

**Title 187 WAC**  
**EMPLOYEE SUGGESTION AWARDS**  
**BOARD**

**Chapter**

**187-10 Practice and procedure.**

**Chapter 187-10 WAC**

**PRACTICE AND PROCEDURE**

**WAC**

187-10-210 through 187-10-500 Repealed.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

187-10-210	Definitions. [Order 76-1, § 187-10-210, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88. Later promulgation, see chapter 383-06 WAC.
187-10-220	Functions of the board. [Order 76-1, § 187-10-220, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-230	Duties of the secretary. [Order 76-1, § 187-10-230, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-240	Appointment and responsibilities of agency coordinators. [Order 76-1, § 187-10-240, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-250	Memorabilia. [Order 76-1, § 187-10-250, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-260	Suggestion acceptability. [Order 76-1, § 187-10-260, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-270	Eligibility for awards. [Order 76-1, § 187-10-270, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-280	Procedures for processing suggestions. [Order 76-1, § 187-10-280, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-290	Certificates of merit. [Order 76-1, § 187-10-290, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-300	Amount of awards. [Order 76-1, § 187-10-300, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-310	Appeals. [Order 76-1, § 187-10-310, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-320	Procedures for processing multi-agency suggestions. [Order 76-1, § 187-10-320, filed 12/7/76.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.
187-10-500	Effective date. [Order 76-1, § 187-10-500, filed 12/7/76; Order 1, § 187-10-500, filed 12/8/69.] Decodified under RCW 34.04.050(5), letter dated 6/7/88.

**WAC 187-10-210 through 187-10-500 Repealed.**  
See Disposition Table at beginning of this chapter.

**Title 192 WAC**  
**EMPLOYMENT SECURITY**  
**DEPARTMENT**

**Chapters**

**192-12 Substantive rules.**  
**192-16 Interpretative regulations of the commissioner of the employment security department.**  
**192-18 Employee conflict of interest.**  
**192-23 Benefit payment regulations.**  
**192-28 Recovery of benefit overpayments.**  
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**Chapter 192-12 WAC**

**SUBSTANTIVE RULES**

**WAC**

192-12-005	Adequate notice and opportunity to be heard defined.
192-12-011	Continued claim definitions.
192-12-012	Conditional payment of continued claim recipients when eligibility is questioned.
192-12-019	Employer request for benefit charge relief.
192-12-042	Reports and contributions subject to penalty.
192-12-115	Bonding and deposit requirements, nonprofit organizations.
192-12-141	Registration, reports and claims for unemployment compensation and related benefits.
192-12-158	Belltown Job Service Center services.

**WAC 192-12-005 Adequate notice and opportunity to be heard defined.** For the purposes of chapter 50 RCW and chapter 192 WAC the following definitions apply:

(1) "Adequate notice" means a written notice to a claimant explaining:

- (a) That his-her eligibility for benefits is in question.
- (b) The issue(s) raised.

(c) That the claimant has the right to report in person for a fact-finding interview regarding his or her eligibility for benefits and that he or she has the right to bring an attorney or other representative, witnesses and other documentary evidence, and the right to cross-examine witnesses or parties present.

(d) That the claimant is entitled to access to records or documents possessed by the department relevant to the issue raised.

(e) The date before which the claimant must respond as directed and an explanation that failure to respond may result in a denial and overpayment of benefits. The date must be no earlier than reasonable mailing time plus five working days.

(2) "Opportunity to be heard" means an offer to hold a fact-finding interview to resolve the department's questions regarding the claimant's eligibility for benefits.

At the fact-finding interview, prior to asking the claimant to respond, the department shall make available all information of which it is aware that could result in a denial of benefits. Upon request, the material will be provided to the claimant prior to the interview.

The department shall not incorporate into a determination of benefit eligibility new adverse information received after the fact-finding interview or after the claimant or other interested party has responded as authorized without first notifying the adversely affected party of the contents of that information and giving the adversely affected party the opportunity to be heard.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-005, filed 5/28/87, effective 8/30/87.]

**WAC 192-12-011 Continued claim definitions.** (1)

A continued claim recipient is a claimant who has been:

(a) Determined to be monetarily entitled to benefits; and

(b) Determined to be nonmonetarily eligible for benefits; and

(c) Granted waiting period credit and/or benefits for one or more weeks in the benefit year and in the current continued claim series. Provided that: Any combination of four or more consecutive weeks for which claims are not filed, or weeks during which the claimant is not an unemployed individual as defined in RCW 50.04.310, ends continued claim status.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-011, filed 5/28/87, effective 8/30/87.]

**WAC 192-12-012 Conditional payment of continued claim recipients when eligibility is questioned.** An otherwise eligible continued claim recipient whose eligibility is questioned by the department shall be conditionally paid benefits without delay, for any week or weeks for which a claim for benefits is filed, until and unless the claimant has been afforded adequate notice and an opportunity to be heard except as provided in WAC 192-23-800 and 192-23-810.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-012, filed 5/28/87, effective 8/30/87.]

**WAC 192-12-019 Employer request for benefit charge relief.** RCW 50.29.020(2) provides, in part, that a contribution-paying base year employer may request relief of benefit charges which result from payment to an individual who last left his/her employment voluntarily (for reasons not attributable to the employer) or was discharged for misconduct connected with the work, or when that employer has suffered a catastrophic loss resulting in a closure, or severe curtailment of operations. The employer request must be received within 30 days of the mailing of the notification of the claimant filing an initial claim (the initial "Notice to base year employer" EMS 166).

The commissioner accordingly prescribes:

(1) Reasons not attributable to the employer for voluntarily leaving work shall be personal reasons, not work connected. These reasons may include, but are not limited to:

(a) Employee illness or disability;

(b) Illness or death of member(s) of employee's immediate family;

(c) Employee's leaving to accept work with another employer;

(d) Incarceration of employee;

(e) Marital or domestic responsibilities of the employee;

(f) Employee's pursuit of additional education; or

(g) Personal dissatisfaction with wages or hours known at time of hire.

(2) Reasons considered to be attributable to the employer are those work related factors of such a compelling nature as to cause a reasonably prudent person to leave his or her employment. Such work related factors may include, but are not limited to:

(a) Substantial involuntary deterioration of the work factors;

(b) Work location (distance and difficulty of travel);

(c) Safety of work site, equipment/machine safety;

(d) Employee skills no longer required for job performance; or

(e) Such other work related factors as the commissioner may deem pertinent.

(3) Effective June 8, 1988, requests for relief of charging will be considered for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster causing closure or severe curtailment of operations at the employer's plant, building, work site, or other facility. Benefits paid as an indirect result of a catastrophic loss are not included in this provision.

