

REALTIME FILE

Stakeholder Meeting
Washington Employment Security Department

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>> ASHLEY: Good morning. My name is Ashley Paintner, and I am a Policy Analyst for the Paid Family and Medical Leave program. This is the Phase 3 stakeholder meeting for Paid Family and Medical Leave. We will be discussing the initial draft of Phase 3 rules which covers benefit applications and benefit eligibility.

For those of you on the phone, we have muted the phones and we will unmute them, or you will need to unmute your phone when you want to provide comment. I will announce when we are going to take comments from the phone to make the process go a little smoothly.

For those of you in the room, the handout of the Phase 3 and initial draft is up on the table if you want to grab one. For those of you on the phone, the handout for the Phase 3 draft is linked on the agenda, also available on the website and the portal. All right. You guys want to introduce yourself?

>> JASON: My name is Jason Barrett, Lead Policy Analyst for Paid Family Medical Leave.

>> MATT: Matt Buelow, Policy and Rules Manager for Paid Family and Medical Leave.

>> APRIL: My name is April Amundson, a Policy Analyst for Paid Family and Medical Leave. Thank you for being here.

>> ASHLEY: Here on the agenda, for those who haven't attended a stakeholder meeting before, I will give you a little background. We posted the initial draft a couple weeks ago on the website, and then we have come to these meetings and we take comment from the public. We will start with going through kind of a background of the program, and then we will open up each section to comments from people in the room here and those of you on the phone.

All right. So in 2017 the Washington State Legislature passed a bill implementing the Paid Family and Medical Leave program. In 2019, January 1st, we will start collecting premiums from employees and employers and January 1, 2020, individuals will be allowed to apply for benefits. ESD, or the Employment Security Department, has been tasked with administering this program and we have been working hard the past couple years to get it up and running. We are currently in Phase 3 rulemaking.

For those of you who have participated, you may have recalled coming to some of the meetings on Phase 1 and 2. Phase 1 rules went into effect this summer. Phase 2, we have the 102 and we will be having formal hearings in October, and Phase 3 we are in the initial drafting phases. Phase 4 will start in October with a listening session, and we will be covering benefit, continuation of benefits and fraud. In Phase 5 we will be discussing employment protection and benefit overpayments. And then in Phase 6, which we will start later next year. We will be discussing appeals.

Here is what the Phase 3 timeline looks like when it's broken down a little bit. You can see here we are at the stakeholder meeting on September 18th. We have another stakeholder meeting coming up in November. And then we will move into the formal 102 and 103 process.

It looks like we are having some technical difficulties, so if

you will give us a moment to make sure everyone on the phone can hear. For everyone on the phone, can you hear us now and could you hear us earlier?

>> I can hear you now. I couldn't before.

>> ASHLEY: Okay. All right. Well, for those of you on the phone, we are getting a lot of feedback in the room and we are able to hear you, so if you could mute your --

>> MATT: Let me try this. I think that should --

>> ASHLEY: Can you hear me now? Can someone type in the chat if they can hear us right now? Okay, great.

>> MATT: You have to start over.

>> ASHLEY: All right. Sorry. For those in the room you are going to get take two so that everyone on the phone can hear. All right. This is the agenda for today's meeting. Again we will be discussing the initial draft of Phase 3 rulemaking, which is scheduled to cover benefit applications and benefit eligibility. We are going to go through a little bit of an overview of the program and then we are going to take comments and questions on each section of the rules.

In 2017 the Washington State Legislature passed a bill implementing the Paid Family and Medical Leave program. They tasked the Employment Security Department with administering this program. In January 1, 2019, we will start collecting premiums from employees and employers, and in January 1, 2020, individuals will be able to apply for benefits.

We are implementing rules through six phases. For those of you who have participated before, our Phase 1 rules went into effect this summer, as you probably recall. Phase 2, we are in the 102 formal hearing process and we will have those hearings here in October. For Phase 3 we have just started the initial drafts of rulemaking. Phase 4 is scheduled to start this fall, and that will cover continuation of benefits and fraud. Phase 5 will start in 2019, and that will cover employment protection and benefit overpayments. Phase 6 will begin later in 2019 and that will discuss appeals.

