

# Chapter 192-110 WAC

## APPLYING FOR UNEMPLOYMENT BENEFITS

### WAC

192-110-001	May the department refuse to accept my claim, appeal or petition?
192-110-005	Applying for unemployment benefits—General.
192-110-010	Applications for benefits by interstate claimants.
192-110-015	Applications by standby workers—RCW 50.20.010.
192-110-017	When can a partially unemployed worker apply for benefits?—RCW 50.04.310.
192-110-020	How will the department verify my identity?
192-110-050	How do I reopen my claim?
192-110-090	Prompt payment of benefits.
192-110-095	May I backdate my application for unemployment benefits (RCW 50.04.030)?
192-110-110	Establishing a new benefit year—RCW 50.04.030.
192-110-112	Applying for a combined wage claim.
192-110-115	May I cancel my claim?
192-110-150	May I have an individual with power of attorney or other authorization file an initial or weekly claim for benefits, testify in my place, or otherwise certify on my behalf?

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-110-200	Maximum benefits payable—RCW 50.20.120 (1)(b). [Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-110-200, filed 12/9/04, effective 1/9/05.] Repealed by WSR 17-17-129, filed 8/22/17, effective 9/22/17. Statutory Authority: RCW 50.12.010 and 50.12.040.
192-110-210	Claim cancellation. [Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-110-210, filed 12/9/04, effective 1/9/05.] Repealed by WSR 07-22-055, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010 and 50.12.040.

**WAC 192-110-001 May the department refuse to accept my claim, appeal or petition?** (1) Except as provided in subsection (2) of this section, no employee or agent of the department may refuse to accept your claim, a signed appeal, or a petition properly filed under WAC 192-04-170 relating to any program administered by this department regardless of the employee or agent's opinion concerning its merits.

(2) You must provide the department with your name and Social Security account number in order to file a claim for benefits.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 10-20-081, § 192-110-001, filed 9/29/10, effective 10/30/10.]

**WAC 192-110-005 Applying for unemployment benefits—General.** (1) **How do I apply for benefits?** You may apply for benefits by:

- (a) Using the department's online services; or
- (b) Calling the unemployment claims center; or
- (c) If you have a physical or sensory disability, or are in unusual circumstances that make filing by telephone or internet difficult, the commissioner may authorize other methods of applying for benefits.

(2) **When can I apply?**

(a) You may apply online using the department's online services at any time.

(8/22/17)

(b) You may apply by telephone (excluding state holidays) during the days and hours designated by the department.

(3) **What information am I required to provide?** The minimum information needed to process your application is your:

- (a) Legal name; and
- (b) Social Security account number.

You should also be prepared to provide the names, addresses, dates worked, and reasons for job separation for all of your employers during the past eighteen months. Other information may be required in individual circumstances.

(4) **Will I receive benefits immediately?** The first week you are eligible for benefits is your waiting week. You will not be paid for this week. However, you must file a claim for this week before we can pay you any benefits for future weeks.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-005, filed 10/7/16, effective 11/14/16; WSR 15-02-051, § 192-110-005, filed 1/5/15, effective 2/5/15; WSR 07-22-055, § 192-110-005, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20.010 and 50.12.-040. WSR 99-08-073, § 192-110-005, filed 4/5/99, effective 5/6/99.]

**WAC 192-110-010 Applications for benefits by interstate claimants.** (1) **What is an "interstate claimant"?** An "interstate claimant" is a person who files a claim for one state's unemployment benefits from another state. The state that pays your claim is called the "paying state." For example:

(a) You are an interstate claimant if you live outside of Washington and file a claim against Washington. Washington will be the paying state on your claim.

(b) You are an interstate claimant if you live in Washington and file a claim against another state. The other state will be the paying state on your claim.

(2) **Where can I apply for benefits?** You can apply for benefits from any state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Canada. However, if you served in the military during the past eighteen months, you must physically be in the state of Washington to apply for benefits against Washington.

(3) **How do I apply for benefits?** Use the department's online services or call the unemployment claims center in Washington. If you worked in any state other than Washington within the last eighteen months, the department will provide you with information to help you decide which state will pay your claim.

(a) If Washington will pay your claim, you may apply using the department's online services or an agent will take your application for benefits over the telephone;

(b) If another state will pay your claim, the department will provide you with contact information for that state regarding how to file your claim with that state.

(4) **Who decides if I am eligible for benefits?** Every state has its own laws which control eligibility for benefits. If you file a claim for Washington benefits, your eligibility for benefits will be decided by Washington state law even if you file from another state. If you file for benefits against another state, your eligibility for benefits will be decided under that state's laws.

(5) **When can I apply for benefits?** You can apply for benefits at any time, even if you are working. However, if you already have a valid claim in one state, you must continue with that claim as long as benefits are available before you can establish a new claim against another state. A "valid" claim is one that has not been denied, terminated, or the benefits exhausted (paid out).

(6) **How do I file an appeal?** If you wish to file an appeal about your claim, you must file it directly with the state that is paying your claim:

(a) If Washington is paying your claim, use one of the filing methods listed in WAC 192-04-060. If filed using the postal service or shipping service, your appeal will be considered filed on the postmarked or shipping date.

(b) If another state is paying your claim, file your appeal directly with that state.

All appeal hearings will be conducted by the state that is paying your claim. The paying state will notify you of the date, time, and telephone number or location of the hearing.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-010, filed 10/7/16, effective 11/14/16; WSR 09-15-014, § 192-110-010, filed 7/2/09, effective 8/2/09; WSR 07-22-055, § 192-110-010, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20.010 and 50.12-040. WSR 99-15-069, § 192-110-010, filed 7/19/99, effective 8/19/99.]

#### **WAC 192-110-015 Applications by standby workers—RCW 50.20.010. (1) What is "standby?"**

(a) "Standby" means you are temporarily unemployed because of a lack of work but:

(i) You expect to return to work with your regular employer within four weeks; or

(ii) You expect to begin full-time work with a new employer within two weeks; or

(iii) You are temporarily unemployed due to natural disaster.

(b) You do not have to register for work or look for other work while you are on standby.

(c) You must be available for all hours of work offered by your regular employer.

#### **(2) How long can I be on standby?**

(a) You can ask to be on standby for up to four weeks, beginning with the date of the request.

(b) We will ask your employer to verify that you are on standby, including your expected return to work date:

(i) If your employer does not reply, you can be on standby for up to four weeks;

(ii) If your employer confirms you are on standby, you can be on standby until the return to work date given by your employer, subject to the limitations of (c) of this subsection;

(iii) If your employer replies that you are not on standby or do not have a return to work date within eight weeks, we will require you to immediately register for work and to look for work.

(c) Your regular employer may ask that you be placed on standby for a maximum of eight weeks (except as provided in (2)(d) below). This request must be approved by the department. We will consider the following before deciding whether to approve standby for more than four weeks:

(i) How long you have been out of work;

(ii) Whether other suitable work is available;

(iii) The impact on you and your employer if you accept other work; and

(iv) Other factors that apply to your situation.

(d) At his or her discretion, the commissioner may grant standby for more than eight weeks in a benefit year. Exceptions can be made due to natural disaster. Exceptions can also be made in other extraordinary circumstances when the employer applies in writing and shows there are conditions that apply to the business that are so unique or unusual compared to similar businesses that having their employees on standby for more than eight weeks is necessary.

(e) We can approve standby if you have obtained a definite offer of bona fide full-time work that has a probable start date within two weeks, which includes the week of the job offer and up to two additional weeks. If the standby request under this subsection is part of your initial claim, standby begins with the date of the request.

(f) The job, however, must be:

(i) With a new employer or with a former employer to whom you are no longer attached as provided in subsection (3)(f) of this section; and

(ii) Covered by Title 50 RCW or the comparable laws of another state or the federal government.