(4) The employer requests for benefit charging relief must be in writing and must be received or postmarked within 30 days of mailing of the notification of the initial determination (the initial "Notice to base year employer" EMS 166), except for good cause shown. Benefit charging relief is only available with respect to notices of initial determination (the initial "Notice to base year employer" EMS 166) mailed July 1, 1985, or later; except requests for relief of charging that are effective for weeks of unemployment insurance benefits beginning on or after June 5, 1988, that result from catastrophic occurrences.

Any employer added to a monetary determination as a result of a redetermination of an initial claim, filed on July 1, 1985, or later, will be eligible for consideration of noncharging relief.

Any employer added to a monetary determination as the result of a redetermination of an initial claim filed prior to July 1, 1985, will be eligible for consideration of relief of charging if the notification of the initial determination ("Notice to base year employer" EMS 166) was mailed July 1, 1985, or later.

(5) Timeliness. If, upon receipt of the employer's written request, the department requires additional information, the employer shall provide the requested information within 10 working days from the date of mailing of the request by the department. Failure to respond within 10 working days will result in a denial of benefit charging relief for the employer unless good cause for the untimely response is shown.

(6) Burden of proof. It shall be the responsibility of the employer to provide all pertinent facts to the satisfaction of the department to allow a determination of

noncharging relief or good cause for failure to respond in a timely manner.

(7) Any denial of a request for noncharging relief shall be in writing and will be the basis of appeal pursuant to RCW 50.32.050.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 88-16-077 (Order 8-88), § 192-12-019, filed 8/2/88. Statutory Authority: Chapter 50.04 RCW, RCW 50.29.020, 50.12.010 and 50.12.040. 85-21-023 (Order 5-85), § 192-12-019, filed 10/10/85.]

**WAC 192-12-042 Reports and contributions subject to penalty.** (1) Contribution reports. Any employer who fails to file in a timely and complete manner a contribution report as described in WAC 192-12-030 (2)(a) shall be subject to a penalty of ten dollars per violation, unless such penalty is waived by the commissioner.

(2) Other reports. Any decision to assess a penalty for the filing of any other report described in WAC 192-12-030 in an untimely or incomplete manner shall be made on an individual basis by the commissioner or the chief administrative officer of the tax branch as provided in RCW 50.12.220.

(3) Delinquent contributions. For purposes of RCW 50.12.220 which provides penalties for delinquent contributions, contributions will be deemed delinquent as provided in WAC 192-12-040 and RCW 1.12.070. For contributions due and payable on wages paid prior to July 1, 1987, no penalty so added shall be less than two dollars per quarter.

(4) Late penalty. Effective for contributions due and payable on wages paid on or after July 1, 1987, and for contribution reports which are due for the quarter ending September 30, 1987 and any subsequent quarters, a minimum \$10.00 penalty shall be assessed as follows:

(a) A minimum penalty of \$10.00 per quarter shall be assessed against delinquent contributions.

(b) If no contributions are delinquent for a quarter, a minimum penalty of \$10.00 shall be assessed for a contribution report not filed in a timely manner.

(5) The department may, for good cause, waive penalties in the following types of situations:

(a) The return was filed on time but inadvertently mailed to another agency;

(b) The delinquency was due to an action of an employee or an officer of the employment security department, including but not limited to, providing erroneous information to the employer in writing or orally when the source is identifiable, or not furnishing proper forms in sufficient time to permit the timely filing of tax reports or the timely payment of contributions;

(c) The delinquency was caused by death or serious illness of the employer or member of the employer's immediate family, or illness or death of the employer's accountant or member of the accountant's immediate family, prior to the filing date.

(d) The delinquency was caused by the destruction by fire or other casualty of the employer's place of business or business records.

(6) A request for a waiver of penalties must: Be in letter form, contain all pertinent facts, be accompanied by such proof as may be available and be filed through a

tax office. In all cases the burden of proving the facts is upon the employer.

(7) The department, for good cause, may extend the due date for filing a report. Any extension will be conditioned upon deposit by the employer with the department of an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit will be credited to the employer's account and will be applied to the employer's indebtedness. The amount of the deposit is subject to departmental approval.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-21-002 (Order 5-87), § 192-12-042, filed 10/8/87. Statutory Authority: RCW 50.12.010. 80-02-034 (Order 1-80), § 192-12-042, filed 1/10/80.]

**WAC 192-12-115 Bonding and deposit requirements, nonprofit organizations.** RCW 50.44.070 provides:

"In the discretion of the commissioner, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required . . . to execute and file with the commissioner a surety bond approved by the commissioner or it may elect instead to deposit with the commissioner money or securities. . . .

"[. . .] The amount of the bond or deposit . . . shall be an amount deemed by the commissioner to be sufficient to cover any reimbursement payments which may be required from the employer attributable to employment during any year for which the election is in effect . . . The determination made pursuant to this subsection shall be based on payroll information, employment experience, and such other factors as the commissioner deems pertinent."

The commissioner accordingly prescribes:

(1) For up to the first two years of employment, any newly registered nonprofit organization that elects to become liable for payments in lieu of contributions is required to execute and file a surety bond, establish an assigned savings account, or deposit money or securities. At the end of the initial period of reimbursement (maximum two years), assuming continuation of the election, a renewal of the bond, assigned savings, or deposit may be necessary if:

(a) The employer is delinquent in the payment of reimbursable charges, or

(b) The employer has failed to file a quarterly report.

(2) Any active or previously active nonprofit organization that elects to become liable for payments in lieu of contributions may be required to execute and file a surety bond, establish an assigned savings account, or deposit money or securities if:

(a) The employer is delinquent in the payment of reimbursable charges, or

(b) The employer has failed to file a quarterly report.

(3) For active employers, the amount of bond, savings, or deposit shall be determined by reviewing and computing taxable wages paid during the previous four quarters. For newly registered employers, the amount shall be determined by estimating the taxable wages for the next four quarters. Taxable wages will be determined on the basis of the coming year's taxable wage

base. The net annual taxable wage so developed multiplied by the current average industry tax rate will produce the amount of bond, savings, or deposit necessary for the coming calendar year.

The amount of bond requirement may be rounded in accordance with the following scale:

Computed Bond Requirement	May Be Rounded Down To
Up to \$500	Even \$5 segment
\$501 to \$5000	Even \$25 segment
\$5001 to \$50,000	Even \$100 segment
OVER \$50,000	Even \$1000 segment

(4) In the event an organization did not pay wages during the prior four consecutive quarters, then an estimated payroll based on the best information available will be used for the computation described in subsection (3) of this section.

