



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 16, 2020

TIME: 5:27 PM

WSR 20-09-112

Agency: Employment Security Department

Subject of possible rule making: Continuing to implement the Paid Family and Medical Leave (PFML) program (Title 50A RCW) requires updating existing rules and promulgating new rules to ensure clarity and make necessary changes as we discover programmatic needs. This preproposal statement of inquiry includes, but is not limited to, adding a definition of "placement," establishing proration guidelines, and clarifying employee identification standards.

Statutes authorizing the agency to adopt rules on this subject: RCW 50A.05.060

Reasons why rules on this subject may be needed and what they might accomplish: This rulemaking focuses on definitions for the PFML program.

Statute limits the ability for an employee to take bonding leave for the birth or placement of a child, but does not offer a definition of the term "placement." Establishing a definition of that term will clarify eligibility requirements.

The department is not legally permitted to pay benefits for a period of time in which the employee did not apply for paid family or medical leave. This results in the need to prorate an employee's benefit in the first and last weeks of an employee's approved duration of leave to prevent payment for a period of time in which the employee either did not apply or is not approved.

Current department policy requires the establishment of an employee's claim year in all cases where the employee has worked the requisite 820 hours in the state. Pursuant to WAC 192-610-010, this would include instances where an employee was unable to adequately establish their identity. The department intends to change this requirement so that an employee who is unable to adequately establish their identity does not trigger the establishment of a claim year, even if the requisite 820 hours have been worked.

The department recognizes the need for clear and usable guidance for ongoing programmatic operations. These rules will contribute to that guidance.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: No federal agencies and no other state agencies regulate this program as it is a new state entitlement with authority granted solely to the Employment Security Department..

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) The draft rules will be shared with the public, stakeholders, and the program's Advisory

Committee. The department will solicit input from all involved parties and consider all comments in the development of the final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

(If necessary)

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Additional comments:

Date: 04-16-2020

Name: April Amundson

Title: Policy and Rules Manager for Paid Family and Medical Leave

Signature:

