

# **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 Unemployment Insurance Program Letter 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. Furthermore, on March 13, 2020, the President declared a national emergency concerning the COVID-19 outbreak. On March 18, 2020, the Governor issued emergency orders in response to COVID-19 in order to assist individuals affected by the disease be more likely to be determined eligible for unemployment benefits. The emergency rule will supplant those emergency orders.

**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 ch. DWD127, related to work search actions and work search waivers for unemployment claimants for unemployment claimants while there is a public health emergency due to COVID-19.

The rule will modify provisions of ch. DWD 128, related to the requirement of availability for work for individuals who are prevented from working due to COVID-19. The rule will also affect eligibility reviews for those claimants affected by 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, ch. DWD 127 specifies the requirements for unemployment insurance claimants conducting work searches and provides waivers of the work search requirement in certain circumstances. Chapter DWD 128 currently specifies the requirements for unemployment insurance claimants' availability for work.

The Department of Workforce Development proposes to amend ch. DWD 127 to provide an additional definition of work search actions and work search waivers for unemployment claimants during the public health emergency.

The Department proposes to amend ch. DWD 128 to provide for eligibility provisions related to the availability for work and work available requirements for claimants who are quarantined or otherwise affected by COVID-19.

The policy alternative is to do nothing. Emergency orders are currently in effect. This rule will supplant the emergency orders.

**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 search for suitable work must include at least 4 actions per week that constitute a reasonable search as prescribed by rule of the department.” Wis. Stat. § 108.04(2)(a)3.

“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: 1. Modify the availability of any waiver under par. (b) or (bb). 2. Establish additional waivers from the requirements under par. (a) 2. and 3.” Wis. Stat. § 108.04(2)(bd).

**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 20 hours.

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

Claimants otherwise eligible for benefits but under quarantine or otherwise affected by COVID-19. Employers whose employees qualify for unemployment benefits under this rule.

**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. 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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**Pamela R. McGillivray, Chief Legal Counsel**

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**Date Submitted**