

1 **WAC 192-140-200**

2 **What happens if I certify that I am not able to or available for**  
3 **work?**

4 (1) Benefits will be denied or reduced (~~(under RCW~~  
5 ~~50.20.130))~~ in accordance with WAC 192-170-020 without requiring  
6 additional information or interview if you file a weekly claim  
7 that:

8 (a) States you were not available for work or were not able  
9 to work (~~(on one or two days of a week or weeks being claimed))~~)  
10 for at least forty hours during the week during the hours  
11 customary for your trade or occupation; and

12 (~~(The day or days to which this condition applies are~~  
13 ~~normal working days in your regular occupation;~~ and

14 ~~——(e))~~ The information supplied clearly supports this  
15 finding.

16 (~~(This reduction applies only to the day or days for which~~  
17 ~~available information shows you are ineligible for benefits.)~~)

18 (2) (~~(Benefits will be denied under RCW 50.20.010(1)(c)~~  
19 ~~without requiring additional information or interview if you~~  
20 ~~file a weekly claim that:~~

21 ~~——(a) States you were not available for work or were not able~~  
22 ~~to work for three or more days of a week or weeks being claimed;~~  
23 ~~and~~

24 ~~——(b) The days to which this condition applies are normal~~  
25 ~~working days in your regular occupation;~~ and

26 ~~——(c) The information supplied clearly supports this finding.~~  
27 ~~This denial applies only to the week or weeks for which you~~  
28 ~~specifically indicate you are ineligible for benefits.~~

29 ~~——(3))~~ Benefits will be denied under RCW 50.20.010 (1)(c)  
30 without requiring additional information or interview if you  
31 file a weekly claim that indicates you are not able to work or

1 not available for work because of a circumstance that is  
2 expected to continue beyond the immediate week or weeks claimed.  
3 This denial will begin with the first week claimed in which the  
4 circumstance applies and continue until the circumstance no  
5 longer exists.

6 ~~((4))~~ (3) Any denial of benefits under subsections ~~((2)~~  
7 ~~and (3))~~ (1) and (2) of this section will be issued without  
8 delay. The department will not issue a written decision when  
9 benefits are reduced under subsection (1) of this section.

10

11 **WAC 192-170-010**

12 **Availability for work—RCW 50.20.010.**

13 (1) In general, the department will consider you available  
14 for work if you:

15 (a) Are willing to ~~((work))~~ accept suitable full-time,  
16 part-time, and ~~((accept))~~ temporary work during ~~((all of))~~ the  
17 usual hours and days of the week customary for your occupation.

18 (i) You are not required to ~~((be available for))~~ accept  
19 part-time or temporary work if it would substantially interfere  
20 with your return to your regular occupation.

21 (ii) The requirement to be ~~((available for))~~ willing to  
22 accept full-time work does not apply under the circumstances  
23 described in WAC 192-170-050 (1)(b) or 192-170-070;

24 (b) Are capable of accepting and reporting for any suitable  
25 work within the labor market in which you are seeking work;

26 (c) Do not impose conditions that substantially reduce or  
27 limit your opportunity to return to work at the earliest  
28 possible time;

29 (d) Are available for work for at least forty hours during  
30 the week during the hours customary for your trade or  
31 occupation; and

1 (e) Are physically present in your normal labor market  
2 area, unless you are actively seeking and willing to accept work  
3 outside your normal labor market.

4 (2) You are not considered available for work if you fail  
5 or refuse to seek work as required in a directive issued by the  
6 department under WAC 192-180-010.

7  
8 **NEW SECTION**

9 **WAC 192-170-020**

10 **Benefit reductions due to only partial availability-RCW**

11 **50.20.130(1)**

12 (1) If you are available for at least forty hours during  
13 the week during the hours customary for your trade or  
14 occupation, benefits will not be reduced under RCW 50.20.130(1).

15 (2) If you are available for at least thirty-five but less  
16 than forty hours during the week during the hours customary for  
17 your trade or occupation, your weekly benefit amount will be  
18 reduced by one-seventh.

