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STATE OF WISCONSIN
DWD
Department of Workforce Development

Scott Walker, Governor
Raymond Allen, Secretary

CERTIFICATION

I, Karen Pierce, Legal Assistant for the Hearing & Mediation Section of the Equal Rights Division, hereby certify that the attached copy of the decision in the matter of **Verla Barnes v. State of Wisconsin – Dept. of Corrections, ERD #CR201600129** issued on December 29, 2016 is an exact copy of the original decision on file with the Equal Rights Division.

Karen Pierce

Karen Pierce
Hearing & Mediation Section
Equal Rights Division

Department of Workforce Development
Equal Rights Division
HEARING & MEDIATION SECTION
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STATE OF WISCONSIN
DWD
Department of Workforce Development

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VERLA M BARNES
118 S WALBRIDGE AV
MADISON WI 53714
Complainant

vs.

STATE OF WI DOC
3099 E WASHINGTON AV
MADISON WI 53707-7925
Respondent

NOTICE OF APPEAL RIGHTS
REVIEW BY COURT

Re: ERD Case No. CR201600129

A final decision and order in this case is enclosed. Any party whose interests are adversely affected by this administrative decision may seek judicial review of the decision. Such review is authorized by Section 227.52, Wis. Stats.

A petition for review must be filed within thirty (30) days after this decision is mailed to the parties. It shall designate as the Petitioner the party filing the petition, and as the Respondent the Department of Workforce Development, Equal Rights Division. The petition for review shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds upon which a review is sought.

The petition for review must be filed in the office of the clerk of circuit court for the county where the petitioner resides. If the petitioner is a non-resident of the State of Wisconsin, the proceedings shall be in the county where the property affected by the decision is located, or if no property is affected, in the county where the dispute arose. A copy of the petition must be served either personally or by certified mail upon the Department of Workforce Development, Equal Rights Division. The address of the Department of Workforce Development, Equal Rights Division is 819 North Sixth Street, Room 723, Milwaukee, Wisconsin 53203 or 201 East Washington Avenue, Room A300, P. O. Box 8928, Madison, Wisconsin 53708. Copies of the petition for review must also be served upon all parties who appeared before the Department in the case being appealed no later than thirty (30) days after commencing the proceedings for review. The copies shall be served personally or by certified mail (or, when service is timely admitted in writing, by first-class mail). The Complainant(s) and Respondent(s) whose names and addresses appear in the caption of this decision are considered parties for purposes of judicial review.

Any person aggrieved by this decision and order may petition the Equal Rights Division for rehearing within twenty (20) days after the decision is mailed to the parties. The petition for rehearing must specify in detail the grounds for the relief sought, as well as supporting authorities, in accordance with Section 227.49, Wis. Stats. Copies of the petition for rehearing shall be served on all parties of record. Please note that the filing of a petition for rehearing does not delay the effective date of this order.

Dated and Mailed: December 29, 2016

cc: Complainant
Respondent, Attn: ANDREA OLMANSON, Legal Counsel
TAMARA PACKARD, Attorney for Complainant

Enclosure

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
EQUAL RIGHTS DIVISION

Verla Barnes
118 S Walbridge Avenue
Madison, Wisconsin 53714

Complainant

v.

DECISION AND MEMORANDUM OPINION
ERD Case No. CR201600129

State of Wisconsin – DOC
3099 E Washington Avenue
P.O. Box 7925
Madison, Wisconsin 53707-7925

Respondent

In a complaint filed with the Equal Rights Division (the "ERD" or the "Division") on February 16, 2016 the Complainant alleged that the Respondent violated the Wisconsin Family and Medical Leave Law, Wis. Stats. §103.10 (the "WFMLA" or the "Act") by interfering with, restraining or denying her exercise of a right provided under that law. In an Initial Determination issued on March 22, 2016, an Investigator for the Division determined that there was Probable Cause to believe that the Respondent had violated the Act as alleged, and the case was certified for a hearing on the merits of the complaint.

A hearing was held before Administrative Law Judge Laura Amundson on July 19, 2016 in the GEF-1 State Office Building at 201 East Washington Avenue in Madison, Wisconsin. The Complainant appeared and was represented by her attorney, Tamara Packard. The Respondent appeared and was represented by its attorney, Andrea Olmanson. A record of the hearing was made by digital audio recording. The parties submitted post-hearing arguments, the last of which was filed with the Division on September 16, 2016.

