

CR 83-215

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

RECEIVED

JUN 20 1984

2:00 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Howard S. Bellman, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Chs. ILHR 126-129 - Unemployment Compensation and Work Registration; Work Search; Ability to Work and Availability for Work; and Notice of Unem- were duly
(Subject) ployment.
approved and adopted by this department on June, 1984.
(Date)

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 8:45 am in the city of Madison, this 20th day of June A.D. 1984.

Howard S. Bellman
Secretary

ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02(1), 108.04(2), 108.08 and 108.14(2), Stats., the Department of Industry, Labor and Human Relations hereby ☒ creates; ☐ amends; ☒ repeals and recreates; and ☐ repeals and adopts rules of Wisconsin Administrative Code chapter(s):

Ind. <u>ILHR 126-129</u> (Number)	<u>Unemployment Compensation and Work Registration; Work Search; Ability to Work and Availability for Work and Notice of Unemployment.</u> (Title)
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The attached rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to section 227.026, Stats.

Adopted at Madison, Wisconsin, this 20th
day of June, A.D., 1984.

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS
Howard S. Bellman
Secretary



State of Wisconsin \ Department of Industry, Labor and Human Relations

RULES in FINAL DRAFT FORM

Rule: Chs. ILHR 126-129

Relating to: Unemployment Compensation and Work Registration, Work Search, Ability to Work and Availability for Work and Notice of Unemployment.

CLEARINGHOUSE RULE NO. 83-215

ANALYSIS OF RULES

PREPARED BY

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

The Job Service Division of the Department of Industry, Labor and Human Relations is responsible for administering the Unemployment Compensation program under chapter 108 of the Wisconsin Statutes.

WORK REGISTRATION

Section 108.04(2), Stats., requires a person who is totally unemployed to register for work at a public employment office in order to be eligible for unemployment benefits. A claimant who is partially unemployed in any given week may be required to register for work if it appears that the claimant is not genuinely interested in working full time.

This registration requirement may be waived by the department if:

1. The claimant has been laid off from seasonal employment for the customary off season and if his or her customary occupation is in seasonal employment.
2. The claimant has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which the claimant appears at the public employment office to initiate the benefit claim or within 6 weeks after the week in which an eligibility review is conducted. (This time period is added to this draft to ensure uniform treatment by the department.)
3. The claimant has a reasonable expectation of starting work with a new employer within 4 weeks after the week in which the claimant appears at the public employment office to initiate the benefit claim or within 4 weeks after the

week in which an eligibility review is conducted.

4. The claimant has been laid off from work but routinely obtains work through a union hiring hall.

The department shall waive the registration requirement if:

1. There was an absence of previously scheduled registration facilities in the claimant's community.

2. The claimant was unable to use the registration facilities because of a failure in the means of transportation.

3. The department made an error relating to the claimant's registration.

4. The employer warned the claimant not to register or failed to post a notice on the premises explaining the procedures for claiming benefits.

5. The claimant was satisfactorily participating in a course of approved training under s. 108.04(16), Stats.

6. The claimant reasonably expected to perform work during the week but did not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to register at the public employment office.

WORK SEARCH

Section 108.04(2), Stats., requires a claimant who is totally unemployed to be seeking suitable work in order to be eligible for unemployment benefits. The claimant can show evidence of compliance in various ways such as making job applications, taking civil service examinations, registering with a union hiring hall or a professional or university placement facility and responding to classified advertisements for work. If a particular claimant's employment history or conduct indicates a lack of interest in accepting new work, the department may

require the claimant to make a minimum number of weekly in-person applications for work with employers. A claimant is ineligible for benefits for any week in which the claimant fails, without good cause, to comply with these requirements.