(5) Bond, savings, or deposit requirements will be reviewed annually during the third quarter of each calendar year to determine if renewal is necessary. The employer will be notified of any necessary change.

(6) The following categories of nonprofit organizations are exempt from the bonding, assigned savings, and deposit requirement: Hospitals, colleges and universities.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-23-002 (Order 6-87), § 192-12-115, filed 11/5/87. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-115, filed 8/14/78.]

**WAC 192-12-141 Registration, reports and claims for unemployment compensation and related benefits.** (1) **Interstate claimants.** Individuals who file interstate claims for benefits against this state through the local office of any agent state shall not be subject to this regulation. (See WAC 192-12-130.)

(2) **Application for initial determination.** Except for good cause shown an application for initial determination shall be filed in person at a Washington state employment security office on forms provided by the department. Such application may be made at any time.

(3) **Registration for work.** As a condition of eligibility for waiting period credit or benefits, an individual shall register for work at an office of the Washington state employment security department on forms provided and shall thereafter renew his or her registration as directed during the total period in which he or she maintains active claim status except as provided in WAC 192-12-150, covering the requirements for payment of benefits to partially unemployed individuals and standby workers.

(4) **Perfecting a claim for waiting period credit.**

(a) Except for good cause shown, to perfect a claim for waiting period credit, a claimant shall report in person at an employment security department office during the week for which he or she intends to claim waiting period credit.

(b) The claim for waiting period credit shall be made in writing on forms provided by the department. It shall be filed at the office during the calendar week immediately following the last day of the week being claimed except for good cause shown.

(5) **Claim for benefits.** A claim for waiting period credit or benefits shall be filed with a Washington state employment security office, as prescribed by the department. The department shall determine the method and time sequence by which each individual shall file a claim for benefits.

(a) A written claim for waiting period credit or benefits shall:

(i) Include a correct week ending date which is the Saturday date of the week being claimed, and

(ii) Be filed after the week ending date of the week claimed, and

(iii) Include the claimant's signature, and

(iv) Be filed against an established benefit year ending date, whether monetarily eligible or ineligible, and

(v) Include certification as to the amount of remuneration, if any, including a pension, holiday pay, vacation pay, or earnings for the week or weeks claimed, and a certification of the number of hours during each week claimed unless the certification of remuneration removes the claimant from the status of an unemployed individual as defined in RCW 50.04.310.

(b) The method for filing claims shall be one of the following:

(i) In-person method, whereby the claimant shall file the claim in person except for good cause shown;

(ii) Mail method, whereby the claimant shall file the claim by mail or in a Washington state employment security office except for good cause shown. Claims submitted by mail shall be deemed filed with the department on the postmarked date.

(iii) The commissioner may authorize other methods for the purpose of study, in response to state or national emergencies, or where unusual circumstances, not within the control of the claimant, make in-person or mail filing difficult.

(c) The time sequence for filing claims shall be one of the following:

(i) Weekly sequence, whereby claims shall be filed during the calendar week immediately following the week being claimed except for good cause shown;

(ii) Biweekly sequence, whereby a claim for a two-consecutive-week period shall be filed during the calendar week immediately following such period except for good cause shown.

(iii) The commissioner may authorize another sequence for the purpose of study, in response to state or national emergency, or where unusual circumstances, not within the control of the claimant, make another sequence more appropriate.

(6) **Certain exceptions pertaining to filing claims in person.**

(a) A claimant who is directed to file a claim for waiting period credit or benefits in person and because of returning to work is unable to do so must be permitted to file the claim by mail. The claimant must file the claim or claims within the same period as the claimant was directed to file in person except for good cause shown, provided that claims submitted by mail shall be deemed filed with the department on the postmarked date.

(b) In the event that a claimant is scheduled to file a claim (or claims) in person on the last business day of the week and the claimant fails to file as scheduled, the claimant shall be allowed the next business day to file such claim (or claims) in person.

(7) **Reporting responsibility.** Irrespective of time sequences for filing claims for waiting period credit or benefits, the department may require a claimant to report to a local office in person for any reason deemed appropriate. Failure to report, as and when directed, shall result in the denial of benefits for the week during which such failure occurs, except for good cause shown.

(8) **Itinerant offices.** In cases where a representative of the employment security department shall establish a location apart from the usual place of reporting for the purpose of taking registrations, initial applications or claims for waiting period credit or benefits, all individuals registering or filing an application or claims at such location shall be deemed to have registered or filed at an Employment Security office.

(9) **Provisions for handling incomplete claims.**

(a) In the event that a claim form does not conform to the definition of a claim for waiting period credit or benefits, the form may be returned to the claimant for correction or completion. Any such returned form will be accompanied by a written explanation of the reason for return, and the correction or completion of omitted entries required.

(b) If a claim form is submitted with the intent to claim benefits for more than one week, and one or more of the weeks do not conform to the definition of a claim for benefits, the week or weeks that do meet the definition shall be promptly processed.

(10) **Reopening of claims.** A claimant shall report in person at an employment security department office during the first week for which benefits are claimed after a break or interruption of one or more weeks in a series of consecutive weekly claims, except for good cause shown. The department may waive or modify this requirement, when authorized by the commissioner, for administrative reasons or to reduce hardship to the public.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-141, filed 5/28/87, effective 8/30/87; Order 2-75, § 192-12-141, filed 2/10/75.]

**WAC 192-12-158 Belltown Job Service Center services.** (1) No person (defined below) shall have his or her unemployment insurance claim denied, interrupted or delayed because of a failure to appear in person at any job service center other than the office at 2106 Second Avenue, Seattle, Washington.

(2) "Person," for purposes of this rule, means any unemployment insurance claimant:

(a) Who has a handicap that inhibits mobility;

(b) Who lacks reasonable access to a private automobile and lives in Ballard, North Ballard or Crown Hill of Seattle, Washington; or

(c) Whose unemployment insurance claim, in order to be processed, requires only intake functions, defined as

filing a new application, reopening a previously established claim, or making minor adjustments in either the application or claim.

(3) This rule does not require the holding of administrative hearings at the office at 2106 Second Avenue, Seattle, Washington.

(4) This rule applies only to failures to appear occurring on or before July 31, 1988.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-03-006 (Order 1-87), § 192-12-158, filed 1/9/87.]

## Chapter 192-16 WAC

### INTERPRETATIVE REGULATIONS OF THE COMMISSIONER OF THE EMPLOYMENT SECURITY DEPARTMENT

#### WAC

192-16-057	Interpretive regulation—"Under the same terms and conditions of employment" defined.
192-16-061	Interpretive regulation—Permanent residence in the United States under color of law—RCW 50.20.098.
192-16-065	Interpretive regulations—Effective date of chapter 83, Laws of 1988.

