

EmR1406

Filed with LRB: March 26, 2014
Publication Date: March 27, 2014
Effective Dates: March 27, 2014 to August 23, 2014
Extension Through: December 21, 2014

The statement of scope for this emergency rule was approved by the Governor on February 13, 2014, published in Register No. 698 on February 28, 2014, and approved by the Secretary of the Department of Workforce Development on March 11, 2014.

The emergency rule was approved by the governor on March 21, 2014.

**ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
EMERGENCY RULE**

The Wisconsin department of workforce development hereby adopts the following emergency rule *to create DWD 295.25 relating to* apprenticeship completion awards.

**Analysis Prepared by the Department of
Workforce Development**

Statutes Interpreted

Statutes Interpreted: Ch. 106, Stats.

Statutory Authority

Statutory Authority: s. 106.05, Stats.

Explanation of Statutory Authority

The Department of Workforce Development (DWD) has responsibilities imposed by 2013 Wisconsin Act 57 (Act 57) for implementing the state's apprenticeship completion reimbursement program. DWD has specific authority to establish rules interpreting and clarifying provisions under ch. 106, Stats., relating to apprentice, employment and equal rights programs. Act 57 created s. 106.05, Stats., which provides that DWD administer an apprenticeship completion award program to partially reimburse the tuition costs paid by apprentices who have successfully completed part or all of the apprenticeship requirements, or the sponsors of those apprentices, and promulgate rules to implement the program.

Related Statutes or Rules

Chapter 106, Stats., governs the state's apprenticeship program. DWD rules for the apprenticeship completion award program will be incorporated into ch. DWD 295, which governs the fundamental procedures of the federal and state apprenticeship programs.

Plain Language Analysis

This emergency rule will administer an apprenticeship completion award program to partially reimburse the tuition costs paid by apprentices who have successfully completed part or all of their apprenticeship requirements, and are employed in the trade, craft or business in which the person was trained or by the sponsors of those apprentices.

This emergency rule will do all of the following:

- Establish requirements that allow DWD to distribute tuition reimbursement completion awards to an apprentice and the sponsor of the apprentice, up to 25% of the tuition costs, but no more than \$1000.
- Allow DWD to distribute awards in two parts – the first payment may be made upon the successful completion of the first year of the apprentice's contract, but the payment may not exceed \$250. The remainder of the award may be distributed upon the final completion of all requirements under the apprentice's contract.
- Determine the reimbursement award percentage, or, in the alternative, deny applications for reimbursement that would otherwise qualify, if the amount of total reimbursement requests applied for exceeds the amount appropriated, based on the dates on which apprentices and sponsors of the apprentice become eligible for the apprenticeship completion awards.
- Identify requirements that an apprentice, or sponsor of the apprentice, seeking reimbursement under this program must meet when the apprentice is delinquent in child support or maintenance payments, or owes past support, medical expenses or birth expenses.

Summary of, and comparison with, existing or proposed federal statutes and regulations

The Code of Federal Regulation Chapter 29, Part 29, governs the U.S. Department of Labor Standards for the Registration of Apprentice Programs. There are no federal statutes or regulations equivalent to this apprenticeship completion award program.

Comparison with rules in adjacent states

Minnesota has implemented laws relating to voluntary apprentice program administration, but does not have any comparable rules or programs similar to the apprenticeship completion award program.

Illinois, Indiana, Iowa and Michigan do not have their own state apprenticeship laws and rely on federal standards.

Summary of factual data and analytical methodologies

This emergency rule does not depend on any complex analysis of data. Act 57 authorized the department to create this rule. The department has adequate revenue to administer this program during the current biennium under the general purpose revenue provided for fiscal years 2013-14 and 2014-15.

Analysis and supporting document used to determine effect on small business or in preparation of an economic impact analysis

This emergency rule does not impose any new regulatory burdens on any business. The purpose of this emergency rule is to reimburse eligible tuition costs to an apprentice, or sponsor of the apprentice, upon successful completion of the first year under the apprentice's contract or upon the full completion of the apprentice's contract.

Effect on small business

This emergency rule does not place any requirements on small businesses but it may have a positive impact on small businesses that employ apprentices and incur tuition costs. Small businesses that incur tuition costs may be eligible for reimbursement of up to \$1,000 per apprentice.