Based on the evidence received at hearing, the Administrative Law Judge issues the following:

FINDINGS OF FACT

1. The Respondent, the State of Wisconsin – Department of Corrections (the "DOC") is a department of the State of Wisconsin with offices located at 3099 East Washington Avenue in Madison, Wisconsin.

2. Beginning on July 6, 1998 and at all times relevant to the complaint, the Complainant was employed by the Respondent as a Probation and Parole Agent in its Division of Community Corrections (DCC).

3. On June 25, 2015 the Complainant suffered a work-related injury (a slow-healing cuboid fracture to the right foot). The Complainant went to Urgent Care for the injury which was diagnosed at that time as a sprain.

4. For approximately one month following the date of her injury, the Complainant performed her regular duties without accommodation although she was experiencing pain throughout that time. When the pain continued to worsen and the Complainant experienced increasing symptoms, she sought further medical care and finally received the correct diagnosis of a foot fracture on July 31, 2015.

5. Following the July 31, 2015 diagnosis, the Complainant's medical care provider recommended work restrictions including that the Complainant should be off of her foot and off work until September 21, 2015. As of September 21, 2015 the Complainant's condition had improved and her revised medical restrictions allowed her to return to work on a limited schedule of 3 days per week, 4 hours per day, with restrictions including using crutches to walk when needed "for distance", wearing a brace on her injured foot, and being restricted from driving. Upon her return to work, the Complainant performed job duties including direct supervision of offenders and was not medically restricted from performing that job duty.

6. On September 23, 2015 DOC Human Resources Assistant Athena Foster communicated the Complainant's medical restrictions to her supervisors and suggested that a light duty assignment in accordance with DOC policy would be appropriate for the Complainant while she was recovering from her foot injury.

7. As of October 2015, the Complainant was medically released to work 16 hours per week. The Complainant saw her medical provider on December 2, 2015 and indicated that she felt ready to return to work full time, but an MRI which would not be performed until January 2016 under the terms of the Complainant's Worker's Compensation coverage was needed to confirm the extent of healing and allow the Complainant to be released for full time duty. The Complainant was released to increase her work hours to 20 per week as of December 2, 2015 and was released to drive and to work 24 hours per week as of January 4, 2016. Additional improvement was noted at a medical appointment on January 6, 2016. The Complainant had an MRI on January 14, 2016 and a follow-up medical appointment on February 1, 2016 after which she was medically released to return to full-time duties without restrictions effective February 8, 2016. The Complainant kept the Respondent apprised of her improving condition and developments regarding her medically-advised work restrictions throughout her healing period and the Respondent increased her weekly work hours accordingly.

8. On December 15, 2015 the Respondent changed the Complainant's work assignments, removing her from her caseload and instituting a "light duty" restriction involving "no offender contact". This restriction was not mandated by the Complainant's medical care provider. The Complainant was upset about the removal of her caseload.

9. On January 15, 2016 the Complainant hurt her back during work time when she was confronted by aggressive passersby in the course of entering the courthouse on a day of inclement winter weather with slippery sidewalk conditions. While the injury was not caused directly by the nature of the Complainant's light duty job tasks, the Complainant's duties on January 15, 2016 placed her in a different working environment than her regular duties would have and in "the wrong place at the wrong time", resulting in the injury she incurred.

10. The Complainant reported her work-related injury in accordance with the Respondent's procedures between January 15 and January 20, 2016 although she felt she had recovered

from any symptoms relating to her new injury over the weekend of January 16-17, 2016. The Complainant also spoke with her supervisor concerning her "light duty" assignment, pointing out that she was still receiving work assignments that involved direct contact with offenders despite the restriction the DOC had imposed as part of her light duty assignment, as she would be doing had her duties managing her own caseload been restored as she would have preferred.

11. On January 21, 2016, Foster completed a family and medical leave request form and authorization for the release of information supporting that request, signing the form "for" the Complainant without the Complainant's knowledge or consent and without the Complainant's having made any request to take family and medical leave.

12. The Complainant's next scheduled work day following January 20 was January 22, 2016. On that date the Complainant reported to work in the morning as usual. Shortly after she arrived at work, she received a telephone call from DCC Regional Chief Lance Wiersma informing her that she was "on FMLA". The Complainant asked why she was on FMLA leave, to which Wiersma responded that her July 2015 injury had shown no significant improvement. The Complainant disputed that conclusion, and Wiersma provided her with the telephone number of the DOC's At-Risk Coordinator who had made that determination. Wiersma reiterated that the Complainant was effectively on family and medical leave and directed her to leave work.

