Rules Clearinghouse No. _____

Hearing Draft Rule
October 1, 2013

PROPOSED ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
AMENDING, CREATING, AND ADOPTING RULES

The Wisconsin department of workforce development proposed the following order ***to repeal*** DWD 126.02 (2), (3) and (4), 126.03 (1), 126.04, 126.05, 127.01 (2) (b), (f) to (i), and (3), 127.02 (intro.), (1), (2), (3) and (4), 127.02 (5) and (10) and 127.08; ***to renumber and amend*** DWD 126.02 (1); ***to amend*** DWD 126.01, 126.03 (intro.) and (2), 127 (title), 127.01 (1), (2) (intro.), (a), (c) and (d), 127.02 (7), (9), and (11), 127.04 (title), (1) and (2), 127.05, 127.06 (1), (2) and (3), 127.07 (title) and (1), 128.01 (2) (a), and 129.01 (1) and (2); ***to repeal and recreate*** DWD 127.01 (2) (j) and 127.07 (2); and ***to create*** DWD 126.02 (note), 126.03 (3), (4), (5), (6) and (7), 127.01 (2) (em), 127.02 (12), 127.04 (1m) (e) and 127.06 (1) (c) relating to unemployment insurance work registration, work search and benefit claiming procedures.

Analysis Prepared by the Department of Workforce Development

Statutes Interpreted

Statutes Interpreted: Ch. 108, Stats.

Statutory Authority

Statutory Authority: ss. 108.04, 108.08, 108.09, and 108.14, Stats.

Explanation of Statutory Authority

DWD has specific and general authority to establish rules interpreting and clarifying provisions of ch. 108, Stats., unemployment insurance and reserves. DWD has general authority for promulgating rules with respect to ch. 108, Stats., under s. 108.14 (2), Stats. 2013 Wisconsin Act 20 amended s. 108.04 (2) (a) 2., Stats., to provide that unemployment insurance claimants registration for work shall be done as directed by DWD. s. 108.04 (2) (b) provides DWD may prescribe rules that unemployment insurance claimants must follow to register work and search for work and may by general rule waive these requirements under certain stated conditions.

Under s. 108.08 (1), Stats., in order to receive benefits, claimants shall give notice to DWD with respect to the claimants' unemployment. The statute provides that the method used by claimants to provide notice of their unemployment shall be prescribed by rule of DWD. Under s. 108.09 (1), Stats., claims for benefits shall be filed pursuant to rules prescribed by DWD.

Related Statutes or Rules

Chapter 108, Stats., governs the state's unemployment insurance system. Section 108.04 provides the primary eligibility requirements an unemployed person must satisfy in order to qualify for benefits. Section 108.04 (2), Stats., provides a claimant is eligible for benefits as to any given week only if the individual is able to work and available for work during that week, the individual has registered for work as directed by DWD, and the individual conducts a reasonable search for suitable work during that week. Moreover, it provides that a claimant must make available information or job application materials that are requested by DWD.

Plain Language Analysis

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 DWD to be able 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 efforts 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 a reasonable effort 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.

Summary of, and comparison with, existing or proposed federal statutes and regulations

Unemployment insurance 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 503 (a) provides that the Secretary of Labor must find that the law of the state includes certain

requirements. Specifically, 42 USC 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 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 must complete such services or there must be justifiable cause for the claimants failing to participate in such services.