Agency contact person

Questions and comments related to this rule may be directed to:

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Division of Employment and Training
P.O. Box 7972
Madison, WI 53708-7972
Telephone: (608) 266-3133
E-Mail: Karen.morgan@dwd.wi.gov

Place where comments are to be submitted and deadline for submission

Karen Morgan
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Division of Employment and Training
P.O. Box 7972
Madison, WI 53708-7972

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E-Mail: Karen.morgan@dwd.wi.gov

Hearing dates have not yet been scheduled, but will be held in conjunction with the permanent rule. Hearing comments will be accepted until May 2, 2014.

Finding of Emergency

The department of workforce development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of facts constituting an emergency include:

- (1) Wisconsin currently has more than 2,100 employers participating in, and training individuals, under the apprenticeship program.
- (2) During 2013, Wisconsin had 9,723 valid apprenticeship contracts.
- (3) Over the past ten years, the completion rate of the apprenticeship program averaged between 55-60%.
- (4) 2013 Wisconsin Act 57 creates an apprenticeship completion award program to be administered by the department of workforce development to partially reimburse tuition costs incurred by an apprentice who has successfully completed part or all of the requirements of their apprenticeship contract, and is employed in the trade, occupation, or business under the apprenticeship contract, or the sponsor of the apprentice.
- (5) The department of workforce development has received general purpose revenue (GPR) funds of \$225,000 in fiscal year 2013-14 and 2014-15, to distribute up to 25%, or \$1,000,

whichever is less, of the tuition costs incurred by the apprentice and sponsor of the apprentice. The amount of the first payment upon successful completion by the apprentice of the first year of the contract may not exceed \$250.

(6) The department of workforce development is adopting this emergency rule to prevent a potential hardship to Wisconsin's apprenticeship program participants. Adoption of this emergency rule will ensure those participating in an eligible apprenticeship contract may begin receiving apprenticeship completion awards as soon as possible. Because a permanent rule cannot be adopted in time, GPR funds for fiscal year 2013-14 would be lost if the emergency rule is not adopted.

Emergency Rule

SECTION 1. DWD 295.25 is created to read:

DWD 295.25 Apprenticeship completion award program. (1) DEFINITIONS. In this section:

(a) "Sponsor" has the meaning given under s. 106.01 (8), Stats., as modified by s. 106.05 (1) (a), Stats.

(b) "Tuition costs" has the meaning given under s. 106.05 (1) (b), Stats. Examples of costs which are not "tuition costs" include student fees charged for use of a health center, parking fees, or late fees.

Note: Section 106.01 (8), Stats., defines "sponsor" as follows:

"Sponsor" means any employer, organization of employees, association of employers, committee, or other person operating an apprenticeship program and in whose name the apprenticeship program is approved by the department.

Note: Section 106.05 (1) (b), Stats., limits the definition of "sponsor" as follows:

"Sponsor" does not include a state agency or local governmental unit.

Note: Section 106.05(1)(b), Stats., defines "tuition costs" as follows:

"Tuition costs" means any fee that is charged for an apprentice to participate in related instruction under s. 106.01 (6), Stats.

Note: Section DWD 295.001 (20), defines "related instruction" as follows:

"Related instruction" means an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the department.

(2) ELIGIBILITY. The department shall provide an apprenticeship completion award under s. 106.05, Stats., to an apprentice or sponsor who has incurred tuition costs and meets all of the following requirements:

- (a) The apprentice has a valid apprenticeship contract under s. DWD 295.07.
- (b) The apprentice or sponsor has not been reimbursed for any tuition costs by any other entity.
- (c) The apprentice or sponsor completes and files an application under sub. (3), within 60 days of the date of the notice provided by the department that the apprentice or sponsor is eligible for an apprenticeship completion award. If an application for a completion award is not received within 60 days of the date of the notice provided by the department, the department does not guarantee the payment of an apprenticeship completion award.
- (d) The apprentice has successfully completed the first year of the apprenticeship contract or has fully completed the apprenticeship contract and the apprentice is employed in the trade, occupation, or business in which the apprentice is being trained.

(e) If the applicant is delinquent in child support or maintenance payments, or owes past support medical expenses or birth expenses, then the applicant must meet the requirements under s. 106.05 (3) (b), Stats.

