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RULEMAKING STAKEHOLDER MEETING  
RE: PAID FAMILY AND MEDICAL LEAVE

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March 21, 2023

Via Zoom Videoconference

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APPEARANCES (Via Zoom Videoconference):

FOR WASHINGTON  
EMPLOYMENT SECURITY  
DEPARTMENT:

MS. JANETTE BENHAM  
MS. APRIL AMUNDSON  
MR. JASON BARRETT  
MR. BRETT CAIN  
EMPLOYMENT SECURITY DEPARTMENT  
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1 BE IT REMEMBERED that on Tuesday, March 21, 2023,  
2 via Zoom videoconference, before REBECCA S. LINDAUER,  
3 Certified Court Reporter, in and for the State of  
4 Washington, the following proceedings were had, to wit:

5  
6 MS. BENHAM: So good morning and welcome everyone.  
7 My name is Janette Benham, and I'm the rules coordinator for  
8 the Leave and Care Division at the Employment Security  
9 Department. There are other members from the leave and care  
10 policy and rules team on the call, and I'll ask that they  
11 introduce themselves now.

12 MS. AMUNDSON: My name is April Amundson. I'm the  
13 policy and rules manager for Leave and Cares programs,  
14 including Paid Family and Medical Leave and WA Cares. Thank  
15 you for attending. It looks like we've got a pretty good  
16 audience.

17 MR. BARRETT: I'm Jason Barrett. I'm the lead  
18 policy analyst for Paid Family and Medical Leave.

19 MR. CAIN: Good morning. I'm Brett Cain. I am a  
20 policy analyst as well on April's team for the Paid Family  
21 and Medical Leave and Washington Cares programs.

22 MS. BENHAM: Thanks, April, Jason, and Brett.

23 We're here this morning to review and discuss drafts of  
24 rule amendments that our agency is considering regard Paid  
25 Family and Medical Leave. And I want to also let everyone

1 know that this meeting is being recorded, and we have a  
2 stenographer as well. The rules we will be discussing today  
3 are WAC 192-500-195, placement; WAC 192-510-010, election,  
4 withdrawal, and cancellation of coverage; WAC 192-540-030,  
5 what are employers required to the report to the department;  
6 and WAC 192-800-150, can an employee designate a  
7 representative to act on their behalf.

8 If you've called in for this meeting, please keep  
9 yourself mute on by using the mute function on your phone or  
10 by pressing star 6. Please keep in mind that the subject of  
11 this call is the draft rules I just referenced, and we won't  
12 be discussing other rules. And if you have a question about  
13 your claim or application, please hang up and call our  
14 customer care team at (833) 717-2273.

15 I also want to ask that if you are commenting on the  
16 proposed rules to please state and spell your name and  
17 indicate if you're here on behalf of an organization. And  
18 I, again, want to remind everyone this meeting is being  
19 recorded.

20 The drafts that we'll be reviewing and discussing can  
21 be found at [paidleave.wa.gov/rulemaking](https://paidleave.wa.gov/rulemaking). Again, that's  
22 [paidleave.wa.gov/rulemaking](https://paidleave.wa.gov/rulemaking). All one word for rulemaking.  
23 If you look at current rulemaking, to the right of that  
24 heading are the draft rules.

25 Click on the rules title or the plus sign and you'll

1 see hyperlinks for each subject. And after clicking on the  
2 hyperlink for each subject, you can use your browser's back  
3 button to go back to the rulemaking page. So we'll go  
4 through the rules in order as they're listed on the web  
5 page.

6 So let's start with placement, and I'll give people a  
7 minute to find the draft on our web page, and I want ask  
8 does anyone need for me to repeat the address or provide the  
9 instructions again? I'll give it just a minute, if anyone  
10 has questions.

11 MS. GARCIA: I logged in a little bit late with my  
12 colleague; so please go ahead and say that again.

13 MS. BENHAM: Did you ask if I could go over the  
14 instructions on how to get to the web page again? I'm  
15 sorry. I couldn't understand the last part of what you  
16 said.

