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Chapter DWD 100

DEFINITIONS

DWD 100.01 General rule.

DWD 100.02 Definitions.

Note: Chapter ILHR 100 was renumbered Chapter DWD 100 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats. Register, June, 1997, No. 498.

DWD 100.01 General rule. Except as otherwise provided or where the context clearly requires otherwise, the definitions in ch. 108, Stats., shall apply to the terms used in chs. DWD 100 to 150.

History: 1–2–56; renum. to be ILHR 100.01 under s. 13.93 (2m) (b) 1. and 2., Stats., Register, August, 1987, No. 380; am. Register, October, 1994, No. 466, eff. 11–1–94, am. Register, September, 1995, No. 477, eff. 10–1–95.

DWD 100.02 Definitions. In chs. DWD 100 to 150, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(1) “Administrative law judge” means the individual appointed by the department under s. 108.09 (3), Stats., to conduct hearings arising under ch. 108, Stats.

(2) “Agent state” means any state in which a person files a claim for unemployment benefits from the state of Wisconsin.

(3) “Agricultural labor” has the meaning specified in s. 108.02 (2), Stats.

(4) “Asset” means any resource of the transferor used in the business, whether owned or not and whether tangible or intangible, including real estate, inventories, machinery and equipment, furniture and fixtures, contracts, franchises, licenses, goodwill, accounts receivable, contracts for leased employees and customer lists. The outstanding shares of stock of an employer which is a corporation are not assets of the issuing corporation for purposes of s. 108.16 (8), Stats.

(5) “Base period” has the meaning specified in s. 108.02 (4), Stats.

(6) “Benefit year” has the meaning specified in s. 108.02 (5), Stats.

(7) “Business activity” includes the product or the service provided by a business.

(8) “Carrier” means a person engaged in the hauling of passengers or freight by motor vehicle and includes a person engaged as a “common motor carrier”, under s. 194.01 (1), Stats., as a “contract motor carrier”, under s. 194.01 (2), Stats., or as a “private motor carrier”, under s. 194.01 (11), Stats.

(9) “Commission” means the labor and industry review commission.

(10) “Compromise” means department agreement to accept payment of less than the full amount of contributions, payments in lieu of contributions, interest, penalties and costs, as applicable, owed by an employer, former employer or by an individual liable for corporate liabilities, in complete fulfillment of the outstanding liability.

(11) “Constructively paid” means credited to or set apart for an employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment may be made, such that the amounts so credited or set aside are available for the employee to draw upon at any time.

(12) “Contract operator” means an individual who contracts to lease a motor vehicle to a carrier for use in the carrier’s business.

(13) “Contribution report” means the written document or electronic transmission, submitted in the manner prescribed by

the department, in which an employer makes a quarterly report of total employment or wages or both to the department.

(14) “Covered wages” means wages less the exclusion under s. 108.02 (15) (L), Stats., and any applicable exclusions under s. 108.02 (15) (f) to (k), Stats., unless the wages attributed to an exclusion under s. 108.02 (15) (f) to (k), Stats., are subject to a tax under the Federal Unemployment Tax Act and are not subject to a tax under any other unemployment insurance law.

(15) “Customary occupation” means the occupation for which a claimant is most qualified based on the claimant’s skills, abilities, training, education and work experience.

(16) “Department” means the department of workforce development.

(16m) “Disaster” means a fire, flood, or other physical occurrence beyond the employer’s control that is caused naturally or accidentally.

(17) “Ease of access” means the physical characteristics of a building which allow a person with a temporary or permanent incapacity or disability to enter, circulate within and leave the building and to use the public toilet facilities and passenger elevators in the building without assistance.

(18) “Employee” has the meaning specified in s. 108.02 (12), Stats.

(19) “Employer” has the meaning specified in s. 108.02 (13), Stats.

(20) “Employer’s account” has the meaning specified in s. 108.02 (14), Stats.

(21) “Employing unit” means any employer or any other person who engages one or more individuals to perform services for pay, whether or not that person is subject to the reimbursement financing or contribution requirements of ch. 108, Stats.

(22) “Employment” has the meaning specified in s. 108.02 (15), Stats.

(23) “Employment relationship” means a relationship between an employee and an employer in which the employee performs services for pay for the employer under an informal or formal agreement of employment and which continues when the employment is temporarily suspended for a definite, discernible period of time.

(24) “FUTA” means the federal unemployment tax act, subtitle C, ch. 23 of the internal revenue code, 26 USC 3301 to 3311.

(25) “Fax” means facsimile images electronically transmitted and printed, and the act of transmitting such images.

(26) “First shift” means a work period which begins and ends between 6 a.m. and 6 p.m.

(27) “Forest products manufacturer” means a business engaged in the processing of logs, and includes pulp mills, saw mills or other manufacturing plants.

(28) “Full-time” means work which is performed for 32 or more hours in a week.

(29) “Government unit” has the meaning specified in s. 108.02 (17), Stats.

