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**ADVISORY : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 33-03**

**TO : ALL STATE WORKFORCE AGENCIES**

**FROM : CHERYL ATKINSON s/s  
 Administrator  
 Office of Workforce Security**

**SUBJECT : Questions and Answers About Implementation of the Advance Health Coverage Tax Credit**

- Purpose.** To respond to state workforce agencies' questions about their responsibilities for the advance Health Coverage Tax Credit.
- References.** The Trade Act of 1974, as amended (P.L. 93-618, as amended); the Trade Act of 2002 (P.L. 107-210); 20 CFR 617; 29 CFR 90; Unemployment Insurance Program Letter [No. 02-03](#); Unemployment Insurance Program Letter [No. 24-03](#); Training and Employment Guidance Letter [No. 10-02](#); Training and Employment Guidance Letter [No. 11-02](#); Training and Employment Guidance Letter [No. 20-02](#); and Trade Adjustment Assistance Reform Act of 2002.
- Background.** The Trade Adjustment Assistance Reform Act of 2002 (the Act) created a federal tax credit which subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance (TAA) benefits, for older workers receiving alternative trade adjustment assistance (ATAA) benefits, and for individuals receiving benefits from the Pension Benefit Guaranty Corporation (PBGC). The tax credit is 65 percent of the premium amount paid by eligible individuals for qualified health insurance coverage. This credit is referred to as the Health Coverage Tax Credit (HCTC) and is administered by the Internal Revenue Service (IRS). Two options are available to an eligible individual to receive the benefit. Taxpayers may (1) elect to claim the 65 percent credit on their federal tax return when filing at the end of the tax year or (2) obtain an advance credit of 65 percent which requires the taxpayer to pay the 35 percent balance of the monthly premium. The advance credit option is available effective August 1, 2003.

This advisory is issued to state workforce agencies as guidance on their role to identify and provide listings of eligible TAA and ATAA recipients to the IRS for its administration of the HCTC.

- Action Required.** Administrators are requested to provide this information and instructions to the appropriate staff.
- Inquiries.** Inquiries should be directed to your Regional Office.
- Attachments.**

- A. [Health Coverage Tax Credit - Questions and Answers](#)
- B. [Eligibility Examples](#)

## HEALTH COVERAGE TAX CREDIT

### QUESTIONS AND ANSWERS

#### Administration

1. Question: Which federal agency is responsible for administering the HCTC program?

Answer: The IRS is responsible for the HCTC program and has established an HCTC office. The IRS web site found at [www.irs.gov](http://www.irs.gov) addresses questions related to the administration of the HCTC. While the IRS is responsible for the HCTC, it is being implemented through the cooperative efforts of the Department of Health and Human Services (HHS), the Pension Benefit Guaranty Corporation (PBGC), the Department of the Treasury and the Department of Labor in conjunction with the State Workforce Agencies (SWAs).

2. Question: What are the responsibilities of the SWAs with regard to the advance HCTC program?

Answer: The responsibilities of the SWAs are: 1) to provide general information to claimants concerning the HCTC program together with information on TAA services and 2) to identify eligible TAA recipients as defined in the Act (i.e., individuals who are eligible to receive trade readjustment allowances (TRA) or who would be eligible for TRA except that they have not exhausted their unemployment compensation), and report certain information about those individuals to the HCTC office. Unemployment Insurance Program Letter (UIPL) No. 24-03 provided instructions to the SWAs about their responsibilities related to the advance HCTC. (Responsibilities of those states that are operating a state "bridge" National Emergency Grant (NEG) are not addressed in this UIPL.

Note: The SWAs are required to report Alternative Trade Adjustment Assistance (ATAA) recipients who may qualify for the credit when the ATAA program becomes operational in August 2003. The PBGC will submit its own list of potentially eligible PBGC recipients who may qualify for the credit to the HCTC office.

3. Question: Which office in the U.S. Department of Labor (the Department) has responsibility for the HCTC?

Answer: Two offices within the Department's Employment and Training Administration (ETA) share responsibility for the HCTC program coordination with the IRS HCTC office:

The ETA Office of National Response has responsibility for the TAA program and National Emergency Grants, which provide funding for HCTC-related activity.

The ETA Office of Workforce Security, which has responsibility for the UI program, is responsible for the UI/TRA program activity related to the transmission of information the SWAs are required to provide to the IRS HCTC office.

#### Administrative Costs

1. Question: How will SWAs pay for costs they incur related to the HCTC?

Answer: National Emergency Grants (NEGs) are available to fund HCTC administrative activities, and SWAs should request funding through the established NEG process to cover all costs related to the HCTC program. Unemployment Insurance (UI) grant funds may not be used to cover non-UI activities,

and all states must request NEG funds to cover costs related to their responsibilities involving the HCTC.

2. Question: May penalty mail be used to mail HCTC information such as IRS Form 8887 or special letters advising UI claimants, as appropriate, to report to a UI office or One-Stop Center to enroll in training or request a waiver?

