

1 WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT

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5 PFML Phase 3 Formal Rules Hearing)

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12 PUBLIC COMMENTS HEARING

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14 Monday, March 18, 2019

15 9:06 a.m. - 9:23 a.m.

16 322 North Spokane Falls Court

17 Spokane, Washington

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REPORTED BY:

RACHAEL L. HALL, CCR NO. 3265


CERTIFIED COPY

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 FOR THE EMPLOYMENT SECURITY DEPARTMENT:</p> <p>4 MS. CHRISTINA STREULI</p> <p>5 MS. APRIL AMUNDSON</p> <p>6 WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT</p> <p>7 Paid Family and Medical Leave Division</p> <p>8 640 Woodland Square Loop SE</p> <p>9 Lacey, Washington 98503</p> <p>10 360.941.1412</p> <p>11 CStreuli@esd.wa.gov</p> <p>12 AAmundson@esd.wa.gov</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 Medical Leave Policy Team attending this hearing today.</p> <p>2 I'll let her introduce herself by name and title.</p> <p>3 MS. AMUNDSON: Thank you for being here today. My</p> <p>4 name is April Amundson. I'm the acting policy and rules</p> <p>5 manager for Paid Family and Medical Leave. I appreciate</p> <p>6 all of the comments that we will receive today and look</p> <p>7 forward to hearing them.</p> <p>8 Thank you.</p> <p>9 MS. STREULI: Please be advised that this hearing</p> <p>10 is being transcribed by a court reporter and the</p> <p>11 transcript in its entirety will become part of the</p> <p>12 official rulemaking files. I ask that you state and</p> <p>13 spell your first and last name before you testify today.</p> <p>14 Please also note that this hearing is convened to</p> <p>15 consider comments on the proposed rules. Because of the</p> <p>16 formal nature of the hearing, we are unlikely to either</p> <p>17 answer any questions you have or to make commitments</p> <p>18 based on your comments. If you do pose a question, I</p> <p>19 will ask you to rephrase your question as a comment or I</p> <p>20 will do so and ask you if it's correct. Questions can</p> <p>21 also be sent to our online portal which is managed by</p> <p>22 the policy team and can be found by typing the following</p> <p>23 address into your browser window. It is:</p> <p>24 bit.ly/commentforum, and commentforum is all one word.</p> <p>25 A concise, explanatory statement of the agency's</p>
<p style="text-align: right;">Page 3</p> <p>1 SPOKANE, WASHINGTON, MARCH 18, 2019, 9:06 A.M.</p> <p>2</p> <p>3 MS. STREULI: Pursuant to the authority given under</p> <p>4 Washington State Law RCW 50A.04.215, Chapter 42.30 RCW</p> <p>5 of the Open Public Meetings Act and Chapter 34.05 of the</p> <p>6 Administrative Procedures Act, this hearing is hereby</p> <p>7 convened.</p> <p>8 For the record, this hearing is beginning at 9:06</p> <p>9 on March 18, 2019 at the DoubleTree by Hilton, located</p> <p>10 at 322 North Spokane Falls Court, Spokane, Washington</p> <p>11 99201. This hearing is convened to consider testimony</p> <p>12 concerning Phase 3 of the Paid Family and Medical Leave</p> <p>13 rulemaking. Rules in this phase relate to benefit</p> <p>14 applications, benefit eligibility and other topics</p> <p>15 related to establishing the program. Notice of this</p> <p>16 hearing was filed in the Washington State Register on</p> <p>17 January 7, 2019 as number WSR 19-03-035. It was sent to</p> <p>18 interested parties and it was posted online.</p> <p>19 My name is Christina Streuli, and I'm the rules</p> <p>20 coordinator for the Paid Family and Medical Leave</p> <p>21 Division of the Washington State Employment Security</p> <p>22 Department. I represent Commissioner Suzi LeVine as the</p> <p>23 hearing officer presiding at this public rulemaking</p> <p>24 hearing.</p> <p>25 We have another member of the Paid Family and</p>	<p style="text-align: right;">Page 5</p> <p>1 reasons for adoption of the rule, including a summary</p> <p>2 and response to all the comments we receive after the</p> <p>3 publication of the proposed rules, will be placed in the</p> <p>4 permanent rulemaking file and will be posted online.</p> <p>5 The document will also be sent to all interested parties</p> <p>6 who have signed up to receive Paid Family and Medical</p> <p>7 Leave e-mails, which I suggest you all do.</p> <p>8 We will begin today with April Amundson who</p> <p>9 will provide a brief explanation about our proposal.</p> <p>10 MS. AMUNDSON: Thank you, Christina.</p> <p>11 The Paid Family and Medical Leave Act was passed by</p> <p>12 the Washington state legislature in 2017. January 1,</p> <p>13 2019, many employers were able to start assessing</p> <p>14 premiums on employee wages, and applications for</p> <p>15 benefits will be accepted January 1, 2020. We have</p> <p>16 split the rulemaking into phases to align with this</p> <p>17 aggressive, but achievable, schedule. And this formal</p> <p>18 public hearing covers the topics of benefit</p> <p>19 applications, benefit eligibility and other topics</p> <p>20 related to establishing the program.</p> <p>21 The rules span several topics under the umbrella of</p> <p>22 benefits and include at a high level: the requirements</p> <p>23 for how and when an employee must provide notice to an</p> <p>24 employer that the employee is seeking to take leave;</p> <p>25 what information an employee may need to provide to the</p>