Comparison with rules in adjacent states

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 rules 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)**
Indiana	A claimant must report on their job search on a weekly basis via submission of the online claim form, or in any other manner as required by the department. **(646 IN 5-9-4 Administrative Code)** A claimant is not eligible for benefits in any week unless he or she has filed a claim for benefits and reports to the department each week that he or she continues to meet all eligibility requirements. A claimant's claim for benefits, and weekly report to the department, must be filed in the form and manner prescribed by the department. **(646 IN 5-9-2 Administrative Code)**
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 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 agency. The unemployment 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 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)***

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)**
Indiana	To establish an effort to secure full-time work, a claimant is required to search for three (3) positions in each week for which benefits are claimed. ***(646 IN 5-9-3 Administrative Code)***
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 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 has registered 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)**
Indiana	• Registration is required and accomplished through enrollment in the Indiana Career Connect (ICC) Database. **(646 IN 5-9-1 Administrative Code)** • Claimant must register for work within ten (10) days of filing an initial claim for benefits. To enhance the registration, claimants should complete a resume and post online. **(646 IN 5-9-1 Administrative Code)** • An unemployed individual is eligible to receive benefits with respect to any week if the individual has registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department adopts by rule. **(IC 22-4-14-2 Code)**
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 form of verification 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 benefits for any week if the applicant was available for suitable employment. **(M.S.A. s. 268.085 Statutes Annotated)**

Summary of factual data and analytical methodologies

This rule does not depend on any complex analysis of data. Instead, the changes to the rules represent common sense amendments that will assist unemployment insurance claimants to provide additional information to DWD in order that DWD may better assist them in returning to work.

Analysis and supporting document used to determine effect on small business or in preparation of an economic impact analysis

This rule will have a positive impact on employers and unemployment insurance claimants.

Effect on small business

This rule does not have any small business requirements but is expected to benefit all employers, including small business. First, the rule is 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 result in employers having to pay lower amounts of unemployment tax. Second, more unemployed individuals will be required to seek employment and those unemployed individuals who already were required to seek employment will likely be assisted better by DWD in applying for appropriate jobs. As a result, there are likely to be more and better job applications for employers to review as more employers seek to hire individuals.

Agency contact person

Questions and comments related to this rule may be directed to:

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Place where comments are to be submitted and deadline for submission

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Hearing dates have not yet been scheduled. Hearing comments will be accepted until the last scheduled hearing is conducted.

SECTION 1. DWD 126.01 is amended to read:

DWD 126.01 ~~**Purpose.** Under s. 108.04 (2), Stats.,~~ **Eligibility**. Except as waived by the department under this chapter, a claimant who is ~~totally~~ unemployed is eligible for unemployment benefits for any given week only if the claimant has registered for work~~, unless the registration requirement has been waived by the department. This chapter specifies what registration is, when the requirement shall be waived, and when it shall be presumed that the claimant is participating in reemployment services~~.

SECTION 2. DWD 126.02 (1) is renumbered DWD 126.02 and amended to read:

DWD 126.02 ~~Except as provided in sub. (4), a~~ A claimant shall be considered registered for work with respect to any given week if ~~he or she files~~ the claimant has filed an application to establish a benefit year pursuant to s. DWD 129.02, and has completed and submitted, by computer-based programs or other methods approved by the department, all information for registration for work as prescribed by the department and within a time-frame specified by the department.

SECTION 3. DWD 126.02 (note) is created to read:

DWD 126.02 **Note**: The department will consider alternate forms of submittal of completed information by a claimant on an individual basis when there is good cause for the claimant to not use a computer-based program. Good cause includes the claimant possesses physical, mental, educational, or linguistic limitations or the claimant has unusual or unavoidable circumstances beyond the claimant's control.

SECTION 4. DWD 126.02 (2), (3) and (4) are repealed.

SECTION 5. DWD 126.03 (intro.) is amended to read:

DWD 126.03 **Waiver of work registration requirement.** The department shall waive a claimant's work registration requirement for any given week if any of the following apply:

SECTION 6. DWD 126.03 (1) is repealed.

SECTION 7. DWD 126.03 (2) is amended to read:

DWD 126.03 (2) The claimant~~:~~

~~(a) Has been determined, pursuant to a profiling system established by the department, to be likely to exhaust regular unemployment compensation benefits and to need reemployment services in order to make a successful transition to new employment;~~

~~(b) Has been referred during the current benefit year for reemployment services; and~~

~~(c) Has satisfactorily completed such services.~~ is currently laid off from employment with an employer but the employer has verified with the department 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, if verified by the employer.