After a claimant has been unemployed for 4 or more consecutive weeks, the department may require the claimant to develop a work search plan for departmental approval. The department may disqualify a claimant for benefits under this provision for any week in which the claimant fails, without good cause, either to develop or comply with the work search plan. The department may waive the work search requirement for any week if:

1. The claimant performed any wage earning services for the customary employer.
2. The claimant has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which the claimant appears at the public employment office to initiate the benefit claim or within 6 weeks after the week in which an eligibility review is conducted. (This time period is added to this draft to ensure uniform treatment by the department.)
3. The claimant has a reasonable expectation of starting work with a new employer within 4 weeks after the week in which the claimant appears at the public employment office to initiate the benefit claim or within 4 weeks after the week in which an eligibility review is conducted.
4. The claimant has been laid off from work but routinely obtains work through a union hiring hall.
5. The week in question is the week in which Thanksgiving Day, Christmas Day or New Year's Day fall.

The department shall waive the work search requirement for any week if:

1. The claimant is summoned to serve as a juror.

2. The claimant participated satisfactorily in a course of approved training under s. 108.04(16), Stats.

3. The claimant did not make a work search due to department error.

4. The claimant's most recent employer failed to post a notice on the premises explaining the procedures for claiming benefits.

5. The claimant reasonably expected to perform work during the week but did not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to search for work in that week.

The department may require a claimant to present evidence of work search efforts for any 8-week period prior to the date that the department makes the request. The department may verify the evidence submitted and disqualify a claimant for benefits in any week for which the evidence does not establish that the claimant made a reasonable search for suitable work.

ABILITY TO WORK

AND

AVAILABILITY FOR WORK

Section 108.04(2), Stats., requires a person who is totally unemployed to be able to work and available for work in order to be eligible for unemployment benefits in any given week. A claimant is not considered to be able to work or available for work if:

1. The claimant's physical condition or uncontrollable personal circumstances limit the claimant to less than 15 per cent of the opportunities for suitable work.

2. The claimant, without good cause, restricts his or her availability to less than 50 per cent of the full-time opportunities for suitable work.

3. The claimant, without good cause, fails to report for an eligibility

review (a periodic review scheduled by the public employment office to review a claimant's status and employability).

A claimant who is partially unemployed in any given week may be required to comply with this rule if there is an indication that the claimant is not interested in working full time.

NOTICE OF UNEMPLOYMENT

Section 108.08, Stats., requires that a claimant must report in person to a public employment office to initiate a benefit claim and must file a claim for unemployment benefits in a timely manner. This rule defines the number of days allowed to the claimant to file the weekly claim with the department. The department will waive these requirements if exceptional circumstances exist. Exceptional circumstances include such items as the following:

1. The absence of previously scheduled claimstaking facilities in or near to the claimant's community.
2. The claimant's inability to use the claimstaking facilities because of a failure in the means of transportation or because the claimant was employed.
3. An error by the department relating to the claim filing.
4. A warning by the employer not to file a claim or the failure by the employer to post a notice on the premises explaining the procedures for claiming benefits.
5. The claimant reasonably expected to perform work during the week but did not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to initiate or reactivate the benefit claim in that week.

Statutory Authority. Pursuant to the authority vested in the department of industry, labor and human relations by ss. 101.02(1), 108.04(2), 108.08 and 108.14(2), Stats., the department of industry, labor and human relations hereby proposes to repeal and recreate and create rules interpreting ss. 108.04(2) and 108.08, Stats., as follows:

SECTION 1. Chapter Ind-UC 126 is repealed and recreated to read:

CHAPTER ILHR 126.

WORK REGISTRATION

ILHR 126.001 DEFINITIONS. In chs. ILHR 126 to 129, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (1) "Agent state" means any state in which a person files a claim for unemployment benefits from the state of Wisconsin.
- (2) "Claim form" means the weekly form provided by the department or the employment security office of an agent state to a claimant on which the claimant submits information regarding the claimant's employment status and availability for work and which serves as a basis for the payment of unemployment benefits.
- (3) "Customary occupation" means the occupation for which a claimant is most qualified based on the claimant's skills, abilities, training, education and work experience.
- (4) "Department" means the department of industry, labor and human relations.
- (5) "Department deputy" and "deputy" have the meaning designated for "deputy" in s. 101.01(1)(d), Stats.
- (6) "Full time" means work which is performed for more than 30 hours per week.
- (7) "Labor market area" means a geographical area in which there are jobs deemed to be suitable work for the claimant and which encompasses the geographical area in which workers with similar occupational skills travel to obtain or perform suitable work.

