

WSR 24-01-017

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed December 7, 2023, 11:41 a.m., effective January 7, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 192-100-070 currently defines a conditional payment as an unemployment benefit paid after an individual has already received one benefit payment but "during a period in which the department questions (the individual's) continued eligibility for benefits." More clarity is needed to objectively define the beginning and end of this period during which the employment security department is questioning the individual's continued eligibility for benefits. This rule making also combines the definitions in WAC 192-100-070 and 192-120-050 into WAC 192-100-070.

Citation of Rules Affected by this Order: Repealing WAC 192-120-050; and amending WAC 192-100-070.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.20.170.

Adopted under notice filed as WSR 23-21-089 on October 17, 2023.

A final cost-benefit analysis is available by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, email rules@esd.wa.gov, website https://esd.wa.gov/newsroom/ui-rule-making/conditional-payments.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 7, 2023.

Joy E. Adams, Director
Employment System Policy and Integrity

OTS-4524.1

AMENDATORY SECTION (Amending WSR 16-21-013, filed 10/7/16, effective 11/14/16)

WAC 192-100-070 Conditional payments. (1) A conditional payment is:

(a) Payment issued to you after you have already received benefits but during a period in which the department questions your continued eligibility for benefits; or

(b) Payment issued when you have provided reasonable evidence of authorization to work in the United States but the department is paying benefits pending verification by the federal government.

(2) Your right to retain such payment is conditioned on the department's finding that you were eligible for benefits during the week(s) in question.

~~(3) ((You are no longer considered to be in continued claim status if you have not claimed benefits (had a break in claim) for four weeks or longer.~~

~~(4))~~ Conditional payments under subsection (1)(a) of this section:

(a) Begin:

(i) The first week in which the department detects an eligibility issue; and

(ii) When the department has provided the claimant with adequate notice that benefits are being paid conditionally.

(b) End when the department makes a determination of eligibility for benefits; and

(c) May be paid for the entire length of time necessary for the department to make an eligibility determination.

(4) If you have not claimed benefits (had a break in claim) for four weeks or longer, the department will not conditionally pay you under subsection (1)(a) of this section.

(5) A conditional payment is not considered a "determination of allowance" as provided in RCW 50.20.160(3).

(6) Conditional payments will not be made under the conditions described in WAC 192-140-200 and 192-140-210.

OTS-4525.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-120-050 Conditional payment of benefits.