

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

VERBATIM RECORD OF PROCEEDINGS
RE WASHINGTON CARES FUND RULEMAKING
Tuesday, October 21, 2025
Olympia, Washington

APPEARANCES:

PRESIDING OFFICER: JANETTE BENHAM
Rules Coordinator

ALSO PRESENT: JASON BARRETT
BRETT CAIN

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1 MS. JANETTE BENHAM: Okay. Good morning,
2 everyone. My name is Janette Benham and I am the rules
3 coordinator for the Leave and Care Division of the
4 Washington State Employment Security Department. Thank you
5 for joining us today for this rulemaking hearing, and I'd
6 like to discuss a few housekeeping items before we begin.
7 Just a reminder that this meeting concerns proposed
8 regulations regarding the WA Cares program. This meeting
9 will not feature discussion of any specific application, and
10 attendance is completely optional.

11 If you have questions regarding your own
12 application for exemption or weekly claim for paid family
13 and medical leave or if you have other general questions,
14 please call our customer care team at (833) 717-2273. We
15 won't be able to answer any questions during this meeting.

16 Today's hearing is regarding the proposal that
17 adds and revises sections of Washington Administrative Code
18 regarding the implementation of portions of Engrossed
19 Substitute Senate Bill 5291, which passed during the 2025
20 legislative session. The proposal also adds new rules
21 regarding determinations.

22 If you would like to provide written comments
23 related to these rules, you may do so by email at rules,
24 R-U-L-E-S, @esd.wa.gov. We will continue to accept written
25 comments through the close of business today.

1 To view the electronic version of the proposed
2 rules, you can go to esd.wa.gov, click on About Us, and then
3 choose Rulemaking. The rules we're reviewing today are
4 under Long-Term Services and Supports Rulemaking. Clicking
5 on each of the topics will bring up the proposed rules for
6 each individual chapter, and as we progress through the
7 hearing, you may have to use your browser's back button to
8 view the next chapter of the rules we'll be discussing.

9 Before we begin, are there any questions about the
10 purpose of today's meeting or where to find the proposed
11 rules? You can unmute yourself using your Teams window or
12 by hitting star six if you're joining by phone.

13 (No response)

14 If you are not providing testimony, please
15 remember to keep yourself muted throughout the hearing. If
16 you're calling in for the hearing, please don't place this
17 meeting on hold to take another call. The hearing cannot
18 proceed if there is hold music or messages played while your
19 phone is on hold.

20 Are there any questions?

21 (No response)

22 Okay, we'll go ahead and start the hearing.

23 Pursuant to the authority given under Washington State Law

24 RCW 50B.04.020, RCW 50B.04.053, RCW 50B.04.055, RCW

25 50B.04.085, Chapter 42.30 RCW of the Open Public Meetings

1 Act, and Chapter 34.05 of the Administrative Procedure Act,
2 this hearing is hereby convened. For the record, this
3 hearing is beginning at 9:05 a.m. on October 21st, 2025
4 online and by conference call. This hearing is convened to
5 consider testimony concerning rulemaking for the Long-Term
6 Services and Supports Trust program, also known as WA Cares
7 Fund.

8 At a high level, this rulemaking implements
9 portions of Engrossed Substitute Senate Bill ESSB 5291,
10 which passed during the 2025 legislative session, and
11 includes proposed rules that address a pilot project,
12 qualifying for benefits, a new voluntary exemption for
13 off-duty civilian employment for active-duty service
14 members, automatic exemptions for non-immigrant work visa
15 holders, voluntary rescissions of private long-term care
16 insurance exemptions, and collective bargaining agreement
17 participation requirements.

18 In addition, new rules are included in the
19 proposal to address determinations made by the Department.
20 Notice of this hearing was filed on September 17th, 2025 and
21 published in the Washington State Register as WSR No.
22 25-19-009, was sent to interested parties and was posted on
23 the Department's webpage.

24 My name is Janette Benham and I'm the rules
25 coordinator for the Leave and Care Division of the

1 Washington State Employment Security Department. I
2 represent Commissioner Cami Feek as the hearing officer
3 presiding at this public rulemaking hearing. There are
4 other members of the Leave and Care Policy Team attending
5 this hearing. Please introduce yourselves by name and
6 title.

