**WorkforceGPS**

**Transcript of Webinar**

**Trade Adjustment Assistance (TAA) Final Rule: Trade Readjustment Allowances (TRA)**

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LAURA CASERTANO: With that, I want to introduce today's webinar. Welcome to today's "Trade Readjustment Allowances" webinar, and I'm going to turn things over to your moderator today, Tim Theberge. He's a lead program analyst. Take it away, Tim.

TIM THEBERGE: Thank you, Laura. So good afternoon, everyone. Good morning if you are Alaska or Hawaii, since for everybody else we are now past the lunch hour. So good afternoon. This is our – part of our phase two technical assistance on the TAA Final Rule. Thank you to all of you that joined us for phase one, which was the subpart by subpart portions of the Final Rule.

Today is not quite structured that way. It is not a section by section walk through of the rule. It is a higher-level overview, a highlighting key parts of the TRA provisions of the TAA Final Rule. If you have questions, as they come up, please make sure to enter them into the chat.

Note that we're not going to be trying to answer very specific participant questions. So leave those to the e-mail to the regional trade coordinator, but general questions you can submit through that chat and we will try to get to as many of those as we can today. We'll also provide you a reminder of where to send your general questions on the regulations at the end of the webinar today.

So with me today as your presenters are Consuelo Hines, the regional trade coordinator from region six, and Jason Hudson, the regional trade coordinator from region five.

We're going to cover overall general eligibility for TRA. Then we're going to go through the – each individual types of basic – of TRA, basic, additional, and completion. We'll talk about the benchmarks that go along with a completion TRA, and then we'll get into the finer details of applicable state law, liable and agent state, a topic all of you love and cherish, the earnings disregard provisions. Again, that's not a new provision by any stretch. This is just the Final Rule that has come out since then. The TRA election provision and issues around good cause and justifiable cause.

So there are some changes in the rules versus what was in some of the operating instructions. So there are some minor changes which we – again, we covered in detail in our subpart G section during phase one. You could find that exact webinar and the recording of it, along with the transcript, on our TAA community website that we'll share with you at the end.

So with that, I'm now going to turn this over to Consuelo Hines, and if you have any questions, please type them into the chat window since your lines are muted and we will try to get to them as we go throughout today. So with that, Consuelo, over to you.

CONSUELO HINES: Thank you, Tim. I can say good morning and good afternoon to everyone, and it's a pleasure for me to be on this presentation and provide this information that may be basic for most of you or for some of you. But the intent of this presentation is that everyone, the state level and local level, become familiar with the terms and the process to provide appropriate case management services to workers eligible to apply for TAA benefits.

Under this light, I can start by saying that, as you know, upon receiving a certification, the state must, as soon as possible, request (appeal ?) to provide at least those workers that have had a total or partial separation and those who are – (inaudible) – separations who are -- for the duration of the certification period. This is so important because you need to keep in contact with the firm in order to continually update the workers list.

As you know, the workers list provides sufficient information for the state to determine that a Trade-affected worker was separated for lack of work as a member of the worker group, and then there is no need to ask for additional information and that provides sufficient information for the state to determine that that person is an adversely affected worker.

So let's start with the general eligibility for TRA. To be an eligible worker, an adversely affected worker, you all know that this individual must be part of a certification and the separation must be because of lack of work in adversely affected employment; that separation is a totally or partially separation for such employment and within the certification period.

In that way when it's determined that the individual is an adversely affected worker, that person – that individual can apply for these benefits.

As we know, each benefit under – benefit in the TAA has – if all eligibility requirements and deadlines that the worker must meet. That's why it's so important that from the beginning when you – when the case manager in the field for TAA staff in the field contact – make that contact with that worker, it's important to get all this information for you to provide appropriate case management services because, as the regulations require, it's – you have to provide, as part of the benefits – the information benefit, you have to provide as much as information as you can for the worker to make a wise choice.

So the eligibility requirements for TRA are found at Section 617 – I'm sorry – 618.720. And it's clear that a lack of work separation is the only separation which we sought in a determination that an individual is an adversely affected worker and that that separation must – must occur on or after the impact date of the certification and before the expiration of the two-year period that begins on the date of such certification or it's earlier before the termination date, if any, or because of an amendment of such certification or because of the certification based on a determination issued by the International Trade Commission.

It's important for those responsible to receive the information about the – or the notification of the certification to get in contact with the staff for you – for that staff to contact immediately the firm and get the employees list.

So that in line to receive benefits – TRA benefits, the worker – another requirement is that the worker must have had at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment within – with a single term or the – (inaudible) – of that term in the 52-week period and end with a week of the worker's qualifying separation.

The other requirement is what is known by the employment and wages, and that – you know it cannot be combined more than one certification to qualify for TRA. The regulations allow, however, for the inclusion of weeks of employment and wages of $30 or more, regardless of whether the worker actually received any wages.

