

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

**WAC 192-530-030 Voluntary plans—Employee eligibility criteria.**

(1) To qualify for an employer's approved voluntary plan, an employee must have been:

(a) In employment for at least eight hundred twenty hours during the qualifying period and in employment with that employer for at least three hundred forty hours; or

(b) Covered by an approved voluntary plan through their most recent previous employer in the employee's qualifying period.

(2) An employer may waive the requirements of subsection (1) of this section, in whole or in part, to allow an employee to be eligible for benefits through the voluntary plan.

(3) Employees working for an employer with a voluntary plan who have not yet met eligibility requirements for that plan are eligible for benefits under the state plan so long as all other requirements are met.

~~((3))~~ (4) When an employee files a claim for benefits, an employer will access the employee's weekly benefit amount and typical workweek hours information online, or in another format approved by the department, and ensure the employee qualifies for at least an equivalent benefit amount from its voluntary plan.

~~((4))~~ (5) Upon hiring an employee previously covered under a state plan, the employer with an existing voluntary plan must report to the department online, or in another format approved by the department, the new employee's status for the voluntary plan after the employee becomes eligible for that plan.

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

**WAC 192-530-050 Avoiding a duplication of benefits under state and approved voluntary plans.**

(1) Employees cannot collect benefits from both the state plan and ~~((a))~~ an approved voluntary plan for the same period. To ensure compliance, employers with an approved voluntary plan must report:

(a) All information required of employers by the state plan; and

(b) Weekly benefit and leave duration information for any employee who takes leave under that plan for reasons that would have qualified for leave under the state plan ~~((; and~~

~~((c) Premiums, if any, withheld from employee wages)).~~

(2) Upon request, the department will provide weekly benefit, typical workweek hours, and leave duration information to any employer with an approved voluntary plan that requests it for an employee who intends to take leave under that plan.

(3) If the employee is covered by more than one plan, whether state, voluntary, or a combination of either, the employee is considered covered by the employer for which the employee worked the most hours during the qualifying period.

(a) If the employee worked an equal number of hours for more than one employer during the qualifying period, then the employee is con-

sidered covered by the employer for which the employee worked the most hours since the qualifying period.

(b) If the employee worked an equal number of hours for more than one employer since the qualifying period, then the employee is considered covered by the employer for which the employee has an earlier start date.

AMENDATORY SECTION (Amending WSR 18-22-080, filed 11/2/18, effective 12/3/18)

**WAC 192-530-060 ((What happens at the end of a voluntary plan?))**

**How can approved voluntary plans end and what happens when they do?**

~~((1) If the employer chooses to withdraw from a voluntary plan due to a legally required increase in the benefit amounts or any change in the rate of employee premiums, the employer must provide notice to the department at least thirty days prior to the date that the change goes into effect. The plan will be considered withdrawn on the date of the change. The employer must remit any deductions from the wages of an employee remaining in the possession of the employer to the department within thirty days of the effective date of the withdrawal.~~

~~(2)(a) If the employer chooses to withdraw from a voluntary plan for any other reason, the employer must provide notice to the department at least thirty days prior to the end of a calendar quarter. The plan will be considered withdrawn on the first day of the following calendar quarter.~~

~~(b) If notice is provided less than thirty days prior to the end of a quarter, the plan will be considered withdrawn on the first day of the second calendar quarter following notice of the withdrawal.~~

~~(c) The employer must remit any deductions from the wages of an employee remaining in the possession of the employer to the department within thirty days of the effective date of the withdrawal.~~

~~(3) If the department terminates an employer's voluntary plan, the department will notify the employer of the effective date and the reason for termination. The department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all moneys in the plan, including premiums paid by the employer, premiums paid by the employees, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys. The amount will be due immediately. Any balance owed will not start collecting interest until thirty calendar days after the date of the invoice.~~

~~(4) Benefit eligibility under a voluntary plan must be maintained for all employees covered by that plan until the effective date of termination or withdrawal.~~

~~(a) On the effective date of a voluntary plan termination, employees currently receiving paid family or medical leave benefits are, if otherwise eligible, immediately entitled to benefits from the state program.~~

~~(b) For employees currently receiving paid family or medical leave benefits on the effective date of a voluntary plan withdrawal, the employer will have the option to:~~

