

**D21-03**  
**Reimbursable Employer Debt Assessment Charging**

Date: March 18, 2021  
Proposed by: DWD  
Prepared by: Bureau of Legal Affairs

**ANALYSIS OF PROPOSED UI LAW CHANGE**  
**Reimbursable Employer Debt Assessment Charging**

**1. Description of Proposed Change**

When employers subject to reimbursement unemployment insurance financing (“self-insured”) are charged for benefits that are based on identity theft, the Department restores those charges to the employers’ accounts from the balancing account.<sup>1</sup> The 2015 – 2016 UIAC agreed bill (2015 Wis. Act 334) required that the Department set aside \$2 million in the balancing account, plus interest, to pay identity theft charges to reimbursable employers’ accounts. Through February 2021, about \$289,000 of identity theft charges have been restored from these funds and about \$208,000 of interest has accrued on the funds, leaving a balance of about \$1.918 million.

When non-profit reimbursable employers fail to pay for the benefits charged, the Department may apply payments from those employers’ assurances.<sup>2</sup> Government units and Indian tribes are not required to submit an assurance to qualify for reimbursable financing. Currently, a non-profit reimbursable employer’s assurance must be a surety bond, letter of credit, certificate of deposit, or another nonnegotiable instrument of fixed value.<sup>3</sup>

If a non-profit reimbursable employer closes but its assurance is insufficient to cover all benefit charges to that employer, the Department may attempt to collect the remaining charges. If a non-profit reimbursable employer’s benefit charges are uncollectible, the Department assesses

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<sup>1</sup> Wis. Stat. § 108.155.

<sup>2</sup> Wis. Stat. § 108.151(4).

<sup>3</sup> Wis. Stat. § 108.151(4)(a).

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other non-profit reimbursable employers for the uncollectible amounts.<sup>4</sup> This is known as the reimbursable employer debt assessment or “REDA.”

The REDA to recover uncollectible reimbursements must be at least \$5,000 but no more than \$200,000 and each non-profit employer assessed pays the assessment based on the employer’s payroll. Employers for whom the assessment would be less than \$10 are not assessed, which usually results in about half of non-profit reimbursable employers not being assessed the REDA. The REDA process has administrative costs for the Department and employers, such as the issuance of small bills to employers, answering employers’ questions about the assessment, and collecting the assessment.

The Department proposes that a limited amount of the reimbursable employer identity theft fraud funds set aside in the balancing account be made available to recover uncollectible reimbursements instead of assessing the REDA (or to reduce the amount of the REDA). This would greatly reduce administrative costs to the Department and non-profit reimbursable employers and relieve those employers of having to pay the REDA. The Department proposes that the identity theft fraud funds be used to pay the REDA only if the use of those funds would not reduce the balance of the funds below \$1.75 million. This would ensure that the bulk of the identity theft fraud funds are available for restoring identity theft charges.

The Department also proposes to increase the minimum amount of the REDA from \$10 to \$20, which would reduce the administrative costs of assessing the REDA.

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<sup>4</sup> Wis. Stat. § 108.151(7).

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**2. Proposed Statutory Changes**

**Section 108.151 (7) (c) of the statutes is amended to read:**

The fund's treasurer shall determine the total amount due from employers electing reimbursement financing under this section that is uncollectible as of June 30 of each year, but not including any amount that the department determined to be uncollectible ~~prior to~~ before January 1, 2004. No amount may be treated as uncollectible under this paragraph unless the department has exhausted all reasonable remedies for collection of the amount, including liquidation of the assurance required under sub. (4). The department shall charge the total amounts so determined to the uncollectible reimbursable benefits account under s. 108.16 (6w). Whenever, as of June 30 of any year, ~~this~~ that account has a negative balance of \$5,000 or more, the treasurer shall, except as provided in par. (i), determine the rate of an assessment to be levied under par. (b) for that year, which shall then become payable by all employers that have elected reimbursement financing under this section as of that date.

