

WAC 296-128-660 Verification for absences exceeding three days.

(1) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b) and (c).

(2) If an employer requires verification for the use of paid sick leave under RCW 49.46.210 (1)(b) and (c), the employer must have a written policy or a collective bargaining agreement outlining any such requirements. The employer must notify the employee of such policy or agreement, including the employee's right to assert that the verification requirement results in an unreasonable burden or expense on the employee, prior to requiring the employee to provide verification. An employer must make this information readily available to all employees.

(3) If an employer requires an employee to provide verification from a health care provider identifying the need for use of paid sick leave for an authorized purpose under RCW 49.46.210 (1)(b) and (c), the employer must not require that the information provided explain the nature of the condition. If the employer obtains any health information about an employee or an employee's family member, the employer must treat such information in a confidential manner consistent with applicable privacy laws.

(4) Employer-required verification may not result in an unreasonable burden or expense on the employee.

(a) If an employer requires verification, and the employee anticipates that the requirement will result in an unreasonable burden or expense, the employee must be allowed to provide an oral or written explanation to their employer which asserts:

(i) That the employee's use of paid sick leave was for an authorized purpose under RCW 49.46.210 (1)(b) or (c); and

(ii) How the employer's verification requirement creates an unreasonable burden or expense on the employee.

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

(i) Accepting the oral or written explanation provided by the employee, as outlined in (a)(i) and (ii) of this subsection, as a form of verification which meets the employer's verification requirement; or

(ii) Mitigating the employee's out-of-pocket expenses associated with obtaining medical verification.

(c) If after the employer considers the employee's explanation, the employer and employee disagree that the employer's verification requirement results in an unreasonable burden or expense on the employee:

(i) The employer and employee may consult with the department regarding the verification requirement; and

(ii) The employee may file a complaint with the department.

(5) If an employer requires verification that the use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b), verification must be provided to the employer within a reasonable time period during or after the leave. For employee use of paid sick leave under RCW 49.46.210 (1)(b), "reasonable time period" is a period of

time defined by a written policy or a collective bargaining agreement, but may not be less than ten calendar days following the first day upon which the employee uses paid sick leave.

(6) If an employer requires verification that the use of paid sick leave 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.

(7) For use of paid sick leave for purposes authorized under federal, state, or other local laws that permit employers to make medical inquiries, an employer may require verification from an employee that complies with such certification requirements.

[Statutory Authority: RCW 49.46.810. WSR 17-21-092, § 296-128-660, filed 10/17/17, effective 1/1/18.]