
D15-12
Technical Change to Definition of “Employer”

Date: August 20, 2015
Proposed by: DWD
Prepared by: Andy Rubsam

ANALYSIS OF PROPOSED UI LAW CHANGE
Technical Change to Definition of “Employer”

1. Description of Proposed Change

The 2015-2017 budget created a statute that permits fiscal agents to act on behalf of children who are being provided long-term community support services. 2015 Act 55 § 1535, creating Wis. Stat. § 46.272(7)(e). If a child or the child’s parent receives direct funds for the child’s long-term care and uses those funds to pay caregivers, the child may be an employer for unemployment insurance purposes. The budget bill provides that a fiscal agent may act on behalf of a child in order to ensure that the child complies with the requirements of the unemployment insurance law.

This new law is similar to existing laws related to fiscal agents acting on behalf of elderly individuals who receive long-term community support services. *See* Wis. Stat. § 46.27(5)(i).

Under existing law, the definition of “employer” in unemployment insurance law excludes fiscal agents for individuals who receive long-term support services under section 46.27. *See* Wis. Stat. § 108.02(13)(k).

The Department proposes this technical change to the definition of “employer” to also exclude fiscal agents acting on behalf of children receiving long-term support services.

D15-12
Technical Change to Definition of “Employer”

2. Proposed Statutory Change

108.02 (13) (k) of the statutes is amended to read:

“Employer” does not include a county department aging unit, or, under s. 46.2785, a private agency that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i), 46.272 (7) (e) or 47.035 as to any individual performing services for a person receiving long-term support services under s. 46.27 (5) (b), 46.272 (7) (b), 46.275, 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services under s. 47.02 (6) (c).

3. Effects of Proposed Change

- a. Policy. This proposal adds an exception to the definition of “employer” in order that all fiscal agents for recipients of long-term support services are treated the equally under the unemployment insurance law. Without this change, the definition of “employer” could depend on the age of the person receiving long-term support services. The current law may also dissuade fiscal agents from assisting children receiving long-term support services.
- b. Administrative. There is no expected administrative effect of this proposal.
- c. Fiscal. A fiscal estimate is not yet available.

4. State and Federal Issues

There are no known federal conformity issues with amending the definition of “employer” to exclude fiscal agents of children who receive long-term support services. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

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