

Washington State Paid Family and Medical Leave
Rulemaking Hearing

* * *

Wednesday, January 8, 2025

9:01 a.m.

Olympia, Washington

1 APPEARANCES:

2

3 FOR WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT
4 LEAVE AND CARE DIVISION:

5 MR. BRETT CAIN, Policy Analyst
6 MR. JASON BARRETT, Lead Policy Analyst
7 MS. JANETTE BENHAM, Rules Coordinator
8 Employment Security Department
9 212 Maple Park Avenue SE
10 Olympia, Washington 98501
11 360-902-9500
12 Brett.cain@esd.wa.gov
13 Jason.barrett@esd.wa.gov

14

15

16

17

18

19

20

21

22

23

24

25

1 BE IT REMEMBERED that on Wednesday, January 8,
2 2025, commencing at 9:01 a.m., via Microsoft Teams,
3 Washington State Family and Paid Leave, Washington Paid
4 Family Medical Leave Hearing, taken before Bethan
5 Williams, Certified Court Reporter in and for the State
6 of Washington.

7 The following proceedings took place:

8

9 MR. BARRETT: Good morning, everyone. My name
10 is Jason Barrett, and I am the lead policy analyst
11 for the Leave and Care Division of the Washington
12 State Employment Security Department.

13 Thank you for joining us today for this
14 rulemaking hearing. I'd like to discuss just a few
15 housekeeping items before we begin the hearing.

16 Just a reminder that this meeting concerns
17 proposed regulations regarding the Paid Family and
18 Medical Leave program. This meeting will not
19 feature discussion of any specific application, and
20 attendance is completely optional.

21 If you have questions regarding your own
22 application or weekly claim for Paid Family and
23 Medical Leave or if you have other general
24 questions, please call our customer care team at
25 833-717-2273. We will not be able to answer any

1 questions during this hearing.

2 Today's hearing is regarding the proposal that
3 revises sections of Washington Administrative Code
4 regarding the definition of healthcare provider,
5 designated representatives, and other topics.

6 If you would like to provide written comments
7 related to these rules, you may do so by e-mail at
8 rules@esd.wa.gov. Again, that's rules@esd.wa.gov.
9 We'll continue to accept written comments through
10 the close of business today.

11 To view the electronic version of the proposed
12 rules, you can go to paidleave.wa.gov/rulemaking.
13 Again, that's paidleave.wa.gov/rulemaking. The
14 proposed rules are under the current rulemaking
15 heading, clicking on the plus sign next to the
16 definition of healthcare provider, designated
17 representative, and other topics will expand the
18 topic.

19 The rules for today's hearing are listed under
20 the CR-102 proposed rules title. We'll go through
21 the proposed rules in the order they appear on the
22 website.

23 Before we begin, are there any questions about
24 the purpose of today's meeting or where to find the
25 proposed rules?

1 Remember you can unmute yourselves using your
2 Teams window or by hitting star six if you're
3 joining by phone.

4 Are there any questions about why we're here
5 or where to find the rules?

6 Angela Ross, I see your hand up.

7 DR. ROSS: Yeah, thank you so much. Just for
8 clarification -- I'm so sorry if I just missed
9 it -- so is today a rules hearing, or is it just
10 the second stakeholder meeting?

11 MR. BARRETT: It is a rules hearing; it's the
12 formal process of -- sort of going through the
13 final version of the proposed rules.

14 DR. ROSS: Great. And then you said that
15 you'll accept written comments until close of
16 business today?

17 MR. BARRETT: Correct. You can send them to
18 rules@esd.wa.gov.

19 DR. ROSS: Thank you so much. Appreciate it.

20 MR. BARRETT: Thank you. Angela, I still see
21 your hand raised. I assume that's from before?

22 DR. ROSS: It is from before because it is not
23 obvious on my screen. I'm looking for it.
24 Hopefully that put it down.

25 MR. BARRETT: I think -- I can do it for you

1 if that's all right.

2 DR. ROSS: Amazing.

3 MR. BARRETT: There we go. All right. Any
4 other questions before we begin?

5 If you're not providing testimony, please
6 remember to keep yourselves muted through the
7 hearing. If you're calling in for the hearing,
8 please do not place this meeting on hold to take
9 another call. The hearing cannot proceed if there
10 is hold music or messages played while the call is
11 on hold.

12 And with that, we will go ahead and start the
13 hearing.

14 Pursuant to the authority given under
15 Washington State Law RCW 50A.05.060 Chapter 42.30
16 RCW of the Open Public Meetings Act and Chapter
17 34.05 RCW of the Administrative Procedure Act, this
18 hearing is hereby convened.

19 For the record, this hearing is beginning at
20 9:05 a.m. on January 8, 2025, online and by
21 conference call. This hearing is convened to
22 consider testimony concerning the Paid Family and
23 Medical Leave rulemaking. Notice of this hearing
24 was filed and published in the Washington State
25 Register on December 4, 2024, as WSR number

1 24-24-105, was sent to interested parties, and was
2 posted on the Department's web page.