In those cases where the individual is under any of the types of leave arrangements with employer, in those cases then the worker or those employment and wages may be account up to seven weeks of – seven weeks or 26 weeks based on the categories described in paragraph C2 of Section 618.720.

Another requirement is the entitlement to UI, which refers to the requirement that the individual must have been entitled to UI for a week within the first benefit period, regardless of whether such individual fired for such benefit.

In this case, you may consider three potential situations, which is that the adversely affected worker files for UI immediately following the first separation and becomes entitled to a new initial claim or that, if there is an existing UI claim, that the individual reopens an existing UI claim following the first separation, and that the individual does – if the individual does not file for UI entitlement at all in cases where the individual returns to work and later files for UI benefits, such entitlement becomes applicable UI entitlement.

Another requirement is that they – the adversely affected worker must exhaust all rights to any – to any UI entitlement, except additional compensation that is funded by the state, and – (inaudible) – from any federal funds to which such worker was entitled and not have any expired – expired and waiting period applicable to the worker for any such individuals, such as unemployment insurance.

If a subsequent UI entitlement period is established, TRA will be suspended, as you know, and the individual must exhaust the subsequent UI entitlement prior to resuming TRA entitlement, unless the adversely affected worker has the option to elect between UI and TRA, which will be explained later by my colleague Jason.

As part of the case management services, the state must – the state, in this case the TAA counselor or TAA staff, must explain in writing, and before that election is made, to the worker of his potential or her potential UI benefits and potential TRA benefits for them to make an informed decision. And this must be documented in the case file.

This is so important that the – that the case – that the TAA case manager understands this basic concept because in this way we make easier the work to interact with the – when the TRA staff or coordinator or the person responsible for making these decisions – it will be easier to make that determination if this is explained properly to the worker from the beginning.

I'm not saying that the TAA staff in the field have to address UI potential issues. It's just to provide the general information that, if they were doing the break or some – or become eligible for a new benefit year and new – they can file a new claim. It's just the basics so that you can – TRA and TAA can work together on these – under these perspective.

The other requirement is that the extended benefit work test prescribed in paragraph 8 of section 617.720 in which the individual must meet the extended benefits work test except while they are participating in a training or under the waiver. We are going to focus on these under these four eligibility criteria, which is where we receive more questions. States may have more issues with the workers.

So lack of work. As we know, the state is the responsible party and the final authority issuing individual determinations as to which workers have a lack of work separation. Once these occur, the workers are considered to be an adversely affected worker and, of course, an adversely incumbent – adversely incumbent worker but we are under TRA. So I'm going to refer only to adversely affected workers. So they determine as such.

If after becoming an adversely affected worker an individual returns to any employment, adversely affected or not, and subsequently becomes separated by reasons other than lack of work, please take into account or remember that such individual will not lose the designation as an adversely affected worker. Why? Because that person has been already determined as adversely affected worker – (inaudible) – that certification.

Under Section 617.100 the separation must have been initiated by the employer to be considered lack of work separation and must meet the test and be seen as an adversely affected worker, of course. The separation must have been initiated by the employer. Why? Because the employer does not have work for the adversely affected worker to perform in that adversely affected employment or does not have work available to the worker and other circumstances where work is unavailable because they cease or suspend operations; institute lockout, as the regulation says; or work is unavailable because the employer downsizes the work by means of separations or lay off.

It is important to indicate that lockout does not yield TAA benefits automatically and states are at liberty to interpret the lockout and buyout events as a lack of work situation for purposes of the UI. So that means that lockout may or may not be considered lack of work event under the state law, and as such, could be disqualified under the state UI and this – may result in a TRA denial.

This means that under these events, lockout and buyout, states could disqualify the individual for UI and TRA purposes but treat the separation lack of work for purposes on the TAA benefits like training, job search, relocations, and worst-case scenario, human services.

The training enrollment deadline. For – (inaudible) – to be eligible for TRA, the worker must be enrolled in training the last day of the 26 week after the worker's most recent qualified separation or the last day of the 26 week after the week in which the certification when the worker is issued, whichever is later. This is not new for all of us.

The enrollment in trainings, that a worker application for training is approved by the state under the subpart eight of this part of the stipulations, and the training provider has to recognize to the state that the worker has been accepted in the approved training program and that that training program is to begin within 30 calendar days of the date of the approval.

This is so important for you to take into consideration because sometimes the worker doesn't have a good contact with the case manager and – or TAA staff in the field and they go to the training provider and sometimes on their own they change the training program without realizing that they needed to be in the approved program. The training provider may issue a certification that that person has been accepted in that training program without realizing that it's a different one of the approved training programs.

So just make sure that you receive that information from the training provider that the person has been accepted into the – in the approved training program so that you won't have any surprises at the end of the program.

This 26/26 rule, which is known as the – for these deadlines have exceptions that will be addressed by Jason later during this presentation.

