

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3682/P4dn
JTK:kmg:jf

September 26, 2001

Michelle Kho:

1. This draft includes all items that I know about except the exclusion from the definition of "employment" for certain services provided to medicaid recipients. In statutory drafting, we don't incorporate references to the Administrative Code because this is substatutory law and can be changed administratively, thereby creating a bad reference. It also introduces a delegation issue. We have found that there is almost always a means of conveying the desired concept without incorporating the references, and we will try to find a way to do that on the next draft.

2. Concerning the references to Indian tribes that parallel existing references to governmental units, it seemed to me that a reference needs to be inserted in s. 108.04 (13) (d) 4. (intro.), stats., which relates to reimbursement financing. In addition, the following statutes contain references to governmental units that might logically also be applied to Indian tribes, but because I didn't think it was necessary to extend their application, I did not do so: sections 108.02 (12) (b) (intro.), (bm) (intro.), and (c), (13) (e), and (15) (k), 108.04 (17) (e), and 108.05 (2) (b) (intro.).

3. Concerning proposed s. 108.152, relating to financing of benefits for employees of Indian tribes:

a. This draft attempts to follow the substance of your instructions, but because the text of s. 108.151, stats., which serves as a loose model, is based on s. 108.15, stats., and some of that language goes back 60 years, it was not possible to adhere to the exact verbiage.

b. I did not include your proposed sub. (1), because coverage is already dealt with earlier in the chapter; the language does not appear in s. 108.151, stats., and the rewrite committee had recommended its deletion from s. 108.15, stats., as surplusage.

c. I merged the 2nd sentence of your sub. (2), relating to the contribution rate after termination of election, with the following subsection, which relates to that subject; this permitted the remaining language in your subs. (1) and (2), which is somewhat redundant, to be combined.

d. In proposed s. 108.152 (2) (a), I changed the initial period for electing reimbursement from 2 years to 3 years to be consistent with s. 108.151 (4) (a) 1., stats., and proposed

s. 108.152 (5) (a). The rewrite committee had made that change to s. 108.151 (3) (a), stats. If you agree with this change, do you want to change s. 108.151 (3) (a), stats., also?

e. I inserted a reference to penalties in proposed s. 108.152 (5) (b) to parallel the treatment in proposed s. 108.152 (6) (a).

4. Concerning proposed s. 108.067 (1), relating to reports by professional employer organizations, I inserted a provision which causes all of the reports to cover the one-year period ending on the December 31 preceding the due date (March 31). Substitute a different date if you wish, but I think it is desirable to have all of the reports cover the same period of time.

5. The initial applicability provision that appears in this draft for the changes relating to professional employer organizations is the same type of provision that was used in 1987 Wisconsin Act 255, which created employee leasing companies.

6. Concerning the deferral of first-quarter UI contribution liability, s. 108.17 (2), stats., does not currently require quarterly contribution reports and payments, but rather leaves it up to the department to establish reporting periods. In order to accomplish the deferral with the specificity you have in mind, it seemed to me that we must first lay in place the quarterly reporting requirement that has been established administratively. This draft therefore amends s. 108.17 (2), stats., to accomplish that. This change also permits substitution of the term "quarter" for the term "reporting period" in proposed s. 108.17 (2g), as you requested.

7. This draft deletes the appropriation increase for the appropriation under s. 20.445 (1) (nb), stats. This appropriation provides federal funding for UI information technology systems development. I assume that you either have sufficient unencumbered moneys in this appropriation account or will not be expending any federal moneys for this purpose in the 2001-03 fiscal biennium. Under the draft, funding for UI information technology systems development can also be drawn from the appropriation under s. 20.445 (1) (gh), stats., which is derived from state program revenue. However, since that appropriation is not a sum certain appropriation, no appropriation increase is required.

8. Concerning the initial applicability for the change to s. 108.04 (16) (b), stats., relating to approved training, your recent memos request both a change and a deletion. This draft reflects the requested change. I will delete it entirely if you wish, but this item does seem to make a substantive change since current law does not treat the issue of training provided under either EDWAA or the Workforce Investment Act.

9. Concerning proposed s. 108.14 (2e), relating to electronic submission and receipt of documents, the language in the previous draft, in my view, authorized either computerized or facsimile transmission, or both, if approved by the department. The suggested revision seems to suggest that facsimile transmission is already authorized and steps on from there. However, there is currently no reference to facsimile transmission in ch. 108, stats. This draft, therefore, makes essentially the changes that you requested but retains the original coverage of this subsection so that the

department may apply it to both computerized and facsimile transmission. Please let me know if this is not in accord with your intent.

10. The reference to reimbursements in s. 108.22 (1m), stats., continues to be appropriate because the special definition of "contribution" under s. 108.225 (1) (a), stats., only applies in s. 108.225, stats.

11. This draft clarifies the analysis of the change in coverage for the nonimmigrant visa holders.

12. The reduction of the social security offset in 2003 appears in the nonstatutory text under SECTION 63 (1).

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778