19 (3) If you are available for at least thirty but less than  
20 thirty-five hours during the week during the hours customary for  
21 your trade or occupation, your weekly benefit amount will be  
22 reduced by two-sevenths.

23 (4) If you are not available for at least thirty hours  
24 during the week during the hours customary for your trade or  
25 occupation, benefits will be denied under RCW 50.20.0100(1)(c).

26  
27 **WAC 192-170-050**

28 **Suitable work factors-RCW 50.20.100 and 50.20.110.**

29 (1) **Physical fitness.** In determining whether work is  
30 suitable as defined by RCW 50.20.100 and 50.20.110, the  
31 department will consider whether you have a disability that

1 prevents you from performing the essential functions of the job  
2 without a substantial risk to your health or safety.

3 (a) For purposes of this section, the term "disability"  
4 means a sensory, mental, or physical condition that:

- 5 (i) Is medically recognizable or diagnosable;
- 6 (ii) Exists as a record or history; and
- 7 (iii) Substantially limits the proper performance of your  
8 job.

9 (b) The department may determine in individual  
10 circumstances that less than full-time work is suitable if:

11 (i) The disability prevents you from working the number of  
12 hours that are customary to the occupation;

13 (ii) You are actively seeking work for the occupation and  
14 hours you have the ability to perform; and

15 (iii) The restriction on the number of hours you can work,  
16 the essential functions you can perform, and the occupations you  
17 are seeking does not substantially limit your employment  
18 prospects within your general area.

19 (c) To be considered available for suitable work, you must  
20 be available for employment in an occupation in keeping with  
21 your prior work experience, shifts of employment, education, or  
22 training. If such employment is not available in your general  
23 area, you must be willing to accept any employment which you  
24 have the physical or mental ability to perform.

25 (d) Disabilities resulting from pregnancy will be treated  
26 the same as other disabilities, except that the department will  
27 also consider the risk to your pregnancy when deciding whether  
28 work is suitable.

29 (e) The department will require verification from a  
30 physician of your disability, including:

31 (i) The restrictions on the tasks or work-related functions  
32 you can perform;

1 (ii) The restrictions on the number of hours you can work,  
2 if any;

3 (iii) The expected duration of the disability and resulting  
4 work restrictions; and

5 (iv) The types of tasks or work-related functions you are  
6 able to perform with this disability, if known by the physician.

7 (2) **Definitions.** For the purposes of this chapter:

8 (a) "General area" means an individual's labor market area  
9 and includes the geographic area within which an individual  
10 would customarily seek work in a given occupation.

11 (b) "Physician" means a person licensed to practice one or  
12 more of the following professions: Medicine and surgery  
13 (including, but not limited to, psychiatry); osteopathic  
14 medicine and surgery; chiropractic; naturopathic medicine;  
15 podiatry.

16

17 **WAC 192-170-070**

18 **What are the availability requirements for part-time eligible**  
19 **workers?—RCW 50.20.119.**

20 (1) If you are a part-time eligible worker as defined in  
21 RCW 50.20.119(~~(1)~~):

22 ~~(a) ((you))~~ You must be willing to accept ~~((may limit your~~  
23 ~~availability for))~~ work ~~((to))~~ of 17 or fewer hours per week. You  
24 may refuse any job of 18 or more hours per week.

25 ~~((2))~~ (b) You must be available for work at least 17 hours  
26 per week during the usual hours and days of the week customary  
27 for your occupation. ~~((For example, if your occupation normally~~  
28 ~~requires both day and evening hours of work, you must be~~  
29 ~~available for work both day and evening hours.))~~

30 ~~((3))~~ (c) You must ~~((be available for work all days of the~~  
31 ~~week that are usual for your occupation, even if you have not~~  
32 ~~worked those days in the past. If you are not available for work~~

1 ~~on any day that is a usual day of work for your occupation, we~~  
2 ~~will reduce your benefits under RCW 50.20.130. For example, if~~  
3 ~~your occupation usually works Monday through Friday, you must be~~  
4 ~~available for work Monday through Friday, even if you have only~~  
5 ~~worked weekends in the past.)~~ not impose conditions on your  
6 availability that substantially reduce or limit your opportunity  
7 to return to work at the earliest possible time.

