR 617.20(b)(13). It implements a new process for making available IEPs for trade-affected workers.

So Section 618.350 paragraph (a) requires the state to make available an IEP to all trade-affected workers and requires the establishment of an IEP for workers who apply for training under Subpart F or a job search allowance under Subpart D.

So let me make that clear again. The state must make available an IEP to all trade-affected workers. But it is required for those who apply for training and for those who get a job search allowance.

Paragraph (b) of this section requires that the IEP must document both the results of the assessment and a service strategy to provide the trade-affected worker with the needed services for re-employment.

Paragraph (c) provides the required elements of an IEP. The IEP must be developed jointly between the state and the trade-affected worker. These elements are required because they cover most aspects of the training and re-employment process. The trade-affected worker has an active role and responsibilities in the IEP process.

20 CFR 618.350 paragraph (d) explains that the IEP can be developed by a partner program, but it must be supplemented to include the elements required in paragraph (c), if the IEP does not already include them. This reduces duplication of services, while still meeting program-specific needs.

Paragraph (e) requires the state to monitor the worker's progress toward meeting the IEP's elements.

Paragraph (f) requires the state to modify the IEP as necessary, and with the worker's input. The state also must modify the IEP when there is a change to the trade-affected worker's approved training program or revisions to receipt of subsistence and transportation payments. And we'll talk about that a little more in Subpart F.

Paragraph (g) requires the state to make the trade-affected worker aware of the advantages of receiving an IEP. It also explains that a trade-affected worker seeking a job-search allowance under Subpart D or training under Subpart F may refuse to participate in the IEP process.

However, the trade-affected worker who refuses must provide sufficient information, either through a partial IEP or outside of the IEP process, for the state to be able to make a determination on the six criteria for approval of training or the job search allowance application criteria. Failure to do so will result in a denial of the training program or job search allowance.

A trade-affected worker so denied can appeal the training denial, in accordance with provisions in Subparts D, F, and H.

So I have a couple of questions. All right. I have lost the screen, so I am just going to read the question that I have on the slide and hopefully somebody can advance the slides when I ask.

So the question is, why is an IEP required for the job search allowance, but not for the relocation allowance?

The answer to this is, this distinction is based on language in the act. For a relocation allowance to be payable, a worker must have already secured new employment. And when applying for a job search allowance, the worker is still seeking employment, which gives rise to the requirement for an IEP.

OK. I'm going to just keep going. I know we have a number of questions in the participant chat, but I'm just going to keep going because we are getting close to the end here. So the next slide, please, knowledge, skills, and abilities of staff.

OK. Section 618.355, knowledge, skills, and abilities of staff performing assessments, is new. This was added to the regulations in order to assist states to ensure that requirements under Section 235 of the act are fully realized.

TAA program funds described in Section 235(a) of the act may assist in ensuring that states are able to obtain adequate staff to perform either the initial or comprehensive and specialized assessment.

Next slide, staff skills. Section 618.355 paragraph (a) describes the qualifications that staff performing assessments should possess. In essence, staff should understand what jobs in the area are available to whom, and how trade-affected workers may be able to fill those jobs, either immediately or after receiving additional training. Staff with these qualifications can perform assessments quickly and properly, which helps the TAA program run efficiently.

Paragraph (b) of this section confirms that the staff performing the assessments may be from any partner program and need not be limited to those funded under this Trade Act. This flexibility better integrates the services of the TAA program and the partner programs.

And paragraph (c) of this section references funds available under Section 235(a)(2) of the act to assist in training staff to meet these recommendations.

OK. Next slide. It's a question. Can TAA program funds be used to train employees at partner agencies – WIOA's dislocated worker program staff, as an example – that perform assessments for trade-affected workers?

Yes. The use of TAA program funds in this manner is already an allowable cost under the TAA program and will continue to be so under this Final Rule.

OK. I'm handing it back over to Frankie for supporting participants in training.

MS. RUSSELL: All right. Supporting participants in training, Section 618.360, is a new clarification that is added as a result of TAA program oversight and monitoring conducted by the department.

Section 618.360 requires states to continue to make employment and case management services available to all trade-affected workers considering training – on a waiver from training in accordance with subpart G – taking approved training, or have completed training.

Next slide. OK. Services to participants, 20 – 618 – 20 CFR 618.36. Employment and case management services must make available – employment and case management services must be made available to: workers participating in training, workers that have completed training, and workers on a waiver from training.

Keeping these services available will help workers as they move from training to re-employment, and increases the chances of a good return on that training investment. Those services include placement and referrals to appropriate supportive services to trade-affected workers upon their completion of training and until they find re-employment. Post-employment follow-up services cannot be funded by the TAA program, but must be provided through co-enrollment in TAA – in WIOA.

