

PRELIMINARY Significant Analysis
Title 50A RCW
Paid Medical and Family Leave

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Introduction

Title 50A RCW creates a statewide Paid Family and Medical Leave insurance program that provides for at least partial wage replacement when a qualified employee takes leave for an approved reason related to family or medical leave.

In 2019, the Employment Security Department (department) began collecting premiums and quarterly reporting for employers. In 2020, the department started accepting applications for the benefit portion of the program. The law requires the state to develop rules as we continue to administer the program.

These rules are being developed by the department and are filed in general rulemaking processes in accordance to Title 34 RCW. This filing contains rules related to program definitions.

Chapter 1: Describe the proposed rules, including a brief history of the issue, and explain why the proposed rules are needed.

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.

Title 50A RCW allows eligible employees to take family leave to care for a number of family members, including siblings. Statute does not provide a definition of sibling. This rule is necessary for further clarification of the definition of a qualifying family member during the evaluation of an employee's qualifying event.

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.

The department implemented a “claim year” calendar for the administration of an employee’s entitlement to benefits under RCW 50A.15.020. Originally, the claim year for an employee’s use of family leave to bond with a new child began when the child was born or placed with the employee and expired one year after the birth or placement of the child. However, this led to confusion and the possibility of overlapping claim years for employees who experience multiple qualifying events. As a result, the department is simplifying the definition of claim year. A claim year will always begin the Sunday of the week the employee files a complete initial application for benefits. An employee’s entitlement to leave for bonding time expires at the end of the twelve-month period beginning on the date of the birth or placement, as required by RCW 50A.15.065. The dates of a claim year do not have to coincide with the twelve-month bonding entitlement.

Chapter 2: Is a Significant Analysis required for these rules?

Rules requiring a significant analysis.

None.

Rules not requiring a significant analysis.

WAC Section	Section Title	Exempting reason	Exempting statute
192-500-190	Sibling	Interpretive	RCW 34.05.328(5)(c)(ii)
192-500-070	Claim year	Interpretive Procedural	RCW 34.05.328(5)(c)(ii) RCW 34.05.328(5)(c)(i)

RCW 34.05.328(5)(c)(iii) defines a significant legislative rule:

A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B)

establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

Procedural and interpretive rules are specifically excluded from the definition of a significant legislative rule and are defined in RCW 34.05.328(5)(c)(i):

A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency

and RCW 34.05.328(5)(c)(ii):

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

Chapter 3: Clearly state in detail the general goals and specific objectives of the statute that the rules implement.

Title 50A RCW requires the department to create rules to administer the Paid Family and Medical Leave program. The rules clarify the definition of a claim year as referenced in RCW 50A.15.065 and define "sibling" in order to further clarify care for qualifying family members.

Chapter 4: Explain how the department determined that the rules are needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rules.

The rules are needed to formalize a departmental procedure, define, and further clarify administration of the provisions of the Paid Family and Medical Leave program under Title 50A RCW. If the rules are not adopted, there will continue to be confusion regarding the “claim year” definition related to the twelve-month time period for bonding with a child from the date of birth or placement. In addition, the new section adds the definition of “sibling” which is not currently in statute or rule.

Chapter 5: Explain how the department determined that the probable benefits of the rules are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

The rules do not impose any additional requirements or costs on businesses. The revisions are procedural and interpretive, provide a definition of “sibling” and further clarify the “claim year” definition.

Chapter 6: Identify alternative versions of the rule that were considered and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated previously.

No alternative versions of the rules were considered. Adoption of the rules will achieve the general goals and objectives of administering Title 50A RCW and will provide clarification for employees when submitting applications and claims.

Chapter 7: Conflicts with Federal or State law

None of the rules analyzed in this Significant Analysis conflict with Federal or State law.

Chapter 8: Performance impositions on private vs. public sectors

Since all employers and employees, regardless of public or private sector employment status, are required to participate in Paid Family and Medical Leave, there is no evidence to suggest that any proposed rule will have a measurably different impact between the two sectors.

Chapter 9: Conflicts with Federal or State regulatory bodies

None of the rules analyzed in this Significant Analysis conflict with any applicable Federal or State regulatory requirements.

Chapter 10: Coordination with Federal, State, or local laws

There are no other Federal, State, or local laws applicable to the rules analyzed in this Significant Analysis.