D21-24
Amend Social Security Disability Insurance Disqualification

Date: April 15, 2021
Proposed by: DWD
Prepared by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Amend Social Security Disability Insurance Disqualification

1. Description of Proposed Change

Currently, recipients of federal Social Security Disability Insurance (“SSDI”) payments are ineligible for unemployment insurance benefits. Recipients of pension payments are eligible for unemployment insurance benefits, but the unemployment benefit is reduced by the pension payment.

The Governor’s Budget Bill (AB 68 / SB 111) proposes to amend the prohibition on receipt of UI for SSDI recipients by reducing the amount of weekly UI benefits by the proportionate amount of the claimant’s SSDI payment.

Under this proposal, a claimant who receives $1,000 monthly in SSDI and would otherwise be eligible for $300 weekly in UI would receive a weekly UI payment of $69.¹

2. Proposed Statutory Changes²

Section 108.04 (2) (h) of the statutes is amended to read:

A claimant shall, when the claimant first files a claim for benefits under this chapter and during each subsequent week the claimant files for benefits under this chapter, inform the department whether he or she is receiving social security disability insurance payments, as defined in sub. (12) (f) 2m s. 108.05 (7m) (b). If the claimant is receiving social security disability insurance payments, the claimant shall, in the manner prescribed by the department, report to the department the amount of the social security disability insurance payments.

¹ This calculation is preliminary and subject to revision.
² Subject to revision to ensure cross-references are corrected.
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Section 108.04 (12) (f) 1m. and 2m. of the statutes are renumbered 108.05 (7m) (a) and (b) and amended to read:

(a) The intent of the legislature in enacting this paragraph subsection is to prevent the payment of duplicative government benefits for the replacement of lost earnings or income, regardless of an individual's ability to work.

(b) In this paragraph subsection, “social security disability insurance payment" means a payment of social security disability insurance benefits under 42 USC ch. 7 subch. II.

Section 108.04 (12) (f) 3. of the statutes is repealed.

Section 1754. 108.04 (12) (f) 4. of the statutes is renumbered 108.05 (7m) (e).

Section 108.05 (7m) (title), (c) and (d) of the statutes are created to read:

SOCIAL SECURITY DISABILITY INSURANCE PAYMENTS. (c) If a monthly social security disability insurance payment is issued to a claimant, the department shall reduce benefits otherwise payable to the claimant for a given week in accordance with par. (d). This subsection does not apply to a lump sum social security disability insurance payment in the nature of a retroactive payment or back pay.

(d) The department shall allocate a monthly social security disability insurance payment by allocating to each week the fraction of the payment attributable to that week.

3. Effects of Proposed Change

a. Policy: Under this proposed change, recipients of SSDI may receive UI benefits.

b. Administrative: This proposal will require training of Department staff.

c. Fiscal: A fiscal estimate is not yet available.
4. State and Federal Issues

There are no known federal conformity issues with this proposal. All changes to the unemployment insurance law should be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective for weeks of unemployment after the proposal is enacted.
FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:
The proposal repeals the prohibition that allows an otherwise eligible claimant to receive both federal social security disability benefits (SSDI) and Unemployment Insurance (UI) benefits for the same period, and instead requires DWD to reduce a claimant's UI benefit payments by the amount of SSDI payments. Under the proposal, DWD will reduce the amount of weekly UI benefits by the proportionate amount of the claimant's SSDI payment.

UI Trust Fund Impact:
There is not expected to be any measurable impact to the UI Trust Fund.

IT and Administrative Impact:
This proposal would have an estimated one-time IT impact of $27,946 and a one-time administrative impact of $8,384. There are no ongoing administrative impacts to the UI program.

Trust Fund Methodology:
SSDI recipients in general have strict limits on the amount of income they may earn and continue to receive SSDI. This maximum amount ranges from $1,260 per month for disabled individuals to $2,110 per month for blind individuals. Assuming the individuals meet the other qualifying requirements, this would lead to a weekly benefit rate of either $151 or $253 per week. The average SSDI payment in Wisconsin was $1,443 per month in 2020. Treating SSDI payments as employer contributed pension payments, each weekly benefit payment would be reduced on average by $166 per week. For most SSDI claimants, this likely would completely offset any UI benefit available. While certain individuals would be eligible for UI, most SSDI recipients would not qualify for any UI payments. There is not expected to be a measurable impact on UI benefits or the UI Trust Fund.