**WAC 192-16-057 Interpretive regulation—"Under the same terms and conditions of employment" defined.** For the purposes of RCW 50.44.050 and 50.44.053, the phrase "under the same terms and conditions of employment" includes economic terms and conditions of employment such as wages, duration of contract, hours of work, and general nature of work, but does not include noneconomic conditions and details such as specific work location, specific duties, or assignment. It is not necessary that a position be identical to the previous position to meet the "under the same terms and conditions of employment" test. A position would be considered to be under the same terms and conditions of employment if it is of similar or equivalent type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 88-10-020 (Order 3-88), § 192-16-057, filed 4/29/88.]

**WAC 192-16-061 Interpretive regulation—Permanent residence in the United States under color of law—RCW 50.20.098.** For the purposes of RCW 50.20.098, an individual is permanently residing in the United States under color of law if the individual's presence is known to the Immigration and Naturalization Service (INS) but the individual continues to reside in the United States without a final order of deportation having been entered against the individual. Persons who are currently residing under color of law in the United States and who intend to remain will be considered "permanently residing" in the United States.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 88-05-034 (Order 1-88), § 192-16-061, filed 2/12/88.]

**WAC 192-16-065 Interpretive regulations—Effective date of chapter 83, Laws of 1988.** Section (3), chapter 83, Laws of 1988, provides that the act will be

effective on the Sunday following the day the governor signs the bill. Chapter 83, Laws of 1988, was signed on March 16, 1988, and is effective Sunday March 20, 1988. The act will be effective for all strikes or lockouts beginning on or after March 20, 1988.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 88-10-020 (Order 3-88), § 192-16-065, filed 4/29/88.]

### Chapter 192-18 WAC EMPLOYEE CONFLICT OF INTEREST

WAC  
192-18-012 Security of personal identification number (PIN).

**WAC 192-18-012 Security of personal identification number (PIN).** No employee of the employment security department shall request, access, or attempt to access the personal identification number (PIN), issued in conjunction with the electronic benefit distribution system, of any person who files for or claims unemployment insurance benefits. An employee must immediately report such situations to his or her supervisor and advise the claimant to change his or her PIN code in the following cases:

(1) If an employee inadvertently hears or has knowledge of a claimant's PIN; or

(2) If an employee is aware of another employment security department employee who has knowledge, directly or indirectly, of a claimant's PIN. Violation of this section shall subject the offending employee to immediate dismissal or other disciplinary action.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 88-16-076 (Order 7-88), § 192-18-012, filed 8/2/88.]

### Chapter 192-23 WAC BENEFIT PAYMENT REGULATIONS

WAC  
192-23-011 Failure to provide details of employment.  
192-23-012 Failure to provide details on holiday and/or vacation pay.  
192-23-014 Failure to establish ability to or availability for work.  
192-23-016 Failure to meet work search requirements.  
192-23-018 Failure to report in person to reopen a claim for benefits after a break in claim series.  
192-23-051 Failure to provide details on separation from employment.  
192-23-800 Certification of ineligibility.  
192-23-810 Certification of return to full-time work or report of hours worked consistent with full-time work.

**WAC 192-23-011 Failure to provide details of employment.** (1) If a claimant reports that he or she had work or earnings for one or more weeks, and fails to provide employer name and address information and fails to respond to a request for employer name and address information, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and therefore not eligible for benefits pursuant to RCW 50.20.010.

(2) If a claimant reports that he or she has received or will receive remuneration for a week(s) not yet claimed

and subsequently claims benefits for such week(s) without providing employer name and address information and the amount of remuneration, and fails to respond to a request to provide such information, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and therefore not eligible for benefits pursuant to RCW 50.20.010.

(3) The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which work and earnings information is incomplete.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-011, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-011, filed 6/18/84.]

**WAC 192-23-012 Failure to provide details on holiday and/or vacation pay.** (1) If a claimant certifies that he or she has received holiday and/or vacation pay and the amount, and fails to respond to a request for specific information with respect to the holiday and/or vacation pay, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and subject to denial pursuant to RCW 50.20.010.

(2) If a claimant reports that he or she has received or will receive remuneration for a week(s) not yet claimed and subsequently claims benefits for such week(s) without providing employer name and address information and the amount of remuneration, and fails to respond to a request to provide such information, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and therefore not eligible for benefits pursuant to RCW 50.20.010.

(3) The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which vacation and/or holiday pay information is incomplete.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-012, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-012, filed 6/18/84.]

**WAC 192-23-014 Failure to establish ability to or availability for work.** (1) If a claimant certifies that he or she was not able to work or not available for work in any week or fails to certify whether he or she was able to work or was available for work, and fails to respond to provide details relating to his or her ability to and or availability for work, the claimant will be presumed to be not able or not available for work and subject to denial of benefits pursuant to RCW 50.20.010(3).

The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which information on the claimant's ability to work or availability for work is incomplete.

(2) If a claimant certifies to a condition of continuing ineligibility and provides information supporting a finding that he or she is not able to work or not available for work because of a circumstance expected to continue beyond the immediate week or weeks claimed, and if the claimant fails to respond to a request to provide information regarding his or her ability to and/or availability

for work, the individual shall be subject to denial of benefits pursuant to RCW 50.20.010(3).

The denial of benefits authorized by this section is indefinite in nature, and will be applied beginning with the first week claimed to which the circumstances apply and remain in effect until the circumstances no longer exist.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-014, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-014, filed 6/18/84.]

**WAC 192-23-016 Failure to meet work search requirements.** (1) If a claimant has been directed pursuant to WAC 192-24-030 to meet specific work search requirements, fails to report a work search that meets those requirements, and fails to respond to a request to provide additional work search information or responds with information that does not meet the specific requirements, the claimant will be presumed to not be actively seeking work as directed and subject to denial pursuant to RCW 50.20.010(3).

(2) The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which work search information does not meet specific work search requirements.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-016, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-016, filed 6/18/84.]

**WAC 192-23-018 Failure to report in person to reopen a claim for benefits after a break in claim series.**

(1) If, after a break in weeks claimed, a claimant submits a claim for benefits without reporting in person to reopen his or her claim during the first week for which the claimant wishes to be eligible for benefits, and fails to respond to a request to report in person to reopen his or her claim or fails to establish good cause for failure to report in person to reopen his or her claim, the claimant will be subject to denial pursuant to RCW 50.20.010(1).

