Chapter 192-110 WAC

APPLYING FOR UNEMPLOYMENT BENEFITS

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. 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?**

(a) You may apply for benefits by:

(i) Calling the unemployment claims telecenter listed in your local telephone directory; or

(ii) Using the department's internet web site. However, you must apply by telephone if you worked in any state other than Washington during the previous two years, or you were off work for 13 or more consecutive weeks because of injury or illness.

(b) If you have a physical or sensory disability, or are in unusual circumstances that makes 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 by telephone at any time between the hours of 8:00 a.m. and 5:00 p.m. (Pacific Time) Monday through Friday (excluding state holidays), even if you are working. To control workload, the department may assign certain days of the week on which you may file your claim by telephone.

(b) You may apply on the internet at any time.

(3) **When is my claim effective?** Your claim is effective on the Sunday of the week in which you file it.

(4) **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 two years. Other information may be requested in individual circumstances.

(5) **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. 07-22-055, § 192-110-005, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20.010 and 50.12.040. 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 two years, you must physically be in the state of Washington to apply for benefits against Washington.

(3) **How do I apply for benefits?**

(a) Call the unemployment claims telecenter in Washington. If you worked in any state other than Washington within the last two years, an agent will help you decide which state will pay your claim.

(i) If Washington will pay your claim, an agent will take your application for benefits over the telephone;

(ii) If another state will pay your claim, an agent will tell you how to file your claim with that state.

(b) If you worked only in Washington during the previous two years, you may apply for benefits on the internet.

(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 mailed, your appeal will be considered filed on the postmarked 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. 09-15-014, § 192-110-010, filed 7/2/09, effective 8/2/09; 07-22-055, § 192-110-010, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20.010 and 50.12.040. 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?"** "Standby" means you are temporarily unemployed because of a lack of work but you expect to return to work with your regular employer. You do not have to register for work or look for other work while you are on standby. 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.

(b) We will ask your employer to verify that you are on standby and 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 for up to four weeks or until the return to work date given by your employer, whichever is earlier;

(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 to extend your standby status for more than four, but no more than 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. The employer must apply in writing and show 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 bona fide job with a new employer that has a definite start date within four weeks. The job must be in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

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

(a) You must have a definite 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 the employer, a promise of more work at some unspecified date, or when the return to work date depends on conditions beyond the employer's control, such as weather;

(c) Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work fewer than forty hours each week for the employer; and

(d) Except as provided in subsection (2)(d), we will not approve standby for more than eight weeks in any benefit year. Any week(s) that you do not qualify for benefits because of your earnings will not be considered as part of the eight weeks. After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-110-015, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.20.010 and 50.12.040. 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. 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, we will ask you questions based on information in our records, such as your work history.

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

(2) If we cannot verify your identity through questioning, we will send you a verification form:

(a) If you complete and return the verification form to the department, and it provides satisfactory evidence of your identity, your claim will be effective based on the date of your first telephone call;

(b) If you do not complete or return the verification form, or it does not satisfy the department of your identity, we will deny your benefits.

WAC 192-110-050 How do I reopen my claim? (1) If you do not file a claim for one or more weeks, you must reopen your claim.

(a) If it has been fewer than four weeks since you last claimed, you must reopen your claim by calling the unemployment claims telecenter and asking an agent to reopen your claim.

(b) If you have not claimed benefits for four or more weeks, you may reopen your claim on the internet or by calling the unemployment claims telecenter. However, you must do so **before** the last working day of the week (which is usually Friday). Otherwise you must call the unemployment claims telecenter and speak to an agent to reopen your claim.

(2) Your claim will be reopened effective on Sunday of the week in which you contact the department except that the effective date for any prior week claimed under WAC 192-140-005(4) will be Sunday of that week.

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.

(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.

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 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, acting on advice directly from a department employee or its agent on whom a reasonable person would rely, incapacity due to illness or injury, or other serious factors.

(b) "For the convenience of the department" means 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, and you knew or should have known of your redetermination or appeal rights and failed to exercise them.

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.

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 contact the department, an agent will provide you 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. 09-15-014, § 192-110-112, filed 7/2/09, effective 8/2/09.]

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. 10-11-046, § 192-110-150, filed 5/12/10, effective 6/12/10.]

WAC 192-110-200 Maximum benefits payable—RCW 50.20.120 (1)(b). When the three month seasonally adjusted total unemployment rate reaches six and eight-tenths percent or less, the maximum benefits payable on a claim will be permanently reduced to 26 times an individual's weekly benefit amount or one-third of the individual's base year wages, whichever is less.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-110-200, filed 12/9/04, effective 1/9/05.]