

PROCEDURE FOR PROCESSING WAGE CLAIMS

Once a wage claim has been filed, it is necessary to gather the facts from both parties. This process is done by gathering documentary evidence and written responses from the parties. The Labor Standards Section has approximately 800-1000 claims active at any one time and it is not possible to call people once the case has been filed. Verbal

communication is discouraged, as it is necessary to receive all information in writing for the file to be complete if court action becomes necessary. Even after a telephone call, you will be asked to write out and send whatever information you have stated on the telephone. It will save all parties time if you mail written questions and information to the office.

Description of the process.

Once the employee submits a complaint form to the Labor Standards Section:

- ◆ An investigator reviews the form to ensure the complaint is properly filed with the agency. If not or if more information is needed, the complainant will receive a letter dismissing the complaint or requesting more information. Failure to provide the requested information could lead to dismissal of the complaint.
- ◆ Once the complaint is properly filed, the investigator sends a notice and complete copy of the complaint to the business/employer informing it what has been claimed and giving it an opportunity to respond to the claim, by either:
 - Sending a check for the claimed wages if the employer agrees with the claim; or
 - Providing documentation and records that disprove the claim.
- ◆ If a check is received, the investigator sends the claimant the check and the case is closed with no penalties assessed.
- ◆ If the employer disputes the claim, the investigator provides a copy of the materials to the claimant and allows an opportunity to respond.
- ◆ After gathering all materials and ensuring proper opportunity for comment, the investigator makes a written determination of the wages owed, if any.
- ◆ If wages are owed and the employer refuses to pay, the claim may be forwarded to the local district attorney to request collection. A court may assess increased wages of up to 100% of the wages due per Section 109.11, Stats. The court may also award attorneys' fees and costs.

Note: the Labor Standards Section has no control over the action of the district attorneys or whether they will accept a case. The claimant is responsible for contacting the district attorney after the case has been forwarded to indicate if he/she wishes to pursue the matter in court and pay any necessary filing fees.

Employer Retaliation Prohibited

An employer is prohibited from retaliating against any employee who:

- ◆ files a complaint
- ◆ attempts to enforce a right permitted by statute
- ◆ testifies in a case, or
- ◆ assists in a case

under the state's labor standards laws including child labor, minimum wage, hours of work and overtime, wage payment and collection, and prevailing wage rate laws.

This law's protections also apply if an employer takes an adverse employment action against an employee because that employer believes the employee has exercised any of the above rights.

Persons who need further information concerning protections under the state's anti-retaliation provisions should contact the Equal Rights Division.

DWD is an equal opportunity employer and service provider. If you have a disability and need to access this information in an alternate format or need it translated to another language, please contact us in Madison at (608) 264-8752 or in Milwaukee at (414) 227-4081.

FILING OF A WAGE CLAIM

To file a wage claim, or to obtain more information about any of these provisions, contact the department's Equal Rights Division (except where otherwise noted) at either of these locations below, OR visit our website at: <http://dwd.wisconsin.gov/er>

EQUAL RIGHTS DIVISION

201 E Washington Ave PO Box 8928 Madison WI 53708-8928	819 N 6th Street Room 723 Milwaukee WI 53203
Phone: (608) 266-6860 TTY: (608) 264-8752	Phone: (414) 227-4384 TTY: (414) 227-4081

Offices are open 7:45 a.m. to 4:30 p.m.
Monday thru Friday

WISCONSIN WAGE PAYMENT & COLLECTION LAW

STATE OF WISCONSIN



Department of Workforce Development

Equal Rights Division



WAGE PAYMENT

Chapter 109, Wis. Stats., requires most Wisconsin employers to pay workers all wages earned at least monthly, with no longer than 31 days between pay periods. The only employers exempted from this requirement are:

- ♦ employees engaged in logging (must be paid at least quarterly)
- ♦ those engaged in farm labor (must be paid at least quarterly)
- ♦ unclassified employees of the UW system (left to the system)
- ♦ Part-time firefighters and part-time emergency medical
- ♦ technicians (must be paid at regular intervals, at least annually).

Employers may establish more frequent pay periods (e.g., weekly, biweekly or semi-monthly).

Employees who are separated from their job must be paid in accordance with the employer's regular pay schedule.

DIRECT DEPOSIT WAGE PAYMENTS

An employer has the right to require its employees to participate in a direct deposit program. There cannot be any cost to the employee to participate in a mandatory program. Even if wages are deposited directly, the employee must still receive a check stub showing the rate of pay, hours worked, and the amount of and reason for each deduction.

WAGE CLAIMS

Employees have the right to file a wage claim with the department if there is a dispute with the employer about the amount of wages owed. If the employer refuses to pay wages earned on the regularly established payday, the employee should request payment. If the employee does not receive payment after 6 days, the employee may file a claim with the department. Once a claim is filed, the department will seek to resolve the matter with the employer.

The department may take action on the following types of wage claims:

- ♦ Salaries
- ♦ Severance pay
- ♦ Commissions
- ♦ Expenses
- ♦ Holiday pay
- ♦ Bonuses
- ♦ Vacation pay
- ♦ Illegal deductions from wages
- ♦ Supplemental unemployment compensation benefits when required under a binding collective bargaining agreement.
- ♦ Other similar advantages agreed upon between the employer and the employee.
- ♦ Other similar advantages provided by the employer to his employees as an established policy.

The department may not have authority to take legal action on some claims, including:

- ♦ Unpaid bills owed to the employee
- ♦ Claims made by independent contractors
- ♦ Claims already filed in court
- ♦ Out-of-state employers in some cases

Union members who wish to file wage claims will be advised by the department to file their claims with their local union representatives.

Persons filing a claim for wages must do so on a form furnished by the department's Equal Rights Division. This form may be obtained in person at the Madison or Milwaukee offices, by mail, or by downloading from the Internet at: <http://dwd.wisconsin.gov/er>.

Claim forms also are available at most Job Center offices as a courtesy, but those offices do not process the claims.

There is a 2-year statute of limitations on the collection of wage claims. Wages must be claimed within 2 years of the date payable.

PAYROLL INFORMATION

Employers are required to state clearly on each employee's paycheck, pay envelope, or other accompanying paper the number of hours worked, the rate of pay, and the amount of and reason for each deduction from their wages. A reasonable coding system may be used.

The only exception occurs where the employee has requested a deduction for personal reasons. Those deductions may be labeled as "miscellaneous".

The department also allows employers to use electronic pay stubs, provided that the employee has access to a printer and is not charged to print the stub each pay period.

DEDUCTIONS FROM WAGES FOR LOSS, THEFT, DAMAGE, OR FAULTY WORKMANSHIP

Employers may only make deductions from the wages of an employee for loss, theft, damage, or faulty workmanship under one of the following conditions:

- ♦ The deduction is authorized, in writing, by the employee after the problem occurs and before the deduction is made;
- ♦ a representative of the employee has determined that the employee was at fault and that the deduction may be made; or
- ♦ the employee has been found guilty or held liable in a court of law.

An employer who makes a deduction not authorized in one of these ways may be held liable for twice the amount of the deduction. Blanket authorizations are not valid. The employee's written permission must be obtained after each occurrence of a problem.

