

WAC 296-128-99180 Verification for paid sick time usage. (1) A transportation network company must not request or require verification of a driver's authorized use except as permitted under RCW 49.46.210.

(2) For a driver's use of paid sick time for an absence exceeding three calendar days, a transportation network company may require verification that a driver's use of paid sick time is for an authorized purpose under RCW 49.46.210(5), except during an account deactivation as provided in subsection (3) of this section. "Exceeding three calendar days" means a driver spends more than three consecutive calendar days using earned paid sick time without recording passenger platform time on the transportation network company's driver platform.

(3) A transportation network company must not request verification if the paid sick time usage occurs during a deactivation period that prevents the driver from providing network services to the transportation network company.

(4) Before a transportation network company requires verification for the use of paid sick time under RCW 49.46.210, the transportation network company must:

(a) Provide a written policy or agreement with a third-party administrator in advance to the driver via an accessible system, outlining any such requirements; and

(b) Notify the driver of such policy or agreement with a third-party administrator, including the driver's right to assert that the verification requirement results in an unreasonable burden or expense on the driver, prior to the driver requesting the paid sick time.

(5) If a transportation network company requires verification from a driver, the verification must be provided to the transportation network company within a reasonable time period during or after the use of the paid sick time. For driver use of paid sick time under RCW 49.46.210, "reasonable time period" is a period of time defined by a transportation network company's written policy or agreement with a third-party administrator, but may not be less than 10 calendar days following the first day upon which the driver uses paid sick time.

(6) A transportation network company's requirements for verification may not result in an unreasonable burden or expense on the driver and may not exceed privacy or verification requirements otherwise established by law.

(7) If a transportation network company requires verification and the driver anticipates that the requirement will result in an unreasonable burden or expense:

(a) The driver must be allowed to provide a written explanation via an accessible system which asserts:

(i) The driver's use of paid sick time was for an authorized purpose under RCW 49.46.210; and

(ii) How the transportation network company's verification requirement creates an unreasonable burden or expense on the driver;

(b) The transportation network company must consider the driver's explanation. Within 10 calendar days of the driver providing an explanation to the transportation network company about the existence of an unreasonable burden or expense, the transportation network company must make a reasonable effort to identify and provide alternatives for the driver to meet the transportation network company's verification requirement in a manner which does not result in an unreasonable burden or expense on the driver. A reasonable effort by the transportation network company to identify and provide alternatives could include, but is not limited to:

(i) Accepting the written explanation provided by the driver as a form of verification that meets the transportation network company's verification requirement; or

(ii) Mitigating the driver's out-of-pocket expenses associated with obtaining medical verification, by no later than the driver's next regularly scheduled date of compensation or no more than 14 calendar days, whichever occurs first; and

(c) If after the transportation network company considers the driver's explanation, the transportation network company and driver disagree on whether the transportation network company's verification requirement results in an unreasonable burden or expense on the driver:

(i) The transportation network company and driver may consult with the department regarding verification requirements; and

(ii) A driver may file a complaint with the department.

(8) If a transportation network company requires a driver to provide verification from a health care provider identifying the need for use of paid sick time for an authorized purpose under RCW 49.46.210, the transportation network company must not require that the information provided explain the nature of the condition. If the transportation network company obtains any health information about a driver or a driver's family member, the transportation network company must treat such information in a confidential manner consistent with applicable privacy laws.

(9) If a transportation network company requires verification pursuant to this subsection, the transportation network company must compensate the driver for the requested hours or days of earned paid sick time no later than the driver's next regularly scheduled date of compensation or no more than 14 calendar days after verification is provided.

(10) If a transportation network company requires verification that the use of paid sick time is for an authorized purpose under the Domestic Violence Leave Act, chapter 49.76 RCW, any such verification requirements must comply with the provisions outlined in WAC 296-135-070.

(11) For use of paid sick time for purposes authorized under federal, state, or other local laws outside of Washington that permit transportation network companies to make medical inquiries, a transportation network company may require verification from a driver that complies with such certification requirements.

(12) Nothing in this section prevents a transportation network company from providing a more favorable verification process as long as such process meets or exceeds the requirements of this section and RCW 49.46.210.

[Statutory Authority: RCW 49.46.300(16) and chapter 49.46 RCW. WSR 22-24-034, § 296-128-99180, filed 11/30/22, effective 1/1/23.]