<p style="text-align: right;">Page 6</p> <p>1 department when seeking benefits; whether and how an 2 employee with apply for benefits; how benefit 3 calculations will be accomplished; and whether an 4 employer can use an authorized representative.</p> <p>5 In addition, these draft rules contain several 6 definitions that will pertain to all Paid Family and 7 Medical Leave rules, a bit more information about how 8 the department will assess premiums when a condition 9 waiver expires and a few other topics as well. I 10 encourage you all to read the text of the rules for a 11 more robust understanding, and that the draft rules are 12 intended to interpret and clarify the Title 50A of the 13 Revised Code of Washington.</p> <p>14 Thank you for your interest and participation in 15 our rulemaking efforts to implement this important 16 program and I look forward to hearing your comments.</p> <p>17 MS. STREULI: Thank you, April. We are ready to 18 take testimony from those joining us today. To help 19 keep us organized and avoid talking over each other, we 20 will take testimony from those who are physically in 21 attendance in the room. When there are no more 22 comments, we will move to the phone. Again, there is no 23 reason other than to keep us organized and make sure 24 we're not talking over each other.</p> <p>25 With that, we are ready to accept public comment</p>	<p style="text-align: right;">Page 8</p> <p>1 dividing the sum of the hours recorded in the 2 qualifying period by 42.</p> <p>3 If our employees are working about 50 to 60 4 hours -- and I'm assuming I'm doing this correctly -- 5 and you divide that by 52, that is giving them about 6 four to five weeks of paid family leave. Our concern is 7 with this paid sick leave, and with the family leave, 8 that is allowing them to be able to be off work for six 9 and a half to eight weeks. Our concern is how are we 10 going to make sure these people -- that our jobs are 11 still getting done. Are we having to have to hire a new 12 person during this time, and if so, are we supposed to 13 lay that person off when that person comes back. Just 14 several concerns that we have on our end.</p> <p>15 Also, another concern is what information is the 16 employee required to provide for the department when 17 applying for the benefits. Is it going to be kind of 18 the same -- I read it, and is it going to be a little 19 bit of the same as the unemployment when they have to 20 provide recent pay stubs, W-2 forms, Social Security? 21 Are these going to be required if our employees are 22 going to be required to apply for these benefits?</p> <p>23 That's all I have for right now. Thank you.</p> <p>24 MS. STREULI: Thank you for that. And I'm going to 25 just repeat comments back to you to make sure that I've</p>
<p style="text-align: right;">Page 7</p> <p>1 from the room. Go ahead and step up to the microphone 2 and just speak closely into it and we are ready to go.</p> <p>3 MS. MENSORIDES: Good morning. My name is 4 Kristyn Mensorides, K-r-i-s-t-y-n, Mensorides, 5 M-e-n-s-o-n-i-d-e-s. I'm here to talk about a little 6 bit of concerns that we have on our end of the family, 7 but a little bit of background first.</p> <p>8 My family comes from a dairy farm out in Mabton, 9 Washington in the Yakima valley. We milk about 5,100 10 cows and employ about 50 to 60 employees year-round. In 11 the past year, about 2,700 dairy farms have exited the 12 industry. There are only about 37,400 licensed dairy 13 owners in the nation, and this is because of -- due to 14 high labor cost, high fee cost and low milk price.</p> <p>15 Our concerns about this family sick leave is 16 because -- because the sick leave that has been 17 approached last year, 40 hours for one hour of paid sick 18 leave, while, unfortunately, our workers on our -- in 19 agriculture, mostly on dairy farms, work about 50 to 60 20 hours a week. That is allowing them to work to get paid 21 for two and a half to three weeks of paid sick leave.</p> <p>22 With this family leave coming in place, I was 23 reading this section of how typical workweek hours are 24 determined, and it was stated on section 2:</p> <p>25 The typical workweek hours are determined by</p>	<p style="text-align: right;">Page 9</p> <p>1 got them accurately so I don't miss anything. There was 2 a lot of good comments there.</p> <p>3 So I heard comments about the typical workweek 4 hours calculation and how you might be concerned that it 5 would result in a higher amount of leave that someone 6 could take. I also heard concerns about hiring in the 7 interim when a worker's gone and how that might play 8 out, the ambiguity there.</p> <p>9 And then lastly, a need for clarity in reporting, 10 what actually needs to be submitted and what paperwork 11 needs to be gone through.</p> <p>12 Is that correct?</p> <p>13 MS. MENSORIDES: That's it exactly.</p> <p>14 MS. STREULI: Thank you so much for attending.</p> <p>15 Any other comments from those physically in the 16 room today? Any other comments from those physically in 17 the room today before we turn to the phone?</p> <p>18 Well, thank you. So those who testified in person 19 today, we're now going to open the phone for public 20 comment. Please remember when you're testifying over 21 the phone, you need to unmute yourselves to make sure we 22 hear you and state and spell your first and your last 23 name. And if you're here in a representative capacity, 24 it would be helpful if you could say so as well. We are 25 ready to accept comment on the phone.</p>