Answer: Training and Employment Guidance Letter (TEGL) No. 10-02 advised states incorrectly that they could use penalty mail for the HCTC program. A change to the TEGL will be issued. However, states should immediately cease use of penalty mail for HCTC activities and pay for future postage costs from NEG funds.

### **Advance Credit**

1. Question: When is the advance HCTC effective?

Answer: The statute requires that the advance option be available by August 1, 2003.

### **End-of-Year Credit**

1. Question: What is the SWAs' responsibility for the end-of-year credit in future years?

Answer: A UIPL will be issued to communicate the SWA responsibilities and provide instructions for any future issuances of the IRS Form 8887 when final decisions are reached and information is provided to DOL by the IRS.

Note: To provide for the end-of-year credit for 2002, SWAs provided information about eligible TAA recipients to the IRS during November 2002. SWAs also issued IRS Form 8887 in February 2003, to individuals who received TRA (or would have been eligible to receive TRA had their UI been exhausted) during December 2002. UIPL No. 02-03, which provided instructions to SWAs for this process, furnished a reporting format for the IRS Form 8887 for 2002.

### **Eligibility Certificates**

1. Question: What is the "eligibility certificate?"

Answer: The Internal Revenue Code (IRC), section 7527(d) prescribes that, before the IRS can make advance payment of the credit on behalf of an eligible TAA or ATAA recipient, the Secretary of Labor or any other person or entity designated by the Secretary, must issue an eligibility certificate, i.e., written verification that the individual is an eligible TAA recipient or an ATAA recipient. The SWAs' transmittal of the appropriate information (via the UI Interstate Connection (ICON) network) will identify individuals as eligible TAA or ATAA recipients and provide the IRS' contractor the needed information for this purpose. The IRS determines whether an individual is actually entitled to the HCTC.

2. Question: Will the TAA and ATAA eligibility information sent to the HCTC office be kept confidential?

Answer: Yes. Section 6103 of the IRC provides as a general rule that "returns" and return information must be kept confidential. This applies to all taxpayers and must be extended to eligible TAA and ATAA recipients who are potentially eligible for the HCTC. Section 6103 allows for disclosure of a taxpayer name and insurance policy information to providers of health insurance to the extent necessary to remit payments on behalf of the eligible TAA and ATAA recipient to carry out the advance HCTC program. All TAA and ATAA information obtained from SWAs shall be considered information that is for "official use only" and will be kept confidential.

## Listings of Eligible TAA and ATAA Recipients

1. Question: How often do the SWAs need to submit information, i.e., the lists of eligible TAA and ATAA recipients, to the HCTC office?

Answer: SWAs are required to submit daily listings of eligible TAA and ATAA recipients to the IRS' HCTC office so that it can quickly enroll individuals in the HCTC program. However, an individual's information needs to be submitted only once a month unless there is a reversal of eligibility.

2. Question: What is the monthly file?

Answer: The IRS HCTC office will create a monthly file based on the daily listings that SWAs provide to the HCTC office. These daily listings, which the SWA provides, will identify individuals eligible to receive TRA or ATAA (including UI claimants eligible for TRA except for exhaustion of UI). From these data the IRS HCTC office creates a monthly file for its use to enroll individuals in the HCTC program. Each month, the HCTC office needs information about these claimants/recipients so that it can issue payments to health providers on their behalf. This is why states must report the same individuals each month if they continue to be eligible to receive TRA (including UI claimants that are eligible for TRA except for exhaustion of UI) or ATAA.

3. Question: What is the programming schedule that states must meet?

Answer: The law requires that the advance option be available to eligible TAA recipients no later than August 1, 2003. Each state must have completed its program by July 21 and must have submitted the required files to the HCTC office to meet the legal requirements. In addition, the HCTC office requested a "Start-up List" from each state that contains data on all individuals who were determined TAA eligible between January 1, 2003, and the start-up list run date, to initialize the advance HCTC program. If states cannot submit a start-up list with data back to January 1, 2003, they are asked to submit a list beginning July 1, 2003, and to submit a January – June list as soon as possible.

## Receipt of TRA and HCTC Eligibility Issues

1. Question: Which TRA (and UI) claimants are eligible for the HCTC?

Answer: An individual who receives TRA for any day of a month or who would receive TRA but for the fact that he/she has not exhausted UI entitlement is an eligible TAA recipient and is potentially eligible for the HCTC for that month. Individuals are also eligible for the HCTC for one additional month after they cease being an eligible TAA recipient.

2. Question: Why are eligible TAA and ATAA recipients who are reported to the IRS HCTC office by SWAs only considered potentially eligible for the HCTC, rather than eligible for HCTC?

Answer: In addition to meeting the criteria of an eligible TAA or ATAA recipient, a claimant must meet other HCTC criteria. The HCTC office will determine if those individuals who are included in the SWA transmission of eligible TAA and ATAA recipients also meet the other HCTC eligibility criteria. For example, they must have qualified health insurance coverage as of the first day of the month, and they must not be in prison.

