

WSR 21-03-007

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed January 7, 2021, 4:54 p.m., effective January 7, 2021, 4:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The emergency rule provides clarity for which unemployment insurance benefit claimants are subject to a one week waiting period and which claimants are exempt from the waiting week requirement due to the Governor's Proclamations 20-21 through 20-21.11.

Citation of Rules Affected by this Order: New WAC 192-110-006.

Statutory Authority for Adoption: RCW 50.12.040.

Other Authority: Proclamations by the Governor 20-21 through 20-21.11.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: On March 28, 2020, pursuant to the governor's emergency powers, the governor issued Proclamation 20-21, which waived the statutory requirement that unemployment insurance claimants serve an unpaid waiting week before claimants can receive unemployment benefits. Since that time, leaders in the legislature repeatedly authorized the extension of this proclamation and the statutory waiver until December 28, 2020, at which time, the proclamation expired. Due to the sudden expiration of Proclamation 20-21, rules are needed now to guide the department, claimants, and administrative law judges for unemployment claims that are being filed now. Therefore, observing the time requirements for adoption of a permanent rule would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 7, 2021.

Dan Zeitlin
Policy Director

OTS-2846.1

NEW SECTION

WAC 192-110-006 Transition rule for reinstatement of the waiting week requirement. (1) **General rule.** If the first week you are otherwise eligible and qualified to receive unemployment insurance benefits occurs after the week ending March 7, 2020, through the week ending January 2, 2021, you will not be required to serve an unpaid waiting week before you receive unemployment insurance benefits. If the first week you are otherwise eligible and qualified to receive unemployment insurance benefits occurs during any other week, you will be required to serve an unpaid waiting week before you receive unemployment insurance benefits.

(2) **Examples.**

(a) Claimant A files an application for initial determination concerning unemployment insurance benefits during the week ending December 5, 2020. However, the first time claimant A files a claim for benefits is on January 27, 2021, for the week ending January 23, 2021. Claimant A must serve an unpaid waiting week.

(b) Claimant B files an application for initial determination during the week ending December 26, 2020. Claimant B then files a claim for benefits and is paid for the week ending December 26, 2020, and the week ending January 2, 2021. The department later discovers claimant B was not eligible for unemployment benefits for those two weeks. Claimant B will have to serve an unpaid waiting week before receiving any more unemployment benefits.

(c) Claimant C files their application for initial determination on January 13, 2021. Claimant C asks to backdate their unemployment claim to the week ending December 26, 2020, and meets the criteria to have their claim backdated. Claimant C will not have to serve an unpaid waiting week.

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