



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: August 05, 2020

TIME: 10:49 AM

WSR 20-16-149

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 20-09-112 ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject)

Amending WAC 192-500-040 Aggrieved party

Amending WAC 192-500-070 Claim year.

Amending WAC 192-500-080 Qualifying event.

Amending WAC 192-500-170 Self-employed.

Adding WAC 192-500-195 Placement.

Adding WAC 192-510-090 How will the department determine the premium rate for each calendar year?

Amending WAC 192-610-025 Documenting the birth or placement of a child for paid family leave.

Amending WAC 192-620-035 When will a weekly benefit amount be prorated?

Amending WAC 192-800-035 Who can appeal or submit a petition for review?

Amending WAC 192-800-045 When can an appeal be withdrawn?

Amending WAC 192-800-110 What options are available for an aggrieved party who received an order of default?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 9, 2020	9:00 AM	Conference call. (360) 407-3780 // PIN: 962631 #	Hearing will be held remotely due to COVID-19.

Date of intended adoption: On or after September 23, 2020 (Note: This is NOT the effective date)

Submit written comments to:

Name: April Amundson

Address: Employment Security Department, PO Box 9046 Olympia, WA 98507-9046

Email: rules@esd.wa.gov

Fax:

Other: Online portal: [https://www.opentownhall.com/portals/289/forum\\_home?phase=open](https://www.opentownhall.com/portals/289/forum_home?phase=open)

By (date) September 9, 2020

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: 360-480-5708

Fax:

TTY: 711

Email: Teckstein@esd.wa.gov

Other:

By (date) September 2, 2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed amendments and new rules implement a number of changes, including: adding a definition of "placement" of a child for eligibility for family bonding leave; clarifying when a claim year will be established; clarifying the documentation required for the birth or placement of a child; describing how a benefit will be prorated; and making other clarifying changes.

**Reasons supporting proposal:** The rules are necessary to assess benefit eligibility and ensure employee privacy in the event of identity theft. Additional proration requirements are necessary to ensure proper payment consistent with statutory requirements if an employee's leave begins in the middle of a week. The proposed rules will provide clear and usable guidance to the public regarding program operations and the calculation of the premium rate.

**Statutory authority for adoption:** RCW 50A.05.060

**Statute being implemented:** RCW 50A.05.010, RCW 50A.10.030, RCW 50A.15.020, RCW 50A.15.040, RCW 50A.15.060  
Chapter 50A.50 RCW

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Employment Security Department, Paid Family and Medical Leave Division  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	April Amundson	Lacey, WA	360-485-2816
Implementation:	April Amundson	Lacey, WA	360-485-2816
Enforcement:	April Amundson	Lacey, WA	360-485-2816

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:  
Name:  
Address:  
Phone:  
Fax:

TTY:  
Email:  
Other:

No: Please explain:

WAC 192-500-040, WAC 192-500-080, WAC 192-500-170, WAC 192-800-035, and WAC 192-800-045 are exempt under RCW 34.05.328(5)(b)(iv) because the rules correct references and clarify language without changing the effect of the rules.

WAC 192-800-110 is exempt under RCW 34.05.328(5)(c)(i)(A) because it is a procedural rule related to agency hearings.

WAC 192-500-070, WAC 192-500-195, WAC 192-510-090, and WAC 192-610-025 are exempt under RCW

34.05.328(5)(c)(ii) because they are interpretive rules that set forth the agency's interpretation of statutory provisions.

WAC 192-620-035 is exempt under RCW 34.05.328(5)(b)(ii) because the rule is related to internal governmental operations not subject to violation by a nongovernment party.

### Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)  
(Internal government operations)

RCW 34.05.310 (4)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of exemptions, if necessary:

WAC 192-500-040 Aggrieved party | The rule is exempt under RCW 34.05.310(4)(d) and (g)(i) because the amendments correct or clarify language without changing the effect of the rule and relate to agency hearings.

WAC 192-500-080 Qualifying event. | The rule is exempt under RCW 34.05.310(4)(d) because the amendments correct or clarify language without changing the effect of the rule.

WAC 192-500-170 Self-employed. | The rule is exempt under RCW 34.05.310(4)(d) because the amendments correct or clarify language without changing the effect of the rule.

WAC 192-510-090 How will the department determine the premium rate for each calendar year? | The rule is exempt under RCW 34.05.310(4)(b) and (e) because the rule relates to internal government operations and is dictated by statute.

WAC 192-800-035 Who can appeal or submit a petition for review? | The rule is exempt under RCW 34.05.310(4)(d) and (g)(i) because the amendments correct or clarify language without changing the effect of the rule and relate to agency hearings.

WAC 192-800-045 When can an appeal be withdrawn? | The rule is exempt under RCW 34.05.310(g)(i) because the amendments relate to a procedure or practice regarding agency hearings.

WAC 192-800-110 What options are available for an aggrieved party who received an order of default? | The rule is exempt under RCW 34.05.310(4)(g)(i) because the amendments relate to agency hearings.

### COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

The following rules do not impact businesses and pertain only to individuals applying for paid family or medical leave benefits:

WAC 192-500-070 Claim year.

WAC 192-500-195 Placement.

WAC 192-610-025 Documenting the birth or placement of a child for paid family leave.

WAC 192-620-035 When will a weekly benefit amount be prorated?

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Date:** August 5, 2020

**Signature:**

**Name:** April Amundson



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