

## **STATEMENT OF SCOPE**

### **Department of Workforce Development**

**Rule No:** DWD 113

**Relating to:** Waiving interest in limited circumstances for employers subject to reimbursement financing when reimbursements are delinquent due to COVID-19.

**Rule Type:** Emergency

**Finding/nature of emergency:**

On March 12, 2020, by Executive Order 72, the Governor declared a public health emergency to protect the health and wellbeing of the state's residents and directed state agencies to assist as appropriate in the State's ongoing response to the public health emergency. On March 13, 2020, the President declared a national emergency concerning the COVID-19 pandemic. Due to the pandemic, many businesses have temporarily or permanently closed, resulting in significant business income reduction and layoffs.

Under 2019 Wisconsin Act 185, 50% of unemployment insurance benefit claims for initial claims related to the public health emergency declared on March 12, 2020 will be charged to the appropriation in s. 20.445 (1) (gd), Stats. for employers subject to reimbursement financing. The remaining 50% will be reimbursed by the federal government under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. The federal government interprets the CARES Act to require employers subject to reimbursable financing to first pay their reimbursements due to the state in full before the federal government will reimburse those amounts. See U.S. Department of Labor Unemployment Insurance Program Letter 18-20 (April 27, 2020).

Because of the pandemic-related economic devastation, employers subject to reimbursement financing may be unable to pay their reimbursements for unemployment claims in full. In addition, the requirement to immediately pay their reimbursements could further jeopardize the viability of employers subject to reimbursement financing.

**Description of the objective of the proposed rule:**

This emergency rule will specify the limited circumstances under which employers subject to reimbursement financing, who are unable to timely pay their reimbursements due to the COVID-19 pandemic, may receive a waiver of interest on their reimbursements.

**Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Currently, s. DWD 113.025 provides limited circumstances for which employers may request a waiver or reduction of interest.

The new policy to be included in this rule will provide, under limited circumstances, economic relief for employers subject to reimbursement financing who are unable to timely pay their reimbursements due to the COVID-19 pandemic.

The policy alternative is to do nothing.

**Statutory authority for the rule, including the statutory citation and language:**

The Department has statutory authority for the proposed rule.

“The department may adopt and enforce all rules which it finds necessary or suitable to carry out this chapter.” Wis. Stat. § 108.14(2).

“In limited circumstances as prescribed by rule of the department, the department may waive or decrease the interest charged under par. (a) or s. 108.17 (2c) (c).” Wis. Stat. § 108.22(1)(cm).

**Estimate of the amount of time that state employees will spend developing the rule and other resources necessary to develop the rule:**

The estimated time is 40 hours.

**Description of all entities that may be affected by the proposed rule:**

Employers subject to reimbursement financing for unemployment insurance.

**Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

State law must to conform to and substantially comply with federal regulations. *See* 20 C.F.R. § 601.5.

**Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):**

The proposed rule is expected to have an economic impact on employers subject to reimbursement financing, which may include small businesses, if those employers can take advantage of the interest waiver.

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**Approval of the agency head or authorized individual:**

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**Pamela R. McGillivray, Chief Legal Counsel**

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**Date Submitted**