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

\* \* \* \* \*

Wednesday, May 8, 2024

9:00 a.m.

Olympia, Washington

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

2

09:00:49 3 09:00:57 MR. BRETT CAIN, Policy Analyst  
MR. JASON BARRETT, Lead Policy Analyst  
Employment Security Department  
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Olympia, Washington 98501  
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Brett.cain@esd.wa.gov  
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1 BE IT REMEMBERED that on Wednesday, May 8, 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 Rules, taken  
5 before Dorene Boyle, Certified Court Reporter in and for  
6 the State of Washington.

7 The following proceedings took place:

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MR. BRETT CAIN: Good morning, everyone. My name is Brett Cain, and I'm a Policy Analyst for the Leave and Care programs of the Washington State Employment Security Department. Thanks very much for joining us today for this rulemaking hearing. Before we begin, let me just go over a few housekeeping items here.

I would like to remind everyone that this meeting concerns proposed regulations regarding the Paid Family and Medical Leave program. This meeting will not feature discussion of any specific application, and attendance is completely optional. If you have questions regarding your own application or weekly claim for Paid Family and Medical Leave, or if you have other general questions, please call our customer service team at 833-717-2273. Again, that's 833-717-2273. We won't be able to answer any

09:01:12 1 questions during this hearing due to the formal nature  
09:01:16 2 of the hearing.

09:01:17 3 So, again, today's hearing is regarding a  
09:01:19 4 proposal that creates a new chapter of Washington  
09:01:23 5 Administrative Code supporting a pilot created by  
09:01:25 6 Substitute House Bill 1570 that passed during the 2023  
09:01:31 7 legislative session. Among other things, the bill  
09:01:35 8 created a pilot program for transportation network  
09:01:38 9 company drivers to elect coverage into the Paid Family  
09:01:43 10 and Medical Leave program. If you would like to  
09:01:44 11 provide written comments related to these rules, you  
09:01:48 12 may do so by e-mail at [rules@esd.wa.gov](mailto:rules@esd.wa.gov). That's  
09:01:58 13 [rules@esd.wa.gov](mailto:rules@esd.wa.gov). And we'll continue to accept  
09:02:03 14 written comments for this rules package through the  
09:02:10 15 close of business today.

09:02:11 16 If you're going to use this e-mail address, will  
09:02:15 17 you please keep it to comments or concerns with our  
09:02:17 18 rulemaking. If you have other general questions,  
09:02:19 19 again, you can contact our customer care team. And  
09:02:22 20 one more time, that number is 833-717-2273. Or if you  
09:02:28 21 would like to submit a question or comment or concern  
09:02:30 22 in writing, you can also reach our customer care team.  
09:02:34 23 Again, if it's not related to these rules, you can  
09:02:37 24 reach them at [paidleave@esd.wa.gov](mailto:paidleave@esd.wa.gov).

09:02:41 25 For some instructions on how to get to the rules

09:02:46 1 that we're going to discuss today, please go to  
09:02:49 2 [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking),  
09:03:05 3 [paidleave.wa.gov/rulemaking](http://paidleave.wa.gov/rulemaking). And these rules are  
09:03:08 4 going to be found under the "Current Rulemaking"  
09:03:12 5 heading. If you click on "Implementation of  
09:03:14 6 Substitute House Bill 1570" it will expand that topic,  
09:03:17 7 and then the rules for today's hearing are listed  
09:03:20 8 after the "CR-102: Proposed rules" title. And it  
09:03:25 9 will be -- sometimes there will be several clicks, and  
09:03:29 10 you'll just click one and the new chapter that we're  
09:03:32 11 proposing today will have several sections in it. So  
09:03:35 12 we'll go through those rules in the order they appear  
09:03:38 13 on the website.

09:03:41 14 I know that was a lot. Before we begin, are  
09:03:44 15 there any questions about the purpose of today's  
09:03:47 16 meeting or where to find the proposed rules? As a  
09:03:51 17 reminder, you can unmute yourself using your Teams  
09:03:56 18 window or by hitting \*6 if you're joining by phone.  
09:04:01 19 If you're not providing testimony, please remember to  
09:04:03 20 keep yourself muted throughout the hearing. And if  
09:04:07 21 you're calling in for the hearing, please do not place  
22 this meeting on hold to take another call. We get  
09:04:12 23 hold music that sometimes we can't turn off and it  
09:04:14 24 disrupts the hearing. So we wouldn't be able to  
09:04:16 25 proceed if there is hold music or messages playing

09:04:20 1 while you put us on hold.

