

D15-07
Work Share Partial Wage Formula

Date: February 19, 2015
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ANALYSIS OF PROPOSED UI LAW CHANGE

WORK SHARE PARTIAL WAGE FORMULA

1. Description of Proposed Change

Wisconsin's work share program (2013 Wisconsin Act 11) became effective December 31, 2013. Voluntary participation in the work share program provides an employer with an alternative to layoffs when faced with a temporary decline in business. The layoff of workers is avoided by an employer reducing the hours for employees in a particular unit or their entire workforce.

For work share claimants, Wisconsin law provides two methods to determine the amount of benefits. Under Wisconsin law, a regular unemployment insurance (UI) claimant may be eligible for partial UI benefits if their work hours are reduced by more than eight hours and earnings are less than \$500 in a week. The first method calculates the benefit rate using the partial wage formula. The second method calculates the benefit rate using a proportional benefit rate as a percentage of regular UI benefits (the same proportion as the reduction in work hours). A work share claimant receives the higher of the two benefit rates. For an individual claimant, which formula results in a higher UI benefit payment is dependent on various factors including: the claimant's weekly benefit rate; the claimant's wage before the reduction in hours; and the percentage of hours reduced.

Of the 29 states with a work share program, Wisconsin is the only state that provides two methods to determine the amount of UI benefits. All other states solely rely on the proportional benefit rate that is calculated as a percentage of regular UI benefits.

The Middle Class Tax Relief and Job Creation Act of 2012 provides financial incentives for states to enact, and employers to participate, in work share programs. Until August 22, 2015, the federal government will reimburse 92.7% of the employer's share of UI charges for the reduced work hours under a work share program.

The United States Department of Labor (USDOL) has made two determinations with respect to the benefit calculation provisions in the current work share law:

- First, it conforms to requirements under federal law for a work share program.
- Second, employers participating in a work share program will not be reimbursed by the federal government for UI benefits paid using the partial wage formula.

Implementation of the program by the department is complicated by USDOL's interpretation regarding the partial wage formula. Wisconsin has been awarded the maximum grant amount available from the federal government for it to implement the work share program, \$641,216.

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However, the grant funds are insufficient to cover costs for necessary computer upgrades to efficiently implement the program and prevent delay of UI benefit payments. Due to the antiquated nature of the department's computer system, it is estimated that a high-tech solution for implementing Wisconsin's work share program will cost approximately \$1,145,000 over five years. Of this amount, approximately \$750,000 is attributable to the additional cost of implementing the partial wage formula calculation required by the USDOL interpretation.

The department proposes an amendment to the current law eliminating the provision for calculation of UI benefits based on the partial wage formula.

2. Proposed Statutory Language

See attached draft.

3. Proposer's Reason for the Change

As a result of the USDOL's interpretation, the implementation costs for the department to efficiently administer the program exceed what has been awarded by the federal government.

4. Effects of Proposed Changes

- a. Policy. This will provide employers, who are considering whether to participate in the work share program, greater certainty regarding whether benefits paid under their work share plan will be reimbursed by the federal government. As a result, employers will have greater incentive to participate in a work share program.
- b. Administrative Impact. This will greatly reduce the estimated fiscal impact of implementing the work share program. Over \$750,000 of the estimated implementation cost is attributable to the additional cost of implementing the partial wage formula calculation as part of a work share plan.
- c. Fiscal. Not Yet Available.

5. State and Federal Issues

There are no conformity issues with this proposal. There is no federal requirement to include the partial wage formula as one method to calculate a claimant's work share UI benefit amount.

6. Proposed Effective/Applicability Date

This proposal should be effective the first Sunday after publication of the Act in which it is enacted. The proposal should first apply with respect to work share plans submitted by employers on or after the effective date.



State of Wisconsin
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 108.062 (7); and **to amend** 108.062 (6) (a) of the statutes;
2 **relating to:** unemployment insurance benefits payable under a work-share
3 program.

Analysis by the Legislative Reference Bureau

Under current law, any employer may create a work-share program, defined as a program approved by the Department of Workforce Development under which the hours of work of employees in a work unit are reduced in lieu of the layoffs of two or more employees in the work unit. An employee included under a work-share program who otherwise qualifies to receive regular Unemployment Insurance (UI) benefits must receive a UI benefit payment for each week that the employee is included under the program. The amount of the benefit payment is the employee's regular UI benefit amount multiplied by the employee's proportionate reduction in hours for that week under the work-share program (work-share benefits). Current law also provides, however, that an employee included under a work-share program who would otherwise be paid benefits for any week under the UI law's partial benefits formula (partial benefits) must instead receive a benefit payment for that week in the amount payable to the employee under that formula, if that amount is higher than the work-share benefits amount.

Under this bill, employees included under a work-share program may only be paid work-share benefits, and not partial benefits.