3. Question: What constitutes receipt of UI and/or TRA? Does "receiving TRA" mean receiving for the eligibility period for which an individual is determined eligible, the date the check is issued, or the date the check is received by the individual?

Answer: Receipt of UI and/or TRA is interpreted to mean the eligibility period for which the benefit is payable. When a SWA determines that a claimant has met the TRA eligibility requirements for a given week, it is determined payable and received. In most states, this period begins on Sunday and ends on Saturday within a given week(s). It is not the actual date that a check is received or negotiated.

Note: Although some states issue biweekly payments, UI or TRA eligibility is determined on a weekly basis.

4. Question: How long does the individual remain HCTC eligible?

Answer: An individual will remain eligible for the HCTC as long as he/she is an eligible TAA or ATAA recipient and is meeting the other HCTC eligibility criteria. Individuals are also eligible for the HCTC for one additional month after they cease being an eligible TAA recipient. SWAs are responsible for determining if the individual is an eligible TAA or ATAA recipient each month. The IRS HCTC office will determine if the individual is eligible for the HCTC.

5. Question: There is no payment issued for the waiting week. Is an individual potentially eligible for HCTC based on this waiting week?

Answer: Yes, provided such individual would receive payment but for the waiting week requirement. However, the individual would also have to meet all the other applicable TRA eligibility criteria to be potentially eligible.

6. Question: If a claimant is disqualified for a week because he/she is not meeting the able and available requirements provided in the state employment security law, is he/she potentially HCTC eligible for that month?

Answer: If a claimant is not eligible for UI or TRA for a given week due to a disqualification issued under state UI law then he/she is not an eligible TAA recipient for that week. However, the claimant may still be eligible for HCTC if he/she is eligible for any other single day of that month – meaning he/she is eligible and is in payable status for a week within the same month. Once a claimant is eligible for any week, the SWA will report the claimant as an eligible TAA recipient and the IRS will then determine if the individual is eligible for the HCTC. The claimant would have to be ineligible for UI/TRA during the entire month to not be potentially eligible for the HCTC for that month.

7. Question: During any week, if the claimant is receiving a pension that disqualifies the individual from receiving any UI/TRA and/or is working for wages that are determined as excessive earnings under the applicable state UI law, is he/she potentially eligible for the HCTC for the week?

Answer: No, the claimant would not be potentially HCTC eligible for the given week if no UI/TRA is payable and should not be reported by the SWA as an eligible TAA recipient for that week. Pensions are usually a fixed amount, but earnings may vary on a weekly basis; thus, the claimant may be potentially eligible for the HCTC if during any other given week of the month the claimant receives a UI/TRA payment due to lesser earnings. Accordingly, if the disqualifying conditions remain for the entire month, the claimant would not be reported as an eligible TAA recipient for that month.

8. Question: If the claimant is receiving a UI and/or TRA payment that is being intercepted for tax liabilities, child support payments, overpayment offset, or for the satisfaction of other indebtedness as provided under state law, should the claimant be reported as an eligible TAA recipient, and is the claimant potentially HCTC eligible?

Answer: Yes, the claimant will be reported as an eligible TAA recipient and is potentially eligible for the HCTC. Unlike the case in which the individual is disqualified from receiving a payment during a given

week, in this case, the individual was eligible to receive a payment that is being diverted to satisfy other liabilities or indebtedness.

9. Question: The claimant was disqualified during the first week of the month and did not receive a UI or TRA payment. During the second week of the month, the claimant did receive a payment. Will the SWA report the claimant during the second week, and is the claimant potentially eligible for the HCTC for the month?

Answer: Yes, the claimant is an eligible TAA recipient for the month. The eligibility established and the fact that the claimant is in payable status during the second week establishes potential HCTC eligibility. The Act provides that an individual meets the definition of an eligible TAA recipient by receiving a payment for any day of the month. The IRS will determine if the individual is HCTC eligible.

10. Question: What is the 60-day requirement that affects the first week of TRA entitlement, thus the initial establishment of potential HCTC eligibility?

Answer: Under section 231(a) of the Trade Act, the first week of potential TRA entitlement is the first week of unemployment that begins more than 60 days after the filing date of a petition that is later certified. This will impact the initial eligibility for the HCTC.

## **Transmission of Data and Programming**

1. Question: There are three different report codes (1, 2 and 3) in the daily ICON transmission. Will the SWAs have to transmit all three daily, or are all three included in one transmission, or must we transmit separately?

Answer: SWAs will only use code 1 (TAA data) or code 2 (ATAA data). Code 3 is for the PBGC's use only and will not be used by the SWAs. If a state has TAA and ATAA recipients that are eligible on the same day for a particular month, it will send the TAA and ATAA data in the same data transmission. The header for the TAA data must be coded as "01" and the detail data sent along with that header; the header for the ATAA data must be coded as "02" and the detail data sent along with that header.

2. Question: Which eligible TAA recipients do SWAs include for the first transmission? Would it be acceptable to identify all TRA claimants paid in July 2003, and report them via the ICON?

