

Chapter 192-500 WAC
DEFINITIONS

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WAC 192-500-010 Employer. (1) An "employer" is:

(a) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

(b) The state, state institutions, and state agencies;

(c) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(d) A franchisee.

(2) "Employer" does not include the United States of America.

(3) For the purposes of paid family and medical leave, the term employer is used for both employer and employer agent.

(4) This section does not apply to:

(a) Any self-employed person or federally recognized tribe that has not elected coverage under Title 50A RCW; and

(b) Any person performing casual labor as defined in RCW 50A.05.010.

[Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-500-010, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-500-010, filed 11/2/18, effective 12/3/18.]

WAC 192-500-015 Employer agent. (1) An "employer agent" is a designated representative that is authorized to conduct business on behalf of the employer.

(2) In order to represent an employer before the department, the employer or employer agent must submit a signed power of attorney form to the department.

(3) The employer is responsible for all acts taken or failures to act by the employer agent on the employer's behalf.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-500-015, filed 11/2/18, effective 12/3/18.]

WAC 192-500-020 Calendar quarter. "Calendar quarter" means the period of three consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-500-020, filed 11/2/18, effective 12/3/18.]

WAC 192-500-025 Terms meaning deliver. (1) Unless otherwise specified, the terms "mail," "provide," "file," "submit," and "send" are interchangeable and mean to properly transmit, deliver, or distribute:

- (a) By email or other electronic services; or
- (b) In another format approved by the department.

(2) This section does not apply to appeals filed under Title 50A RCW.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-500-025, filed 11/2/18, effective 12/3/18.]

WAC 192-500-030 Willful. "Willful" and "willfully" mean a knowing and intentional act or omission, unless otherwise defined in Title 50A RCW.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-500-030, filed 11/2/18, effective 12/3/18.]

WAC 192-500-035 Interested parties. (1) In all determinations, cases, and appeals adjudicated under Title 50A RCW the employment security department is an "interested party."

(2) Other interested parties in paid family or medical leave determinations related to the state plan, complaints under chapter 50A.40 RCW, and appeals include:

(a) The employee or former employee; and

(b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) Other interested parties in paid family or medical leave determinations related to an approved voluntary plan include:

(a) The employer or former employer; and

(b) An employee or former employee.

(4) The department may designate an employee or employer as an interested party in other determinations made by the department.

[Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-500-035, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.04.215. WSR 19-23-090, § 192-500-035, filed 11/19/19, effective 12/3/19.]

tive 12/20/19; WSR 18-22-080, § 192-500-035, filed 11/2/18, effective 12/3/18.]

WAC 192-500-040 Aggrieved party. An "aggrieved party" is any interested party who receives an adverse decision from:

- (1) The department for which the department has provided notice of appeal;
- (2) The employer with an approved voluntary plan for which that employer has provided notice of appeal;
- (3) The office of administrative hearings; or
- (4) The commissioner's review office.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-500-040, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.04.215. WSR 19-23-090, § 192-500-040, filed 11/19/19, effective 12/20/19; WSR 18-22-080, § 192-500-040, filed 11/2/18, effective 12/3/18.]

WAC 192-500-050 De facto parent. A "de facto parent" is limited to those adults who have fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in a child's life where the natural or legal parent consented to and fostered the parent-like relationship.

[Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-500-050, filed 3/22/19, effective 4/22/19.]

WAC 192-500-060 In loco parentis. An individual stands "in loco parentis" when the individual acts in place of a parent, intentionally takes over parental duties, and is responsible for exercising day-to-day care and control fulfilling the child's physical and psychological needs.

[Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-500-060, filed 3/22/19, effective 4/22/19.]

WAC 192-500-070 Claim year. (1) A "claim year" is the period beginning Sunday of the week of the date an eligible employee files a complete initial application for benefits and ending the Saturday fifty-two weeks later.

(2) The entitlement to family leave benefits for the birth or placement of a child expires at the end of the twelve-month period beginning on the date the child was first placed in the home.

(3) For applications that are backdated, the claim year is the fifty-two week period beginning Sunday of the week to which the application was backdated.

(4) An employee may only have one valid claim year at a time.

(5) A new claim year will not be established for an employee who:

(a) Is determined to have less than eight hundred twenty hours in their qualifying period; or

(b) Fails to sufficiently prove their identity to the department.

Example 1: An employee experiences an injury that qualifies as a serious health condition. Three days later, on Thursday, March 4, 2021, the employee files a complete initial application for medical

leave benefits. The employee's claim year will run from Sunday, February 28, 2021, to Saturday, February 26, 2022.

Example 2: An employee filed an application for medical leave in March 2021. The employee took four weeks of medical leave and returned to work. The employee's spouse gives birth to a child in September 2021. The employee elects not to take family leave until April 2022. Because the employee's first claim year has already expired, the employee must file a new application and begin a new claim year in order to take family leave beginning in April 2022.