1 **SECTION 8**. DWD 126.03 (3), (4), (5), (6), and (7) are created to read:

2 DWD 126.03 (3) The claimant has a reasonable expectation of starting employment with
3 a new employer within 4 weeks and the employer has verified the anticipated starting date with
4 the department. The waiver shall not exceed 4 weeks.

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

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

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

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

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

16 (e) The claimant is registered for work with a union and satisfies the requirements of the
17 union relating to job referral procedures, and maintains membership in good standing with the
18 union.

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

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

22 (6) The claimant is enrolled in and satisfactorily participating in a course of approved
23 training under s. 108.04 (16), Stats., in a work share program under s. 108.062 (10m), Stats., in a

self-employment assistance program or other federally authorized program enacted by the Wisconsin legislature.

(7) The claimant is unable to complete registration due to circumstances which the department determines are beyond the claimant's control.

SECTION 9. DWD 126.04 and 126.05 are repealed.

SECTION 10. DWD 127 (title) is amended to read:

DWD 127 **WORK SEARCH AND REEMPLOYMENT SERVICES**

SECTION 11. DWD 127.01 (1), (2) (intro.) and (a) are amended to read:

DWD 127.01 **Work search; policy; requirements.** (1) ~~Under s. 108.04 (2), Stats., a~~ A claimant shall be eligible for unemployment benefits for any given week ~~only~~ when the department finds~~, among other things,~~ that the claimant has ~~within that week made a reasonable~~ completed at least 4 actions to search for suitable work within that week. ~~The search for suitable work shall include at least 2 actions by the claimant each week that are reasonably designed to secure work. Mere registration~~ Upon request of the department, a claimant may be required to 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 ~~on his or her own behalf~~. 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 each claimant to conduct ~~himself or herself~~ themselves as would a prudent person who is out of work and seeking work.

(2) ~~The department shall consider~~ All of the following actions ~~to~~ by a claimant shall constitute a reasonable work search ~~for suitable work under the facts and circumstances of each claimant's situation~~ action:

(a) ~~Making applications~~ 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 or available, or the employer's customary practices or circumstances encourage the submission of additional applications.

SECTION 12. DWD 127.01 (2) (b) is repealed.

SECTION 13 . DWD 127.01 (2) (c) and (d) are amended to read:

DWD 127.01 (2) (c) Making applications ~~or taking~~.

(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 ~~referral or hiring hall and complying with the various union registration requirements and job referral procedures;~~.

(e) Registering with a placement facility of the claimant's professional organization;

SECTION 14. DWD 127.01 (2) (em) is created to read:

DWD 127.01 (2) (em) Following the recommendations of a public employment office or similar reemployment services, including participation in reemployment services.

SECTION 15. DWD 127.01 (2) (f) to (i) are repealed.

SECTION 16. DWD 127.01 (2) (j) is repealed and recreated to read:

DWD 127.01 (2) (j) Other actions the department may determine as constituting a reasonable job search action.

SECTION 17. DWD 127.01 (3) is amended to read:

DWD 127.01 (3) ~~A~~ Except if the work search requirement has been waived by the department, a claimant shall be ineligible for unemployment benefits in any given week in which the department determines ~~that~~ the ~~claimant's search for suitable work was not reasonable under the requirements of this section unless the search has been waived by the department~~ claimant did not conduct at least 4 actions to search for suitable work within that week.

SECTION 18. DWD 127.02 (intro), (1), (2), (3) and (4) are amended to read:

DWD 127.02 **Waiver of work search requirements.** The department shall waive a claimant's ~~search for suitable work~~ requirement ~~under s. DWD 127.01 for any week under~~ to conduct at least 4 actions to search for suitable work if any of the following ~~circumstances~~ apply:

(1) The claimant performs ~~any~~ at least 20 hours of work for ~~his or her customary~~ any employer in that week.