Answer: The HCTC advance option begins August 1, 2003. The IRS HCTC office will begin paying health premiums for individuals that have met all of the HCTC eligibility requirements for the month of August for any eligible TAA recipient entitled to a TRA payment for any day of the month of August. SWAs will report individuals at the point in time that they determine the individual is an eligible TAA recipient. The determination of eligibility is based on entitlement to receive a benefit for any day of a particular month, not based on when the check is received.

Note: The HCTC office requested a "Start-up List" from each state via ICON that contains data on all individuals who were determined TAA eligible between January 1, 2003, and the start-up list "run" date in order to initialize the advance HCTC program. If states cannot submit a start-up list with data back to January 1, 2003, they are asked to submit a list beginning July 1, 2003, and to submit a January – June list as soon as possible.

3. Question: Is the current status of our IB13 program sufficient to cover the new criteria of creating and maintaining an IB13 log and its process?

Answer: The current system is capable of handling the HCTC data and related tasks as outlined in the Program Logic Document. The requirements of the IB13 are being developed by Lockheed Martin and

the HCTC office. Once all the issues have been addressed, the SWAs will be notified of how the system will work.

4. Question: What is needed in the message ID field on both the header record and the candidate data record?

Answer: A unique 6 digit number.

5. Question: Will the file contain just the claimant record or claimant/family member information (1 record for each member)?

Answer: Claimant information only. Once the HCTC office receives the claimant record it will send a Program Kit to the eligible individual explaining what the individual should do to determine if he/she and his/her family are eligible. The Program Kit will have a telephone number so that the individual can call the HCTC office for additional information.

6. Question: Does the SWA send one master batch file on August 1 that includes all eligible participants in the TAA program?

Answer: No. By August 1, most SWAs should have sent their start-up lists in a prior transmission to the HCTC office. Therefore, on August 1, SWAs will send their daily transmission for that day identifying those claimants eligible to receive a TRA/UI (TRA eligible) payment that was processed for that day/week (the week which includes August 1). See Answer to Question 2.

7. Question: Does the SWA send a new record for an individual only when his/her status changes on its files?

Answer: No. Each month is considered a "New Month," and a record will be submitted each new month on all eligible TAA or ATAA recipients when the SWA determines an individual first meets the criteria stated in Attachment C to UIPL No. 24-03 for any given month. In other words, when an individual is first determined to be eligible for benefits and a week determined payable for a particular month, the individual's record will be sent to the HCTC office for that month. The SWA will send a status change record only if one of the conditions listed in Attachment B to UIPL No. 24-03 exists under the "Eligible Adjustment Code." Code "00" or "10" is used to report an eligible individual when such individual first becomes eligible within a given month; code "20"- "24" is used to notify that an individual has lost the eligibility status as previously reported and is not eligible during that time as reported. Note: If an individual is eligible for one day of a particular month, that individual is considered an eligible TAA recipient for the entire month.

8. Question: In addition to the start-up list, does the SWA transmit a complete master file August 1 or anytime thereafter?

Answer: No (see answer to question number 6 above). Effective August 1, SWAs will begin sending their daily records and will not send any records until the individual claimants have met the criteria for an eligible TAA recipient. August 1, 2003, is the start of the advance HCTC option. Eligible TAA recipients must certify for a TRA/applicable UI payable week, thus becoming eligible for a TRA/applicable UI benefit for the month of August before a record is transmitted to the HCTC office. Records are sent in daily transmissions from that point forward. There are no monthly transmissions.

9. Question: Does the SWA send claimant "demographic" updates - such as address changes, or a change in name after an individual gets married?

Answer: SWAs will provide the most current information on file for address and name when they

transmit any record in the routine daily transmission.

10. Question: Is there any reason SWAs could not send one complete file at the month's end for the entire month and empty daily files as required?

Answer: For the HCTC office to pay the advance HCTC timely, it must receive daily records in a timely manner. If a SWA waits until the end of the month to supply the records to the HCTC office, there may not be sufficient time to process the data and make the 65 percent payment to the insurance provider.

11. Question: May the SWA listing be sent other than on a daily schedule?

Answer: The SWAs need to submit the daily records as described in the Program Logic Document and UIPL No. 24-03.

12. Question: If a record is sent one month and the next month the SWA determines the individual was not eligible because of an error, appeal reversal, etc., how does it rescind the prior month?

Answer: If it is determined that a record was submitted and the individual was not an eligible TAA or ATAA recipient, the SWA will submit a record and provide a code (if information is available to the SWA electronically) on why the prior record was changed. In the daily record file, the SWA will enter the "Eligibility Month/Year" that the SWA is amending and enter the correct "Eligibility Adjustment Code" (e.g., 20, 21, 22, 23, or 24).

Note: Attachment B to UIPL No. 24-03, page 1, under "Eligibility Adjustment Code" list the codes as 00, 10, 20, 21, 22, 23, 25, and 99. Please note that there is no code 25. The correct code is 24. Code 99 is for PBGC use only.