(8) "Partial unemployment" and "partially unemployed" have the meaning designated in s. 108.02(20), Stats.

(9) "Public employment office" means an office operated by the employment security agency of an agent state or by the job service division of the department of industry, labor and human relations and includes any itinerant office used by the division.

(10) "Representative of the department" means any person employed by the job service division of the department of industry, labor and human relations who has job duties involving claimant work registrations or the taking, processing or adjudication of benefit claims.

(11) "Seasonal employment" means employment in an occupation or industry in which employers customarily suspend or significantly curtail business operations for regularly recurring periods because of climatic conditions or because of the seasonal nature of the employment.

(12) "Suitable work" means work that is reasonable considering the claimant's training and experience.

(13) "Total unemployment" and "totally unemployed" have the meaning designated in s. 108.02(25), Stats.

(14) "Wages" has the meaning designated in s. 108.02(26), Stats.

(15) "Week" has the meaning designated in s. 108.02(27), Stats.

ILHR 126.01 MANNER OF REGISTERING FOR WORK; PREREQUISITE FOR BENEFIT ELIGIBILITY. Under s. 108.04(2), Stats., a claimant who is totally unemployed shall be eligible for unemployment benefits only if the claimant has registered for work at a public employment office and completed a work application unless the registration has been waived by the department. A claimant's registration for work shall be

made at a public employment office serving the labor market area within which the claimant is willing to accept suitable work or at such other location as designated by the department.

ILHR 126.02 WAIVER OF WORK REGISTRATION; CLAIMANT'S EMPLOYMENT HISTORY AND EMPLOYER HIRING PRACTICES. Under s. 108.04(2)(b), Stats., the department may waive a claimant's registration for work requirement under any of the following circumstances:

(1) The claimant has been laid off from seasonal employment by an employer during or for the customary off season for the type of business and his or her customary occupation is in seasonal employment.

(2) The claimant has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which he or she appears at the public employment office to initiate the benefit claim or within 6 weeks after the week in which an eligibility review is conducted under s. ILHR 128.03. In determining whether a claimant has a reasonable expectation of reemployment, the department shall consider factors including, but not limited to, the following:

(a) The past history of layoffs and reemployments by the employer;

(b) Any information which the employer furnished to the claimant or the department about the expected reemployment date; and

(c) Whether the claimant has recall rights with the employer under the provisions of any applicable collective bargaining agreement.

(3) The claimant has a reasonable expectation of starting work with a new employer within 4 weeks after the week in which he or she appears at the public employment office to initiate the benefit claim or within 4 weeks after the week in which an eligibility review is conducted under s. ILHR 128.03. In determining

whether a claimant has a reasonable expectation of starting work with a new employer, the department shall consider factors including, but not limited to, the following:

(a) The hiring practices of employers in the claimant's labor market area for workers who perform work which is similar to the work which the claimant is expected to perform for the new employer;

(b) Any information which the new employer furnished to the claimant or the department about the time within which the work is expected to commence; and

(c) Whether the work is suitable work for the claimant.

(4) The claimant has been laid off from work and routinely obtains work through a union referral or hiring hall process. Waiver under this subsection may be permitted only if:

(a) The union referral or hiring hall process is the primary method by which workers obtain work in the claimant's customary occupation;

(b) The union maintains a record of unemployed members and the referral activities of these members and allows the department to inspect such records;

(c) The union provides, upon the request of a department deputy, any information regarding a claimant's registration or a job opening or referral;

(d) Prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant;

(e) The claimant is registered for work with his or her union and satisfies the requirements of the union relating to job referral procedures and maintenance of membership in good standing; and

(f) The union enters into a written agreement with the public employment office regarding the requirements of this subsection.

ILHR 126.03 DEMAND OCCUPATIONS. The department may refuse to grant a waiver under s. ILHR 126.02 if the department determines that the demand for employment of persons in the claimant's customary occupation exceeds the supply of persons available for such employment in the claimant's labor market area.

ILHR 126.04 MANDATORY WAIVER OF WORK REGISTRATION. Under s. 108.04(2)(b), Stats., the department shall waive the registration for work requirement under any of the following circumstances:

(1) The absence of previously scheduled registration facilities in or near to the claimant's community.

