STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2050 (C04/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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EXISTING ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☐ Repeal ☒ Modification

2. Administrative Rule Chapter, Title and Number

Chapters DWD 126 (Work Registration), 127 (Work Search), and 129 (Benefit Claiming Procedures), unemployment insurance requirements for claimants.

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

- Chapter DWD 126 was originally ch. ILHR 126. Chapter ILHR 126 was created by emergency rule and was effective January 8, 1984 and ch. ILHR 126 was renumbered ch. DWD 126 pursuant to s. 13.93 (2m) (b) 1., Stats. Chapter DWD 126 was last amended September of 2000.

- Chapter DWD 127 was originally ch. ILHR 127. Chapter ILHR 127 was created by emergency rule and was effective January 8, 1984 and ch. ILHR 127 was renumbered ch. DWD 127 pursuant to s. 13.93 (2m) (b) 6. and 7., Stats. Chapter DWD 127 was last amended December of 2006.

- Chapter DWD 129 was originally ILHR s. 129. Chapter ILHR 129 was created by emergency rule and was effective January 8, 1984 and ch. ILHR 129 was renumbered ch. DWD 129 pursuant to s. 13.93 (2m) (b) 1., Stats. Chapter DWD 129 was last amended September of 2010.

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The rule modifies existing rules by simplifying and clarifying the intent of the administrative code provisions surrounding registration and work search requirements for an unemployment insurance claimant. Also the rule modification enables the Department of Workforce Development (DWD) to adapt work registration and work search requirements as advances in technology make changes possible and necessary. Moreover, the rule changes facilitate DWD's ability to audit the work search actions of unemployment insurance claimants as required by the newly enacted statutory provision s. 108.14 (20), Stats., that was created by 2013 Wisconsin Act 36. In addition, the existing administrative rules provide for waivers from the work search requirement. The rule amendments decrease and narrow the remaining waivers.

The rule changes will streamline the ability of DWD to ensure that individuals receiving unemployment insurance benefits are actively seeking work to become reemployed. The rule modification will also strengthen DWD's objective that those receiving unemployment insurance are engaging in activities that constitute reasonable efforts to obtain employment.

The rule amendments clarify that DWD has the authority to request information from claimants to assist them in finding employment. More specifically, the amendments to ch. DWD 129 grant DWD the flexibility to implement improvements with respect to the claims filing procedures.

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5. Describe the Rule's Enforcement Provisions and Mechanisms

There are a number of enforcement mechanisms for these rules:

- If an unemployment insurance claimant does not adhere to the benefit claiming procedures, work registration requirements, and work search conditions, the claimant may be determined to be ineligible for unemployment insurance benefits.

- If an unemployment insurance claimant conceals any material fact relating to his or her eligibility for benefits in order to be seen as complying with the requirements of ch. DWD 126, 127, or 129, for:

(1) Each single act of concealment a claimant is ineligible for benefits in an amount equivalent to two times his or her weekly benefit rate;
(2) Each single act of concealment occurring after the first act of concealment a claimant is ineligible for benefits in an amount equivalent to four times his or her weekly benefit rate; and,
(3) Each single act of concealment occurring after the date of the second or subsequent determination of concealment a claimant is ineligible for benefits in an amount equivalent to eight times his or her weekly benefit rate.

The ineligibility for benefit framework for acts of concealment is pursuant to s. 108.04 (11) (be), Stats.

- In addition, if an unemployment insurance claimant conceals any material facts relating eligibility for benefits in order to be seen as complying with the requirements of ch. DWD 126, 127, or 129, the claimant will be charged a penalty of 15% of the benefit payments paid to the claimant. The penalty framework for acts of concealment is pursuant to s. 108.04 (11) (bh), Stats.

6. Repealing or Modifying the Rule Will Impact the Following (Check All That Apply)

- ☒ State's Economy
- ☒ Local Government Units
- ☐ Specific Businesses/Sectors
- ☐ Public Utility Rate Payers
- ☒ Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

These rule amendments do not have any small business requirements but are expected to benefit all employers, including small businesses. First, the amendments are projected to result in more unemployment insurance claimants finding employment faster. As a result, unemployed individuals will be collecting unemployment insurance benefits for a shorter duration and there will be fewer charges to employers' unemployment insurance accounts. This will help reduce the employers' unemployment insurance tax. Second, more unemployed individuals will be required to seek employment and DWD will better be able to assist unemployed individuals find appropriate jobs. Consequently, employers will likely see an increase in qualified applicants when hiring employees.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

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DWD posted the scope statement and proposed hearing draft on the DWD website and on the Wisconsin Administrative Rules' website for 14 days to solicit public comment on the economic impact of the rule. DWD did not receive any comments.