13. Question: Who is the correct contact person at the SWA for whom information should be provided in the two fields, # 6 and # 7, in the Header record.

Answer: We suggest that the state select someone who understands the eligibility requirements of the TAA program (e.g., TAA Coordinator) rather than an information technology specialist, but the SWA can best determine the appropriate contact point based on its circumstances.

14. Question: Is it accurate to indicate that when the SWA submits data on the first day of the month, the file will include all TAA/ATAA qualifying recipients who still qualify, plus any new ones for that day? The first day will include a large group from the previous month, minus those that dropped off for the new month, plus the new individuals for that day.

Answer: No. The SWA will send a record each month only when an individual is determined to be an eligible TAA or ATAA recipient and a week is payable for the first time within the month.

15. Question: What does MMDDCCYY stand for in the file format in Attachment B to UIPL No. 24-03 and the PLD?

Answer: MM is for the "Month" two digits  
DD is for the "Day" of the month two digits  
CC is for the "Century" (20) -- do not put 21 for the century, (Note: The HCTC office used this naming convention because of HIPAA standards.)  
YY is for the "Year" (03)

Example: On August 6, 2003, the SWA creates a record for the month of August because the individual met the requirements outlined in Attachment C to UIPL 24-03. The SWA will enter 082003 as the

"Eligibility Month/Year" in the individual's record that will be submitted to the HCTC office.

16. Question: What is the difference between the file date and file creation date?

Answer: The file date is the date to which the data is referring. For example, if your state uses an Interactive Voice Response (IVR) system, and you determine the person is eligible on Sunday, then the file date would be Sunday. If on Monday the SWA extracts the data and creates the file, then Monday would be the file creation date. In most cases, however, these dates will be the same.

17. Question: What is meant by "each month is a new month?"

Answer: "Each month is a new month" means that when a new month begins, the states will submit records of all individuals who are eligible TAA or ATAA recipients during the month regardless of that individual's eligibility status for any prior months. The SWA will create and send a record for an individual when it first recognizes in its system that a payable week has been processed.

Note: The states will submit only one record for new eligibility (code "00" or "10") per individual per month. In other words, if an individual meets the TRA eligibility requirements for a week in August that results in creation and submission of a code "00" record, then the HCTC office recognizes that the individual is an eligible TAA recipient for the entire month of August. For any additional weeks of TRA that become payable in August, the SWA is not required to create and submit additional code "00" records for the month of August.

If this same individual meets the TAA eligibility criteria for September (considered a new month) for week ending September 6, 2003, the SWA will submit a record for September on the TAA eligible individual, i.e., a record with "092003" in the "Eligibility Month/Year" field.

18. Question: In Attachment B to UIPL No. 24-03, the eligibility adjustment code is indicated as 2 digits in length, but a 3-digit position is indicated. Also, the chart does not indicate it is required data.

Answer: This is a two (2) length field. The position number is 339-340, and it is a required field.

19. Question: If an individual in a compensable status becomes disqualified and is no longer a TAA eligible recipient reversing the claimant's eligibility entirely, will code(s) 20 – 24 be used by the SWA to correct the record?

Answer: Yes, states will submit a new record (using codes 20-24) to correct or reverse previously reported information.

Example: A state submitted a record on an eligible TAA individual for the month of August because the individual met the eligibility criteria for the first week in August. The individual continued to receive benefits through the first week in December. Then, during mid-December, the individual was determined not to be an eligible TAA recipient because of an appeal reversing the previous determination of eligibility.

The state would submit a record with the "Eligibility Adjustment Code" shown as "24" for each of the months that the individual was determined not to be an eligible TAA recipient; in this case, the months of August, September, October, November, and December. These records will reverse the prior eligibility records sent for these months.

20. Question: If an individual in a compensable status becomes disqualified and is no longer a TAA eligible recipient subsequent to the initial period of eligibility, will code(s) 20 – 24 be used by the SWA to report the claimant's ineligibility status?

Answer: States will not submit a record to report ineligibility status for an individual unless it is needed to correct or reverse prior eligibility information.

Example: A state submitted a record on an eligible TAA individual for the month of August because the individual met the eligibility criteria for the first week in August. The individual continued to receive benefits through the first week in December. Then, during mid-December, the individual was determined not to be an eligible TAA recipient effective December 14 due to a disqualification.

The state would not submit a record to correct or reverse the eligibility status since the individual continues to remain eligible for August through the first two weeks of December. Provided the individual remains ineligible indefinitely once the December ineligibility disqualification is imposed, no further records would be sent to the HCTC office.

Note: When an individual is determined eligible for a day that falls within the first week of a month, yet is determined not to be eligible for the remaining portion of the month due to adjudication of some issue, a correction record would not be sent since it is not reversing the record of eligibility during the first week of that month, and the individual is potentially eligible for the HCTC based on that first week.

