

Memorandum

To: Unemployment Insurance Advisory Council

From: Scott Sussman

Cc: Janell Knutson

Date: March 19, 2015

Re: **2015 Senate Bill 21/Assembly Bill 21 (Budget Bill) –
Changes to Suitable Work Definition**

The Budget Bill requires the department to define by administrative rule what constitutes suitable work for claimants. The department must also specify what constitutes suitable work based upon the number of weeks a claimant has received unemployment insurance (UI) benefits in a given benefit year.

The Budget Bill's framework for defining "suitable work" is similar to language used by other states.

Current Wisconsin law requires claimants to conduct a reasonable search for suitable work and, if offered, accept the suitable work under s. 108.04 (2) (a) 3. The statute does not define suitable work. General language regarding suitable work is found under s. DWD 127.01, Wis. Admin. Code.

Conformity –

A state's UI law must conform to, and the administration of its law must substantially comply with, applicable federal requirements.

The department is not aware of any federal conformity issues with defining suitable work as directed by the Budget Bill.

The department recommends that the provisions within the Budget Bill pertaining to defining "suitable work" be sent to the U.S. Department of Labor for review.

Chapter DWD 127

WORK SEARCH AND REEMPLOYMENT SERVICES

DWD 127.001	Definitions.	DWD 127.05	Certification as to work search.
DWD 127.01	Work search; policy; requirements.	DWD 127.06	Added efforts to secure work.
DWD 127.02	Waiver of work search requirements.	DWD 127.07	Reemployment services.
DWD 127.04	Claimants to present verification of work search actions.		

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

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

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

DWD 127.01 Work search; policy; requirements.

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

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

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

(c) Making applications for suitable work.

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

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

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

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

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

(3) 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

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

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

DWD 127.02 Waiver of work search requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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