

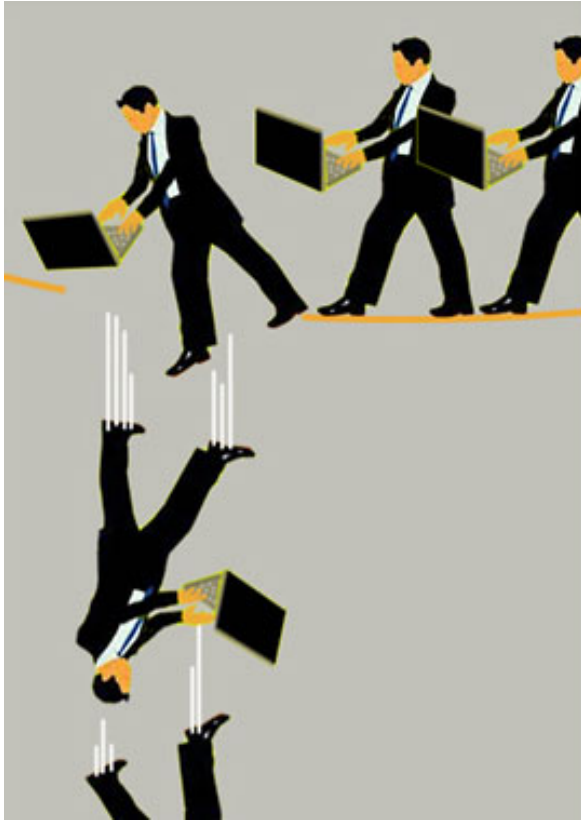
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## No safety net for programmers

When manufacturing jobs go overseas, laid-off workers are eligible for a host of benefits. But if you're one of the tens of thousands of software producers whose jobs have been outsourced, you're out of luck.

By Katharine Mieszkowski



Jan. 12, 2004 | Jim Fusco worked at AT&T for 13 years as a mainframe programmer, before his job was outsourced to IBM in 1999.

"One Friday, we walked out as AT&T employees, and the following Monday we walked back in as IBM employees, doing the same work, at the same desks, with different-colored paychecks," he says. Three years later, in May 2002, Fusco's job was outsourced again, and this time he wasn't so lucky. IBM's Global Services Division moved his job to Canada, and he was laid off.

"In the beginning, employees did have the opportunity to transfer elsewhere within IBM to other projects. But as more and more projects went offshore,

they started letting people go involuntarily," he says.

While on unemployment, Fusco, now 50, who lives in East Brunswick, N.J., applied for additional government support for workers whose jobs have been casualties of free trade and globalization.

Under the [Trade Adjustment Assistance Reform Act of 2002](#), workers whose jobs have moved overseas [can be eligible](#) for a battery of extra [assistance](#), including [income support](#), job training, tax credits for health insurance, and job search and relocation allowances. Some older workers can even receive a [temporary income subsidy](#), a form of "wage insurance," which helps cushion the financial blow when a new job pays much less than the old one. For instance, if you go from writing code for computers at \$50 an hour to selling them retail at a computer superstore for \$10 an hour.

But Fusco and his fellow IBM employees who petitioned for the benefits were repeatedly denied. The U.S. Department of Labor's Employment and Training Administration [determined](#) that programmers like Fusco do not qualify, because of the nature of what they'd produced on their old jobs: software. The government cited commerce and trade rules that classify software as a "service" and "not a tangible commodity," rather than an "article" as the trade act stipulates.

In other words, code doesn't count.

Fusco's lawyer doesn't buy it. "When stuff is offshored, it's done over there, and then it's imported through the communication lines back to America," says attorney Michael G. Smith, who is now bringing a [class-action lawsuit](#) against the Department of

Labor and the Department of Justice, on behalf of Fusco and other tech workers like him. "When the work is offshored, we think that all programmers should be eligible for benefits."

Since 1974, more than 4 million workers have been certified eligible to receive trade-related job-loss benefits. According to the Department of Labor, that number is just a fraction of those who could have [applied](#).

Now, say some economists, it's time for white-collar workers to get the same breaks. After all, Forrester Research predicts that 3.3 million jobs are likely to be lost to outsourcing in the U.S. by 2015 -- and the total number of white-collar jobs that are potentially vulnerable may be much higher than that: 14 million by [one estimate](#).

"In principle, there's no reason for this program to be manufacturing only. There is no political or theoretical justification for excluding workers simply based on their occupation or their industry. These people bear costs of increasing foreign competition, just like manufacturing workers, so they should be eligible too," says Lori G. Kletzer, an economics professor at the University of California at Santa Cruz.