If an individual is determined to be an eligible TAA individual for just one day in a given month, he/she is an eligible TAA individual for the entire month for purposes of the HCTC. Only when a determination reverses the record previously sent will a state submit a corrected record.

## Eligibility Examples

### Reversal in TAA/UI Eligibility

#### Example

- The claimant was determined eligible during the first two weeks of the month and received a UI or TRA payment.
- In the third week of the month, the claimant was disqualified for the first two weeks of the month and will remain ineligible indefinitely until satisfying the requalifying requirements of the applicable state UI law.

Question: Is the claimant an eligible TAA recipient for the month?

Answer: No, the claimant is not an eligible TAA recipient for the month.

Although initially determined eligible for a UI or TRA payment, a disqualification was issued that reversed the earlier eligibility and, furthermore, imposed an indefinite disqualification. (Note: The claimant may later become an eligible TAA recipient and eligible for HCTC after purging the disqualification imposed and meeting all applicable eligibility requirements).

Note: The SWA should have initially reported the claimant as an eligible TAA recipient and then later issued a correction record using the appropriate code to indicate non-eligibility and reversal of the prior record. (This example assumes the claimant was not an eligible TAA recipient during the prior month).

### Breaks-in-Training

Section 233(f) of the Trade Act provides that a worker shall be treated as participating in training during any week which is part of a break that does not exceed 14 days (for petitions filed before November 4, 2002) or 30 days (for petitions filed on or after November 4, 2002). The result is that depending on when the break in training occurs, the worker may be potentially HCTC eligible even if the break exceeds the time limitations.

#### Example 1 - UI Claimant - TRA (eligibility status) suspended

- The adversely affected worker, covered by a certification, became eligible for UI in January 2003. The worker continues to receive UI until exhaustion and begins receiving TEUC in July 2003, until exhaustion on October 4, 2003.
- The worker obtained a waiver of the training requirement on January 15, 2003, later enrolled in TAA training in February 2003, and began training in March 2003. TAA training ended (summer break) on Friday, May 30, 2003.
- TAA training resumes on September 3, 2003.

Question: Is the UI claimant an eligible TAA recipient and, if so, does eligibility extend throughout the summer break which is longer than 30 days?

Answer: The claimant is not eligible for TRA for the month of July 2003 and is therefore not an eligible TAA recipient for that month.

- The worker became an eligible TAA recipient potentially eligible for the HCTC in January 2003, when he/she received a waiver of the TAA training requirement and met the specific requirements of section 231(a) of the Trade Act, for receiving TRA, except for not having exhausted UI entitlement.

The worker was an eligible TAA recipient and potentially eligible for the HCTC in February, March, April, May, as well as June (the record submitted to the HCTC office for May establishes the carry over month of June).

- Although the worker continues to have UI entitlement throughout the break in training, the worker would not be eligible for TRA because the break exceeds the time limitations and TRA would not be payable. The worker would not be an eligible TAA recipient until resuming training; thus, there is no HCTC eligibility for July 2003.
- The resumption of training on September 3, 2003, establishes potential eligibility for the HCTC for both August and September because the compensable week payable on September 6, 2003, will begin on Sunday, August 31. (August is a month of potential HCTC eligibility because the claimant will be an eligible TAA recipient for one day in August and therefore meets the requirement of receipt of TRA for any day of the month).

#### Example 2 - TRA Claimant - TRA suspended

- The adversely affected worker, covered by a certification, became eligible for UI in August 2002.
- The worker became eligible for TEUC in February 2003, and exhausted TEUC on April 26, 2003.
- The worker then became eligible for 13 weeks of basic TRA, effective April 27, 2003.
- The worker obtained a waiver of the training requirement on January 15, 2003, and later enrolled in TAA training in February, 2003, and began training in March, 2003.
- TAA training ended (summer break) on Friday, May 30, 2003.
- Training resumes on September 3, 2003.

Question: Is the claimant an eligible TAA recipient potentially eligible for the HCTC and, if so, does eligibility extend throughout the summer break which is longer than 30 days?

Answer: The claimant would not receive TRA for the month of July and therefore is not an eligible TAA recipient for that month.

- The worker became an eligible TAA recipient and potentially eligible for the HCTC in January because he/she received a waiver of the TAA training requirement and met the specific requirements of section 231(a) of the Trade Act, receiving TRA, except for not having exhausted UI.
- The worker was an 'eligible TAA recipient' in February, March, April, May, and June (the record submitted to the HCTC office for May establishes the carry over month of June).
- No TRA payments will be issued until the worker resumes training because the break exceeds the time limitations, thus the claimant is not an eligible TAA recipient and not potentially eligible for the HCTC in July 2003.
- The resumption of training on September 3, 2003, establishes potential eligibility for the HCTC for both August and September because the compensable week payable on September 6, 2003, will begin on Sunday, August 31. (August is a month of potential HCTC eligibility because the claimant will be an eligible TAA recipient for one day in August and therefore meets the requirement of receipt of TRA for any day of the month).

