



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: March 13, 2019

TIME: 4:16 PM

WSR 19-07-035

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-21-003 ; 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)

WAC 192-500 Definitions

- WAC 192-500-110 Week
- WAC 192-500-120 Employee fraud
- WAC 192-500-130 Nondisclosure
- WAC 192-500-140 Willful nondisclosure
- WAC 192-500-150 Misrepresentation
- WAC 192-500-160 Continued claim
- WAC 192-500-170 Self-employed

WAC192-510 Assessing and Collecting Premiums

- WAC 192-510-025 What wages are reportable to the department for premium assessment purposes?

WAC192-610 Initial Applications for Benefits

- WAC 192-610-070 Can an employee cancel a claim after it has been submitted to the department?
- WAC 192-610-075 Can an employer require an employee to take paid time off in place of paid family or medical leave benefits?
- WAC 192-610-080 When should an employee reopen a claim?
- WAC 192-610-085 How should an employee reopen a claim?

WAC192-620 Weekly Benefits

- WAC 192-620-005 What is the minimum claim duration?
- WAC 192-620-010 How should employees request benefit payments?
- WAC 192-620-020 What information will the department request from employees when filing for weekly benefits?
- WAC 192-620-025 What happens if an employee is being conditionally paid benefits?

WAC192-630 Claim Determinations

- WAC 192-630-005 What happens if there is a question regarding whether an employee is qualified for benefits?
- WAC 192-630-010 What happens if an interested party does not respond to the department's request for information?
- WAC 192-630-015 How will a determination be made about an employee's eligibility for benefits?

WAC 192-800 Practice and Procedure

- WAC 192-800-005 What is the standard the department will use to determine fraud?
- WAC 192-800-010 How will the disqualification periods and penalties be assessed for an employee who is determined to have committed fraud?
- WAC 192-800-015 When will the department change an occurrence of fraud?

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

May 22, 2019	1:00pm	640 Woodland Square Loop SE, Lacey WA 98503	Meeting will be in the Park Place conference room
May 29, 2019	9:00am	322 N Spokane Falls Court, Spokane WA 99201	Double Tree Hilton Spokane City Center
Date of intended adoption: <u>May 30, 2019</u> (Note: This is NOT the effective date)			
Submit written comments to: Name: Christina Streuli Address: Employment Security Department PO Box 9046, Olympia, WA 98507-9046 Email: cstreuli@esd.wa.gov Fax: Other: Online portal: https://www.peakdemocracy.com/portals/289/forum_home?phase=open By (date) <u>May 29, 2019</u>			
Assistance for persons with disabilities: Contact <u>Teresa Eckstein, State EO Officer</u> Phone: (360) 902-9354 Fax: TTY: 711 Email: TEckstein@esd.wa.gov Other: By (date) <u>May 22, 2019</u>			
Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rules will further define Paid Family and Medical Leave requirements for premium assessment and collection, application for benefits, weekly benefits, claim determinations, and provide practices and procedures for fraud determinations.			
Reasons supporting proposal: The rules will assist in meeting the requirements to implement payment of benefits to eligible employees by January 1, 2020 as mandated by Title 50A RCW.			
Statutory authority for adoption: RCW 50A.04.215			
Statute being implemented: RCW 50A.04.010, 50A.04.020, 50A.04.035, 50A.04.115, 50A.04.040, 50A.04.045, 50A.04.050, 50A.04.065, 50A.04.105, 50A.04.185, 50A.04.510, 50A.04.085, 50A.04.045, and 50A.04.260.			
Is rule necessary because of a: Federal Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Federal Court Decision? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No State Court Decision? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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			<input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Christina Streuli	Lacey, WA	360-791-6710

Implementation:	Matt Buelow	Lacey, WA	360-742-7311
Enforcement:	Matt Buelow	Lacey, WA	360-742-7311
Is a school district fiscal impact statement required under RCW 28A.305.135?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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: All proposed rules are exempt under RCW 34.05.328(5). After review of the proposed rules, the agency determined the rules do not impose more-than-minor costs on businesses. Rules proposed are either interpretive or procedural. Definitions provided in these proposed rules clarify verbiage for processes in determining fraud, defining continued claim, and defining self-employed. The definitions do not impact procedures. Rules related to premium assessment and claims detail processes and procedures and add clarity to previous rules. Because of the connection to previous rules, there are no additional costs to businesses. Additional proposed rules address processes and procedures for employees benefit claims and would not produce costs.

Please see Significance Analysis for more information.

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:

<input checked="" type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> 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 RCW 34.05.328(5)(c)(i) and 34.05.328(5)(c)(ii), and RCW 19.85.025(5).

Explanation of exemptions, if necessary: RCW 34.05.328(5)(c)(ii) creates an exemption for interpretive rules. This exemption applies to portions of the proposal. RCW 34.05.328(5)(c)(i) creates an exemption for procedural rules. This exemption applies to portions of the proposal.

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. _____

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: March 13, 2019

Signature:

Name: Matthew J. Buelow



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