

REALTIME FILE

Phase 3 Stakeholder Meeting
Washington Employment Security Department

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>> JASON: Okay. We will go ahead and get started. Thank you so much for joining us this morning. Again, my name is Jason Barrett, the lead Policy Analyst for Paid Family and Medical Leave. We are here this morning to discuss the second draft of Phase 3 rules for Paid Family and Medical Leave. We are going to have a PowerPoint presentation that those joining us on WebEx can see on their screen, and there is also a link in the agenda to the full draft of rules.

You can head over to bit.ly/commentforum to review the full draft of Phase 3 rules that we are reviewing today. You can head to the "Info" section on that page. Once again, bit.ly/commentforum. On the "Info" tab scroll down to Phase 3 and there is a link on that page to the second draft of rules from which we will be working today.

We will take a quick moment to introduce those of us from the department that are here today. Once again, my name is Jason Barrett, the lead Policy Analyst for Paid Family and Medical Leave.

>> CHRISTINA: Good morning. I'm Christina Streuli, the Rules Coordinator for Paid Family and Medical Leave.

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

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

>> JASON: Before we start, I do want to note that we have some construction going on in the room next door to us, so if you hear kind of a faint buzzing sound, you can blame the concurrent construction that is happening next door. You are not going crazy. It's not just in your head. That is happening on our end, so we do apologize for that in advance.

So today we do have an agenda that we will be working off of. I will begin by doing a quick update on the rulemaking process, where things currently stand and what you can expect moving forward. We will move into public comment on our Phase 3 rules, we will open the floor for final thoughts, and then we will discuss what happens next with regard to PFML rulemaking, and we will close out for the day.

For those who may be new to the PFML rulemaking process, we have broken up our rulemaking into six separate phases that you can see on your screen right now. Phase 1 was completed earlier this year and is currently in effect. Phase 2 covers employer responsibilities, small business assistance and penalties. We recently completed our public hearings on that phase, and we will be filing our final proposed rules with the code reviser today, which will go into effect later this year. Phase 3, which we are discussing here today, covers benefit applications and benefit eligibility. Phase 4 is continuation of benefits and fraud. Phase 5 rounds out our benefits phases and covers job protection and benefit overpayments, with Phase 6 completing our rulemaking process next year with appeals.

This is just a brief overview of our overall Phase 3 timeline. You see here we are on November 2nd. We will file our 102 on January 3rd, which represents our final draft of proposed rules. We

will once again hold two hearings, which we did in Phase 2. The one on March 13th will be here in Lacey, and the one on March 18th will be at a location to be determined, with the 103 being filed on March 22nd, with an effective date of April 22nd of 2019.

With that, we will go ahead and open up the floor to comments on our rules. I think we are going to do this in such a way where we will open up comments here in the room first, and then open it up to comments on the phone. Everyone on the phone is muted right now. We will unmute you once we open up the phone for comment.

So with that, we will begin with WAC 192-500-050. Are there any comments here in the room? Any comments on the phone? If you do have a comment, go ahead and unmute yourself and we will be glad to hear you. Otherwise, we will go ahead and move on to 192-500-060. Comments in the room? Comments on the phone? All right. Moving on to 192-500-070, any comments in the room? And on the phone? All right. Moving on to 192-500-080, comments in the room? And on the phone? All right. 192-500-090, comments in the room? Comments on the phone? All right. Moving on to WAC 192-500-100, comments in the room? Comments on the phone?

All right. So we are going to actually go ahead and unmute everyone at this time just to kind of give everyone a chance to offer comment on the previous chapter, just in case anyone's having some issues with muting or any other phone issues, so we are going to go ahead and unmute everyone and give folks on the phone one last chance to give comments on any of the definitions sections that we have just discussed.

>> Hi. This is Spencer Leese from WaferTech.

>> JASON: Would you do me a favor and spell your last name for us? We have a court reporter in the room. We want to make sure that we get it right.

>> Sure. L-e-e-s-e.

>> JASON: Great.

>> I am trying to understand, is the salaried employee definition intended to align with the non-exempt definition, or is it something different?

