

INTRODUCTION

As required under RCW 34.05.328, the Leave and Care Division of the Employment Security Department (department) is placing into the rulemaking file an implementation plan regarding amendments to Title 192 WAC to improve program operations and clarify program requirements. The amended rules add a new data field to employer quarterly reports to include employees' dates of birth and require a report of "no payroll" for up to a maximum of eight quarters when employers have no paid wages to report. The amendments will affect both PFML and the Long-Term Services and Supports Trust (WA Cares Fund) since employers submit one report to the department for both programs. The amendments will help ensure that employers report correct information to the department, including when no wages are paid during any given quarter. In addition, since WA Cares Fund premium assessment begins July 1, 2023, employers must submit quarterly reports that include information for both PFML and WA Cares Fund. The department is utilizing one employer report for both programs. RCW 50B.04.020(4)(c) requires the department to determine the compliance of premium payments (employer audits) in coordination with the same activities conducted for PFML under Title 50A RCW. This requirement will assist the department because a report of "no payroll" will ensure the department does not flag a missing report for audit. Adding employees' dates of birth to employer reports will assist with ensuring employee work history and premium assessments are complete. RCW 50B.04.080 requires the department, to the extent feasible, to use the same premium assessment, collection, and reporting procedures for the WA Cares Fund as it does for PFML. Requiring dates of birth for employees will assist with determining employee eligibility for prorated benefits for WA Cares Fund under RCW 50B.04.050. The requirements will fulfill the department's obligation under RCW 50B.04.020 to assist the trust commission, council, and Office of the State Actuary in monitoring the solvency and financial status of the program because the information will assist with actuarial modeling and solvency projections. The requirements will also assist the department with projecting fund solvency for the PFML program, align with unemployment insurance practices of "no payroll" reports, and ensure the department has accurate data for annual PFML employer sizing determinations.

Specific to PFML, the adopted amendments correct an RCW pointer reference, clarify the definition of "placement" for the purpose of family leave to bond with the employee's child, clarify that hours worked in self-employment prior to the effective date of the election of coverage for self-employed individuals do not count toward establishing benefit eligibility, and clarify that weekly claims may be filed by an estate executor or administrator if the employee dies after they've been approved for benefits.

Amended rules include:

WAC 192-500-195 Placement.

WAC 192-510-010 Election, withdrawal, and cancellation of coverage.

WAC 192-540-030 What are employers required to report to the department?

WAC 192-800-150 Can an employee designate a representative to act on their behalf?

PLAN TO IMPLEMENT AND ENFORCE THE RULE

The department will integrate the rule amendments into operational policy and discuss the rules with staff members. The content of the rules will also be integrated into the program's technological functions to implement the changes, automate processes, and simplify the customer experience.

PLAN TO INFORM AND EDUCATE AFFECTED PERSONS ABOUT THE RULE

Information regarding the amendments will be posted on the department's website and included in all relevant online literature. Customer service staff members will be trained on the subject matter of the rules and will be available by phone and email to answer customer questions. Emails are sent to all PFML mailing list subscribers summarizing the rulemaking processes and providing updates on any rules. Additional information, including the final text of the amendments, will be available on the program's rulemaking website.

In addition, the department has launched a communications plan that includes:

- Regularly scheduled employer newsletters sent to interested parties informing them of upcoming changes;
- A physical mailer being mailed to all employers;
- Updates to the program webpages that include notices of new requirements and an Employer Toolkit with resources for employers and workers;
- Live webinars for both employers and workers; and
- Employer presentations upon request.

PLAN TO PROMOTE AND ASSIST VOLUNTARY COMPLIANCE

The plan to promote and assist voluntary compliance will be identical to the plan to inform and educate affected persons about the rule.

PLAN TO EVALUATE WHETHER THE RULES ACHIEVE THE PURPOSE FOR WHICH THEY WERE ADOPTED

The department will consider feedback from customers and the stakeholder community to gauge the effectiveness and understanding of the changes to the rules.