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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 21-09

TO: STATE WORKFORCE AGENCIES

FROM: DOUGLAS F. SMALL
Deputy Assistant Secretary

SUBJECT: Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients

1. Purpose. To advise states of the amended definition of an "eligible TAA recipient" for purposes of the HCTC administered by the Internal Revenue Service (IRS).

2. References. Sections 1899A, 1899B, and 1899C of Division B of the American Recovery and Reinvestment Act of 2009, Public Law (P.L.) No. 111-5 (the Recovery Act), 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. 10-02, TEGL No.11-02, and Changes 1, 2, and 3; Unemployment Insurance Program Letter (UIPL) No. 02-03; UIPL No. 05-03; and UIPL No. 33-03.

3. Background. The Trade Adjustment Assistance Reform Act of 2002 created a Federal tax credit, the HCTC, which subsidizes private health insurance coverage for individuals in the TAA program identified as "eligible TAA recipients" and "eligible alternative TAA recipients." (*See* UIPL Nos. 02-03, 05-03, and 33-03.) Sections 1899A and 1899B of the Recovery Act, amended Sections 35(a) and 7527(b) of the IRC of 1986 by adding a new section, Section 7527(e), to provide for 80 percent reimbursement of health insurance costs beginning May 2009 and through December 2010, and to provide for certain retroactive payments. Section 1899C of the Recovery Act amended the definition of an "eligible TAA recipient." This UIPL discusses and provides guidance to states regarding this new definition. Operating instructions addressing other changes that the Recovery Act made to the TAA program will be issued in the near future via a TEGL. Those other changes, which the forthcoming TEGL will address, include an expansion of the deadline for enrollment in training and other training requirements that will become effective for workers certified under petitions filed on or after May 18, 2009.

4. HCTC Changes. Section 1899A of the Recovery Act amended Section 35(a) of the IRC to improve the affordability of the tax credit by covering 80 percent (up from 65 percent) of the premium amount paid by eligible individuals for qualified health insurance beginning May 2009 and through December 2010, and Section 1899B made these premium amounts

RESCISSIONS	EXPIRATION DATE
None	Continuing

retroactive to coverage months beginning after December 31, 2008. The IRS will advise individuals of these changes, as appropriate.

The new definition of an "eligible TAA recipient," as amended by Section 1899C, is effective March 2009 through December 2010. An "eligible TAA recipient" continues to be 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 receive TRA but for the fact that s/he has not exhausted unemployment compensation (UC) entitlement, and is, therefore, potentially eligible for the HCTC for that month. In addition, Section 1899C added a Special Rule to Section 35(c)(2), to provide that, for any "eligible coverage month" (that is, any month an individual is eligible for the HCTC) from March 2009 through December 2010, an eligible TAA recipient also includes an individual, who:

- is in a break in approved training that exceeds 30 days, and the break falls within the period for receiving TRA provided under the Trade Act. (*See* TEGL No. 11-02, paragraph D.4., *Limitations on TRA* for an explanation of the "period for receiving TRA."), or
- is receiving 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. (*See* TEGL No. 11-02, paragraphs D.2 and D.3, and TEGL No. 11-02, Change 3 for an explanation of the training requirement(s) in effect for petitions filed prior to May 18, 2009. Forthcoming operating instructions will provide guidance on the requirements applicable to petitions filed on or after that date).

5. HCTC Data Transmissions. States are currently transmitting records of "eligible TAA recipients" to the IRS via the UC Interstate Connection (ICON) network. There is no change in the way this information is transmitted. The amended definition (Special Rule) became effective for the month of March 2009, therefore in addition to identifying and reporting (to the IRS) individuals as "eligible TAA recipients" who are receiving TRA (or would be receiving TRA except for not having exhausted UC), states must:

   - identify and report (to the IRS) individuals as "eligible TAA recipients" who are not receiving TRA because of a break in approved training that exceeds 30 days, if such individuals are within the period for receiving TRA specified under the Trade Act; and

   - identify and report (to the IRS) individuals as "eligible TAA recipients" when they are receiving UC without regard to whether the individuals have met the applicable enrollment in training deadlines/requirements while receiving such UC benefits.

