

## WSR 22-20-097

## PROPOSED RULES

## OFFICE OF

## FINANCIAL MANAGEMENT

[Filed October 4, 2022, 12:45 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 357-31-248

May an employee use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, bereavement leave, or holiday pay as a supplemental benefit during a period when the employee is receiving partial wage replacement for paid family and/or medical leave under Title 50A RCW?

Hearing Location(s): On November 10, 2022, at 8:30 a.m., Zoom meeting (with call-in option), ID 830 9875 7996, Call in 253-215-8782, Passcode 814462, Zoom link <https://ofm-wa-gov.zoom.us/j/83098757996?pwd=TkJkOGR5d2dFeDNZVHFHsk4rdHlDdz09>.

Date of Intended Adoption: November 17, 2022.

Submit Written Comments to: Brandy Chinn, Office of Financial Management (OFM), Raad Building, 128 10th Avenue S.W., P.O. Box 47500, Olympia, WA 98504, email [brandy.chinn@ofm.wa.gov](mailto:brandy.chinn@ofm.wa.gov), by 11:59 p.m., November 3, 2022.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by 11:59 p.m., November 3, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend WAC 357-31-248 to add bereavement leave as a supplemental benefit during a period an employee is receiving partial wage replacement for paid family and/or medical leave for the death of an employee's family member or household member in accordance with WAC 357-31-250.

Reasons Supporting Proposal: The Washington's paid family and medical leave, or PFML insurance program, as codified in Title 50A RCW, became effective on October 19, 2017. Beginning January 1, 2020, the PFML program provides a partial wage replacement for Washington workers for an employee's own medical condition, to care for family members, bonding with a child, or for certain military-related events. Under the PFML program, the employment security department will replace up to 90 percent of an employee's average weekly wage (up to \$1,000 per week). During the 2019 legislative session, the law was amended to allow the employer to offer a "supplemental benefit" to employees while they are on approved PFML. Chapter 233, Laws of 2022 (2SSB 5649), effective June 9, 2022, expanded Title 50A RCW to provide seven calendar days of leave to an employee following the death of their child when the employee would have: (1) Been approved for medical leave for the birth of their child; or (2) approved for family leave to bond with their child during the first 12 months after the child's birth or placement. This rule making will help implement these recent amendments to the PFML program.

Statutory Authority for Adoption: RCW 41.06.133.

Statute Being Implemented: RCW 50A.05.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandy Chinn, 128 10th Avenue S.W., Olympia, WA 98501, 360-878-2901.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:

Is fully exempt.

October 4, 2022

Nathan Sherrard

Assistant Legal Affairs Counsel

#### OTS-4084.1

AMENDATORY SECTION (Amending WSR 22-01-022, filed 12/3/21, effective 7/1/22)

**WAC 357-31-248 May an employee use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, bereavement leave, or holiday pay as a supplemental benefit during a period when the employee is receiving partial wage replacement for paid family and/or medical leave under Title 50A RCW?** An employee may use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, bereavement leave, or holiday pay during a period when the employee is receiving partial wage replacement under Title 50A RCW as a supplemental benefit. The use of bereavement leave as a supplemental benefit is limited to the death of an employee's family member or household member in accordance with WAC 357-31-250.

[Statutory Authority: Chapter 41.06 RCW. WSR 22-01-022, § 357-31-248, filed 12/3/21, effective 7/1/22. Statutory Authority: Chapter 41.06 RCW and RCW 50A.15.060. WSR 20-06-008, § 357-31-248, filed 2/20/20, effective 5/1/20.]