



Concise Explanatory Statement

RCW 34.05.325(6)

Paid Family and Medical Leave

Definition of health care provider,
designated representative, and other topics

January 2025

REASONS FOR ADOPTING THE RULE

Rulemaking history:

CR-101 filed: August 16, 2024, WSR # 24-17-075

Stakeholder meeting: November 6, 2024

CR-102 filed: December 4, 2024, WSR # 24-24-105

Public rulemaking hearing: January 8, 2025

CR-103 filed and rules adopted: January 16, 2025, WSR # 25-03-089

Rules effective: February 16, 2025

This Concise Explanatory Statement is regarding adoption of the following rules:

Proposed WAC Sections and Title	Effect
WAC 192-500-090 Health care provider.	This amendment would allow naturopaths 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.

VARIANCE BETWEEN PROPOSED RULE AND FINAL RULE

No changes were made between the proposed rules and the final, adopted rules.

SUMMARY OF COMMENTS TO PROPOSED RULES AND AGENCY RESPONSE

One comment in support of the health care rule was received at the hearing.

One email comment was received recommending expanding the definition of “health care provider.”

Comment	Agency Response
<p>Good afternoon,</p> <p>To Whom It May Concern,</p> <p>I am writing both as an employer and as a healthcare professional deeply concerned about the Department’s ongoing exclusion of Licensed Marriage and Family Therapists (LMFTs) and Licensed Mental Health Counselors (LMHCs) from the list of qualifying healthcare providers under the Paid Family Medical Leave (PFML) program.</p> <p>As a Licensed Marriage and Family Therapist in Washington, I work with clients daily who have needed or would significantly benefit from access to PFML. However, under current Department rules, Washington Administrative Codes (WACs), and Revised Codes of</p>	<p>Thank you for providing comments related to rulemaking for the Paid Family and Medical Leave program. Your comments will become part of the official rulemaking file, and we appreciate the time you took to outline your concerns.</p> <p>The current practice under WAC 192-500-090 (4) ((5) under the</p>

Washington (RCWs), LMFTs and LMHCs are not recognized as qualified healthcare professionals for certifying mental health conditions. Presently, the only mental health professionals listed are psychologists, psychiatrists, and licensed clinical social workers.

I am particularly concerned that while the Department is considering rules to include naturopathic providers as qualifying healthcare professionals, LMFTs and LMHCs—who are also licensed to provide healthcare services, diagnose mental health conditions, and assess functional impairments caused by these conditions—have not been included. This exclusion undermines the accessibility and equity of PFML benefits for individuals seeking mental health support.

Additionally, federal FMLA guidelines state that qualifying healthcare providers include “any health care provider from whom the employer or the employer’s group health plan’s benefits manager will accept a medical certification to substantiate a claim for benefits.” By this standard, many employers already recognize LMFTs and LMHCs as qualified to provide the necessary medical certifications. However, the Department’s oversight in aligning state rules with these federal provisions creates unnecessary barriers for those in need of mental health care.

I urge the Department to address this gap by recognizing LMFTs and LMHCs as qualified healthcare providers for PFML. Our profession is rigorously regulated by the state of Washington, and we are uniquely qualified to assess, diagnose, and provide care for individuals experiencing mental health challenges that significantly impact their daily functioning. Including LMFTs and LMHCs in the PFML program would increase accessibility to essential mental health support while ensuring comprehensive care for Washington residents.

I kindly request that the Department take this matter under advisement and provide a formal response regarding the potential inclusion of LMFTs and LMHCs as qualifying healthcare professionals under PFML.

Thank you for your attention to this critical issue. I look forward to your response.

Ryne Evans, MA, LMFT
Pronouns: he/him
Owner of Mindful Way Therapy, PLLC

amendment), is that the department will accept a medical certification form signed by a practitioner who is recognized by the employer’s health benefits plan. The WAC references “any other provider” under the federal Family and Medical Leave Act, which states: *“Any health care provider from whom an employer or the employer’s group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.”*

The department *does* accept the referenced mental health professions if the applicant’s employer or the employer’s group health plan benefits manager accepts the certification as sufficient to establish the existence of a serious health condition.

I hope this information is helpful, and please reach out if you have questions. In addition, there is a form you may fill out and submit if you would like to formally petition the agency to further amend the rule. You can find the form [here](#).