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Proposed by: DWD
Prepared by: Amy Banicki and Jason Schunk

ANALYSIS OF PROPOSED UI LAW CHANGE

108.04 (7) VOLUNTARY TERMINATION (QUIT)

1. Description of Proposed Change

Proposed change would broaden the disqualification requirements to be satisfied in order to be eligible for unemployment after a quit that does not fall into one of the exceptions from 4 times the weekly benefit rate (WBR) and 4 weeks from the week of the quit to 10 times the WBR from the week of the quit.

The change would also reduce the number of quit exceptions. The eleven current quit exceptions that would be eliminated are:

- If an employee is hired to work a particular shift and the employee quits his or her work due to the employer requiring the employee to work a different shift that would require the employer to work when he or she did not have child care for his or her children;
- If an employee terminates his or her work to accept a recall to work from a former employer within 52 weeks after having last worked for the former employer;
- If an employee had two residences and the employer sufficiently reduced his or her work nearby the residence that was temporary;
- If an employee quit because of reaching the compulsory retirement age of the employer;
- If the employee has two jobs and he quits the one part-time job because it is economically not feasible to maintain it due to the loss of his or her full-time job;
- If employee terminates a job to accept another job and other conditions are satisfied with respect to the other job and how many wages the employee earned at the other job;
- If an employee terminates his or her work with a labor organization if the termination causes the employee to lose seniority rights granted under a collective bargaining agreement and if the termination results in the loss of the employee's employment with the employer which is a party to that collective bargaining agreement.
- If an employee terminates work as a part-time elected official and had other employment;
- If an employee terminates his work in one of two jobs and one of the jobs is full-time and the employee only receives notice that he is terminated from the full-time job after he terminates from the other job;

- If an employee is serving as a member of the armed forces and has a second job and the employee terminates his second job as a result of his or her honorable discharge; and,
- If an employee owns or controls a family corporation and the employee's employment was terminated by the employer due to the business involuntarily shutting down and certain other conditions are satisfied.

2. Proposed Statutory Language

Section 108.04(7)(a) is amended to read:

(7) VOLUNTARY TERMINATION OF WORK.

(a) If an employee terminates work with an employing unit, the employee is ineligible to receive benefits until ~~4 weeks have elapsed since the end of the week in which the termination occurs~~ and the employee earns wages after the week in which the termination occurs equal to at least ~~4~~ 10 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's weekly benefit rate shall be that rate which would have been paid had the termination not occurred. This paragraph does not preclude an employee from establishing a benefit year by using the base period wages paid by the employer from which the employee voluntarily terminated, if the employee is qualified to establish a benefit year under s. 108.06 (2) (a).

Sections 108.04(7)(am), (b) and (c) remain as is:

(am) Paragraph (a) does not apply if the department determines that the suspension or termination of the claimant's work was in lieu of a suspension or termination by the employer of another employee's work. The claimant shall not be deemed unavailable for the claimant's work with the employer by reason of such suspension or termination.

(b) Paragraph (a) does not apply if the department determines that the employee terminated his or her work with good cause attributable to the employing unit. In this paragraph, "good cause" includes, but is not limited to, a request, suggestion or directive by the employing unit that the employee violate federal or Wisconsin law, or sexual harassment, as defined in s. 111.32 (13), by an employing unit or employing unit's agent or a co-worker, of which the employer knew or should have known but failed to take timely and appropriate corrective action.

(c) Paragraph (a) does not apply if the department determines that the employee terminated his or her work but had no reasonable alternative because the employee was unable to do his or her work, or that the employee terminated his or her work because of the verified illness or disability of a member of his or her immediate family and the verified illness or disability reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave; but if the department determines that the employee is

unable to work or unavailable for work, the employee is ineligible to receive benefits while such inability or unavailability continues.

Sections 108.04(7) (cm) and (d) are repealed

~~(cm) Paragraph (a) does not apply if an employee is hired to work a particular shift and if the department determines that the employee terminated his or her work as the result of a requirement by his or her employing unit to transfer his or her working hours to a shift occurring at a time that would result in a lack of child care for his or her minor children, provided that the employee is able to work and available for full-time work during the same shift that the employee worked in the employee's most recent work with that employing unit. For purposes of sub. (2) (a), such an employee is not deemed unavailable for work solely for refusing to work a shift other than the one for which the employee was hired.~~

~~(d) Paragraph (a) does not apply if the department determines that the employee terminated his or her work to accept a recall to work for a former employer within 52 weeks after having last worked for such employer.~~

Section 108.04(7)(e) is amended to read:

(e) Paragraph (a) does not apply if the department determines that the employee accepted work which the employee could have failed to accept with good cause under sub. (8) and terminated such work with the same good cause and within the first 30 calendar days of 10 weeks after starting the work, or that the employee accepted work which the employee could have refused under sub. (9) and terminated such work within the first 30 calendar days of 10 weeks after starting the work. For purposes of this paragraph, an employee has the same good cause for voluntarily terminating work if the employee could have failed to accept the work under sub. (8) (d) when it was offered, regardless of the reason articulated by the employee for the termination.

