

To: Unemployment Insurance Advisory Council
From: Andy Rubsam
Cc: Janell Knutson
Date: November 19, 2015
Re: Agreed Bill – definition of “conceal”

The Unemployment Insurance Advisory Council voted to approve the Department’s proposal to change the definition of “conceal” in Wis. Stat. § 108.04(11)(g), as read into the record at the October 29, 2015 UIAC meeting. The Legislative Reference Bureau prepared a draft of the Council’s agreed bill that includes the concealment proposal. The concealment language appears on page 9 of the LRB’s version of the agreed bill.

The LRB has modified the language of the concealment language as follows:

1. Lines 8-9: added “as described in subd. 1.:”.
2. Line 10: changed “The claimant’s failure” to “Whether the claimant failed”.
3. Line 12: changed “The claimant’s reliance” to “Whether the claimant relied”.
4. Line 15: changed “The claimant’s limitation or disability, if the claimant provides evidence to the department of that limitation or disability” to “Whether the claimant has a limitation or disability and, if so, whether the claimant provided evidence to the department of that limitation or disability”.
5. Line 18: changed “The letters of instruction” to “Any instructions”.
6. Line 21: changed “Nothing in this section requires the department” to “Nothing in this subsection requires the department, when making a finding of concealment,”

The Department considers these changes to be technical, not substantive.

1 108.04 (11) (g) 1. ~~For purposes of~~ In this subsection, “conceal” means to
2 intentionally mislead ~~or defraud~~ the department by withholding or hiding
3 information or making a false statement or misrepresentation.

4 **SECTION 11.** 108.04 (11) (g) 2. and 3. of the statutes are created to read:

5 108.04 (11) (g) 2. A claimant has a duty of care to provide an accurate and
6 complete response to each inquiry made by the department in connection with his
7 or her receipt of benefits. The department shall consider the following factors in
8 determining whether a claimant intended to mislead the department as described
9 in subd. 1.:

10 a. Whether the claimant failed to read or follow instructions or other
11 communications of the department related to a claim for benefits.

12 b. Whether the claimant relied on the statements or representations of persons
13 other than an employee of the department who is authorized to provide advice
14 regarding the claimant’s claim for benefits.

15 c. Whether the claimant has a limitation or disability and, if so, whether the
16 claimant provided evidence to the department of that limitation or disability.

17 d. The claimant’s unemployment insurance claims filing experience.

18 e. Any instructions or previous determinations of concealment issued or
19 provided to the claimant.

20 f. Any other factor that may provide evidence of the claimant’s intent.

21 3. Nothing in this subsection requires the department, when making a finding
22 of concealment, to determine or prove that a claimant had an intent or design to
23 receive benefits to which the claimant knows he or she was not entitled.

24 **SECTION 12.** 108.04 (12) (f) 1. of the statutes is renumbered 108.04 (12) (f) 3.

25 a. and amended to read: