

## WSR 25-04-111

## PERMANENT RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed February 5, 2025, 6:07 a.m., effective March 8, 2025]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Claimants and employers who have appealed a determination of the employment security department (department) may request to withdraw their appeal before their hearing occurs. Sometimes a claimant or employer may change their mind for some reason, such as not understanding the impact of withdrawing their appeal, and they may request to rescind the withdrawal of their appeal so that they can have a hearing. Although parties are currently able to make these requests and the office of administrative hearings adjudicates these requests, the department's rules do not set out a process or a standard of review for evaluating these requests. The department is updating WAC 192-04-100 to set out a process for filing a request to reinstate an appeal and a good cause standard of review of the request.

Citation of Rules Affected by this Order: Amending WAC 192-04-100 Appeals—Petitions for hearing or petitions for review—Withdrawal and reinstatement of.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.042, 50.32.060, and 34.05.220.

Other Authority: RCW 50.32.060.

Adopted under notice filed as WSR 24-21-052 on October 9, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 5, 2025.

Joy Adams  
Employment System Policy  
and Integrity Director

**OTS-5543.2**

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

**WAC 192-04-100 Appeals—Petitions for hearing or petitions for review—Withdrawal and reinstatement of.** (1) Any interested party may withdraw ((his or her)) their appeal, petition for hearing, or petition for review at any time prior to a decision thereon, in which case

the previous determination, redetermination, denial, order and notice of assessment or decision shall be final in accordance with the provisions of the Employment Security Act. Such withdrawal shall, however, be subject to the approval of the office of administrative hearings in the case of an appeal or petition for hearing, or of the commissioner in the case of a petition for review.

(2) After an order granting withdrawal of an appeal or an order granting withdrawal of a petition for hearing has been issued by the office of administrative hearings, a party may file a motion to reinstate appeal or motion to reinstate petition for hearing. The motion shall be filed with the office of administrative hearings. The motion may be granted for good cause shown.

(3) The following factors shall be considered in determining whether good cause exists under subsection (2) of this section:

(a) The length of time between the request for withdrawal and the motion to reinstate appeal or motion to reinstate petition and the reason for any delay;

(b) Any physical, mental, educational, or linguistic limitations of the moving party, including any lack of facility with the English language;

(c) Any mistake, inadvertence, surprise, excusable neglect, newly discovered information or evidence, or irregularity that led to the request to withdraw the appeal;

(d) Whether granting the motion will result in prejudice to other interested parties, including the department; and

(e) Any other factors relevant to the determination.