

Clearinghouse Rule 07-038

State of Wisconsin

**Department of Workforce Development
Unemployment Insurance Division**

Unemployment Insurance Benefit Reports Filed by Employers

DWD 123 and 111.07 (4)

The Wisconsin Department of Workforce Development proposes an order to repeal s. DWD 111.07 (4); to repeal and recreate ss. DWD 123.01 and 123.03, and to create s. DWD 123.02, relating to unemployment insurance benefit reports filed by employers and affecting small businesses.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 108.04 (13), 108.09 (1), 108.14 (2), and 227.11, Stats.

Statutes interpreted: Sections 108.04 (13), 108.09 (1), and 108.14 (2), Stats.

Related statute or rule: NA

Explanation of agency authority. Section 108.09 (1), Stats., provides that each employer that is notified of a benefit claim shall promptly inform the department in writing as to any eligibility question in objection to the claim together with the reasons for the objection.

Section 108.04 (13) (c), Stats., provides that if an employer, after notice of a benefit claim, fails to file an objection to the claim under s. 108.09 (1), any benefits allowable under any resulting benefit computation shall, unless the department applies a provision of this chapter to disqualify the claimant, be promptly paid.

Section 108.04 (13) (f), Stats., provides that if benefits are erroneously paid because the employer fails to file a report required by this chapter, fails to provide correct and complete information on the report, fails to object to the benefit claim under s. 108.09 (1), Stats., or aids and abets the claimant in an act of concealment, the employer is at fault.

Section 108.14 (2), Stats., provides that the department may require from any employing unit which employs one or more individuals to perform work in this state any reports on employment, wages, hours and related matters which it deems necessary to carry out Chapter 108, Stats. The department may also adopt and enforce all rules which it finds necessary or suitable to carry out the chapter.

Summary of the proposed rule. Chapter DWD 123 requires certain reports to be filed by an employer to assist the department in determining a claimant's benefit claim. The current rule contains information that is obsolete and confusing. The proposed rule will update and clarify Chapter DWD 123 to include descriptions and filing procedures for the following benefit reports used by the department:

- Separation Notice. The department sends a separation notice to an employer when a new benefit claim is initiated and the employer is identified as having employed the claimant in the base or lag period of the claim, or when a benefit claim is resumed and the employer is identified as having employed the claimant after the last claimed week. The employer must complete and return the separation notice to the department if any information on the notice is incorrect; there is vacation, dismissal, or holiday pay assigned to any period beyond the claimant's last day of work; there is an eligibility issue that applies to the claimant that is not identified on the separation notice; or the claimant did not work for the employer.
- Wage Verification/Eligibility Report. The department sends the wage verification/eligibility report to an employer while a benefit claim is in progress to verify partial wages earned from the employer as reported by the claimant on weekly claim certifications and to verify the claimant's continuing eligibility for benefits. The employer must complete and return the wage verification/eligibility report to the department if information on the form report is missing or incorrect; an eligibility issue applies to the claim; or the claimant did not work for the employer.
- Urgent Request For Wages. The department sends the urgent request for wages to an employer when the claimant reports having been paid wages by the employer during the base period or an alternate base period, and the department has no record of such wages. The employer must complete and return the urgent request for wages to the department.

The filing requirements for the benefit reports in the proposed rule provide that a report is considered to be filed when it is completed and returned to the department within the time limit and with the department location specified on the report. Returning an incomplete report, even if it is received within the time limit, constitutes a failure to file the required report. Failure to file the required report is considered an admission by the employer that no eligibility question exists regarding that claimant. Eligibility issues raised after the due date of a required report will be resolved pursuant to ss. 108.09 (2) (b) and 108.04 (13), Stats.

The proposed rule will repeal information on the following obsolete reports:

- Work Record Report (form UC-203). This form was used to collect wage data on a claim-by-claim basis before the implementation of quarterly wage reporting.
- Final Work Record Report. This form was used when an employer ceased to have employees, had gone out of business, or terminated coverage under the unemployment insurance program without providing the department with satisfactory assurance that the employer would promptly file a Work Record Report (UC-203) if the department requested it.

The proposed rule will also repeal a provision on the Urgent Request for Wages in Chapter 111, regarding quarterly wage reports, and create a new provision in Chapter DWD 123, regarding benefit reports. The requirement that a employer pay a \$15 fee for tardy filing of the

Urgent Request for Wages will be repealed. The department has not enforced this provision recently due to the administrative inefficiency of collecting the fee.

