



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 05, 2019

TIME: 12:34 PM

WSR 19-19-005

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-10-034 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

WAC Section	Section Title
192-500-035	Interested parties.
192-500-040	Aggrieved person.
192-500-180	Supplemental benefit payment.
192-510-030	How will the department determine the wages earned and hours worked for self-employed persons electing coverage?
192-510-031	What are reportable wages for self-employed persons electing coverage?
192-510-066	How are payments applied to Paid Family and Medical Leave premiums?
192-510-080	What are the requirements to be eligible for a conditional premium waiver?
192-530-030	Voluntary plans—employee eligibility criteria.
192-530-050	Avoiding a duplication of benefits under state and approved voluntary plans.
192-530-060	How can approved voluntary plans end and what happens when they do?
192-530-090	Can an employer with an approved voluntary plan make deductions from a benefit payment?
192-560-010	Which employers are eligible for small business assistance grants?
192-570-010	Conference and conciliation.
192-600-030	Can an employer waive the employee's notice requirements?
192-610-050	How are typical workweek hours determined?
192-610-051	How is the weekly benefit calculated?
192-610-052	How will the department obtain wages and hours that have not yet been reported by employers?
192-620-026	What is the maximum amount of paid family or medical benefits to which an employee is entitled in a claim year?
192-620-030	How do supplemental benefit payments affect employer requirements and weekly benefit payments?
192-620-035	When will a weekly benefit amount be prorated?
192-620-040	How will the department determine the number of hours of paid family or medical leave an employee claims each week?
192-620-045	How will the department reduce a payment if the employee owes child support?
192-620-046	How can an employee appeal a deduction from weekly benefit payments to satisfy child support obligations?
192-800-025	Adoption of model rules.

192-800-030	Definitions.
192-800-035	Who can appeal or submit a petition for review?
192-800-040	What are the timeliness requirements for submitting an appeal or a petition for review?
192-800-045	When can an appeal be withdrawn?
192-800-050	What happens after an appeal is submitted?
192-800-055	Who will be notified if an appeal is filed and what will it include?
192-800-060	What happens if an appeal or a petition has been filed and one of the parties has a change of contact information?
192-800-065	How does the time computation work for perfecting an appeal or petition for review?
192-800-070	Who can give testimony and examine witnesses during an appeal hearing?
192-800-075	Who can request a postponement of a hearing?
192-800-080	Will depositions and written discovery be permitted?
192-800-085	When will administrative law judges hear consolidated cases?
192-800-090	What is included in decisions issued by the Office of Administrative Hearings?
192-800-095	Can a decision of the commissioner incorporate a decision under review?
192-800-100	What is the process for filing petition for review and any reply to the petition for review?
192-800-105	When and how can an administrative law judge dispose of an appeal?
192-800-110	What options are available for an aggrieved person who received an order of default?
192-800-115	What is the process for filing a petition for reconsideration to the Commissioner's Review Office?
192-800-120	When would the commissioner not issue declaratory orders.
192-800-125	When is a petition for review considered delivered to the department?
192-800-150	Can an employee designate a representative to act on their behalf?
192-800-002	Untimely appeals (Repealing)
192-800-003	Designating an authorized representative (Repealing)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 7, 2019	9:00am	640 Woodland Square Loop SE, Lacey WA 98503	Meeting will be in the Park Place conference room
November 12, 2019	9:00am	322 N Spokane Falls Court, Spokane WA 99201	Double Tree Hilton Spokane City Center, conference room will be listed in the lobby of the hotel.

Date of intended adoption: November 12, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Christina Streuli

Address: Employment Security Department PO Box 9046, Olympia, WA 98507-9046

Email: Rules@esd.wa.gov

Fax:

Other: Online portal: https://www.peakdemocracy.com/portals/289/forum_home?phase=open

By (date) July 26, 2019

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: (360) 902-9354

Fax:

TTY: 711

Email: TEckstein@esd.wa.gov

Other:

By (date) July 19, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rules will further define Paid Family and Medical Leave requirements for the assessing and collecting of premiums, requirements related to voluntary plans, eligibility for small business assistance grants, conference and conciliation, benefit application, weekly benefit processing, appeals, and changes made necessary through legislation.

Reasons supporting proposal: The rules will assist in meeting the requirements to implement payment of benefits to eligible employees by January 1, 2020 as mandated by Title 50A RCW.

Statutory authority for adoption: RCW 50A.04.215

Statute being implemented: RCW 50A.04.020, RCW 50A.04.030, RCW 50A.04.035, RCW 50A.04.040, RCW 50A.04.060,, RCW 50A.04.080, RCW 50A.04.090, RCW 50A.04.105, RCW 50A.04.115, RCW 50A.04.120, RCW 50A.04.130, RCW 50A.04.140, RCW 50A.04.185, RCW 50A.04.230, RCW 50A.04.260, RCW 50A.04.500, RCW 50A.04.505, RCW 50A.04.510 RCW 50A.04.515, RCW 50A.04.520, RCW 50A.04.525, RCW 50A.04.530, RCW 50A.04.535, RCW 50A.04.540, RCW 50A.04.545, RCW 50A.04.550, RCW 50A.04.555, RCW 50A.04.580, RCW 50A.04.600, RCW 50A.04.610, RCW 50A.04.615 RCW 50A.04.625, RCW 50A.04.630, RCW 50A.04.635, RCW 50A.04.645, RCW 50A.04.650, RCW 50A.04.655, RCW 50A.04.660

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Employment Security Department, Paid Family and Medical Leave Division

Private

Public

Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Christina Streuli	Lacey, WA	360-791-6710
Implementation:	April Amundson	Lacey, WA	360-485-2816
Enforcement:	April Amundson	Lacey, WA	360-485-2816

Is a school district fiscal impact statement required under RCW 28A.305.135?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: All proposed rules are exempt under RCW 34.05.328(5). After review of the proposed rules, the agency determined the rules do not impose more-than-minor costs on businesses. Rules proposed are either interpretive or procedural. Definitions provided in these proposed rules clarify verbiage for processes in overpayment assessment and collection. The definitions do not impact procedures.

Please see Significance Analysis for more information.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|--|--|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW RCW 34.05.328(5)(c)(i) and 34.05.328(5)(c)(ii), and RCW 19.85.025(5).

Explanation of exemptions, if necessary: RCW 34.05.328(5)(c)(ii) creates an exemption for interpretive rules. This exemption applies to portions of the proposal. RCW 34.05.328(5)(c)(i) creates an exemption for procedural rules. This exemption applies to portions of the proposal.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: September 5, 2019

Name: April Amundson

Title: Policy and Rules Manager for Paid Family and Medical Leave

Signature:

A handwritten signature in black ink, appearing to read 'April Amundson', written in a cursive style.