>> JASON: So the statute requires -- this is for the purposes of reporting, to give the question context, statute requires us to report 40 hours worked per week for employees who are full-time salaried employees, and we are working with the definition that we are given in statute, so it's basically there to establish that if you are considered a full-time worker, that regardless of the number of hours you actually work in that week, you are reported 40 hours for that week.

Any other comments? All right. We will move on to WAC 192-600-005. Any comments in the room? Any comments on the phone? Just a reminder, that folks on the phone and on WebEx are muted, so if you want to provide a comment please do unmute yourself. All right. Moving on to WAC 192-600-010, any comments in the room? Any comments on the phone?

>> I do have a question regarding this policy.

>> JASON: Yes.

>> Will an employer be able to align the notification for an unforeseen leave with any existing policy that they may already have in place for call-in procedures?

>> JASON: So before I answer, would you mind just telling us your name? And if you represent an organization, tell us that organization, please.

>> Sure. This is Ali Schaafsma, and I do not represent a specific organization.

>> JASON: Great. Thank you. As I understand your question, you are asking if this new benefit is required to align with any existing internal employer policies; is that right?

>> Right. So policies for call-in procedures for unforeseen absences.

>> JASON: So for an employer on the state plan, the requirements of the statute need to be met in order for the employee to qualify for the PFML benefit itself. With regard to any additional benefits that might exist within the employer, if the employer has additional requirements that need to be met to comply with, let's say, a short-term disability program that is separate or in addition to what the state requires for PFML, then the PFML requirements would now apply. So the employer is permitted to keep whatever requirements it has currently in place for any kind of additional disability program, but in order for the employee to be eligible for the benefit and to be in compliance with the PFML law, then the requirements for the notice must be adhered to as is required by law for the Paid Family and Medical Leave benefit. Does that answer your question, Ali?

>> It did. Thank you.

>> JASON: Great. All right. Moving on to WAC 192-600-015, any comments in the room? Any comments on the phone? All right. Moving on to WAC 192-600-025, any comments in the room? We have a comment in the room.

>> Hello.

>> JASON: Hit the button at the base.

>> Hello. My name is Joe Kendo, K-e-n-d-o, representing the Washington State Labor Council. Just wanted to point out that for this section we think there is likely a -- kind of a general lack of information amongst, you know, the population of our state since this is going to be a brand-new program, and I think some of the standards in this part of the WAC are a little harsh, particularly in the -- I guess from my perspective it's the second line. I don't know what it looks like in the original document. When it reads, "employee's benefits will be denied for a period of time equal to the number of days that notice was insufficient," we think it should be changed to "will be delayed" so as to not to send the false impression an employee would need to reapply for benefits. Because really you are not denying the application, you are just delaying it until the threshold was met for notification. So we would like to see that change be made.

And I am just going to sit up here, unless somebody dislodges

me, because my other comments are on the next two sections.

>> JASON: Right. It will just be the Joe mic.

>> I like the sound of that, for the record.

[Laughter]

>> I actually do have a comment. You can stay, you can stay.

>> Okay.

>> Joe, can you speak a little closer to the mic when you are talking?

>> Yeah.

>> Bob Battles, Association of Washington Business. I do want to clarify, though, that so I understand, while it is a delay, those hours don't get covered later. I mean it's like if they don't get to cap that on at the end, if -- well, this is for clarification. If I have ten days I need to be gone, and I didn't give the proper notice, and you lose five of those days, that doesn't mean you get another five days at the end of those ten days so you end up still getting ten days. It means for that event you did lose five days because of the failure to give proper notice. So while it's a delay, they will get it if they are still within that need period, but if they are not within that need period, there wouldn't be a benefit that would be paid out. Am I correct? So it's not a delay.

>> MATT: Thanks, Joe and Bob, for bringing this up. This is Matt Buelow, the manager of the policy of Paid Family and Medical Leave. Our intent is for it to be that if someone doesn't provide the appropriate notice, that we would -- pardon my words here, but we would -- those benefits would not be payable for the time that that notice was insufficient. So say notice was ten days short. We would not pay benefits for ten days following the application of benefits when they were otherwise eligible. We would not take those benefits away from the individual, so they would be available at the end provided that the employee was still on leave and needed those benefits, not something that would automatically come to the people, which I think is what you were saying. I think that's what you were saying, Bob. I just want to validate.