13. The Respondent placed the Complainant on involuntary medical leave (full time) effective January 21, 2016 until February 8, 2016, and counted the period of January 21 through February 3, 2016 against the Complainant's full two-week annual allotment of WFMLA leave to care for her own serious health condition. The Complainant had not requested or agreed to take family and medical leave for her absence.

14. The Complainant's absence from January 21-February 3, 2016 was covered by Worker's Compensation. The Complainant did not request or use sick leave or other employer-provided accrued leave for the period of January 21-February 3, 2016.

15. In April 2016, the Complainant requested to take one week of time off for a medical reason and was allowed to do so, covering that absence with a combination of paid sick leave and vacation leave. The Complainant did not request and there is no evidence indicating that the Respondent imposed WFMLA leave to cover the Complainant's April 2016 absence.

CONCLUSIONS OF LAW

1. The Respondent is an employer within the meaning of the Act.

2. The Complainant is an employee within the meaning of the Act.

3. The Complainant has proven by a preponderance of the evidence that the Respondent interfered with the Complainant's rights under the Act when its staff completed and signed a form purporting to request WFMLA leave, and to authorize the release of information in support of that request, "for" the Complainant without her knowledge or consent, and when the Respondent designated two weeks of involuntary medical leave as WFMLA leave in the absence of any request by the Complainant to take such leave or her agreement to such designation.

Based on the above Findings of Fact and Conclusions of Law, the Administrative Law Judge issues the following:

ORDER

1. The Respondent shall cease and desist from interfering with, restraining or denying the exercise of the Complainant's rights under the WFMLA.

2. The Respondent shall restore any amount of the Complainant's annual WFMLA allotment exhausted during the period of January 1 - February 3, 2016 that has not previously been restored, i.e., the Complainant should be considered to have had two weeks of WFMLA leave available to care for her own serious health condition as of February 4, 2016.

3. The Respondent shall provide the Complainant with the opportunity to request designation of up to two weeks of leave from February 4, 2016 through the end of the annual leave period as leave under the Act to care for her own serious health condition and shall apply such designation at the Complainant's request for all qualifying leave periods. The Respondent shall make all necessary adjustments to the Complainant's compensation and accrued leave balances commensurate with the Respondent's granting the Complainant's retroactive WFMLA leave requests in accordance with this order.

4. The Respondent shall pay the Complainant's reasonable actual attorney's fees incurred in this matter, the amount of which shall be resolved through post-decision motions if the parties are unable to agree to an appropriate amount by stipulation.

5. The Respondent shall file a compliance report detailing the actions it has taken to comply with this Order within 30 days from the date this Order becomes final. The compliance report shall be directed to the attention of Administrative Law Judge Amanda Tollefson, Compliance Officer, 819 North 6th Street, Room 723, Milwaukee, Wisconsin 53203.

Dated at Milwaukee, Wisconsin DEC 29 2016

Laura J. Amundson
Administrative Law Judge

Copy: Complainant
Respondent
Tamara Packard, Attorney for Complainant
Andrea Olmanson, Attorney for Respondent

MEMORANDUM

The issue to be decided in this matter is whether the Respondent violated the Wisconsin Family and Medical Leave Law, Wis. Stats. § 103.10 (the "WFMLA" or the "Act") by interfering with, restraining or denying the Complainant's exercise of a right provided under that law when its staff completed and signed a form purporting to request leave under the Act, and to authorize the release of information in support of that request, "for" the Complainant without her knowledge or consent, and when the Respondent designated two weeks of involuntary medical leave as WFMLA leave in the absence of any request by the Complainant to take such leave or her agreement to such designation.

ARGUMENTS

Complainant's Argument

The Complainant points out that the WFMLA was enacted prior to the federal Family and Medical Leave Act (FMLA) and differs from the FMLA in certain respects. In contrast to the FMLA, the WFMLA "puts the decision as to whether to take and when (sic) schedule a medical leave in the hands of the employee who has a qualifying medical condition", emphasizing that the language of Wis. Stat. §103.10(4)(a) states that an employee with a serious health condition which makes the employee unable to perform his or her employment duties *may* take medical leave for the period during which they are unable to perform their duties. The Act is remedial in nature and is to be liberally construed.

