

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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| <p>1. Type of Estimate and Analysis<br/><input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>  | <p>2. Date<br/>February 28, 2019</p>                                    |
| <p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)<br/>Chs. DWD 100-150</p>   |   |
| <p>4. Subject<br/>Minor and technical changes to the unemployment insurance program</p>   |   |
| <p>5. Fund Sources Affected<br/><input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>  | <p>6. Chapter 20, Stats. Appropriations Affected<br/>20.445 (1) (n)</p> |
| <p>7. Fiscal Effect of Implementing the Rule<br/><input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs<br/><input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>  |   |
| <p>8. The Rule Will Impact the Following (Check All That Apply)<br/><input checked="" type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors<br/><input checked="" type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers<br/><input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></p>  |   |
| <p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).<br/>\$0</p>   |   |
| <p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?<br/><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>  |   |
| <p>11. Policy Problem Addressed by the Rule<br/><br/>This rule is technical in nature and makes minor changes to chs. DWD 100-150 relating to Wisconsin's unemployment insurance (UI) program. The rule aligns administrative rules with state statutes and federal regulations to provide a clearer regulatory landscape for Wisconsin employers and unemployment insurance claimants.</p>   |   |
| <p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.<br/><br/>This rule may affect employers that are subject to Wisconsin's UI program and individuals who file or collect UI benefits.</p>   |   |
| <p>13. Identify the Local Governmental Units that Participated in the Development of this EIA.<br/><br/>The department consulted with the Unemployment Insurance Advisory Council and posted the hearing draft for 14 days to solicit public comment. The department did not receive any comments. DWD held one public hearing in Madison on July 12, 2018. One person, Terry Hayden, representing the Unemployment Insurance Advisory Council, attended the hearing, but did not speak. No written comments were received.</p>   |   |
| <p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)<br/><br/>This rule is technical in nature and is not expected to have any economic effect. If there are any unanticipated costs associated with the rule, costs would be absorbed within the department's operating budget, which is funded with federal dollars.</p> |   |

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#### 15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The Wisconsin unemployment insurance program is administered under chs. DWD 100-150. This rule is minor and technical in nature, and is designed as a “clean-up.” This rule is promulgated to align current rules with federal laws and state statute. In addition, the rule updates obsolete or incorrect cross-references, informs the public of where to obtain information or how to contact the department, and clarifies language.

Chapter DWD 100 provides definitions for all terms that are applied to chs. DWD 100-150. This rule made changes to ch. DWD 100, such as:

- Repeals the definitions “fax,” “first shift,” “profiling system,” and “unemployment insurance office” because they are no longer used in chs. DWD 100-150.
- Renumbers the definition “decision” from ch. DWD 113 to ch. DWD 100, because the term is referenced in multiple chapters within chs. DWD 100-150.
- Amends the definition “payroll base” to specify the statutory amount.
- Amends the definition “total unemployment and totally unemployed” to only “total unemployment”.
- Amends the definitions “disposable earnings,” “federal minimum hourly wage,” and “levy” to reference statute because they are already defined in statute.
- Amends the definition of “newly hired employee” under s. DWD 142.02 (7) (b) to reflect an unpaid absence of 60 days rather than 90 days as required by federal guidance.
- Amends the definition of “public official” in s. DWD 149.001 to reflect the new federal definition that was enacted to align with the Wisconsin Innovation and Opportunity Act.

The following definitions were renumbered from ch. DWD 100 because the terms are only used in specific chapters:

- “Informer” is renumbered in ch. DWD 101 and amended to “informant.”
- “Wage report” and “wage reporting” are renumbered in ch. DWD 111.
- “Compromise,” “same business or operation,” and “settle” are renumbered in ch. DWD 113.
- “Transfer percentage,” “transferee,” and “transferor” are renumbered in ch. DWD 115.
- “Full-time,” “shift,” “total unemployment,” and “weekly certification” are renumbered in ch. DWD 128.
- “Health care facility,” “sexual contact,” and “sexual intercourse” are renumbered in ch. DWD 132.
- “Agent state,” “ease of access,” and “hearing office” are renumbered in ch. DWD 140.