(2) The claimant is currently laid off from employment with an employer but the employer has verified with the department there is a reasonable expectation ~~of reemployment of~~ that the claimant ~~by that~~ 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, if verified by the employer. ~~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 and shall also consider other factors, including the following:~~

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

~~(b) Any information that the employer furnished to the individual or the department 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 ~~work~~ employment with a new employer within 4 weeks ~~of the week in which waiver is being considered. In determining whether a claimant has a reasonable expectation of starting work with a new employer, the department shall consider factors including, but not limited to, the following:~~

~~(a) The hiring practices of employers in the claimant's labor market area for workers who perform work which is similar to the work which the claimant is expected to perform for the new employer;~~

~~(b) Any information which the new employer furnished to the claimant or the department about the time within which the work is expected to commence; and~~

~~(c) Whether the work is suitable work for the claimant.~~ 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 ~~or hiring hall process. Waiver under this subsection may be permitted only if~~ and all of the following apply:

(a) The union ~~referral or hiring hall process~~ is the primary method used by ~~which~~ workers to obtain ~~work~~ 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 ~~a~~ the department ~~deputy~~, any information regarding a claimant's registration ~~or a job opening or referral;~~ 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 ~~his or her~~ a union and satisfies the requirements of the union relating to job referral procedures, and ~~maintenance of~~ maintains membership in good standing~~; and~~ with the union.

(f) The union enters into ~~a written~~ an agreement with the ~~public employment office~~ department regarding the requirements of this subsection.

SECTION 19. DWD 127.02 (5) is repealed.

SECTION 20. DWD 127.02 (7) and (9) are amended to read:

DWD 127.02 (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 other federally authorized program that has been enacted by the Wisconsin legislature.

(9) The ~~claimant was not aware of the work search requirement and the~~ claimant's most recent employer failed to post ~~and maintain the notice on claiming unemployment benefits that was supplied to the employer~~ 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.

SECTION 21. DWD 127.02 (10) is repealed.

SECTION 22. DWD 127.02 (11) is amended to read:

DWD 127.02 (11) The claimant has been ~~determined, pursuant to a profiling system~~

~~established by the department, to be likely to exhaust regular unemployment insurance benefits and to need~~ referred for reemployment services ~~in order to make a successful transition to new employment, and~~

~~(a) The claimant has been referred for and is participating in reemployment services by complying with department directions regarding such services;~~

~~(b) The claimant has been referred for reemployment services and is enrolled and satisfactorily participating in educational and training programs which were recommended based on a reemployment services assessment; or~~

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

~~1.~~(a) The claimant is summoned to serve as a prospective or ~~paneled~~ impaneled juror~~;~~.

~~2.~~(b) The claimant is enrolled and satisfactorily participating in a course of training approved by the department~~;~~, in a work share program, in a self-employment assistance program or other federally authorized program that has been enacted by the Wisconsin legislature.

~~3.~~(c) The claimant is ~~unable to participate because the claimant is~~ employed~~;~~.

~~4.~~(d) The claimant is ~~unable to participate because of a~~ attending a job interview~~; or~~.

~~5.~~(e) ~~The claimant is unable to participate due to circumstances~~ Circumstances which the department determines are beyond the claimant's control.

SECTION 23. DWD 127.02 (12) is created to read:

DWD 127.02 (12) If Wisconsin enacts a self-employment assistance program or other federally authorized program pursuant to the federal statutes that provides for waiver of work search requirements and the claimant is participating in the program.