The Complainant argues that her position is supported by precedent such as the Wisconsin Court of Appeals' decision in *Milwaukee Transport Services, Inc.*, 2001 WI App 40, 241 Wis.2d 336, 624 N.W.2d 895, in which the Court ruled that an employee was entitled to opt to use unpaid leave under the Act instead of using paid accrued sick leave to cover her medically-related absence.

The Complainant also cites *Madison Water Utility v. DWD*, Dane County Circuit Court Case No. 02 CV 710 (10/10/02), in which the court affirmed an Administrative Law Judge's finding that that the Respondent had violated the Act when it imposed the use of WFMLA leave in circumstances where the Complainant did not wish or request to take such leave and wished to cover his absence solely with compensatory time off.

The Complainant asserts that in the instant case, the Complainant not only did not request to use WFMLA leave to cover an employer-imposed absence, but did not have a serious health condition at the time of that absence that would qualify her to take WFMLA leave.

The Respondent's conduct harmed the Complainant by exhausting her full annual allotment of WFMLA leave to care for her own serious medical condition at a time when she did not elect to use such leave, such that it would be unavailable to her for subsequent absences.

The Respondent's actions interfered with the Complainant's sole right to decide whether to "take", "schedule", or "request" medical leave under the Act. In response to the Respondent's argument, the Complainant asserts that her claim of interference with her rights under the Act became ripe as soon as the Respondent placed her on WFMLA leave in the absence of a request for such leave and without her consent.

Even if an employer may suspend an employee the employer considers to be medically unfit for duty, that does not mean that the employer may impose the use of WFMLA leave against the employee's wishes; rather, the Act would require the employer to educate the employee about her right to use leave under the Act and allow the employee to choose whether to request such leave.

In addition, even if WFMLA leave may run concurrently with Worker's Compensation leave, it is the employee's decision alone to choose whether she wishes to take leave under the Act.

Consequently, the Respondent should be ordered to cease and desist from interfering with employees' rights under the Act, to take appropriate remedial measures to make the Complainant whole, and to pay the Complainant's attorney fees and costs.

Respondent's Argument

The Respondent included a restriction against the Complainant's having direct supervisory contact with offenders during her healing period for her foot fracture and removed the Complainant from her usual caseload during that time consistent with its policy designed to protect agents with mobility restrictions from the risk of further injury.

The Respondent placed the Complainant on leave until she would be medically able to return to work without restrictions following her incident report concerning the event of January 15, 2016 in which she hurt her back, and had staff sign a request for WFMLA leave on behalf of the Complainant so that family and medical leave for her absence could be approved. Foster's checking a box on the form indicating that it was a request for WFMLA leave, as opposed to federal FMLA leave, was an error.

The Complainant's allegation that the Respondent falsely authorized itself to obtain information to support the WFMLA leave request is absurd. Anyone looking at the form can see that it is a standard form that contains standard language, and it would not be reasonable to expect an agency the size of the DOC to operate without using standard forms.

The Complainant should have been entitled to take family and medical leave during the time as to which the Respondent had concluded she was unfit for duty and placed her on leave. The law is clear that when an employer becomes aware of an employee's need for FMLA, the employer must provide the protections of the Act to the employee. Consistent with case law under the WFMLA, it is not necessary for an employee to utter "magic words" or make a formal application in order to invoke the protections of the Act. The Complainant's own written statements support a conclusion that she suffered from a WFMLA-qualifying serious medical condition as a result of the work-related incident she suffered on January 15, 2016. That statement coupled with the Respondent's knowledge of the Complainant's medical condition relating to her foot injury provided the Respondent with reasonable notice that the Complainant was suffering from a serious health condition, obliging the Respondent to afford her the protections of the Act.

There is no requirement that FMLA leave be voluntary. While this is a case of first impression under the Wisconsin law, case law interpreting the federal Family and Medical Leave Act should lend guidance.

In addition, there is no cause of action in this matter because the Complainant was able to take leave "that comported with the Wisconsin FMLA" when she needed to following her involuntary absence in January and February 2016. Since the Complainant was able to take leave for a

medical reason in April 2016 (covering that absence with a combination of sick and vacation leave), the Respondent's actions satisfied the requirements of the Act.

Furthermore, the Complainant testified that she became aware in either March or April 2016 that her annual allotment of WFMLA leave, which had been exhausted by her January-February 2016 absence, had been restored. Therefore, consistent with Eighth Circuit federal case law, the Respondent did not interfere with the Complainant's entitlement to leave under the WFMLA. This matter is not ripe because the Complainant has not shown that the Respondent's designation of WFMLA leave for her involuntary absence in January-February 2016 interfered with a later request to take family and medical leave.

