

AMENDATORY SECTION (Amending WSR 19-08-016, filed 3/22/19, effective 4/22/19)

WAC 192-510-010 Election, withdrawal, and cancellation of coverage.

(1) Self-employed persons as defined in RCW ((50A.04.105)) 50A.10.010(1) and federally recognized tribes as defined in RCW ((50A.04.110)) 50A.10.020 may elect coverage under Title 50A RCW.

(2) Notice of election of coverage must be submitted to the department online or in another format approved by the department.

(3) Elective coverage begins on the first day of the quarter immediately following the notice of election.

(4) A period of coverage is defined as:

(a) Three years following the first day of elective coverage or any gap in coverage; and

(b) Each subsequent year.

(5) Any self-employed person or federally recognized tribe may file a notice of withdrawal within thirty calendar days after the end of each period of coverage.

(6) A notice of withdrawal from coverage must be submitted to the department online or in another format approved by the department.

(7) Any levy resulting from the department's cancellation of coverage is in addition to the due and unpaid premiums and interest for the remainder of the period of coverage.

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

WAC 192-510-020 Election of coverage for federally recognized tribes.

(1) Federally recognized tribes electing coverage are employers as defined in RCW ((50A.04.010)) 50A.05.010 and are subject to all rights and responsibilities under Title 50A RCW.

(2) Employees of federally recognized tribes that elect coverage are employees as defined in RCW ((50A.04.010)) 50A.05.010 and are subject to all the rights and responsibilities under Title 50A RCW.

AMENDATORY SECTION (Amending WSR 19-13-001, filed 6/5/19, effective 7/6/19)

WAC 192-510-025 What wages are reportable to the department for premium assessment purposes?

(1) Examples of wages reportable to the department for premium assessment purposes include, but are not limited to:

(a) Salary or hourly wages;

(b) Cash value of goods or services given in the place of money;

(c) Commissions or piecework;

(d) Bonuses;

(e) Cash value of gifts or prizes;

(f) Cash value of meals and lodging when given as compensation;

(g) Holiday pay;

(h) Paid time off, including vacation leave and sick leave, as well as associated cash outs, unless these wages are considered supplemental benefit payments provided by the employer;

(i) ~~((Bereavement leave;~~

~~(j))~~ Separation pay including, but not limited to, severance pay, termination pay, and wages in lieu of notice;

~~((k))~~ (j) Value of stocks at the time of transfer to the employee if given as part of a compensation package;

~~((l))~~ (k) Compensation for use of specialty equipment, performance of special duties, or working particular shifts; and

~~((m))~~ (l) Stipends/per diems unless provided to cover a past or future cost incurred by the employee as a result of the performance of the employee's expected job functions.

(2) Examples of what the department will not consider wages include, but are not limited to:

(a) A payment from an employer benefit that is not part of the employee's standard compensation.

Example: While on paid medical leave, an employee receives sixty-one percent of the employee's typical weekly wage from the state. Through an internal short-term disability benefit, the employer pays the employee the remaining thirty-nine percent of the employee's typical weekly wage as a supplemental benefit payment, bringing the employee's total benefit to one hundred percent of the employee's typical weekly wage. Since this supplemental benefit payment is not part of the employee's standard compensation, it is not considered a wage, and should not be reported on either the employee's weekly claim or the employer's quarterly report.

(b) Any payment made to an employee to cover a past or future cost incurred by the employee related to the performance of the employee's expected job functions. Such costs include, but are not limited to, costs of meals and travel.

Example: An employer pays a per diem to an employee on a business trip to cover the cost of local travel and meals. This amount is not considered a wage, even if the per diem exceeds the actual cost incurred.

(c) The amount of any payment made (including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment) to, or on behalf of, an individual or the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for the employer (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(i) Retirement;

(ii) ~~((Sickness or accident))~~ Short-term or long-term disability;

(iii) Medical or hospitalization expenses in connection with sickness or accident disability; or

(iv) Death.

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants? (1) To

assess premiums and determine eligibility for small business assistance grants, the department must determine the size of each applicable employer. The department will only count the number of in-state employees as defined in RCW ((50A.04.010)) 50A.05.010(4) when calculating employer size.

(2) If the department determines that the employer's status has changed as it relates to premium liability, the department will notify the employer. This notification will include the following information:

(a) If the employer was determined to have fifty or more employees for the preceding calendar year, and the employer is then determined to have fewer than fifty employees for the subsequent calendar year, the employer will not be required to pay the employer portion of the premium for the next calendar year; or

(b) If the employer was determined to have fewer than fifty employees for the preceding calendar year, and the employer is then determined to have fifty or more employees for the subsequent calendar year, the employer will be required to pay the employer portion of the premium for the next calendar year.

Example: On September 30, 2018, a business is determined to have had 53 employees on average during the previous four completed quarters, which covers July 1, 2017, through June 30, 2018. The employer is liable for the employer portion of premiums for 2019. On September 30, 2019, the business is determined to have had 48 employees on average during the previous four completed quarters, which covers July 1, 2018, through June 30, 2019. The employer is no longer liable for the employer share of premiums for 2020.

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

WAC 192-510-050 How will the department assess the size of new employers? An employer that has not been in business in Washington long enough to report four calendar quarters by September 30th will have its size calculated after the second quarter of reporting is due by averaging the number of employees reported over the quarters for which reporting exists. Premium assessment based on this determination will begin on this reporting date. This size determination remains in effect until the following September 30th pursuant to RCW ((50A.04.115)) 50A.10.030 (8)(c).

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

WAC 192-510-060 When are employer premium payments due? (1) Premiums must be paid quarterly. Each payment must include the premiums owed on all wages subject to premiums during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which premiums are being paid.

(2) Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the premium payment must be postmarked by the next business day.

(3) Premium payments are due within ten calendar days when a business is dissolved or the account is closed by the department. Premiums not paid timely are delinquent and subject to interest under RCW ((50A.04.140)) 50A.45.025.

AMENDATORY SECTION (Amending WSR 19-08-016, filed 3/22/19, effective 4/22/19)

WAC 192-510-065 When can an employer deduct premiums from employees? (1) An employer may not deduct more than the maximum allowable employee share of the premium from wages paid for a pay period.

(2) If an employer fails to deduct the maximum allowable employee share of the premium from wages paid for a pay period, the employer is considered to have elected to pay that portion of the employee share under RCW ((50A.04.115)) 50A.10.030 (3)(d) for that pay period. The employer cannot deduct this amount from a future paycheck of the employee for a different pay period.

(3) Subsections (1) and (2) of this section do not apply if an employer was unable to deduct the maximum allowable employee share of the premium for a pay period due to a lack of sufficient employee wages for that pay period.

AMENDATORY SECTION (Amending WSR 19-08-016, filed 3/22/19, effective 4/22/19)

WAC 192-510-085 How will the department assess premiums when a conditional premium waiver expires? (1) If an employee who is exempt from premiums under a conditional waiver works eight hundred twenty hours in any period of four consecutive quarters, the waiver will be determined to have expired.

(2) Upon expiration of a conditional premium waiver, the department will assess and notify:

(a) The employer of all the owed employer premiums; and

(b) The employee of all the owed employee premiums.

(3) Payment will be due upon receipt of the assessment.

(4) Failure to pay the assessment by the required date will result in the accrual of interest under RCW ((50A.04.140)) 50A.45.025.

(5) Upon payment of the employee premiums, the employee will be credited for the hours worked and will be eligible for benefits under Title 50A RCW as if the premiums were originally paid.

(6) Nothing in this section prevents the employer from paying part or all of the employee's share of the premiums.