SECTION 24. DWD 127.04 (title) and (1) are amended to read:

DWD 127.04 **Claimants to present ~~evidence~~ verification of work search ~~efforts~~ actions**. (1) ~~The department may require~~ Upon request, a claimant may be required to provide ~~evidence of his or her~~ verification of conducting at least 4 work search ~~efforts~~ actions to the department ~~for any time period up to and including the 8-week period prior to the date that the department makes the request~~ by computer-based programs or other methods approved by the department. ~~The department may also notify the~~

(1m) A claimant ~~that evidence will be required for a future week. The department may verify the evidence submitted. Evidence which a claimant customarily would be expected to submit includes~~ shall retain verification of all work search efforts for 52 weeks following the week in which the work search actions occurred and shall include all of the following:

(a) ~~In the case of employer contacts:~~ 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) ~~In the case of civil~~ Civil service examinations: the date on which the claimant took an examination, the location of the examination and the ~~type of work applied for;~~ position for which the examination was taken.

(c) In the case of registration with a union ~~referral or hiring hall, professional organization or educational placement facility or private employment agency~~ and placement facilities: the date on which the claimant registered and the ~~type of work for which the claimant is registered; and~~ name and address of the facility.

(d) ~~Evidence of any other action which the claimant took during a given week to seek work including, but not limited to, any responses to advertisements for suitable work and submission of personal resumes to prospective employers.~~ Visits to a public employment office or similar reemployment services: 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.

SECTION 25. DWD 127.04 (1m) (e) is created to read:

DWD 127.04 (1m) (e) If approved by the department, any other type of work search activity reasonably expected to result in the claimant becoming employed.

SECTION 26. DWD 127.04 (2) is amended to read:

DWD 127.04 (2) ~~The department may disqualify a~~ A claimant may be ineligible for unemployment benefits in any given week ~~for~~ in which the claimant fails to provide satisfactory evidence of work search ~~efforts is insufficient to establish that the claimant made a reasonable search for suitable work~~ actions when requested by the department.

SECTION 27. DWD 127.05 is amended to read:

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

SECTION 28. DWD 127.06 (1) is amended to read:

DWD 127.06 **Added efforts to secure work. (1)** ~~The department may require any claimant whose~~ If a claimant has been unemployed for 4 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 he or she may not be genuinely interested~~ a lack of genuine interest in accepting new work ~~to make a minimum number of weekly in-person applications for work with employers and may also require the claimant to comply~~.

(b) Comply with any of the provisions under s. DWD 127.01 (2). ~~The department shall provide each claimant with instructions as to how to comply with the requirements under this section. A claimant shall be ineligible for benefits for any week in which the claimant has failed, without good cause, to comply with any requirements imposed by the department under this subsection.~~

SECTION 29. DWD 127.06 (1) (c) is created to read:

DWD 127.06 (1) (c) 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.

SECTION 30. DWD 127.06 (2) and (3) are amended to read:

DWD 127.06 (2) ~~After a claimant has been unemployed for 4 or more consecutive weeks, the department may require the claimant to develop a work search plan for approval by the department.~~ A claimant shall be ineligible for benefits in any given week in which the

department determines that the claimant failed, without ~~good~~ justifiable cause, ~~either to develop or~~ to comply with ~~the work search plan~~ the requirements under sub. (1).

(3) A claimant who is claiming extended benefits under s. 108.141, Stats., shall~~, in addition to complying with the requirements for extended benefits,~~ comply with any requirements imposed by the department under ~~subs.~~ sub. (1) ~~and (2)~~. 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~~ 6 times ~~his or her~~ the claimant's extended weekly benefit rate.

SECTION 31. DWD 127.07 (title) and (1) are amended to read:

DWD 127.07 ~~**Employment workshops**~~ **Reemployment services. (1)** The department may require a claimant to participate in a public employment office workshop, training program or similar reemployment 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.

SECTION 32. DWD 127.07 (2) is repealed and recreated to read:

DWD 127.07 (2) The department may find that a claimant has justifiable cause for failure to participate in reemployment services in any given week. Justifiable 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, in a self-employment assistance program or other federally authorized program that has been enacted by the Wisconsin 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.