(2) The denial of benefits authorized by this section is indefinite in nature, and will remain in effect until the individual reports in person to reopen his or her claim.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-018, filed 5/28/87, effective 8/30/87.]

**WAC 192-23-051 Failure to provide details on separation from employment.** If a claimant reports no work or earnings in a week following a week during which work and earnings were reported and does not provide complete employer and separation information, and does not respond to a request to supply complete employer and separation information, the claimant will be presumed to have voluntarily left work without good cause and will be denied pursuant to RCW 50.20.050.

(1) A separation from employment occurs whenever the employer-employee relationship is interrupted or ended. For the purpose of this section a separation from employment occurs whenever:

(a) An employee is not scheduled to work for a period of one week or more.

(b) A claimant has a week with no earnings following a week in which the claimant had earnings.

(2) For the purpose of this section, complete employer and separation information consists of the following items:

(a) Name of employer,

(b) Complete address of employer,

(c) Last day worked,

(d) Reason for separation from employment,

(e) Information on hours worked and earnings if not previously reported.

(3) The denial of benefits authorized by this section is indefinite in nature, and will remain in effect until the claimant meets the requalification provisions of RCW 50.20.050.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-051, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-051, filed 6/18/84.]

**WAC 192-23-800 Certification of ineligibility.** (1)

If a claimant submits a claim form certifying that he or she was not available for work, or was not able to work on one or two days of a week or weeks being claimed, and if the day or days to which the condition of ineligibility applies are normal working days in the claimant's regular occupation, and if the information supplied clearly supports this certification, benefits shall be reduced pursuant to RCW 50.20.010(3) and 50.20.130 without requiring additional information or interview.

The denial of benefits authorized by this section is for a definite period of time and applies only to the day or days for which the claimant specifically indicates ineligibility.

(2) If a claimant submits a claim form certifying that he or she was not available for work, or was not able to work for three or more days of a week or weeks being claimed, and if the days to which the condition of ineligibility applies are normal working days in the claimant's regular occupation, and if the information supplied clearly supports this certification benefits shall be denied pursuant to RCW 50.20.010(3) without requiring additional information or interview.

The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which the claimant specifically indicates ineligibility.

(3) If a claimant submits a claim form certifying to a condition of continuing ineligibility and the information supplied clearly supports a finding that he or she is not able to work or not available for work because of a circumstance expected to continue beyond the immediate week or weeks claimed, benefits shall be denied pursuant to RCW 50.20.010(3) without requiring additional information or interview.

The denial of benefits authorized by this section is indefinite in nature and will be applied beginning with the first week claimed to which the circumstance applies and will remain in effect until the circumstance no longer exists.

(4) If a claimant submits a claim form with information clearly certifying that he or she does not intend to claim benefits for the week or weeks, benefits shall be

denied pursuant to RCW 50.20.010(2) without requiring additional information or interview.

The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which the claimant specifically indicates ineligibility.

(5) Any denial of benefits issued pursuant to this section shall be issued without delay.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-800, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-800, filed 6/18/84.]

**WAC 192-23-810 Certification of return to full-time work or report of hours worked consistent with full-time work.** (1) If a claimant certifies that he or she has returned to full-time work or reports hours worked consistent with full-time work for that occupation, the certification shall be sufficient to determine that the claimant is no longer an unemployed individual as defined in RCW 50.04.310 and is subject to denial pursuant to RCW 50.20.010 without requiring additional information or interview.

(2) The denial of benefits authorized by this section is for a definite period of time, and applies only to the week or weeks claimed at the time of the certification of return to full-time work or report of hours worked consistent with full-time work.

(3) Any denial of benefits issued pursuant to this section shall be issued without delay.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-810, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-810, filed 6/18/84.]

**Chapter 192-28 WAC**

**RECOVERY OF BENEFIT OVERPAYMENTS**

**WAC**

- 192-28-105 Recovery of benefit overpayment—Notification to individual.
- 192-28-110 Recovery of benefit overpayment—Fault provisions.
- 192-28-120 Recovery of benefit overpayment—By repayment or offset against future benefits.
- 192-28-130 Minimum payment calculation.

**WAC 192-28-105 Recovery of benefit overpayment—Notification to individual.** (1) When the department has information which causes it to believe that an individual has been paid more benefits than he or she is entitled to receive, the department will provide that individual with a written notice, the overpayment advice of rights, explaining that a potential overpayment exists. This notice shall contain the following:

(a) The reasons for the department's belief that the individual has been overpaid benefits.

(b) The amount of the overpayment as of the mailing or delivery date of the overpayment advice of rights.

(c) The fact that the department will collect overpayments in accordance with WAC 192-28-120.

(d) The fact that final overpayment assessments constitute legally enforceable debts which individuals are liable to repay whether or not they are claiming or receiving unemployment benefits. These debts can be

used to obtain warrants which could result in liens, notice to withhold and deliver personal properties, garnishment of salaries, and possible sale of real and personal properties.

(e) An explanation that if an individual is found to be not at fault, he or she has the right to request a waiver of the overpayment and that waiver means the individual would not have to repay the overpayment because it would be against the principles of equity and good conscience.

(f) An explanation that at the individual's request, an overpayment may be repaid by account adjustment without an overpayment assessment if both the individual and the department agree to the circumstances, the amount of the overpayment and the method of repayment. If an individual agrees to an account adjustment, he or she can repay the overpayment by authorizing the department to deduct past and/or future benefits payable. No account adjustment action whether formal or informal, will be taken until the individual has been advised of his or her rights and has been given an opportunity to be heard on the overpayment issue. All individuals will be advised in writing of their right to a formal overpayment assessment, the possibility of waiver and their appeal rights. The individual can ask for and the department will issue a formal overpayment assessment, even after an account adjustment has been completed.

(g) A statement that an individual has 10 days to submit information to the local job service center regarding or disputing the existence of an overpayment and whether or not he or she was at fault. Failure to do so will result in the department making a decision, based on available information, regarding the existence of the overpayment and the individual's eligibility for waiver.

[Statutory Authority: RCW 50.12.010 and 50.01.040 [50.12.040]. 88-10-021 (Order 4-88), § 192-28-105, filed 4/29/88; 86-17-023 (Order 3-86), § 192-28-105, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040. 85-21-024 (Order 6-85), § 192-28-105, filed 10/10/85.]

