

D17-04

Ineligibility for Concealment of Holiday, Vacation, Termination, or Sick Pay

Date: January 19, 2017

Proposed by: DWD

Prepared by: Andy Rubsam

ANALYSIS OF PROPOSED UI LAW CHANGE

Ineligibility for Concealment of Holiday, Vacation, Termination, or Sick Pay

1. Description of Proposed Change

A claimant who conceals wages or a material fact, such as vacation or holiday pay, must repay the overpaid benefits, is assessed a penalty in the amount of 40% of the overpayment and is ineligible for future benefits in the amount of two, four or eight times the claimant's weekly benefit rate times the number of acts of concealment.¹ Vacation, holiday, sick and termination pay are treated as wages for the purposes of calculating a claimant's partial benefit.²

Current law provides that a claimant who conceals work on an unemployment benefit claim is totally ineligible for benefits for that week and the partial benefit formula does not apply.³ But concealment of vacation, holiday, sick and termination pay will not necessarily result in total ineligibility for the week that the vacation or holiday pay was concealed because the partial benefit formula may apply.

The Department proposes an amendment to the statute to provide that concealment of holiday pay, vacation pay, sick pay, or termination/dismissal pay on a weekly benefit claim results in total ineligibility for the week for which the claimant concealed the pay.

¹ Wis. Stat. § 108.04(11)(be).

² Wis. Stat. §§ 108.05(4)-(5m).

³ Wis. Stat. § 108.05(3)(d).

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2. Proposed Statutory Change

Section 108.05 (3) (d) of the statutes is amended to read:

A claimant is ineligible to receive benefits for any week in which the claimant conceals holiday pay, vacation pay, termination pay, or sick pay, as provided in s. 108.04 (11) (a), or wages or hours worked as provided in s. 108.04 (11) (b).

3. Effects of Proposed Change

- a. Policy. The proposed change will result in consistent treatment of claimants who conceal information on unemployment benefit claims. A claimant who conceals holiday, vacation, termination, or sick pay will be ineligible for benefits in the week they conceal the pay like claimants who conceal wages. Concealment of all types of pay will be treated the same.
- b. Administrative. This proposal should result in minimal training for benefits staff. This proposal will reduce staff time spent calculating partial benefits for weeks in which different types of pay are concealed.
- c. Fiscal. A fiscal estimate is attached.

4. State and Federal Issues

There are no known federal conformity issues with this proposal. 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.

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FISCAL ANALYSIS OF PROPOSED LAW CHANGE

UI Trust Fund Impact:

This law change proposal would save the UI Trust Fund approximately \$7,200 annually in additional benefit overpayment collections.

IT and Administrative Impact:

This law change proposal will require approximately 20 hours of IT changes at a one-time cost of \$1,740. The administrative cost is estimated at approximately 30% the IT cost or \$522. The total one-time cost is estimated at \$2,262.

Summary of the Proposal:

Current law provides that a claimant who conceals work on an unemployment benefit claim is totally ineligible for benefits for that week and the partial benefit formula does not apply. But concealment of vacation, holiday, dismissal, or sick pay will not necessarily result in total ineligibility for the week that the non-work pay was concealed because the partial benefit formula determines the amount of benefits. A claimant may still be eligible for a partial payment after accounting for the concealed non-work pay (the claimant may still be ineligible if they receive \$500 or 32 hours or more of vacation pay, holiday pay, dismissal pay, or sick pay). This law change proposes that concealment of vacation, holiday, dismissal or sick pay on a weekly benefit claim results in total ineligibility for the week for which the claimant concealed this pay.

Trust Fund Methodology:

This intent of this law change proposal is to treat the concealment of vacation, holiday, dismissal, sick pay and the concealment of work and wages consistently. Based on a review of 2015 adjudication data, total ineligibility for a week in which a claimant conceals vacation pay, holiday pay, dismissal pay and/or sick pay would result in approximately \$9,000 additional benefits overpaid. At an 80% collections rate, this law change proposal could save the UI Trust Fund approximately \$7,200 in additional benefit overpayment collections.

Increased overpayment amounts would also result in higher overpayment penalties, which is currently 40% of the overpayment amount. The penalties collected would flow to the UI Program Integrity Fund.

IT and Administrative Impact Methodology:

The IT hours and cost assumes simple adjudication resolution code changes and no changes for tax or reporting. The administrative cost is 30% of the IT cost based on prior project estimates.