8

9 **WAC 192-170-090**

10 **Incarceration.**

11 (1) If you were previously warned that your continued  
12 employment was in jeopardy because of poor attendance, and you  
13 engage in illegal activities where you are aware there is a  
14 clear possibility of arrest and detention, misconduct may be  
15 established under RCW 50.04.294 (2) (d) or (e).

16 (2) If you are jailed but later released without having  
17 been charged with or convicted of a crime, the separation is not  
18 considered misconduct except as provided in subsection (3) of  
19 this section.

20 (3) If your employer discharges you for absenteeism or job  
21 abandonment because you failed without good cause to notify the  
22 employer of your incarceration or anticipated release date, such  
23 failure may be considered misconduct.

24 ~~((4) You will be considered unavailable for work during~~  
25 ~~any days in which you are incarcerated unless those days are not~~  
26 ~~part of your regular work week based on your occupation.~~  
27 ~~Example: You are sentenced to a specific time in custody but~~  
28 ~~allowed to serve your time on weekends. If weekends are not part~~  
29 ~~of your regular work week, you will be considered available for~~  
30 ~~work.))~~

31

32

1 **WAC 192-200-005**

2 **Disqualification of students—RCW 50.20.095.**

3 (1) **General rule.** If you are registered in a course of  
4 study that provides scholastic instruction of twelve or more  
5 credit hours per week, you are disqualified from receiving  
6 benefits or credit for your waiting week.

7 (2) **Period of disqualification.** The disqualification starts  
8 with the week the instruction begins or the week you left  
9 employment to return to school, whichever is earlier. The  
10 disqualification ends at midnight on Saturday of the week prior  
11 to the first full week in which you are no longer registered for  
12 twelve or more hours of instruction. You must certify to the  
13 department that you are not currently registered for twelve or  
14 more credit hours and will not be registered for twelve or more  
15 credit hours for at least sixty days. If you begin classes  
16 within sixty days, all benefits paid since the date of your  
17 certification will be considered an overpayment. This  
18 overpayment is subject to recovery under RCW 50.20.190. If you  
19 are registered for classes that begin more than sixty days in  
20 the future, you will not be disqualified under this subsection.

21 (3) **Disqualification not applicable.** The disqualification  
22 does not apply if you:

23 (a) Are in approved training under RCW 50.20.043;

24 (b) Are in an approved self-employment assistance program  
25 under RCW 50.20.250; or

26 (c) Show by a preponderance of the evidence that you meet  
27 the availability requirements in Chapter 192-170 WAC. (~~your~~  
28 ~~student status does not significantly interfere with your actual~~  
29 ~~availability for work when you apply.~~)

30 (4) **Definitions.** As used in this section:

1 (a) "School" includes primary schools, secondary schools,  
2 and institutions of higher education as defined in RCW  
3 50.44.037;

4 (b) "Scholastic instruction" includes all teaching or  
5 opportunity for learning subjects other than those of a strictly  
6 vocational nature. Subjects of a vocational nature are those  
7 embraced in the definition of "training" contained in WAC 192-  
8 200-010.

9 (c) "Twelve or more hours per week" means 12 or more credit  
10 hours per week or its equivalent.

11 (5) **Students.** Students who claim benefits are subject to  
12 all of the provisions of Title 50 RCW including:

13 (a) RCW 50.20.050 dealing with those who leave work  
14 voluntarily without good cause;

15 (b) RCW 50.20.010 (1)(c) requiring claimants to be able and  
16 available for and actively seeking work; and

17 (c) RCW 50.20.240 requiring claimants to provide evidence  
18 of their job search activities as requested by the department.