



Clearinghouse Rule 10-071

State of Wisconsin

Department of Workforce Development Unemployment Insurance Division

Quarterly Wage Reporting Requirements Chapter DWD 111

The Wisconsin Department of Workforce Development proposes an order to repeal 111.02 (3) and (4), 111.04, 111.05, 111.06 (3), and 111.07 (3) and (5); and to amend s. DWD 111.02 (1), and 111.03 (1) and (2), 111.06 (1) and (2), and 111.07 (1) and (2); relating to quarterly wage reports for unemployment insurance purposes.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Section 108.14 (2), 108.205, 108.22, and 227.11, Stats.

Statutes interpreted: Section 108.205 and 108.22, Stats.

Related statute or rule: 42 U.S.C. s. 1320b-7 (a) (3), ch. DWD 110.

Explanation of agency authority. Chapter 108, Stats., requires employers to file with the department a quarterly report showing the name, social security number, and wages paid to each employee who is employed by the employer during the quarter. The quarterly reports are due no later than the last day of the month following the completion of each quarter. The department may prescribe the manner and form for filing quarterly wage reports electronically. Sections 108.14 (2) and 227.11 (2), Stats., authorize the department to adopt and enforce all rules the department finds necessary to carry out the requirements of Chapter 108, Stats.

Summary of the proposed rule. Wisconsin Act 59 in 2007 amended several provisions of ch. 108, Stats., related to how employers file reports with the department, the timeliness for filing reports, and the penalties for failing to do so. The proposed rule corresponds with the statutory changes in 2007 Wis. Act 59, eliminates provisions that duplicate statutory provisions, and eliminates obsolete provisions.

As amended by 2007 Wis. Act 59, Chapter 108 requires employer agents and employers of 25 or more employees to file quarterly wage reports electronically. Section 108.205, Stats. Quarterly wage reports must be filed by the last day of the month following the completion of the calendar quarter and may be assessed a penalty of \$50 for each delinquent quarterly report. Sections 108.205 (1) and 108.22 (1) (a), Stats. In addition, an employer that fails to file the report

in the required format may be assessed a penalty of \$20 for each employee whose information is not reported in the correct format. Section 108.22 (1) (ac), Stats.

The proposed rule updates the requirements for filing quarterly wage reports to include electronically filed reports, and identifies the website where electronic reports may be filed. The proposed rule eliminates the need for employers to notify the department whether they provide access to a health insurance plan; this provision is obsolete. The rule currently provides that the time to file a report is extended if it is mailed as long as the report is postmarked by the due date or 3 days past the due date. However, pursuant to the statutes as amended by 2007 Wis. Act 59, quarterly wage reports are due the last date of the month following a quarter. This obsolete provision is removed from the rule. The proposed rule eliminates the obsolete provisions related to employers filing wage record data on combined quarterly contribution report forms. The proposed rule eliminates the obsolete penalties for delinquent wage reports. Finally, the department reviewed the rule to eliminate provisions that were repetitive or duplicated statutory provisions, and to edit for grammatical purposes.

Summary of factual data and analytical methodologies. The department sought to conform the rule language to the changes made to the statutory provisions in 2007 Wis. Act 59. In addition, the department reviewed the rule language carefully to eliminate provisions that are unnecessarily duplicative of statutory provisions to avoid the potential problem posed by statutory changes and outdated rule language.

Summary of and comparison with federal regulations. Since 1988, federal law has required all States to have in effect, as a condition for compliance with federally aided assistance programs, a requirement that employers make quarterly reports of wages to the state.

Comparison with rules in adjacent states. Illinois requires that employers file wage reports either electronically or by paper on a printed packet together with the contribution report. The reports must be filed on or before the due date, the last day of the calendar month next following the calendar quarter. 56 Ill. Adm. Code s. 2760.120, .125 & .140. Iowa requires that wage reports and contributions are due the last day of the month following the end of the calendar quarter. Contributions that are mailed must be postmarked by the due date. 871 Iowa Admin. Code s. 23.8 (96). Michigan statutes require each employer to file a quarterly wage report on forms and at a time as the commission prescribes, but does not have rules interpreting the statute. Mich. Comp. Law s. 421.13. Minnesota statutes require that employers file wage reports electronically and the state calculates the amount of contributions due for the employer. The contributions must be received by the department on or before the last day of the month following the end of the calendar quarter. Minn. Stat. s. 268.051.