**WAC 192-28-110 Recovery of benefit overpayment—Fault provisions.** (1) When an overpayment occurs, the department will make a finding of fault or nonfault based on information provided by the individual and/or by the employer and from information contained in the department's records. After reviewing all such information, the individual will be considered to be at fault when the overpayment is:

(a) The result of fraud, misrepresentation, wilful non-disclosure; or

(b) The result of a disqualification for a felony or gross misdemeanor pursuant to the provisions of RCW 50.20.060(2), or if all of the following three elements are established:

(i) The individual was paid benefits in an amount greater than he or she was entitled to receive and he or she accepted and retained those benefits; and

(ii) The payment of these benefits was based on incorrect information or a failure to furnish information which the individual should have provided as outlined in



the information for claimants booklet, claimant directives and other reasonable written communications issued by the department; or information which the individual caused another to fail to disclose; and

(iii) The individual had sufficient notice that the information should have been reported.

(2) In accordance with WAC 192-23-900, an individual who is overpaid as the result of a conditional payment is liable for repayment.

(3) The individual may be considered to be at fault, even though he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision, if the overpayment is the result of payment that the individual should reasonably have known was improper. Following are some, but not all, examples of instances in which an individual should reasonably have known that a payment was improper and therefore is at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The individual correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) The individual reported that he or she was unavailable for one or more customary work days, but the department paid at the full amount and the payment was not a conditional payment.

(c) The individual received a retroactive pension payment that he or she had applied for and was reasonably sure would be awarded.

(d) The individual did not inform the department that he or she was eligible for benefits on an unexpired claim against another state.

(e) A lower level decision was reversed by the office of administrative hearings, the commissioner or a court because of new information that the individual failed to disclose to the department.

(f) Other circumstances in which department fact finding indicates that the individual knew the payment was improper.

(4) In determining whether or not an individual is at fault, the department shall also consider education, mental abilities, emotional state, the individual's experience with claiming unemployment insurance and other elements of the individual's personal situation which affect his or her knowledge and ability to comply with reporting all material information that is relevant to benefit eligibility. This includes information contained in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department.

(5) The individual will be considered without fault when he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision and the overpayment is the result of payment that the individual would not reasonably have known was improper. Following are some, but not all, examples of instances in which an individual may not reasonably have known that a payment was improper and therefore is not at fault. These are intended

as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department erroneously removed a payment stop, resulting in improper payment.

(b) The individual received a retroactive pension which was backdated by the pension source, not at the individual's request.

(c) A combined wage or federal claim was filed against Washington that should have been filed against another state.

(d) Extended benefits were paid by the department when the individual would have been eligible for a new claim against this or another state.

(e) A lower level decision, in which all information was provided by the individual, was reversed by the office of administrative hearings, the commissioner or a court.

(f) Other circumstances in which department fact finding indicates that the individual did not know the payment was improper.

(6) Fault and waiver are not considered if the individual agrees to an account adjustment as explained in WAC 192-28-120(4).

[Statutory Authority: RCW 50.12.010 and 50.01.040 [50.12.040]. 88-10-021 (Order 4-88), § 192-28-110, filed 4/29/88; 86-17-023 (Order 3-86), § 192-28-110, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040. 85-21-024 (Order 6-85), § 192-28-110, filed 10/10/85.]

**WAC 192-28-120 Recovery of benefit overpayment--By repayment or offset against future benefits.**

(1) An overpayment may be recovered either by offset or repayment by the individual in full or by paying the minimum monthly billed amount as defined in WAC 192-28-130. If not repaid by the individual, the amount assessed shall be deducted from benefits payable for any future week(s) claimed. If any recovery procedure is in conflict with federal regulations, the federal regulations shall apply.

(2) For overpayments that are final and assessed pursuant to RCW 50.20.010 because the individual asked to have his or her claim for unemployment insurance cancelled, the amount to be deducted will be one hundred percent of benefits payable for each past or future week(s) claimed. The department will ensure that the individual was properly informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.

(3) When an individual enters into current claim status, the overpayment will not be offset from future weeks payable provided that the individual has not missed two or more payments, as determined by WAC 192-28-130, since the overpayment became final. If the individual has missed two or more payments, the overpayment will be offset in accordance with (a) and (b) of this subsection.

(a) For overpayments brought about by a denial pursuant to RCW 50.20.070 for fraud, misrepresentation, or wilful nondisclosure, the amount to be deducted will

be one hundred percent of benefits payable for each future week(s) claimed. Such overpayments will be recouped before any other overpayment the individual may have.

(b) For all other overpayments, the amount to be deducted will be fifty percent of benefits payable for each future week claimed. Provided, that at the request of the individual, an overpayment can be repaid at one hundred percent of benefits payable for each future week claimed.

(4) At the request of the individual, an overpayment may be repaid by account adjustment without an overpayment assessment if both the individual and the department agree to the circumstances, the amount of the overpayment and the method of repayment. If an individual agrees to an account adjustment, he or she can repay the overpayment by authorizing the department to deduct past and/or future benefits payable. No account adjustment action will be taken until the individual has been advised of his or her rights and has been given an opportunity to be heard on the overpayment issue. All individuals will be advised in writing of their right to a formal overpayment assessment, the possibility of waiver and their appeal rights. The individual can ask for and the department will issue a formal overpayment assessment even after an account adjustment has been completed.

(5) For an overpayment assessed by another state, the amount to be deducted for the other state will be as follows:

(a) For overpayments brought about by a denial for fraud, misrepresentation, or wilful nondisclosure, the amount to be deducted will be one hundred percent of benefits payable for each future week(s) claimed. Such overpayments will be recouped before any other overpayment the individual may have.

(b) For all other overpayments, the amount to be deducted will be fifty percent of benefits payable for each future week claimed. Provided, that at the request of the individual, an overpayment can be repaid at one hundred percent of benefits payable for each future week claimed.

(6) Those individuals who have been denied waiver, as well as those individuals for whom waiver was not considered, will be notified in writing of their right to enter into a payment agreement with the department or to make an offer in compromise. Offers in compromise will not be approved for individuals whose overpayment was brought about by a denial pursuant to RCW 50.20.060(2) or 50.20.070 unless there are unusual circumstances which would justify a compromise.

[Statutory Authority: RCW 50.12.010 and 50.01.040 [50.12.040]. 88-10-021 (Order 4-88), § 192-28-120, filed 4/29/88; 86-17-023 (Order 3-86), § 192-28-120, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040. 85-21-024 (Order 6-85), § 192-28-120, filed 10/10/85.]

**WAC 192-28-130 Minimum payment calculation.** Unless otherwise authorized by the commissioner or his/her designee, the minimum monthly payment shall be as follows:

(1) For overpayments assessed under RCW 50.20.070, the minimum monthly payment amount will be the individual's weekly benefit amount or three percent of the remaining overpayment balance at the time of the billing statement rounded to the next lower multiple of one dollar, whichever is greater.