Here we have a timeline that kind of breaks down Phase 3 specifically. As you can see up here we have a stakeholder meeting today, September 18th, to discuss the initial draft. We will have another stakeholder meeting in November to discuss the second draft, and then we will move into more of the formal rulemaking process.

So let's start by taking comments and questions on the definitions section. As I mentioned for those of you in the room, the draft of Phase 3 rules is available on the table. Those of you on line, the draft is linked on the agenda, available on the website and portal.

Does anyone have comments or questions regarding the definitions we drafted? We have definitions for de facto parent, in loco parentis, claim year, qualifying event, and healthcare provider. How about does anyone in the room have any comments? Okay We will move to the phone. Does anyone on the phone have any comments? We will unmute you so you can provide them, and you can chat them in, too. So for those of you on your phone or on the

computer, we can hear you now. If you have any comments on the definitions section, you can make those now.

>> [Indiscernible].

>> ASHLEY: I can't hear you. I think someone is trying to ask a question. If you can speak a little louder.

>> Yep. I have a question regarding the claim year definition. Can you hear me now?

>> ASHLEY: Yes. Go ahead.

>> Okay. Perfect. The claim year definition, section (2) talks about applications that are --

>> ASHLEY: Can you repeat one more time for us? We are having technical difficulties here.

>> I don't completely understand. The section (2) talks about backdated applications, effective, that they are backdated, the 52-week period from the effective date. My question would be the effective date of what? Could that get clarified?

>> ASHLEY: Okay.

>> And then my other question, or comment, it appears that the claim year will work similar to measured forward definition under the FMLA, there will be a lot of FMLA concurrent events to the Washington Paid Family and Medical, so just a comment that because most employers are going to be subject to both, if the state would consider using the FMLA options for calculating that 52-week period so that they could run the same way versus different --

>> ASHLEY: I heard a question. Your initial question was the effective date for backdating, and your second statement was a comment regarding the claim year and can we synch that up with FMLA?

>> Correct.

>> ASHLEY: Okay. Does anyone else in the phone have a question or comment on the definitions for the initial draft?

>> Yes, I have a question. On the claim year again, the claim year is defined as a 52-week period starting on the date of birth or placement, and on the date of completed leave application for the types of family medical leave. Since an employee is supposed to file 30 days in advance, or foreseeable, it appears that would create a situation where the foreseeable leave --

>> JASON: Okay. So this is Jason Barrett. Thank you very much for that comment. We have a court reporter in the room transcribing all comments, and it would be great if you could just speak slowly and clearly for our stenographer when she is taking the comments. So I am sorry to ask you, but could you just repeat that? We heard it and I understand the question, and I am happy to answer it, but would you mind just repeating the question and just speak a bit more clearly and a bit more slowly so that our stenographer can capture it?

>> Sure. She can hear me okay?

>> JASON: Yeah, go ahead.

>> So I will just repeat it. I have it written down. I will read it from my notes.

>> JASON: Great.

>> The claim year is a 52-week period starting on the date of birth

or placement for bonding leave, and on the day the leave application is filed for all other types of family [indiscernible]. This appears to create a situation where foreseeable leave other than bonding usually has 11 months in which to take the leave, since the claim year includes that certain period. So any insight or comments on to shorten the employee's leave year to actually the 11 months in which they can take it once they have started a year.

>> JASON: Sure. So in situations other than the birth or placement of a child, and the 30-day notice where leave is foreseen, there is a third category of notice that pertains to when leave is not foreseeable, and in those situations the application -- or the notice to the employer is required as soon as is practicable, and as far as -- so there is no real time limitation per se on those, but as soon as the employee is able to file notice, that is when they would be required to do so.

For birth replacement and where those 30 days would be required, the notice is not required -- the application date is not the same date as when notice is given. The application date -- or the application will require that the notice has already been provided, so whether that's 30 days or whether that's as soon as is practicable, will apply in whichever situation, but the 52-week clock starts when the application is filed, not necessarily when the notice is provided. Does that make sense?

>> But an application filed for the other than bonding, it is conserved to shorten, to cut into time in place actually to take the leave. [Indiscernible].

>> [Indiscernible].

>> That's the question.

>> MATT: Okay. You were --

>> That was cutting out some, but I think I'll weigh in if that's okay. Many employees want to file in advance so that they can know by the time their leave begins whether or not there is -- that they have done all the work, and so in those situations where employees file their application in advance of their family or medical leave event, based on this proposed wording they will have less than a 52-week period in which to take their leave.

>> Okay.

>> MATT: Thank you for the comment and question. This is Matt Buelow with Employment Security. It is true that if someone initiates an application for medical leave, that that will start the 52-week clock in order to collect those benefits, and that's actually required by the statute, is that the date of the application is what starts that clock, so we are implementing it in rule underneath the umbrella of the statute and what it requires. We understand that does mean if someone applies earlier than the event taking place, that it does mean that that starts the 52-week clock at that point.

>> Thank you.

>> ASHLEY: For those of you on the phone, thank you for being patient. We ask that you speak very loud so we can hear you. Does anyone have any questions on the initial section of the initial draft?

All right. So moving on, the next section, we are going to cover employee notice to employer and the rules that make up that part of the initial draft. Those discuss -- excuse me. We have the definition for the chapter for as soon as practicable. We have a rule discussing the content of employee notice for paid family or medical leave. We have a rule, when must an employee provide notice to the employer for foreseeable paid family or medical leave. When must an employee provide notice for unforeseeable paid family or medical leave. And then the last rule is on employee failure to provide proper notice.

Does anyone in the room have a question or comment on this section of the initial draft? Okay. Does anyone on the phone have a question or comment on the employee notice to employer section of the draft?

>> Yes. I wanted to know if written notice must be required by the employee or if an employer could choose to accept verbal notice.

>> ASHLEY: Okay.

>> It may be burdensome for both the employee as well as the employer's documentation.

>> ASHLEY: Thank you. So the question I heard on the phone was whether written notice must be provided by the employee or whether the employer could waive written notice. Do you want to address that?

>> MATT: Thanks for asking. This is Matt Buelow again. Under the statute, the statute does require written notice, but we will take the comment and take a look and see whether we have any flexibility of making that more lenient in rule. I just can't answer that at this time.

>> Okay. Thank you.

>> ASHLEY: Are there any other comments from the people on the phone?

>> So I have a question, the employee late notice provision. It says that the employee provides [indiscernible], does that mean that all application of the paid family [indiscernible] for that period? [Indiscernible].

>> ASHLEY: You are cutting out a little bit. Could you clarify? I think you are speaking to the rule on employee failure to provide proper notice and how that would work for benefit applications, but we are having a hard time hearing you. Could you speak a little louder?

>> Yeah. [Indiscernible].

>> ASHLEY: Your computer seems to be -- your audio seems to be cutting out. Could you possibly chat the question in and we will read it and answer it that way?

>> Absolutely.

>> ASHLEY: Thank you. Sorry about that. Does anyone else have a comment on the employee notice section of the rules? All right. Whenever we get --

>> Sorry. I was going to ask really quickly how about the department know or determine the notice an employee provided an employer, is that going to be part of the application?

>> ASHLEY: Yes. So part of the application will be that the employee needs to attest that they provided proper notice to their employer. Does that answer your question?

>> Yes.

>> ASHLEY: Okay. Thank you. Thank you for that question. All right. If I don't hear any more questions, we will move on to the next section. Any questions we receive through the chat we will just flag them and read them aloud when we get to a break time.

All right. The next section of rules covers the initial application for benefits. 610-005, how does an employee apply for paid family or medical leave benefits. We have a rule for what information is an employee required to provide to the department when applying for paid family or medical leave benefits. When will the employee be required to provide documentation or certification to the department for paid family or medical leave benefits? What is required on the certification for medical leave or family leave to care for a family member who has a serious health condition? We have a rule documenting the birth or placement of a child for family leave. Documenting a military exigency for family leave. If you move on to the next slide, we have rules on documenting the family relationship. Can an employee backdate an application for paid family or medical leave benefits? 610-045, may the department refuse to accept an employee's application, appeal, or petition? How is my weekly benefit calculated? How are typical workweek hours determined? What is an employee's benefit length? And then the final rule, 610-065, will the employer be notified if an employee files an application for paid family or medical leave benefits?