#### Example 3 - UI Claimant (continues eligible TAA recipient status)

- The adversely affected worker, covered by a certification, became eligible for UI in January 2003.
- The worker obtained a waiver of the training requirement on January 15, 2003, later enrolled in TAA training in February 2003, and began training in March 2003. TAA training ended (summer break) on Friday, June 6, 2003.

- TAA training resumes on September 3, 2003. The worker continues to receive UI and begins receiving TEUC in July until exhaustion on October 4, 2003.

Question Is the claimant an eligible TAA recipient potentially eligible for the HCTC and, if so, does eligibility extend throughout the summer break which is longer than 30 days?

Answer: The break in training will not interrupt the claimant's status of "eligible TAA recipient" in this case and the claimant remains potentially eligible for the HCTC.

- The worker became an eligible TAA recipient potentially eligible for the HCTC in January at the point that he/she received a waiver of the TAA training requirement and met the specific requirements of section 231(a) of the Trade Act, receiving TRA, except for not having exhausted UI entitlement.
- The worker was a 'TAA eligible recipient' in February, March, April, May, and June (the payment in June establishes the carry over month of July).
- The resumption of training on September 3, 2003, establishes potential eligibility for the HCTC for both August and September because the compensable week payable on September 6, 2003, will begin on Sunday, August 31. (August is a month of potential HCTC eligibility because the claimant will be an eligible TAA recipient for one day in August and therefore meets the requirement of receipt of TRA for any day of the month).

Example 4 - TRA claimant (continues eligible TAA recipient status)

- The adversely affected worker, covered by a certification, became eligible for UI in August 2002.
- The worker became eligible for TEUC in February 2003, and exhausted TEUC on April 26, 2003.
- The worker became eligible for 13 weeks of basic TRA, effective April 27, 2003.
- The worker obtained a waiver of the training requirement on January 15, 2003, enrolled in TAA training in February 2003, and began training in March 2003.
- TAA training ended (summer break) on Friday, June 6, 2003 and training is scheduled to resume on September 3, 2003.

Question: Is the claimant an eligible TAA recipient potentially eligible for the HCTC and, if so, does eligibility extend throughout the summer break which is longer than 30 days?

Answer: The break in training will not interrupt the claimant's status of "eligible TAA recipient" in this case and the claimant remains potentially eligible for the HCTC.

- The worker became an eligible TAA recipient potentially eligible for the HCTC in January because he/she received a waiver of the TAA training requirement and met the specific requirements of section 231(a) of the Trade Act, receiving TRA, except for not having exhausted UI.
- The worker was potentially eligible for the HCTC in February, March, April, May, and June (the payment in June establishes the carry over month of July).
- No TRA payments will be issued until the worker resumes training because the break exceeds the time limitations. (Note in Example 3 above, the claimant will continue to receive UI (if otherwise eligible)).
- The resumption of training on September 3, 2003, establishes potential eligibility for the HCTC for the month of September. However, because the compensable week payable for September 6, 2003, will begin on Sunday, August 31, August is a month of potential HCTC eligibility (note: one of the requirements for potential HCTC eligibility is the receipt of a payment for any day of the month).

## 60-Day Requirement

Section 231(a) of the Trade Act provides that TRA is payable for any week of unemployment that begins more than 60 days after the date on which the petition that resulted in a certification was filed. Therefore, there is a waiting period before TRA is payable.

The following examples illustrate the application of the 60-day requirement but also highlight how a difference in a few days in the filing of the petition may result in a delay in potential HCTC eligibility by a whole month. The examples apply to eligibility for TRA as well as UI.

### Example 1

- A petition is filed on June 30, 2003.
- The petition is certified on July 21, 2003, and covers workers separated from the firm beginning on June 1, 2002.
- An adversely affected worker covered by the certification was separated on July 1, 2002, and exhausted UI and TEUC on March 29, 2003.

This individual has exhausted all UI entitlement. However, this worker is not eligible for TRA until the compensable week that begins on Sunday - August 31, 2003, which is the first week that begins more than 60 days after the filing date of the petition that resulted in a certification (and provided he/she meets other eligibility requirements of the Act). Given that the first compensable week begins in August, this worker may be potentially eligible for the HCTC beginning in August but would not be for July.

Assuming the SWA determines week ending 09/06/2003 is payable in September, it would then report this claimant as an eligible TAA recipient for the months of August and September.

### Example 2

- A petition is filed on July 10, 2003.
- The petition is certified on August 23, 2003, and covers workers separated from the firm beginning on June 25, 2002.
- An adversely affected worker covered by the certification was separated on July 1, 2002, and exhausted UI and TEUC on March 29, 2003.

This individual has exhausted all UI entitlement. However, this worker cannot be eligible for TRA until the compensable week that begins on Sunday September 14, 2003, which is the first week that begins more than 60 days after the filing date of the certification (and provided he/she meets other eligibility requirements of the Act). Given that the first compensable week begins in September, this worker may be potentially eligible for the HCTC beginning in September, but not during July or August.

