

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI – TRA/HCTC
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 12-11

TO: STATE WORKFORCE AGENCIES

**FROM: JANE OATES /s/
Assistant Secretary**

SUBJECT: Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients - Expiration of the American Recovery and Reinvestment Act of 2009 Provisions Expanding HCTC

1. Purpose. To advise State Workforce Agencies of their responsibilities under the HCTC program after the expiration of the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act) that temporarily expanded the HCTC.

2. References. The Omnibus Trade Act of 2010 (Public Law (P.L.) No. 111-344, enacted December 29, 2010); Sections 1899A, 1899B, 1899C of Division B of the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5, enacted February 17, 2009); the Trade Adjustment Assistance Reform Act of 2002 (P.L. No. 107-210); Section 35 of the Internal Revenue Code (IRC) of 1986, (26 U.S.C. 35); Training and Employment Guidance Letter (TEGL) No. 22-08; TEGL No. 11-02, and Changes 1, 2, and 3; TEGL No. 16-10 and Changes 1 and 2; Unemployment Insurance Program Letter (UIPL) No. 02-03; UIPL No. 05-03; UIPL No. 33-03; UIPL No. 21-09.

3. Background. The Trade Adjustment Assistance Reform Act of 2002 (Trade Act) created a Federal income tax credit, the HCTC, administered by the Internal Revenue Service (IRS), which subsidizes private health insurance coverage for individuals in the TAA program identified as “eligible TAA recipients” and “eligible alternative TAA (ATAA) recipients.” (See UIPL Nos. 02-03, 05-03, and 33-03.) An “eligible TAA recipient” was defined as an individual who receives Trade Readjustment Allowances (TRA) for any day of a month (and the next month following the last month the individual meets this definition) or who would be eligible to receive TRA, but for the fact that s/he has not exhausted his or her unemployment compensation (UC) entitlement. (See TEGL No. 11-02, paragraph D.4., *Limitations on TRA* for an explanation of the “period for receiving TRA” and TEGL 11-02, paragraphs D.2., and D.3., and TEGL No. 11-02, Change 3 for an explanation of the training requirements in effect for workers covered under certifications of petitions filed before May 18, 2009, the date the HCTC provisions of the Recovery Act were effective). An “eligible alternative TAA (ATAA) recipient” was defined as an individual who is a worker under section 246(a)(3)(B) of

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the Trade Act and who is participating in the program established under paragraph (a)(1) of that section for a month and is receiving a benefit for that month under paragraph (a)(2) of that section.

The Recovery Act amended the IRC by adding a new provision to improve the affordability of the HCTC by raising the tax credit to 80 percent (up from 65 percent) of health insurance premiums beginning May 2009, through December 2010. It also established another category of individuals potentially eligible for the HCTC under section 246, as amended by the Recovery Act, referred to as “eligible reemployment TAA (RTAA) recipients.”

The Recovery Act also provided a *Special Rule* to amend the definition of an “eligible TAA recipient” for purposes of the HCTC. The *Special Rule* allowed coverage for an individual who:

- Is in a break in approved training that *exceeds 30 days*, and the break falls within the period for receiving Trade Readjustment Allowances (TRA) provided under the Trade Act, or
- Is receiving Unemployment Compensation (UC), which includes regular UC, Extended Benefits (EB), and Emergency Unemployment Compensation (EUC), for any day of such month and who would be eligible to receive TRA (except that s/he has not exhausted UC) for such month, *without regard to the enrollment in training requirements*.

The Omnibus Trade Act of 2010 extended the effective dates of the Recovery Act amendments to the HCTC provisions of the IRC through February 12, 2011.

4. Summary of the Changes to the HCTC Beginning March 2011 and the Definition of “Eligible TAA Recipient” after February 12, 2011.

- The expanded (80 percent) coverage under the Recovery Act expired on February 12, 2011. The amount of the tax credit reverted to 65 percent of the premiums paid for qualified health insurance for all eligible individuals (TAA recipients, ATAA recipients, and RTAA recipients), for months beginning with March, 2011.
- The amended definition of an “eligible TAA recipient,” under the Recovery Act’s *Special Rule*, is no longer in effect. An “eligible TAA recipient” is again defined as an individual who receives TRA for any day of a month (including the month following the last month the individual meets this definition) or who would receive TRA except for the fact that s/he has not exhausted his/her UC entitlement.

5. Guidance to the States. States should continue to prepare the monthly records of all “eligible TAA (or ATAA/RTAA) recipients” for submission to the IRS. The records of

“eligible TAA recipients” include all individuals, regardless of the petition number identified with the certification under which the individual is covered. Beginning with March 2011, states must use the definition of an “eligible TAA recipient” that was in effect before the amended definition under the Recovery Act.

States should note that an individual reported as an “eligible TAA recipient” under the Recovery Act requirements for HCTC may continue to be reported as an “eligible TAA recipient,” if the individual meets the requirements of the narrower definition described above. However, if such an individual is an “eligible TAA recipient” because of the *Special Rule* or another Recovery Act provision which is no longer in effect, then he or she may no longer be an “eligible TAA recipient” under the definition applicable for months beginning with March 2011 (regardless of the petition number identified with the certification under which the individual is covered).

6. HCTC Data Transmissions. States must continue to transmit records of eligible TAA (or ATAA/RTAA) recipients to the IRS via the UC Interstate Connection (ICON) network. There are no changes regarding these data transmissions. The IRS uses this information to determine whether the eligible TAA (or ATAA/RTAA) recipients are eligible for HCTC.

7. Administrative Costs. National Emergency Grant (NEG) funds are available to cover administrative costs for HCTC-related activities described in this UIPL. States should submit requests for funding according to the application procedures for NEG funds as specified in TEGL No. 10-02.

8. Action Requested. State Administrators are requested to provide this information to appropriate staff.

9. Inquiries. Please direct all inquiries to the appropriate Regional Office.