

PFML Hearing Meeting Washington Employment Security Department (WAESD) Wednesday, April 7, 2021 9:00 - 11:00 a.m. PDT Remote CART Captioning.

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>> Good morning, everyone. This is Jason. Just a quick reminder to please mute your phone unless you wish to address the group. Thank you very much. We will get started in about five minutes.

(Background noise)

>> JASON: Again, thank you all for joining us for this hearing. Another reminder to please mute your phones unless you wish to address the group. We will get started here in just a few minutes. Thank you.

(Music)

Thank you again everyone for joining us for this rulemaking hearing. We will get started in just a few minutes. Two quick reminders. One to please mute your phone. And also to please avoid putting the call on hold as we can hear all of the hold music and messages.

(Music)

(Music stops)

Thank you. Just another quick reminder to please avoid putting the call on hold because we can hear all hold music and messages. Thank you again. And we will get started in just a minute.

Back red.

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(Background conversation)

So we are about ready to get started with this rulemaking hearing. I would like to the issue it wouldn't final reminder to please mute your phone. We are hearing some background noise from some folks on that line. And also, at once avoid putting us on hold because we can hear all hold music and hold messages. So please leave your phones and please do not put the call on hold. Thank you very much.

Good morning, everyone. My name is Jason Baird, and I am the lead policy analyst. Of that Washington State department. This call is a formal hearing to discuss the proposed rules related to the administration of the paid family and medical leave program. We are not able to take any questions regarding the status of individual applications or claims.

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(Overlapping speakers)

Can you please mute your phone? There's quite a bit of background noise.

Please mute your phone.

If there is anyone other call -- their own individual paid family or -- please hang up and call our customer care team at (833)717-2273. Again, that is (833)717-2273.

Today's hearing regarding appeals hours worked small business grants, employer sides, and implement restoration. If you would like to provide written comments related to these rules, you may do so by e-mail at -- we will continue to accept written comments.

To view the electronic version of the proposed rules that we are discussing in this hearing, you can go to the website. Again, that is [paidleave.wa.gov/rulemaking](https://paidleave.wa.gov/rulemaking), one word. Under the current rulemaking heading. + under right of the first set of rules at the top of the page. The rules for today's hearing are in the second bullet down next to it supplemental. I know to cook may have been some confusion for those who attempted to review the rules previously. I want to reiterate that today's hearing is regard to the version of the rules posted next to it supplemental. Clicking on each topic will open the draft rules for that topic.

We will go through each of those topics in order during today's hearing.

We will begin taking testimony on the rules shortly. But before we do, I want to ask if there are any questions regarding either the purpose of today's hearing or the process we are going through today.

Are there any questions or comments about the process today?

>> PARTICIPANT: Could you repeat the web address again, please?

>> JASON BARRETT: It sure. Interview took rules that we are discussing today, please go to [paidleave.wa.gov/rulemaking](https://paidleave.wa.gov/rulemaking). And it is the first item at the top of that current rulemaking list.

You will see a subheading that says, definitions, hours worked small business grants, and appeals.

And under that subheading, there's a bullet point under supplemental. You can see links to each of the topics that we are discussing in today's hearing.

>> PARTICIPANT: Thank you.

>> JASON BARRETT: With that, we will go ahead and start the hearing. Please mute your phones unless you wish to speak to the group.

Pursuant to the authority given under Washington state law, RCW 58.05.06 oh, chapter 42.30 RCW of the open public meetings Africa and Chapter 34.05 of the administrative procedures act this hearing is hereby convened. For the record get this hearing is beginning at 9:6:00 a.m. on April 7th, 2021 by conference call. This hearing is convened to consider testimony concerning paid family and medical leave rulemaking. At a high level, this rulemaking amends existing rules and rates new rules the department considers necessary for program administration. The department is always working to

refine and improve the program, and this is one way to provide clear guidance to the public. Notice of this hearing was filed with the Washington State registered on the March 3rd, 2021, SWS Art number two 1:0 6:111. The interested parties and was posted on the department's webpage.

My name is Jason Baird, and I am the lead policy analyst for that Washington State Employment Security Department.

I represent acting Commissioner as the hearing officer residing at this time of the hearing.

There are other staff members from the leaf and care policy team attending this hearing by phone. If you could please introduce yourself by name and title.

>> Hello my name is April. I am the policy and rules manager. Thank you for being here today.

>> PARTICIPANT: My name is Jeanette Bennett. I am the rules coordinator.

>> PARTICIPANT: Good morning. My name is Brett Kane. I am the policy analyst.

>> JASON BARRETT: Thank you, April, Jeanette, and Brett. This hearing is being transpired by a court reporter and the transcript will become a part of the official rulemaking filed. Police state and didn't spell your name before your testimony. Please also identify any individual or organization on whose behalf you are speaking today.

Please also note that the hearing is convened to consider comments on the proposed rule. Because of the formal nature of this hearing, we are unlikely to answer any questions you may ask. If you do pose a question, I will ask you to rephrase your question as a comment. Questions can be e-mailed to us at [paidleave@esd.wa.gov](mailto:paidleave@esd.wa.gov), where our customer support staff will respond to your questions. Written comments will be accepted through today by e-mail.

