

STATEMENT OF SCOPE

Department of Workforce Development

Rule No: DWD 132

Relating to: Temporarily waiving the waiting week for unemployment benefits.

Rule Type: Emergency

Finding/nature of emergency:

By Executive Order 72, the Governor declared a public health emergency to protect the health and well-being of the state's residents and directed state agencies to assist as appropriate in the State's ongoing response to the public health emergency. On March 13, 2020, the President declared a national emergency concerning the COVID-19 pandemic. On April 4, 2020, the President declared a major disaster under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act in Wisconsin due to the COVID-19 pandemic. Due to the pandemic, many businesses have temporarily or permanently closed, resulting in significant business income reduction and layoffs. As evidenced by Executive Order # 105 (dated February 4, 2021), the COVID-19 pandemic continues to threaten public peace, health, safety, and welfare.

By this proposed rule, the Department is taking action to protect Wisconsin unemployment insurance claimants and employers by ensuring the state maximizes its access to federally funded unemployment benefits during the COVID-19 pandemic. To this end, the Department seeks to create provisions in Chapter DWD 132 to implement federal law and guidance related to administering unemployment insurance benefit claims during the COVID-19 pandemic. In particular, the Department is addressing requirements under the federal the Coronavirus Aid, Relief and Economic Security (CARES) Act, P.L. 116-136, as amended by the Consolidated Appropriations Act, 2021, P.L. 116-133, Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act"). See also Unemployment Insurance Program Letter No. 9-21 (Dec. 30, 2020).

Section 2105 of the CARES Act allowed states to receive 100 percent federal funding of the first week of regular unemployment claims and additional administrative expenses if the state entered an agreement with the U.S. Department of Labor (DOL) stating that the state will waive the one-week waiting period for unemployment claims. The CARES Act was signed by the President on March 27, 2020. The Department entered into the Agreement Implementing the Relief for Workers Affected by Coronavirus Act ("the Agreement") with DOL on March 28, 2020, under which the Department agreed, *inter alia*, to temporarily waive the waiting week.

Section 204 of the Continued Assistance Act amended the CARES Act by funding 50 percent, rather than 100 percent, of the first week of unemployment benefits if the state has waived the waiting period for unemployment claims paid between December 31, 2020 (when the original CARES Act provision expired) to March 14, 2021. Thus, if a state has waived its waiting period, federal funds will be provided to cover 50 percent of the first week of unemployment claims. Without a waiver of the waiting week, claimants will suffer by the delay in receiving their initial payment, exacerbating the financial impacts of the COVID-19 pandemic. The Department estimates that the state will lose federal reimbursement in the amount of \$1.5 million for each week of delay in waiving the waiting period.

Description of the objective of the proposed rule:

By this proposed rule, the Department is taking action to protect Wisconsin unemployment insurance claimants and employers by temporarily waiving the one-week waiting period for unemployment claims in order to ensure that the state maximizes its access to federally funded unemployment benefits during the COVID-19 pandemic.

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

This rule is intended to temporarily bridge the need for a waiver of the waiting week during the COVID-19 pandemic. The policy to be included in this rule will provide relief to claimants who do not have to wait a week to receive their initial payment and relief for employers by providing that 50 percent of the first week of unemployment is federally funded rather than charged to or reimbursed by employers.

The policy alternative is to do nothing.

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).

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 40 hours.

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

Employers subject to contribution charging and reimbursement financing for unemployment insurance and unemployment insurance claimants.

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:

State law must conform to and substantially 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 employers subject to contribution charging and reimbursement financing, which may include small businesses.

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