#### **(3) Are there conditions that apply to a request for standby?**

(a) You must have a probable date when you will return to work for your regular employer;

(b) We will not approve standby if you only have prospects of future work with your regular employer or a promise of more work at some unspecified date;

(c) We will not approve standby with your regular employer unless the employment is covered by Title 50 RCW or the comparable laws of another state or the federal government;

(d) Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work less than full-time. For purposes of this section, "full-time" means forty hours each week or the number of hours that are full-time for your occupation and labor market area;

(e) Any week(s) that you do not qualify for benefits will not be considered as part of the maximum eight weeks of standby; and

(f) After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer. You must meet the job search requirements specified by RCW 50.20.010 (1)(c) and 50.20.240.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 17-17-126, § 192-110-015, filed 8/22/17, effective 10/10/17; WSR 17-01-051, § 192-110-015, filed 12/13/16, effective 1/13/17. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. WSR 05-19-018, § 192-110-015, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-08-073, § 192-110-015, filed 4/5/99, effective 5/6/99.]

**WAC 192-110-017 When can a partially unemployed worker apply for benefits?—RCW 50.04.310.** If you are a partially unemployed worker as defined in WAC 192-180-013, you may apply for unemployment benefits up to five weeks after your hours are reduced without the application being considered late.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. WSR 05-19-018, § 192-110-017, filed 9/9/05, effective 10/10/05.]

**WAC 192-110-020 How will the department verify my identity?** When you apply for benefits, the information you provide must be sufficient for the department to confirm your identity to its satisfaction.

(1) If we can verify your identity with this information, we will file your application for benefits.

(2) If we cannot verify your identity, we will request additional verification.

(a) If the additional information provides satisfactory evidence of your identity, your claim will be effective based on the date you first applied for benefits, unless it is backdated as provided in WAC 192-110-095.

(b) If the additional information does not satisfy the department of your identity, we will deny your benefits.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-020, filed 10/7/16, effective 11/14/16; WSR 07-22-055, § 192-110-020, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-08-073, § 192-110-020, filed 4/5/99, effective 5/6/99.]

**WAC 192-110-050 How do I reopen my claim?** (1) If you have stopped claiming for more than four consecutive weeks for any reason, you must reopen your claim.

(a) You may reopen your claim:

(i) By using the department's online services; or

(ii) By calling the unemployment claims center.

(b) You must reopen your claim **before** the end of the week.

(2) Your claim will be reopened effective on Sunday of the week in which you contact the department to reopen your claim, unless you ask the department to backdate your reopening date to a prior week. The department will not backdate your reopening date unless you show good cause for not reopening your claim earlier, except as provided in WAC 192-140-005.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-050, filed 10/7/16, effective 11/14/16. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-12-026, § 192-110-050, filed 5/24/10, effective 6/24/10. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-110-050, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-08-073, § 192-110-050, filed 4/5/99, effective 5/6/99.]

**WAC 192-110-090 Prompt payment of benefits.** The department will promptly issue payment once it determines that you are eligible for benefits.

(1) An appeal by an employer concerning your eligibility for benefits will not prevent payment.

(2) If benefits are allowed to you as the result of an appeal decision, the department will promptly pay benefits and a petition for the commissioner's review will not prevent payment.

(8/22/17)

(3) If benefits are allowed to you as the result of a commissioner's decision, the department will promptly pay benefits and the filing of a petition for judicial review will not prevent payment.

(4) If benefits are allowed to you as the result of a court decision, the department will promptly pay benefits. An appeal to a court of higher jurisdiction will not prevent payment.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-110-090, filed 5/12/10, effective 6/12/10.]

**WAC 192-110-095 May I backdate my application for unemployment benefits (RCW 50.04.030)?** (1) **General rule.** A benefit year begins on Sunday of the calendar week in which you file your application for benefits. However, an application may also be backdated for good cause or for the convenience of the department.

(2) **Definitions.** As used in this section:

(a) "Good cause" means factors that would prevent a reasonably prudent person in similar circumstances from filing an application for benefits. These include, but are not limited to, incapacity due to illness or injury, or other serious factors.

(b) "For the convenience of the department" means:

(i) For the purpose of program administration; or

(ii) Those situations where it is difficult or impossible for the department to accept a timely application. These include, but are not limited to, equipment breakdowns, lack of available staff to accept applications, or special handling requirements.

(3) **Limitations on good cause.**

(a) You must file your application for benefits during the first week in which those factors that constitute good cause are no longer present. The effective date will be Sunday of such week.