<p style="text-align: right;">Page 10</p> <p>1 We are currently accepting comment on the phone.</p> <p>2 If anyone would like to make comment about the Phase 3</p> <p>3 Paid Family and Medical Leave rulemaking, just go ahead</p> <p>4 and unmute yourself, and we are ready to accept your</p> <p>5 comment now.</p> <p>6 I'm going to open it up for anyone in person today</p> <p>7 or on the phone. Anyone who is willing to make a</p> <p>8 comment, we are happy to have it. Now is the time to</p> <p>9 just go ahead and either come directly up to the</p> <p>10 microphone, if you're in the room, or unmute yourself</p> <p>11 and make your comment on the phone. I'm going to hold</p> <p>12 the phone line and the room open for just a few moments</p> <p>13 here to make sure that everyone who wants to has an</p> <p>14 opportunity to testify today. We so value this public</p> <p>15 participation, so I'm just going to hold the line open</p> <p>16 for a few more moments here.</p> <p>17 We will make one more call today for public comment</p> <p>18 on Phase 3 of the Paid Family and Medical Leave</p> <p>19 rulemaking. If anyone would like to make a comment, we</p> <p>20 will be happy to receive it. If there is no further</p> <p>21 testimony from anybody, either in person or on the phone</p> <p>22 today, we are going to go ahead and conclude.</p> <p>23 In conclusion, this hearing was convened to</p> <p>24 consider testimony on Phase 3 of the Paid Family and</p> <p>25 Medical Leave rulemaking related to benefit</p>	<p style="text-align: right;">Page 12</p> <p style="text-align: center;">CERTIFICATE</p> <p>1</p> <p>2</p> <p>3 STATE OF WASHINGTON)</p> <p style="text-align: right;">) ss.</p> <p>4 COUNTY OF SPOKANE)</p> <p>5</p> <p>6</p> <p>7 I, RACHAEL L. HALL, do hereby certify that</p> <p>8 pursuant to the Rules of Civil Procedure, that I</p> <p>9 transcribed the oral proceedings in the foregoing</p> <p>10 matter, and that the foregoing transcript pages</p> <p>11 constitute a full, true and correct record of such</p> <p>12 oral proceedings and of the whole thereof.</p> <p>13</p> <p>14 Witness my hand this 26th day of</p> <p>15 March, 2019.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">  RACHAEL LOUISE HALL CSR, CRR NO. 3265. </p>
<p style="text-align: right;">Page 11</p> <p>1 applications, benefit eligibility and a few other topics</p> <p>2 related to establishing the program. All oral testimony</p> <p>3 presented at this hearing and all written submissions</p> <p>4 will become part of the official rulemaking file.</p> <p>5 The deadline for written submissions is 5:00 p.m.</p> <p>6 today, March 18th, 2019. You can submit your written</p> <p>7 comments online by entering bit.ly/commentforum, and</p> <p>8 commentforum is all one word, into your browser.</p> <p>9 Comments must be received by that deadline of 5:00 p.m.</p> <p>10 today to be considered as part of this Phase 3 of the</p> <p>11 official rulemaking file.</p> <p>12 A final decision regarding adoption of this</p> <p>13 proposed rulemaking will be made after all testimony and</p> <p>14 all written comments have been fully considered by the</p> <p>15 agency, with a target date of March 22, 2019.</p> <p>16 On behalf of Commissioner Suzi Levine, thank you</p> <p>17 for participating in this hearing. This hearing is</p> <p>18 adjourned at 9:23 on March 18, 2019. Thank you.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	



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