Finally, leave under the Act should be able to run concurrently with Worker's Compensation leave, as is the case with federal FMLA leave.

DISCUSSION

Contrary to the Respondent's argument, the Complainant's statements in her incident report concerning the events of January 15, 2016 are insufficient to establish that she was suffering from a WFMLA-qualifying serious health condition during the time period of January 21–February 3, 2016. In addition, although the Complainant was still in the final stages of recovery from her foot injury during that time, it is not necessary to further consider whether she was then suffering from a serious health condition. The Administrative Law Judge finds that even if she were, the Respondent interfered with the Complainant's rights within the meaning of the Act when it imposed WFMLA leave in the absence of any request by the Complainant or her agreement to do so.

As the Complainant points out, while the federal and Wisconsin family and medical leave laws address similar subject matter, the Wisconsin Act contains provisions distinct from those found in the federal law, and the WFMLA grants the covered employee greater discretion as to matters such as when and whether to substitute paid accrued leave for qualifying, otherwise-unpaid family and medical leave.

The Complainant's position is consistent with the language of Wis. Stat. § 103.10 (4)(a) providing that an employee who has a serious health condition which makes the employee unable to perform his or her employment duties *may* take medical leave for the period during which he or she is unable to perform those duties.

The Wisconsin Court of Appeals has found that the WFMLA is a remedial statute, and as such, the Act "is to be liberally construed so as to carry out its primary intent - to create employee leave rights". *Butzlaff v. DHFS*, 223 Wis.2d 673, 689, 590 N.W.2d 9, 15 (Ct. App. 1998). This purpose is not furthered by an employer's exhausting a covered employee's two-week annual leave allotment to care for her own serious health condition in circumstances in which she does not need or wish to take such leave.

The Administrative Law Judge finds that the Complainant's position, that it is the covered employee's option whether or not to request and use WFMLA leave in qualifying circumstances, is more consistent with the language of the statute and supporting case precedent than the Respondent's position that it was entitled to impose the use of WFMLA leave as it did in the particular circumstances of this case.

Wisconsin Administrative Code §§ DWD 225.01 (9) and (10) provide as follows:

> (9) To the extent that an employer grants leave to an employee relating to the employee's own health in a manner which is no more restrictive than the leave available to that employee under s. 103.10 (4), Stats., the leave granted by the employer shall be deemed to be leave available to that employee under s. 103.10(4), Stats.
>
> (10) To the extent that leave granted by an employer to an employee is deemed by this subsection to be leave available to that employee under the act, the use of that leave granted by the employer shall be use of that leave available under the act.

The circumstances set forth in Wisc. Admin. Code §§ DWD 225.01 (9) and (10) are not present here. The Worker's Compensation leave the Complainant took during her imposed absence of January 21-February 3, 2016 was not leave granted by the Respondent in a manner no more restrictive than the leave available to the Complainant under Wis. Stat. § 103.10 (4), and the "deeming" provisions of §§ DWD 225.01 (9) and (10) do not apply.

Although the Complainant testified that she noticed when completing her time records in March or April 2016 (after she had filed the instant complaint) that the time that had been "docked" from her WFMLA leave allotment for her absence of January 21-February 3, 2016, appeared to have been restored, there was no evidence introduced at hearing documenting this change, and the record remains somewhat unclear as to when and whether this was done. In any event, the Administrative Law Judge's decision does not turn on whether the Respondent restored the Complainant's leave balance prior to the hearing in this matter. The Act was violated when the Respondent imposed WFMLA leave in the circumstances of this case in January and February, 2016, regardless of whether the Respondent later took remedial action. See *Watkins v. LIRC*, 117 Wis.2d 753, 252 N.W.2d 482 (1984).

CONCLUSION

The Complainant has proven by a preponderance of the evidence that the Respondent interfered with the Complainant's rights under the Act when its staff completed and signed a form purporting to request WFMLA leave, and to authorize the release of information in support of that request, "for" the Complainant without her knowledge or consent, and when the Respondent designated two weeks of involuntary medical leave as WFMLA leave in the absence of any request by the Complainant to take such leave or her agreement to such designation.

