

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter DWD 127

WORK SEARCH

DWD 127.001	Definitions.
DWD 127.01	Work search; policy; requirements.
DWD 127.02	Waiver of work search requirements.
DWD 127.04	Claimants to present evidence of work search efforts.

DWD 127.05	Certification as to work search.
DWD 127.06	Added efforts to secure work.
DWD 127.07	Employment workshops.
DWD 127.08	Further disqualifications; retroactivity.

Note: Chapter ILHR 127 was created by emergency rule effective 1-8-84. Chapter ILHR 127 was renumbered Chapter DWD 127 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 127.001 Definitions. Unless the context clearly indicates a different meaning, the definitions in ch. DWD 100 apply to this chapter.

History: Cr. Register, September, 1995, No. 477, eff. 10-1-95.

DWD 127.01 Work search; policy; requirements.

(1) Under s. 108.04 (2), Stats., a claimant shall be eligible for unemployment benefits for any week only when the department finds, among other things, that the claimant has within that week made a reasonable search for suitable work. The search for suitable work shall include at least 2 actions by the claimant each week that are reasonably designed to secure work. Mere registration for work under ch. DWD 126 does not establish that the claimant is making a reasonable search for suitable work. It is essential that the claimant personally and diligently search for work on his or her own behalf. The reasonableness of a search for work will, in part, depend on the employment opportunities in the claimant's labor market area. A work search which may be appropriate in a labor market area with limited opportunities may be totally unacceptable in an area with greater opportunities. Unreasonable limitations by a claimant as to salary, hours or conditions of work indicate that a claimant is not making a reasonable search for suitable work. The department expects each claimant to conduct himself or herself as would a prudent person who is out of work and seeking work.

(2) The department shall consider the following actions to constitute a reasonable search for suitable work under the facts and circumstances of each claimant's situation:

(a) Making applications for work with employers who may reasonably be expected to have openings for suitable work;

(b) Applying for work with former employers; however, a claimant may refuse to apply for work with an employer if the claimant previously terminated employment with the same employer with good cause attributable to the employer under s. 108.04 (7) (b), Stats.

(c) Making applications or taking examinations for suitable work in the civil service of a governmental unit;

(d) Registering with a union referral or hiring hall and complying with the various union registration requirements and job referral procedures;

(e) Registering with a placement facility of the claimant's professional organization;

(f) Registering with a placement facility of a school, college or university if one is available to the claimant in his or her occupation or profession;

(g) Responding to classified advertisements for suitable work;

(h) Registering with a private employment agency or an employer's placement facility; however, no claimant may be denied benefits solely on the ground that he or she has failed or refused to register with a private employment agency or any other placement facility which charges a fee for its services;

(i) Participating in employment workshops which offer instruction in improving the claimant's skills for finding and obtaining employment; or

(j) Performing any other reasonable action which the department finds to constitute an effective means of searching for suitable work.

(3) A claimant shall be ineligible for benefits in any week in which the department determines that the claimant's search for suitable work was not reasonable under the requirements of this section unless the search has been waived by the department.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; CR 06-072: am. (1) and (2) (b), r. and recr. (2) (intro.) Register December 2006 No. 612, eff. 1-1-07.

DWD 127.02 Waiver of work search requirements.

The department shall waive a claimant's search for suitable work requirement under s. DWD 127.01 for any week under any of the following circumstances:

(1) The claimant performs any work for his or her customary employer.

(2) The claimant is currently laid off from employment with an employer but there is a reasonable expectation of reemployment of the claimant by that employer. In determining whether the claimant has a reasonable expectation of reemployment by the employer, the department shall request the employer to verify the claimant's employment status and shall also consider other factors, including the following:

(a) The history of layoffs and reemployments by the employer.

(b) Any information that the employer furnished to the individual or the department concerning the claimant's anticipated reemployment date.

(c) Whether the claimant has recall rights with the employer under the terms of any applicable collective bargaining agreement.