So this chart or graphic is also familiar for most of you, but I think that it's a good tool for everyone just to make sure that the eligibility period and the way that – and the weeks or maximum benefit amounts be paid in the case of – be paid in the case of basic TRA. And this is the ideal timeline for someone who applied for – was determined an adversely affected worker, applied for UI basic additional and completion, and received those benefits while they basic training within the 130 day or weeks – 130 weeks of actual participation and training.

So and this – (inaudible) – remember again that this is important for the worker to receive all this information from the beginning because in that way they will be aware of all the requirements. And if they need something of these requirements – any of these requirements, they can miss the TRA eligibility. And this includes, of course, HCTC when it's available.

So that's why the affected case management services provision includes the – it's represents these due process and program integrity, and that's why it's so important that the workers be aware of the conditions for the – receive each type of TRA benefits.

For instance, they should know that an initial application is required for TRA, which usually for basic TRA and it could be for additional TRA, if the – in cases with the adversely affected worker receives UI for a duration that exceeds basic TRA. And they – it's required to file a separate application for completion TRA. It's important that they know that from the beginning and at the time eligibility period for this one.

So – and as you know, also that the adversely affected worker may receive basic TRA up to the applicable training enrollment deadline provided in 618.725 without meeting the participation in training requirement. So for those who receive the UI prior to the certification and they can – and they are eligible for TRA, they can receive basic TRA prior to reaching the deadline, the 26/26 deadline or extended deadline.

This is the slide for response to the – for compliance of the 502 showing compliance. So this is another chart or graphic that we would like to share, and this is specifically with – to show what happens with the – or explain in the way that the training applies when break – when included waivers and including breaks.

So provided in 618.725 of the regulations, the basic eligibility period is group around by separation and certification. So states – in addition to the application, states are required to – are required to notify the adversely affected workers within from basic TRA to additional TRA. so they are aware of the eligibility period and other conditions they must need to remain eligible.

For completion TRA, the eligibility period will begin once – (inaudible) – and the individual files a claim for completion TRA – and we will talk about this later on when we go through those slides. So from the beginning the state must work with the worker for – to ensure that they meet all these requirements.

So in this case, if they went – let's say that the person received the 26 weeks of unemployment insurance. After that – and the person is in training so that – from the beginning. So they have 26 weeks for basic TRA and the maximum benefit amount is the product of 62 weeks minus the 26 weeks, the entitlement of the UI eligibility. So if it's under a waiver, they may receive the same amount maximum benefit amount and – (inaudible) – these basic TRA.

Once it's exhausted or once they start – if they continue this training, the eligibility period for additional TRA, the clock starts at that time they are in training, once they – basic TRA. In this way they will – they have 78 weeks to receive 65 weeks of additional TRA, and if the training is less than 30 days, there is no problem. But in cases with a summer break, it's more than 30 days. So they cannot receive the additional TRA during those weeks, but the clock for the eligibility period continues.

After exhausting additional TRA, so make sure that the filing of the completion TRA applications and (they're equipped for these things ?) fall into that eligibility period for completion, which is 20 weeks for them to receive 30 weeks of – employment weeks for – of completion TRA.

So basic TRA is one of these – is one of the – the first TRA in which the individuals, after exhausting UI, may start receiving if they continue – if they determine eligible for this one. So you know that exhaustion of UI – (inaudible) – occurs – (inaudible) – to receive all entitlements, monetary benefits in a benefit period or the end of our expiration of the benefit period, which is the benefit year ending date, whichever occurs first.

The basic TRA eligibility is governed – as I mentioned before, is governed by separation and certification. The eligibility period for basic TRA is 104-week period beginning with the first week – I mean, the week in which the adversely affected worker's most recently qualified separation occurred or after certification, whichever is later, or after a certification issued as a result of a decision of – (inaudible) – appeal of the requirement denial.

TRA – (inaudible) – while a participant is participating full-time training. As you know in the current regulations, if during the basic TRA period a worker completes their training on a part-time basis, they can still be eligible to receive TRA during the basic period. In this case, the individual must meet all other requirements of the act, including the – (inaudible).

Exhaustion of the basic TRA, of course, by obtaining the maximum basic TRA and by – (inaudible) – the full entitlement of course under a waiver – (inaudible) – in training or by being – (inaudible) – for eligibility period in which basic TRA may be used.

Training – so as we know, training waivers must contain all the required information. No waiver is required for additional. It's only under basic TRA. And so it's in the three categories that are – that – (inaudible) – waivers under our regulation are health waiver, enrollment and training waiver, and no training – training not available waiver.

So as mentioned, applies only for basic TRA and may be part of an assessment process or may be requested by the worker. And – but in any of these circumstances, they have to meet the conditions or the criteria under each waiver.

Health waiver criteria applies, for instance, when the adversely affected worker is unable to participate in training for health reasons. Please note that this waiver does not exempt the worker from the availability for work, active search for work, or refusal to accept work requirements under federal or state unemployment compensation.

Enrollment and training not available criteria applies when the first available enrollment date for the approved training of the worker is within 60 consecutive days after the date of the waiver determination, or, if later, there are extenuating circumstances for the delay in enrollment.