(b) Backdating will not be allowed if you claim good cause based on information from department staff or agents where you could reasonably be expected to question the accuracy of this information.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-095, filed 10/7/16, effective 11/14/16. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-110-095, filed 5/12/10, effective 6/12/10.]

**WAC 192-110-110 Establishing a new benefit year—RCW 50.04.030.** Once your current benefit year expires, you are not eligible for a new benefit year unless you have returned to work and earned at least six times the weekly benefit amount on your new claim.

Example: You separate from one job on December 29, 2008, and from a second job on February 7, 2009. You file an application for benefits effective February 8, 2009. When the benefit year ends, you must have earned six times your new weekly benefit amount since February 7, 2009, to be eligible for a new claim.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-110-110, filed 5/12/10, effective 6/12/10.]

**WAC 192-110-112 Applying for a combined wage claim.** (1) **What is a combined wage claim?** A combined wage claim is a claim based on wages earned in two or more states. For purposes of this section, "state" means the fifty

states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

(2) **Where can I file a combined wage claim?** You can file a combined wage claim against any state in which you have base period wages and qualify for benefits based on combining those wages with wages from another state(s). The state against which you file your claim will be the paying state.

(3) **What is the paying state?** The "paying state" is the state against which you file your combined wage claim. You must have base period employment in that state and qualify for unemployment benefits under that state's laws using combined employment and wages.

(4) **Can I file a combined wage claim against Washington?** Yes. To file a combined wage claim against Washington, you must have base period wages in Washington which, combined with your wages from another state(s), establish a valid Washington claim. If you file your claim against Washington, Washington will be the paying state.

(5) **Do I have to reside or physically be in Washington to file a combined wage claim?** No. The state where you are a resident is not relevant in deciding the paying state.

(6) **Who decides which state is the paying state for a combined wage claim?** You are responsible for deciding which state will be the paying state. If you are potentially eligible for a combined wage claim and you contact the department using online services or by phone, you will be provided with:

- (a) General information about the combined wage program;
- (b) Your options for filing a regular or combined wage claim against Washington or another state(s); and
- (c) Contact information for other state(s) in which you worked during your base period.

(7) **Am I required to file a combined wage claim?** No. Filing a combined wage claim is voluntary. You may choose to file a claim using only wages from a single state.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-112, filed 10/7/16, effective 11/14/16; WSR 09-15-014, § 192-110-112, filed 7/2/09, effective 8/2/09.]

**WAC 192-110-115 May I cancel my claim?** (1) You will be allowed to cancel your claim within thirty days of the date you applied for benefits if no payment has been issued to you on the claim. The department will advise you of the advantages and disadvantages of canceling a claim.

(2) At his or her discretion, the commissioner may permit cancellation of a claim beyond thirty days of the date you applied for benefits, but only in extreme and unusual circumstances. The denial of a request to cancel a claim beyond thirty days of the date of application is not subject to appeal.

(3) You will not be allowed to cancel your claim if benefits have been paid on the claim, unless the department filed the claim in error.

(4) As provided in RCW 50.20.160, if the department has denied your benefits before canceling your claim, the denial will remain in effect. The department will not make a new decision based on the same issue in a subsequent claim.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-110-115, filed 10/7/16, effective 11/14/16.]

**WAC 192-110-150 May I have an individual with power of attorney or other authorization file an initial or weekly claim for benefits, testify in my place, or otherwise certify on my behalf?** No. RCW 9A.72.085 requires that an oath, certification, verification or declaration must be signed or sworn to by the person making it. (Exception: An estate executor or administrator may file a claim for the last completed calendar week prior to a claimant's death.)

(1) You are required to personally certify on your initial application for benefits and weekly claims that the information provided to the department is correct.

(2) An individual with power of attorney may not testify in your place in any adjudicative proceeding. Such individual may file an appeal on your behalf if he or she provides the department with a copy of the document granting him or her power of attorney. Such individual may also be called as a witness on your behalf or assist with the preparation of your case but you must provide sworn testimony in support of your appeal.

(3) An agent with power of attorney may not otherwise act on your behalf when statutes or regulations specifically or implicitly require your signature or personal certification.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-110-150, filed 5/12/10, effective 6/12/10.]