Section 108.04(7)(g) is repealed:

~~(g) Paragraph (a) does not affect an employee's eligibility to receive benefits if the employee:~~

- ~~1. Maintained a temporary residence near the work terminated; and~~
- ~~2. Maintained a permanent residence in another locality; and~~
- ~~3. Terminated such work and returned to his or her permanent residence because the work available to the employee had been reduced to less than 20 hours per week in at least 2 consecutive weeks.~~

Section 108.04(h) is amended to read:

(h) The department shall charge to the fund's balancing account benefits paid to an employee that are otherwise chargeable to the account of an employer that is subject to the contribution requirements of ss. 108.17 and 108.18 if the employee

voluntarily terminates employment with that employer and par. (a), (c), (d), (e), (k), (L), (o), (p), (q), (s), or (t) applies.

Section 108.04(J), (k), (L), (m), (n) and (o) are repealed:

~~(j) Paragraph (a) does not apply if the department determines that the employee left or lost his or her work because of reaching the compulsory retirement age used by the employee's employing unit.~~

~~(k) Paragraph (a) does not apply to an employee who terminates his or her part-time work if the employee is otherwise eligible to receive benefits because of the loss of the employee's full-time employment and the loss of the full-time employment makes it economically unfeasible for the employee to continue the part-time work.~~

~~(L) Paragraph (a) does not apply if the department determines that the employee terminated work to accept employment or other work covered by the unemployment insurance law of any state or the federal government, and earned wages in the subsequent work equal to at least 4 times the employee's weekly benefit rate under s. 108.05 (1) if the work:~~

- ~~1. Offered average weekly wages at least equal to the average weekly wages that the employee earned in the terminated work;~~
- ~~2. Offered the same or a greater number of hours of work than those performed in the work terminated;~~
- ~~3. Offered the opportunity for significantly longer term work; or~~
- ~~4. Offered the opportunity to accept a position for which the duties were primarily discharged at a location significantly closer to the employee's domicile than the location of the terminated work.~~

~~(m) Paragraph (a) does not apply to an employee who terminates his or her work with a labor organization if the termination causes the employee to lose seniority rights granted under a collective bargaining agreement and if the termination results in the loss of the employee's employment with the employer which is a party to that collective bargaining agreement.~~

~~(n) Paragraph (a) does not apply to an employee who:~~

- ~~1. Terminated work in a position serving as a part-time elected or appointed member of a governmental body or representative of employees;~~
- ~~2. Was engaged in work for an employing unit other than the employing unit in which the employee served under subd. 1. at the time that the employee terminated work under subd. 1.; and~~
- ~~3. Was paid wages in the terminated work constituting not more than 5% of the employee's base period wages for purposes of benefit entitlement.~~

~~(o) Paragraph (a) does not apply to an employee who terminates his or her work in one of 2 or more concurrently held positions, at least one of which is full-time work, if the employee terminates his or her work before receiving notice of termination from a position which is full-time work.~~

Section 108.04(7)(p) is amended to read:

~~(p) Paragraph (a) does not apply if the department determines that an employee, while claiming benefits for partial unemployment, terminated work to accept employment or other work covered by the unemployment insurance law of any state or the federal government, if that work offered an average weekly wage greater than the average weekly wage earned in the work terminated.~~

- ~~• Offered a greater average weekly wage than was earned in the work terminated;~~
- ~~• Offered a greater number of hours of work than those performed in the work terminated; or~~
- ~~• Offered the opportunity for significantly longer term work~~

Section 108.04(7)(q) and (r) are repealed

~~(q) Paragraph (a) does not apply if the department determines that an employee, while serving as a member of the U.S. armed forces, was engaged concurrently in other work and terminated that work as a result of the employee's honorable discharge or discharge under honorable conditions from active duty as a member of the U.S. armed forces for a reason that would qualify the employee to receive unemployment compensation under 5 USC 8521.~~

~~(r) Paragraph (a) does not apply if the department determines that the employee owns or controls, directly or indirectly, an ownership interest, however designated or evidenced, in a family corporation and the employee's employment was terminated by the employer because of an involuntary cessation of the business of the corporation under one or more of the conditions specified in sub. (1) (gm). In this paragraph, "family corporation" has the meaning given in s. 108.02 (15m) and also includes a corporation or a limited liability company that is treated as a corporation under this chapter in which 50% or more of the ownership interest is or was owned or controlled, directly or indirectly, by one or more brothers or sisters of a claimant, or by a combination of one or more brothers or sisters and one or more of the persons specified in s. 108.02 (15m) (a).~~

Section (s) remains as is:

(s)

1. In this paragraph:

a. "Domestic abuse" means physical abuse, including a violation of s. 940.225 (1), (2) or (3), or a threat of physical abuse by an adult family or adult household member against another family or household member; by an adult person against his or her spouse or former spouse; by an adult person against a person with whom the person has a child in common; or by an adult person against an unrelated adult person with whom the person has had a personal relationship.

b. "Family member" means a spouse, parent, child or person related by blood or adoption to another person.

bn. "Health care professional" has the meaning given in s. 180.1901 (1m).

c. "Household member" means a person who is currently or formerly residing in a place of abode with another person.

