

Legal Minute

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UNEMPLOYMENT INSURANCE

PRE-EMPLOYMENT DRUG TESTING

October 3, 2019 - The U.S. Department of Labor published a final rule allowing (but not requiring) states to drug test unemployment compensation (UC) applicants for whom suitable work is only available in an occupation where drug testing is regularly conducted.

For more information: <https://www.dol.gov/newsroom/releases/eta/eta20191003-0>

DID YOU KNOW WISCONSIN HAS A CURRENT PROGRAM?

Wisconsin employers may report the name of anyone who either fails or refuses to take a pre-employment drug test for the unlawful use of a controlled substance that is a condition of an offer of employment.

- If a claimant fails a pre-employment drug test for the unlawful use of a controlled substance (without a valid prescription) and has not established that they had good cause, the claimant will be offered the option to attend treatment and complete a skills assessment before UI benefits are denied. If the claimant agrees to undergo drug treatment and complete a skills assessment, and does so in the required timeframes, they may continue to collect UI benefits while they address the underlying barriers preventing them from being work-ready. UI will furnish the claimant with referrals and instructions so they can complete the assessment and access treatment directly. The claimant must also continue to meet all other program requirements.
- If the claimant does not agree to treatment, they cannot continue to collect UI benefits

For more information: https://dwd.wisconsin.gov/ui/pre_employment_drug_testing/

Link to the form to submit notification of failed or refused drug test:

https://dwd.wisconsin.gov/dwd/forms/ui/PDF/ucb_18102_e.pdf

- For a failed drug test submit the form within 3 business days of receiving the positive test results from a DHHS certified lab.
- For a refused drug test submit the form within 3 business days of the applicant refusal.

THIS INFORMATION IS NOT PROVIDED WITH THE INTENT TO ESTABLISH AN ATTORNEY-CLIENT RELATIONSHIP OR TO PROVIDE SPECIFIC LEGAL ADVICE TO YOU. DUE TO THE RAPIDLY CHANGING NATURE OF THE LAW, INFORMATION CONTAINED IN THESE MATERIALS MAY BE OUTDATED. TO OBTAIN ACCURATE AND RELIABLE LEGAL ADVICE REGARDING YOUR SITUATION, CONTACT AN ATTORNEY.