(Inaudible) – emphasis of the approved training is because the 26/26 period for enrollment in training is the time that is given for the case manager or TAA staff in the – responsible to develop the individual employment plan with the worker to work on this and they will search with employer – I'm sorry – with the worker. But also, if, based on those assessments, to determine the type of training that the individual may need in order to meet the goal of the TAA program, which is – the goal is to get – to return these – the workers to suitable employment. That is the goal of the program.

So in this way, by 26 weeks we expect that you have already developed that individual employment plan and, based on that, have worked an approved training program within that period. So it's – take this in mind for you to work with this worker and decide. It may not – maybe the training plan that you have been working with the customer may not be approved, so you will have to start another program that may be approvable. So this is time – enough time for you to address all these events.

The no training available criteria is situated when the training is not reasonably available for the worker. These waivers are issued for six months, extendable for period to end of basic TRA. Remember that the eligibility period for exhausting basic TRA is 100-week period. So it's not like the 26 period – the 26 weeks for – after exhausting basic TRA. Can go to – all the way through the 104 period.

If denied the waiver, it has to be written notice and it has to provide the denial and the denial have to provide the update on why.

The other TRA, additional TRA, as you know, provides extra weeks of income support payments to qualifying workers who are attending TAA-approved training. So under section 617.715 states must provide notice to a worker when a worker begins receipt of additional TRA. That notice must include the eligibility requirements under which additional TRA is payable, which is 60 weeks during 78 consecutive calendar week period.

There are different timelines for additional based on whether or not the worker is in training, which are that eligibility period begins immediately after the last week of entitlement for basic TRA, otherwise payable to the adversely affected worker if they are in training.

If training begins after the last week described before or mentioned before, that eligibility period begins with the first week of approved training – of that approved training or also may begin with the first week in which such training is approved after the training – if the training has commenced or has began before the additional TRA is payable.

So in this case, this is – (inaudible) – when the worker is approved for training under another program WIOA – a program or another partner and that – that's why you have to make sure that these program from the beginning can meet the requirement of the TAA program so that you can approve it after that. And if the person is eligible for additional at that time, you can pay additional TRA as of the time that you pick up that TAA program under TAA – under the TAA program.

So the last additional TRA is completion TRA. This is not new for you because this came from the last – last year. So completion, just make sure that completion TRA is payable, of course, after additional TRA and only if the worker is pursuing a program leading to a certificate or industry-recognized credential and participates – (inaudible) – and the program is completely – (inaudible) – established eligibility period and provides participants to 13 weeks of TRA within the 20-week consecutive calendar period.

As mentioned, that begins with the first week in which the adversely affected worker files a claim for completion TRA and compensation for such week, regardless of when the first payment is received or not.

So benchmarks must be established for all of short-term training programs when the worker's enrolled in an approved training program so the state can monitor from the beginning the worker's progress toward completing the approved training program. So that doesn't mean that you can approve the training without establishing the benchmarks and when the – if you need to modify the training to add more weeks and to establish eligibility for completion TRA, you can – if you haven't developed that training program, those benchmarks from the beginning of the training program, you can jeopardize the eligibility for completion TRA to this participant because it's not meeting the requirement at the time that TRA – completion TRA is established.

So just is a requirement from now that it be established from the beginning, and it has to be reviewed accordingly, which is that – and then please – (inaudible) – that it has to be reviewed in a 60 days interval from the start of the training. Some states, as a best practice, have a 30-day review requirement, which is good also, but the required is 60-day intervals.

You have to document it in the individual employment plan everything, all the results about these benchmarks and the two evaluation criteria, satisfactory academic standing and on track to complete training within the agreed upon timeframe – in timeframe.

This is a slide that – of course, that you're all familiar that encourage the training benchmarks, encourage early intervention and modification because, if you see that the worker is not able to meet these requirements or complete training because it's too hard for them, you can modify the training and if not – if not is being successful in meting these benchmarks.

Must be established at the beginning, as I mentioned, and this is something that is going to strengthen the case management effort in order for this individual to meet the requirements.

And this graphic is the one that – (inaudible) – to represent two scenarios which are those who have – sorry – those who have made the benchmarks, which is that is up to 15 benchmarks reviewed to the point of completion TRA eligibility from the individual employment plan developed and the approval of training, and complete – and when completion TRA begins. So at that time we expect you to document in the case file.

The second one is when the participant fails benchmarks, and you have to notify the individual who is failing – who fails one benchmark about the – that they can miss that eligibility. They can lose the eligibility for completion TRA. They need to be aware that they have to meet these requirements for them to either amend their training program or start making progress on this.

If they fail to – for the second time to meet – to fail this requirement, again, you need to – or with this – work with the claimant and agree in modifying these help in meet these requirement. This is very, very clear explained in our regulations. So I don't think that I need to explain farther on these unless you have questions at the end.

So at this point I'm going to turn over to my colleague Jason to continue with the presentation.