So I will open it up to the room at first. Does anyone in the room have any comments or questions regarding the initial application for benefit section of the initial draft? All right. Anyone on the phone have questions about the initial application for benefits?

>> I was just curious, any idea when you expect to provide the state certification of healthcare provider form?

>> ASHLEY: Do we have a timeframe where we are going to provide the state certification for a healthcare provider form? We don't have a timeframe yet. It would definitely be prior to individuals being able to apply for benefits.

>> I have several questions. Sorry. Section 610-010, what information is required to be provided, subsection (2) states that if the employee is in a claim year and needs successive periods of benefits beyond what was originally approved, they have to reapply to determine if they are eligible.

When I look at the statute for eligibility, that's the 820 hours in the qualifying period. So if an employee is originally approved for, say, six weeks, they have complications and they need more leave, could they -- that's an extension beyond what was originally approved. Could at that point this no longer have the 820 hours and then not be able to continue benefits? I am not sure that was the intent, but that's the way that I am reading it.

>> ASHLEY: All right.

>> What is the intent?

>> ASHLEY: What I am hearing the question to be is under WAC 192-610-010, what information is an employee required to provide to the department when applying for paid family or medical leave benefits, in sub (2) it says if an employee needs paid family or medical leave benefits for a new qualifying event, the employee must reapply to determine if they are eligible. And you have a question about if they have already worked the 820 hours and they take six weeks, or a duration of leave, why the department would need to determine eligibility again? Did I hear that correctly?

>> Yes, except at the first part of that sentence, a new qualifying event, they would likely have to meet eligibility, but the first part of that sentence is if they have need for successive leave beyond what was originally approved, they would have to reapply to determine eligibility. So that's where my question comes.

>> ASHLEY: Thank you for that.

>> In terms of FMLA and the way eligibility is determined, is the intent to line up with that or to be different?

>> ASHLEY: For individuals that need successive periods of paid family or medical leave benefits, what it would look like for them to have to reapply to determine eligibility and whether that's going to be different from FMLA?

>> Yes.

>> MATT: This is Matt Buelow. Let me see if I can answer this question. The intent of this particular rule is that if someone is already in the midst of a claim year, so they are in their 52-week window, in order to collect benefits, if they meet all the qualifications, this is saying that they would need to give us new information to determine eligibility if something changed, but it would not change the qualifying period in which we are looking at to determine eligibility. So if 820 hours were originally met, it would still be met because we are still within that same claim period. But we will take a look at the wording and see if we can make that clearer because I can see why there is confusion.

>> Yeah. Okay. Great. Thank you.

>> ASHLEY: Great. Did you have another question?

>> Yes.

>> ASHLEY: We love the questions. Go right ahead.

>> Oh, good. The next section 015, the section on when the employee has to provide the documentation, subsection (2) says if they don't benefits are denied until such time as documentation or certification is provided. My question would be is there a cutoff point for that? Because thinking about the fact that when benefits are paid, it is -- it may be job-protected time. If benefits are then denied and the employer takes employment action, and then that employee submits their certification to the state and gets paid benefits, how if they have been terminated, how is that going to impact? You got benefits and job protection coming together, so if a late submission is retroactively approved for benefits, how is that going to impact an employer's employment action that may have already been taken?

>> ASHLEY: So what I am hearing the question is if an employee provides certification or other documentation late, and then the benefits are backdated, how is job protection going to work if the employer takes an action?

>> Correct.

>> ASHLEY: Okay.

>> MATT: Thank you for that question. This is Matt Buelow again. We will be addressing job protection and how that interplays with FMLA in a later benefits phase of rulemaking, so we can't answer that question yet. But we hadn't given any thought around having a cutoff for submitting that documentation, so we will take that back, consider it, and possibly address it.

>> Okay. Thank you. Yeah. Then you can just have this in mind when you get to the job protection, that might be helpful.

>> MATT: Absolutely. Thank you.

>> Sure. That same section, subsection (3), about what I would think of as recertification when additional medical can be requested, I would just make a recommendation that maybe that line up with the FMLA reasons for recertification, again for consistency.

>> ASHLEY: Thank you. So what I am hearing you say for the subsection (3) under WAC 192-610-015, we look at FMLA and see where we can line those up?

