

Washington State Family & Paid Leave  
PFML Rulemaking Stakeholder Meeting  
Transportation Network Company Pilot

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Thursday, March 7, 2024

9:00 a.m.

Olympia, Washington

1 FOR WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT LEAVE  
AND CARE DIVISION:

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09:00:28 3 09:00:57 Mr. BRETT CAIN, Policy Analyst  
MS. JANETTE BENHAM, Rules Coordinator

4 09:00:49 MR. JASON BARRETT, Lead Policy Analyst

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1 BE IT REMEMBERED that on Thursday, March 7, 2024,  
2 commencing at 9:00 a.m., via Microsoft Teams, Washington  
3 State Family and Paid Leave, PFML Rulemaking Stakeholder  
4 Meeting, Transportation Network Company Pilot, taken before  
5 Dorene Boyle, Certified Court Reporter in and for the State  
6 of Washington.

7 The following proceedings took place:

09:00:35 8

09:00:48 9 MR. BRETT CAIN: Good morning and welcome  
09:00:49 10 everyone. My name is Brett Cain, and I am a policy  
09:00:53 11 analysis for Leave and Care Programs at the Employment  
09:00:57 12 Security Department. And there are other members from  
09:00:59 13 the Policy and Rules Team for leave and care programs  
09:01:02 14 on the call, and I'll ask them that they introduce  
09:01:07 15 themselves now.

09:01:08 16 MR. JASON BARRETT: Good morning. I'm Jason  
09:01:10 17 Barrett. I'm the Lead Policy Analyst for the Leave  
09:01:15 18 and Care Division.

09:01:15 19 MS. JANETTE BENHAM: Good morning. I'm  
09:01:17 20 Janette Benham. I'm the Rules Coordinator for the  
09:01:19 21 Leave and Care Division.

09:01:22 22 MR. BRETT CAIN: Thanks Jason and Janette.  
09:01:24 23 We are here this morning to review and discuss a  
09:01:27 24 new chapter of draft rules that the department is  
09:01:30 25 considering regarding the Paid Family and Medical

09:01:32 1 Leave program. We'll be discussing a chapter created  
09:01:36 2 to support a pilot program for Transportation Network  
09:01:39 3 Company, who you'll likely hear me refer to as TNC.  
09:01:44 4 So it's for Transportation Network Company drivers  
09:01:47 5 created under Substitute House Bill 1570 from the 2023  
09:01:53 6 legislative session. And the pilot portions of the  
09:01:57 7 bill are now codified under RCW 46.72B.200 and RCW  
09:02:07 8 50A.25.040.

09:02:11 9 The specific draft rules we'll be discussing are  
09:02:15 10 in new draft chapter 192-511 WAC, titled  
09:02:20 11 Transportation Network Company Pilot Program. The  
09:02:24 12 draft sections include:

09:02:27 13 WAC 192-511-005, Definitions;

09:02:33 14 WAC 192-511-010, How do Transportation Network  
09:02:42 15 Company drivers elect Paid Family and Medical Leave  
09:02:45 16 coverage;

09:02:45 17 WAC 192-511-015, Transportation Network Company  
09:02:52 18 rights and responsibilities;

09:02:54 19 And, lastly, WAC 192-511-020, Self-employed  
09:03:02 20 elective coverage rules apply to the pilot program.

09:03:06 21 The drafts that we'll be reviewing and discussing  
09:03:09 22 can be found at [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking), one word -- that's  
09:03:13 23 [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking). One more time. That's  
09:03:23 24 [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking).

09:03:28 25 If you looking at Current Rulemaking on that

09:03:31 1 page, the first subtitle is called "Implementation of  
09:03:36 2 Substitute House Bill 1570." You can expand that list  
09:03:40 3 and click on "draft rules" to access the new draft --  
09:03:44 4 the draft new chapter we'll be discussing this  
09:03:48 5 morning.

09:03:48 6 If you've called in for the meeting, please keep  
09:03:51 7 your mute on by using the mute function on your phone  
09:03:54 8 or by pressing \*6. Please keep in mind that the  
09:03:58 9 subject of this call is the draft rules document I  
09:04:01 10 just referenced. We will not be discussing other  
09:04:04 11 rules. And if you have a question about your claim or  
09:04:07 12 application, please hang up and call our customer care  
09:04:08 13 team at 833-717-2273.

09:04:13 14 I also want to ask that if you're commenting on  
09:04:16 15 the proposed rules to please state and spell your name  
09:04:19 16 and indicate if you are here on behalf of an  
09:04:21 17 organization.

09:04:22 18 And I again want to remind everyone that this  
09:04:25 19 meeting is being recorded.