State of Wisconsin
Department of Workforce Development
Equal Rights Division

Compliance Report Checklist

[To be completed by Respondents in Fair Employment, Family & Medical Leave Cases or Cases Under Sec. 106.54, Stats.]

1. **The Respondent has been ordered to file a compliance report. The compliance report should include all of the items listed below which are applicable to this case. The Respondent must submit a compliance report within thirty (30) days of the date the final order was issued in this case. The report should be sent to:**

   AMANDA TOLLEFSEN
   EQUAL RIGHTS DIVISION
   819 N 6TH STREET, RM 723
   MILWAUKEE, WI 53203

   If you need assistance preparing this form, please contact Ms. Tollefsen at 414-227-4578.

2. **Back Pay:** If the Respondent(s) has been ordered to pay the Complainant back pay, please calculate the amount of back pay due on the reverse side of this form. If applicable, indicate the hourly wage and the number of hours per week which were used to compute the gross back pay due. **Enclose a copy of the check(s) sent to the Complainant which the Respondent asserts satisfies the back pay order.**

   If the Respondent(s) has been ordered to withhold unemployment compensation benefits or welfare benefits from the Complainant and to repay those benefits to the Unemployment Compensation Reserve Fund or the applicable welfare agency, the Respondent should include a check for the UI benefits made out to "DWD." It should also include a copy of the check(s) sent to the applicable welfare agency.

3. **Reinstatement or Order to Hire:** If the Respondent(s) has been ordered to reinstate or hire the Complainant, please indicate when the reinstatement offer or the offer to hire was made and whether the Complainant accepted the offer. The Respondent should allow the Complainant a reasonable amount of time to decide whether or not to accept the offer.

   If the Complainant has **accepted** the offer, please indicate when the Complainant began work. If the Complainant has **rejected** the offer, indicate the job title, the hours and the rate of pay for the position that was offered, the date when the Complainant rejected the offer, and a copy of the Complainant's rejection of the offer (if the rejection was in writing).

4. **Benefits:** If the Respondent(s) has been ordered to pay the Complainant benefits (such as reimbursing a pension account, crediting or restoring seniority, crediting vacation time or sick leave, or other remedial actions related to the Complainant's benefits) **please provide information demonstrating that the remedial action(s) has been taken.**

5. **Attorney's Fees and Costs:** If the Respondent(s) has been ordered to pay the Complainant's attorney fees and costs, please provide a copy of the check which was sent to the Complainant's attorney in compliance with this order.

6. **Other Remedial Actions:** If the Respondent(s) has been ordered to take any other remedial actions (such as training, posting a notice, or removing items from a personnel file), please provide information demonstrating that this portion of the order has been complied with.

Worksheet for Computing Back Pay and Interest on Back Pay

		Calendar Quarter		Calendar Quarter		Calendar Quarter		Calendar Quarter		Calendar Quarter		Calendar Quarter	
		Start	Ends	Start	Ends	Start	Ends	Start	Ends	Start	Ends	Start	Ends
1	**Gross Back Pay:** Enter the gross wages that would have been paid to Complainant in this quarter had the unlawful act not occurred.												
2	**Statutory Set-Offs:** Enter the gross wages that the Complainant actually received from other employment, unemployment compensation or welfare benefits, during this quarter.												
3	**Net Back Pay:** Subtract line 2 from line 1 and enter the difference. (If line 2 is more than line 1, enter zero here and on line 9. No payment is due for this quarter).												
4	**Ending Date:** Enter the date that the Respondent is expected to make payment to the Complainant. (Use the same date for each quarter.)												
5	**Term:** Enter the number of days from the end of each quarter to the date payment is expected to be made on line 4.												
6	**Interest Factor:** Divide line 5 by 365 days and enter that amount here. Round up two decimal places.												
7	**Interest Rate:** Multiply the factor on line 6 by 12% and enter the result here.												
8	**Interest Due This Quarter:** Multiply the amount on line 3 by the percent on line 7 and enter the result here.												
9	**Total Due This Quarter:** Add lines 3 and 8 and enter the result here. This is the total back pay and interest due this quarter.												
10	**Total Payment Due: Cumulative** total of the calendar quarters on line 9.												

Notes

1. Excesses in statutory set-offs in one quarter may not be carried over to another quarter.
2. Interest is not payable for the quarter in which the ending date falls (i.e., the last quarter of the back pay period).
3. This worksheet reflects the provisions of sec. DWD 218.20(4), Wisconsin Administrative Code.