(3) The claimant has a reasonable expectation of starting work with a new employer within 4 weeks of the week in which waiver is being considered. In determining whether a claimant has a reasonable expectation of starting work with a new employer, the department shall consider factors including, but not limited to, the following:

(a) The hiring practices of employers in the claimant's labor market area for workers who perform work which is similar to the work which the claimant is expected to perform for the new employer;

(b) Any information which the new employer furnished to the claimant or the department about the time within which the work is expected to commence; and

(c) Whether the work is suitable work for the claimant.

(4) The claimant has been laid off from work and routinely obtains work through a union referral or hiring hall process. Waiver under this subsection may be permitted only if:

(a) The union referral or hiring hall process is the primary method by which workers obtain work in the claimant's customary occupation;

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(b) The union maintains a record of unemployed members and the referral activities of these members and allows the department to inspect such records;

(c) The union provides, upon the request of a department deputy, any information regarding a claimant's registration or a job opening or referral;

(d) Prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant;

(e) The claimant is registered for work with his or her union and satisfies the requirements of the union relating to job referral procedures and maintenance of membership in good standing; and

(f) The union enters into a written agreement with the public employment office regarding the requirements of this subsection.

(5) During any calendar week in which any of the following days fall:

- (a) January 1;
- (b) The fourth Thursday in November; and
- (c) December 25.

(6) The claimant is summoned to serve as a prospective or impaneled juror.

(7) The claimant is enrolled in and satisfactorily participating in a course of approved training under s. 108.04 (16), Stats.

(8) The claimant has not made a search for suitable work because of an error made by personnel of the department.

(9) The claimant was not aware of the work search requirement and the claimant's most recent employer failed to post and maintain the notice on claiming unemployment benefits that was supplied to the employer under s. DWD 120.01.

(10) The claimant reasonably expected to perform work during the week but did not receive timely notice from the employer that work would not be available so as to allow the claimant sufficient time to comply with the search for suitable work requirement in that week.

(11) The claimant has been determined, pursuant to a profiling system established by the department, to be likely to exhaust regular unemployment insurance benefits and to need reemployment services in order to make a successful transition to new employment, and

(a) The claimant has been referred for and is participating in reemployment services by complying with department directions regarding such services;

(b) The claimant has been referred for reemployment services and is enrolled and satisfactorily participating in educational and training programs which were recommended based on a reemployment services assessment; or

(d) The claimant has been referred for reemployment services and is not participating in such services, but has justifiable cause for his or her failure to participate. Justifiable cause includes, but is not limited to, the following:

1. The claimant is summoned to serve as a prospective or paneled juror;
2. The claimant is enrolled and satisfactorily participating in a course of training approved by the department;
3. The claimant is unable to participate because the claimant is employed;
4. The claimant is unable to participate because of a job interview; or
5. The claimant is unable to participate due to circumstances which the department determines are beyond the claimant's control.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; CR 06-072: (6) to (11) renum. from DWD 127.03 (1) to (6) and am. (9), am. (intro.) and (3) (intro.), r. and recr. (2), Register December 2006 No. 612, eff. 1-1-07.

DWD 127.03 Mandatory waiver of work search requirements. History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1993, No. 451; cr. (6), Register, October, 1994, No. 466, eff. 11-1-94; am. (6) (intro.), r. (6) (a) and renum. (6) (b) and (c) to be (6) (a) and (b), Register, September, 2000, No. 537, eff. 10-1-00; CR 06-072: renum. to be DWD 127.02 (6) to (11) Register December 2006 No. 612, eff. 1-1-07.

DWD 127.035 Limited waiver of work search requirements. History: Cr. Register, September, 2000, No. 537, eff. 10-1-00; CR 06-072: r. Register December 2006 No. 612, eff. 1-1-07.