09:04:26 20 So before we open the floor for comments, I want  
09:04:29 21 to give people an opportunity to ask any questions  
09:04:31 22 about anything I just explained: Why we're here,  
09:04:36 23 where to find the draft rules, or any other  
09:04:39 24 housekeeping items. You can go ahead and unmute  
09:04:41 25 yourself using your computer or hit \*6 on your phone

09:04:46 1 if you would like to ask any questions.

09:04:51 2 (NO RESPONSE).

09:04:57 3 MR. BRETT CAIN: Okay. I don't see any  
09:04:59 4 hands and I don't see anyone unmuting, so let's get  
09:05:04 5 started.

09:05:04 6 Let's discuss our first draft new rule, which is  
09:05:08 7 WAC 192-511-005, Definitions.

09:05:16 8 This draft lists and defines terms that may be  
09:05:21 9 used throughout the chapter of rules and used during  
09:05:22 10 the implementation and administration of the pilot.  
09:05:24 11 The terms largely mirror their definitions in statute,  
09:05:27 12 with the statute -- the statute referenced within the  
09:05:30 13 definition. Besides the terms "department," which is  
09:05:33 14 defined as ESD, there's a description of "pilot  
09:05:37 15 program" and a definition of "third party" that we  
09:05:41 16 don't reference, we don't put a statute next to.

09:05:44 17 So are there any comments, questions on this  
09:05:50 18 rule? Do people think terms are missing? Anything to  
09:05:54 19 say about this section regarding definitions for the  
09:05:59 20 pilot program?

09:06:00 21 (NO RESPONSE).

09:06:16 22 MR. BRETT CAIN: Okay. You'll have an  
09:06:19 23 opportunity at the end. If you think of something  
09:06:21 24 throughout the call, we can go back. But let's --  
09:06:25 25 Since I don't see anyone unmuting, let's move on to

09:06:28 1 the next draft section, which is WAC 192-511-010, How  
09:06:37 2 do Transportation Network Company drivers elect Paid  
09:06:42 3 Family and Medical Leave coverage?

09:06:44 4 So this section suggested by the panel provides  
09:06:47 5 direction for how a driver elects coverage into the  
09:06:50 6 program. This draft section largely aligns with how a  
09:06:54 7 self-employed individual currently elects coverage  
09:06:57 8 into the program.

09:06:58 9 Are there any questions or comments on this  
09:07:00 10 section?

09:07:15 11 (NO RESPONSE).

09:07:21 12 MR. BRETT CAIN: Okay. Moving on to the  
09:07:23 13 next draft section, which is WAC 192-511-015,  
09:07:32 14 Transportation Network Company rights and  
09:07:35 15 responsibilities.

09:07:37 16 This section, for the most part, takes statutory  
09:07:42 17 language created under Substitute House Bill 1570 and  
09:07:45 18 incorporates it into our rule. The intent of doing  
09:07:49 19 this was to make the language accessible to those  
09:07:54 20 interested in the pilot, since most of the language  
21 created by the Bill was not codified into an ESD  
09:07:57 22 statute, but into the Transportation Network Company  
09:08:02 23 Statute under Title 46.

09:08:03 24 We just wanted to make sure that if people wanted  
09:08:06 25 to know what the law said and they're interested in

09:08:12 1 the pilot, that they could access that information  
09:08:14 2 through our administrative rules.

09:08:17 3 Are there any comments or questions on this  
09:08:20 4 section?

09:08:26 5 (NO RESPONSE).

09:08:33 6 MR. BRETT CAIN: Okay. Then the last  
09:08:53 7 section that we're presenting this morning is WAC  
09:08:58 8 192-511-020, Self-employed elective coverage rules  
09:09:03 9 apply to the pilot program.

09:09:06 10 Like we mentioned in one of the earlier sections,  
09:09:09 11 this is largely -- the intent is to largely design the  
09:09:12 12 administrative processes for this pilot, how they  
09:09:16 13 currently function for self-employed individuals. So  
09:09:20 14 this section states that many of the administrative  
09:09:22 15 processes currently in place for self-employed program  
09:09:25 16 participants will apply to the program. These include  
09:09:28 17 processes for paying premiums, applying for and  
09:09:31 18 accessing benefits, seeking damages, reporting, and  
09:09:36 19 filing complaints.

09:09:36 20 Are there any questions or comments on this  
09:09:40 21 section?

09:09:45 22 (NO RESPONSE).

09:09:55 23 MR. BRETT CAIN: That was the last section  
09:10:02 24 that we were going to discuss this morning.

09:10:04 25 Did anyone have any comments or questions about



09:10:08 1 this or any of the previous sections?

09:10:13 2 (NO RESPONSE).

