

State of Wisconsin
Department of Workforce Development

Chapter DWD 100

UNEMPLOYMENT INSURANCE AVAILABILITY

The Wisconsin Department of Workforce Development proposes an order to amend s. DWD 100.02 (28), relating to unemployment insurance availability.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 108.14 (2), and 227.11, Stats., and 2001 Wisconsin Act 35, section 72(2)(a)1.

Statute interpreted: Section 108.04 (2)(a), Stats., and 2001 Wisconsin Act 35, section 72(2)(a)1.

Explanation of agency authority. 2001 Wisconsin Act 35, section 72(2)(a)1. directs the Department to make the proposed rule amendment.

Summary of proposed rule. The proposed rule will change the definition of full-time work in Section DWD 100.02 (28) from 35 to 32 hours per week.

The definition of full-time is used in Chapter DWD 128, regarding ability to work and availability for work. Section DWD 128.01 (2)(a) provides that an unemployment insurance claimant may not, without good cause, restrict his or her availability for work to less than 50% of the full-time opportunities for suitable work in the claimant's labor market area, including all jobs whether vacant or filled. Section DWD 128.01 (5) provides that the Department may require a claimant who is partially employed to comply with the able and available requirements if there is some indication that the claimant is not genuinely interested in working full time.

The new definition of full-time will be entered in the Department's Conditions of Employment Database (COED) and will also affect separation issues relating to availability for work on the general labor market under s. 108.04 (1)(b)1. and (7)(c), Stats., and suitable work issues relating to availability for work on the general labor market under s. 108.04 (8)(e), Stats.

Summary of factual data and analytical methodologies. The change is proposed because a significant percentage of the modern workforce does not work 35 to 40 hours per week, often due to child care or other obligations.

Comparison with federal law. There is no comparable federal law.

Comparison with rules in adjacent states. Iowa. Iowa does not limit unemployment insurance benefits to claimants who are available for full-time work so no comparable

definition is required. In Iowa, a claimant who is available to the same extent as when the wage credits were accrued meets the availability requirement.

Minnesota. Minnesota does not define full-time and does not limit eligibility to full-time availability. A claimant must be able to work and available for suitable employment and actively seeking suitable employment. Suitable employment includes part-time employment if a majority of the claimant's wage credits were earned from part-time employment in a position with comparable skills and comparable hours that pays average gross weekly wages equal to or more than 150 percent of the claimant's weekly unemployment benefit amount.

Illinois. Full time work is the number of hours a class of workers would customarily work if the employing unit had all the work it could handle without working overtime. Except where otherwise provided by a collective bargaining agreement or company policy, full-time work is customarily 40 hours per week. The requirement that a claimant be able and available for full-time work does not apply to a claimant who can prove that part-time work is suitable due to either:

- The restriction to part-time work is due to circumstances beyond his or her control.
- The kind of work suitable to his or her skill and training is only available on a part-time basis, he or she is seeking work in a labor market where suitable part-time work exists, and he or she has a reasonable possibility of securing part-time work suitable to his or her skills and experience.

Michigan. The claimant must be able and available to perform suitable full-time work. The Department was unable to locate a definition of full time in the Michigan statutes or rules.

Effect on small business. The proposed rule may affect small businesses, but will not have a significant economic impact on a substantial number of small businesses. The impact on a particular employer will depend, in part, on the employer's experience with the unemployment insurance system.

SECTION 1. DWD 100.02 (28) is amended to read:

DWD 100.02 (28) “Full-time” means work which is performed for ~~35~~ 32 or more hours in a week.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2)(intro.), Stats.