

**Paid Family and Medical Leave -  
Proposed amended rules related to the definition of health  
care provider, designated representative, and other topics.**

December 2024

**Introduction**

The statewide Paid Family and Medical Leave (PFML) program under Title 50A RCW provides partial wage replacement when a qualified employee takes approved family or medical leave. The law gives the Employment Security Department (department) general rulemaking authority under RCW 50A.05.060 to administer the program.

The proposed amendments expand the definition of “health care provider” to include naturopathic physicians, remove gender-specific pronouns, set interest rates at one percent per month for assessed employer damages, aligns backdating for good cause with other backdating timelines, aligns WACs related to weekly benefit proration with statutory requirements and operational practice, and expands departmental flexibility in appointing designated representatives.

The proposal also repeals WACs related to the pandemic leave assistance program, which has expired.

These proposed rules were developed by the department and were filed in accordance with Chapter 34.05 RCW. The department completed this analysis in accordance with RCW 34.05.328(1).

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

<b>Proposed WAC Sections and Title</b>	<b>Effect</b>
WAC 192-500-090 Health care provider.	This amendment would allow naturopathic physicians based in Washington who are licensed under chapter 18.36A RCW to sign medical certifications.
WAC 192-510-031 What are reportable wages for self-employed persons electing coverage?	This amendment would replace gender-specific pronouns used in the example with gender-neutral pronouns. The amendment has no practical impact.

WAC 192-570-050 How are damages and liquidated damages assessed by the department, awarded, and paid?	This amendment would set the interest rate for late payments related to employer damages at one percent per month.
WAC 192-610-040 Can an employee backdate an application or a weekly claim for benefits?	This amendment would align timelines related to backdating an application for good cause with operational timelines related to backdating an application for any other purpose.
WAC 192-620-020 What information will the department request from an employee when filing for weekly benefits?	This amendment would align WAC language with statutory language and operational requirements. The amendment has no practical impact.
WAC 192-620-035 When will a weekly benefit amount be prorated?	This amendment would align WAC language with statutory language and operational requirements. The amendment has no practical impact.
WAC 192-800-150 Can an employee designate a representative to act on their behalf?	This amendment would give the department the flexibility to develop processes that would allow for verbal authorization in some cases.
WAC 192-500-200 Pandemic leave assistance.	The proposal would repeal rules related to the pandemic leave assistance grant program, which has expired.
WAC 192-530-100 Are voluntary plans required to pay pandemic leave assistance benefits?	The proposal would repeal rules related to the pandemic leave assistance grant program, which has expired.
WAC 192-610-100 What is the attestation required for an employee claiming pandemic leave assistance?	The proposal would repeal rules related to the pandemic leave assistance grant program, which has expired.

## Is a Significant Analysis required for these rules?

The proposed rules in the table below do not meet the definition of significant legislative rules under RCW 34.05.328 and do not require analysis. Each rule and the reason for the exemption is listed below.

<b>Proposed WAC Sections and Title</b>	<b>Exempting reason and statute</b>
WAC 192-500-090 Health care provider.	The rule is an “interpretative” rule as defined by RCW 34.05.328(5)(c)(iii) and is therefore not subject to the requirements of RCW 34.05.328.
WAC 192-510-031 What are reportable wages for self-employed persons electing coverage?	RCW 34.05.328(5)(b)(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

WAC 192-570-050 How are damages and liquidated damages assessed by the department, awarded, and paid?	RCW 34.05.328(5)(b)(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;
WAC 192-610-040 Can an employee backdate an application or a weekly claim for benefits?	RCW 34.05.328(5)(b)(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;
WAC 192-620-020 What information will the department request from an employee when filing for weekly benefits?	RCW 34.05.328(5)(b)(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW <a href="#">82.32.762</a> (3);
WAC 192-620-035 When will a weekly benefit amount be prorated?	RCW 34.05.328(5)(b)(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW <a href="#">82.32.762</a> (3);
WAC 192-800-150 Can an employee designate a representative to act on their behalf?	RCW 34.05.328(5)(b)(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;
WAC 192-500-200 Pandemic leave assistance.	RCW 34.05.328(5)(b)(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW <a href="#">82.32.762</a> (3);
WAC 192-530-100 Are voluntary plans required to pay pandemic leave assistance benefits?	RCW 34.05.328(5)(b)(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW <a href="#">82.32.762</a> (3);
WAC 192-610-100 What is the attestation required for an employee claiming pandemic leave assistance?	RCW 34.05.328(5)(b)(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW <a href="#">82.32.762</a> (3);

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

The Paid Family and Medical Leave program provides at least partial wage replacement when a qualified employee takes approved family or medical leave.

The goals and objectives of the Paid Family and Medical Leave Act, Title 50A RCW, are outlined in RCW 50A.05.005 and state in part:

“The demands of the workplace and of families need to be balanced to promote family stability and economic security. Access to paid leave is associated with many important health benefits. Research confirms that paid leave results in decreased infant mortality and more well-baby visits and reductions in maternal postpartum depression and stress. Paid leave increases the duration of breastfeeding, which supports bonding, stimulates positive neurological and psychological development, strengthens a child's immune system, and reduces the risks of serious or costly health problems such as asthma, acute ear infections, obesity, Type 2 diabetes, leukemia, and sudden infant death syndrome. When fathers have access to paid leave they are more directly engaged during the child's first few months, thereby increasing father infant bonding and reducing overall stress on the family.”

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.

These rules are necessary for program implementation and administration. By providing clarity around certain aspects of the program, the department can better serve external and internal stakeholders. The department is also seeking to repeal rules associated with a grant program that is no longer available due to statutory sunset deadlines having passed.

No alternatives to rulemaking were considered for any of the proposed rules.

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 proposed amended rules listed in the table above are not deemed significant under RCW 34.05.328 and don't require analysis. The rules will benefit the public by providing clarity and transparency in program administration.

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.

Adoption of the rule amendments will achieve the general goals and specific objectives of administering Title 50A and will provide clarification to the public. No alternative versions of the rules were considered. These rules were determined to be the least burdensome for those required to comply with them because they provide needed clarification various aspects of the program.

### Conflicts with Federal or State law

None of the rules conflict with federal or state law.

### Performance impositions on private vs. public sectors

Since all employers and employees as defined in RCW 50A.05.010, regardless of public or private sector employment status, are required to participate in PFML, there is no evidence to suggest that any proposed rule will have a measurably different impact between the two sectors.

### Conflicts with Federal or State regulatory bodies

None of the rules conflict with any applicable federal or state regulatory requirements.

### Coordination with Federal, State, or local laws

The rules align with requirements of RCW 50A.05.010, RCW 50A.15.020, and chapter 50A.50 RCW. They do not conflict with any federal, state, or local laws.