>> That is correct. That's what I want to clarify, make sure that's what it's saying. The employee does not lose those benefits down the road someday if they need them, but they have to still have the need for the leave to continue to get benefits, and so, yes, I think that does clarify it. Thank you.

>> JASON: All right. Moving up to the phone, are there any comments on 192-600-025? Any comments on the phone? All right. Since we are at the end of a chapter, I want to once again give folks who might otherwise have been unable to unmute themselves one more chance to provide comments on any of the rules that we have discussed in this chapter. So we are going to go ahead and unmute everybody and offer up one last chance for comment on the rules in this chapter.

>> Shannon Lawless. Can you hear me?

>> JASON: Yes, Shannon, we can hear you.

>> Hi. I had a question on 025, which is how is the department going to know whether the notice to the employer is timely. Is there a -- is that part of the required reporting?

>> JASON: Sure. Shannon, if you wouldn't mind, would you mind just identifying yourself and spell your last name for us and also your organization if you are representing one today?

>> No problem. Shannon Lawless, and I am an attorney. I don't represent any particular organization.

>> JASON: Great. As I understand your question, you are asking essentially how will the department know if the employee has provided timely notice; is that correct?

>> Correct.

>> JASON: So we envision the initial application process including an attestation that the employee has to the best of their knowledge provided timely notice. We will then be following up with the employer. We have a proposed rule that indicates communication with the employer to verify the information that the employee has provided on the initial application, and then the employer will then have an opportunity to contest an application if there is anything in that communication that doesn't sound right to the employer. So there will be a notice sent to the employer whenever one of their employees files a claim for leave, and an opportunity for the employer to contest information provided in the application.

>> Thank you. I guess a couple followup questions or comments on that. One is, you know, it would be helpful for us to have some clarity of whether there is an obligation to respond. For example, if the employer doesn't get a full 30 days' notice, but the employer might not care, are they obligated to report that to the department being that they might want their employees to be able to get those benefits, so making sure it's clear what the employer needs to say and whether there is any penalty if they don't correct, if they are willing to let their employee get the benefits with the shorter notice? And then also I know there is a lot of questions around the interaction of FMLA, but how is an employer supposed to deal with it if they determine an absence is covered under FMLA starting at X time, but the Paid Family and Medical Leave doesn't start until 20 days later because notice was late? How are employers supposed to navigate that for this job protection?

>> JASON: We certainly appreciate the comment on the first part. As to the second part, we anticipate a considerable amount of rulemaking around interaction with other types of leave, Shannon, so we certainly appreciate that comment and we will address it in rulemaking in a future phase, so we appreciate that comment.

>> Thanks.

>> APRIL: We also have a comment from our chat. The first chapter referred to claim effective date. Is that phrase, claim effective date, defined anywhere or a date qualifying event?

>> MATT: Going through here trying to see where that terminology is used, claim effective date. This is Matt Buelow. We define claim year in the definition section 192-500-070, and in there under (1) "'Claim year' is the fifty-two week period following," and we have (a) or (b). Those would be the effective date of claim. We don't have the term "claim effective date" defined because we define it

in claim year. If that doesn't address this question for you, please just chat back in with a followup and we will address it.

>> JASON: All right. With that we will move on to WAC 192-610-005. We will open it up for comment here in the room. I see Joe reaching for his microphone.

>> Hello. My name is Joe Kendo, K-e-n-d-o, the Washington State Labor Council. Our issue is with section (1)(c) Alternate methods authorized by the commissioner. You are authorizing the commissioner to provide alternate methods for application only if the employee has a physical or sensory disability or circumstances that make applying by Internet or telephone unreasonable.

It seems strange that you would restrict the commissioner from coming up with other ideas for -- or other methods for an application short of needing to accommodate a disability. I just don't understand why in rule you would prevent the commissioner from making a decision somewhere down the line, say, that an in-person application with pen and paper at a work source was appropriate. That's an open question as to whether or not that is a good decision or good policy, but we don't feel like -- I think it's a mistake to restrict the commissioner's ability to make that decision in rule.

