

Concise Explanatory Statement

Paid Family and Medical Leave

Rulemaking

WAC 192-500-070 • WAC 192-500-190

Public Hearing: May 6, 2020

Contents

I.	Introduction.....	3
II.	Rules Summary and Agency Reasons for Adoption.....	4
III.	Changes to Rules.....	5
IV.	Public Comment and Responses	6

I. Introduction

The Employment Security Department (department) is developing rules to implement, clarify, and enforce Title 50A RCW. This document will serve as the Concise Explanatory Statement (CES) for this rulemaking, which covers the definitions of “claim year” and “sibling.”

An informal public meeting was held to gather public comment on draft rules. Informal feedback was accepted on the draft rules through our online portal, by phone, in-person, and by email until the filing of the CR102. After the CR102 was filed, formal comments were accepted until 5 p.m. on May 6, 2020. The formal CR102 hearing was held on May 6, 2020 by conference call.

II. Rules Summary and Agency Reasons for Adoption

AMENDATORY SECTION

WAC 192-500-070 Claim year. (1) A "claim year" is the ~~((fifty-two week))~~ period beginning Sunday of the week of

~~(a) The date of the birth or placement of a child; or~~

~~(b) The date of the filing of a complete and timely application for all other qualifying events.~~

~~(2)) the date an eligible employee files a complete initial application for benefits and ending the Saturday fifty-two weeks later.~~

(2) The entitlement to family leave benefits for the birth or placement of a child expires at the end of the twelve-month period beginning on the date of such birth or placement.

(3) For applications that are backdated, the claim year is the fifty-two week period beginning Sunday of the week to which the application was backdated.

~~((3))~~ (4) An employee may only have one valid claim year at a time.

Example 1: An employee experiences an injury that qualifies as a serious health condition. Three days later, on Thursday, March 4, 2021, the employee files a complete initial application for medical leave benefits. The employee's claim year will run from Sunday, February 28, 2021, to Saturday, February 26, 2022.

Example 2: An employee filed an application for medical leave in March 2021. The employee took four weeks of medical leave and returned to work. The employee's spouse gives birth to a child in September 2021. The employee elects not to take family leave until April 2022. Because the employee's first claim year has already expired, the employee must file a new application and begin a new claim year in order to take family leave beginning in April 2022.

Example 3: An employee gives birth on Thursday, March 4, 2021. The employee elects not to submit an application for paid family leave until Monday, April 5, 2021. Though the employee's claim year will run from Sunday, April 4, 2021, to Saturday, April 2, 2022, the employee will not be able to claim family leave after March 3, 2022, for the birth of the child. The employee can claim leave for other qualifying reasons for the period March 4, 2022, through April 2, 2022, subject to the maximum duration limits.

Agency reason for adoption: Previously, an employee filing for bonding leave would have their claim year start on the date of the birth or placement. This resulted in confusion and the possibility of overlapping claim years when an employee would first submit an application for another qualifying event, and then subsequently file an application for bonding leave. This change creates uniformity for administration of the claim year while still adhering to the statutory requirement that an employee's entitlement to bonding leave expires one year after the birth or placement of the child.

NEW SECTION

WAC 192-500-190 Sibling. "Sibling" means an individual who shares at least one parent, as defined by RCW 50A.05.010(15), with another individual.

Agency reason for adoption: Statute lacks a definition of sibling. This rule provides clarity for family leave eligibility for individuals wishing to take leave to care for a sibling with a serious health condition.

III. Changes to Rules

None.

IV. Public Comment and Responses

Below is delineation of all comments received during the formal comment period on the proposed rules. All comments are either copied directly from the original written source (online portal post, email, hearing transcript, etc.) or paraphrased from the original verbal source (phone call, comment received at a presentation, etc.).

#	Source	Name	Comment	Response
1	Hearing	Patricia Zuniga	For definition of claim year, I note that it removes the provision applicable to family leave where the claim year begins. On the Sunday of the week of the date of the birth or placement of the child. And the new definition is now the claim year is the date the eligible employee files a complete application for benefits and Saturday 62 weeks later. My comment is considering that the rules are expected to take effect, I believe the initial timeline was June 11, can we have some clarification on how the change in definition affects the claims already filed and approved? So when the rules were initially the claim year could be the date of the birth or placement of the child, for earlier claims that have had that claim year begin already, what would the new rule -- how would the new rule affect those claims that are already existing or in flight. And perhaps we do this by another example.	Claim years for all applications received up to the effective date of this rule will be adjusted, if necessary, to comply with the new rule.
2		Marilyn Watkins	Thank you for submitting the rules and I just want to basically support these definitions as proposed.	The Department appreciates your comment and participation.
3		Maggie Humphreys	I want to echo Marilyn's comment and support these definitions as proposed.	The Department appreciates your comment and participation.
4		Michelle Czitkovic	My comment is that the proposed definition of claim year could be confusing of individuals If it is the Sunday of the week rather than the actual date of the event.	The Department wrote this rule to ensure consistency with WAC 192-500-110.