>> It's really close, and I think that may have been the intent.

>> ASHLEY: Thank you for that comment.

>> I have another section.

>> ASHLEY: Continue.

>> Does anybody else have a comment? Section 020, the content of certification, I believe that intermittent, and again not sure how that will work yet, but that intermittent may be allowed under Washington paid family, at least in maybe full-day increments or something like that. If so, would recommend that intermittent usage be an allowed piece of information. In other words, are they going to need leave once a month or potentially every day, so that absenteeism can be monitored?

>> ASHLEY: Okay. So what I am hearing your recommendation is that for individuals who take intermittent leave under the Paid Family and Medical Leave program, that they are -- are you asking for them to provide information to the employer on the schedule so we can monitor absenteeism, or to the department?

>> I am asking if the medical that the doctor provides could address their potential absent schedule.

>> ASHLEY: Thank you for clarifying.

>> Around what the certification would include.

>> ASHLEY: The certification from the healthcare provider for individuals that need to take intermittent leave, the healthcare provider makes sure to provide information on the schedule that that employee may need to be gone?

>> Correct.

>> ASHLEY: Thank you for your comment. Do we have some questions on the chat? April?

>> APRIL: Okay. My apologies. I am going to have a little scratchy throat. So we have a question from Devon from Zillow. Let me get to it. Oh, my apologies. We have a question from Marty Cardy [phonetic]. If an employee provides late notice presumably without extenuating circumstances, the employee's benefits can be denied for a period of time the notice was late. Note the proposed rule does not specify exactly what this denial of benefits means. Does the time off still count towards the employee's paid leave entitlement to shorten the remaining time and benefits available, or is it more of a delay of benefits with the employee still able to take the full 12 weeks of leave, or 16 or 18 weeks, depending on the circumstances? Does the employee have job protection but not benefits, or no protection or benefits under the law at all during the period of late notice?

>> MATT: Thank you for those questions. This is Matt Buelow. I will try to take them in turn here. So the intent of the WAC is that it would not take the monetary benefits away from the employee. So say someone had to give 30 days' notice and only gave 14 days, so we would deny benefits for 16 days, the remainder of the notice, not deducting 16 days' worth of benefits from the employee's available benefits, so that answers that one. They would still be able to take the full 12 or 14 or 16 weeks depending on the circumstances.

And I don't have an answer for you on the job protection. We will be addressing that in a late phase, but we will touch on that when we get to it.

>> APRIL: Thank you. We also have a question from Devon, from Zillow Group HR team. This question has more to do with clarification on eligibility. As drafted the law suggests that hours spent in uniformed service will not count towards PFML eligibility. Will clarity be provided to include time spent in military service, particularly under USERRA?

>> MATT: This is Matt Buelow. I would like to clarify the question. What clarity would you be looking for, Devon, around military service?

>> Hi. This is [indiscernible] from Zillow Group. So the way the law currently reads, it doesn't seem to -- it seems to suggest that hours spent in uniformed service will not count towards for PFML eligibility. That outcome seems inconsistent with us, with the intent to protect uniformed service. We want to make any time any uniformed service member is serving our country, it doesn't affect their overall PFML eligibility.

>> MATT: The state does not allow us to count uniformed service for Paid Family and Medical Leave. In fact it would be a violation of federal law for a state to impose that burden upon military or federal employers, so we don't have the authority, without federal authority, to count any military service or federal civilian service performed for a federal employer.

>> Thank you for that clarification.

>> APRIL: We have another question from Marty Cardy, for military exigency documentation, includes military orders with a statement

to show why the leave is necessary is also acceptable. Question, the proposed rule does not explain from whom the statement must come. Must the employer accept a written statement of the need for leave from the employee themselves?

>> MATT: This is Matt Buelow again. Just to clarify the intent, I assume this is in regards to WAC 192-610-030. If that's the case, the documentation for military exigency for family leave is the documentation to Employment Security to determine eligibility, not to the employer. The employer won't be making a determination on whether the exigency qualifies for benefits or not. That will be done by the department. Does that address the question?

>> Well, I hope you can hear me now, but it doesn't cover voluntary plans.

>> MATT: Okay. Got you. So this is under the auspice of a voluntary plan? That's the question?

