

WSR 23-23-095

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed November 14, 2023, 2:04 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The paid family and medical leave (PFML) program (Title 50A RCW) is adopting rule amendments to implement SSB 5286 (chapter 116, Laws of 2023) and SSB 5586 (chapter 375, Laws of 2023). SSB 5286 made changes to RCW 50A.10.030 regarding how the annual premium rate is calculated for employers and employees. SSB 5586 made changes to RCW 50A.25.040 that will allow employers to access information about current employees to include the type of leave being taken, the requested duration of leave, and whether an employee was approved for and paid benefits for any given week.

The PFML program is also adopting amendments to rules and repealing a rule regarding public records to eliminate redundancies and refer to agency rules regarding records requests.

Citation of Rules Affected by this Order: Repealing WAC 192-810-020 Purpose; and amending WAC 192-500-035 Interested parties, 192-510-090 How will the department determine the premium rate for each calendar year?, 192-810-010 Definitions, and 192-810-030 How do individuals and entities request records from the department?

Statutory Authority for Adoption: RCW 50A.05.060, 50A.10.030, 50A.25.040.

Adopted under notice filed as WSR 23-19-086 on September 19, 2023.

A final cost-benefit analysis is available by contacting Janette Benham, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-790-6583, TTY relay 711, contact Teresa Eckstein at 360-507-9890 for accommodations, email rules@esd.wa.gov, website <https://paidleave.wa.gov/rulemaking/>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 1.

Date Adopted: November 14, 2023.

April Amundson
Policy and Rules Manager, ESPI
Leave and Care Programs

OTS-4929.1

AMENDATORY SECTION (Amending WSR 20-20-074, filed 10/2/20, effective 11/2/20)

WAC 192-500-035 Interested parties. (1) In all determinations, cases, and appeals adjudicated under Title 50A RCW the employment security department is an "interested party."

(2) Other interested parties in paid family or medical leave determinations related to the state plan, complaints under chapter 50A.40 RCW, and appeals include:

(a) The employee or former employee; and

(b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) Other interested parties in paid family or medical leave determinations related to an approved voluntary plan include:

(a) The employer or former employer; and

(b) An employee or former employee.

(4) The department may designate an employee or employer as an interested party in other determinations made by the department.

(5) For the purposes of RCW 50A.25.040(3), an employer from whom leave is being taken is considered an interested party.

OTS-4930.1

AMENDATORY SECTION (Amending WSR 20-20-073, filed 10/2/20, effective 11/2/20)

WAC 192-510-090 How will the department determine the premium rate for each calendar year? (1) For calendar years 2021 ~~((and thereafter))~~, 2022, and 2023, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year.

~~((2))~~ (a) The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing coverage.

~~((3))~~ (b) For the purposes of this section, "total covered wages" is defined as the total amount of wages paid to employees that are subject to the paid family and medical leave premium from July 1st of the previous calendar year to June 30th of the current calendar year as reported by employers.

(2) For calendar years 2024 and thereafter, the total premium rate shall be based on the calculation specified in RCW 50A.10.030.

(3) For the purposes of the calculation described in subsection (2) of this section, a small business grant paid to an employer as specified by chapter 50A.24 RCW shall be considered a benefit paid.

OTS-4931.1

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-810-010 Definitions. (1) The definitions set forth in RCW 42.56.010 and WAC 192-02-020 apply to this chapter unless the context clearly ((requires)) indicates otherwise.

(2) (~~"Public records officer" means the departmental employee responsible for responses to requests for public records or that person's designee.~~

~~(3) "Department" means the employment security department.~~

~~(4))~~ An employer's "own records" as used in RCW 50A.25.040 means records and information provided to the department by the employer or the employer's predecessor in interest.

AMENDATORY SECTION (Amending WSR 21-04-067, filed 1/29/21, effective 3/1/21)

WAC 192-810-030 How do individuals and entities request records from the department? (1) The department will manage ((all)) records requests ((consistent with the provisions of chapter 42.56 RCW)) as outlined in chapter 192-02 WAC.

(2) ((Requests for public records shall be submitted to the public records officer. Contact the public records officer at:

~~Public Records Officer
P.O. Box 9046
Olympia, WA 98507-9046
Phone: 1-844-766-8930
Email: Recordsdisclosure@esd.wa.gov~~

~~(3))~~ If an individual requests records or information concerning that individual held by the department under RCW 50A.25.040, those records must be released only to the requesting individual.

((4)) (3) If an individual submits a records request and asks that the requested records be sent to a third party directly, the individual must follow the provisions of RCW 50A.25.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-810-020 Purpose.