

PRELIMINARY Significant Analysis
Title 50A RCW
Paid Medical and Family Leave

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Introduction

Title 50A RCW creates a statewide Paid Family and Medical Leave insurance program that provides for at least partial wage replacement when a qualified employee takes leave for an approved reason related to family or medical leave.

In 2019, the Employment Security Department (department) began collecting premiums and quarterly reporting for employers. In 2020, the department started accepting applications for the benefit portion of the program. The law requires the state to develop rules as we continue to administer the program.

These rules are being developed by the department and are filed in general rulemaking processes in accordance to Title 34 RCW. This filing contains a rule related to the employer notification of an employee's benefit eligibility determination.

Chapter 1: Describe the proposed rules, including a brief history of the issue, and explain why the proposed rules are needed.

AMENDATORY SECTION

WAC 192-630-015 How will a determination be made about an employee's eligibility for benefits? (1)

When the department has issued a notice under WAC 192-630-005 the department will not make a determination on whether an employee qualifies for paid family or medical leave until all interested parties have had an opportunity to provide information about the question of eligibility by the due date indicated on the notice.

(2) If new facts are discovered before the determination is made, the department will provide interested parties with an opportunity to respond to the new information.

(3) After the department makes a determination, it will inform all interested parties (~~it will be provided with a copy of that determination~~) whether it has approved or denied the employee's application.

(4) If the department receives new and relevant information after a determination is made:

(a) The information will be considered by the department;

(b) Interested parties will be given an opportunity to respond, if necessary; and

(c) The department may make a new determination based on the newly provided information.

In its original form, this rule required the department to send an exact copy of the determination that an employee receives on an initial application for benefits to the employer. This raised concerns over the employee's privacy and the potential risks of proactively sharing certain information with employers. This amendment limits the information the employer receives to notification that the department has either approved or denied the application.

Chapter 2: Is a Significant Analysis required for these rules?

Rules requiring a significant analysis.

None.

Rules not requiring a significant analysis.

WAC Section	Section Title	Exempting reason	Exempting statute
192-630-015	How will a determination be made about an employee's eligibility for benefits?	Procedural Interpretive	RCW 34.05.328(5)(c)(i) RCW 34.05.328(5)(c)(ii)

RCW 34.05.328(5)(c)(iii) defines a significant legislative rule:

A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

Procedural and interpretive rules are specifically excluded from the definition of a significant legislative rule and are defined in RCW 34.05.328(5)(c)(i):

A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency

and RCW 34.05.328(5)(c)(ii):

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

Chapter 3: Clearly state in detail the general goals and specific objectives of the statute that the rules implement.

Title 50A RCW requires the department to create rules to administer the Paid Family and Medical Leave program. The amended rule limits the information interested parties receive to a notification that the department has either approved or denied the application.

Chapter 4: 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.

The rule amendment is needed to formalize a departmental procedure, define, and further clarify administration of the provisions of the Paid Family and Medical Leave program under Title 50A RCW. If the rule is not adopted, there may be protected information regarding the employee that is shared with interested parties.

Chapter 5: 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 rule does not impose any additional requirements or costs on businesses. The revisions are procedural and interpretive, and limit the information interested parties receive to a notification that the department has either approved or denied the application.

Chapter 6: 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.

No alternative versions of the rule were considered. Adoption of the rule will achieve the general goals and objectives of administering Title 50A RCW and will ensure protected employee information is not shared with interested parties.

Chapter 7: Conflicts with Federal or State law

rule does not conflict with Federal or State law.

Chapter 8: Performance impositions on private vs. public sectors

Since all employers and employees, regardless of public or private sector employment status, are required to participate in Paid Family and Medical Leave, there is no evidence to suggest that the proposed rule will have a measurably different impact between the two sectors.

Chapter 9: Conflicts with Federal or State regulatory bodies

The rule analyzed in this Significant Analysis does not conflict with any applicable Federal or State regulatory requirements.

Chapter 10: Coordination with Federal, State, or local laws

There are no other Federal, State, or local laws applicable to the rule analyzed in this Significant Analysis.