17 MS. GARCIA: Not the web page, just the draft.

18 MS. BENHAM: The drafts that we'll be discussing  
19 are listed on the web page. And so if you go to the web  
20 page and you click on the plus sign to the right of "Current  
21 Rulemaking," under the heading there you'll be able to view  
22 the drafts. And if you click on each draft, it will bring  
23 up that draft as we go through it. And Brett just put the  
24 link to the rulemaking web page in the chat. If you have  
25 access to the chat, that will take you directly to the

1 rulemaking web page.

2 I want to remind everyone, if you're not speaking,  
3 please keep yourselves on mute.

4 Okay. So let's start with the placement rule, which is  
5 WAC 192-500-195, amendments to the definition of the  
6 placement rule, clarify and outline circumstances that will  
7 not qualify for Paid Family and Medical Leave to bond with a  
8 child. These clarifications are in line with  
9 RCW 50.A.05.010's definition of family leave, and I want to  
10 open it up for everyone to provide comments. So please feel  
11 free to offer comment and remember to unmute yourself prior  
12 to speaking, clearly state and spell your name, and then  
13 please remute yourself when you have finished your  
14 suggestion or comment.

15 And I'm going to pause here and leave time for anyone  
16 to comment on this rule. Do we have anyone on the call who  
17 would like to offer comment on WAC 192-500-195 regarding  
18 placement? Hearing none, we will go ahead and move to the  
19 next rule.

20 This is regarding elective coverage, WAC 192-510-010,  
21 election withdrawal and cancellation of coverage.  
22 Amendments to this rule clarified provisions of  
23 RCW 50A.10.010 by outlining the hours worked in  
24 self-employment prior to an individual electing coverage do  
25 not count toward an individual's benefit eligibility

1 determination. Please feel free to offer comment on this  
2 rule and remember, again, to unmute yourself prior to  
3 speaking. Clearly state and spell your name, and then  
4 please remute yourself when you have finished your  
5 suggestion or comment.

6 And I'll pause here. If anyone would like to offer  
7 comment, please unmute yourselves. Do we have anyone on the  
8 line who would like to offer comment on WAC 192-510-010,  
9 election withdrawal and cancellation of coverage? All  
10 right. We'll go ahead and move on to the next rule that  
11 we'll be discussing.

12 This is regarding employer reporting requirements,  
13 WAC 192-540-030, what are employers required to report to  
14 the department? Amendments to this rule add two  
15 requirements for employer quarterly reports and will help  
16 ensure that employer reports are complete and correct. The  
17 first is a report of no payroll, and the second is  
18 employees' dates of birth. The report of no payroll will be  
19 required for up to a maximum of eight consecutive quarters  
20 when an employer has no paid wages to report.

21 If an employer notifies the department before the end  
22 of eight consecutive quarters that they have no employees to  
23 report and they don't plan on having employees in the  
24 foreseeable future, they won't be required to submit or  
25 continue submitting a report of no payroll.



1           This requirement will assist with the department's  
2 annual employer sizing determinations, will ensure employers  
3 aren't flagged for unnecessary audits, and it aligns with  
4 unemployment insurance practices of no payroll reports. The  
5 amendment adding employees' dates of birth will benefit both  
6 the Paid Family and Medical Leave program and the WA Cares  
7 Fund program since the department is utilizing one employer  
8 report for both programs. The department has statutory  
9 requirements for both programs that this information will  
10 assist with.

11           Under RCW 50B.04.080, the department is required, to  
12 the extent feasible, to use the same premium collection,  
13 assessment, and reporting procedures for WA Cares Fund as it  
14 does for Paid Family and Medical Leave. In addition to fund  
15 solvency protections required under statute for both  
16 programs requiring dates of birth for employees, it will  
17 help determine employee eligibility for prorated benefits  
18 for WA Cares under RCW 50B.04.050.

19           Please feel free to offer comment, and remember to  
20 unmute yourself prior to speaking. Clearly state and spell  
21 your name, and then please remute yourself when you've  
22 finished your suggestion or comment. I will open it up for  
23 comments and suggestions on this rule.

24           MS. FOSHAUG: Good morning. My name is Patricia  
25 Foshaug on behalf of the OFM State HR team. We have two

1 clarifying questions on this proposal.