JASON HUDSON: All right. Thank you, Consuelo. So we're going to talk about briefly a few remaining topics that relate to TRA.

First, we'll start off with a relationship between Trade and UI. The two benefits, they do overlap but they also diverge at a certain point but they are closely related. So you will typically do the same calculation to derive your TRA weekly benefit amount from the UI weekly benefit amount. For most states, as far as the same dependent allowances, taxes and child support deductions are still made from both UI and TRA.

But, more importantly, TRA and UI should or, actually, they're required to use the exact same appeals process. So if your UI benefits have an appeal process that is a three-step process, TRA needs to be identical to that exact same appeals process.

Where TRA and UI kind of diverge is that some state UI provisions do not always apply to TRA participants, and we'll kind of talk about that a little bit more in detail in future slides. But the highlights is that, under certain circumstances, TRA participants may refuse or they may quit a job and could potentially still be eligible to receive benefits. It's not always the case with a UI payment. If a worker quits or refuses work, for most state laws, that will result in a disqualification of benefits.

TRA also allows individuals to receive additional earnings beyond their weekly benefit amount that – and those – and not have those earnings impacted by state UI provisions. Again, we'll talk about that a little bit more in detail.

And, finally, all states should – if they are not currently doing so, all states should be sending any appeals to their regional office for review. We try to review as many of these as possible. Sometimes the workload is pretty high, but we do read these appeals. And in doing so, if it's discovered that there is an error in a decision that was made, the department can require the state to review and amend the decision to correct any erroneous mistakes.

So applicable state law. This tends to be – at the outset, we mentioned a issue that sometimes we have some trouble with, but applicable state law is usually one of two scenarios to determine which state law needs to be applied to a particular individual.

So the first instance we're looking for where the worker is entitled to UI, and this is regardless of the worker applying for a UI claim or not. As many of you probably know, we cannot force anyone to file a UI claim, but regardless if they file a UI claim or not, we are still looking to where they are entitled to UI immediately following the first separation.

The second instance is, if an individual is not entitled to UI, which tends to occur, an individual may not meet any state's base qualifying wages or the income provisions in any state. And if that's the case, we're just looking to where the first separation occurred.

So, again, applicable state law kind of tells us who gets control to apply their law to a particular individual's determination or TRA application. The reason why this is important is because it can impact whether or not an individual is disqualified for certain benefits.

So as I mentioned earlier, UI and TRA diverge at certain points, and one of those points that TRA may allow an individual to continue to receive benefits, even though they may not be in accordance with the state's UI provision. Now, it is important to remember that the disqualification exemption only applies for individuals that are enrolled or participating in a TAA-approved training.

Consuelo mentioned earlier that, in order to be enrolled for TAA purposes, you have those three requirements. The state has to approve the plan. The training institution has to approve the plan, and the training has to be within 30 days. So for TAA purposes, that's what allows an individual to be enrolled.

Once an individual's enrolled or participating, there are certain exemptions under TRA that would allow an individual to continue to receive a benefit, even if a certain scenario happens to occur.

One scenario that you might see is a worker that refuses or quits work to continue training or to participate more successfully in training. A second scenario is that the worker quits work that was not suitable in order to begin or continue to improve training.

And that second bullet point, there's a lot of stuff in there, but some things that you kind of want to pay attention to is that the work needs to be not suitable and they need to quit in order to begin or continue training. So they can't just quit for any reason, and you just can't quit any type of employment. It has to be not suitable employment, and the reasoning behind that quit needs to be to begin or continue training.

For OJT participants, they also can remove themselves from the OJT within the first 30 days if they – if the OJT is not meeting the program requirements that were outlined in the OJT agreement. So for every OJT, there should be an agreement between the state approving the plan, the worker, and the trainer that is offering the OJT to the individual. And within that agreement, it outlines specific things that need to be met.

If those skillsets are not being met or if the worker feels that those skillsets are not being met, they can withdraw themselves from that OJT within the first 30 days and potentially not be disqualified from benefits.

For liable and agent state, as Tim kind of mentioned earlier, this is a topic that can be contentious at some times, but it has its reasons behind everything. There will always be a liable state. In every situation there will always be a liable state. That may not always be an agency, and simply because a worker lives in a different state does not automatically make that an agency. We're looking for whether or not that individual is receiving some type of benefit or service from a separate state that is not a liable state.

The reason why this is important is because the liable and agent state, they have two different responsibilities. They both work together to get an end product out to the worker, but they do have two different responsibilities. The most important responsibility for the liable state is that the liable state is the only state that can make any determination, redetermination, or go through the appeals process.

That is very important that the agent state never has authority to make any determination, redeterminations, or go through the appeal process. They can gather and collect information to provide to the liable state, but the agent state should never be issuing any type of determination under the specific state law.

Another responsibility for the liable state is they ensure that rapid response services are provided. I think we all are comfortable with that. They report individuals to the IRS for HCTC purposes, and most importantly, they are responsible for paying TRA.

