

Response to Legislative Council Recommendations

Proposed Rules Relating to Unemployment Insurance and Temporary Help Employers Chapter DWD 133 CR 06-032

All recommendations were accepted, except the following:

Comment 2.a. In s. DWD 133.001, in sub. (1) and (2), is it necessary to add “and unless the context clearly indicates a different meaning”? Are there instances in this new chapter where the context of the defined terms clearly indicates a different meaning? If not, this phrase can be deleted. Also, since the second sentence in the definition of “Assignment” in sub. (2) (a) is a substantive provision that should not be part of the definition; it should be placed outside the definitions section. Section DWD 133.001 could be restructured and rewritten as follows:

DWD 133.001 General provisions. (1) DEFINITIONS. (a) Except under par. (b) and unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

(b) Notwithstanding ch. DWD 100 and unless the context clearly indicates a different meaning, in this chapter:

1. “Assignment” means work assigned...for a client company of the employer.
2. “Client company” means....
3. “Employer” has the same meaning....

(2) END OF ASSIGNMENT. For purposes of this chapter, an assignment ends when the employee completes it or when the employee is removed from the assignment.

Department response: The definitions section of the department’s unemployment rules are generally written to include the phrase “unless the context clearly indicates a different meaning.” The department prefers this cautious approach. The department does not agree that the suggested placement of “end of assignment” is preferable to the department’s proposal.

Comment 2.b. Since the term “employee” is so significant to, and is used throughout, the new chapter, it appears that the definitions section should include a definition of “employee” (e.g., “Employee” means a temporary help employee--with any necessary cross-references to the definition of “temporary help employee” elsewhere in the code or the statutes).

Department response: The department does not agree that defining the term “employee” as an employee of a temporary help company is necessary. The proposed rule explains when the employment relationship between an employer and an employee continues for the purpose of unemployment insurance eligibility and “employer” is defined as a temporary help company. It is obvious that the term “employee” applies to an employee of the defined term “employer.”