RCW 49.48.230 Wage recovery program—Rule making—Disbursement—Eligibility—Report. (1)(a) Subject to the availability of funds appropriated for this purpose, the wage recovery program is created and administered by the department. The purpose of the wage recovery program is to allow the department to disburse funds to unpaid low-wage employees, prior to the department issuing a citation and notice of assessment or collecting unpaid wages and interest from an employer, if the employee would otherwise experience immediate economic harm due to the nonpayment of wages.

(b) The department may adopt rules to administer the program.

(2) Beginning July 1, 2028, or when the account created under RCW 49.48.231 contains at least $130,000, whichever is later, an employee is eligible to recover from the wage recovery program if each of the following conditions is satisfied:

(a) The employee has filed a wage complaint with the department under RCW 49.48.083 and the department has investigated and determined that the wage complaint has merit;

(b) The employee has assigned the employee's wage complaint to the department as required under this section;

(c) The employee requested to be considered a recipient of funds from the wage recovery program;

(d) The employee's earnings during the preceding 12 months were less than the maximum amount established by the department by rule and according to the process provided by rule;

(e) The employee attests that without relief from the wage recovery program, the employee will suffer immediate economic harm; and

(f) The employee, as a condition of receiving funds under the wage recovery program, has waived the ability to appeal the citation and any notice of assessment as well as any private right of action.

(3)(a) To help prevent immediate economic harm to the employee, the department should attempt to disburse funds after the department has determined the complaint has merit and at the earliest possible point in the investigation process, as determined by the department.

(b) In determining an eligible employee's need for funds to prevent immediate economic harm, the department may identify other factors for consideration, such as resources available to the employee, the employee's current employment status, and family size.

(c) The department may determine the priority of payments made between eligible employees and whether to issue funds for eligible employees. Factors to consider in prioritizing applications for funds from the program should include, but are not limited to, the severity of the potential economic harm to the employee, whether the department is likely to recover the unpaid wages and interest from the employer, and availability of funds to be distributed throughout the year given the seasonality of some industries.

(4)(a) As a condition of receiving a disbursement of funds under the wage recovery program, the employee must assign to the department the employee's right to any claim on wages and interest owed by the employer.

(b) An employee receiving funds from the wage recovery program may not pursue collection, or authorize another entity other than the department to pursue collection on the employee's behalf.

(c) When an employer pays the department wages and interest for a wage complaint assigned to the department, the department shall deposit into the wage recovery account created under RCW 49.48.231 the

amounts necessary to reimburse the account for the disbursements made to the employee, plus interest. The department shall pay any remaining payment of wages and interest by the employer on the claim to the employee.

(5) An eligible employee may receive up to 85 percent of wages the employee is anticipated to be owed at the time of disbursement from the fund, up to a maximum of $2,500, from the account.

(6) Total payments made under the wage recovery program for any fiscal year may not be greater than 80 percent of the account balance, calculated at the end of the previous fiscal year.

(7)(a) Eligibility for payment under the wage recovery program does not create a right to payment. Payments under this section are discretionary. This section does not create an entitlement to payment or services. This section does not create a right of action.

(b) The department is not criminally or civilly liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for payments under this section.

(8) As part of its annual report submitted under RCW 49.12.180, the department shall include a report of the wage recovery program, including the following information:

(a) Amounts available in the account for disbursement at the beginning of the year and at the end of the year;

(b) Amounts paid out from the account;

(c) The number of employees and wage complaints that resulted in payments made from the account;

(d) The types and frequency of immediate economic harm identified by the employee through attestation;

(e) The total amount of wages and interest owed to employees in notices of assessment where the program issued a payment;

(f) The average payment made to employees under the program;

(g) The total amount of penalties assessed in notices of assessment where there were payments made under the program;

(h) The total recovery from employers of amounts paid from the account;

(i) The total outstanding recovery from employers of amounts paid from the account;

(j) The total collection of all wages, interest, and penalties assessed in notices of assessment from employers where there was payment from the account;

(k) The number of notices of assessment where the wages and interest ultimately assessed were less than the amount paid from the account to the employee;

(l) The number of employer appeals of notices of assessment where there was payment from the account;

(m) The number of appeals where the final decision resulted in a lower wage owed to the employee than the amount paid out of the account to the employee;

(n) The number of appeals where an employee who received payment from the account failed to participate;

(o) The number of payments from the account subject to the 85 percent disbursement cap. [2026 c 53 s 2.]