(31) “Health care facility” means any nursing home, community-based residential facility, hospital, clinic, office of a physician or other health care professional, mental health institute, center for the developmentally disabled, alcohol or drug treatment center or other facility providing inpatient or outpatient health

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care to patients, whether licensed, approved or exempted under state law or certified under federal law.

(32) "Hearing office" means an office of the unemployment insurance division of the department of workforce development which is responsible for scheduling and conducting hearings arising under ch. 108, Stats.

(33) "Informer" means an individual who is receiving a reward or payment for information relating to or assisting in an investigation of a possible violation of law, but not an undercover agent or other individual who is paid for the performance of investigative services or who receives such payment regardless of whether information relating to or assisting in an investigation of a possible violation of law is actually provided.

(35) "Labor market area" means a geographical area in which there are jobs deemed to be suitable work for the claimant and which encompasses the geographical area in which workers with similar occupational skills customarily travel to obtain or perform suitable work.

(36) "Lag period" means the period between the end of the base period and the valid new claim week under s. 108.02 (25m), Stats.

(37) "Logging contractor" means a person who contracts for the cutting of timber, the hauling of logs or the skidding of logs, purchases timber to cut, or sells unmanufactured forest products.

(38) "Motor vehicle" has the meaning designated in s. 194.01 (7), Stats.

(39) "Multiemployer benefit plan" means a benefit plan maintained pursuant to one or more collective bargaining agreements between 2 or more employers and one or more employee organizations under which each employer makes contributions to provide sickness or accident disability payments through the plan to eligible employees or their dependents.

(40) "Nonprofit organization" has the meaning specified in s. 108.02 (19), Stats.

(41) "Partial unemployment" and "partially unemployed" have the meaning designated in s. 108.02 (20), Stats.

(42) "Payroll" has the meaning specified in s. 108.02 (21), Stats.

(43) "Payroll base" means the first \$10,500 of wages paid by an employer during a calendar year to an individual, including any wages paid for any work covered by the unemployment insurance law of any other state, which is payroll under s. 108.02 (21), Stats.

(44) "Penalty" includes any tardy payment fee or late filing fee provided for in ch. 108, Stats., and a forfeiture assessed under s. 108.04 (11) (c), Stats., but does not include any fine or restitution arising under s. 108.24, Stats.

(44m) "Person with a disability" means any person who, by reason of an impairment of sight, hearing or speech, may be hindered or prevented from communicating at a hearing as effectively as a person who does not have such an impairment.

(45) "Piece cutter" means a person who fells timber, removes branches from timber, saws timber into logs, or stacks logs.

(46) "Profiling system" means a system established by the department to examine factors including economic conditions, industry characteristics, and claimant characteristics in order to promptly identify claimants who are: permanently laid off, unlikely to return to their previous industry or occupation, likely to exhaust their regular unemployment insurance benefits, and likely to need reemployment services in order to make a successful transition to new employment.

(47) "Public housing agency" means any state, county, municipality, or other governmental entity or public body, or agency or instrumentality thereof, which is authorized by the U.S. department of housing and urban development to engage in or assist in the development or operation of low-income housing.

(48) "Quarter" has the meaning designated in s. 108.02 (21m), Stats.

(49) "Reemployment services" means job search assistance and job placement services, such as: assessment, testing, counseling, provision of occupational and labor market information, job search workshops, referrals to potential employers, and other similar services.

(50) "Representative of the department" means any person employed by the department of workforce development who has job duties involving the taking, processing or adjudication of benefit claims.

(51) "Same business or operation" means operation under the same unemployment insurance employer account, including any account transferred under s. 108.16 (8), Stats., with no intervening final determination of account termination under s. 108.02 (13) (i), Stats., provided, however, that 'same business or operation' shall not be deemed to extend beyond the date as of which the account would have been terminated under s. 108.02 (13) (i), Stats., and s. DWD 110.09 but for an unpaid liability, unless the account was reopened under s. DWD 110.10.

(52) "Settle" means to resolve a pending determination, decision or action by agreement.

(53) "Sexual contact" has the meaning designated in s. 940.225 (5) (b), Stats.

(54) "Sexual intercourse" has the meaning designated in s. 940.225 (5) (c), Stats.

(55) "Shift" means the arrangement of hours a claimant is required to work. "First shift" means a work period which begins and ends between 6 a.m. and 6 p.m.

(56) "Shipper" means a customer of the carrier who arranges or contracts for the transportation of goods.

(57) "Sickness or accident disability payment" means any payment made on account of sickness or accident disability which is considered wages under s. 108.02 (26), Stats.

(58) "Similar work" means work in a claimant's labor market which, when compared with a particular job, has substantially equivalent duties and responsibilities and requires substantially equivalent skills, abilities and knowledge.

(59) "Skidding operator" means a person who removes logs from the woods to a roadside landing or other collection point for hauling.