DWD held a public hearing at three separate locations on November 4, 2013, in Milwaukee, Appleton and Madison. Following the public hearings, the hearing record remained open until November 8, 2013. No one attended the public hearings. DWD received one written comment from Victor Forberger, Esquire.

Mr. Forberger expressed concern regarding the following:

- Job Registration and Weekly Claim Filing

o Job registration being filed solely online without reference to assistance in multiple languages. Florida implemented a similar system which the U.S. Department of Labor ruled was discriminatory. Mr. Forberger attached a copy of the Florida DOL initial determination.

o While the Job Center of Wisconsin website is required now, the department needs to adopt to future job registration applications.

- Work Search Contacts

o Work search requirements should include contacts such as "LinkedIn" and other efforts to search or enhance business contacts and skills.

- Increasing Job Search Requirements

o Leaving a window of only four weeks before a claimant is required to increase job efforts is too short. There should be at least 15-20 weeks minimum before any department declaration is made regarding a claimant's work search efforts.

- Record-Keeping

o Changing the requirement for claimants to retain verification of job search actions from 8 to 52 weeks is a burden on claimants and for employers who will be asked to verify job applications.

- Job Search and Registration Waivers

o Employers not verifying return to work dates so claimants will be granted a work search waiver.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

☐ 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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10. Fund Sources Affected	11. Chapter 20, Stats. Appropriations Affected
☐ GPR ☒ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S	20.115(1)(q)

12. Fiscal Effect of Repealing or Modifying the Rule

☐ No Fiscal Effect	☐ Increase Existing Revenues	☐ Increase Costs
☒ Indeterminate	☐ Decrease Existing Revenues	☐ Could Absorb Within Agency's Budget
		☐ Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The rule amendments will make the rules consistent with the newly enacted legislation and update and modernize existing requirements with respect to the claim benefit filing procedure and work search and work registration requirements. These rule changes will strengthen the requirements for unemployed individuals to actively seek employment and thereby improve their employment prospects and align the job search requirements with the underlying goal of the unemployment insurance program. The amendments accomplish this by:

- Providing explicit authority for DWD to require unemployment insurance claimants to provide information to DWD to facilitate their reemployment efforts;
- Updating what actions by claimants will be considered to constitute a reasonable search for suitable work;
- Decreasing the circumstances in which DWD will waive the requirement that claimants to receive unemployment insurance benefits must perform work search actions;
- Narrowing and fine-tuning the remaining circumstances under which DWD will waive the work search requirement for claimants; and,
- Enhancing the procedures required to file claims for benefits in order to facilitate the ability of DWD to assist claimants find employment.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)
☐ Yes ☒ No

15. Long Range Implications of Repealing or Modifying the Rule

These rule amendments will have a positive economic impact. The increase in the requirement for work search activities will likely decrease charges to the Unemployment Insurance Trust Fund due to individuals obtaining employment sooner or being disqualified from receiving unemployment insurance benefits for not actively seeking work. This will have a positive economic impact on employers, due to fewer charges to employers' unemployment insurance accounts. As a result, employers will be charged a lower rate of unemployment insurance tax. In addition, claimants who are regularly collecting a paycheck rather than an unemployment compensation check will contribute more economically within their community.

16. Compare With Approaches Being Used by Federal Government

The unemployment insurance program was initiated on a national basis in the United States as Title III and Title IX of the Social Security Act of 1935 and is a Federal-State coordinated program. Each state administers its own program within national guidelines promulgated under federal law. As a condition of a state receiving its unemployment compensation administrative grant, 42 USC s. 503 (a) provides that the Secretary of Labor must find that the law of each state includes certain requirements. Specifically, 42 USC s. 503 (a) (12) provides that state laws must have as a condition of eligibility for unemployment insurance that claimants must be able to work, available to work, and actively seeking work. Moreover, 42 USC s. 503 (a) (10) provides that state laws must require that if claimants have been referred for reemployment services or similar services, to remain eligible for unemployment insurance benefits claimants shall complete such services or there must be justifiable cause for claimants failing to participate in such services.