Effect on small business. The proposed rule incorporates the changes to chapter 108, Stats., contained in 2007 Wis. Act 59, and will not have an additional effect on small business.

Analysis used to determine effect on small business. The proposed rule incorporates the changes to chapter 108, Stats., contained in 2007 Wis. Act 59, and will not have an additional effect on small business.

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Place where comments are to be submitted and deadline for submission. Comments may be submitted to Tracey Schwalbe, UI Research Attorney, Bureau of Legal Affairs, P.O. Box 8942, Madison, WI 53708; fax (608) 266-8221, or tracey.schwalbe@wisconsin.gov. The comment deadline is July 21, 2010.

SECTION 1. DWD 111.02 (1) is amended to read:**DWD 111.02 Wage reporting procedures; ~~health insurance information; due dates.~~ (1) ~~(a)~~**

Under s. 108.205, Stats., each employer shall submit a wage report to the department. The report shall contain the name, social security number and the amount of covered wages paid or constructively paid to each employee who is employed by the employer during the quarter. Each employer shall make certain that the amount specified as covered wages on the contribution report equals the total wages reported for all employees on the wage report.

~~(b) Each employer shall notify the department as to whether or not it provides access to a health insurance plan for any of its employees.~~

SECTION 2. DWD 111.02 (3) and (4) are repealed:**SECTION 3. DWD 111.03 (1) and (2) are amended to read:**

DWD 111.03 Processing of reports. (1) Each employer shall submit the wage reports electronically, on forms provided by the department, ~~on magnetic media in a format authorized by the department,~~ or on other media authorized by the department.

(2) Each employer ~~which that~~ uses a printed medium shall type or print the information in the format specified by the department on the form or template. Employers ~~which that~~ use a computer printout may use unlined 8 ½ by 11 white paper. Each employer shall file original forms with the department if it files printed, typed or computer-generated reports.

Note: The website to submit wage reports electronically is <http://dwd.wisconsin.gov/UI>.

SECTION 4. DWD 111.04 and 111.05 are repealed:**SECTION 5. DWD 111.06 (1) and (2) are amended to read:**

DWD 111.06 Correcting prior wage reports. (1) Each employer shall notify the department of any corrections ~~which that~~ are necessary on wage reports. An employer ~~which that~~ desires to make a correction to a prior wage report should consult the ~~departmental booklet,~~ Unemployment Insurance Handbook for Employers.

(2) Employers with corrections to reports shall make corrections electronically or mail corrections to the Department of Workforce Development, Unemployment Insurance Division, Attention: Wage Record Unit, P.O. Box 7962, Madison, Wisconsin 53707.

Note: The Handbook for Employers is available at <http://dwd.wisconsin.gov/ui201/>. The website to submit or correct wage reports electronically is <http://dwd.wisconsin.gov/UI>.

SECTION 6. DWD 111.06 (3) is repealed:

SECTION 7. DWD 111.07 (1) and (2) are amended to read:

DWD 111.07 Delinquent wage reports ~~and payments~~. (1) POLICY. Timely filing of employee wage data is essential for effectively verifying eligibility for programs such as child support enforcement, ~~and aid to families with dependent children,~~ medical assistance ~~and food stamps~~, for efficient administration of wage reporting and for timely payment of unemployment benefits.

(2) DELINQUENT ~~CONTRIBUTION-WAGE~~ REPORTS. An employer ~~shall file the contribution report, contribution payment, and the wage report promptly to avoid the assessment of tardy filing fees and interest charges. Under s. 108.22, Stats., an employer which is tardy in filing the contribution portion of the reporting package, tardy in filing a separate contribution report or tardy in payment shall pay a \$15.00 tardy filing fee. Interest shall accrue on the amount of contribution due at a rate of 1.0% per month or fraction of a month that fails to file a wage report by the appropriate method or that fails to complete all entries in a wage report shall be considered not to have filed a report.~~

SECTION 8. DWD 111.07 (3) and (5) are repealed:

SECTION 9. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.