The agent state also has some pretty important responsibilities besides cooperating with the liable state because the agent state pays for the training. They can pay for the relocation allowance and a job search allowance.

Now, the point of contention that usually comes up is agent state may not always agree with the decision that was made by the liable state. Well, the good news is that the liable state is liable for the decision. So even if the agent state believes that it may not have been the best decision, the liable state is ultimately responsible for that decision, even though the agent state might be paying for that relocation allowance or might be paying for that training program.

So earnings disregard, one of the many benefits available under the TAA program. Earnings disregard essentially removes a difficult choice that some workers may have to make. For most workers, they are laid off from long-term employment, and some workers decide to supplement the reduction in income while they are in training with an additional job or they might be recalled to a previously trade-affected job.

With the earnings disregard, it essentially allows individuals to hopefully continue to progress in a TAA training plan but also earn additional supplemental income without having that income affected by the state's UI deduction provision. It is important for the earnings disregard to remember that it only applies to individuals that are participating in full-time training. However, it does not apply to an individual participating in the OJT.

So if the worker is not participating in a full-time training, then the earnings disregard benefit is not available to that individual.

So how an earnings disregard may work, an individual may have a weekly benefit amount in a given state for $100. That individual would be permitted to earn up to that weekly benefit amount, which is $100, without having the state's UI deduction principles applied and deduct anything from that additional $100.

If the individual exceeds the weekly benefit amount, for instance, if the worker – if the worker's weekly benefit amount is $100 and the worker earned $110, the state's earnings disregard provisions can apply and they would only apply to the amount that exceeds the weekly benefit amount. So it would only apply to the $10. It would not apply to anything else. It will only apply to the amount that exceeds the weekly benefit amount.

The TRA election provision, I think we're all comfortable with this. It's been a while. It was optionally available with the older rule and continues to be available under the new rule. There's three points to kind of remember with the election provision.

One, the individual must be entitled to receive a UI claim, and it must be a result of a new benefit year. As far as I'm aware, I believe most states have 52-week benefit years. So if an individual is still participating in a program at that point, they might be required to file a UI claim at the end of that benefit year. But when they do so, we are looking at employment that occurred after the qualifying separation.

The second point to remember with the election provision is that the worker has a choice. They have a choice to remain on UI, assuming they qualify for a new claim, or they have the choice to continue with TRA. Going back to the liable and agent state we talked about a little bit earlier, the state that is responsible for offering this choice is the liable state.

The liable state needs to explain the advantages and disadvantages of the election choice. They also need to document this choice of what the worker decides to choose, whether or not they continue to go to UI or whether or not they continue to proceed with TRA. That is a liable state responsibility to document that choice.

Finally, the third point that sometimes trips us up is a change in a liable state can impact the TRA rate that is being paid. And this typically – well, it only happens when the liable state changes when the new benefit year is filed.

So, for instance, you have a worker in state A that was receiving TRA, and in the meantime, the worker might have been earning wages in state B. At the time of the new filing of the UI claim, it becomes apparent that the worker can – is eligible for a new UI claim in state B. That means that state B is now the liable state. They are now responsible for paying TRA.

Additionally, not only is state B liable for paying TRA. If the worker decides to remain – if their choice is to remain on TRA, the new liable state would be responsible for paying TRA at the rate that was previously established. So the liable – and the reason why that is a tricky issue sometimes is that states have different WBAs. Some states have higher amounts. Some states have lower amounts, but it is very important to remember that the liable state can change during this process, and if it does change, the liable state may be responsible for paying the TRA at a previously established rate.

Here's a diagram that kind of outlines the process we kind of just – we talked about. Obviously, you have the impact date. As long as the separation falls between the impact and expiration date, the worker has a potential eligibility.

Unemployment insurance begins. The worker might be recalled, or they may gain supplemental employment. The worker continues to collect benefits during this timeframe. At the end of the weekly benefit – or excuse me. At the end of the benefit year, the worker will be presented with the opportunity to file a UI claim. At that point the election comes about, and the worker has the election to remain on TR- – or to remain on TRA or to accept the new UI claim.

Again, a much simpler breakdown of the timeline. We have a first qualifying separation. We have UI being exhausted. TRA begins. So we transition the individual to TRA. The individual gains new employment, and that new employment generates enough wages to potentially qualify for a new benefit year in the future. It does qualify the individual for a new benefit year in the future.

And, again, at that point we would present the worker with the election opportunity. And, again, remember that election opportunities should be presented by the liable state, and it should be documented of the choice being presented by the liable state.

Finally, we'll close out with two topics that are really relevant due to this year's activities and circumstances and will most likely continue into next year, and that's good cause and justifiable cause.

With good cause, it is essentially a tool that we have to move deadlines around. And with COVID, a lot of staff that were normally working on TAA and TRA participants, a lot of the staff was migrated over to assist with UI claims. And in doing so, a lot of deadlines were missed simply because the workload was not always able to be worked.

