

Chapter 192-500 WAC
DEFINITIONS

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WAC

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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 any self-employed person or federally recognized tribe that has not elected coverage under Title 50A RCW.

[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 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.04.215. WSR 19-23-090, § 192-500-035, filed 11/19/19, effective 12/20/19; WSR 18-22-080, § 192-500-035, filed 11/2/18, effective 12/3/18.]

WAC 192-500-040 Aggrieved person. An "aggrieved person" 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.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) "Claim year" is the fifty-two week period beginning Sunday of the week of:

(a) The date of the birth or placement of a child; or

(b) The date of the filing of a complete and timely application for all other qualifying events.

(2) 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.

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

[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(9).

(2) For medical leave, events described in RCW 50A.05.010(14).

[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 (7) (b) (ii); 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.05.60 [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 family leave taken for bonding after the child's birth or placement.

(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.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-500-185, filed 12/12/19, effective 1/12/20.]