7 MR. BRETT CAIN: Good morning. I'm Brett Cain.
8 I'm a policy analyst here at ESD, and I work on the rules
9 team for the leave and care programs including LTSS and WA
10 Cares.

11 MR. JASON BARRETT: Good morning everyone. My
12 name is Jason Barrett. I'm the lead policy analyst for the
13 Leave and Care Division policy team. Thanks for joining us
14 today.

15 MS. JANETTE BENHAM: Thank you, Brett and Jason.

16 Please be advised that this hearing is being
17 transcribed by a court reporter and is also being recorded
18 by the Microsoft Teams platform. The transcript and
19 recording will become a part of the official rulemaking
20 file. To facilitate the transcription, please state and
21 then spell your name before your testimony. If you are here
22 in a representative capacity, please include who you are
23 providing testimony on behalf of. Please also note that
24 this hearing is convened to consider comments on the
25 proposed rules.

1 Because of the formal nature of this hearing, we
2 are unlikely to answer any questions you may ask. If you do
3 pose a question, I'll ask you to rephrase your question as a
4 comment. Questions can be emailed to us at
5 paidleave@esd.wa.gov, or wacaresexemptions@esd.wa.gov where
6 our customer support staff will respond to your question.

7 Written comments on the proposed rules will be
8 accepted through today by email at rules@esd.wa.gov. A
9 concise explanatory statement of the agency's reasons for
10 adoption of the rules, including a summary and response to
11 all comments received after the publication of the proposed
12 rules will be placed in the permanent rulemaking file and
13 posted online. This document will be sent to all interested
14 parties who have signed up to receive WA Cares fund rules
15 emails.

16 I encourage you all to read the text of the rules
17 along with the supporting documents for a more robust
18 understanding. Thank you for your interest and
19 participation in our rulemaking efforts, and we look forward
20 to hearing your comments today. We will now move on and
21 hear testimony from those in attendance. I'll go through
22 each rule individually, outline the proposed new rule or
23 amendments to an existing rule, and then accept comment on
24 each rule. All attendees are currently muted, and if you
25 wish to speak, you can unmute yourself through your Teams

1 window or by pressing star six if you're joining by phone.

2 When you testify, please speak clearly, state your
3 name, spell your last name, and state who you represent if
4 you are here in a representative capacity. When you finish
5 testifying, please mute yourself through your Teams window
6 or press star six again on your phone.

7 We'll start with exemptions in Chapter 192-905
8 WAC. There are three amended sections and two new sections
9 proposed. The first rule is WAC 192-905-005, eligibility
10 requirements for an employee to receive a permanent
11 exemption from the Long-Term Services and Supports Trust
12 program. ESSB 5291 made changes that add an option for
13 employees to rescind the previously approved long-term care
14 insurance exemption and participate in the program.
15 Individuals may do so prior to July 1st, 2028.

16 The proposed rule amendment references the section
17 of WAC, Washington Administrative Code, that describes how
18 to rescind this type of exemption. Other changes to this
19 section are administrative.

20 Are there any comments on this rule?

21 (No response)

22 Hearing none, we'll move to the next rule. The
23 next rule is WAC 192-905-006, Eligibility requirements for
24 an employee to receive a conditional exemption from the
25 Long-Term Services and Supports Trust program. ESSB 5291

1 made changes that automatically exempt employees who hold
2 non-immigrant visas for temporary workers unless they choose
3 to participate. Reference to these workers was removed from
4 the rule because of this automatic exemption. ESSB 5291
5 also added a new voluntary conditional exemption for
6 active-duty service members in the U.S. armed forces who are
7 concurrently engaged in off-duty civilian employment.
8 Reference to this exemption type was added to the rule.

9 Are there any comments on this rule?

10 (No response)

11 The next rule is a new section, WAC 192-905-008,
12 Automatic exemption for an employee who holds a
13 non-immigrant visa for temporary workers. The rule outlines
14 the changes made by ESSB 5291 where non-immigrant temporary
15 work visa holders as recognized by federal law are
16 automatically exempt from the program unless they choose to
17 participate.