(2) The claimant's inability to use the registration facilities available in or nearest to the claimant's community because of the lack or failure of transportation facilities on which the claimant may have reasonably relied. No waiver may be granted unless the lack or failure of transportation facilities occurred at a time and for a duration in the week as to prevent the claimant's registering within the week.

(3) An error relating to the claimant's registration made by personnel of the department.

(4) Action by an employer, in any manner, directly or indirectly, instructing, warning or persuading the claimant not to register or not to file a benefit claim.

(5) The failure of the claimant's most recent employer to post or maintain any notice as to claiming unemployment benefits which has been supplied to the employer under s. Ind-UC 120.01.

(6) The claimant is enrolled in and satisfactorily participating in a course of approved training under s. 108.04(16), Stats.

(7) The claimant reasonably expected to perform work during the week but did

not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to appear at the public employment office to register for work in that week.

Note: Subsection (1) applies to a situation in which the public employment office traveling representative serving the particular area does not appear during the scheduled time and at the scheduled place to effect registrations.

ILHR 126.05 PARTIAL UNEMPLOYMENT. (1) Under s. 108.04(2)(d), Stats., a department deputy may require a claimant who is partially unemployed in any given week to register for work in that week to establish eligibility for benefits if the deputy so notifies the claimant before the start of that week and there is some definite indication that the claimant is not interested in working full time.

(2) Section ILHR 126.01 applies to a claimant who is notified to register for work under this section.

SECTION 2. Chapters ILHR 127 to 129 are created to read:

CHAPTER ILHR 127.

WORK SEARCH

ILHR 127.01 WORK SEARCH; POLICY; REQUIREMENTS. (1) Under s. 108.04(2), Stats., a claimant shall be eligible for unemployment benefits for any week only when the department finds, among other things, that the claimant has within that week made a reasonable search for suitable work. Mere registration for work under ch. ILHR 126 does not establish that the claimant is making a reasonable search for suitable

work. It is essential that the claimant personally and diligently search for work on his or her own behalf. The reasonableness of a search for work will, in part, depend on the employment opportunities in the claimant's labor market area. A work search which may be appropriate in a labor market area with limited opportunities may be totally unacceptable in an area with greater opportunities. Unreasonable limitations by a claimant as to salary, hours or conditions of work indicate that a claimant is not making a reasonable search for suitable work. The department expects each claimant to conduct himself or herself as would a prudent person who is out of work and seeking work.

(2) The following are examples of actions by a claimant which the department may consider to constitute a reasonable search for suitable work under the facts and circumstances of each claimant's situation:

(a) Making applications for work with employers who may reasonably be expected to have openings for suitable work;

(b) Applying for work with former employers; however, a claimant may refuse to apply for work with an employer if the claimant previously terminated employment with the same employer with good cause attributable to the employer under s. 108.04(7)(b), Stats., or because the employer made employment, compensation, promotion or job assignments contingent upon the employee's consent to sexual contact or sexual intercourse under s. 108.04(7)(i), Stats.;

(c) Making applications or taking examinations for suitable work in the civil service of a governmental unit;

(d) Registering with a union referral or hiring hall and complying with the various union registration requirements and job referral procedures;

(e) Registering with a placement facility of the claimant's professional

organization;

(f) Registering with a placement facility of a school, college or university if one is available to the claimant in his or her occupation or profession;

(g) Responding to classified advertisements for suitable work;

(h) Registering with a private employment agency or an employer's placement facility; however, no claimant may be denied benefits solely on the ground that he or she has failed or refused to register with a private employment agency or any other placement facility which charges a fee for its services;

(i) Participating in employment workshops which offer instruction in improving the claimant's skills for finding and obtaining employment; or

(j) Performing any other reasonable action which the department finds to constitute an effective means of searching for suitable work.

(3) A claimant shall be ineligible for benefits in any week in which the department determines that the claimant's search for suitable work was not reasonable under the requirements of this section unless the search has been waived by the department.