(2) For all other overpayments, the minimum monthly payment amount will be one-third of the weekly benefit amount, three percent of the remaining overpayment balance at the time of the billing statement rounded to the next lower multiple of one dollar, or twenty-five dollars, whichever is greater.

[Statutory Authority: RCW 50.12.010 and 50.01.040 [50.12.040]. 88-10-021 (Order 4-88), § 192-28-130, filed 4/29/88.]

## Chapter 192-42 WAC

### FAMILY INDEPENDENCE PROGRAM EMPLOYMENT, TRAINING, AND EDUCATION RULES

#### WAC

192-42-005	Duration of program.
192-42-010	Definitions.
192-42-020	FIP employment and training.
192-42-030	Employability plan.
192-42-040	Job search allowance.
192-42-050	Funding criteria.
192-42-060	Labor dispute.
192-42-070	Grievance procedure and appeals—Administrative review.
192-42-080	Dispute resolution process.

**WAC 192-42-005 Duration of program.** Family independence program employment, training, and education rules will remain in effect as long as the state and federal governments continue the program. The program may be cancelled upon six months notice by either the state or federal government and may be cancelled with less or no notice with the agreement of both governments.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-005, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-010 Definitions.** The following definitions apply for this chapter and for family independence program employment, training, and education functions in chapter 74.21 RCW. Throughout this chapter "FIP" means family independence program.

(1) "Administrative review" means the informal appeal process available to enrollees who feel they are aggrieved by a decision of the department related to the employability plan.

(2) "Applicant" means any person or a member of a family unit who requests FIP cash assistance.

(3) "Appropriate plan" means an employability plan which is designed to lead to employment and self-sufficiency as determined by department staff.

(4) "Approved funding" means FIP resources allotted to fund employability plans determined by FIP staff as appropriate.

(5) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(6) "Department" means the employment security department.

(7) "Dispute resolution" means the appeal process available to nonenrollees for resolving disagreements arising from employment of enrollees.

(8) "Employability plan" means the component of the self-sufficiency plan designed by the enrollee with the assistance of department staff which specifies the enrollee's employment goal and is signed by the enrollee.

(9) "Enrollee" means the head of household or family member of a family eligible to receive financial assistance or other services under the family independence program.

(10) "Fair hearing" means an administrative proceeding under chapter 34.04 RCW by which the office of administrative hearings hears and decides the appeal of an enrollee from an action or decision of the department.

(11) "Family independence program services" include job readiness programs, job development, employment, job search skills training, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training in the management of finances and use of credit.

(12) "Job search skill training" means group or individual training that aids the enrollee to identify, acquire, and sustain employment.

(13) "Long-term education or training" means education or training, including degree programs, which exceeds nine months in duration.

(14) "On-the-job-training" means training provided by any employer who hires and then instructs the enrollee in the duties required of the enrollee at the work site. The employer pays the enrollee's wages, but will be reimbursed through a contract for the cost of employment training based on a percentage of the enrollee's gross salary, not to exceed fifty percent.

(15) "Transitional employment" means fully subsidized employment.

(16) "Self-sufficiency plan" means a written agreement between the department of social and health services or the department and the enrollee that may include activities specifically undertaken for self support, and other items outlined in the employability plan or the social services plan.

(17) "Short-term education or training" means education or training which does not exceed nine months in duration.

(18) "Work experience" means unsalaried training in a supervised employment site which instructs the enrollee in essential work practices, as well as providing an opportunity for the exercise of skills specific to employment procedures.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 50.12.040. 88-12-051 (Order 5-88), § 192-42-010, filed 5/31/88, effective 7/1/88.]

#### **WAC 192-42-020 FIP Employment and training.**

(1) The department shall offer FIP orientation and assistance in completing the employability plan as well as, within available funding, employment and training services.

(2)(a) FIP orientation shall be made available to all applicants.

(b) All enrollees, except those who are exempt pursuant to RCW 74.21.080 (2)(d)(ii)-(vi), are required to participate in an orientation as a part of assessment.

(c) Orientation shall include as a minimum:

(i) An explanation of FIP benefits and services and enrollee responsibilities;

(ii) An explanation of how a person can be linked with employment and training activities;

(iii) Current local and statewide labor market information;

(iv) Information and referral to family opportunity councils; and

(v) Documentation of applicant/enrollee's attendance in the orientation.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 50.12.040. 88-12-051 (Order 5-88), § 192-42-020, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-030 Employability plan.** (1) Enrollees who seek to pursue employment, training, or education shall be offered an assessment of employment, training, and education opportunities, and the opportunity to develop an individual employability plan. Department staff shall assist the enrollee in developing the employability plan based on an evaluation of the enrollee's assessed competencies, interests, skills, and aptitudes.

(2) Department staff shall determine if the employability plan is appropriate considering the following criteria:

(a) The availability of suitable training activities to meet the enrollee's employment goal;

(b) The likelihood that the training goal leads to employment which meets the financial requirements for the family to become self-sufficient;

(c) The documentation of the enrollee's acceptance into education or training institutions, or other programs if applicable;

(d) The assessment and appraisal of competencies, previous education and training, local labor market information and local wage levels, enrollee skills, employment history, aptitudes, abilities, barriers, limitations, desires, and interests which indicate the enrollee can attain the employment goal; and

(e) Other factors which, in individual circumstances or conditions, demonstrate likelihood for successful completion of training.

(3) At any time during the FIP enrollment, the enrollee may request modification of the employability plan.

(4) Determination that an employability plan is appropriate does not guarantee that the employability plan will be funded.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-030, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-040 Job search allowance.** Enrollees who participate in the job search skills training or job search activities as a part of an appropriate employability plan may receive an allowance of up to thirty dollars per month for a maximum of one hundred twenty dollars in a consecutive twelve month period. Enrollees are not eligible for FIP grant incentive benefits while receiving the job search allowance. Enrollees must meet the terms of the employability plan to receive the job search allowance.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-040, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-050 Funding criteria.** (1) The following criteria will be used by the regional management committees to establish priorities for funding of appropriate training and education programs for enrollees:

(a) Training will be allocated among the following categories in order to ensure that training will be offered to a certain number of enrollees in each category:

- (i) Job search skills training;
- (ii) Short-term education or training; and
- (iii) Long-term education or training.

(b) Normally, funds should not be used to replace existing funding resources;

(c) Emphasis shall be directed to supplementing education or skills training activities primarily funded through other sources and to funding job search skills training; and

(d) Consideration shall be given to local conditions that reflect the expectations of the educational, training and employer communities and the training priorities established by the private industry councils funded by the Job Training Partnership Act.