SECTION 33. DWD 127.08 is repealed.

SECTION 34. DWD 128.01 (2) (a) is amended to read:

DWD 128.01 (2) (a) The claimant has registered for work and has complied with ~~ss.~~ s. DWD 126.02 ~~and 126.04~~, or registration is waived under s. DWD 126.03 ~~or excused under s. DWD 126.05~~.

SECTION 35. DWD 129.01 (1) and (2) are amended to read:

DWD 129.01 (1) INITIATING A CLAIM. A claimant is not eligible under s. 108.08, Stats., for benefits for any week of total or partial unemployment unless the claimant notifies the department ~~by telephone, internet, or as otherwise prescribed by the department,~~ during that week or within 7 days after the close of that week, of the claimant's intent to initiate the claim and the claimant complies with the department's procedures for initiating and continuing claims. If the department provides for a single method for initiating a claim and a claimant has good cause for the claimant's inability to use that method, the department shall provide reasonable accommodations for the claimant to be able to complete the claim. Good cause for failure to initiate a claim as prescribed by the department shall include, if it prevents the claimant from using the method prescribed by the department, any of the following:

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

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

(2) CONTINUING A CLAIM BY FILING A WEEKLY CERTIFICATION. (a) A claimant is not eligible for benefits for any week of total or partial unemployment unless the claimant files a timely weekly certification with the department ~~by telephone, internet, mail, or as otherwise prescribed by the department.~~ If the department provides for a single method for a claimant to continue a claim by filing a weekly certification and a claimant has good cause for inability's to use that method, the department shall provide a reasonable accommodation for the claimant to be able to complete the claim. Good cause for failure to file a weekly certification as prescribed by the department shall include, if it prevents the claimant from using the method prescribed by the department, any of the following:

1. The claimant possesses physical, mental, educational, or linguistic limitations.

2. The claimant has unusual or unavoidable circumstances beyond the claimant's control.

(b) The department shall consider a weekly certification to be filed when the certification is complete and submitted in compliance with the applicable requirements ~~of one of~~ for the ~~following~~ methods authorized by the department:

1. A claimant may continue a claim only by filing timely weekly certifications ~~by telephone, internet, mail, or as otherwise prescribed by the department,~~ no later than 14 days following the end of the week for which benefits are claimed. ~~A weekly certification submitted by mail must be received by the department within 14 days following the end of the week for which benefits are claimed or within 14 days following the date the department mailed the weekly certification to the claimant, whichever occurs later. If a claimant submits a timely but incomplete weekly certification by mail, the department shall send the claimant a duplicate~~

~~weekly certification that must be received by the department within 14 days following the date the department mailed the duplicate weekly certification to the claimant. If the last day for filing a mailed weekly certification falls on Saturday, Sunday, or any of the holidays enumerated under ss. 230.35 (4) (a) and 995.20, Stats., or any other day on which mail is not delivered by the United States postal service, a weekly certification must be received by the department on the next business day.~~ If the ~~claimant attempts to submit a weekly certification by telephone or the internet~~ method prescribed by the department for notification for the claimant to use is the internet or telephone, the department shall notify the claimant for which weeks the claimant may file a weekly certification and at the end of the transaction whether the weekly certification has been accepted. The department shall consider a weekly certification to be filed when the certification is complete, timely submitted, and accepted by the department.

2. A claimant may not file a weekly certification for any week unless a ~~timely~~ weekly certification for the immediately preceding week was filed or a timely initial claim was filed for the week.

SECTION 36. EFFECTIVE DATE. With respect to changes to ss. 126.03 and 127.02, the rule will take effect when the Secretary determines the department has the technological ability to implement the changes. The remainder of this rule takes effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this _____ day of _____, 2014.

WISCONSIN DEPARTMENT OF
WORKFORCE DEVELOPMENT

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Reginald J. Newson, Secretary