In addition, this rule:

- Amends the title for ch. DWD 101 to include “benefit purposes” and s. DWD 101.01 to clarify how the department shall apply the definition of wages for benefit purposes.
  - Creates s. DWD 103.01 (2) to include “unpaid managers of a limited liability company” as excluded “employment” to align with statute.
  - Repeals ss. DWD 110.07 (5) and (7) because due dates for filing certain reports are already identified in statute.
  - Amends DWD 110.07 (8) to clarify the requirement for an employer to remit contributions as prescribed by the department.
  - Repeals the requirement that employers notify the department as to whether the employer provides health insurance for employees under ch. DWD 111 because the department no longer collects this information.
  - Amends s. DWD 111.03 to require employers to submit a wage report to the department as prescribed.
  - Repeals ss. DWD 111.04 because the changes under DWD 111.03 will make this section obsolete.
  - Amends “individual” with “person” under ch. DWD 113 to align with statute.
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- Amends s. DWD 115.06 to include “limited liability company” as a transferee to align with statute for transfers involving fiduciaries.
- Repeals the requirement the department consider a mailed application timely if postmarked by the due date or received no more than 3 days after the due date under s. DWD 115.07 because this is not allowed by statute.
- Amends s. DWD 115.11 from 2 years to 3 years for new employers assigned an initial rate to align with statute.
- Amends references to “justifiable cause” and replaces with “good cause” under s. DWD 127.06 (2) and 127.07 (2).
- Amends s. DWD 127.06 (2) to identify circumstances that constitute "good cause."
- Repeals 129.01 (4) (e) because the automated telephone claim system for filing benefit claims is no longer used.
- Repeals chapter DWD 130 because the amendments to ch. DWD 101 make this chapter unnecessary.
- Amends language in ch. DWD 131 to align with statute by changing “presence” to “unlawful use.”
- Amends language in s. DWD 132.04 (1) by striking language referencing a case of the Wisconsin Supreme Court because it is not necessary in the rule.
- Amends language in s. DWD 132.04 (2) (a) to conform to federal standards specified by the U.S. Department of Labor in UIPL (Unemployment Insurance Program Letter) 5-17.
- Repeals s. DWD 132.04 (2) (b) relating to the number of hours worked for educational employees, due to updated guidance by the U.S. Department of Labor in UIPL 5-17.
- Amends the language in s. DWD 132.05 (1) (a) by striking a reference to a Wisconsin Supreme Court interpretation of the definition of "misconduct" because s. 108.04 (5), Stats., supersedes the court case.
- Amends s. DWD 140.20 (4) (d) to remove a redundant phrase regarding the payment of mileage for witnesses and interpreters.
- Amends the table in ch. DWD 150 to reflect forms currently used.

Chapter DWD 140 outlines the unemployment insurance appeals process. Numerous updates and amendments were made to this chapter to conform to statute changes. The definition “appeal tribunal” was created to align with state statute and it replaced the term “administrative law judge,” which was repealed in ch. DWD 100. This rule specifies that appeals be filed with a hearing office or public employment office in an agent state rather than with the department. In addition, hearings may be conducted via videoconference. Current rule allows 15 minutes for an appellant to appear by telephone and 5 minutes for a respondent to appear after the start time of a hearing (in person or via telephone or videoconference). This rule allows 10 minutes for both appellant or respondent to appear after the start time of a hearing.

The policy alternative is to do nothing. If the department does not promulgate this rule, some existing rules in chapters DWD 100 to 150 will not conform to state statute requirements and will contain outdated language and references.

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### 16. Long Range Implications of Implementing the Rule

There are no long range implications of implementing the rule.

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### 17. Compare With Approaches Being Used by Federal Government

Under 20 CFR § 601.5, federal law requires that state laws conform to and comply with federal requirements.

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### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

All neighboring states are required to conform to federal law requirements for unemployment insurance and the rules are similar to Wisconsin. Neighboring States' laws do not appear to include mandatory wait times for parties who are late to hearings.

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19. Contact Name

Janell Knutson

20. Contact Phone Number

608-266-1639

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**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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