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

As the Department of Labor's Comparison of State UI Laws states: "[i]n addition to registration for work at a local employment office, all states... , whether by law or practice, require that a worker be actively seeking work or making a reasonable effort to obtain work." The amendments to the rules bring Wisconsin's policies more in line with neighboring states' initiatives to facilitate unemployment insurance claimants' ability to find employment.

Benefit Claiming Procedure

- Illinois

Each claimant shall file his or her claim by telephone. The only exception is if the claimant files his or her claim by mail. To file a claim by mail the claimant must: speak neither English nor Spanish; be hearing impaired; or have no reasonable access to a touch-tone telephone. (56 Il. Adm. Code 2720.112)

- Iowa

An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed, but a claimant must register for work at a workforce development center. (IA 871-24.2 (96) Administrative Code)

- Michigan

Claims for benefits shall be made pursuant to regulations prescribed by the unemployment insurance agency. The unemployment insurance agency shall designate representatives who shall promptly examine claims and make a determination on the facts. (M.C.L.A. 421.32)

An individual shall file a new, additional, or reopened claim or shall report to file a continued claim as directed by the agency. (Mich. Admin. Code R. 421.210 (3))

- Minnesota

An application for unemployment insurance benefits may be filed in person, by mail, or by electronic transmission as the unemployment insurance agency may require. (M.S.A. s. 268.07 Statutes Annotated)

The unemployment insurance agency shall notify the claimant of the method that should be used to make ongoing claims for benefits. The first method is through electronic transmission which means the claims may be filed by electronic mail address, telephone number, or Internet address prescribed by the commissioner for that claimant. The other method that the unemployment insurance agency may designate for the claimant is for the claim to be filed by mail. (M.S.A. s. 268.0865 Statutes Annotated)

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Work Search Requirements

- Illinois

Unless otherwise instructed, a claimant must establish that he or she is able to work, available for work and actively seeking work during each week for which he or she is claiming benefits. The claimant must show that he or she is conducting a thorough, active and reasonable search for appropriate work on his or her own by keeping records of what he or she is doing to find work. (56 Il. Adm. Code 2865.100)

- Iowa

The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant. (IA 871-24.22 (96) f. Administrative Code)

- Michigan

The claimant has registered for work and has continued to report in accordance with unemployment agency rules and is actively engaged in seeking work. Except for a period of disqualification, the requirement that the claimant shall seek work may be waived by the unemployment insurance agency if it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period. An otherwise eligible individual shall not be ineligible for benefits because he or she is participating in training with the approval of the unemployment agency. (M.C.L.A. 421.28)

- Minnesota

An applicant may be eligible to receive unemployment benefits for any week if the applicant was actively seeking suitable employment. "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment." (M.S.A. s. 268.085 Statutes Annotated)

Registration for Work Requirements

- Illinois

A claimant must register with the Illinois Employment Service unless otherwise instructed by the local office. There are ten circumstances in which a claimant will not be required to register with the Illinois Employment Service. (56 Il. Adm. Code 2865.100)

An unemployed individual shall be eligible to receive benefits with respect to any week only if he or she has registered

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for work at and thereafter, continues to report at an employment office in accordance with such regulations as may be prescribed. (820 ILCS 405/500 Compiled Statutes)

- Iowa

Unemployed persons must report in person to the nearest workforce development center and register for work. (IA 871-24.2 (96) Administrative Code)

An unemployed individual is eligible to receive benefits with respect to any week only if the department finds that the individual has registered for work at, and thereafter, continues to report to an employment office in accordance with regulations as the department prescribes. (I.C.A. s. 96.4 Code)

- Michigan

A claimant shall register for work as instructed by the agency and fully and accurately supply information as to the claimant's past work experience and training and other personal data as may be necessary to assure that the claimant is considered for referral to any available suitable work. (Mich. Admin. Code R. 421.208)

Unemployed workers must register and create a profile on www.mitalenet.org and report in person to verify their registration to any Michigan Works! Agency Service Center no later than three (3) business days before their first contact to file a claim. Claimants must retain verification form as proof of registration of work for one year. (Fact sheet #76 Work Registration Needed for Jobless Benefits)

- Minnesota

An applicant may be eligible to receive unemployment insurance benefits for any week if the applicant was available for suitable employment. (M.S.A. s. 268.085 Statutes Annotated)

18. Contact Name	19. Contact Phone Number
Janell Knutson	608/266-1639

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