ILHR 127.02 WAIVER OF WORK SEARCH REQUIREMENTS; PERSONAL CIRCUMSTANCES. The department may waive a claimant's search for suitable work requirement under s. ILHR 127.01 for any week under any of the following circumstances:

(1) The claimant performs any work for his or her customary employer.

(2) The claimant has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which he or she appears at the public employment office to initiate the benefit claim or within 6 weeks after the week in which an eligibility review is conducted under s. ILHR 128.03. In determining whether a claimant has a reasonable expectation of reemployment, the department shall consider factors including, but not limited to, the following:

- (a) The past history of layoffs and reemployments by the employer;
- (b) Any information which the employer furnished to the claimant or the department about the expected reemployment date; and
- (c) Whether the claimant has recall rights with the employer under the provisions of any applicable collective bargaining agreement.

(3) The claimant has a reasonable expectation of starting work with a new employer within 4 weeks after the week in which he or she appears at the public employment office to initiate the benefit claim or within 4 weeks after the week in which an eligibility review is conducted under s. ILHR 128.03. In determining whether a claimant has a reasonable expectation of starting work with a new employer, the department shall consider factors including, but not limited to, the following:

- (a) The hiring practices of employers in the claimant's labor market area for workers who perform work which is similar to the work which the claimant is expected to perform for the new employer;
- (b) Any information which the new employer furnished to the claimant or the department about the time within which the work is expected to commence; and
- (c) Whether the work is suitable work for the claimant.

(4) The claimant has been laid off from work and routinely obtains work through a union referral or hiring hall process. Waiver under this subsection may be permitted only if:

- (a) The union referral or hiring hall process is the primary method by which workers obtain work in the claimant's customary occupation;
- (b) The union maintains a record of unemployed members and the referral activities of these members and allows the department to inspect such records;
- (c) The union provides, upon the request of a department deputy, any

information regarding a claimant's registration or a job opening or referral;

(d) Prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant;

(e) The claimant is registered for work with his or her union and satisfies the requirements of the union relating to job referral procedures and maintenance of membership in good standing; and

(f) The union enters into a written agreement with the public employment office regarding the requirements of this subsection.

(5) During any calendar week in which any of the following days fall:

(a) January 1;

(b) the fourth Thursday in November; and

(c) December 25.

ILHR 127.03 MANDATORY WAIVER OF WORK SEARCH REQUIREMENTS. The department shall waive a claimant's search for suitable work requirement under s. ILHR 127.01 for any week under any of the following circumstances:

(1) The claimant is summoned to serve as a prospective or impaneled juror.

(2) The claimant is enrolled in and satisfactorily participating in a course of approved training under s. 108.04(16), Stats.

(3) The claimant has not made a search for suitable work because of an error made by personnel of the department.

(4) The failure of the claimant's most recent employer to post or maintain any notice as to claiming unemployment benefits which has been supplied to the employer under s. Ind-UC 120.01.

(5) The claimant reasonably expected to perform work during the week but did

not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to comply with the search for suitable work requirement in that week.

ILHR 127.04 CLAIMANTS TO PRESENT EVIDENCE OF WORK SEARCH EFFORTS. (1) The department may require a claimant to present evidence of his or her work search efforts to the department for any time period up to and including the 8-week period prior to the date that the department makes the request. The department may verify the evidence submitted. Evidence which a claimant customarily would be expected to submit includes the following:

(a) In the case of employer contacts: the date on which the claimant made an employer contact; the name and address of the employer and the name of the employer representative contacted; the type of work applied for; and the results of the contact;

(b) In the case of civil service examinations: the date on which the claimant took an examination and the type of work applied for;

(c) In the case of registration with a union referral or hiring hall, professional organization or educational placement facility or private employment agency: the date on which the claimant registered and the type of work for which the claimant is registered; and

(d) Evidence of any other action which the claimant took during a given week to seek work including, but not limited to, any responses to advertisements for suitable work and submission of personal resumes to prospective employers.

(2) The department may disqualify a claimant for benefits in any week for which the evidence of work search efforts is insufficient to establish that the claimant made a reasonable search for suitable work.