Example 3: An employee gives birth on Thursday, March 4, 2021. The employee elects not to submit an application for paid family leave until Monday, April 5, 2021. Though the employee's claim year will run from Sunday, April 4, 2021, to Saturday, April 2, 2022, the employee will not be able to claim family leave after March 3, 2022, for the birth of the child. The employee can claim leave for other qualifying reasons for the period March 4, 2022, through April 2, 2022, subject to the maximum duration limits.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-500-070, filed 10/2/20, effective 11/2/20; WSR 20-11-033, § 192-500-070, filed 5/14/20, effective 6/14/20. Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-500-070, filed 3/22/19, effective 4/22/19.]

WAC 192-500-080 Qualifying event. A "qualifying event" is:

- (1) For family leave, events described in RCW 50A.05.010 and related rules.
- (2) For medical leave, events described in RCW 50A.05.010 and related rules.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-500-080, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-500-080, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-500-080, filed 3/22/19, effective 4/22/19.]

WAC 192-500-090 Health care provider. "Health care provider" means:

- (1) A physician or an osteopathic physician who is licensed to practice medicine or surgery, as appropriate, by the state in which the physician practices;
- (2) Nurse practitioners, nurse-midwives, midwives, clinical social workers, physician assistants, podiatrists, dentists, clinical psychologists, optometrists, and physical therapists licensed to practice under state law and who are performing within the scope of their practice as defined under state law by the state in which they practice;
- (3) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of the health care provider's practice as defined under such law; or
- (4) Any other provider permitted to certify the existence of a serious health condition under the federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017).

[Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-500-090, filed 3/22/19, effective 4/22/19.]

WAC 192-500-100 Salaried employee. (1) A "salaried employee" is any employee who receives a fixed periodic compensation from an employer to be paid for hours worked full-time as defined by the employer.

(2) Employees that work less than full-time as defined by the employer are not considered a salaried employee for the purposes of Title 50A RCW.

[Statutory Authority: RCW 50A.04.215. WSR 19-08-016, § 192-500-100, filed 3/22/19, effective 4/22/19.]

WAC 192-500-110 Week. A "week" is a period of seven consecutive calendar days beginning on Sunday 12:00 a.m. and ending at 11:59 p.m. the following Saturday.

[Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-110, filed 6/5/19, effective 7/6/19.]

WAC 192-500-120 Employee fraud. (1) "Fraud" means an action taken by an employee where either of the following is determined to have occurred:

(a) Willful nondisclosure as defined in WAC 192-500-140; or

(b) Misrepresentation as defined in WAC 192-500-150.

(2) A finding of fraud will result in a disqualification of benefits and applicable penalties under Title 50A RCW.

[Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-120, filed 6/5/19, effective 7/6/19.]

WAC 192-500-130 Nondisclosure. "Nondisclosure" occurs when information that is known or should have been known by the employee at the time it is requested by the department, is not disclosed either inadvertently or through unintentional oversight.

[Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-130, filed 6/5/19, effective 7/6/19.]

WAC 192-500-140 Willful nondisclosure. "Willful nondisclosure" occurs when:

(1) An employee omits or fails to disclose information;

(2) The employee either knew or should have known that the information should have been provided;

(3) The information concerned a fact that was material to the employee's rights and responsibilities under Title 50A RCW; and

(4) The employee omitted or did not disclose the information with the intent that the department would take action on other information the employee did provide.

[Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-140, filed 6/5/19, effective 7/6/19.]

WAC 192-500-150 Misrepresentation. "Misrepresentation" occurs when:

- (1) The employee has made a statement or provided information;
- (2) The statement was false;
- (3) The employee either knew or should have known the statement or information was false when making or submitting it;
- (4) The statement or submission concerned a fact that was material to the employee's rights and responsibilities under Title 50A RCW; and
- (5) The employee made the statement or submitted the information with the intent that the department would rely on the statement or information when taking action.

[Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-150, filed 6/5/19, effective 7/6/19.]

WAC 192-500-160 Continued claim. (1) An employee is a "continued claim" recipient if the employee:

- (a) Is eligible for benefits; and
 - (b) Has received credit for the waiting period or payment of benefits for one or more weeks in a claim year and in the current continued claim series.
- (2) Continued claim status will end following four or more consecutive weeks for which the employee does not file a claim or is not taking paid family or medical leave.

[Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-160, filed 6/5/19, effective 7/6/19.]

WAC 192-500-170 Self-employed. (1) A "self-employed" person is:

- (a) A sole proprietor;
- (b) A joint venturer or a member of a partnership that carries on a trade or business, contributes money, property, labor or skill and shares in the profits or losses of the business;
- (c) A member of a limited liability company;
- (d) An independent contractor who works as described in RCW 50A.05.010; or
- (e) Otherwise in business for oneself as indicated by the facts and circumstances of the situation, including a part-time business.

(2) A corporate officer is an employee and not self-employed.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-500-170, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-500-170, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 50A.04.215. WSR 19-13-001, § 192-500-170, filed 6/5/19, effective 7/6/19.]

WAC 192-500-180 Supplemental benefit payment. (1) A "supplemental benefit payment" is a payment offered by an employer to an employee who is taking leave under Title 50A RCW.

