

WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT
BEFORE THE RULES COORDINATOR
LEAVE AND CARE DIVISION

VERBATIM RECORD OF PROCEEDINGS
RE WASHINGTON CARES FUND RULEMAKING
Tuesday, August 26, 2025
Olympia, Washington

APPEARANCES:

PRESIDING OFFICER: JANETTE BENHAM
Rules Coordinator

ALSO PRESENT: JASON BARRETT
BRETT CAIN

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1 MS. JANETTE BENHAM: Good morning and welcome,
2 everyone. My name is Janette Benham and I'm the rules
3 coordinator for the Leave and Care Division at the
4 Employment Security Department. There are other members
5 from the Leave and Care Policy and the Rules Team on the
6 call, and I'll ask that they introduce themselves now.

7 MR. BRETT CAIN: Good morning. I'm Brett Cain and I'm
8 part of the Rules Team here at ESD that does rulemaking for
9 WA Cares. Welcome, everyone.

10 MR. JASON BARRETT: Good morning. My name is Jason
11 Barrett. I'm the lead policy analyst with the Leave and
12 Care Division. Thanks for joining us this morning.

13 MS. JANETTE BENHAM: Thank you. We're here this
14 morning to review and discuss draft rules the Department is
15 considering that implement portions of Engrossed Substitute
16 Senate Bill ESSB 5291, which passed during the 2025
17 legislative session. The bill made several changes to the
18 program, and the Department will be writing rules in three
19 phases. The first phase of rulemaking is what we are
20 discussing today.

21 In addition to rules related to ESSB 5291, the draft
22 rules add a section regarding determinations made by the
23 Department. I want to let everyone know that this meeting
24 is being recorded. The rules we'll be discussing today are
25 WAC 192-905-005, Eligibility requirements for an employee to

1 receive a permanent exemption from the long-term services
2 and supports trust program, WAC 192-905-006, Eligibility
3 requirements for an employee to receive a conditional
4 exemption from the long-term services and supports trust
5 program. A new section, WAC 192-905-008, Automatic
6 exemption for an employee who holds a non-immigrant visa for
7 temporary workers. A new section, WAC 192-905-009,
8 Rescission period for an employee who has received a
9 voluntary long-term care insurance exemption.

10 WAC 192-905-020, Is an exempt employee entitled to a
11 refund of premiums? WAC 192-910-015, What are the
12 employer's responsibilities for premium deductions? WAC
13 192-920-005, Parties to collective bargaining agreements.
14 WAC 192-940-010, How will the Department determine if
15 someone is a qualified individual? A new section, WAC
16 192-940-011, How is a qualified individual determination
17 made for the pilot project? A new section, WAC 192-950-005,
18 What happens if there is a question regarding an
19 individual's application? A new section, WAC 192-950-010,
20 What happens if an interested party does not respond to the
21 Department's request for information? And a new section,
22 WAC 192-950-01 5, How will determinations be made?

23 If you've called in for this meeting, please keep your
24 mute on by using the mute function on your phone or by
25 pressing star 6. Please keep in mind that the subject of

1 this call is the draft rules I just referenced, and we won't
2 be discussing other rules. If you have a question about a
3 Paid Family and Medical Leave claim or application, please
4 hang up and call our Customer Care team at 833-717-2273. I
5 also want to ask that if you're commenting on the proposed
6 rules to please state and spell your name and indicate if
7 you are here on behalf of an organization. And I again want
8 to remind everyone that this meeting is being recorded.

9 The drafts that we'll be reviewing and discussing can
10 be found at esd.wa.gov under the "About Us" tab toward the
11 top of the page. And then under the Rulemaking heading,
12 click on Long-Term Services and Supports, Rulemaking. When
13 you see the Rules Under Development heading, click on the
14 draft rules for each subject to view the text of changes
15 that we'll be discussing, and after clicking on the
16 hyperlink for each subject, you can use your browser's back
17 button to go back to the rulemaking page.

18 Before we open the floor for comments, I want to give
19 folks an opportunity to ask any questions about anything I
20 just discussed, why we're here, where to find the draft
21 rules or any other general questions. And you can go ahead
22 and unmute yourself using your computer or press star 6 on
23 your phone if you'd like to ask any questions.

24 Okay, let's start with draft amendments and new rules.
25 In Chapter 192-905 WAC, Exemptions, there are three amended

1 sections and two new sections. The first rule is WAC
2 192-905-005, Eligibility requirements for an employee to
3 receive a permanent exemption from the long-term services
4 and supports trust program. The amendments add a reference
5 to the option for employees to rescind their previously
6 approved long-term care insurance exemption and participate
7 in the program. Individuals may do so prior to July 1st,
8 2028, and the change references the section of WAC that
9 describes how to rescind this type of exemption. Other
10 changes to the section are administrative.

11 Are there any questions or comments on this rule?

12 (No response)

13 MS. JANETTE BENHAM: Hearing none, I will move to the
14 next one. The next rule is WAC 192-905-006, Eligibility
15 requirements for an employee to receive a conditional
16 exemption from the long-term services and supports trust
17 program. The amendments remove language related to an
18 employee who holds a non-immigrant visa for temporary
19 workers because those individuals will be automatically
20 exempt unless they choose to participate.

21 The amendments also add language regarding a new
22 conditional voluntary exemption type. The new exemption
23 type is for active duty service members in the U.S. armed
24 forces who are concurrently engaged in off-duty civilian
25 employment.