3 My name is Jason Barrett, and I am the lead
4 policy analyst for the Leave and Care Division of
5 the Washington State Employment Security
6 Department. I represent Commissioner Cami Feek as
7 the hearing officer presiding at this public
8 rulemaking hearing.

9 There are other members of the Leave and Care
10 Policy team attending this hearing. Please
11 introduce yourself by name and title.

12 MS. BENHAM: Good morning, I'm Janette Benham.
13 I'm the rules coordinator here at the Employment
14 Security Department for the Leave and Care
15 Division. Welcome.

16 MR. CAIN: Good morning, my name's Brett Cain.
17 I'm part of the rules team with the Leave and Care
18 Division at the Employment Security Department.
19 Welcome, everyone.

20 MR. BARRETT: Thank you, Janette and Brett.

21 Please be advised that this hearing is being
22 transcribed by a court reporter and is also being
23 recorded by the Microsoft Teams platform. The
24 transcript and recording will become a part of the
25 official rulemaking file.

1 To facilitate this transcription, please state
2 and then spell your name before your testimony. If
3 you are here in a representative capacity, please
4 include who you are providing testimony on behalf
5 of.

6 Please also note that this hearing is convened
7 to consider comments on the proposed rules.
8 Because of the formal nature of this hearing, we
9 are unlikely to answer any questions you may ask.
10 If you do pose a question, I will ask you to
11 rephrase your question as a comment.

12 Questions can be e-mailed to us at
13 paidleave@esd.wa.gov where our customer support
14 staff will respond to your questions. Written
15 comments on the proposed rules will be accepted
16 through today by e-mail at rules@esd.wa.gov.

17 A concise explanatory statement of the
18 agency's reasons for adoption of the rules
19 including a summary and response to all comments
20 received after the publication of the proposed
21 rules will be placed in the permanent rulemaking
22 file and posted online. This document will be sent
23 to all interested parties who have signed up to
24 receive Paid Family and Medical Leave rules
25 e-mails.

1 We will begin with Brett Cain, who will
2 provide a brief explanation of the proposal.

3 MR. CAIN: Thanks, Jason.

4 And bear with me for a minute here. Most of
5 the amendments are minor, but we did amend several
6 sections of our current rules.

7 So the first rule in today's hearing modifies
8 the definition of healthcare provider to include
9 naturopathic physicians licensed under Chapter
10 18.36A RCW.

11 The second rule is the first of three rules
12 the Department is repealing because they relate to
13 the Pandemic Leave Assistance program, which is no
14 longer available due to statutory timelines.

15 The third rule updates language in an example
16 to remove gender-specific pronouns.

17 The fourth rule is the second of three
18 repealers related to Pandemic Leave Assistance
19 grants.

20 The fifth rule sets the prevailing interest
21 rate for late payments associated with damages at
22 1 percent per month, which aligns with the interest
23 rate for late premium payments.

24 The sixth rule aligns backdating timelines
25 associated with good cause with timelines

1 associated with all other backdating reasons.

2 The seventh rule is the third of three
3 repealers related to Pandemic Leave Assistance
4 grants.

5 The eighth and ninth rules refer to weekly
6 claim reporting requirements. This change aligns
7 our rule language with statutory language and
8 agency practice that requires employees to report
9 hours worked in self-employment on a weekly claim
10 for benefits.

11 The tenth and final rule gives the Department
12 discretion to allow for the designation of an
13 authorized representative without written
14 documentation in certain situations.

15 I encourage you all to read the text of the
16 rules along with the supporting documents that are
17 available on our rulemaking web page for a more
18 robust understanding.

19 Thank you for your interest and participation
20 in our rulemaking efforts, and we look forward to
21 hearing your comments today.

22 MR. BARRETT: Thank you, Brett.

23 We will now hear testimony from those in
24 attendance. I'll go through each rule individually
25 and accept comment on each rule. All attendees are

1 currently muted. If you wish to speak, you can
2 unmute yourself through your Teams window or by
3 pressing star six if you are joining by phone.

4 When you testify, please speak clearly, state
5 your name, spell your last name, and state who
6 represent if you are here in a representative
7 capacity. When you finish testifying, please mute
8 yourself through your Teams window or hit star six
9 again on your phone.

