May not be current adm. code. For current adm. code see: http://docs.legis.wisconsin.gov/code/prefaces/toc.

Chapter DWD 135

WAIVER OF RECOVERY OF TRA AND OTHER TAA OVERPAYMENTS

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Note: Chapter ILHR 135 was created as an emergency rule effective December 7, 1990. Chapter ILHR 135 was renumbered Chapter DWD 135 under s. 13.93 (2m) (b) 1., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498.

DWD 135.001 Definitions. (1) IN GENERAL. Except as provided in sub. (2), unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

(2) IN THIS CHAPTER. Notwithstanding ch. DWD 100, the following words and phrases have the designated meanings unless the context clearly indicates a different meaning:

(a) "Benefits" means any payment made under the trade adjustment assistance for workers program under 19 USC 2271 to 2319, including Trade Readjustment Allowances and other forms of Trade Adjustment Assistance.

(b) "Overpayment" means a payment of benefits to which a claimant was not entitled under the trade adjustment assistance for workers program under 19 USC 2271 to 2319 and federal regulations promulgated thereunder at 20 CFR part 617.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91, r. (intro.), renum. (1) and (3) to be (2) (a) and (b), cr. (1), r. and recr. (2), Register, September, 1995, No. 477, eff. 10−1−95.

DWD 135.01 Purpose. (1) The department administers the trade adjustment assistance for workers program as an agent for the U. S. department of labor. In administering this program, the department is required to apply the applicable federal laws and regulations specified at 19 USC 2271 to 2319 and 20 CFR part 617. Section 106.19, Stats., requires the department to establish a policy for waiving recovery of overpayments of benefits made under the trade adjustment assistance for workers program under 19 USC 2271 to 2319. This chapter implements this statutory directive and specifies the conditions under which the department may grant such waivers.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 2000, No. 537.

DWD 135.02 Waiver of recovery of overpayments. (1) If the department determines that a claimant received an overpayment of benefits, he or she shall be liable to reimburse the department for the amount of the overpayment.

(2) Under 19 USC 2315 and s. 106.19, Stats., the department shall waive recovery of the overpayment if:

(a) The overpayment was made without fault on the part of the claimant who received the overpayment; and

(b) Recovery of the overpayment would be contrary to equity and good conscience.

(3) In determining whether an overpayment was made without fault on the part of the claimant and whether recovery of the overpayment would be contrary to equity and good conscience, the department shall incorporate and adhere to the federal regulations promulgated by the U. S. department of labor at 20 CFR 617.55. The department shall furnish a claimant who so requests with a copy of the federal regulations.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 2000, No. 537.

DWD 135.03 Departmental notice of waiver. The department shall issue a written notice to any claimant to whom benefits have been overpaid of the claimant's right to request a waiver of the recovery of an overpayment.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91.

DWD 135.04 Application for waiver; procedure. (1) A claimant may request the department to waive the recovery of an overpayment which the department has assessed against the claimant. The claimant shall file the application for waiver on forms furnished by the department and may submit the application to a representative of the department at any time. The claimant may obtain an application for waiver by sending a request to: Department of Workforce Development, Unemployment Insurance Division, TRA Unit, P. O. Box 7965, Madison, Wisconsin, 53707.

(2) The department shall issue a determination after receiving an application with complete financial information. The department may not waive recovery of any part of an overpayment which has been recovered prior to the date of the determination.

(3) The department shall issue a determination within 15 days after receiving a completed application. The department's determination is appealable under s. 108.09, Stats.

(4) After an application is filed, the department may not initiate any new collection activity until a determination is issued on the application, except that the department shall recover the overpayment by direct offset against any unemployment benefits payable under a state or federal law.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; am. (1), Register, September, 2000, No. 537, eff. 10−1−00.