

STATEMENT OF SCOPE

Department of Workforce Development

Rule No: DWD 127 and 128

Relating to: Amending provisions related to available for work, work available, and work search for unemployment insurance benefit claimants.

Rule Type: Emergency

Finding/nature of emergency:

An emergency rule is necessary to implement federal guidance (see UIPL No., 10-20, dated March 12, 2020) related to administering unemployment insurance benefit claims during the pandemic period related to the SARS-CoV-2 virus, which causes the coronavirus disease 2019 (in this Scope Statement, the virus and disease will be referred to as “COVID-19”).

Additionally, by Executive Order 72, the Governor declared a public health emergency in order to protect the health and well-being of the state's residents, and directed state agencies to assist as appropriate in the State's on-going response to the public health emergency. The emergency rule is in response to COVID-19 in order to assist individuals affected by the disease who are job attached be more likely to be determined eligible for unemployment benefits.

Description of the objective of the proposed rule:

Currently, unemployment insurance benefit claimants must search for work (unless that requirement is waived) and must be available for work.

The rule will modify provisions of DWD127, related to work search actions and work search waivers for unemployment claimants who are currently laid off but who are job attached, otherwise eligible for unemployment benefits, and who are isolated or quarantined due to COVID-19.

The rule will modify provisions of DWD 128, related to the requirement of availability for work for individuals who are currently laid off but who are job attached, otherwise eligible for unemployment benefits, and who are isolated or quarantined due to COVID-19. The rule will also modify sections of DWD 128 to provide that work is not available for claimants who are isolated or quarantined due to COVID-19.

Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Currently, DWD 127 specifies the requirements for unemployment insurance claimants conducting work searches and provides waivers of the work search requirement in certain circumstances. DWD chapter 128 currently specifies the requirements for unemployment insurance claimants' availability for work.

The Department of Workforce Development proposes to amend DWD 127 to provide for an additional waiver of the work search requirement for the limited class of claimants who are job attached, otherwise eligible, and who are isolated or quarantined due to COVID-19. This will result in these claimants not being required to search for work during the isolation or quarantine period. The rule will also address work search actions for claimants.

The Department proposes to amend DWD 128 to provide for eligibility provisions related to the availability for work and work available requirements for claimants who are job attached, otherwise eligible, and who are isolated or quarantined due to COVID-19. These changes will provide that such claimants are considered available for work even though they are isolated or quarantined.

The policy alternative is to do nothing. If the Department does not promulgate the proposed rule, unemployment claimants who are currently laid off but who are job attached, otherwise eligible for unemployment benefits, and who are isolated or quarantined due to COVID-19 may not be eligible for benefits under current law.

Statutory authority for the rule, including the statutory citation and language:

The Department has statutory authority for the proposed rule.

“The department may adopt and enforce all rules which it finds necessary or suitable to carry out this chapter.” Wis. Stat. § 108.14(2).

“The department may, by rule, do any of the following if doing so is necessary to comply with a requirement under federal law or is specifically allowed under federal law: Establish additional waivers from the requirements under par. (a) 2. and 3.” Wis. Stat. § 108.04(2)(bd)2.

Estimate of the amount of time that state employees will spend developing the rule and other resources necessary to develop the rule:

The estimated time is 80 hours.

Description of all entities that may be affected by the proposed rule:

Claimants who are job attached, otherwise eligible for benefits, and are under quarantine or isolation. Employers whose employees qualify for unemployment benefits under this rule who would not have qualified under current state law.

Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Federal law requires, with exceptions, unemployment benefit claimants to be available for work. 20 C.F.R. §§ 604.3; 604.5.

Federal law requires state law to conform to and comply with federal regulations. *See* 20 C.F.R. § 601.5.

Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

The proposed rule is expected to have an economic impact on unemployment insurance benefit claimants, who may be found to be eligible for unemployment benefits under this rule but who are not eligible under current law. The proposed rule is expected to have an economic impact on employers, including small businesses, because additional unemployment benefits may be charged to contribution employers' unemployment reserve accounts and to employers subject to reimbursement financing.

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Approval of the agency head or authorized individual:

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Date Submitted