(3) APPLICATION FOR APPRENTICESHIP COMPLETION AWARD. The application for an apprenticeship completion award shall contain all of the following:

(a) The name and address of the apprentice and sponsor, and identification of who is applying for reimbursement.

(b) A copy of all invoices and documents containing tuition costs eligible for apprenticeship completion awards. This information shall include all of the following:

1. The name and address of the entity to whom the tuition costs were paid.
2. The amount and description of all tuition costs.
3. The dates on which tuition costs were paid.
4. Cancelled checks or other information documenting that the apprentice or sponsor has paid all costs under subd. 2.
5. Any other relevant information requested by the department.

(c) A statement from the sponsor that states either of the following:

1. The apprentice has successfully completed the first year under the apprenticeship contract.
2. The apprentice has successfully completed the full apprenticeship contract.

Note: The application for apprenticeship completion awards can be found online at <http://www.wisconsinapprentice.org>.

(4) COMPLETION AWARD RATES AND RECALCULATIONS. (a) The department shall reimburse all eligible tuition costs under this section in an amount not to exceed 25%, or \$1,000, whichever is less, upon successful completion of an apprenticeship contract.

(b) The department shall reimburse an apprentice or sponsor up to \$250 of the total amount identified under par. (a), after the apprentice has successfully completed the first year under the apprenticeship contract.

(c) The department may calculate the amount of an apprenticeship completion award on a pro rata basis when both the apprentice and sponsor incur eligible tuition costs. The total amount of the apprenticeship completion award may not exceed the amounts identified under pars. (a) and (b).

(d) If the amount of funds to be distributed under this section exceed the amount available under s. 20.445 (1) (d), Stats., the department may do any of the following:

1. Recalculate the reimbursement rates of eligible tuition costs under pars. (a) and (b).
2. Deny applications for apprenticeship completion awards that would otherwise qualify under sub. (3), or reduce the reimbursement amount specified under pars. (a) and (b).
3. Distribute apprenticeship completion awards based on the dates on which the apprentices and sponsors of the apprentice become eligible for apprenticeship completion awards and determine the reimbursement percentage.

SECTION 2. EFFECTIVE DATE. This emergency rule takes effect upon publication and remains in effect for 150 days. The department may seek to extend this emergency rule as provided in s. 227.24, Stats.

Dated this _____ day of March, 2014.

WISCONSIN DEPARTMENT OF
WORKFORCE DEVELOPMENT

By: _____
Reginald J. Newson, Secretary

Wisconsin Department of Workforce Development

Initial Regulatory Flexibility Analysis

Rule Subject: **Apprenticeship Completion Award Program**
Adm. Code Reference: **DWD 295**
Rules Clearinghouse #: **Not Applicable**

Rule Summary

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- Identify requirements that an apprentice, or sponsor of the apprentice, seeking reimbursement under this program must meet when the apprentice is delinquent in child support or maintenance payments, or owes past support, medical expenses or birth expenses.

Small Business Affected

This emergency rule does not place any requirements on small businesses but it may have a positive impact on small businesses that employ apprentices and incur tuition costs. Small businesses that incur tuition costs may be eligible for reimbursement of up to \$1,000 per apprentice.

Reporting, Bookkeeping and other Procedures

This emergency rule does not regulate any small businesses and thus there are no reporting, bookkeeping, or other procedures in the amendments for small businesses.

Professional Skills Required

This emergency rule does not regulate any small businesses and thus there are no professional skills required for small businesses.

Accommodation for Small Business

This emergency rule does not impose any new regulatory burdens on any business. The purpose of this emergency rule is to reimburse eligible tuition costs to an apprentice, or sponsor of the apprentice, upon successful completion of the first year under the apprentice's contract or upon the full completion of the apprentice's contract.

Many of the businesses indirectly affected by this emergency rule are “small businesses.” The emergency rule does not make special exceptions for small businesses because the apprenticeship completion award program will positively impact businesses of all sizes.

Conclusion

This emergency rule will generally benefit businesses, including small businesses. There will be no negative effects on small businesses. This rule amendment will not have a significant adverse effect on small businesses and is not subject to the delayed “small business” effective date provided in s. 227.22 (2) (e), Stats.