ILHR 127.05 CERTIFICATION AS TO WORK SEARCH; SUBMISSION TO PUBLIC EMPLOYMENT OFFICE. (1) The department may require any claimant to certify each week as part of the claim filing procedure under ch. ILHR 129 that a work search was made.

(2) The department may also require any claimant to report his or her work search efforts either in person or by mail to a public employment office.

(3) A claimant shall be ineligible for benefits in any week in which he or she fails, without good cause, to comply with the requirements of this section.

ILHR 127.06 ADDED EFFORTS TO SECURE WORK. (1) The department may require any claimant whose employment history or conduct indicates that he or she may not be genuinely interested in accepting new work to make a minimum number of weekly in-person applications for work with employers and may also require the claimant to comply with any of the provisions under s. ILHR 127.01(2). The department shall provide each claimant with instructions as to how to comply with the requirements under this section. A claimant shall be ineligible for benefits for any week in which the claimant has failed, without good cause, to comply with any requirements imposed by the department under this subsection.

(2) After a claimant has been unemployed for 4 or more consecutive weeks, the department may require the claimant to develop a work search plan for approval by the department. A claimant shall be ineligible for benefits in any week in which the department determines that the claimant failed, without good cause, either to develop or comply with the work search plan.

(3) A claimant who is claiming extended benefits under s. 108.141, Stats., shall, in addition to complying with the requirements for extended benefits, comply with any requirements imposed by the department under subs. (1) and (2). A claim-

ant who fails to comply with the requirements under this subsection shall be ineligible for benefits until the claimant has again worked within at least 4 subsequent weeks and earned wages equal to at least 4 times his or her extended weekly benefit rate.

ILHR 127.07 EMPLOYMENT WORKSHOPS. (1) The department may require a claimant to participate in a public employment office workshop which offers instruction in improving the claimant's skills for finding and obtaining employment. The claimant shall be ineligible for benefits for any week for which the department determines that the claimant failed, without good cause, to participate in such a workshop.

(2) A claimant may not be disqualified from benefits under this section if:

- (a) The claimant is required to pay a participation fee of any kind for the workshop; or
- (b) The workshop is more than 5 days in duration.

ILHR 127.08 FURTHER DISQUALIFICATIONS; RETROACTIVITY. (1) A claimant shall be ineligible for benefits in any week for which the claimant knowingly makes a false statement or conceals or misrepresents any information pertaining to his or her work search efforts.

(2) The department may not disqualify a claimant under ss. ILHR 127.01, 127.04 and 127.05(2), for any week for which a benefit check has been mailed prior to the date of an initial determination resolving an eligibility issue under the aforementioned sections. The department may disqualify a claimant under ss. ILHR 127.05(1), 127.06 and 127.07 and sub. (1) whether or not a benefit check has been mailed for a given week.

CHAPTER ILHR 128.
ABILITY TO WORK AND
AVAILABILITY FOR WORK

ILHR 128.01 ABLE AND AVAILABLE FOR WORK. (1) Under s. 108.04(2), Stats., a claimant shall be eligible for unemployment benefits for any week of total unemployment only if the claimant is able to work and available for suitable work. A representative of the department may test the claimant's ability to work and availability for work through questioning of the claimant and other procedures at any time. The department may not disqualify a claimant under this section for any week for which a benefit check has been mailed prior to the date of an initial determination resolving an eligibility issue under this section, except as provided under sub. (3).

(2) A claimant is not considered to be able to work or available for work in any given week if:

(a) The claimant, without good cause, restricts his or her availability for work to less than 50 per cent of the full-time opportunities for suitable work, including all such jobs whether vacant or filled, in the claimant's labor market area;

(b) The claimant's physical condition or personal circumstances over which the claimant has no control limit the claimant to less than 15 per cent of the opportunities for suitable work, including all such jobs whether vacant or filled, in the claimant's labor market area; or

(c) The claimant, without good cause, fails to report for an interview scheduled by the public employment office relating to the claimant's eligibility under ch. 108. Stats.

(3) A claimant shall be ineligible for benefits in any week for which the claimant knowingly makes a false statement or conceals or misrepresents any information pertaining to his or her ability to work or availability for work. The department may disqualify a claimant for benefits under this subsection whether or not a benefit check has been mailed for a given week.

