

##, 2023

Secretary-designee Amy Pechacek
201 E. Washington Ave.
Madison, WI 53707

Dear Secretary-designee Pechacek,

The Governor's Council on Migrant Labor is submitting this annual report per the council's bylaws that state, "The Council shall, in August of each year, submit to the Department of Workforce Development (Department or DWD) a report on its operation during the fiscal year concluding the preceding June 30. Pursuant to [Wis. Stat. § 15.09\(7\)](#), the report will be on the operations of the Council." The council is submitting this Annual Report of Activities from July 1, 2021 – June 30, 2022, to the Department.

The Governor's Council on Migrant Labor is tasked with advising the Department and other state officials on any matter affecting migrant workers; ascertaining the conditions under which migrant workers are recruited, employed, housed and protected; reviewing the minimum hours guaranteed under [Wis. Stat. § 103.915\(4\)\(b\)](#) and making recommendations to the legislature of any changes the council finds necessary; studying the coordination of federal and state statutes and rules designed to assist, serve or protect migrant workers and recommend to the Department, legislature and other appropriate state agencies any changes in statutes or rules necessary to achieve uniformity insofar as possible between such state and federal statutes and rule; and reviewing rules submitted by DWD.

The council consists of legislators, migrant labor advocates, and employers of migrant workers to provide stakeholder input when completing council duties. The council is scheduled to meet quarterly and is staffed by the Division of Employment and Training, Bureau of Job Service.

The pandemic continues to effect migrant workers harder than other populations. Migrant workers are essential workers who continued to work despite pandemic-related closures. They often live in congregate housing and have difficulty accessing health care.

The council worked with partners and employers to connect migrant workers with the COVID-19 vaccine, personal protective equipment, access to health care, and education on COVID-19 to help keep workers safe. To provide additional protections to migrant workers against COVID-19, the council worked with the Department through the promulgation of emergency rules that revised [Wis. Admin. Code ch. DWD 301](#) to provide additional COVID-19 protections for migrant workers.

The council also submitted a report to the Department developed by the council's ad hoc committee on migrant seasonal farmworkers that provided information and recommendations regarding the barriers migrant and seasonal farmworkers face in accessing Unemployment Insurance benefits and how to improve access.

Please accept this report on behalf of the Governor's Council on Migrant Labor.

Lupe Martinez, Vice-Chair
Governor's Council on Migrant Labor

Contents

Introduction 3

Council Members 3

Council Meetings 4

 Aug. 26, 2021 4

 Oct. 20, 2021 4

 Jan. 19, 2022 5

 April 20, 2022 5

Ad Hoc Committees 5

 Ad Hoc Committee on Migrant Seasonal Farmworkers 6

 Ad Hoc Committee on the Minimum Guarantee 7

Council Activities 8

 Unemployment Insurance 8

 Administrative Rule Updates 8

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Introduction

The State of Wisconsin governs the use of agricultural migrant labor in Wisconsin through [Wis. Stat. §§ 103.90 – 103.97](#) and Wis. Admin. Code ch. DWD 301. The Department administers and enforces the rules and regulations. The Governor's Council on Migrant Labor is required under s. 103.967 to:

1. Advise the Department and other state officials on any matter affecting migrant workers.
2. Ascertain the conditions under which migrant workers are recruited, employed, housed, and protected.
3. Review in July of every odd-numbered year the minimum hours guaranteed under § 103.915(4)(b) and recommend to the legislature any changes the council finds necessary.
4. Study the coordination of federal and state statutes and rules designed to assist, serve, or protect migrant workers and recommend to the Department, legislature, and other appropriate state agencies any changes in statutes or rules necessary to achieve uniformity insofar as possible between such state and federal statutes and rules.
5. Review rules submitted by the Department under § 103.968.

Additionally, the council has approved bylaws that govern the processes and procedures of the council as it performs these duties.

The Governor's Council on Migrant Labor consists of six representatives of employers of migrant workers, six representatives of migrant workers and their organizations, and two members of the Senate and the Assembly respectively, equally divided between the two major political parties. See [Wis. Stat. § 15.227\(8\)](#).

Council Members

The Governor's Council on Migrant Labor Members
July 1, 2021 – June 30, 2022

Legislative Appointees

Representative Jodi Emerson (appointed June 27, 2022)
Sen. Jerry Petrowski
Sen. Robert Wirch

Representatives of Migrant Worker and Their Organizations

John I. Bauknecht, UMOS
Jose Martinez, UMOS
Lupe Martinez, UMOS
Guadalupe “Wally” Rendon, Educators Credit Union
Erica Sweitzer-Beckman, Legal Action of Wisconsin
Laura Waldvogel, Family Health La Clinica

Representatives of Employers Who Hire Migrant Workers

Aimee Jo Castleberry, Seneca Foods Corporation

Erica Kunze, Lakeside Foods

Kate Lambert, Bonduelle

Jeanine M. McCain, Plover River Farms Alliance

Council Officers

Chair: Vacant since December 2021

Vice Chair: Lupe Martinez

Secretary: Erica Sweitzer-Beckman

Council Meetings

The council met quarterly during state fiscal year 2021, July 1, 2021 through June 30, 2022.

