

WSR 23-14-118

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 5, 2023, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-104.

Title of Rule and Other Identifying Information: WAC 192-140-035

What happens if I do not respond to a request for information?

Hearing Location(s): On August 10, 2023, at 9:00 a.m. PST, Zoom, Meeting ID 846 6400 6931, Passcode 372773; or one-tap mobile +12532158782,,84664006931# US (Tacoma), +12532050468,,84664006931# US. Join Zoom meeting <https://esd-wa-gov.zoom.us/j/84664006931?pwd=U3NZcDhGTmslQXNVQVFXIXI3dXNYUT09>.

Date of Intended Adoption: August 11, 2023.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by August 10, 2023.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-507-9890, TTY relay 711, email Teresa.eckstein@esd.wa.gov [Teresa.eckstein@esd.wa.gov], by August 3, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, WAC 192-140-035 states that, if an unemployment insurance claimant does not respond to a request for information, they are denied benefits "indefinitely" until they respond to the department's request for information. The department's proposed rule would clarify the circumstances under which a claimant may requalify for benefits after previously being denied due to failing to respond to a request for information from the department by creating two exceptions to the "indefinite period of time" time frame provided in the current rule.

Reasons Supporting Proposal: The proposal is needed to clarify the circumstances in which a claimant may requalify for benefits after being denied benefits for failing to respond to a department request for information.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department. RCW 50.20.010 defines benefit eligibility conditions for unemployment benefits.

Statute Being Implemented: RCW 50.20.010.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: JR Richards, Olympia, Washington, 360-463-1079.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, <https://esd.wa.gov/newsroom/rulemaking/failure-to-respond> [https://esd.wa.gov/newsroom/rulemaking/failure-to-respond].

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. [No information supplied by agency.]

July 3, 2023

Joy E. Adams, Director

Employment System Policy and Integrity Division

OTS-4570.2

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-140-035 What happens if I do not respond to a request for information? (1) The department will presume that you are disqualified from benefits if you provide potentially disqualifying information, or fail to provide necessary information, and then do not respond to a request for specific information. The department will deny benefits under RCW 50.20.010.

(2) This denial is for an indefinite period of time and will continue until either:

(a) You provide the requested information;

(b) You qualify for a new, separate unemployment claim and the information requested under subsection (1) of this section is not relevant for your new claim; or

(c) The request for information was made pursuant to a quality control review under 20 C.F.R. § 602.11 and your response is no longer needed for the quality control review.

(3) Once you provide the requested information, the department may issue a redetermination under RCW 50.20.160. The department will issue a new decision allowing benefits if you provide enough information to establish your eligibility for benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-140-035, filed 5/12/10, effective 6/12/10.]