1 Are there any questions or comments on this rule?

2 (No response)

3 MS. JANETTE BENHAM: Okay, we'll move to the next rule.

4 The next rule is a new section, WAC 192-905-008, Automatic
5 exemption for an employee who holds a non-immigrant visa for
6 temporary workers. The real outlines of changes made by
7 ESSB 5291 are non-immigrant temporary work visa holders as
8 recognized by federal law are automatically exempt from the
9 program unless they choose to participate. The rule
10 outlines requirements for the employee to notify their
11 employer or employers if they would like to participate in
12 the program. It also outlines the requirement that once the
13 employee is a permanent resident or citizen, premiums must
14 begin being assessed at the quarter immediately following
15 permanent status.

16 Are there any questions or comments on this rule?

17 (No response)

MS. JANETTE BENHAM: Okay, the next rule is a new section, WAC 192-905-009, Rescission period for an employee who has received a voluntary long-term care insurance exemption. This rule outlines the dates this rescission is available and the process an employee must take to rescind their permanent long-term care insurance exemption. The rule also requires the employer at time of rescission to maintain a copy of the rescission letter the employee

1 provides.

2 Are there any questions on this rule?

3 (No response)

4 MS. JANETTE BENHAM: The next rule is WAC 192-905-020,
5 Is an exempt employee entitled to a refund of premiums? The
6 amendments add language that requires a refund of premiums
7 an employer may have collected from an employee who holds a
8 non-immigrant visa for temporary workers. I want to note
9 that these changes and rules will be effective January 1st,
10 2026 and there's not a requirement to retroactively refund
11 collective premiums.

12 Are there any comments or questions on this rule?

13 (No response)

14 MS. JANETTE BENHAM: The next rule is in the Assessing
15 and Collecting Premiums Chapter of WAC, WAC 192-910-015,
16 What are the employer's responsibilities for premium
17 deductions?

18 The amendments add the requirement for employers to not
19 deduct premiums for an employee who holds a non-immigrant
20 visa for temporary workers unless the employee participates
21 in the program under WAC 192-905-008, and adds references to
22 the requirement for employers to deduct premiums for an
23 employee who no longer qualifies for a conditional
24 exemption, becomes a permanent resident or citizen, or
25 rescinds their long-term care insurance exemption.

1 Are there any questions or comments on this rule?

2 (No response)

3 MS. JANETTE BENHAM: Just a reminder to double check
4 and please keep yourselves muted unless you're providing
5 comment.

6 The last three rules are in a new chapter, 119-950 WAC,
7 Determinations, and they're related to due process when
8 additional information is requested by the Department. The
9 new rules in this chapter are modeled after Paid Family
10 Medical Leave rules in Chapter 192-630 WAC. The first new
11 rule in this chapter is WAC 192-950-005, What happens if
12 there is a question regarding an individual's application?
13 The rule outlines what actions the Department will take if
14 additional information is needed regarding applications for
15 exemptions, qualified individuals and out-of-state coverage.

16 Are there any questions or comments on this rule?

17 (No response)

18 MS. JANETTE BENHAM: The second new rule in this
19 chapter is WAC 1920950-010, What happens if an interested
20 party does not respond to the Department's request for
21 information? The rule outlines the actions the Department
22 will take to make a determination when there is no response
23 regarding a request for information.

24 Are there any questions or comments on this rule?

25 (No response)

1 MS. JANETTE BENHAM: The last new rule in this chapter
2 and the last rule we'll talk about today is WAC 192-950-015,
3 How will determination be made? The rule describes the
4 process the Department will use to make determinations,
5 consider information received and give interested parties an
6 opportunity to respond.

7 Are there any questions or comments on this rule?

8 (No response)

9 MS. JANETTE BENHAM: That was the final rule in this
10 rulemaking package. Are there any questions or comments
11 related to any of the draft rules we've discussed today?
12 Please feel free to unmute yourselves, ask questions,
13 comment on any of the rules, and we'd be happy to answer any
14 questions anyone has.

15 (No response)

16 MS. JANETTE BENHAM: Regarding next steps, we will
17 gather all the comments we've received, we may still be
18 getting some comments by email, and we'll determine which
19 should be incorporated, and then we'll draft paperwork to
20 formally propose the rules language. Once the proposed
21 rules and paperwork are filed with the Office of the Code
22 Revisor, individuals will have an opportunity to participate
23 in a public hearing and provide written comments up to and
24 through the day of the hearing. Following the hearing, if
25 no substantive changes to the rules are necessary, we'll

1 file paperwork providing a response to each comment received
2 during the formal comment hearing and hearing, and then
3 adopt the rules.

4 The rules will be effective January 30th, 2026, which
5 is the required effective date in ESSB 5291. Please visit
6 esd.dot.wa, click on About Us and then Rulemaking for more
7 information on when these next steps occur, and if you
8 haven't already signed up to receive rulemaking
9 notifications, you can do so there on that webpage. And if
10 you have any additional comments or questions, please feel
11 free to send us an email at rules, R-U-L-E-S, at esd.wa.gov.

12 And with that we'll go ahead and close out, and thank
13 you, everyone, for attending this morning, and hope everyone
14 has a great day.

15 (Concluded at 9:25 a.m.)
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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, Rebecca Donley, a certified court reporter in and for the State of Washington, do hereby certify:

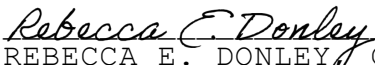
That the foregoing deposition was taken before me at the time and place therein set forth;

That the witness was by me first duly sworn or affirmed to testify to the truth, the whole truth, and nothing but the truth; and that the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and thereafter transcribed under my direction;

That the foregoing transcript is a true record of the testimony given by the witness and of all objections made at the time of the examination, to the best of my ability.

I further certify that I am in no way related to any party to this matter nor to any counsel, nor do I have any interest in this matter.

Witness my hand this 8th day of September 2025.


REBECCA E. DONLEY CCR
CCR License #3184
Certified Court Reporter in and
for the State of Washington,
residing in Poulsbo.