DWD 127.04 Claimants to present evidence of work search efforts. (1) The department may require a claimant to present evidence of his or her work search efforts to the department for any time period up to and including the 8-week period prior to the date that the department makes the request. The department may also notify the claimant that evidence will be required for a future week. The department may verify the evidence submitted. Evidence which a claimant customarily would be expected to submit includes the following:

(a) In the case of employer contacts: the date on which the claimant made an employer contact; the name and address of the employer and the name of the employer representative contacted; the type of work applied for; and the results of the contact;

(b) In the case of civil service examinations: the date on which the claimant took an examination and the type of work applied for;

(c) In the case of registration with a union referral or hiring hall, professional organization or educational placement facility or private employment agency: the date on which the claimant registered and the type of work for which the claimant is registered; and

(d) Evidence of any other action which the claimant took during a given week to seek work including, but not limited to, any responses to advertisements for suitable work and submission of personal resumes to prospective employers.

(2) The department may disqualify a claimant for benefits in any week for which the evidence of work search efforts is insufficient to establish that the claimant made a reasonable search for suitable work.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; CR 06-072: am. (1) (intro.) Register December 2006 No. 612, eff. 1-1-07.

DWD 127.05 Certification as to work search. The department may require any claimant to certify that a work search was made each week as part of the claim filing procedure under ch. DWD 129.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; CR 06-072: r. (2) and (3) Register December 2006 No. 612, eff. 1-1-07.

DWD 127.06 Added efforts to secure work. (1) The department may require any claimant whose employment history or conduct indicates that he or she may not be genuinely interested in accepting new work to make a minimum number of weekly in-person applications for work with employers and may also require the claimant to comply with any of the provisions under s. DWD 127.01 (2). The department shall provide each claimant with instructions as to how to comply with the requirements under this section. A claimant shall be ineligible for benefits for any week in which the claimant has failed, without good cause, to comply with any requirements imposed by the department under this subsection.

(2) After a claimant has been unemployed for 4 or more consecutive weeks, the department may require the claimant to develop a work search plan for approval by the department. A claimant shall be ineligible for benefits in any week in which the department determines that the claimant failed, without good cause, either to develop or comply with the work search plan.

(3) A claimant who is claiming extended benefits under s. 108.141, Stats., shall, in addition to complying with the requirements for extended benefits, comply with any requirements imposed by the department under subs. (1) and (2). A claimant who fails to comply with the requirements under this subsection

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shall be ineligible for benefits until the claimant has again worked within at least 4 subsequent weeks and earned wages equal to at least 4 times his or her extended weekly benefit rate.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; emerg. r. (3) eff. 3-6-93; r. (3), Register, July, 1993, No. 451, eff. 8-1-93; cr. (3), Register, October, 1994, No. 466, eff. 11-1-94.

DWD 127.07 Employment workshops. (1) The department may require a claimant to participate in a public employment office workshop which offers instruction in improving the claimant's skills for finding and obtaining employment. The claimant shall be ineligible for benefits for any week for which the department determines that the claimant failed, without good cause, to participate in such a workshop.

(2) A claimant may not be disqualified from benefits under this section if:

(a) The claimant is required to pay a participation fee of any kind for the workshop; or

(b) The workshop is more than 5 days in duration.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84.

DWD 127.08 Further disqualifications; retroactivity.

(1) A claimant shall be ineligible for benefits in any week for which the claimant knowingly makes a false statement or conceals or misrepresents any information pertaining to his or her work search efforts.

(2) The department may not disqualify a claimant under ss. DWD 127.01 and 127.04 for any week for which a benefit check has been mailed prior to the date of an initial determination resolving an eligibility issue under the aforementioned sections. The department may disqualify a claimant under ss. DWD 127.05, 127.06 and 127.07 and sub. (1) whether or not a benefit check has been mailed for a given week.

History: Cr. Register, July, 1984, No. 343, eff. 8-1-84; corrections in (2) made under s. 13.93 (2m) (b) 7., Stats., Register December 2006 No. 612.

DWD 127.09 Self-employment; bona fide search for work. History:

Cr. (3), (1) and (2) renum. from ILHR 131.01 and 131.02 and am., Register, July, 1993, No. 451, eff. 8-1-93; CR 06-072: r. Register December 2006 No. 612, eff. 1-1-07.