>> Yeah, yes. What documentation can the employee provide and what does the employer have to accept?

>> MATT: The requirements for employers under a voluntary plan will match those as the state plan, so whatever the final rule says is what voluntary plans would need to accept as well. If you have any suggestions on that rule, we are happy to take those under consideration.

>> Okay. Just need clarification on who that statement comes from for military exigency. It just says a statement.

>> MATT: Understood. We will take that back under advisement and take a look at that. Thank you for raising that.

>> Thank you.

>> APRIL: We have another question from Marty Cardy. For hourly employees, typical workweek hours are determined by dividing the total hours worked in a qualifying period by 52. Question, this does not take into account that according to informal guidance from ESD it is possible to establish eligibility in fewer than four quarters. For example, dividing hours worked in three quarters by 52 would significantly understate the employee's typical workweek.

>> MATT: Thank you for that comment. We will take it under advisement.

>> APRIL: One last comment, from Marty Cardy as well. If an employer is using the state benefit plan, ESD will send the employer notice when an employee has applied for benefits. Question, there is no time specified by which ESD must send this notice to the employer. What will this timeline be?

>> MATT: That's another great point and one that we will take a look at and see if we can clarify in the future drafts of the rule.

>> ASHLEY: Are there any other questions on the phone regarding the initial application for benefits?

>> Yes.

>> ASHLEY: Go ahead.

>> Section 050, subsection (3), how is my weekly benefit calculated, it has -- let's see. This is section (3), if the employee's average weekly wage is more than 50%, and then it says you take that portion

that's less than 50%, it's up to a maximum of 90% of the state's average weekly wage, but the statute and the example go up to 60% of the state's average weekly wage. It doesn't seem to be consistent with the statute or the example of subsection (3).

>> ASHLEY: Thank you for your comment. We will take a look at that and see if there is any need for clarity there.

>> Great.

>> APRIL: We have one more comment from the chat from Jamie Bailey. Has it been determined yet if a reduced schedule absence can be a partial day absence? If so, please share an example. Thank you, Jamie, for your question. In statute the minimum claim duration is eight hours, so if eight hours is a partial, that is the minimum claim period.

>> ASHLEY: All right. Do we have any more questions or comments on the phone or in the room?

>> Yes, I have one.

>> ASHLEY: Go ahead.

>> So 192-610-055 regarding typical workweek hours, how would hours for a part-time salary employee be determined?

>> MATT: Thank you for that question. This is Matt Buelow again. That's something that we can address in a future draft of the rule, so thank you for bringing that up.

>> Thank you.

>> APRIL: A followup from Jamie. So you can be absent for four hours one day and four hours the next if they are consecutive, and that we believe is the intent for the eight-hour minimum claim duration.

We have a question from Rich. Are qualifying events that occur in 2019 eligible for benefits starting in 2020? For example, the birth of a child in late 2019.

>> MATT: Thank you for the question, Rich. Assuming that all eligibility criteria is met, the answer to that question is, yes. So if someone was to have a child welcomed into their family in 2019 and it had not been at least a year from that event, someone could potentially be eligible for benefits in 2020.

>> ASHLEY: Do we have any further questions?

>> Yeah. Marty I believe asked a question around when an employer will be notified of the application for benefit, but I wanted to kind of add onto that. Another question, will the employer be notified when benefits are approved by the state? Because of that job protection component, an employer is going to need to know whether benefits have been approved or not.

>> ASHLEY: Yes, an employer will be notified when an employee's application has been approved.

>> Okay. So then similar to Marty's question on the application, if we can at some point -- will it be determined what the timing for that will be?

>> ASHLEY: We can definitely look into clarifying that if that needs to happen.

>> APRIL: We have another comment.

>> That would be great.

>> APRIL: Thank you. We have another comment from Jamie Bailey. Is ESD leaning toward accepting [indiscernible]?

>> MATT: I will repeat it. So the question, is Employment Security leaning towards accepting FMLA certification for the Paid Family and Medical Leave program. And the answer to the question is we don't know yet. We are still looking into what the certification requirements will be. We want to make it as seamless as possible on both employees and employers. So we will take a look at what's required for FMLA, what we require, and try to synch that up as much as possible, but what that actually will look like we can't answer that yet.

