

WSR 24-06-041

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 29, 2024, 3:52 p.m., effective March 31, 2024]

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

Purpose: This rule making will update WAC 192-150-055 to reflect portions of ESHB 1106 (2023), which, among other things, expanded good cause for voluntarily quitting a job due to death, illness, or disability and expands "immediate family member" to "family member." Therefore, this rule making changes "immediate family" to "family member" effective September 3, 2023, defines "family member," updates various definitions of family members, and requires that, to establish good cause for leaving work voluntarily because of illness or disability or the illness, disability, or death of a family member, a claimant must make reasonable efforts to preserve their employment status by requesting changes in working conditions, changes to work schedule, or a leave of absence.

Citation of Rules Affected by this Order: Amending WAC 192-150-055.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department, RCW 50.20.050.

Adopted under notice filed as WSR 23-19-005 [23-22-090] on September 6, 2023 [October 30, 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, TTY relay 711, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/expanding-good-cause-voluntary-quitting-employment>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: February 29, 2024.

Joy E. Adams, Acting Director
Employment Security Policy and Integrity Division

OTS-4924.1

AMENDATORY SECTION (Amending WSR 23-15-009, filed 7/6/23, effective 8/6/23)

WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1) (b) (ii) and (2) (b) (ii). (1) For separations occurring before September 3, 2023:

(a) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

((a)) (i) You left work primarily because of such illness, disability, or death; and

((b)) (ii) The illness, disability, or death made it necessary for you to leave work; and

((c)) (iii) You first exhausted all reasonable alternatives prior to leaving work, including:

((i)) (A) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; ~~((and~~

~~(ii)) (B) Requesting changes in working conditions, changes to your work schedule, or a leave of absence; and~~

(C) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

((2)) (b) For claims with an effective date of January 4, 2004, or later, you ~~((are not eligible for unemployment benefits)) will not be deemed to have left work with good cause unless, in addition to the requirements of ((subsection (1) (a) through (c) of this section)) (a) (i) through (iii) of this subsection, you terminate your employment and are not entitled to be reinstated in the same or similar position.~~

((3)) (c) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by ~~((subsection (1) (c) of this section)) (a) (iii) of this subsection~~ if you can show that doing so would have been a futile act.

((4)) (d) **Definitions.** For purposes of this chapter:

((a)) (i) "Disability" means a sensory, mental, or physical condition that:

((i)) (A) Is medically recognizable or diagnosable;

((ii)) (B) Exists as a record or history; and

((iii)) (C) Substantially limits the proper performance of your job((+)).

((b)) (ii) "Immediate family" means your spouse, domestic partner, and the children (including unborn children), siblings, step-children, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household((+)).

((c)) (iii) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work((+)).

((d)) (iv) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emergency that is active on the date of the request to enter isolation or quarantine, even if you or your immediate family member have not been actually diagnosed with the disease that is the subject of a public health emergency.

(2) For separations occurring on or after September 3, 2023:

(a) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a family member, you must demonstrate that:

(i) You left work primarily because of such illness, disability, or death; and

(ii) The illness, disability, or death made it necessary for you to leave work; and

(iii) You first exhausted all reasonable alternatives prior to leaving work, including:

(A) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060;

(B) Requesting changes in working conditions, changes to your work schedule, or a leave of absence; and

(C) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(b) You will be deemed to not have left work with good cause unless, in addition to the requirements of (a)(i) through (iii) of this subsection, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(c) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by (a)(iii) of this subsection if you can show that doing so would have been a futile act.

(d) **Definitions.** For purposes of this chapter:

(i) "Disability" means a sensory, mental, or physical condition that:

(A) Is medically recognizable or diagnosable;

(B) Exists as a record or history; and

(C) Substantially limits the proper performance of your job.

(ii) "Family member" means your child, grandchild, grandparent, parent, sibling, or spouse, and also includes any individual who regularly resides in your home or with whom you are in a relationship that creates an expectation that you care for the person, and that individual depends on you for care. "Family member" includes any individual who regularly resides in your home, except that it does not include an individual who simply resides in your home with no expectation that you care for the individual.

(iii) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom you stand in loco parentis, are a legal guardian, or are a de facto parent, regardless of age or dependency status of the child, and including an unborn child.

(iv) "Grandchild" means a child of your child.

(v) "Grandparent" means a parent of your parent.

(vi) "Parent" means your or your spouse's biological, adoptive, de facto, or foster parent, stepparent, or legal guardian, or an individual who stood in loco parentis to you when you were a child.

(vii) "Sibling" means an individual with whom you share at least one parent.

(viii) "Spouse" means a husband or wife or a state-registered domestic partner.

(ix) "De facto parent" means an adult who has fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in a child's life in which the natural or legal parent consented to and fostered the parent-like relationship.

(x) "In loco parentis" means a situation in which an individual acts in place of a parent, intentionally takes over parental duties, and is responsible for exercising day-to-day care and control fulfilling the child's physical and psychological needs.

(xi) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

(xii) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emergency, even if you or your family member have not been actually diagnosed with the disease that is the subject of a public health emergency.