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Proposed by: DWD
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ANALYSIS OF PROPOSED UI LAW CHANGE

LEGISLATIVE CORRECTIONS TO NEWLY CREATED S. 108.04 (11) (bh)

1. Description of Proposed Change

This proposal corrects a couple of drafting errors from the last legislative session. Last legislative session the Legislature adopted s. 108.04 (11) (bh). Subparagraph (bh) created a 15% penalty for acts of concealment by a claimant that result in the claimant improperly collecting benefits. There were, however, two issues with respect to statutory language regarding subparagraph (bh):

- (1) The statutory language contained in subparagraph (bh) refers back to s. 108.04 (11) (be) and it refers to subparagraph (be) as creating a penalty. This is inconsistent with the language in subparagraph (be) and other sections of the statute that reference subparagraph (be). Instead, subparagraph (be) makes a claimant ineligible for benefits. This proposal would make the statutory language in subparagraph (bh) consistent with the rest of the applicable statutory language.
- (2) Initially, the money collected from the 15% penalty is to be placed in a newly created program integrity fund. Yet, the federal government is requiring that as of October 21, 2013 the state must deposit this money into Wisconsin's unemployment trust fund. As a result, it was determined to place an end date on the existence of the program integrity fund within the Wisconsin statute. Section 47M of 2011 Wisconsin Act 198 provided that the end date should be January 1, 2014. The end date of January 1, 2014, does not provide sufficient time to spend the collected money on program integrity activities. This proposal would change the end date of the program integrity fund from January 1, 2014, to January 1, 2034.

2. Proposed Statutory Language

- (1) Proposed language necessary to correct improper reference to s. 108.04 (11) (be):

Amend s. 108.04 (11) (bh) to read:

In addition to the ~~penalty~~ ineligibility for benefits resulting from concealment as provided in par. (be), the department shall assess a penalty against the claimant in an amount equal to 15 percent of the benefit payments erroneously paid to the claimant as a result of one or more acts of concealment described in pars. (a) and (b).

- (2) Proposed language necessary to fix premature end date for the program integrity fund:

New language should be included in the statutory bill that will correct the issues with s. 108.04 (11) (bh) that the repeal contained in Section 47M of 2011 Wisconsin Act 198 with respect to sections 20.445 (1) (v), 25.17 (1) (xf), and 108.19 (1s) of the statutes is changed from January 1, 2014 to January 1, 2034.

3. Proposer's Reason for the Change

(1) There are a number of reasons for the change to subparagraph (bh):

- (a) Will make statutory language consistent;
- (b) Will prevent anyone from being able to claim that there are two penalties being imposed for their acts of concealment.

(2) There are a number of reasons to extend the end date of the program integrity fund:

- (a) Will enable the Department to have sufficient time to spend the money collected from these acts of concealment
- (b) Will enable the Department to use the money to prevent other acts of fraud committed on the department.

4. Brief History and Background of Current Provision

Current provision was created by 2011 Wisconsin Act 198.

5. Effects of Proposed Change

- a. Policy. None.
- b. Administrative Impact. Besides giving department additional time to spend money collected and deposited in the program integrity fund, this proposal should have a negligible administrative impact.
- c. Equitable. There are no equity issues with this legislative fixes.
- d. Fiscal. These are simply legislative fixes to problems created by the statutory language from the last legislative session and should not have any fiscal impact on the program.

6. State and Federal Issues

- a. Chapter 108. Besides proposed changes to s. 108.04 (11) (bh), there is no need for additional amendments to Chapter 108.
- b. Rules. No administrative amendments will be necessary.
- c. Conformity. There are no conformity issues.

7. Proposed Effective/Applicability Date

Legislative fix needs to occur prior to January 1, 2014.