>> JASON: Thank you for that comment. We will take that into consideration. Are there any other comments in the room on 192-610-005? If not we will --

>> Do you want me to say yes to that?

>> No.

>> JASON: We will kick it up to the phone now for comment on 192-610-005.

>> Hello. This is Patricia Zuniga from --

>> JASON: Patricia, are you on WebEx or joining us by phone?

>> I am on both. I am also on the WebEx.

>> JASON: Okay. If you wouldn't mind just spelling your last name for us, Patricia.

>> Sure. It's Z-u-n-i-g-a.

>> JASON: Great. What's your comment?

>> The question is as to section (2) An employee who works for an employer with an approved voluntary plan must follow the guidelines of the approved plan. The question is, do the methods for applying for benefits have to be included in the voluntary plan document submitted to the state during the application process?

>> JASON: So the question is, does an employer who is applying for a voluntary plan need to include their application process for benefits in their application for a voluntary plan; is that right, Patricia?

>> That's correct.

>> JASON: The answer is, no, that is not a requirement for approval of the plan. There could potentially -- this is a possible scenario where later on if the department determines that an application process is wildly different from what the state requires, there may be some additional communication, but it is not a part of the initial application process for a voluntary plan.

>> Okay.

>> MATT: Patricia, this is Matt Buelow. I would like to augment Jason's answer, which I agree with absolutely. While we won't specifically ask in the application how do your employees apply for this benefit, we do ask the employer's policy be complete, and my prediction is that the majority of employers, if not all employers, would certainly put how someone applies within their own policy.

>> JASON: All right. Moving on to WAC 196-610-010, any comments in the room? Any comments on the phone?

>> Hello.

>> JASON: Hello.

>> Hi. This is Spencer Leese, L-e-e-s-e, from WaferTech.

>> JASON: Go ahead, Spencer. Thanks.

>> Can you hear me?

>> JASON: Yes.

>> Okay. Can you add the requirement that the employee make an assertion of timeliness in the statute language, so a fourth requirement for information that they need to provide?

>> JASON: When you say timeliness, what are you referring to specifically?

>> This goes back to the requirements under -- that we talked about previously where they have to provide timely notice to the employer, and then they also need to tell or make some sort of affirmation statement to the state that they made timely notice to the employer.

>> JASON: Thank you for that comment, Spencer. That requirement actually currently already exists in statute, so that is a requirement that is mandated by law, that an employee make that attestation in the initial application, so that is a pretty ironclad requirement that already exists.

>> Oh, okay. Where is that?

>> JASON: In statute. If you look at statute, which is title 50A -- I don't recall the exact chapter in which it exists. It's in the application for benefits, section 50A.04.035 in statute, which is not this list of rules that we are going through now. This is the actual law. 50A.04.035 is where that requirement exists.

>> Perfect.

>> JASON: Thank you, Spencer.

>> This is Shannon Lawless. Can you hear me?

>> JASON: Yes.

>> Just to add on to what Spencer said, I would say those of us who are reading the rules, even if that requirement does exist elsewhere, it would be really helpful to have the list all in one place, so if we look at the rule of what information is required to be included, you don't just get half the list and you have to look back at the statute for the other half of the list.

>> JASON: That's a great comment. Thank you, Shannon. We will look at that.

>> Thanks.

>> JASON: Okay. Let's move on to WAC 196-610-015. Any comments in the room? Any comments on the phone? All right. Let's do WAC