Now that the jobs of American white-collar workers -- like computer programmers, data-entry clerks and call-center operators -- are increasingly becoming the [casualties of globalization](#), do the old laws that covered manufacturing job losses overseas apply to them? The question of who will be deemed worthy of a federal helping hand is just beginning to be sorted out, and the programmers are suing the Department of Labor to force the issue. But some economists think that the way to ease the burden of job losses caused by outsourcing is to find new ways to insure the wages of all workers. It's a point of view that may not find much support in a Republican-controlled White House and Congress at a time when the country is running up huge deficits, and trying to cut discretionary domestic spending, but as U.S. workers become increasingly alarmed by the impact of globalization, the idea of comprehensive wage insurance may gain a steadily higher profile.

Lisa Pineau, a 46-year-old unemployed mainframe programmer in Plano, Texas, is another plaintiff in the lawsuit. She would like to use the TAA benefits to retrain in another field, such as nursing. "Everyone I know has gone from making \$30 or \$40 an hour to making \$10 an hour, and it's impossible for our economy to survive that kind of loss," she says. "In Plano, the foreclosure rate is one of the highest in the nation in the last year, because there are so many people who have been laid off."

In the initial complaint, filed in the United States Court of International Trade on Friday, Jan. 2, 2004, plaintiff's attorney Smith makes his case for why software is in fact legally a so-called article. But he also makes a larger point: "In the current economic environment of large 'structural changes' to the U.S. economy in which possibly millions of software workers will lose their work to foreign competition, providing determinations of eligibility to software workers for TRA [trade readjustment allowance] benefits will clearly satisfy Congress's intent to 'improve the economy, and assist workers.'"

Fusco, who is now reemployed as a systems analyst at a substantial pay cut, sees the case in those terms, too: "I believe that tech workers are entitled to the same protections of the trade act as any other workers," he says. "If they've lost their jobs due to competition with foreign countries, then they should be entitled to the same benefits as anybody else." A spokesperson for the Department of Justice had no comment.

When it comes to computer programmers, the Department of Labor has already proven itself inconsistent. Smith knows of more than 40 cases where programmers have been ruled ineligible to receive TAA assistance, and at least five where they have been deemed eligible. He says he's received no explanation for the difference in status.

As the public debate about the [costs](#) and [benefits](#) of offshoring jobs heats up, some economists believe that domestic workers could benefit from insurance, so that their standard of living doesn't immediately plummet if a job loss forces them to take new jobs that pay less.

"There are many reasons why jobs are becoming less secure," says Robert Reich, former U.S. secretary of labor under the Clinton administration. "If we don't want to simply protect the old jobs through legislation that bans outsourcing or erect tariffs and quotas that prevents technology from advancing, we've got to get serious about some ways to cushion people from the difficulty that they face because of job insecurity. Wage insurance is one way."

The TAA already has limited wage insurance built into it to benefit workers over 50 who qualify. [Kletzer](#), the California economics professor, explains the concept this way: "Think of it as the mirror image of unemployment insurance. Wage insurance doesn't start until you've found the new job. If the new job pays less than your old job, wage insurance will partially close the gap."

While the data isn't in yet for technology workers, Kletzer says when manufacturing workers lose their jobs, about half take a pay cut with their new position. "It's not that hard for workers to find a new job. It's the wages of the new job that are the cost," says Kletzer. "The cost is really not the time it takes to find a new job. It's not really that new jobs are difficult to find. It's that workers tend to find jobs that pay less."

As it is currently conceived under TAA, wage insurance only applies to workers over the age of 50, since they're most likely to take the greatest hit if they are forced to go into a new field so close to retirement.

The idea is that even though the government cannot afford to permanently subsidize the wages of a worker whose earnings have plunged from \$40 an hour to \$10 an hour, it can afford to ease the blow, temporarily.

The key question is how to pay for extended benefits. Reich suggests that changes in the current payroll tax structure could cover the costs of such a program, not just for workers who lose their jobs to foreign competition, but for all workers. But he concedes no such program is likely to be enacted under the current Congress.

Labor activists are far from united on the issue of wage insurance, however. Marcus Courtney, an organizer for the [Washington Alliance of Technology Workers](#), thinks focusing too much on ameliorating the fallout from outsourcing is not the answer: "We have got to start changing the policies in place that let companies export the jobs we have, instead of saying we're going to provide wage insurance and retraining for everyone."

Still, Pineau, the programmer in Plano, sounds like someone who might benefit from such wage insurance, were she in fact eligible for it. She says that since her \$32-an-hour job was offshored to Canada for half that wage, she and many other former tech workers she knows in Plano are now applying for "McJobs" that pay \$10 an hour.

"Maybe we should be happy to make \$10 an hour, but when you have a mortgage and kids, and your expenses are already at \$40, it's hard to immediately go from \$40 to \$10."

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