

Assembly Bill 40, the state budget, has been enacted as 2013 Wisconsin Act 20, and this state law makes significant changes to Wisconsin's unemployment insurance law. Unless noted, these changes are effective for determinations and for hearing officer decisions issued or appealed on or after 5 January 2014.

Eligibility

- Effective July 7th, claimants must conduct at least four (up from two) job search actions each week they claim unemployment benefits in order to establish they are making a reasonable search for suitable work. Furthermore, DWD may increase an individual's minimum number beyond four actions in any week - so long as this increase is uniform for similar types of claimants.
- Claimants who have worked for a temporary job agency will be required to contact that temporary help agency weekly about available assignments to maintain eligibility. This contact will constitute one reasonable search for suitable work action for the overall four action minimum.
- DWD will in the next few months begin requiring all claims and weekly claim certifications to be filed by computer unless the claimant can demonstrate computer use is impossible because of a disability of some kind. In addition, claimants will be required to list the four or more employers they have contacted each week, and claimants will be required to complete surveys of various kinds in order to maintain their eligibility for benefits. Failure to use to computer access or to provide requested information will stop payments of all unemployment benefits.

Misconduct

Act 20 puts forward various examples of misconduct that set forth new ways for disqualifying claimants. These changes are:

- Violation of an employer's (1) reasonable substance abuse policy concerning the use of alcohol beverages or controlled substances when the employee (2) has knowledge of the substance abuse policy and (3a) admitted to use, (3b) refused to take a test or (3c) tested positive for use in accordance with a DWD-approved testing methodology;
- Theft of an employer's property, services, money (of any value), felonious conduct connected with an employee's employment with his or her employer, or intentional or negligent conduct by an employee that causes substantial damage to the employer's property;
- Conviction of a crime or other offense, including civil forfeitures (aka traffic tickets), while on or off duty, that precludes the employee from working for the employer;
- One or more threats or acts of harassment, assault, or other physical violence instigated by an employee at the employer's workplace;
- *Absenteeism* on more than two occasions within 120 days before the date of termination, unless permitted by the employer's employment manual of which the employee acknowledged receipt, or *excessive tardiness* in violation of the employer's policy, if the employee does not provide notice and one or more valid reasons for the absenteeism or tardiness;
- Falsifying the employer's business records, unless directed by the employer; and,
- A willful and deliberate violation of a written and uniformly applied standard or regulation of the federal, state, or tribal government, an agency of which licenses the employer, which standard has been communicated by the employer to the employee and which violation would cause the employer to be sanctioned or to have its license or certification suspended by the agency, again, unless directed by the employer.

Substantial Fault

Act 20 creates a reduced standard for disqualifying a claimant for unemployment benefits, called "substantial fault" and defined to include those acts or omissions of an employee over which the employee exercises reasonable control and which violates reasonable requirements of the employer. Substantial fault does not include:

- One or more minor infractions of rules unless an infraction is repeated after the employer warns the employee about the infraction;
- One or more inadvertent errors made by the employee; or,

- Any failure by the employee to perform work because of insufficient skill, ability or equipment.

Voluntary Quit Exceptions

Act 20 eliminates the following reduces the number of “voluntary quit” exceptions under Wis. Stat. § 108.04(7):

- (7)(d) — The employee quit to accept a recall to work for a former employer within 52 weeks after having last worked for such employer;
- (7)(g) — The employee: (1) maintained a temporary residence near the work; (2) maintained a permanent residence in another locality; and (3) lost work that made commuting from the temporary residence no longer viable;
- (7)(j) — The employee lost work when he or she reached the compulsory retirement age used by the employer;
- (7)(k) — If the employee quit 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;
- (7)(m) — The employee quits work with a labor organization, thereby losing super-seniority rights granted under a collective bargaining agreement and is subsequently let go in a layoff under that collective bargaining agreement;
- (7)(n) — The employee quits work as a part-time elected or appointed member of a governmental body or representative of employees and was paid wages in the quit work constituting not more than 5% of the employee’s base period wages for purposes of benefit entitlement;
- (7)(o) — When an employee has more than one job, he or she quits one of those jobs before learning of a subsequent termination from his or her full-time job;
- (7)(r) — An employee who has, 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 in certain circumstances.

The following quit exceptions have been amended or combined:

- An employee that accepts work which the employee could have failed to accept with “good cause” under Wis. Stat. § 108.04(7)(b) and terminates such work with the same good cause within 30 days after starting the work rather than the ten week period formerly provided for;
- Exceptions (7)(L) and (7)(p) are combined in a new (7)(L) that allows someone to leave one job for a better job that promises improved pay, hours, assignment length, or location, without needing wages from the new job in order to re-qualify for unemployment benefits; and
- Exception (7)(t), which covered a spouse leaving a job in order to follow a partner to another location, is now limited to spouses of military personnel.

Quit penalty

The penalty for quitting without good cause is changed from waiting four weeks and having to earn 4x your weekly benefit rate to 6x your weekly benefit rate.

Vetoed Provision

The provision that modified employee eligibility for partial unemployment benefits during holiday weeks was vetoed.