196-610-020. Comments in the room? Comments on the phone? Okay.
WAC 196-610-025, comments in the room? We do have one in the room.
>> This is Joe Kendo, K-e-n-d-o, with the Washington State Labor Council. There we go. So this reads, "When family leave is taken to bond with the employee's child after birth or placement, the department may request a copy of," a list of things. It seems like a worker should be able to apply in advance. The documentation shouldn't have to be sought or received by the department after the birth or placement of a child. Like once, as they are applying for benefits, they should be able -- if there is a question, they should be able to apply preemptively, or the agency should be able to seek it preemptively. So it just seems like a logistical tweak you may be interested in making for your own sake. Thank you.
>> JASON: Thank you, Joe. We always appreciate comments that will help us keep our sanity. Okay. Any comments on the phone for WAC 196-610-025? Let's move on to WAC 196-610-030. Comments in the room? Comments on the phone?
>> Hi. This is Spencer Leese, L-e-e-s-e, from WaferTech. Can you hear me?
>> JASON: Yes. Go ahead, Spencer. Thanks.
>> So this is going to be an area where you are going to have to look closely when you start figuring out rules related to how this meshes with other leave rules, because it's going to get complicated. Just throwing that out there.
>> JASON: Thank you, Spencer. We appreciate that comment. Okay. Moving on to WAC 196-610-035, comments in the room? Comments on the phone?
>> APRIL: For 192-610-025, there is a question. Does the employer get this information or does ESD get it from the employee?
>> MATT: ESD would be getting that from the employee.
>> JASON: Okay. Moving on to WAC 196-610-040, comments in the room? Comments on the phone? Let's move on to WAC 196-610-045. Comments in the room? Comments on the phone? Moving on to WAC 196-610-050, comments in the room? Comments on the phone?
>> Yes. My name is Jeff Brill, B-r-i-l-l, and I am from MetLife Insurance.
>> JASON: Thank you for that, Jeff. Go ahead.
>> I had a question around example 2. Under this section, it doesn't seem like the math adds up. I want some clarity around how the 90% should be calculated because in this example it is showing that the person would essentially get 100% of the first \$700 earned, and then 50% of everything on top of that as opposed to what I think was the intent was 90% of that first \$700 and 50% of the balance. I just need to understand how that math is supposed to work with regard to our customers.
>> JASON: Sure. So there is -- I can relate, Jeff, to your interpretation of the law because that actually is the first way that I read it, but after some reexamination it was determined that the up to 90% amount is the -- it reflects the entirety of that 90% amount, which is then added to 50% above that amount. So there are a few

different ways that the exact wording might potentially be interpreted. This reflects, as we understand it, the intent of the statute.

>> Okay. But just if you follow -- if you use, say, a number that's very close to 700, and use that same math, \$750 someone earned per week, you would then get \$700 of the first 700 bucks and 50% of the balance. So you are going to get a \$725 benefit, a 97% benefit, because you just happen to be right in that right ballpark, but then someone who makes exactly 700, he is going to make 630. He is only getting a 90% benefit. If you are in that 700 or 800 or so zone of income, you are actually getting a higher than 90% benefit based on this math.

>> JASON: That is correct, and as I said that does reflect our best understanding of the intent of the statute, and that's what we worked with when interpreting this rule as well, so you are correct in your assessment of the math.

>> Okay. So this is correct as you understand, okay. You seem to understand how that's supposed to work. Thank you.

>> JASON: Sure.

>> Can you hear me?

>> JASON: We can.

>> Hey, this is Sharon Reijonen from the Snohomish County PUD, and my last name is spelled R-e-i-j-o-n-e-n. And my question is, for the purposes of doing the weekly wage calculations and the lookback period, we have established that there will be one claim year. Is the average weekly wage you look at based at the very day one of that 12-week period, and then if they use it intermittently it's just always established on that baseline average weekly wage, or is it a rolling lookback? Say that somebody had one leave in February and used two weeks of leave, and you establish what the average weekly wage lookback was for that two weeks, but then they have a new claim, or maybe it's that same condition but another event happened of it, maybe in May, would you be then doing a new average weekly wage lookback as of the May incident so you have a new benefit, or would you always be using what that initial benefit calculation was established on day one?

>> JASON: That's a great question, and we appreciate it. So the qualifying period is sustained at the initial application for leave. So once you file your initial application, that sets your claim year, and it is from that date that we establish the qualifying period. So any subsequent claims that are made in that claim year will still use that information that the weekly benefit calculation will be calculated in the qualifying period starting from the initial application. So all claims in that claim year will use the same benefit calculation.

>> Thank you. That's a good clarification. I don't know if that's written anywhere, but if it could be, I think that's pretty crucial, especially for the members also that will be applying because we want them to be able to understand expectations of what their weekly benefit is going to be.

>> JASON: That's a great comment. We appreciate that. Thank you. All right. Hearing no other comments, we will move on to WAC 196-610-055. Comments in the room? Comments on the phone?