(2) Once an employability plan is deemed appropriate, the following criteria will be used to approve payment:

(a) That funds should be available to obligate for the length of the employability plan, subject to annual review;

(b) That the plan meets the priorities established by the regional management committee; and

(c) That within priorities, plans will be funded within available funds and in the order in which they are approved.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-050, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-060 Labor dispute.** RCW 74.21.120(3) provides that enrollees in subsidized and unsubsidized employment shall not continue participation at a place of employment that is involved in a strike, lockout, or other bona fide labor dispute.

(1) An enrollee who does not continue working at a place of employment that is involved in a strike, lockout, or other bona fide labor dispute has not voluntarily left work and is not participating in the strike, lockout, or bona fide labor dispute.

(2) An enrollee who continues working at a place of employment that is involved in a strike, lockout, or other bona fide labor dispute, is not eligible for FIP.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-060, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-070 Grievance procedure and appeals—Administrative review.** (1) An administrative review shall be available for those enrollees (per RCW 74.21.090(2)) who are dissatisfied with the decision of the department, within 10 calendar days of the decision of the department, for any of the following reasons:

(a) The appropriateness of the employability plan or plan modification;

(b) The disapproval of funding issued for a proposed employability plan or plan modification; or

(c) The removal of the job search allowance.

(2) An enrollee is not required to use the administrative review procedure prior to requesting a fair hearing.

(3) An enrollee using the administrative review hearing is not precluded from requesting a fair hearing.

(4) An enrollee using the administrative review procedure may request a fair hearing at any time during that procedure.

(5) A request for an administrative review must be submitted in writing to the local department staff within ten calendar days.

(6) The written administrative review decision shall be issued or mailed to the enrollee within a reasonable time period of the filing of the request.

(7) If an enrollee disagrees with the administrative review decision, the enrollee may file a request for a fair hearing in accordance with chapters 34.12 and 34.04 RCW.

(8) To the extent permitted by the federal Social Security Act as amended, the manner and conduct of hearings and administrative appeals concerning written determinations issued pursuant to this chapter shall be in accordance with hearings and administrative appeals held pursuant to the Employment Security Act, Title 50 of the Revised Code of Washington.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-070, filed 5/31/88, effective 7/1/88.]

**WAC 192-42-080 Dispute resolution process.** RCW 74.21.120(4) requires a dispute resolution process for resolving disagreements relating to that section or other employment sections of chapter 74.21 RCW.

(1) This process is to be used only by persons who are directly affected by the family independence program who are not enrollees, and who have disagreements relating to the employment sections of the family independence program.

(2) The following sections or paragraphs within sections of the act relate to employment and will be covered by the dispute mechanisms:

- (a) RCW 74.21.030 (17) and (18);
- (b) RCW 74.21.070 (1)(o);
- (c) RCW 74.21.120; and
- (d) RCW 74.21.130.

(3) The department will accept a written complaint from an employee or former employee, or employer who feels harmed by a decision relating to sections:

- (a) RCW 74.21.030(17) (definition of subsidized employment);
- (b) RCW 74.21.030(18) (definition of unsubsidized employment);
- (c) RCW 74.21.070 (1)(0) [74.21.070 (1)(o)] (executive committee's responsibilities (subsidized employment));
- (d) RCW 74.21.120 (limitations subsidized and unsubsidized employment positions); or
- (e) RCW 74.21.130 (compensation for enrollees).

(4) The complaints must be submitted to the department within 30 days of the date that the individual discovers or is informed of an alleged dispute.

(5) The department will investigate complaints or disputes. The assistant commissioner for FIP or a designee shall submit a finding and an order within 45 working days of receipt of the complaint or within 30 days of the end of the investigation, whichever is later.

(6) The order shall provide an opportunity for the employer or other persons or entities to rectify the situation and shall state the actions to be taken by the department, if any. The department's actions may include, but are not limited to, removing the enrollee from the place of employment, establishing an overpayment for the amount of the subsidy, removal of the employer from involvement in the program for a specified period of time, or a prohibition of future referrals or placements with the employer.

(7) The order shall also include the effective date of implementation and methods for extending that date. At the discretion of the assistant commissioner, the order may be made effective the date of delivery or of mailing, be retroactive, or remedial in nature. An appeal of the decision does not in itself delay implementation of the order.

(8) Any party aggrieved by the decision of the assistant commissioner for FIP may request a hearing within 30 days of the finding or order. The hearing will be held pursuant to chapters 34.04 and 34.12 RCW.

(9) Following the issuance of a decision by the office of administrative hearings, an aggrieved party may file a petition for review with the commissioner of employment security in accordance with chapter 50.32 RCW.

[Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-080, filed 5/31/88, effective 7/1/88.]

## Title 196 WAC

### PROFESSIONAL ENGINEERS AND LAND SURVEYORS, BOARD OF REGISTRATION FOR

#### Chapters

196-04	Organization and jurisdiction.
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#### Chapter 196-04 WAC

#### ORGANIZATION AND JURISDICTION

##### WAC

196-04-025	Board of registration for professional engineers and land surveyors—Powers and duties.
196-04-030	Chief executive of the board of registration for professional engineers and land surveyors—Duties, qualifications.

**WAC 196-04-025 Board of registration for professional engineers and land surveyors—Powers and duties.** Pursuant to RCW 18.43.035, the board of registration for professional engineers and land surveyors shall have the following powers and duties incidental to its regulation of professional engineers, engineers-in-training, and professional land surveyors. Such powers shall include, but not be necessarily limited to, the following:

(1) The board shall have the exclusive power to hire its registrar, subject to the provisions of chapter 41.06 RCW. The board shall also have the exclusive power to review the performance of its registrar, subject to the provisions of chapter 41.06 RCW, on a regular basis, but in any event at least once every twelve months.

(2) The board or its registrar shall hire, subject to the provisions of chapter 41.06 RCW, such other employees as may be necessary to carry out its responsibilities under the law.

(3) The board and its registrar shall prepare its operating budget in a manner consistent with state law and any applicable rules, procedures, and guidelines from the office of financial management. Consistent with rules, policies, and/or guidelines of the office of financial management, the board shall also oversee the spending of budgeted funds for budgeted board tasks.

(4) The board shall determine the physical location of its files, papers, records, and other equipment used by the board to implement its responsibilities under chapter 18.43 RCW.

(5) The board shall determine the appropriate form and content of all forms and correspondence used by the board, pursuant to its duties under chapter 18.43 RCW.