09:10:19 3 MR. BRETT CAIN: I'm going to give it a  
09:10:20 4 minute here just if people -- I hope people aren't  
09:10:25 5 having trouble unmuting or anything.

09:10:33 6 MR. PETER KRUEL: (Inaudible). Thank you so  
7 much. (Inaudible).

09:10:47 8 THE REPORTER: I can't hear him.

09:10:47 9 MR. PETER KRUEL: I said my name is Peter  
09:10:48 10 Kruel. I'm president of credit union.

09:10:50 11 I can hear all what you say. You are very clear.  
09:10:54 12 We appreciate what you do. You're the only one that  
09:10:57 13 puts forth (inaudible). We are so excited.  
14 (Inaudible) some benefit like this.

15 THE REPORTER: I'm not understanding him.  
16 I'm sorry.

09:11:21 17 MR. PETER KRUEL: (Inaudible).

09:11:21 18 MR. BRETT CAIN: Peter, that's the court  
09:11:24 19 reporter, and I think she's having trouble hearing  
09:11:26 20 you. There's a bit of feedback. If you want to  
09:11:30 21 restate -- You can either restate your comments or, if  
09:11:33 22 you wanted to, you can always send us your comments in  
09:11:38 23 writing at [rules@esd.wa.gov](mailto:rules@esd.wa.gov), or you're welcome to  
09:11:46 24 maybe slow down and restate your comment.

09:11:50 25 MR. JASON BARRETT: And, Peter, you're a

09:11:51 1 driver; is that correct?

09:11:53 2 MR. PETER KRUEL: I'm a driver. I'm the  
09:11:55 3 president of credit union (inaudible) on the driving.

09:11:58 4 MR. JASON BARRETT: And you're largely just  
09:12:00 5 expressing support for the pilot program?

09:12:02 6 MR. PETER KRUEL: Yes. I'm just  
09:12:04 7 appreciating on what it is for all that you do.

09:12:08 8 MR. JASON BARRETT: Right. Well, we'll make  
09:12:09 9 a note of your support. Thank you, Peter.

09:12:12 10 MR. PETER KRUEL: Okay.

09:12:12 11 MR. BRETT CAIN: Thank you, Peter.

09:12:14 12 MS. JANETTE BENHAM: Dorene, if you would  
09:12:20 13 remute yourself, we're experiencing feedback that's  
09:12:23 14 coming through your speakers, I believe. Thank you.

09:12:25 15 MR. BRETT CAIN: Does anyone else have  
09:12:27 16 comments or questions about the draft sections that we  
09:12:30 17 presented this morning?

09:12:42 18 (NO RESPONSE.)

09:12:42 19 MR. BRETT CAIN: Okay, not hearing any.  
09:12:45 20 With that, we'll close out. Thank you for the  
09:12:47 21 comments and being present this morning.

09:12:53 22 Regarding next steps, we will gather any comments  
09:12:57 23 we've received, either written or otherwise, on these  
09:13:04 24 new sections to determine which should be  
09:13:07 25 incorporated, and then draft paperwork to formally

09:13:09 1 propose rule language.

09:13:12 2           Once the proposed rules and paperwork are filed,  
09:13:16 3 individuals will have an opportunity to participate in  
09:13:18 4 a formal public hearing and provide written comments  
09:13:20 5 up to and through the day of the hearing. And that's  
09:13:24 6 a bit out, but we will send messages through the  
09:13:28 7 Listserv detailing the date of the hearing with some  
09:13:31 8 supporting documentation.

09:13:33 9           And following the hearing, if no substantive  
09:13:36 10 changes to the new rules are necessary, we will file  
09:13:38 11 paperwork providing a response to each comment  
09:13:41 12 received during the comment period and hearing, and  
09:13:45 13 then adopt the rules.

09:13:46 14           Please, we invite you to visit  
09:13:53 15 [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking), the site that you used to  
09:13:56 16 access the draft rules that we presented this morning.  
09:13:59 17 And you can go there for more information on when  
09:14:02 18 these next steps will occur. And if you haven't  
09:14:05 19 already signed up to receive rulemaking notifications,  
09:14:07 20 you can also do so on that site.

09:14:09 21           And if you have any additional comments or  
09:14:11 22 questions, please feel free to send us an e-mail at  
09:14:15 23 [rules@esd.wa.gov](mailto:rules@esd.wa.gov). Again, that's [rules@esd.wa.gov](mailto:rules@esd.wa.gov).

09:14:29 24           With that, thanks so much for joining us this  
09:14:31 25 morning and we hope you enjoy the rest of your day.

09:14:35 1 Thanks.

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(RULE MAKING HEARING.

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CONCLUDED AT 9:14 A.M.)

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