

Chapter DWD 127

WORK SEARCH AND REEMPLOYMENT SERVICES

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Note: Chapter ILHR 127 was created by emergency rule effective 1–8–84. Chapter ILHR 127 was renumbered Chapter DWD 127 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498.

DWD 127.001 Definitions. Unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

History: Cr. Register, September, 1995, No. 477, eff. 10–1–95.

DWD 127.01 Work search; policy; requirements.

(1) A claimant shall be eligible for unemployment benefits for any given week when the department finds that the claimant has completed at least 4 actions to search for suitable work within that week. Upon request of the department, a claimant shall provide verification of conducting at least 4 work search actions that are reasonably designed to secure work. Registration for work under ch. DWD 126 does not establish that the claimant is making a reasonable search for suitable work. It is essential that the claimant personally and diligently search for suitable work. The reasonableness of a search for work will, in part, depend on the employment opportunities in the claimant's labor market area. A work search which may be appropriate in a labor market area with limited opportunities may be totally unacceptable in an area with greater opportunities. Unreasonable limitations by a claimant as to salary, hours, or conditions of work indicate that a claimant is not making a reasonable search for suitable work. The department expects claimants to conduct themselves as would a prudent person who is out of work and seeking work.

(2) Any of the following actions by a claimant shall constitute a reasonable work search action:

(a) Applying for work with employers who may reasonably be expected to have openings for suitable work, except that applications submitted to the same employer more than once in a 4-week period are not credited as a work search action unless a new job is posted by the employer or available, or the employer's customary practices or circumstances encourage the submission of additional applications or the provisions under s. 108.04 (2) (i), Stats., apply.

(c) Making applications for suitable work.

(cm) Taking examinations for suitable work in the civil service of a governmental unit.

(d) Registering for suitable work with a public or private placement facility, including a union.

(em) Following the recommendations of a public employment office or similar reemployment services, including participation in reemployment services.

(j) Other actions the department may determine as constituting a reasonable work search action.

Note: The department shall include in the UCB–10 Handbook for Claimants examples of reasonable work search actions. In addition, the department shall include information on how claimants can contact the department with questions related to work search actions.

(3) Unless the department waives the work search requirement, a claimant is ineligible for unemployment benefits in any given week in which the department determines the claimant did

not conduct at least 4 actions to search for suitable work within that week.

History: Cr. Register, July, 1984, No. 343, eff. 8–1–84; CR 06–072: am. (1) and (2) (b), r. and recr. (2) (intro.) Register December 2006 No. 612, eff. 1–1–07; EmR1316: emerg. am. (1), (2) (intro.), (a), r. (2) (b), am. (2) (c) to (d), cr. (2) (em), r. (2) (f) to (i), r. and recr. (2) (j), am. (3) eff. 9–29–13; CR 13–081: am. (1), (2) (intro.), (a), r. (2) (b), am. (2) (c) to (d), r. (2) (e) to (i), cr. (2) (em), r. and recr. (2) (j), am. (3) Register April 2014 No. 700, eff. 5–1–14; CR 18–033: am. (3) Register May 2019 No. 761, eff. 6–1–19.

DWD 127.02 Waiver of work search requirements.

The department shall waive a claimant's requirement to conduct at least 4 actions to search for suitable work if any of the following apply:

(1) The claimant performs any work for his or her customary employer.

Note: Sub. (1) is amended by CR 13–081 effective when the secretary of the department determines the department has the technological ability to implement the changes made by CR 13–081 to read:

(1) The claimant performs at least 20 hours of work for any employer in that week.

(2) The claimant is currently laid off from employment with an employer but there is a reasonable expectation that the claimant will be returning to employment within a period of 8 weeks, which may be extended an additional 4 weeks but may not exceed a total of 12 weeks. In determining whether the claimant has a reasonable expectation of reemployment by the employer, the department shall request the employer to verify the claimant's employment status. If the employer does not verify the claimant's employment status, the department may consider any of the following:

(a) The history of layoffs and reemployments by the employer.

(b) Any information that the employer furnished to the individual concerning the claimant's anticipated reemployment date.

(c) Whether the claimant has recall rights with the employer under the terms of any applicable collective bargaining agreement.

(3) The claimant has a reasonable expectation of starting employment with a new employer within 4 weeks and the employer has verified the anticipated starting date with the department. The waiver shall not exceed 4 weeks.

(4) The claimant has been laid off from work and routinely obtains work through a union referral and all of the following apply:

(a) The union is the primary method used by workers to obtain employment in the claimant's customary occupation.

(b) The union maintains a record of unemployed members, and the referral activities of these members, and allows the department to inspect such records.

(c) The union provides, upon the request of the department, any information regarding a claimant's registration with the union or any referrals for employment it has made to the claimant.

(d) Prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant.

(e) The claimant is registered for work with a union and satisfies the requirements of the union relating to job referral proce-

dures, and maintains membership in good standing with the union.