If that's the case, you do have some tools available to you to potentially move those deadlines to allow individuals to continue to access the benefits of the TAA program. So you can use good cause to modify the application for TRA deadlines, the enrollment and training deadlines, the waiver deadlines.

But it is important to remember that good cause should be looked at on a case-by-case basis. Even if it's the same reasoning for several individuals, it still needs to be administered on a case-by-case basis. And when doing so, you need to determine whether or not the worker was at fault. If you find out that the worker was at fault for missing one of the deadlines, then most likely good cause will not be available.

Good cause is generally available when the worker was doing everything that they were supposed to do or required to do, and, unfortunately, some mistake happened where we missed the deadline, such as staff not being able to process an application timely because other projects were taking precedence. So good cause is for moving application deadlines.

We have justifiable cause, which is also a tool that will most likely come in handy probably for this year and probably most likely extended into next year. Justifiable cause allows us to extend an adjust eligibility periods.

So Consuelo talked about additional TRA a little bit earlier, and we know that additional TRA requires 65 weeks paid out in a 78-week period. Well, COVID kind of three some difficulties into that process this year as training institutions cancelled semesters and moved semesters around.

That 78-week period, as you guys may know, continues to move once it begins. So once the clock on that 78-week period starts, it does not stop. And, unfortunately, that might have deprived some individuals of additional TRA this year because certain – again, certain coursework was moved from one semester to a different semester.

Justifiable cause is a great tool to use because we want to make sure that that individual can continue to receive the 65 weeks. We don't want to allow them more than 65 weeks, but we do want to give them the opportunity to actually receive the 65 weeks that they were entitled to, assuming they met all of the qualifications.

So justifiable cause will mostly be a tool that you will use probably within the next few months and possibly extending into 2021. Again, with justifiable cause you do not want to extend any eligibility that did not already exist. You are essentially just providing the worker with an opportunity to receive the eligibility that they originally were able to receive.

So, again, I want to thank you guys for attending today. I believe this closes out my presentation, and I will turn it over to Tim to close out. Thank you.

MR. THEBERGE: So thanks, Jason. Thank you, Consuelo.

So I want to point out some resources that are available to you as you continue to ask your questions over there in the chat. Please continue to do so. We do have some time. So we are here to – and able to take those questions as they come in.

So for resources, if you are not already a member, please consider joining our TAA community page on WorkforceGPS. We post blogs. We post these webinar events. We have scheduled chats that we'll talk about in a bit here, along with other resources that are produced by your peers, by states that give us resources for us to share with you.

There are also discussion threads that you can explore on that to see what that looks like as well. Various threads on cost allocation, on TRA, on case management, on all types of different parts of the TAA program.

Also listed here are two different versions of the Final Rule. One is the Federal Register version. That includes the preamble. I would encourage all of you to read that version first before you simply use the electronic CFR version and only quote the regs themselves.

The preamble to both the Final Rule and the proposed rule really provides some good background for why the department chose the changes it did and made the changes that it did because of that and what our conclusions were based on to give you some background in those different discussions.

Obviously, we have our TAA program website. That is a new address. DOL recently redid all of the agency addresses. So please make sure you bookmark the new one. And also linked here is the U.S. Code version of the Trade Act of 1974. This is the official version. We have the much easier to read unofficial version on our program website but if you're looking for the official version, it is the U.S. Code format and that's available for you as well.

We have several other events in what we're calling phase two of our Final Rule training for you. The next three webinars are listed here. There's a fairly big one that's integrating services. That's next Monday. That's going to talk about integrating all of the services at the One-Stop relative to Wagner-Peyser and Trade and DWGs and rapid response and WIOA dislocated worker and co-enrollment and all of that type of stuff. That's there. So we expect that to be a fairly large event with a lot of participation.

The next one after that is specifically focusing on work-based learning. So that will be customized training, OJT and apprenticeship.

And then the last one of the webinars is our employment and case management where we're talking about the funding flexibility, what you can use that money on.

In addition to the webinars, we have – we host scheduled chats. These are more informal. There are no slides during these events. These are quite literally a text-based chat, essentially like the main chat window you've been using today. That is an open chat, and so participants are allowed to ask questions either of us or of their peers, and there's a lot of back and forth that occurs during those.

They've been fairly successful and very interactive. We had 100 people participate – 100 people plus participate on the last chat that we did. We then make those transcripts of those chats available to you. So they're often a pretty good resource for you to be able to look back on some question and answer, technical assistance stuff, or peers that may have mentioned something that you want to follow up on. And we have three of those scheduled.

The next one is on suitable employment. Following that is quality assessments, tools, and strategies. And then, lastly is a look at trade at the One-Stops. And so this is beyond just the services side of things. This is how does Trade really fit in the One-Stops relative to what is the relationship between Trade and the MOUs that the locals have and the infrastructure and operating costs and all of those ins and outs of Trade as a One-Stop partner. And so that's what we have coming up.