Assuming the SWA determines week ending 09/20/2003 is payable in September, it would then report this claimant as an eligible TAA recipient for the month of September.

### Example 3

- A petition is filed on June 30, 2003.
- The petition is certified on July 21, 2003, and covers workers separated from the firm beginning on June 1, 2002.
- An adversely affected worker was separated on July 1, 2003, and is eligible for UI.

The worker would be potentially eligible for TRA if he/she exhausted UI, but not until the week of unemployment that

begins more than 60 days after the filing date of the petition that was certified. This worker cannot be potentially eligible for TRA (but for exhaustion of UI) until the compensable week that begins on Sunday, August 31, 2003, which is the first week that begins more than 60 days after the filing date of the certification (and provided he/she meets other eligibility requirements of the Act). Given that the first compensable week begins in August, this worker may be potentially eligible for the HCTC beginning in August, but not for July.

#### Example 4

- A petition is filed on July 10, 2003.
- The petition is certified on August 23, 2003, and covers workers separated from June 25, 2002.
- An adversely affected worker was separated on July 1, 2003, and is eligible for UI.

The worker would be potentially eligible for TRA if he/she exhausted UI, but not until the week of unemployment that begins more than 60 days after the filing date of the petition that was certified. This worker cannot be potentially eligible for TRA until the compensable week that begins on Sunday, September 14, 2003, which is the first week that begins more than 60 days after the filing date of the petition that was certified (and provided he/she meets other eligibility requirements of the Act). Given that the first compensable week begins in September, this worker may be eligible for HCTC beginning in September, but not during July or August.

#### **Additional Examples**

**Example 1:** An individual is initially determined to be an eligible TAA recipient during the middle of a month.

The individual is initially determined to be an eligible TAA recipient in September, 2003. The SWA informed the eligible individual to file the first UI claim for benefits week-ending September 13 on Monday, September 15, 2003.

The SWA determined the individual filed his/her first week of benefits on September 15, 2003. The SWA submitted the eligible TAA recipient record on the individual to the IRS HCTC office on September 16, 2003.

September 2003						
S	M	T	W	T	F	S
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

On Tuesday, September 23, 2003 the SWA determined that the individual filed his second claim for UI benefits. Because a record was already submitted on the eligible TAA recipient for the potentially eligible coverage month of September, the SWA will not send another record to the IRS HCTC office on this eligible TAA recipient for September.

**NOTE:** The SWA will program their systems to ensure that no duplicate record will be created for the same individual for the same eligible coverage month.

**Example 2:** An individual is initially determined to be an eligible TAA recipient at the first of the month.

The individual is determined to be an eligible TAA recipient during the first week in February 2004. The eligible TAA recipient was instructed to file the UI claims for benefits for the first two weeks in February 2004 on February 17, 2004 because the state requires individuals to file every two weeks.

The individual filed his/her claim on February 17, 2004, for the previous two weeks. On February 18, 2004 the SWA determined that the eligible TAA individual filed for his/her two weeks of benefits. A record was created and sent to the IRS HCTC office for the month of February.

February 2004						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	1	2	3	4	5	6

On Sunday, February 29, 2004, the individual files for the other two weeks of UI benefits for February 2004. The SWA will not send a second record since a record has already been sent to the IRS HCTC office for this eligible TAA recipient for the month of February 2004.

**Example 3:** An individual is initially determined to be an eligible TAA recipient at the end of the month during a week that split months.

The SWA determined that an individual was an eligible TAA recipient beginning August 31, 2003. The SWA informed the individual that he/she needs to file the first week UI claim on Monday, September 8, 2003, for benefit week ending September 6, 2003. On September 9, 2003, the SWA determined the eligible TAA recipient had filed for UI benefits.

August 2003							September 2003						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
27	28	29	30	31	1	2	1	2	3	4	5	6	
3	4	5	6	7	8	9	7	8	9	10	11	12	13
10	11	12	13	14	15	16	14	15	16	17	18	19	20
17	18	19	20	21	22	23	21	22	23	24	25	26	27
24	25	26	27	28	29	30	28	29	30				
31													

The SWA created the eligible TAA record and sent it to the IRS HCTC office. Separate records were sent for the months of September 2003, and August 2003.

**Example 4:** An individual ceases to be an eligible TAA recipient. The individual is potentially eligible for the additional (carry over) month for the HCTC.

The individual is an eligible TAA recipient and is eligible for the HCTC, however, in June 2004, the individual receives all his/her TAA/TRA entitlement.

June 2004						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

June 2004 is the last month the individual is an eligible TAA recipient. June 2004 is also the last month the SWA will submit an eligible TAA recipient record to the IRS HCTC office for this individual.

By law, the individual is potentially eligible for the HCTC for one additional month after the individual ceases to be an eligible TAA recipient.

July 2004						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

The IRS HCTC office will match the eligible TAA recipient list for June against the eligible TAA recipient list for July and determine if the individual is eligible for one additional (carry over) month for the HCTC. In this case, July will be the carry over month for the HCTC.