

WSR 22-13-009

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 2, 2022, 9:10 a.m., effective July 3, 2022]

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

Purpose: The employment security department (ESD) is adopting rules to transition emergency rules adopted during the COVID-19 response to permanent rules. The emergency rules cover waiting week requirements, emergency and extended benefits, and standby. Specifically, proposed WAC 192-110-006 waives the one-week waiting period for unemployment insurance benefits when they are fully paid or reimbursed by the federal government. Amended WAC 192-240-070 clarifies what happens if a claimant is paid pandemic unemployment assistance and later is determined to have been eligible for regular unemployment benefits or to have been eligible for pandemic unemployment compensation or extended benefits.

Citation of Rules Affected by this Order: New WAC 192-110-006; and amending WAC 192-240-070.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to ESD. RCW 50.20.010, 50.20.140, 34.05.220, 34.05.542(4), 50.32.090.

Other Authority: Unemployment Insurance Program Letter No. 20-21 (May 5, 2021).

Adopted under notice filed as WSR 22-05-095 on February 16, 2022.

A final cost-benefit analysis is available by contacting Josh Dye, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/ui-rule-making/>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: June 2, 2022.

Dan Zeitlin
Employment System Policy Director

OTS-2616.3

AMENDATORY SECTION (Amending WSR 09-24-011, filed 11/20/09, effective 12/21/09)

WAC 192-240-070 What happens if I am paid emergency or extended benefits when I am eligible for a new unemployment claim? If you are

paid pandemic unemployment assistance established under Sec. 2102 of Public Law No. 116-136, as amended, emergency unemployment compensation (which includes pandemic emergency unemployment compensation under Sec. 2107 of Public Law No. 166-136, as amended), state extended benefits, or any similar state or federal extension, and it is later discovered that you were eligible for a regular unemployment claim during all or part of the period in which you received such benefits, the regular unemployment claim takes priority. If you were paid pandemic unemployment assistance, and it is later discovered that you were eligible for pandemic emergency unemployment compensation or extended benefits, a claim for pandemic emergency unemployment compensation or extended benefits takes priority. The balance on your new unemployment claim will be adjusted for any week(s) at issue, meaning those weeks in which you should have received regular unemployment benefits, subject to the following:

(1) Except as provided in subsection (4) of this section, you may not be paid twice for the same week

(2) If your new weekly benefit amount is equal to the amount you were paid for the weeks at issue, the amount you were paid in pandemic unemployment assistance, emergency unemployment compensation or extended benefits will be deducted from the maximum benefits payable on your new claim.

Example: Your previous weekly benefit amount was (~~five hundred dollars~~) \$500. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of (~~five hundred dollars~~) \$500. The (~~five hundred dollars~~) \$500 paid for eight weeks will be deducted from the maximum benefits payable on your new claim.

(3) If your new weekly benefit amount is lower than the amount you were paid for the weeks at issue, the amount you were paid in pandemic unemployment assistance, emergency unemployment compensation or extended benefits that is equivalent to the weekly benefit amount on your new claim will be deducted from the maximum benefits payable on your new claim. The difference between the amounts paid in pandemic unemployment assistance, emergency unemployment compensation or extended benefits for the week(s) at issue and the weekly benefit amount on your new claim will be waived as provided in RCW 50.20.190.

Example: Your previous weekly benefit amount was (~~five hundred dollars~~) \$500. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of (~~three hundred fifty dollars~~) \$350. The (~~three hundred fifty dollars~~) \$350 for eight weeks will be deducted from the maximum benefits payable on your new claim. The (~~one hundred fifty dollar~~) \$150 difference between your previous weekly benefit amount and your new weekly benefit amount will be waived.

(4) If your new weekly benefit amount is higher than the amount you were paid for the week(s) at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be supplemented so that you receive your new weekly benefit amount for the weeks at issue and the total deducted from the maximum benefits payable on your new claim.

For example: Your previous weekly benefit amount was (~~three hundred fifty dollars~~) \$350. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of (~~five hundred dollars~~) \$500. You will be paid an additional (~~one hundred fifty dollars~~)

\$150 for each of the eight weeks at issue and the total deducted from the maximum benefits payable on your new claim.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 09-24-011, § 192-240-070, filed 11/20/09, effective 12/21/09.]

OTS-2846.2

NEW SECTION

WAC 192-110-006 Waiving the week requirement when the first week of unemployment benefits are federally funded. Starting after the week ending March 7, 2020, through the week ending September 4, 2021, and any other week where the one week waiting period is fully paid or fully reimbursed by the federal government, you will not be required to serve an unpaid waiting week before you receive unemployment insurance benefits.

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