In the New Year we will be working on additional barrage of technical assistance topics. There will be at least six more webinars in the New Year. Probably not quite one a month, at least not right now as we see it, but that will depend upon demand. We're also working with your regional offices to try to meet their needs and meet with states in some smaller groups.

So the question about the scheduled chat, so all of the scheduled chats, these are scheduled for Wednesdays at 1:00 p.m. Eastern. Let me confirm that before I give you the wrong time. Yes. So all of the scheduled chats are Wednesdays at 1:00 p.m. Eastern. And, again, you can access all of those through our TAA community page there.

I want to make sure you all have this e-mail address. This is our regulations inbox. It's regulations.taa@dol.gov. There are several of us that monitor that inbox. If you have a question specific to regulations, that's the address to send them to, and we'll give that back – get those answers to you as soon as we can.

If it is a more involved question, it may take us a day or two to get back to you. If not, we'll do our best to get back to you on that day or the next.

So let me see. So we do have a couple of other questions that have come in that we can take a shot at. Let's see. We have one from Pamela. It says, "I have a TAA case where the client has not received UI or TRA. Since I've began working with her, she has exhausted." So the – I think the real question is how long is the client eligible to participate in a TAA? What is the timeframe for TAA eligibility?

So there is, at present, in theory, a lifetime entitlement to apply for the training portion of the TAA program. Having said that, when – if somebody shows up five years from now seeking training, when we look at whether or not suitable employment is available, the states are going to look at the – their trade dislocation to determine what their wage was then and what suitable employment would have been then.

So although, yes, in theory, at any point they could come in and apply for those – the training benefit, they may or may not be eligible for that reason.

There's also an expectation that they be able to financially support themselves while in training. So if they don't have unemployment insurance or TRA coming in to them, they're going to need to be able to show that they have some other type of financial ability to support themselves while in training. So I hope that answers that question.

Next, let's go down the list here. From Moddy Fox (sp), "Does the waiver need to be issued when UI benefit is exhausted but during the 26-week period does the waiver need to be filed?"

So there is no – so I put this on the slide. There's no such waiver as I'm still looking at training. Waivers need to be issued by that 26-week, and it's incumbent upon states to be working with those individuals either before they're dislocated or as soon as they're dislocated so they never run up against that 26-week. That should not be occurring. That's why we have rapid response. That's why we have other early intervention programs and services expected.

So to answer your question, no. You can't hit week 26 and then choose a waiver and then look for training. That's not how that's designed to work. We got rid of all of those waivers for that exact reason. So the expectation is the states are working with these individuals, again, either ideally before layoff or shortly thereafter in order to get them to the point where, if training is appropriate, those determinations can be made long before that 26-week deadline.

Now, if the – if you make that determination prior to that 26-week deadline, that's when you can then look at and say, okay. Is training appropriate but enrollment is not available? Or is there literally no training available; right? That's when those then come into play, but you can't simply issue a waiver in order to wait and see for what training becomes available.

Now, let's see. I think you've all been answering each other's questions. So that's good to see too.

Yes. Breaks of training that are over 30 days, we only pay TRA when the training – when the break of training is less than 30 days. So there is that.

Any other questions that you may all have? We'll stick around for a couple more minutes here. I don't think I see any others. You all answered the 30-day question.

That one's good. There was a question that I answered in the chat, but I'll take it up again, and that was whether or not agencies are still required to continue career services due to their program closure.

So yes. So there is an expectation that services are going to continue for separated workers, and that's throughout the workforce system. In most states that means they have transitioned or did at some point or are now to virtual, online, remote, over-the-phone, via e-mail, text, Zoom, Google Meets, you name it in terms of being able to provide those services to workers on a remote basis. And we've seen all versions of that in the different states.

We actually had a scheduled chat that covered that topic. So I would actually encourage you to visit the TAA community page, and you can find the transcript for that chat. I believe it's posted there so you could refer to that. So yes. That is there.

I don't see any additional questions. I will give it another minute or two in case anyone has one that they want to ask before we leave. Again, for the most part, remember that 90 percent of what is in the Final Rule is essentially the way in which we were already operating under the 2015 Act via our operating instructions.

So although there's a lot more detail and the language may be a little bit different in the rule text versus a less formal TEGL, remember that the bulk of what is in that rule is what the states should have already been doing largely. But we do recognize there are some changes that are in there that clarified some policy and some legal issues, but those have largely been taken care of.

For those of you that may have concerns about that, I would just remind you that most of that is not new.

All right. So, again, here is our e-mail address for TAA regulation questions. Please make use of that. That is much better than coming to individual people within the department because it allows us to track those questions, A, to make sure we have answered them, B, to make sure we're giving the same answer to everyone, and, C, to identify if there are trends out there for topics where there is a need to provide additional services.

All right. Okay. So I think that's about it. I don't see any other additional questions coming in. So I'm going to hand this back over to Laura, and I will remind all of you to please attend the other webinars and scheduled chats that we do have and e-mail us at our regulations e-mail address if you have any questions. So with that, back to Laura.

(END)