~~(i) Continue to pay benefits under the terms of the voluntary plan until the total amount of the benefit is paid or the duration of leave ends, whichever happens first; or~~

~~(ii) Immediately pay the employee the maximum remaining amount of benefits available to the employee under the terms of the voluntary plan, regardless of the duration of leave that is actually taken.~~

~~(c) On the effective date of a voluntary plan termination or withdrawal, employees currently taking family or medical leave under this chapter are, if otherwise eligible, entitled to the job protection provisions of RCW 50A.04.600(5) until the duration of leave ends.~~

~~(5) Employers are required to notify employees of any plan withdrawal or termination within five business days of notification by the department of the effective date of termination or withdrawal.)~~ (1) An approved voluntary plan ends when either the employer withdraws the plan or the agency terminates the plan for good cause. When a voluntary plan ends either through termination or withdrawal the following requirements must be satisfied:

(a) Benefits and benefit eligibility under a voluntary plan must be maintained for all employees covered by that plan until the effective date of termination or withdrawal.

(b) On the effective date of a voluntary plan termination or withdrawal, employees currently taking family or medical leave under this chapter are entitled to employment restoration under RCW 50A.04.600 (5) (h) until the leave ends.

(c) Employers must notify employees of any plan withdrawal or termination within five business days of notification by the department of the effective date of the termination or withdrawal.

(2) **Withdrawal.** Employers have the right to withdraw a voluntary plan under RCW 50A.04.600 (5) (e) and as provided herein:

(a) If an employer chooses to withdraw a voluntary plan due to a legally required increase in the benefit amounts or any change in the rate of employee premiums, the employer must provide notice to the department at least thirty days prior to the date the change goes into effect, stating the reason for the withdrawal. The plan will be considered withdrawn on the date of the change. Within thirty days of the effective date of withdrawal, the employer must remit to the department any employee wages withheld for the purpose of paying paid family or medical leave benefits that were not used to pay paid family or medical leave benefits.

(b) If the employer chooses to withdraw a voluntary plan for any other reason, the employer must provide notice to the department at least thirty days prior to the end of a calendar quarter. The plan will be considered withdrawn on the first day of the calendar quarter following the properly provided notice. If notice is provided less than thirty days prior to the end of a quarter, the plan will be considered withdrawn on the first day of the second calendar quarter following notice of the withdrawal. Within thirty days of the effective date of withdrawal, the employer must remit to the department any employee wages withheld for the purpose of paying paid family or medical leave benefits that were not used to pay paid family or medical leave benefits.

(c) On the effective date of a voluntary plan withdrawal, for employees currently receiving paid family or medical leave benefits under the voluntary plan, the employer will have the option to:

(i) Continue to pay benefits under the terms of the voluntary plan until the total amount of the benefit is paid or the duration of leave ends, whichever happens first; or

(ii) Immediately pay the employee the maximum remaining amount of benefits available to the employee under the terms of the voluntary plan, regardless of the duration of leave that is actually taken.

(d) Any benefit payments made by an employer to an employee on leave at the time of a voluntary plan withdrawal under (b) of this subsection will be deducted from any monies owed to the department as described in (a) of this subsection.

(3) **Termination.** The department may terminate an employer's voluntary plan for good cause as defined under WAC 192-530-070 and as provided herein:

(a) If the department terminates an employer's voluntary plan, the department will notify the employer of the effective date of and reason for the termination. The department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all monies in the plan, including any contributions held in trust as required by RCW 50A.04.635, monies owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these monies. The amount is due immediately. Any balance owed will begin accruing interest on the thirtieth calendar day after the date of the invoice.

(b) On the effective date of a voluntary plan termination, employees currently receiving paid family or medical leave benefits under the voluntary plan are, if otherwise eligible under the state plan, immediately entitled to benefits from the state plan.

#### NEW SECTION

**WAC 192-530-090 Can an employer with an approved voluntary plan make deductions from a benefit payment?** Employers are permitted, with express written agreement from the employee, to make deductions from voluntary plan benefit payments including, but not limited to, health insurance premium payments, retirement contributions, applicable federal taxes, or other purposes, unless prohibited by law.