09:04:22 2 So I'll pause a minute there for questions about

09:04:25 3 why we're here today or where to find the rules or

09:04:29 4 anything else I just went over.

5 (NO RESPONSE.)

09:04:38 6 MR. BRETT CAIN: Okay. Well, then we'll go

09:04:40 7 ahead and get started with the hearing.

09:04:42 8 Pursuant to the authority given under Washington

09:04:45 9 State Law in RCW 50A.05.060, Chapter 42.30 RCW of the

09:04:57 10 Open Public Meetings Act, and Chapter 34.05 RCW of the

09:05:03 11 Administrative Procedure Act, this hearing is hereby

09:05:07 12 convened.

09:05:07 13 For the record this, hearing is beginning at 9:06

09:05:12 14 a.m. on May 8th, 2024, online and by conference call.

09:05:17 15 This hearing is convened to consider testimony

09:05:20 16 concerning Paid Family and Medical Leave rulemaking.

09:05:25 17 Notice of this hearing was filed and published in

09:05:28 18 the Washington State Register on March 28th, 2024, as

09:05:32 19 WSR No. 24-08-046, was sent to interested parties and

09:05:41 20 was posted on the department's webpage.

09:05:43 21 Again, my name is Brett Cain, and I'm a Policy

09:05:49 22 Analyst for the Leave and Care programs of the

09:05:51 23 Washington State Employment Security Department.

09:05:53 24 I represent Commissioner Cami Feek as the hearing

09:05:57 25 officer presiding at this public rulemaking hearing.

09:06:01 1                   There are other members of the Leave and Care  
09:06:03 2                   policy team, or at least one other member of the Leave  
09:06:07 3                   and Care Rules policy team attending this hearing, and  
09:06:11 4                   I'll give them a second to introduce themselves now by  
09:06:14 5                   name and title.

09:06:15 6                   MR. JASON BARRETT: Hello. This is Jason  
09:06:17 7                   Barrett, Lead Policy Analyst with the Leave and Care  
09:06:19 8                   Division. Thank you very much for joining us today.

09:06:24 9                   MR. BRETT CAIN: Thanks, Jason.

09:06:26 10                  Please be advised that this hearing is being  
09:06:29 11                  transcribed by a court reporter and is also being  
09:06:32 12                  recorded by the Microsoft Teams platform. The  
09:06:37 13                  transcript and recording will become part of the  
09:06:40 14                  official rulemaking file. To facilitate this  
09:06:43 15                  transcription, please state and then spell your name  
09:06:45 16                  before your testimony. If you are here in a  
09:06:48 17                  representative capacity, please include who you are  
09:06:52 18                  providing testimony on behalf of.

09:06:53 19                  Please also note that this hearing is convened to  
09:06:56 20                  consider comments on the proposed rule. Because of  
09:07:01 21                  the formal nature of this hearing, we are unlikely to  
09:07:03 22                  answer any questions you may have. If you do pose a  
09:07:06 23                  question, I'll likely ask you to rephrase your  
09:07:10 24                  question as a comment. And again, questions can be  
09:07:13 25                  e-mailed to us at [paidleave@esd.wa.gov](mailto:paidleave@esd.wa.gov), where our

09:07:20 1 customer support staff will respond to your questions.  
09:07:23 2 And one last time, written comments on the proposed  
09:07:27 3 rules will be accepted through today by e-mail at  
09:07:30 4 rules@esd.wa.gov.

09:07:34 5 A Concise Explanatory Statement of the agency's  
09:07:41 6 reasons for adoption of the rules, including a summary  
09:07:43 7 and response to all comments received after the  
09:07:46 8 publication of the proposed rules, will be placed in a  
09:07:49 9 permanent rulemaking file and posted online. This  
09:07:52 10 document will be sent to all interested parties who  
09:07:55 11 have signed up to receive Paid Family and Medical  
09:07:58 12 Leave rules e-mails.