Explanatory statement of the reason for adoption of the rules including the summary and response to all comments received after the publication of the proposed rules will be placed into permanent rulemaking file and posted on my.

This document will be sent to all interested parties who have signed up to receive paid family and medical leave e-mails. We will begin with April Emison, who will provide a brief explanation.

>> Thank you. It was passed by the Washington state legislature in 2017. On January 1st, 2019. We began receiving -- excuse me. Employers began assessing premiums and since January 1st, 2020, Washington workers have been able to apply for paid family or medical leave benefits. We have had an overwhelming response to our program and continue to make efforts to improve policy,, operations and user experiences. This is a part of that effort to improve air functionality and provide information for the community.

This formal public hearing covers the topics of appeal, illegal acts, hours worked, small business grants employer size and employment restoration.

I really encourage all of you to read the rules for more robust understanding. The draft rules are intended to interpret and clarify title 58 of the revised code of Washington. Thank you so much for your interest and participation in our rulemaking effort to administered this important program and we look forward to hearing your comments today.

>> JASON BARRETT: Thank you, April. We will hear testimony from our guests on the phone. When you testify, please speak clearly state and spell your name and any individual or organization on

whose behalf you are speaking today.

Please remember to unmute your phone prior to speaking and then renewed your phone after you are done providing testimony. We are not ready to receive testimony under the topic of appeals on proposed -- 19 2:045, can an appeal be withdrawn? Is there any testimony on this room?

-- rule?

Hearing none, we won't move on to proposed 19 2:800:155. Open to the public and what information from a proceeding before the appeals or commissioner is publicly is closed.

Is there anyone wishing to provide testimony on this role?

-- rule? Just a reminder to please mute your phones unless you wish to address the group.

Hearing none, we will move on to to the topic of illegal act proposed 192-610-090. What is an illegal act for the purposes of benefit disqualification? Is there anyone wishing to provide testimony on this role?

-- rule?

>> PARTICIPANT: Hello, this is Merrill with the opportunity Institute. And also, a workers interest representative on the paid family medical leave advisory committee. I just wanted to thank the department for responding to earlier comments, on the earlier proposal to this rule and making improvements that I think will help the program beat much more equitable going forward. So thank you.

>> JASON BARRETT: Thank you, Maryland.

Is there anyone else wishing to provide testimony on this role?

-- rule?

Hearing none, we will move on to the next topic of hours worked proposed whack 192. What information will the department request? Is there anyone wishing to provide testimony on this rule?

Hearing none, we will move on to the next rule proposed WAC 192-035. When will a weekly benefit amount be prorated? Is there anyone wishing to provide testimony on this rule?

>> PARTICIPANT: This is Marilyn Watkins again of the economic opportunity Institute. My comment is really not so much about the rule itself as about the implementation of it. So on -- for the -- under 1C, where it seems like the application -- (Indiscernible by captioner) -- family or medical leave. Most people don't work seven days a week. It is four or five days a week in most cases. It needs to be very clear on instructions to employees for filing their claim that they must claim. Because we frequently heard from people that they end up getting their claims prorated because the instructions are not crystal clear on the -- as they are filing their claim. They must file for all seven days rather than just their typical work week. So it is will eat more of a comment that if this rule exists, then that existence of this rule needs to be clear for employees. So they don't end up losing out on their benefits.

>> JASON BARRETT: Thank you, Marilyn. We will take the fact that the website, mutation needs to be clear with regards to the implementation of this rule.

Is there anyone else wishing to provide testimony on this rule?

Hearing none, we will move on to the topic of small business grants, proposed WAC 192-560-010, which businesses are eligible for small business and assistance grants? Is there anyone wishing to provide testimony on the tool?

Hearing none, we will move on to the next topic of employer size, proposed WAC 192-510-050. How will the department -- new employers? Is there anyone wishing to provide testimony on this rule?

Hearing none, we will move on to the topic of employment restoration, proposed WAC 192-700-006. What hours are considered worked for the purposes of an employee's eligibility for employment restoration? Is there anyone wishing to provide testimony on this rule?

Hearing none, we will move on to our final rule, proposed WAC 192-700-007. Employment restoration requirements for predecessor and successor employers. Is there anyone wishing to provide testimony on this rule?

Hearing none, that is our final rule. I do want to open up the floor one more time for anyone who wishes to provide testimony on any of our rules that we have discussed this morning.

Is there anyone wishing to provide testimony on any of the rules that we have discussed?

I will leave the floor open for a few more seconds for anyone who wishes to provide testimony on any of the rules that we have covered this morning.

In conclusion, this hearing was convened to consider testimony unpaid family and medical leave rules. All testimony presented at this hearing will become part of the official record. Deadline for permission are written comments and today, April 7th, 2021. You may submit written comments by e-mailing. Comments must be received by the end of the day to be considered part of this rulemaking. A final decision regarding adoption of the proposed rules will be made after all testimony and written comments have been fully considered, which will be on or shortly after April 14th 2021.

On behalf of acting Commissioner, thank you for participating in this hearing. This hearing is adjourned

at 9:20 A.M. on April 7th, 2021.

Thank you.

(Event concluded)