(4) The department shall consider a claimant to be in compliance with the provisions of this chapter in any week when the claimant is summoned to serve as a prospective or an impaneled juror.

(5) The department may require a claimant who is partially unemployed to comply with the requirements of this chapter if there is some definite indication that the claimant is not genuinely interested in working full time.

Note: Section ILHR 128.01(2)(a) applies to a claimant whose restrictions on availability for work are within his or her power to change or alter. School attendance is generally a controllable restriction and, therefore, "without good cause" unless the person is enrolled in an approved training program under s. 108.04(16), Stats. The wage demand of a claimant is also considered a controllable restriction. A claimant obligated to care for minor children is expected to make arrangements which would permit the claimant to accept suitable work. Unwillingness or failure to make such arrangements are controllable restrictions and, normally, without good cause.

Section ILHR 128.01(2)(b) applies to a claimant whose physical condition or uncontrollable personal circumstances limit the opportunity for suitable work. A claimant may be severely limited in the type of work which he or she could perform because of illness, disability, injury or age, but still be able to perform at least 15 per cent of the suitable jobs in the claimant's labor market area.

ILHR 128.02 AVAILABILITY FOR WORK; TEMPORARY GRACE PERIODS FOR CLAIMANTS WITH UNCONTROLLABLE RESTRICTIONS. (1) The department shall consider a claimant to have

satisfied the requirements of this chapter for certain designated grace periods enumerated under sub. (2) if:

(a) The claimant's physical condition or personal circumstances over which the claimant has no control limit the claimant to less than 15 per cent of the opportunities for suitable work, as specified under s. ILHR 128.01(2)(b);

(b) The claimant is available for work under the same conditions which applied to the claimant's most recent period of employment; and

(c) The claimant's most recent separation from work was due to a layoff.

(2) (a) If not less than two-thirds of all of the credit weeks in the claimant's base period were earned under substantially the same conditions as applied to his or her most recent employment, the department shall grant the claimant a grace period of 6 weeks beginning with the week of the claimant's layoff.

(b) If at least one-third but less than two-thirds of all of the credit weeks in the claimant's base period were earned under substantially the same conditions as applied to his or her most recent employment, the department shall grant the claimant a grace period of 3 weeks beginning with the week of the claimant's layoff.

ILHR 128.03 ELIGIBILITY REVIEW. (1) A department deputy shall periodically review the records of all persons claiming unemployment benefits to determine whether such persons meet the continuing eligibility requirements of chs. ILHR 126 to 128 so as to remain eligible for benefits. A claimant shall report to the public employment office when notified by the department for review of the claimant's continuing eligibility for benefits.

(2)(a) The eligibility review shall include:

1. An interview with the claimant conducted by a department deputy;
 2. A review of the appropriateness of the claimant's registration or waiver of registration under ch. ILHR 126;
 3. A determination as to whether the claimant is able to work and available for work under ch. ILHR 128;
 4. An assessment of the claimant's work search efforts under ch. ILHR 127; and
 5. Determination that the claimant is making satisfactory progress under s. 108.04(16), Stats., if the claimant is participating in approved training.
- (b) The eligibility review may include:
1. Identification of any employment assistance provided by the public employment office; and
 2. Preparation of an employability plan as reasonably necessary to assist the claimant in his or her efforts to obtain work.

CHAPTER ILHR 129.

NOTICE OF UNEMPLOYMENT

ILHR 129.01 NOTICE OF UNEMPLOYMENT. (1) A claimant shall be eligible under s. 108.08, Stats., for benefit purposes as of the first week of total or partial unemployment in which the claimant reports in person to a public employment office to initiate the benefit claim and, thereafter, gives due notice of unemployment by filing a claim form as provided in this section. Any claimant who stops filing claim cards for one or more weeks of unemployment or who fails to give due notice of unemployment for one or more weeks shall again report in person to a public employment office to reactivate the benefit claim. Benefits are only payable be-

ginning with the week in which the claimant reactivates the benefit claim. After the claimant has reactivated the benefit claim, he or she shall again give due notice of unemployment as required in this section.