Aug. 26, 2021

The Aug. 26, 2021 Governor's Council on Migrant Labor meeting was held virtually. Members present included Lupe Martinez, John Bauknecht, Erica Sweitzer-Beckman, Laura Waldvogel, Jose Martinez, Erica Kunze, Kate Lambert, and Aimee Jo Castleberry.

- New executive staff at the Department of Workforce Development; Deputy Secretary Pam McGillivray, Chief Legal Counsel Jennifer Wakerhauser, and Legislative Liaison, Jenifer Cole were introduced to the council.
- The Department reported that [Emergency Rule 2109](#) (EmR2109) was extended and would expire on 10/14/2021.
- The Ad Hoc Committee for Minimum Hours Guarantee was approved by the executive committee. The committee members are Kate Lambert, Aimee Jo Castleberry, and Erica Sweitzer-Beckman. The committee will meet to review the review of the minimum hours guaranteed under Wis. Stat. § 103.915 (4)(b).
- The meeting agenda also included public comment. Two members of the public provide comments regarding the difficulty and expense of complying with the insurance requirements under § 103.91(8)(f) and Wis. Admin. Code DWD § 301.05(8)(c).

Oct. 20, 2021

The Oct. 20, 2021 Governor's Council on Migrant Labor meeting was held virtually. Members present included John Bauknecht, Erica Sweitzer-Beckman, Laura Waldvogel, Jose Martinez, Erica Kunze, and Kate Lambert

- The meeting did not have quorum.
- The council received a report from the Department regarding the funding of migrant labor inspectors and the other staff who work with migrant workers. The council supported the Department adding a third migrant labor inspector position. The Department requested a third migrant labor inspector position in the Department's biennial budget request. Governor Evers included the funding for a third migrant labor inspector position in the budget he submitted to the legislature, however the legislature did not approve the additional position in the final budget.

- The Department also provided proposed updates to the Migrant Labor Work Agreement for the council to review and provide feedback. The updates clarified the terms of employment in several sections to make them easier to understand for migrant workers.
- The Department also sought feedback from council on pursuing either permanent rule changes or a new Emergency Rule to continue providing COVID-19 protections to migrant workers. Council members advised the Department to pursue both; an Emergency Rule to help workers immediately, and permanent changes to Wis. Admin. Code DWD § 301 to add additional health and safety protections.
- The meeting ended with public comment. Several migrant workers and their families joined the call to share their experiences as migrant workers in Wisconsin. Many expressed similar challenges including lack of housing, making ends meet before seasonal work starts, finding childcare, and access to services.

Jan. 19, 2022

- The meeting obtained a quorum after 30 minutes.
- The council approved a recommendations report developed by the Ad Hoc Committee on Migrant Seasonal Farmworkers to be provided to the Department regarding the elimination and reduction of barriers and challenges to accessing unemployment insurance benefits faced by migrant seasonal farmworkers.
- The council approved changes to the bylaws that allows the council to approve an ad hoc committee and its members in one meeting. Previously it took two meetings of the full council before a committee could be approved.
- The council approved adding Laura Waldvogel, Kate Lambert, and Aimee Jo Castleberry to the Ad Hoc Committee on Migrant Seasonal Farmworkers.
- Council approved the Ad Hoc Committee on The Minimum Guarantee with members Erica Sweitzer-Beckman, Kate Lambert, and Aimee Jo Castleberry.
- The 2020-2021 Annual Report on the Governor's Council on Migrant Labor was approved.
- A request was made to the Department to provide the council an update on newly introduced legislation that was anticipated to have an impact on unemployment insurance.

April 20, 2022

- The meeting did not have quorum.
- Jim Chiolino, Administrator for the Division of Unemployment Insurance (UI) provided a report to the council on UI operations and responses to the recommendations report the council provided to the Department.
- The Department's Legislative Liaison, Jenifer Cole, provided information on how council members can request renewal of their council terms.
- Jenifer Cole also provided the council an overview newly introduced legislative bills that affect UI and would have an impact on migrant workers. The Department had expressed concern to the Governor's Office regarding the bills' content. All bills had been vetoed by Governor Evers.

Ad Hoc Committees

At the beginning of the state program year the council established an ad hoc committee with respect to the minimum guarantee. The Council had two already established committees, one for migrant seasonal farmworkers, one to address human trafficking, The Ad Hoc Committee on Migrant Seasonal Farmworkers met four times. The Ad Hoc Committee on Human Trafficking did not meet during the state program year.

Ad Hoc Committee on Migrant Seasonal Farmworkers

Members of the committee originally included Erica Sweitzer Beckman, John Bauknecht, and Erica Kunze. During the January 19, 2022, Governor's Council on Migrant Labor Meeting, Aimee Jo Castleberry, Kate Lambert, and Laura Waldvogel were added as members. The committee's charge is to address issues that affect migrant seasonal farmworkers.

December 8, 2021

- The meeting had quorum. All three current committee members were present along with other council members.
- Members discussed farmworker economic security which included observations on workers' challenges to finding housing, healthcare, access to social services, and access to unemployment insurance.
- A representative from UI provided feedback on questions the committee submitted prior to the meeting.
- The committee approved a motion to draft recommendations for the council to submit to the Department regarding:
 - Access issues: Having designated staff knowledgeable and available for migrant workers regarding the UI claims process and access issues
 - Changes to work search requirements for those migrant workers returning to communities with few job opportunities

January 13, 2022

- The meeting had a quorum. All three current committee members were present.
- The committee reviewed the draft recommendations regarding migrant workers' access to unemployment insurance for presentation during January's council meeting. The committee approved the report with some additions regarding work search waivers.

April 11, 2022

- The meeting had a quorum. The committee now has six members.
- Committee confirmed that UI Division Administer, Jim Chiolino, would be at the next council meeting.
- An update on the status of [Emergency Rule 2204](#) (EmR2204) and making permanent rule changes was provided by the Department.
- The Department also announced that DWD had applied for a new American Rescue Plan Act (ARPA) grant. This grant funds the Department to train community unemployment insurance navigators to provide outreach and training to populations that have less access to UI services and assistance. DWD partnered with United Migrant Opportunity Services (UMOS) to provide the outreach.

May 25, 2022

- The meeting did not have a quorum.
- Representatives from UI provided feedback to the committee regarding the recommendations report developed by the committee for council submission to the Department. Committee members also asked the UI representatives questions.
- Action Items from the meeting included:
 - UMOS and Erica Sweitzer-Beckman from Legal Action of Wisconsin will work on a flier that would include information about improved programs.
 - Erica Sweitzer Beckman will draft a letter outlining items for the committee to propose to the UI advisory council; Katie Mueller will send out to other committee members.
 - Jose suggested looking to see if other Midwest states have made changes to their UI laws regarding seasonal agricultural employment.
 - UI and the Department of Employment and Training will meet to discuss follow-up items, with the possibility of identifying points of contact with other states for work search questions.
- The committee agreed to review and provide feedback to the Department on rule changes to Wis. Admin. Code Ch. DWD 301 once the draft rule was ready. The committee members were also encouraged to send any change suggestions to the Department.

Ad Hoc Committee on the Minimum Guarantee

Members of the ad hoc committee on minimum guarantee include Kate Lambert, Aimee Jo Castleberry, and Erica Sweitzer-Beckman. The committee was formed to review, in July of every odd-numbered year, the minimum hours guaranteed under Wis. Stat. § 103.915(4)(b) and recommend to the legislature any changes the council finds necessary as required under § 103.967(3).

April 11, 2022

- The meeting had a quorum with all members present.
- The committee decided to report to the council that:
 - Employer representatives are mostly from food processing industry; the committee would like to see more crop grower employer reps and one additional worker advocate on the committee.
 - Current committee employer representatives felt a change was not necessary.
 - Employer representatives felt that workers still faced issues meeting basic needs, and wondered if changes to the minimum guarantee or if other strategies would best address those needs.
 - The committee should welcome worker or other stakeholder input regarding their experiences with ongoing programs.
 - The council continue use worker outreach activities for constituent input.
 - Consider other ways for workers, employers, and other stakeholders to offer committee input. One possibility to consider is a public hearing with the council.

Council Activities

Unemployment Insurance

The council presented a recommendations report to the Department regarding eliminating barriers and addressing access issues migrant seasonal farmworkers encounter when applying for unemployment insurance benefits.

The council supports improvements the Department has made regarding language access to the UI portal and website and will continue to share feedback regarding migrant seasonal farmworkers and their access to UI benefits.

Administrative Rule Updates

As COVID-19 continued to have an impact on the health and safety of migrant seasonal farm workers, the council provided feedback to the Department on extending EmR2109 and promulgating EmR2204 to provide additional protections for migrant farmworkers against the spread of COVID-19.

The council and Ad Hoc Committee on Migrant Seasonal Farmworkers supported the Department's decision to begin the process to make updates to Wis. Admin. Code Ch. DWD 301 to make necessary revisions to better align its requirements with federal law and Wis. Stat. §§ 103.90 – 103.97. The Department's revisions may also correct inconsistencies, update outdated language, and provide clarification where appropriate, including clarification on granting variances. An additional committee objective is to explore creating additional Wis. Admin. Code ch. DWD 301 requirements for ensuring employers follow best practices in protecting the health and safety of migrant workers in camps, fields, and employer-provided transportation.

A preliminary hearing on the Scope Statement was held on April 12, 2022, and the Department is currently working on drafting changes to the rule for council review as required by § 103.967(5).