(f) The union enters into an agreement with the department regarding the requirements of this subsection.

(6) The claimant is summoned to serve as a prospective or impaneled juror.

(7) The claimant is enrolled in and satisfactorily participating in a course of approved training under s. 108.04 (16), Stats., in a work share program under s. 108.062 (10m), Stats., or in a self-employment assistance program or another program that has been enacted by the Wisconsin or federal legislature and the program includes that claimants who participate in the program shall be waived by the department from work search requirements.

(8) The claimant has not made a search for suitable work because of an error made by personnel of the department.

(9) The claimant's most recent employer failed to post appropriate notice posters as to claiming unemployment benefits as required under s. DWD 120.01 and the claimant was not aware of the work search requirement.

(11) The claimant has been referred for reemployment services, is participating in such services, or is not participating in such services, but has justifiable cause for failure to participate. Justifiable cause includes that the claimant is unable to participate due to any of the following:

(a) The claimant is summoned to serve as a prospective or impaneled juror.

(b) The claimant is enrolled and satisfactorily participating in a course of training approved by the department, in a work share program under s. 108.062 (10m), Stats., or in a self-employment assistance program or another program that has been enacted by the Wisconsin or federal legislature and the program includes that claimants who participate in the program shall be waived by the department from work search requirements.

(c) The claimant is employed.

(d) The claimant is attending a job interview.

(e) Circumstances which the department determines are beyond the claimant's control.

Note: This section, except sub. (1) as noted above, is shown as affected by CR 13–081 effective June 1, 2015, in accordance with the requirements of section 47 of CR 13–081, which provides:

With respect to changes to ss. DWD 126.03 and 127.02, the rule will take effect when the Secretary determines the department has the technological ability to implement the changes, as determined by the secretary of the department determines the department has the technological ability to implement the changes.

Note: The department published the following notice in Register May 26, 2015 No. 713B:

Effective June 1, 2015, Secretary Reginald Newson of the Wisconsin Department of Workforce Development (DWD), determined that DWD has the technological ability to implement the changes made by Clearinghouse Rule No. 13–081 to ss. DWD 126.03 and 127.02 (intro.), and (2) to (11), Wis. Adm. Code. The requirements of these provisions will be enforced beginning June 14, 2015.

History: Cr. Register, July, 1984, No. 343, eff. 8–1–84; CR 06–072: (6) to (11) renum. from DWD 127.03 (1) to (6) and am. (9), am. (intro.) and (3) (intro.), r. and recr. (2), Register December 2006 No. 612, eff. 1–1–07; EmR1316: emerg. am. (intro.), (1), renum. (2) (intro.) to (2) and am., r. (2) (a) to (c), renum. (3) (intro.) to (3) and am., r. (3) (a) to (c), am. (4), r. (5), am. (7), (9), r. (10), am. (11), cr. (12) eff. 9–29–13; CR 13–081: am. (intro.), (1), (2) (intro.), (b), renum. (3) (intro.) to (3) and am., r. (3) (a) to (c), am. (4), r. (5), am. (7), (9), r. (10), cons. and renum. (11) (intro.) and (d) to (11) and am., r. (11) (a), (b) Register April 2014 No. 700, eff. 4–1–15, except (1), as noted above.

DWD 127.04 Claimants to present verification of work search actions. (1) Upon request, a claimant shall provide verification of conducting at least 4 work search actions to the department by computer-based programs or other methods approved by the department. The department shall consider alternate forms of submittal of completed information by a claimant on an individual basis when there is good cause for the claimant's inability to use a computer-based program. Good cause for failure to use a computer-based program as prescribed by the department shall include any of the following:

(am) The claimant possesses physical, mental, educational, or linguistic limitations.

(bm) The claimant has unusual or unavoidable circumstances beyond the claimant's control.

Note: The department shall notify claimants that it will consider alternate methods to verify a claimant's work search actions if there is good cause for the claimant's inability to use a computer-based program. In addition, the department shall provide claimants with information about how to request assistance with providing work search verification.

(1m) A claimant shall retain verification of all work search actions for 52 weeks following the week in which the work search actions occurred. Items used for verification shall include any of the following:

(a) Applications for work including the date on which the claimant made an employer contact; if available, the name and address of the employer and the name of the employer representative contacted; the type of work applied for; the method used to contact the employer and the results of the contact; or other verifiable information of the application.

(b) Civil service examinations: the date on which the claimant took an examination, the location of the examination, and the position for which the examination was taken.

(c) Registration with a union and placement facilities: the date on which the claimant registered and the name and address of the facility.

(d) Any reemployment services used at a public employment office: the date of the visit, the name and address of the public employment office, training program, or similar reemployment office, and the name of the person with whom the claimant met.

(e) If approved by the department, any other type of work search activity reasonably expected to result in the claimant becoming employed.