09:07:59 13 We will begin with Jason Barrett, who will  
09:08:02 14 provide a brief explanation of the proposal. Over to  
09:08:09 15 you, Jason.

09:08:09 16 MR. JASON BARRETT: Thank you, Brett.

09:08:11 17 Today's hearing proposes a new chapter of Paid  
09:08:16 18 Family and Medical Leave rules to implement a pilot  
09:08:18 19 program for Transportation Network Company drivers to  
09:08:21 20 elect coverage into the program. The pilot will run  
09:08:23 21 from July 1st of this year through December 31st,  
09:08:28 22 2028.

09:08:29 23 The proposed chapter consists of four new  
09:08:31 24 sections of rules. These sections include definitions  
09:08:34 25 of terms that will be used throughout the pilot and in



09:08:37 1 other sections of the new chapter, a description of  
09:08:39 2 the rights and responsibilities of the TNCs and  
09:08:42 3 drivers participating in the pilot, and clarification  
09:08:45 4 that generally the current Paid Family and Medical  
09:08:48 5 Leave self-employed elective coverage rules, with the  
09:08:51 6 exception of the period of coverage requirements,  
09:08:54 7 apply to pilot participants.

09:08:55 8 I encourage you all to read the text of the rules  
09:08:59 9 along with the supporting documents that are available  
09:09:02 10 on the rulemaking webpage for a more robust  
09:09:06 11 understanding.

09:09:06 12 Thank you very much for your interest and  
09:09:08 13 participation in our rulemaking efforts, and we look  
09:09:11 14 forward to hearing your comments today.

09:09:14 15 MR. BRETT CAIN: Thanks, Jason.

09:09:15 16 All right. Well, we will now hear testimony from  
09:09:19 17 those in attendance. I'll go through each rule  
09:09:22 18 individually, outline the general content of each  
09:09:24 19 rule, and then we'll accept comment on each rule.

09:09:28 20 Remember, all attendees I think are currently  
09:09:31 21 muted. If you wish to speak, you can unmute yourself  
09:09:35 22 through your Teams window or by pressing \*6 if you're  
09:09:38 23 joining by phone.

09:09:40 24 When you testify, please speak clearly, state  
09:09:43 25 your name, spell your last name, and state who you

09:09:45 1 represent if you are here in a representative  
09:09:48 2 capacity.

09:09:48 3 When you finish testifying, please remute  
09:09:51 4 yourself through your Teams window or hit \*6 again on  
09:09:56 5 your phone.

09:09:56 6 The first rule we'll accept comment on --  
09:10:00 7 Actually, before we go forward, is everyone who would  
09:10:04 8 like to have the rules in front of them, are there any  
09:10:11 9 questions on accessing the proposed rules at this  
09:10:14 10 point?

09:10:15 11 (NO RESPONSE).

09:10:20 12 MR. BRETT CAIN: Okay. So the first rule  
09:10:24 13 we'll accept comment on is new proposed WAC  
09:10:30 14 192-511-005 titled Definitions. This rule consists of  
09:10:35 15 definitions that will be used throughout the pilot and  
09:10:38 16 are found in other sections of the new proposed  
09:10:40 17 chapter.

09:10:40 18 We are now ready to accept comment, public  
09:10:44 19 comment on this new proposed rule.

09:10:57 20 (NO RESPONSE.)

09:10:58 21 MR. BRETT CAIN: Any comments on the  
09:10:59 22 Definitions?

09:11:03 23 (NO RESPONSE.)

09:11:05 24 MR. BRETT CAIN: All right. Moving on to  
09:11:12 25 the next proposed section, new proposed WAC

09:11:15 1 192-511-010 titled How do transportation network  
09:11:23 2 company drivers elect Paid Family and Medical Leave  
09:11:26 3 coverage? Let me say that again. How do  
09:11:29 4 transportation network company drivers elect Paid  
09:11:33 5 Family and Medical Leave. This rule describes the  
09:11:37 6 process for how a driver will elect coverage into the  
09:11:40 7 program, including the requisite number of hours  
09:11:43 8 worked in order to gain eligibility, the time in which  
09:11:46 9 a driver can withdraw coverage and when that  
09:11:51 10 withdrawal will take effect. It also includes the  
09:11:54 11 requirement that a driver participating in the pilot  
09:11:58 12 must elect both family and medical leave.