>> I have another question around the benefit length, section 060. There is language in the statute that talks about leave under this chapter, and FMLA is in addition to leave for sickness or temporary disability because of pregnancy or childbirth. But then in this reg and other places in the statute obviously pregnancy disability is a valid reason for Washington Paid Family and Medical Leave benefit because it adds a potential of two weeks. So my question is how do those two things intersect?

>> MATT: Thank you for the question. So if I understand -- I am going to try to repeat your question back to you to make sure that I am answering the correct question here. So are you talking about in the event where someone has a pregnancy disability, you know, a disability due to incapacity related to the pregnancy, how that would impact the benefits, or something entirely different?

>> Well, the statute says that Washington PFML and FMLA are in addition to leave for pregnancy disability, so I am trying to figure out where pregnancy disability falls, if it's -- that language is very confusing to me in the statute. I was hoping that regulations might help clear that up.

>> MATT: Understood. We will take that back under advisement and see if we can provide some clarity.

>> ASHLEY: In an upcoming phase we will have interaction with other laws, especially around job protection, so that issue might be covered in an upcoming phase of benefit rulemaking.

>> Okay. Yeah, because it appears pregnancy disability is covered here, so I am trying to figure out how it is also in addition to.

>> I have a question about what employer obligations there are if an employee changes jobs when they are on claim. And, second, what proof must the employer give when an employee does change jobs mid-claim so they have proof of coverage at their next employer?

>> ASHLEY: So what I am hearing you say or ask is what the employer obligations are if an employee changes jobs while on a claim.

>> Correct.

>> ASHLEY: We will be --

>> Also, is there any type of proof that the employer must give the employee to take to their new employer?

>> ASHLEY: The second part, is there any type of proof the employer provides the employee to take to their next employer. We will be covering that in the next phase of benefits around continuation of

benefits. Thank you for your questions.

>> Thank you.

>> ASHLEY: Do we have any other questions on the phone? Any chat questions? No? All right. So thank you all for participating today. We really appreciate your questions, your comments. The goal here is to get as much public input on these rules so that we can make them as clear as possible and to provide the best guidance for implementing the program. So if you would want to continue to participate in the PFML rulemaking, here is what's coming up next for Phase 3. We will post the next draft of Phase 3 rulemaking on October 25th through our website, and then you can attend the stakeholder meeting in November to discuss that draft. The formal rulemaking hearings for Phase 3 benefits will be in March.

Do we have any other comments today about what we've missed, anything else you would like us to consider while drafting the next draft?

>> MATT: Okay. We did get another question come through in the chat, so I want to actually -- two now, so I want to address both of those. The first one from Marty, would the rules apply to entitle an employee to be eligible for the extra two weeks due to pregnancy disability. Does the employee have to use all 12 medical leave benefits for pregnancy disability or, for example, could the employee use 16 weeks of leave for some other purpose, and then needing leave for pregnancy disability, can she have those extra two weeks even though none of the prior leave used was related to the pregnancy? Great questions, and those are things we will look to address in probably a future phase of rulemaking. We will be doing continuation of benefits in Phase 4, and so that is somewhere where we will look to address those types of things, but thank you for bringing that up and we will take it under consideration.

We have another question from Jamie that says, can you add the rules of how workweek hours are calculated for part-time salaried employees along with the hours threshold for full-time. Yes, that's something we will take back and take a look at. We have had that question a couple of times now, and we think we will have some guidance, so look forward in the next draft guidance.

>> ASHLEY: Thank you again for those questions. Does anyone else have any comments on anything we have missed today, anything you would like us to consider for the next draft? All right. Hearing none, I will move forward.

If you want to continue to monitor our progress in rulemaking, please check out our website. You can also e-mail questions to paidleave@esd.wa.gov. We are now on Twitter and Facebook, so you can monitor us on social media. You can also subscribe to receive our e-mails through govdelivery, and we take comments and questions through the engagement portal site.

So thank you again for participating today. We really look forward to these meetings, and we really take your input and consideration seriously, and we like to incorporate as much clarity as we can in the draft of rules, so thanks for attending in person

or calling in. We look forward to the next meeting.
[End of session]