(2) A claimant may be ineligible for unemployment benefits in any given week in which the claimant fails to provide satisfactory verification of work search actions when requested by the department.

History: Cr. Register, July, 1984, No. 343, eff. 8–1–84; CR 06–072: am. (1) (intro.) Register December 2006 No. 612, eff. 1–1–07; EmR1316: emerg. am. (title), rn. (1) (intro.) to (1) and (1m) (intro.) and am., renum. (1) (a) to (d) to (1m) (a) to (d) and am., cr. (1m) (e), am. (2) eff. 9–29–13; CR 13–081: am. (title), (1) (intro.), cr. (1) (am), (bm), renum. (1) (a) to (d) to (1m) (a) to (d) and am., cr. (1m) (intro.), (e), am. (2) Register April 2014 No. 700, eff. 5–1–14.

DWD 127.05 Certification as to work search. The department may require a claimant to certify that work search actions were made each week as part of the claim filing procedure under ch. DWD 129.

History: Cr. Register, July, 1984, No. 343, eff. 8–1–84; CR 06–072: r. (2) and (3) Register December 2006 No. 612, eff. 1–1–07; EmR1316: emerg. am. eff. 9–29–13; CR 13–081: am. Register April 2014 No. 700, eff. 5–1–14.

DWD 127.06 Added efforts to secure work. (1) In addition to the requirements under s. DWD 127.01 (2), if a claimant has been unemployed for 7 or more consecutive weeks, a claimant may be required to perform any of the following:

(a) Conduct 5 work search actions within any given week when the department determines a claimant's employment history or conduct indicates that the claimant is placing unreasonable limitations as to salary, hours, or conditions of work in accepting new work or is not engaging in work search efforts as would a prudent person who is out of work and is seeking work.

(b) Develop a work search plan for approval by the department. The plan may include a requirement to complete 5 work search actions per week. The plan shall consider the number of job opportunities available in the labor market area where the claimant usually works.

(2) A claimant shall be ineligible for benefits in any given week in which the department determines that the claimant failed, without good cause, to comply with the requirements under sub. (1). Good cause under this section shall include any of the following:

(a) The claimant is summoned to serve as a prospective or impaneled juror.

(b) The claimant is enrolled in and satisfactorily participating in a course of training approved by the department, in a work share program under s. 108.062 (10m), Stats., in a self-employment assistance program, or in another program established under state or federal law and the program provides that claimants who participate in the program shall be waived by the department from work search requirements.

(c) The claimant is employed.

(d) The claimant is attending a job interview.

(e) Circumstances that the department determines are beyond the claimant's control.

(3) A claimant who is claiming extended benefits under s. 108.141, Stats., shall comply with any requirements imposed by the department under sub. (1). A claimant who fails to comply with the requirements under this subsection shall be ineligible for benefits until the claimant has again worked within at least 4 subsequent weeks and earned wages equal to at least 4 times the claimant's extended weekly benefit rate.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; emerg. r. (3) eff. 3-6-93; r. (3), Register, July, 1993, No. 451, eff. 8-1-93; cr. (3), Register, October, 1994, No. 466, eff. 11-1-94; EmR1316: emerg. renum. (1) to (1) (intro.), (a), (b) and am., cr. (1) (c), am. (2), (3), eff. 9-29-13; CR 13-081: renum. (1) to (1) (intro.), (a) and am., cr. (1) (b), am. (2), (3) Register April 2014 No. 700, eff. 5-1-14; **CR 18-033; renum. (2) to (2) (intro.), cr. (2) (a) to (e) Register May 2019 No. 761, eff. 6-1-19.**

DWD 127.07 Reemployment services. (1) The department may require a claimant to participate in a public employment office workshop, training program, or similar reem-

ployment services which offers instruction in improving the claimant's skills for finding and obtaining employment. The claimant shall be ineligible for benefits for any given week for which the department determines that the claimant failed, without good cause, to participate in such a workshop, training program, or similar reemployment services.

(2) The department may find that a claimant has good cause for failure to participate in reemployment services in any given week. For the purposes of this section, good cause for failure to participate in reemployment services includes that the claimant is unable to participate due to any of the following:

(a) The claimant is summoned to serve as a prospective or impaneled juror.

(b) The claimant is enrolled and satisfactorily participating in a course of training approved by the department, in a work share program under s. 108.062 (10m), Stats., in a self-employment assistance program, or another program designed to assist individuals to become employed that has been enacted by the Wisconsin or federal legislature.

(c) The claimant is employed.

(d) The claimant is attending a job interview.

(e) Circumstances which the department determines are beyond the claimant's control.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; EmR1316: emerg. am., (title), (1), r. and recr. (2) eff. 9-29-13; CR 13-081: am. (title), (1), r. and recr. (2) Register April 2014 No. 700, eff. 5-1-14; **CR 18-033; am. (2) (intro.) Register May 2019 No. 761, eff. 6-1-19.**