10 We are now ready to accept public comments on
11 this proposed rules package.

12 The first rule is WAC 192-500-990 healthcare
13 provider.

14 Are there any comments on the rule?

15 DR. ROSS: Are you calling on people?

16 MR. BARRETT: Yes, we are accepting comment on
17 each rule now.

18 DR. ROSS: Okay. I will jump in if that's
19 okay.

20 MR. BARRETT: Please.

21 DR. ROSS: I am Dr. Angela Ross. My first
22 name is spelled A-N-G-E-L-A. My last name is
23 spelled R-O-S-S. I am a licensed naturopathic
24 physician here in Washington State, and I am the
25 executive director of the Washington Association of

1 Naturopathic Physicians.

2 I did participate in the initial stakeholder
3 meeting on this, so my comments are largely the
4 same. And it's just to, you know, let you all know
5 that the naturopathic physicians in Washington are
6 really grateful to be included. It's kind of an
7 interesting thing. We've been doing this work for
8 quite some time and then sort of realized that
9 somehow we had been left out of the initial thing,
10 so we're really grateful.

11 This is going to be a huge help to our
12 patients who rely on us for primary care services
13 here in Washington State. And, yeah, that's it. I
14 just want to express gratitude and support for the
15 inclusion of naturopathic physicians in that first
16 rule change.

17 MR. BARRETT: Thank you, Dr. Ross. I
18 apologize for not using the correct prefix for you
19 earlier.

20 Are there any other comments on this rule?

21 (No Response.)

22 MR. BARRETT: Hearing none, the next rule is
23 WAC 192-500-200 Pandemic Leave Assistance.

24 Are there any comments on this rule?

25 (No Response.)

1 MR. BARRETT: Hearing none, the next rule is
2 WAC 192-510-031 what are reportable wages for
3 self-employed persons electing coverage?

4 Are there any comments on this rule?

5 (No Response.)

6 MR. BARRETT: Hearing none, the next rule is
7 WAC 192-530-100 are voluntary plans required to pay
8 Pandemic Leave Assistance benefits?

9 Are there any comments on the rule?

10 (No Response.)

11 MR. BARRETT: The next rule is WAC 192-570-050
12 how are damages and liquidated damages assessed by
13 the Department awarded and paid?

14 Are there any comments on this rule?

15 (No Response.)

16 MR. BARRETT: The next rule is WAC 192-610-040
17 can an employee backdate an application or a weekly
18 claim for benefits?

19 Are there any comments on this rule?

20 (No Response.)

21 MR. BARRETT: The next rule is WAC 192-610-100
22 what is the attestation required for an employee
23 claiming Pandemic Leave Assistance?

24 Are there any comments on this rule?

25 (No Response.)

1 MR. BARRETT: The next rule is WAC 192-620-020
2 what information will the Department request from
3 an employee when filing for weekly benefit?

4 Are there any comments on this rule?

5 (No Response.)

6 MR. BARRETT: The next rule is WAC 192-620-035
7 when will a weekly benefit amount be prorated?

8 Are there any comments on this rule?

9 (No Response.)

10 MR. BARRETT: The next rule is WAC 192-800-150
11 can an employee designate a representative to act
12 on their behalf?

13 Are there any comments on this rule?

14 (No Response.)

15 MR. BARRETT: I want to take a moment and ask
16 if there is any additional testimony on any of the
17 proposed rules included in today's hearing. If
18 there is any additional testimony, please feel free
19 to provide comment and indicate which rule from
20 today's hearing you're providing comment on.

21 (No Response.)

22 MR. BARRETT: I will offer one final
23 opportunity for anyone in attendance to offer
24 comments on today's rules.

25 (No Response.)

1 MR. BARRETT: Hearing none, in conclusion,
2 this hearing was convened to consider testimony on
3 Paid Family and Medical Leave rulemaking. All oral
4 testimony presented at this hearing and written
5 submissions will become part of the official
6 record.

7 The deadline for submission of written
8 comments is by the end of today -- the end of the
9 day today -- excuse me -- January 8th, 2025. You
10 may submit written comments by e-mailing
11 rules@esd.wa.gov. Comments must be received by the
12 end of the day today to be considered part of this
13 rulemaking.

14 A final decision regarding adoption of the
15 proposed rules will be made after all testimony and
16 written comments have been fully considered, which
17 will be on or after January 16th, 2025. The
18 planned effective date of any adopted rules will be
19 February 16th, 2025.

20 On behalf of commissioner Cami Feek, thank you
21 for participating in this hearing.

22 This hearing is adjourned at 9:19 a.m. on
23 January 7th -- I'm sorry January 8th, 2025.

24 Thank you.

25 (Hearing concluded at 9:20 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, BETHAN WILLIAMS, a Certified Court Reporter in and for the State of Washington, residing at Vancouver, do hereby certify;

That the foregoing proceedings were taken before me and thereafter reduced to a typed format under my direction; that the transcript is a full, true, and complete transcript of said proceedings;

That as a CCR in this state, I am bound by the Rules of Conduct as Codified in WAC 308-14-130; that court reporting arrangements and fees in this case are offered to all parties on equal terms.

That I am not a relative, employee, attorney or counsel of any party to this action, or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That upon completion of signature, if required, the original transcript will be securely sealed and the same served upon the appropriate party.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of January, 2025.



Bethan Williams, RSR, WA CCR #8344