- d. "Law enforcement agency" has the meaning given in s. 165.83 (1) (b) and includes a tribal law enforcement agency as defined in s. 165.83 (1) (e).
 - e. "Protective order" means a temporary restraining order or an injunction issued by a court of competent jurisdiction.
2. Paragraph (a) does not apply if the employee:
- a. Terminates his or her work due to domestic abuse, concerns about personal safety or harassment, concerns about the safety or harassment of his or her family members who reside with the employee or concerns about the safety or harassment of other household members; and
 - b. Provides to the department a protective order relating to the domestic abuse or concerns about personal safety or harassment issued by a court of competent jurisdiction, a report by a law enforcement agency documenting the domestic abuse or concerns, or evidence of the domestic abuse or concerns provided by a health care professional or an employee of a domestic violence shelter.

Section (t) is amended to read:

~~(t) Paragraph (a) does not apply if the department determines that the employee's spouse changed his or her place of employment to a place to which it is impractical to commute and the employee terminated his or her work to accompany the spouse to that place.~~

(t) Paragraph (a) does not apply if the department determines the employee quit his or her employment to accompany a spouse who is on active duty with the armed forces of the United States and is required to relocate by the armed forces and it is impractical for the employee to commute to the job.

Section (7m) remains as is:

(7m) VOLUNTARY REDUCTION IN HOURS OF EMPLOYMENT. An employee whose employer grants the employee's voluntary request to reduce indefinitely the number of hours of employment usually worked by the employee voluntarily terminates his or her employment within the meaning of sub. (7). The wages earned by the employee from that employer for any week in which the reduction requested by the employee is in effect may not be used to meet the requalification requirement provided in sub. (7) (a) applicable to that termination if the employer has notified the employee in writing, prior to the time that the request is granted, of the effect of this subsection. The department shall charge to the fund's balancing account benefits paid to such an employee that are otherwise chargeable to the account of an employer that grants an employee's request under this subsection, for each week in which this subsection applies, if the employer is subject to the contribution requirements of ss. 108.17 and 108.18.

3. Proposer's Reason for the Change

Concerns have been raised by the employer community that the department has been too generous in providing benefits to employees who should not qualify for benefits due to our large number of quit exceptions and our low requalification threshold. Wisconsin has more quit exceptions and is more lenient in the requalification after quitting than most states in our region. In addition, many of the quit exceptions are charged to the funds balancing account; by reducing and modifying the quit exceptions and requalification requirement the solvency of the trust fund should be positively impacted. At the end of this document is a compilation of the number of quits per calendar year for each section within s. 108.04 (7).

4. Brief History and Background of Current Provision

Exceptions to quit disqualifications have been in place since the 1930s and have grown over the years. Reducing these exceptions have been brought forward by the employer community and the department for many years.

In 1984, the standard disqualification was the claimant had to work in 7 subsequent weeks and earn 14 times their weekly benefit rate and in addition had a 50% reduction in their maximum benefit amount. In 1989, this was changed to 7 elapsed weeks and not weeks of work.

In 1990, the quit disqualification was changed to 4 elapsed weeks and 4 times the weekly benefit rate.

5. Effects of Proposed Change

- a. Policy. Creates a new disqualification and removes some quit exceptions.
- b. Administrative Impact. Likely to be significant administrative impact. Increasing the quit disqualification, will increase the number of quit investigations and have a positive impact on the fund.
- c. Equitable. Law addresses concern of employer community that current system is not equitable in that it overly favors the giving of benefits to employees that quit for marginal reasons.
- d. Fiscal. We expect this to reduce benefit payments by \$28.2 million and hence increase the UI Trust fund by a similar amount.

6. State and Federal Issues

- a. Chapter 108. Applicable provisions that need to be amended are covered above.
- b. Rules. DWD § 132.03 would now be obsolete as it refers to 108.04(7)(k), which the proposal would eliminate.
- c. Conformity. There should be no conformity issues with this proposal.

7. Proposed Effective/Applicability Date

Due to substantial administrative changes that will likely be necessary, the law change should be effective for the calendar year following the enactment.