OK. Wrapping up, Julie.

MS. BAKER: Great. So wrapping up, we do have questions on Subpart C. We do have a little bit of time so I am just going to go through some of those that we have got in. Actually, Susan, did you want to take some questions verbally?

SUSAN: Do I want to take some questions verbally? Let's see what those are, Julie? Actually, a lot of the ones having to do with college entrance exams and assessments through the college, I think the main question is – and I actually responded in the chat, but folks should send these questions directly in to the regulations.taa because it's asking about whether or not college assessments count, given that colleges may or may not be actual One-Stop or WIOA partners.

And I was going to have to do a little bit of digging on that to give a good answer, unless you wanted to step in and answer it for me, Julie.

MS. BAKER: I do not. (Chuckles.) Here's the thing. I'm so happy that you guys ask us a stumper question in these because when we are stumped, it just makes our day.

But here's the thing. You will have to take that question and send it in. I will have this slide up in just a minute when we're done with these questions, to regulations.taa@dol.gov. That would be super helpful.

OK. Great. I think – (pause). Oh, "Is there a requirement, or can you make it a requirement, that the TAA specialist attend mandatory training – for example, so many hours per year – prior to having case managed clients?" So this is actually a question for your state leadership, not so much for the national office.

What we have done is we have made it flexible for states to be able to outsource case management or use state merit staff for case management. It's really whatever model best fits your state. So that really goes back to what the states see as requirements for those positions.

OK. Let me – here's another question. "For clarity, when determining approval for training, does the state have to justify if there is suitable employment for the participant with their existing skills from their adversely-affected occupation? And what if the participant is interested in pursuing a different occupation than their adversely-affected work?"

So great questions. We are going to cover all of this in our Subpart F training. But just a little spoiler, yes, it's a requirement for the six criteria of training that suitable employment has to be determined. Is there suitable employment for that participant at the time that they've applied for training? If no, the rest of the six criteria for approval of training also have to be satisfied.

But if the participant is approved for training, they can certainly pursue a different occupation than their adversely-affected work. So that's a little spoiler for Subpart F. We will talk about that further.

OK. "Does U.S. DOL have a template available with all the elements needed for a model IEP?" Actually no, we do not. What we do have is a wonderful resource on WorkforceGPS, our TAA community there, in which states can share IEP models with each other.

IEP, some states might think of it as one document. Other states might think of it as multiple documents that together comprise an IEP. There are a whole lot of different ways that IEPs can be stated, spelled out. All we can tell you is what is required to be on the IEP.

So when you go through the Final Rule, you can even just do a keyword search for IEP and go through the document and see what are all the requirements? What are all things that have to be on the IEP? And then make sure all of those things are on your IEP. But how you put that together, we have left that wide open and there's a lot of flexibility in that.

So we do hope that states are consistent, but we do understand that there even some local areas that use different IEPs from other local areas within a state. So long as that is the norm for your state, this – an IEP is not a new thing. We expect that you will continue to use the same IEPs that you have. But we do know that there might be a few adjustments that you have to make.

OK. And finally, before I wrap this all up, "How could I find out what other One-Stops use for participant assessment? For example, is there anything available through O\*NET?" Again, I'm going to just take this as a nice way to segue into our next slide. So Grace, if you could please advance that slide to me – for me.

Great. So right here on the screen are resources. The TAA community, WorkforceGPS TAA program community; that's a great place. We have a whole discussion board. So if you want some help in figuring out what other One-Stops are doing for participant assessments, you can go ahead and post that question on our WorkforceGPS TAA program community.

I also think a great – this is a great question. If you're at the local level, raise this up to your state coordinator. If you're at the state level, raise this up to your regional coordinator.

I also wanted to point out on this slide that we also have the official TAA program website here. We also have a link to the Final Rule. And we have a link to the official 2015 program.

One of the things I said at the very, very beginning of this presentation was you might find it helpful to follow along with the Final Rule while we're going through this presentation. I think now you have now understood why I said that. With all the references to paragraph (c) and paragraph (b), you might want to follow along in future sessions.

So please advance the slide, Grace. Save the dates. You can register for these upcoming training. We have the rest of D through E, F, G, H, and I.

If you could next slide, please. Make sure that you register for these events through taa.workforcegps.org.

And next slide, please. Here is that regulations questions general inbox. Oops. There you go. Regulations.taa@dol.gov. If we did not have time to answer your questions, please send your questions to that email. We have a team standing by to respond to your questions.

And final slide is thank you so much for attending. We really appreciate you sitting down with us. We will have more information out on co-enrollment, but your questions are really important, so please be sure to send them forward.

And back over to you, Grace.

(END)