2 MS. BENHAM: I'm sorry to interrupt, but can you  
3 please spell your name for the stenographer. Thank you.

4 MS. FOSHAUG: Of course. Patricia,  
5 P-a-t-r-i-c-i-a, and last name, F-o-s-h-a-u-g. And I'm here  
6 on behalf of the OFM State human resource team, and we have  
7 two questions on this proposal. We were wondering about the  
8 effective date of the new reporting requirements, one. And,  
9 two, regarding Section 4, the reporting requirement for  
10 employees that don't receive wages in a quarter, would this  
11 also include inactive and active employees who are out for  
12 specific reasons and not earning wages, or is it for all  
13 employees, including separated employees? Thank you.

14 MS. BENHAM: Thank you for your questions,  
15 Patricia. I'm going to go over the effective date later on  
16 in the phone call, but I will just -- in our next steps  
17 later on in the meeting but we are planning to have the  
18 effective date of these rules July 1st so that the  
19 reporting, it will be for the third quarter reports that are  
20 due in October.

21 And then to answer your second question, a report of no  
22 payroll means that employers have no employees who have  
23 received wages; so it's not individual employees. It's if  
24 an employer has no employees to report at all for a given  
25 quarter.

1 MS. FOSHAUG: Perfect. Thank you so much.

2 MS. BENHAM: You bet.

3 Do we have any more comments or suggestions or  
4 questions on this rule? I'm going to ask one more time if  
5 anyone has any comments or questions or suggestions. I want  
6 everyone to have the opportunity to have discussion on this  
7 rule. If you have anything to comment, please unmute  
8 yourselves and let us know. Thank you. Okay.

9 We'll move on to the last rule for this morning's  
10 meeting, WAC 192-800-150, can an employee designate a  
11 representative to act on their behalf? The amendments to  
12 this rule correct a pointer to a repealed statute and  
13 clarify that weekly claims may be filed by an estate  
14 executor or administrator if the employee dies after they've  
15 been approved for benefits.

16 Please feel free to offer comment on this rule, and  
17 remember to unmute yourself prior to speaking. Clearly  
18 state and spell your name, and then please remute yourself  
19 when you've finished your suggestion or comment. I'll pause  
20 here and give individuals a time for comment.

21 I'm going to take the opportunity also to pause for  
22 just a minute and ask if anyone has any questions or  
23 comments on any of the four rules that we have discussed  
24 today. If you do and didn't get a chance while we were  
25 discussing each individual rule to provide comment, please

1 do so now. And if you would like to provide comment, please  
2 indicate which rule you're commenting on.

3 All right. I want to thank everyone for attending  
4 today and for your interest in our rulemaking activities,  
5 and I just want to go over next steps. We'll gather all the  
6 comments we've received on these amendments, and we will  
7 determine which comments should be incorporated. We may  
8 have received some comments by email, and then we will draft  
9 paperwork to formally propose rule language.

10 Once the proposed rules and paperwork are filed,  
11 individuals will have an opportunity to participate in the  
12 public hearing and provide written comments up to and  
13 through the day of the hearing.

14 Following the hearing, if no substantive changes to the  
15 amended rules are necessary, we will file paperwork  
16 providing a response to each formal comment we've received  
17 during the comment period and during the hearing, then we  
18 will adopt the rules.

19 And as I mentioned earlier, we're planning on having  
20 these rules effective July 1st, and if you have any  
21 additional comments or questions, please feel free to send  
22 us an email, and the email address is rules@esd.wa.gov.  
23 That's rules -- r-u-l-e-s -- @esd.wa.gov. Again, thank you  
24 everyone for your participation this morning, and we hope  
25 everyone has a great day.

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With that, we're going to go ahead and conclude the meeting.

(Concluded at 9:18 a.m.)

C E R T I F I C A T E

I, REBECCA S. LINDAUER, a Certified Court Reporter in and for the State of Washington, residing at Lacey, do hereby certify:

That the foregoing Zoom public hearing was taken before me and completed on the 21st day of March 2023, and thereafter transcribed by me by means of computer-aided transcription; that the public hearing is a full, true, and complete transcript of the proceedings;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith emailing the public hearing to MS. JANETTE BENHAM.

IN WITNESS HEREOF, I have hereunto set my hand this 4th day of April 2022.

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Rebecca S. Lindauer, CSR#2402  
Certified Court Reporter, in and for the  
State of Washington, residing at Lacey.

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