>> This is Shannon Lawless, and I am wondering whether salaried -- maybe this goes back up to the definition of salaried earlier, but is this supposed to include a salaried non-exempt employee? Because for a salaried non-exempt employee, you still have to, you know, keep track of all their hours and pay them overtime.

>> MATT: Thanks for that question, Shannon. I am not sure that every organization uses the same terminology in how they classify their employees, so I want to make sure I am understanding the question and addressing it as it relates to your workforce. Non-exempt means something here for the state, might mean something completely different. So can you tell me a little bit more about how that pay works?

>> Well, non-exempt means exempt from the -- not exempt from the Minimum Wage Act or the Fair Labor Standards Act, therefore, required to be paid overtime for hours worked over 40, so there is a way you can pay employees more than their salary, and if they work more than 40 hours a week you have to keep track of those hours and pay them overtime. I think the way in these rules salaried is being used is trying to say non-exempt, but that's a little bit confusing for the salaried non-exempt employees, so some clarification around that would be helpful.

>> MATT: Okay. Understood. We are using non-exempt in the same way, so I just wanted to validate that before I answered the question. You are correct, the intent is for a salaried employee who gets a set salary, you know, whatever that may be, say it's \$1000 a week, for example, whether or not they would be eligible for overtime is not how we would determine whether they are salaried. If it was based on if they worked 28 hours, we pay them \$10 an hour, clearly that's not a salaried employee, but if it's an individual, whether they work 28 hours or 40 hours, they get the \$1000 per week, but are still overtime-eligible, you would still need to report the overtime pay as wages, but you would report 40 hours of work for the week. And we can look at whether -- we can look at if we can clarify that language for you as well.

>> Okay. Yeah, that would be helpful. Thank you.

>> JASON: Okay. Moving on to WAC 196-610-060, comments in the room? Comments on the phone? Moving on to WAC 196-610-065, comments in the room? Comments on the phone?

>> Hi. This is Shannon Lawless again. I guess I have a question and a comment on this. Has the department determined what notice the employer is going to receive when the department makes a determination on an application for benefits as opposed to just when an application is filed?

>> JASON: So at this time this is the only notice that we have proposed formally. We are certainly open to feedback if there are other comments that you would like to submit with regard to notices that you think employers should receive when an application is

approved.

>> Yeah. My comment on that point would be it would be really, really important for employers to receive a notice letting them know when the application is approved or denied, but when it's approved also the benefit amount that the employee is going to be receiving. And the reason for that is a lot of employers have a policy right now, let's say, where they pay 100% of parental leave, and if they are participating in the state plan they are going to want to change that, so they essentially add on to whatever the employee is receiving from the state to bring that employee pay up to 100%. But as the discussion earlier illustrated, it's a really complicated calculation, and if they are reporting from another employer, the employer has no way to know what benefit they are receiving so they don't know how much else to give that employee. As a practical matter, asking the employee to report it is difficult when employees are out on parental leave or medical leave, it's just hard to get the information out of them. So my request on behalf of my clients would be, one, that the department give those notices, and, two, we would love to see it in the rules that employers will receive those notices.

>> JASON: Great. Thank you for that comment, Shannon.

>> I also have a comment.

>> JASON: Go ahead.

>> This is Spencer Leese, L-e-e-s-e, from WaferTech. The first sentence of subsection (3) sounds like a must respond. The following sentence does say that there is a consequence if we don't respond, but it's not clear whether the employer would be in violation of the rule if we don't respond. Or is it more of a permissive requirement, hey, if you want to respond you can, but if you don't then we are going to grant the benefits without your input?

>> MATT: Thanks for the question. This is it's more the latter. The way we envision it working, for those of you who aren't familiar with unemployment insurance, we don't know exactly what that notice looks like, it hasn't been developed yet, but essentially would say, you know, your employee filed for Paid Family and Medical Leave benefits. Here is the information that was provided to us by that employee. If you disagree, respond by a date. Don't know what that date would be exactly. And if you agree with everything and have nothing to add, you don't need to respond. By not responding we are just going to take the information that was given to us by the employee. I mean kind of a concept that we are envisioning. Does that make sense?