(60) "Successor" means the transferee when a transfer of a business has occurred under ch. DWD 115 and ch. 108, Stats., and when either the department finds successorship status under s. 108.16 (8) (c), (d) or (e), Stats., or the transferee requests successorship status under s. 108.16 (8) (b), Stats.

(61) "Suitable work" means work that is reasonable considering the claimant's training, experience, and duration of unemployment as well as the availability of jobs in the labor market.

(62) "Total unemployment" and "totally unemployed" have the meaning designated in s. 108.02 (25), Stats.

(63) "Transfer percentage" means the percent of the transferor's total payroll for a recent and representative period preceding the transfer date, which is properly assignable to the transferred business. The recent and representative period shall be the four most recently completed calendar quarters preceding the transfer date, except that the period may be expanded to include the partial quarter immediately preceding the transfer if the transfer date did not fall on a quarter ending date and there was no payroll assignable to the transferred portion of the business in the four most recently completed quarters.

(64) "Transferee" means the person to whom an asset or business activity is transferred, whether or not that person is an employer before the transfer.

(65) "Transferor" means an employer which transfers an asset or business activity.

(66) "Unemployment insurance office" means an office of the unemployment insurance division of the department of workforce development which is responsible for the processing and adju-

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dication of unemployment insurance claims and includes any itinerant office used by the division.

(67) “Unemployment insurance record” means any material that contains, records, or preserves written, drawn, printed, spoken, visual, digital, or electromagnetic information, regardless of physical form or characteristics:

(a) Relating to the wages earned by a worker from one or more employing units including supporting data, and which has been created or is being kept by the department in connection with the administration of ch. 108, Stats., or as required by federal law, and also includes the record on which an employer makes a quarterly report of total employment or wages or both to the department;

(b) Relating to records kept by the department in connection with the processing of a claim for benefits under ch. 108, Stats., or for other benefits or allowances under similar programs administered by the department pursuant to federal law; and

(c) Relating to records kept by the department concerning employers and employing units including but not limited to audit records, coverage records, successorship records, rating records, collection records, and related correspondence.

(68) “Wage report” has the meaning designated in s. 108.205, Stats.

(69) “Wage reporting” means the procedure by which employers comply with the wage reporting requirements under s. 108.205, Stats.

(70) “Wages” has the meaning designated in s. 108.02 (26), Stats.

(71) “Week” has the meaning designated in s. 108.02 (27), Stats.

(72) “Weekly certification” means the method by which a claimant submits information regarding the claimant’s employment status and availability for work and which establishes a basis for the payment of unemployment benefits, including but not limited to voice recognition units and claim forms.

History: Renum. (2) (a), (b) and (d) from ILHR 101.001 (1), (2) and (4), cr. (1) and (2) (c), Register, October, 1994, No. 466, eff. 11-1-94, r. (2), (intro.), (b) and (c), cr. (25), (26) and (33), renum. (1) (a) to (j) to be (2), (5), (6), (15), (16), (19), (28), (34), (35) and (36), (1) (l) to (41), (1) (n) and (o) to (49) and (50), (1) (q) to (u) to be (61), (62), (70), (71) and (72), (2) (a) and (d) to (3) and (24), renum. (1) (intro.), (k), (m), (p) to 100.02 (intro.), (66), (46), (58) and am., renum. (11), (13) (14) and (21) from 110.001 (1), (7), (2) and (8) and am., renum. (60) and (63) from 115.001(9) and (10) and am., renum. (53) and (54) from 132.001 (7) and (8) and am., renum. (1) and (32) from 140.001 (1) and (5) and am., renum. (18), (20), (22), (29), (39), (40), (42) and (57) from 110.001 (4), (6) and (9) to (14), renum. (4), (7), (43), (64) and (65) from 115.001 (1), (2), (8), (11) and (12), renum. (23), (31) and (55) from 132.001 (5), (6) and (9), renum. (8), (12), (38) and (56) from 105.001 (1), (2), (4) and (5), renum. (27), (37), (45) and (59) from 107.001 (2) through (5), renum. (48), (68) and (69) from 111.001 (8) to (10), renum. (9) and (10) from 113.001 (2) and (3), renum. (9), (10), (44), (51) and (52) from 113.001 (2), (3), (8), (9) and (10), renum. (64) and (65) from 115.001 (1) and (2), renum. (30) and (17) from 140.19 (1) (a) and (b), renum. (47) and (67) from 149.001 (6) and (7), Register, September, 1995, No. 477, eff. 10-1-95; renum. (44m) from (30) and am., Register, June, 1997, No. 498, eff. 7-1-97; corrections in (51) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 2000, No. 537; am. (14), (32), (43), (46), (50), (51), (66) and (67) (intro.), cr. (16m), r. (34), Register, September, 2000, No. 537, eff. 10-1-00; CR 02-137: am. (28) Register April 2006 No. 604, eff. 5-1-06; **CR 08-019: am. (67) (intro.) Register July 2008 No. 631, eff. 8-1-08.**