

## WSR 24-09-025

## PROPOSED RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed April 10, 2024, 7:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-076.

Title of Rule and Other Identifying Information: Cross-program payment allocation.

Hearing Location(s): On June 25, 2024, at 9:00 a.m., via Zoom <https://esd-wa-gov.zoom.us/j/86558726717?pwd=VG9EODFpbGhPTlRyVklyclgrVmNtdz09>, Meeting ID 865 5872 6717, Pass-code 319431; or call in One-tap mobile +12532158782,,86558726717#,,,,\*319431# US (Tacoma), +12532050468,,86558726717#,,,,\*319431# US.

Date of Intended Adoption: June 26, 2024.

Submit Written Comments to: Lawrence Larson, P.O. Box 9046, Olympia, WA 98507-9046, email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), fax 844-652-7096, by June 25, 2024.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email [Teresa.eckstein@esd.wa.gov](mailto:Teresa.eckstein@esd.wa.gov), by June 15, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The employment security department (department) currently runs three programs: State unemployment insurance, WA Cares, and paid family and medical leave. As part of its duties, the department receives payments from employers for each program. Occasionally, an employer sends a payment to the department without indicating which program(s) the payment was intended for, and the department is unable to make contact with the employer. There are currently no rules addressing how employer payments are allocated across these programs in these situations. Therefore, the department is engaging in rule making to add rules that will address how payments will be allocated across these programs.

Reasons Supporting Proposal: The proposal is needed to clarify how the department will allocate payments between programs when the department receives a payment from an employer and the department is unable to determine which program(s) the employer intended the payment for.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50A.05.060, 50B.04.020.

Statute Being Implemented: RCW 50.24.010, 50A.10.030, 50B.04.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Lawrence Larson, Olympia, Washington, 360-890-3460; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule only relates to internal department operations that are not subject to violation by a nongovernment party.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:  
Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule making will not impose costs on small businesses as the rule relates to internal department operations.

April 10, 2024

Joy E. Adams

Employment System Policy Director

**OTS-5211.1**

**Chapter 192-03 WAC  
EMPLOYER PAYMENT ALLOCATION**

NEW SECTION

**WAC 192-03-010 Employer payment.** (1) When an employer makes a payment to a program under Title 50, 50A, or 50B RCW, the full amount of the payment will be allocated to the program listed by the employer.

(2) If the program for which the payment is intended is not clear, the department will make a reasonable attempt to contact the employer to determine how the payment should be applied.

(3) If the department is unsuccessful in contacting the employer, the department will investigate if the employer has any outstanding debts to any of the programs referenced in subsection (1) of this section. If money is owed to one or more programs, then the payment will be deposited in the following order of priority:

- (a) To Title 50 RCW, if money owed to this program; then
- (b) To Title 50A RCW, if money owed to this program; then
- (c) To Title 50B RCW, if money owed to this program.

NEW SECTION

**WAC 192-03-020 Credits between programs.** If an employer has a credit within one program, the credit can only be applied to another program under Title 50, 50A, or 50B RCW, at the request of the employer.