**Section 108.151 (7) (f) of the statutes is amended to read:**

If any employer would otherwise be assessed an amount less than ~~\$10~~ \$20 for a calendar year, the department shall, in lieu of requiring that employer to pay an assessment for that calendar year, apply the amount that the employer would have been required to pay to the other employers on a pro rata basis.

**Section 108.151 (7) (i) of the statutes is created to read:**

In lieu of or in addition to assessing employers as provided in par. (c), the fund's treasurer may apply amounts set aside in the fund's balancing account under s. 108.155 (2) (a) to amounts determined to be uncollectible under par. (c) by transferring those amounts to the account under s. 108.16 (6w). The fund's treasurer may not act under this paragraph whenever the balance

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remaining of the amount set aside under s. 108.155 (2) (a) is less than \$1,750,000 and may not act to reduce the amount set aside below that amount.

**Section 108.155 (2) (a) of the statutes is amended to read:**

On October 2, 2016, the fund’s treasurer shall set aside \$2,000,000 in the balancing account for accounting purposes. On an ongoing basis, the fund’s treasurer shall tally the amounts allocated to reimbursable employers’ accounts under s. 108.04 (13) (d) 4. c. and all amounts transferred to the account under s. 106.16 (6w) as provided in s. 108.151 (7) (i) and shall deduct those amounts from the amount set aside plus any interest calculated thereon.

**Section 108.16 (6m) (j) of the statutes is created to read:**

Any amount transferred to the account under sub. (6w) as provided in s. 108.151 (7) (i).

**Section 108.16 (6w) of the statutes is amended to read:**

The department shall maintain within the fund an uncollectible reimbursable benefits account to which the department shall credit all amounts received from employers under s. 108.151 (7) and all amounts transferred from the fund's balancing account as provided in s. 108.151 (7) (i).

**3. Effects of Proposed Change**

- a. **Policy:** The proposal will reduce administrative burdens and increase the efficiency of recovering uncollectible reimbursements.
- b. **Administrative:** This proposal will require training of Department staff.
- c. **Fiscal:** A fiscal estimate is attached.

**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.

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**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**

Prepared by: Technical Services Section

**Trust Fund Impact:**

This law change proposal could have a negative Trust Fund impact of up to \$330,000 in a given year. This impact could be greater, significantly less, or none depending on the year.

**IT and Administrative Impact:**

This law change proposal has no IT impact. One-time administrative impact is negligible.

This law change proposal will result in minimal ongoing administrative savings depending on the year. However, most of this savings comes from staff hours that would now be spent doing other higher-value added work.

**Summary of Law Change Proposal:**

This law change proposes that a limited amount of the reimbursable employer identity theft fraud (REITF) funds set aside in the balancing account be made available to recover uncollectible reimbursements instead of assessing the Reimbursable Employer Debt Assessment (REDA), or to reduce the amount of the REDA. The REITF funds will be used to pay REDA only if the use of those funds would not reduce the balance of the funds below \$1,750,000. This proposal also increases the minimum amount of the REDA from \$10 to \$20.

**Trust Fund Methodology:**

This law change proposal could have a negative Trust Fund impact of up to \$330,000 based the current amount of REITF funds available (\$2 million plus \$104,000 in interest). This impact would be due to writing off reimbursable debt in lieu of billing and is at the fund's treasurer's discretion. This Trust Fund impact could become greater if the amount of REITF funds increases; or, the impact could be significantly less, or none, if less REDA or no REDA is written off in a given year.

**IT and Administrative Impact Methodology:**

This law change proposal has no IT impact and negligible one-time administrative costs for staff training purposes.

The ongoing administrative savings is estimated as \$3,169. This impact could be significantly less or none depending on the year. This is based on printing and mailing cost savings of approximately \$700 when REDA is not assessed. It is also based on administrative staff time savings of approximately 40 hours or about \$2,469 when REDA is not assessed. However, these hours would now be spent doing other higher-value added work. If REDA is assessed, increasing the minimum amount of REDA from \$10 to \$20 reduces the ongoing administrative burden by eliminating several accounts requiring the assessment.