6. Administrative Costs. National Emergency Grant (NEG) funds are available to cover administrative costs for HCTC-related activities including those 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.

7. Action. State Administrators are to provide this information to appropriate staff.

8. Inquiries. Please direct all inquiries to the appropriate regional office.

9. Attachments. Text of Sections 1899A, 1899B and 1899C of the Recovery Act

Text of Sections 1899A, 1899B and 1899C of P.L. No. 111-5

SEC. 1899A. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) Improvement of Affordability-

(1) IN GENERAL- Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by inserting `(80 percent in the case of eligible coverage months beginning before January 1, 2011)' after `65 percent'.

(2) CONFORMING AMENDMENT- Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by inserting `(80 percent in the case of eligible coverage months beginning before January 1, 2011)' after `65 percent'.

(b) Effective Date- The amendments made by this section shall apply to coverage months beginning on or after the first day of the first month beginning 60 days after the date of the enactment of this Act.

SEC. 1899B. PAYMENT FOR MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF ADVANCE PAYMENTS OF CREDIT.

(a) Payment for Premiums Due Prior to Commencement of Advance Payments of Credit- Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following new subsection:

(e) Payment for Premiums Due Prior to Commencement of Advance Payments- In the case of eligible coverage months beginning before January 1, 2011--

(1) IN GENERAL- The program established under subsection (a) shall provide that the Secretary shall make 1 or more retroactive payments on behalf of a certified individual in an aggregate amount equal to 80 percent of the premiums for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring prior to the first month for which an advance payment is made on behalf of such individual under subsection (a).

(2) REDUCTION OF PAYMENT FOR AMOUNTS RECEIVED UNDER NATIONAL EMERGENCY GRANTS- The amount of any payment determined under paragraph (1) shall be reduced by the amount of any payment made to the taxpayer for the purchase of qualified health insurance under a national emergency grant pursuant to section 173(f) of the Workforce Investment Act of 1998 for a taxable year including the eligible coverage months described in paragraph (1).'.

(b) Effective Date- The amendments made by this section shall apply to coverage months beginning after December 31, 2008.

(c) Transitional Rule- The Secretary of the Treasury shall not be required to make any payments under section 7527(e) of the Internal Revenue Code of 1986, as added by this section, until after the date that is 6 months after the date of the enactment of this Act.

SEC. 1899C. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) In General- Paragraph (2) of section 35(c) of the Internal Revenue Code of 1986

(defining eligible TAA recipient) is amended to read as follows:

(2) ELIGIBLE TAA RECIPIENT-

(A) IN GENERAL- Except as provided in subparagraph (B), the term `eligible TAA recipient' means, with respect to any month, any individual who is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974 or who would be eligible to receive such allowance if section 231 of such Act were applied without regard to subsection (a)(3)(B) of such section. An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.

(B) SPECIAL RULE- In the case of any eligible coverage month beginning after the date of the enactment of this paragraph and before January 1, 2011, the term `eligible TAA recipient' means, with respect to any month, any individual who--

(i) is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974,

(ii) would be eligible to receive such allowance except that such individual is in a break in training provided under a training program approved under section 236 of such Act that exceeds the period specified in section 233(e) of such Act, but is within the period for receiving such allowances provided under section 233(a) of such Act, or

(iii) is receiving unemployment compensation (as defined in section 85(b)) for any day of such month and who would be eligible to receive such allowance for such month if section 231 of such Act were applied without regard to subsections (a)(3)(B) and (a)(5) thereof.

An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.'.

(b) Effective Date- The amendment made by this section shall apply to coverage months beginning after the date of the enactment of this Act.