09:12:00 13 We are now ready to accept public comment on this  
09:12:04 14 new proposed rule.

09:12:21 15 Rose Gunderson, you have your hand up. Would you  
09:12:24 16 hike to provide some comment?

09:12:26 17 MS. ROSE GUNDERSEN: I'm curious, if -- Can  
09:12:29 18 you hear me?

09:12:30 19 MR. BRETT CAIN: Yes.

09:12:31 20 MS. ROSE GUNDERSEN: If a driver also had  
09:12:34 21 another job that they are already paying, how do they  
09:12:40 22 integrate and how do you count those hours?

09:12:47 23 MR. BRETT CAIN: Well, if you have questions  
09:12:48 24 about how the rules will function practically, we can  
09:12:53 25 address those outside of the hearing. This is more to

09:12:56 1 comment on the content of the rule. So the e-mail  
09:13:03 2 address that I spoke to earlier. Again, because of  
09:13:08 3 the formal nature of the hearing, we're not going to  
09:13:11 4 be answering questions about the content. We're here  
09:13:14 5 to take comments. So if you want to send that  
09:13:17 6 question to paidleave@esd.wa.gov, then we can  
09:13:24 7 address that question there.

09:13:25 8 And, Rose, your hand is still up. Did you have a  
09:13:40 9 followup?

09:13:41 10 MS. ROSE GUNDERSEN: No.

09:13:47 11 MR. BRETT CAIN: Thank you.

09:13:54 12 Okay. We'll move on to the next new proposed  
09:13:57 13 section. New proposed WAC 192-511-015 Transportation  
09:14:04 14 network company rights and responsibilities. This new  
09:14:10 15 proposed rule largely takes language from outside  
09:14:13 16 Employment Security Department statutes and  
09:14:16 17 regulations and plugs it into our rules. Most  
09:14:19 18 language in this section is taken from RCW 46.72B.200,  
09:14:26 19 which is a section of law in the chapter of statutes  
09:14:30 20 related to transportation network companies. And this  
09:14:34 21 section in our rules sets the standards for TNCs whose  
09:14:39 22 drivers elect coverage under the pilot.

09:14:43 23 We are now ready to accept public comment on this  
09:14:46 24 new proposed rule.

09:14:54 25 MS. KARYSSA JACKSON: I would like to speak,

09:14:57 1 Karyssa Jackson, Lyft. That's spelled K-A-R-Y-S-S-A,  
09:15:08 2 J-A-C-K-S-O-N. I would like to share, the rules that  
09:15:13 3 require a TNC to provide quarterly reports and  
09:15:18 4 quarterly reimbursement payments to any third party  
09:15:22 5 designated by the TNC driver who opted into the  
09:15:25 6 program, there is no specific requirement around who  
09:15:28 7 that third party can be or any restriction on how many  
09:15:33 8 third parties we would be -- required to allow that  
09:15:37 9 information. It would be extremely difficult to  
09:15:41 10 operationalize a process where drivers would be able  
09:15:44 11 to select any third party to receive that information  
09:15:48 12 or payments on their behalf.

09:15:51 13 And, additionally, there are no specific  
09:15:53 14 requirements for what type of third party the drivers  
09:15:57 15 can use. So presumably a driver can allow anyone, for  
09:16:02 16 example, spouse or friend or something like that, to  
09:16:06 17 share this information with. So I want to call out  
09:16:11 18 two concerns there. Thank you.

09:16:14 19 MR. BRETT CAIN: Thank you, Karyssa.

09:16:17 20 And one thing I don't mention that we'll probably  
09:16:21 21 add to future scripts, if you are done with your  
09:16:24 22 comment, can you remember to take your hand down so  
09:16:27 23 I'm not calling on you multiple times.

09:16:29 24 Thank you very much.

09:16:38 25 Anyone else have comment on this section?

09:16:41 1 (NO RESPONSE.)

