

D15-06
Appeals Modernization

Date: February 19, 2015
Proposed by: DWD
Prepared by: Scott Sussman

ANALYSIS OF PROPOSED UI LAW CHANGE

APPEALS MODERNIZATION AND EFFICIENCY IMPROVEMENTS

1. Description of Proposed Change

The Unemployment Insurance (UI) appeals process can be streamlined and become more efficient if both staff and parties can take advantage of technological changes. UI laws need to be amended for this purpose.

- Electronic Notifications. Several of the UI statutes require notices to be mailed to the last known address of the employer or claimant. Changes will permit electronic delivery of notices and decisions so that parties can receive these documents in a timely manner.
- Review of failure to appear at hearings. Changes to the UI statutes are needed to streamline the handling of the review of failure to appear at hearings. Presently, an Administrative Law Judge (ALJ) holds a hearing only on the question whether a party had "good cause" for their failure to appear at the original hearing. If the party establishes "good cause" for their failure to appear at the original hearing, the ALJ schedules a separate hearing on the merits of the appeal.

The proposed statutory change will allow the ALJ to review documents submitted by the party in order to determine whether the party had "good cause" for their failure to appear at the original hearing without holding a hearing on the "good cause" issue. If the ALJ finds "good cause" based on the documents submitted by the party, the ALJ will schedule a hearing on the merits. This will streamline the process saving both the state and the parties' time and resources.

- Appeals to be filed directly with the appeal tribunal. Presently the statutes allow UI appeals to be filed with the "department". This results in appeals being filed with various divisions, offices and entities within the "department", causing delays and misrouting of the appeals. Statutory changes to require appeals to be filed either on-line or with the specific appeal tribunal will avoid confusion, misrouting of appeals and delays in processing the appeals.
- Permit ALJs to sign appeal tribunal decisions electronically. This change will allow the electronic signing and delivery of appeal tribunal decisions, when appropriate, which will eliminate delay and the cost of printing and mailing the decisions.
- Incorporate enabling language to allow for the department to hold video hearings when technology is implemented and available. Public comments from both employers and

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claimants asked that they not be required to appear in-person for hearings because of logistical reasons.

2. Proposed Statutory and Administrative Language that Need Amending

- Failure to appear at hearing – authorize desk review: Wis. Stats. §108.09 (4) (d) and (e), and incorporate the same language as for late appeal in sub. (c)
- Initial Determinations (LID) sent via mail - Wis. Stats. § 108.09 (2) (a), (d) and (2r)
- Appeals - Wis. Stats. § 108.09 (4) (d), 2., 3., (e) 2., 3. and (f)
- Commission review - Wis. Stats. § 108.09 (6), (a) and (b)
- Judicial review - Wis. Stats. § 108.09 (7)
- Judicial review of false statements - Wis. Stats. § 108.095 (7)
- All LID appeals filed with hearing offices or Bureau of Legal Affairs (BOLA) central office within the Department of Workforce Development- Wis. Admin. Code s. DWD 140.01
- LIRC appeals filed directly with LIRC - Wis. Stats. § 108.09(6)(a)
- Time for filing an appeal – Wis. Admin. Code s. DWD 140.01 (2) (c) 1. to 6.
- Withdrawal of an appeal - Wis. Admin. Code s. DWD 140.05(2)
- Notice of hearing - Wis. Admin. Code s. DWD 140.06

3. Proposer's Reason for the Change

These changes will increase customer service and satisfaction and streamline the appeals processes.

4. Effects of Proposed Changes

- a. Policy. Many of these improvements not only improve operational efficiencies for the UI Division, specifically BOLA, but also allow our consumers to communicate more efficiently with the department. The proposals do not do away with the traditional mail communications, but give the department the ability to begin to migrate towards a more electronic form of communication with consumers who choose to utilize the improved system.

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- b. Administrative Impact. The proposal does not mandate modernization efforts. Instead, it gives the department the ability to move towards a more electronic form of communication in its handling of appeals for those consumers who elect to utilize the improved system.
- c. Fiscal. These proposed law changes make technical law text changes to allow for electronic notifications, electronic signatures, and video conferencing and will not impact the UI Trust Fund.

Since these technical law text changes are not mandating modernization efforts, there is no expected IT impact. The law change proposals to make a "good cause" determination without another hearing and appeals to be filed directly with the appeal tribunal are expected to have a one-time web/forms administrative impact of 12 hours or \$571. There is an additional 2 hours of BITS time or \$166 for changing mainframe form variable data. The total one-time cost is estimated at \$737.

5. State and Federal Issues

There are no known state or federal issues relating to this proposal.

6. Proposed Effective/Applicability Date

This proposal would be effective with the other proposals contained in the next agreed cycle bill.

Proposal UI Appeals Modernization (D15-06)

Date: 12/10/2014

Prepared by: Technical Services Section

FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Impact:

This proposal is not expected to impact the UI Trust Fund.

There is no expected IT impact. Administrative one-time costs are estimated at 14 hours or \$737.

Summary of the Proposal:

The majority of the law change is intended to give the UI division authority to move forward with modernization. Changes in the law text needed for future modernization efforts include updated language on electronic notifications, electronic signatures on determinations, and video conference hearings.

There are two segments of the proposed law change that would lead to immediate action by the department. The first proposal allows administrative law judges to make good cause determinations for appellants failing to appear at a hearing without holding another hearing. The second proposal changes and simplifies the appeals process informing appellants that appeals are to be filed directly with the Tribunal in lieu of the current language which states "with the department".

Methodology:

These proposed law changes are not mandating modernization efforts. Making technical law text changes to allow for electronic notifications, electronic signatures, and video conferencing will not impact the UI Trust Fund. While reviewing "good cause" without the need for another hearing and filing directly with the Tribunal may streamline the appeals filing process and provide better customer service, there is no impact to the UI Trust Fund.

IT/Administrative Impact:

Affected business areas representatives were given a summary of the proposed law changes. Each area developed a cost estimate which includes IT, web/form updates, and any procedural development and training. Since these technical law text changes are not mandating modernization efforts, there is no expected IT impact. The law change proposals to make a "good cause" determination without another hearing and appeals to be filed directly with the Tribunal are expected to have a one-time web/forms administrative impact of 12 hours or \$571. There is an additional 2 hours of BITS time or \$166 for changing mainframe form variable data. The total one-time cost is estimated at \$737. There is no expected procedural development or training costs. These efforts may result in ongoing savings of time to apply to higher value added tasks.