Summary of factual data and analytical methodologies. The department has changed the type of benefit reports required from employers with the implementation of the quarterly wage reporting and other procedural changes. The proposed rule updates and clarifies Chapter DWD 123 to reflect these changes.

Summary of and comparison with federal regulations. There are no applicable federal regulations.

Comparison with rules in adjacent states. Iowa, Michigan, and Illinois have unemployment insurance benefit rules similar to Wisconsin regarding reports that notify employers of the filing of a claim, request wage and separation information, and allow employers to notify the states of possible ineligibility of claimants. Minnesota does not have unemployment insurance benefit rules.

Effect on small businesses. The proposed rule affects small businesses but does not have a significant economic impact on a substantial number of small businesses. The DWD Small Business Regulatory Coordinator is Jennifer Jirschele, (608) 266-1023, jennifer.jirschele@dwd.state.wi.us.

Analysis used to determine effect on small business. The reports provide information on claimants' employment separations, dates of work, wages and other payments, and other issues that may be disqualifying. Most of the information is required by Chapter 108, Stats.

Agency contact person. Carla Breber, UI Disputed Benefits Claims, (608) 266-7564, carla.breber@dwd.state.wi.us.

Place where comments are to be submitted and deadline for submission. Comments may be submitted to Elaine Pridgen, Office of Legal Counsel, Dept. of Workforce Development, P.O. Box 7946, Madison, WI 53707-7946; fax (608) 266-1784, or elaine.pridgen@dwd.state.wi.us. The comment deadline is May 31, 2007.

SECTION 1. DWD 111.07 (4) is repealed.

SECTION 2. Chapter DWD 123 (title) is repealed and recreated to read:

Chapter DWD 123
Benefit Reports Filed by Employers

SECTION 3. DWD 123.01 is repealed and recreated to read:

DWD 123.01 Purpose. Pursuant to ss. 108.04 (13), 108.09 (1), and 108.14 (2), Stats., in order to determine benefit claims, the department requires employers to provide information about claimants' employment separations, dates of work, wages and other payments, and other issues that may be disqualifying. This chapter specifies the benefit reports that must be filed by employers and the filing requirements for those reports.

SECTION 4. DWD 123.02 is created to read:

DWD 123.02 Filing a benefit report. (1) IN GENERAL. The department shall consider a benefit report to be filed by an employer when it is completed and returned to the department as set forth in this chapter. Returning an incomplete report, even if it is received within the time limit, constitutes a failure to file the required report within the meaning of s. 108.04 (13) (c) or (f), Stats. Failure to file a required report as set forth in this chapter shall be considered an admission by the employer that no eligibility question exists regarding that claimant. Eligibility issues raised after the due date of a required report will be resolved in accordance with ss. 108.09 (2) (b) and 108.04 (13), Stats.

(2) TIME AND PLACE OF FILING. An employer shall file each benefit report requested by the department within the time limit and with the department location specified on the report.

SECTION 5. DWD 123.03 is repealed and recreated to read:

DWD 123.03 Types of benefit reports. (1) SEPARATION NOTICE. The department will send the separation notice to an employer when a new benefit claim is initiated and the employer is identified as having employed the claimant in the base or lag period of the claim, or when a benefit claim is resumed and the employer is identified as having employed the claimant after the last claimed week. The employer shall complete and return the separation notice to the department if any of the following apply:

- (a) Any information on the notice is incorrect.
- (b) There is vacation, dismissal, or holiday pay assigned to any period beyond the claimant's last day of work.
- (c) There is an eligibility issue that applies to the claimant that is not already identified on the separation notice.
- (d) The claimant did not work for the employer.

(2) WAGE VERIFICATION/ELIGIBILITY REPORT. The department will send the wage verification/eligibility report to an employer while a benefit claim is in progress to verify partial wages earned from the employer as reported by the claimant on weekly claim certifications and to verify the claimant's continuing eligibility for benefits. The employer shall complete and return the wage verification/eligibility report to the department if any of the following apply:

- (a) Information on the form report is missing or incorrect.
- (b) An eligibility issue applies to the claim.
- (c) The claimant did not work for the employer.

(3) URGENT REQUEST FOR WAGES. The department will send the urgent request for wages to an employer when the claimant reports having been paid wages by the employer during

the base period or an alternate base period, and the department has no record of such wages. The employer shall complete and return the urgent request for wages to the department.

SECTION 6. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.