



**RULE IMPLEMENTATION PLAN
(RCW 34.05.328)
AMENDED WAC 192-700-010
NEW WAC 192-700-020**

Introduction

Pursuant to RCW 34.05.328, the Paid Family and Medical Leave (PFML) division of the Employment Security Department (Department) hereby places into the rulemaking file this implementation plan.

The amendments to WAC 192-700-010(1) clarify requirements of RCW 50A.35.010(1). The amendments to WAC 192-700-010(3) clarify that RCW 50A.35.020 requires the continuation of health benefits for employees who are required to receive such benefits for the duration of their leave under Title 50A RCW.

There is no provision in statute to indicate that the employer’s responsibility to continue health benefits ends in the event of the employer’s decision not to offer employment restoration to the employee under RCW 50A.35.010(6)(b). Therefore, the department has interpreted the legislation in such a way as to require the provisions of RCW 50A.35.020 to apply even in the event of such a decision.

The new WAC 192-700-020 was added because once the requirement for health benefit continuation is met, benefits must be continued “in force for the duration of such leave.” The department has interpreted “for the duration of such leave” to include the entire remaining period for which the employee is claiming benefits under Title 50A RCW, regardless of the circumstances that may alter the employee’s eligibility under the FMLA at some later date.

1. Plan to Implement and Enforce the Rule

The rule will be integrated into operational policy and discussed with staff internally. They will also be, to the extent necessary, integrated into the program’s technological functionality to automate processes and simplify the customer experience.

In most cases, the Department will learn of a violation of the requirement when an employee files a complaint under RCW 50A.40.020. If such a complaint is received, the Department will investigate as prescribed by that statute and any related rules. If a determination of noncompliance is issued, the Department may assess damages consistent with RCW 50A.40.030 and any related rules.

2. Plan to Inform and Educate Affected Persons

Information regarding both rules will be posted on the Department's website. Customer service staff will be trained on the changes and will be available by phone and email to answer customer questions.

Emails are sent to all PFML mailing list subscribers summarizing our rulemaking processes and providing updates on any rule changes. Additional information, including final rule text, is available on our rulemaking website.

3. Promote and Assist Voluntary Compliance

Customer service representatives will be trained on the content of both rules and be available by phone and email to answer customer questions.

4. Plan to Evaluate Whether the Rules Achieve the Purpose for Which They Were Adopted

The continuation of health benefits is required by RCW 50A.35.020. The Department will evaluate overall rule success through employer and employee feedback.