

OFFICIAL

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Workforce Development Agency, State of Michigan
Policy Issuance (PI): 11-18

Date: February 13, 2012

To: Michigan Works! Agency (MWA) Directors

From: Gary Clark, Director, Office of Talent Development Services
Workforce Development Agency (WDA)
(SIGNED)

Subject: Equitable Tolling of Deadlines for Workers Covered Under Trade Adjustment Assistance (TAA) Certifications

Programs Affected: TAA

References: Trade Act of 1974, Public Law (PL) 93-618, as amended
Trade Act of 2002, PL 107-210
20 Code of Federal Regulation, Part 617
The Trade and Globalization Adjustment Assistance Act of 2009
(Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, PL No. 111-5)
Bureau of Workforce Programs PI 07-18 and subsequent changes, issued October 16, 2007
Bureau of Workforce Transformation PI 09-21, issued November 23, 2009
United States Department of Labor/Employment and Training Administration, Training and Employment Guidance Letter 8-11, issued October 19, 2011

Rescissions: None

Background: Equitable tolling is a legal principle derived from the common law of equity. The application of equitable tolling provides exceptions to a statute of limitations and will not disqualify an individual if, despite reasonable care and diligent efforts, the



Workforce Development Agency, State of Michigan

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individual did not discover the statute of limitations until after the limitations period had expired.

This policy details the criteria for applying and documenting the equitable tolling of deadlines by MWAs for workers certified under the Trade Act as amended.

Policy: The equitable tolling of a deadline only applies in circumstance in which a deadline was missed through no fault of the participant, and the participant has demonstrated due diligence in taking all necessary actions to protect their eligibility for TAA benefits upon notification of the applicable deadline.

The equitable tolling of deadlines may be applied by MWAs to all determinations and redeterminations related to waivers from enrollment in training, job search allowances, relocation allowances, and Alternative Trade Adjustment Assistance. The tolling of deadlines associated with Reemployment Trade Adjustment Assistance (RTAA) and Trade Readjustment Allowances (TRA) are the responsibility of the Unemployment Insurance Agency and the TRA/Special Programs Unit. They cannot be tolled by an MWA.

When a deadline is tolled, the time to meet the deadline is extended from the time the worker was notified of the applicable deadline. Tolling the time to meet a deadline allows the deadline to be satisfied beyond the applicable statute of limitations.

To ensure the consistent application and documentation of equitable tolling, an *Equitable Tolling Worksheet* (Attachment A) and all applicable supporting documentation are required for all determinations in which a statutory deadline is equitably tolled.

Action: MWAs shall apply equitable tolling of deadlines, as appropriate and applicable, for all TAA determinations and/or redeterminations as referenced in this policy.

A completed *Equitable Tolling Worksheet* must be faxed to the TRA/Special Programs Unit at (313) 456-3694 for the consideration/application of equitable tolling for RTAA and TRA related deadlines.

Inquiries: Questions regarding this policy issuance should be directed to Mr. Ryan Doll, TAA Manager, WDA at (517) 335-0302 or dollr@michigan.gov.

The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon special request received by this office.

This policy issuance is available for downloading from the Internet system. Please contact this office for details.

Expiration Date: Continuing

GC:RD:pv

Workforce Development Agency
State of Michigan

EQUITABLE TOLLING OF TAA DEADLINES WORKSHEET

Statutory Deadline Being Equitably Tolloed:

- | | |
|---|--|
| <input type="checkbox"/> Waiver from Enrollment in Training | <input type="checkbox"/> Job Search Allowance |
| <input type="checkbox"/> Relocation Allowance | <input type="checkbox"/> Alternative Trade Adjustment Assistance |

The Following Information Must be Recorded and Documented When Tolling a Statutory Deadline:

Date the worker became certified under TAA: _____

Was the worker included on an appropriate layoff list? Yes No

Was the worker notified by the MWA of their certification? Yes No

Did the worker attend a worker benefit orientation meeting? Yes No

If the worker did not attend a worker benefit orientation meeting, when did they first contact an MWA seeking services?

Date the worker registered for TAA services: _____

Additional information to support the tolling of the applicable statutory deadline:

Worksheet completed by:

Date: