**Section 300.540** **Reimbursement of Expenses**

a) Primary Benefit to the Employer

1) When determining if an expense is to the primary benefit of the employer, the relevant factors are:

A) Whether the employee has any expectation of reimbursement;

B) Whether the expense is required or necessary to perform the employee’s job duties;

C) Whether the employer is receiving a value that it would otherwise need to pay for;

D) How long the employer is receiving the benefit; and

E) Whether the expense is required of the job.

2) No single factor is dispositive; instead, the analysis should focus on the extent to which the expense benefits the employer and its business and business model.

b) Request for Reimbursement

1) If an employer denies a request for reimbursement that should have been reimbursable according to subsection (a), the following shall apply:

A) If an employer has informed an employee that they are not entitled to seek reimbursement, or has failed to respond to an employee’s request for reimbursement, that shall be considered a denial of reimbursement and the employee may file a claim against the employer with the Department seeking reimbursement for expenses as provided under subsection (a); and

B) If an employee cannot recover expenses incurred related to services performed for the employer during the course of the employee's employment, these expenses shall be included in the final compensation owed to an employee at the end of the employee's employment, in accordance with the Act.

c) Recordkeeping

An employer must maintain the following records pursuant to this Section for 3 years:

1) All policies regarding reimbursement;

2) All employee requests for reimbursement;

3) Documentation showing approval or denial of reimbursement; and

4) Documentation showing actual reimbursement and supporting documents.

d) Employer Policies

If an employer’s written expense reimbursement policy establishes specifications or guidelines for necessary reimbursable expenditures, but the employer, whether through direct authorization or practice, allows for reimbursement of amounts that exceed those specified in its written policy, the employer shall be liable for full reimbursement of such expenses.

(Source: Amended at 47 Ill. Reg. 5406, effective March 31, 2023)