



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: July 07, 2021

TIME: 9:42 AM

WSR 21-14-093

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-11-077 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

Amending WAC 192-610-040 Can an employee backdate an application or a weekly claim for benefits?

Amending WAC 192-620-035 When will a weekly benefit amount be prorated?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 10, 2021	9:00 AM	Microsoft TEAMS. Join online: link available at paidleave.wa.gov/rulemaking under "Upcoming Meetings." Join by phone: (564) 999-2000 // PIN: 819916431#	Hearing will be held remotely due to COVID-19.

Date of intended adoption: August 11, 2021 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Janette Benham

Address: Employment Security Department, PO Box 9046 Olympia, WA 98507-9046

Email: rules@esd.wa.gov

Fax:

Other:

By (date) August 10, 2021

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: 360-480-5708

Fax:

TTY: 711

Email: Teckstein@esd.wa.gov

Other:

By (date) August 3, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Paid Family and Medical Leave (PFML) program (Title 50A RCW) requires updating existing rules to ensure clarity and make necessary changes based on programmatic needs. Proposed amendments to WAC 192-620-035 provide clearer examples related to the proration of weekly claims for the benefit of employers, employees, and department staff. Proposed amendments to WAC 192-610-040 provide clarification by using plain language and allowing for department staff to consider all information provided when processing claims.

Reasons supporting proposal: Proposed amendments to the proration rules are necessary to provide clarification and to ensure that proper payment is consistent with statutory requirements for instances where an employee's leave begins in the middle of the week. The proposal is also necessary to provide ease of readability and operational flexibility for department staff when determining whether benefit claims may be backdated.

Statutory authority for adoption: RCW 50A.05.060

Statute being implemented: RCW 50A.05.060, RCW 50A.15.020)

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Employment Security Department, Leave and Care Division Private Public Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	April Amundson	Lacey, WA	360-485-2816
Implementation:	April Amundson	Lacey, WA	360-485-2816
Enforcement:	April Amundson	Lacey, WA	360-485-2816

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Janette Benham
Address: Employment Security Department, PO Box 9046 Olympia, WA 98507-9046
Phone: (360) 790-6583
Fax:

TTY: 771

Email: rules@esd.wa.gov

Other:

No: Please explain:

WAC 192-610-040 requires a cost benefit analysis.

WAC 192-620-035 is exempt under RCW 34.05.328(5)(b)(ii) because the proposed amendments are related to internal government operations and do not subject a nongovernmental party to a violation.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. Proposed amendments to WAC 192-610-040 and WAC 192-620-035 do not impact businesses and pertain only to individuals applying for paid family and medical leave benefits.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: July 7, 2021
Name: April Amundson
Title: Policy and Rules Manager, Leave and Care Division

Signature: 
