

## Chapter ILHR 129

## BENEFIT CLAIMING PROCEDURES

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**Note:** Chapter ILHR 129 was created by emergency rule effective 1-8-84.

**ILHR 129.01 In person reporting and 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 initiates the benefit claim in the manner directed by the department, and, thereafter, gives due notice of unemployment by filing a claim certification as provided in this section. Any claimant who stops filing claim certifications for one or more weeks shall again report in-person to a public employment office to initiate an additional claim. Benefits are only payable beginning with the week in which the claimant files an additional claim. After the claimant has initiated the additional 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 commu-

nity 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. ILHR 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.

**History:** Cr. Register, July, 1984, No. 343, eff. 8-1-84; emerg. am. (1), eff. 2-2-93; am. (1), Register, July, 1993, No. 451, eff. 8-1-93; correction in (3) (e) made under s. 13.93 (am) (b) 7, Stats., Register, July, 1993, No. 451.

**ILHR 129.02 Establishment of benefit year.** (1) In order to establish a benefit year under s. 108.06 (2) (a), Stats., a claimant shall:

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(a) Unless in a transitional claim status, report in person to the local office to complete and sign a claim for benefits on forms furnished by the department; and

(b) Have the minimum amount of wages in his or her base period required under s. 108.04 (4) (a), Stats.

(2) In addition to meeting the requirements under sub. (1), the claimant shall:

(a) Be eligible to receive benefits;

(b) Have experienced at least a 25% reduction in hours of employment in one week as compared to the average number of hours of employment for the preceding 13 weeks; or

(c) Reasonably expect to be eligible to receive benefits during the next 13 weeks.

(3) A claimant may reasonably expect to be eligible to receive benefits under sub. (2) (c), if:

(a) The employer for whom he or she is employed has given notice of an impending layoff to occur within 13 weeks after the week in which the claimant complies with the requirements of sub. (1); or

(b) The claimant provides satisfactory evidence to the department that he or she expects to be partially or totally unemployed under a condition of benefit eligibility within 13 weeks after the week in which the claimant complies with the requirements of sub. (1).

**History:** Cr. Register, November, 1989, No. 407, eff. 12-1-89; emerg. am. (1) (a), eff. 2-2-93; am. (1) (a), Register, July, 1993, No. 451, eff. 8-1-93.

**ILHR 129.03 Backdating of benefit year; circumstances. (1)** Under s. 108.06 (2) (bm), Stats., a claimant's benefit year begins on the Sunday of the week in which the claimant meets the requirements to establish a benefit year under s. ILHR 129.02, except that the department may, by rule, permit a claimant to begin a benefit year prior to that time. This section specifies those circumstances under which the department shall permit the backdating of a benefit year.

(2) The department shall backdate a benefit year if any one of the following circumstances exist:

(a) An error relating to the establishing of the claimant's benefit year is made by personnel of the department or of an agent state.

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

(c) The claimant's most recent employer fails to post or maintain any notice as to claiming unemployment benefits which has been supplied to the employer under s. ILHR 120.01.

(d) The department determines that a circumstance beyond the control of the claimant exists.

**History:** Cr. Register, November, 1989, No. 407, eff. 12-1-89.

**ILHR 129.04 Department set aside of benefit year; exceptional circumstances. (1)** Under s. 108.06 (2) (d), Stats., a claimant may, in writing, request the department to set aside a benefit year. The department shall set aside the benefit year if:

(a) The claimant's request is voluntary;

(b) No benefits have been paid to the claimant in that benefit year at the time the department acts upon the request; and

(c) The claimant's benefit eligibility is not suspended at the time the department acts upon the request.

(2) (a) If the claimant does not meet all of the requirements under sub. (1), the department may set aside the benefit year if:

1. The department terminates coverage of an employer previously subject to ch. 108, Stats., for whom the claimant performed services in the base period and the claimant could not have foreseen this termination of coverage;

2. The department makes an error relating to the claimant's establishing of a benefit year; or

3. The wage data used by the department to establish the benefit year is erroneous.

(b) The department may not set aside a benefit year under this subsection unless the department:

1. Has recovered all benefits paid to the claimant for that benefit year; or

2. Offsets this amount against benefits the claimant would otherwise be eligible to receive at the time the request to set aside a benefit year is made.

**History:** Cr. Register, November, 1989, No. 407, eff. 12-1-89.

**ILHR 129.05 Payment of benefits. (1)** The department shall pay benefits through local offices by checks mailed to the claimant's address of record with the department.

(2) The department shall charge each benefit payment against an account in the unemployment reserve fund or the administrative account and shall periodically send each employer a record of each payment charged against its account in the fund unless the proration provisions under s. 108.07, Stats., apply.

**History:** Cr. Register, November, 1989, No. 407, eff. 12-1-89.