(2) Employers may, but are not required to, designate certain benefits including, but not limited to, salary continuation, vacation leave, sick leave, or other paid time off as a supplemental benefit.

(3) Nothing in Title 50A RCW requires an employee to receive supplemental benefit payments.

[Statutory Authority: RCW 50A.04.215. WSR 19-23-090, § 192-500-180, filed 11/19/19, effective 12/20/19.]

WAC 192-500-185 Waiting period. (1) A "waiting period" is the first seven consecutive calendar days beginning with the Sunday of the first week an eligible employee starts taking paid family or medical leave.

(2) An employee will satisfy the waiting period requirement if the employee takes at least eight consecutive hours of leave during the first week of the employee's paid family or medical leave claim.

(3) An employee will not receive a benefit payment for hours claimed during the waiting period.

(4) Subject to subsection (6) of this section, an employee must only meet the requirement of one waiting period in a claim year.

(5) If an employee is denied eligibility for a period of time that satisfied the waiting period requirement, the waiting period requirement will not be deemed satisfied for a future claim for which the employee is deemed eligible.

(6) The waiting period does not apply to:

(a) Family leave taken for bonding after the child's birth or placement; or

(b) Family leave taken for reasons related to a qualified military exigency.

(7) An employee's use of paid time off for all of or any portion of the waiting period will not affect the satisfaction of the waiting period requirement.

[Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-500-185, filed 10/2/20, effective 11/2/20. Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-500-185, filed 12/12/19, effective 1/12/20.]

WAC 192-500-190 Sibling. "Sibling" means an individual who shares at least one parent, as defined by RCW 50A.05.010, with another individual.

[Statutory Authority: RCW 50A.05.060. WSR 21-04-067, § 192-500-190, filed 1/29/21, effective 3/1/21; WSR 20-11-033, § 192-500-190, filed 5/14/20, effective 6/14/20.]

WAC 192-500-195 Placement. (1) For the purposes of qualifying for paid family leave to bond with a child under RCW 50A.05.010, "placement" means the adoptive, guardianship, foster care, or nonparental custody placement of a child under the age of eighteen with the employee. A placement is considered:

(a) An adoptive placement when the employee is legally and permanently assuming the responsibility of raising the child as their own, and the placement of the child into the employee's home is made through a private arrangement, a child placement agency, or a government agency.

(b) A guardianship placement when the employee is granted guardianship of a child by court order, and the child is placed in the home under:

(i) Title 11 RCW;

(ii) Title 13 RCW; or

(iii) Any other applicable guardianship that reflects the purpose, permanency, and legal authority of guardianships under Titles 11 and 13 RCW, including guardianships granted out of this state or country.

(c) A foster care placement when the employee is providing care for a child placed in the employee's home. Such placements must involve voluntary or involuntary removal of the child from the child's parents or guardian, and an agreement between a government agency and the foster family that the foster family will take care of the child. Although foster care placement may be with a relative of the child or another individual who may not have a foster care license, government agency action must be involved in the removal of the child.

(d) A nonparental custody placement when the child is placed into the home of the employee by court order granting the employee nonparental custody.

(2) For the purposes of this section, a "government agency" may include an agency of any branch of government at the county, state, or federal level, or a foreign jurisdiction.

(3) The entitlement to paid family leave benefits for placement of a child expires at the end of the twelve-month period beginning on the date the child was first placed in the home.

(4) When applying for paid family leave to bond with a child, the employee must provide documentation referenced in WAC 192-610-025 to verify placement of the child.

(5) Qualifying paid family leave to bond with a child placed for adoption, guardianship, foster care, or nonparental custody does not include:

(a) Placement with a birth parent; and

(b) Any adoptive, guardianship, foster care, or nonparental custody placement of a child with an employee that occurs more than twelve months after that child is first placed in the employee's home.

[Statutory Authority: RCW 50A.05.060. WSR 20-20-073, § 192-500-195, filed 10/2/20, effective 11/2/20.]

WAC 192-500-200 Pandemic leave assistance. (1) "Pandemic leave assistance" is a temporary grant authorized by the legislature that is only available for employees who:

(a) Do not meet the eight hundred twenty hours threshold in the qualifying period defined in RCW 50A.05.010; and

(b) Are unable to do so due to the impacts of the COVID-19 pandemic.

(2) A pandemic leave assistance qualifying period is either:

(a) The first through fourth completed calendar quarters of 2019;

or

(b) If eligibility is not established, the second through fourth completed calendar quarters of 2019 and first completed calendar quarter of 2020.

(3) Pandemic leave assistance is only available for claim years beginning between January 1, 2021, and March 31, 2022.

(4) Employees who receive pandemic leave assistance are subject to all rights and responsibilities of family or medical leave taken under Title 50A RCW.

(5) Employers with employees who receive pandemic leave assistance are subject to all rights and responsibilities associated with an employee's family or medical leave under Title 50A RCW.

[Statutory Authority: RCW 50A.05.060, 50A.25.030, 50A.05.010 and 2021 c 109 § 5. WSR 21-16-062, § 192-500-200, filed 7/29/21, effective 8/1/21.]