09:16:44 2 MR. BRETT CAIN: Okay. We'll move on to the  
09:16:57 3 last section, new proposed WAC 192-511-020  
09:17:03 4 Self-employed elective coverage requirements apply to  
09:17:10 5 the pilot program. This new proposed rule states that  
09:17:13 6 drivers who elect coverage are subject to the rights  
09:17:16 7 and responsibilities as they apply to self-employed  
09:17:21 8 individuals who elect Paid Family and Medical Leave  
09:17:24 9 coverage, except for the period of coverage  
09:17:26 10 requirements, which were specifically excluded under  
09:17:30 11 RCW 46.72B.200 of section 4.

09:17:35 12 We are now ready to accept public comment on this  
09:17:40 13 new proposed rule.

09:17:58 14 (NO RESPONSE.)

09:18:01 15 MR. BRETT CAIN: Okay. I would like to take  
09:18:03 16 a moment and ask if there is any additional testimony  
09:18:06 17 on any of the proposed rules included in today's  
09:18:09 18 hearing. If there is any additional testimony, please  
09:18:13 19 feel free to provide comment and indicate which rule  
09:18:15 20 from today's hearing you're providing comment on.

09:18:26 21 Yes, Joshua.

09:18:27 22 MR. JOSHUA WELTER: Hello, this is Joshua  
09:18:32 23 Welter, W-E-L-T-E-R, Teamsters Local 117. I'm wishing  
09:18:38 24 to comment on all of the rules, just to commend the  
09:18:45 25 department for the work that has gone into setting up

09:18:50 1 this pilot program and ensuring its success, and I  
09:18:54 2 think these rules are well thought out. So thank you  
09:18:58 3 for your work.

09:19:00 4 MR. BRETT CAIN: Thank you, Joshua.

09:19:04 5 Is there any further testimony from anyone on the  
09:19:12 6 phone before we conclude this hearing?

09:19:17 7 (NO RESPONSE).

09:19:21 8 MR. BRETT CAIN: One last call.

09:19:31 9 (NO RESPONSE).

09:19:32 10 MR. BRETT CAIN: Okay. Well, in conclusion,  
09:19:37 11 this hearing was convened to consider testimony on  
09:19:40 12 Paid Family and Medical Leave rulemaking.

09:19:42 13 All oral testimony presented at this hearing and  
09:19:45 14 written submissions will become part of the official  
09:19:50 15 record.

09:19:50 16 The deadline for submission of written comments  
09:19:53 17 is by the end of the day today, May 8th, 2024. You  
09:19:57 18 may submit written comments by e-mailing  
09:20:00 19 rules@esd.wa.gov. Comments must be received by the  
09:20:07 20 end of the day today to be considered part of this  
09:20:10 21 rulemaking.

09:20:11 22 A final decision regarding adoption of the  
09:20:15 23 proposed rules will be made after all testimony and  
09:20:18 24 written comments have been fully considered, which  
09:20:20 25 will be on or after May 21st, 2024. The planned

09:20:24 1 effective date of any adopted rules will be July 1st,  
09:20:28 2 2024.

09:20:28 3 On behalf of Commissioner Cami Feek, thank you  
09:20:32 4 for participating in this hearing.

09:20:34 5 This hearing is adjourned at 9:22 a.m. on May  
09:20:38 6 8th, 2024. Thank you very much.

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(RULE MAKING HEARING

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CONCLUDED AT 9:22 A.M.)

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C E R T I F I C A T E

STATE OF WASHINGTON) ) ss.  
COUNTY OF YAKIMA )

THIS IS TO CERTIFY that I, Dorene Boyle,  
Certified Court Reporter in and for the State of Washington  
residing at Yakima, reported the within and foregoing  
videoconference deposition; said deposition being taken  
before me as a Certified Court Reporter via Zoom on the  
date herein set forth; that the deponent was first by me  
duly sworn via Zoom; that said examination was taken by me  
in shorthand and thereafter under my supervision  
transcribed, and that same is a full, true and correct  
record of the testimony of said deponent, including all  
questions, answers and objections, if any, of counsel.

Further certify that I am not a relative or  
employee or attorney or counsel of any of the parties, nor  
am I financially interested in the outcome of the cause.

IN WITNESS WHEREOF I have hereunto set my hand  
this 8th day of May, 2024.

CERT/LIC NO. 2521

  
\_\_\_\_\_  
Certified Court Reporter in and for the  
State of Washington, residing at Yakima