



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: May 17, 2023

TIME: 11:26 AM

WSR 23-11-083

Agency: Employment Security Department

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) July 1, 2023 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The Paid Family and Medical Leave (PFML) program (Title 50A RCW) is adopting rule amendments to provide additional clarity and improve program operations.

The adopted amendments add a new data field to employer quarterly reports to include employees' dates of birth and require a report of "no payroll" for up to a maximum of eight quarters when employers have no paid wages to report. The amendments will affect both PFML and the Long-Term Services and Supports Trust (WA Cares Fund) since employers submit one report to the department for both programs. The amendments will help ensure that employers report correct information to the department, including when no wages are paid during any given quarter. In addition, since WA Cares Fund premium assessment begins July 1, 2023, employers must submit quarterly reports that include information for both PFML and WA Cares Fund. The department is utilizing one employer report for both programs. RCW 50B.04.020(4)(c) requires the department to determine the compliance of premium payments (employer audits) in coordination with the same activities conducted for PFML under Title 50A RCW. This requirement will assist the department because a report of "no payroll" will ensure the department does not flag a missing report for audit.

Adding employees' dates of birth to employer reports will assist with ensuring employee work history and premium assessments are complete. RCW 50B.04.080 requires the department, to the extent feasible, to use the same premium assessment, collection, and reporting procedures for the WA Cares Fund as it does for PFML. Requiring dates of birth for employees will assist with determining employee eligibility for prorated benefits for WA Cares Fund under RCW 50B.04.050. The requirements will also assist the department with projecting fund solvency for the PFML program, align with unemployment insurance practices of "no payroll" reports, and ensure the department has accurate data for annual PFML employer sizing determinations.

Specific to PFML, the adopted amendments correct an RCW pointer reference, clarify the definition of "placement" for the purpose of family leave to bond with the employee's child, clarify that hours worked in self-employment prior to the effective date of the election of coverage for self-employed individuals do not count toward establishing benefit eligibility, and clarify that weekly claims may be filed by an estate executor or administrator if the employee dies after they've been approved for benefits.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended:
- WAC 192-500-195 Placement.
- WAC 192-510-010 Election, withdrawal, ad cancelation of coverage.
- WAC 192-540-030 What are employers required to report to the department?
- WAC 192-800-150 Can an employee designate a representative to act on their behalf?

Suspended:

Statutory authority for adoption: RCW 50A.05.060; RCW 50A.10.010

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-08-075 on April 4, 2023 (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Janette Benham

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

Phone: 360-790-6583

Fax:

TTY: WA Relay: 711 (Contact Teresa Eckstein at 360-507-9890 for accommodations)

Email: rules@esd.wa.gov

Web site: <https://paidleave.wa.gov/rulemaking/>

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New		Amended		Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New		Amended	4	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New		Amended	4	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New		Amended	4	Repealed	___

Date Adopted: May 17, 2023

Name: April Amundson

Title: Policy and Rules Manager, ESPI, Leave and Care Division

Signature:

