Ms. Knutson:

The Department's requirements for registration and attending job search training seminars are unnecessary, not legally required, and proving a major obstacle for many in receiving unemployment benefits.

As the clinic has already reported to you, around a third of the clients at the Madison unemployment clinic are reporting losing benefits because of these requirements -- requirements they do not know about and do not understand. They assume that these requirements are the same as work searches and so have been waived because work searches have been waived. Simply telling people to register at the job center on a 2 pp. warning does nothing to explain what these additional requirements entail or how they can be satisfied.

[Indeed, unlike numerous other states, Wisconsin has NOT provided any actual guidance for the specific questions and issues being asked of claimants during the claim-filing process for either regular unemployment or PUA benefits.]

Besides the attached letter from Legal Action of Wisconsin dated 23 April 2020, you should know that there is NO federal requirement whatsoever for maintaining able and available standards in amber forever.

The current job registration requirement, for instance, was instituted on 13 October 2013. See "Registration with Job Center of Wisconsin mandatory on Oct. 13th" (13 Sept. 2013) (available at https://wiscinui.wordpress.com/2013/09/13/registration-with-job-center-of-wisconsin-mandatory-on-oct-13th/).

The Department's own FAQ explaining this requirement (a PDF of that FAQ attached) states:

What are the legal requirements or foundation for this change?

Federal law requires work registration as an eligibility requirement for UI. State Law defines how we determine if a claimant has fully registered. Applicable laws include:

- 42 USC 503(a)(12): The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax
Act [26 U.S.C. 3301 et seq.], includes provision for — (12) A
requirement that, as a condition of eligibility for regular
compensation for any week, a claimant must be able to work, available to
work, and actively seeking work.

• §108.04(2)(b): The requirements for registration for work and search
for work shall be prescribed by rule of the department, and the
department may by general rule waive these requirements under certain
stated conditions.

• DWD 128.01(2)(a): Unless evidence is obtained that in the relevant
week the claimant was not able to work or available for work, a claimant
is presumed able to work and available for work for any week that all of
the following conditions are met:

1. The claimant has registered for work and has complied with ss. DWD
126.02 and 126.04, or registration is waived under s. DWD 126.03 or
excused under s. DWD 126.05.

• DWD 126 Work Registration

So, the only federal requirement at issue is that states follow their
own able and available requirements. There is no prohibition in federal
law to prevent states from changing their able and available
requirements. Indeed, countless states have done so during this pandemic
in order to streamline their claims-processing and remove issues that
would only make processing of claims more cumbersome.

Per Wis. Stat. § 108.04(2)(bd), the Department can modify or establish
additional waivers to the job center registration requirement. As
numerous other states that have this requirement have done (Michigan,
for instance), states have waived this requirement because it makes no
sense during this pandemic. See the discussion of Michigan, including
its executive order waiving numerous able and available and job search
requirements at "Another reason why Wisconsin UI is faring so poorly:
terrible job growth in 2019" (21 May 2020) (available at
https://wisconsinui.wordpress.com/2020/05/21/another-reason-why-wisconsin-ui-is-faring-so-
poorly-terrible-job-growth-in-2019/).

Indeed, North Carolina has waived its able and available
disqualification for its SSDI recipients in order to get them PUA benefits.

There is nothing preventing Wisconsin from making similar policy choices
in favor of its workers, other than a lack of will to do so.

Sincerely,
Victor Forberger

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Attachments:

Final Work Registration DWD Memo sent 4.23.20 by LAW.pdf 256 KB
jobregistrationfaq.pdf 76.0 KB