>> Yeah, that makes total sense. And then I would just ask that if you would start that first sentence with something like, if you disagree, or the employer disagrees, or if the employer has any input to add, then --

>> JASON: Thank you, Spencer. We appreciate that.

>> Yep.

>> Can you hear me?

>> JASON: We can hear you, yes.

>> Okay. Great. This is Jessica Callahan with Symetra. Is it possible for us to have access to an electronic portal, or what is the method that employers will get that notification?

>> JASON: Great. Thank you for that. There will be a considerable amount of on-line interaction as well between the department and employers, so we can definitely take that comment back, and understand that employers would like to be able to receive these notices on-line, and we appreciate that comment.

>> Great. Thank you.

>> JASON: Okay. Moving on to WAC 192-800-003, comments in the room? Comments on the phone? Okay. I do want to offer folks here in the room one last opportunity to provide comment on any of the rules that we have discussed here today. And same offer to those joining us by phone, any final comments on today's rules?

>> Yeah. Hi. This is Sharon Reijonen from the Snohomish County PUD. And I want to go back to proposed rule 192-600-025, what happens if an employee fails to provide proper notice. There were some other questions that were around this rule. I would like clarification in the example we were talking about, what the 15 days under the Washington paid -- you know, the state program. If those 15 days were denied and not paid, would the employee still have job protection during those 15 days in relation to the state program?

>> JASON: That's a great question, and we appreciate it. Job protection is an issue that we will address in Phase 5 of rulemaking, and so we will address that issue in a future phase.

>> Thanks.

>> This is Jessica Callahan, again, from Symetra.

>> JASON: Go ahead, Jessica.

>> In regards to WAC 192-610-035, in defining the relationship, will a statement from the employee suffice, or what are you looking for in terms of the documentation for that?

>> JASON: So I think -- oh.

>> MATT: Thanks for the question, Jessica. This is Matt Buelow. It could be an attestation from the employee could be sufficient. It's going to kind of be a fact-dependent inquiry as to what, if anything, we require. We intentionally use the word "may" request documentation as opposed to "will" request documentation because we don't think it will be necessary in every case. We really think this is something we would use if for whatever reason we have a question about the family relationship. It could be that an employer brings it up and says, you know, that's not my employee's sister, as an example, at which point we may say, okay, give us something that shows that you are related to this individual. So we don't -- we are intentionally not overly prescriptive in the rules as to what those things are because there is a number of things it could be, including a self-attestation. Does that answer your question?

>> Yes, it does. Would that be something that in future rulemaking, questions around fraud may be addressed?

>> MATT: Absolutely.

>> Okay, okay. Thank you.

>> JASON: All right. Hearing no further comments, we will move to a conclusion of today's rulemaking hearing. The next steps for this particular phase of rulemaking will occur in the early part of 2019 where we will have our two public hearings on our proposed final draft of rules. We will be sending out additional information around those two hearings at a later date once we finalize the times and locations, but those dates are final, so consider this a save the date.

We will also be engaging in a considerable amount of outreach about the program in general with employers, as we hurdle very quickly towards January 1st. We certainly want to make sure that employers have a chance to have all their questions answered and to be able to provide as much input on the rules as possible before program implementation occurs.

If you have any further comments or questions, we would encourage you to send an e-mail to paidleave@esd.wa.gov. You can also head to our website, which is our new website, which is paidleave.wa.gov. There is a considerable amount of information on that website, including webinars that are designed to inform employers of their new responsibilities beginning in 2019.

We also have social media that you can follow on Twitter, @ESDwaWorks, or on Facebook at Washington ESD. We also have our rulemaking portal, which I mentioned earlier. I would like to plug that one more time, which is bit.ly/commentforum. We have rulemaking phases, as I mentioned earlier, where you can submit comments on each phase or rules as we move through them. We also have a general Q&A on that website where you can submit a general question about the law that might not necessarily pertain specifically to rulemaking. That website is constantly monitored, and we try to answer questions within two or three business days. You can also see previous questions that have been asked, so if you have a question, there is a decent chance that someone else might have asked it, also, so we do like to keep our questions public so we can give as much information to as many people as possible.

And with that we will close. Thank you so much for spending your Friday morning with us. Have a wonderful weekend.
[End of hearing]