(2) (a) For a week of total unemployment, the claimant shall submit the claim form to the department within 14 days following the date the department mailed the claim form to the claimant, or within 14 days following the end of the week for which benefits are claimed, whichever occurs later.

(b) For a week of partial unemployment, the claimant shall submit the claim form to the department within 14 days following the date the department mailed the claim form to the claimant, or within 14 days following the date the employer paid wages to the claimant for that week, or within 14 days following the end of the week for which benefits are claimed, whichever occurs latest.

(c) If a claimant submits an incomplete claim form, the department may either direct the claimant to report in person to the public employment office to refile the claim or may send the claimant a duplicate claim form for refiling. A claimant who is directed to report to the public employment office shall report within 14 days of the date the department gave notice to report. A claimant who is sent a duplicate claim form shall submit the claim form within 14 days following the date the department mailed the duplicate claim form to the claimant.

(d) The time periods specified in this section are extended to 19 days for claimants who claim through the interstate system.

(3) The department shall waive the requirements of this section if exceptional circumstances exist. Exceptional circumstances include, but are not limited to, the following:

(a) The absence of previously scheduled claimstaking facilities in or near to the claimant's community.

(b) The claimant's inability to use the claimstaking facilities available in or nearest to the claimant's community either because of the lack or failure of transportation facilities on which the claimant may have reasonably relied or because the claimant was employed. No waiver may be granted unless the lack or failure of transportation facilities or period of employment occurred at a time and for a duration as to prevent the claimant's giving due notice of unemployment or reporting in person, if required.

(c) An error relating to the claimant's giving of notice made by personnel of the department.

(d) Action by an employer, in any manner, directly or indirectly, instructing, warning or persuading the claimant not to file a benefit claim.

(e) The failure of the claimant's most recent employer to post or maintain any notice as to claiming unemployment benefits which has been supplied to the employer under s. Ind-UC 120.01.

(f) The claimant reasonably expected to perform work during the week but did not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to appear at the public employment office to initiate or reactivate the benefit claim in that week.

(g) The claimant reasonably expected to perform an amount of work during the week which would have made the claimant ineligible for benefits but did not receive timely notice from the employer that such work would not be available so as to allow the claimant sufficient time to appear at the public employment office to initiate or reactivate the benefit claim in that week.

(4) A claim form is not considered to be "submitted" until physically received by the department. A claim form postmarked on or prior to the last day specified under sub. (2), but received by the department on a subsequent day is

not a timely submission. A claim form is timely submitted if received by the department on the next succeeding business day if the last day for filing falls on Saturday, Sunday, any of the holidays enumerated under ss. 230.35(4)(a) and 757.17, Stats., or any other day on which mail is not delivered by the postal authorities.

SECTION 3. EFFECTIVE DATE. Pursuant to s. 227.026(1), Stats., this rule shall take effect on the first day of the month following publication in the Wisconsin administrative register.

Dated at Madison, Wisconsin this 20th day of June, A.D., 1984.

DEPARTMENT OF INDUSTRY,
LABOR AND HUMAN RELATIONS

Howard S. Bellman
Howard S. Bellman, Secretary

The Wisconsin Department of Industry, Labor and Human Relations

June 20, 1984

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Gary Poulson
Assistant Revisor of Statutes
for Administrative Rules
411 West, State Capitol
Madison, Wisconsin

Douglas LaFollette
Secretary of State
Room 271, GEF-1
201 East Washington Avenue
Madison, Wisconsin

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 83-215

RULE NO. Chs. ILHR 126-129

RELATING TO: Unemployment Compensation and Work Registration; Work Search;
Ability to Work and Availability for Work; and Notice of Unemployment.
Pursuant to section 227.023, Stats., agencies are required to file a certified
copy of every rule adopted by the agency in the offices of the Secretary of
State and the Revisor of Statutes.

At this time, the following material is being submitted to you.

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.016 (6), Stats., a summary of the final regulatory
flexibility analysis is also included.

Respectfully submitted,



Howard S. Bellman
Secretary

cc: Agency Contact Person