

**Reimbursable Employer Fraud Charging Issue**

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Proposed by: DWD

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**ANALYSIS OF PROPOSED UI LAW CHANGE**

**REIMBURSABLE EMPLOYER FRAUD CHARGING ISSUE**

**1. Description of Proposed Change**

Identity theft is a problem for state unemployment insurance (UI) agencies. Thieves assume the work history of claimants in order to receive UI benefits, which results in fraudulent charges to employers' accounts.

Identity thieves file fraudulent claims posing as claimants who work for employers subject to reimbursement financing as well as employers subject to contribution financing. Currently, charges for UI benefit overpayments resulting from identity theft are handled differently for contribution and reimbursable employers.

For employers subject to contribution, Wis. Stat. § 108.04 (13) (d) 3. a. states that the fraudulently obtained UI benefits are restored to the employer's account and the UI benefit charges are transferred to the fund's balancing account. This represents a form of risk sharing among contribution employers.

For governmental units, Indian tribes, and nonprofit organizations which have elected reimbursement financing, the overpayment remains charged to the employer's account until it is recouped by the department. The only exception is if the overpayment is due to departmental error. In that case, the UI benefit charges are credited to the reimbursable employer's account and the UI Trust Fund is reimbursed from the Interest and Penalty account. The reimbursable employer bears all the risk in identity theft cases.

The department proposes that it set aside \$2 million in the UI Trust Fund (plus interest), to pay for identity theft charges against reimbursable employers. The department projects the \$2 million plus interest will cover UI benefit charges to reimbursable employers due to identity theft for many years. If the set aside funds reach a balance of \$100,000 the department proposes that all reimbursable employers be assessed to pay the UI benefit charges due to identity theft. The assessment would be similar to the Reimbursable Employer Debt Assessment that is authorized by Wis. Stat. § 108.151(7) to recover bad debt that results from uncollectible reimbursement financing.

**2. Proposed Statutory Language**

Proposed statutory language will be provided at the next UIAC meeting.

**D15-04**  
**Reimbursable Employer Fraud Charging Issue**

**3. Proposer's Reason for the Change**

For identity cases being reported timely, there is no fault to the employer. Identity thieves randomly file claims against both reimbursable and contribution employers. This proposal will relieve employers which are subject to reimbursement financing of the risk of paying charges that are not their responsibility.

The proposal will represent risk sharing that is similar to what is provided to contribution employers.

**4. Effects of Proposed Changes**

- a. Policy. This proposal will provide for more equitable treatment of reimbursable employers whose accounts are charged as a result of identity theft.
- b. Administrative Impact. The administrative impact of this proposal is likely to be minor.
- c. Fiscal. A fiscal estimate for this proposal will be provided at the next UIAC meeting.

**5. State and Federal Issues**

There are no conformity issues with relieving the reimbursable employer of the charges to its account resulting from identity theft.

**6. Proposed Effective/Applicability Date**

This proposal should be effective with other changes made as part of the agreed bill cycle.