18 The rule outlines requirements for the employee to
19 notify their employers if they would like to participate in
20 the program. It also outlines the requirement that once the
21 employee is a permanent resident or citizen, premiums must
22 begin being assessed in the quarter immediately following
23 permanent status.

24 Are there any comments on this rule?

25 (No response)

1 The next rule is a new section, WAC 192-905-009,
2 rescission for an employee who has received a voluntary
3 long-term care insurance exemption. ESSB 5291 made changes
4 that allow individuals to rescind their voluntary long-term
5 care insurance exemption through July 1st, 2028. This rule
6 outlines the dates this rescission is available and the
7 process an employee must take to rescind their permanent
8 long-term care insurance exemption. The rule also requires
9 the employer at the time of rescission to maintain a copy of
10 the rescission letter the employee provides.

11 Are there any comments on this rule?

12 (No response)

13 The last rule in the exemptions chapter is WAC
14 192-905-020, Is an exempt employee entitled to a refund of
15 premiums? The amendments add language that requires a
16 refund of premiums an employer may have collected from an
17 employee who holds a non-immigrant visa for temporary
18 workers.

19 Are there any comments on this rule?

20 (No response)

21 The next rule is in the Assessing and Collecting
22 Premiums chapter, WAC 192-910-015, What are the employer's
23 responsibilities for premium deductions? The amendments to
24 this rule add the requirement for employers to not deduct
25 premiums for an employee who holds a non-immigrant visa for

1 temporary workers unless the employee participates in the
2 program under WAC 192-905-008, and adds references to the
3 requirement for employers to deduct premiums for an employee
4 who no longer qualifies for a conditional exemption, becomes
5 a permanent resident or citizen, or rescinds their long-term
6 care insurance exemption.

7 Are there any comments on this rule?

8 (No response)

9 The next rule is WAC 192-920-005, Parties to
10 collective bargaining agreements. ESSB 5291 removed the
11 non-participation provision for parties to collective
12 bargaining agreements. The amendment to this rule sunsets
13 the collective bargaining non-participation provisions after
14 December 31st, 2025. This aligns with the Paid Family and
15 Medical Leave sunseting that was effective after December
16 31st, 2023.

17 Are there any comments on this rule?

18 (No response)

19 The next two rules are in the Qualified
20 Individuals chapter of WAC. One rule is amended and one is
21 a new rule. The first rule in this chapter is WAC
22 192-940-010, How will the Department determine if someone is
23 a qualified individual? ESSB 5291 removed the break of five
24 or more consecutive years of work and contributions from the
25 10-year qualifying pathway so that any combination of a

The last three rules for today's hearing are in a new chapter, 192-950 WAC regarding determinations. These rules are related to due process when additional information is requested by the Department. The new rules in this chapter are modeled after Paid Family and Medical Leave rules in Chapter 192-30 WAC. The first new rule in this chapter is WAC 192-950-005, What happens if there is a question regarding an individual's application? The rule outlines what actions the Department will take if additional

1 information is needed regarding applications for exemptions,
2 qualified individuals and out-of-state coverage.

3 Are there any comments on this rule?

4 (No response)

5 The second new rule in this chapter is WAC
6 192-950-010, What happens if an interested party does not
7 respond to the Department's request for information? The
8 rule outlines the actions the Department will take to make a
9 determination when there is no response regarding a request
10 for information.

11 Are there any comments on this rule?

12 (No response)

13 The last new rule in this chapter and the last
14 rule we'll talk about today is WAC 192-950-015, How will
15 determinations be made? The rule describes the process the
16 Department will use to make determinations, consider
17 information received and give interested parties an
18 opportunity to respond.

19 Are there any comments on this rule?

20 (No response)

21 I would like to take a moment and ask if there is
22 any testimony on any of the proposed rules included in
23 today's hearing. If there is any testimony, please feel
24 free to provide comment now and indicate which rule you're
25 providing comment on.

(No response)

In conclusion, this hearing was convened to consider testimony on WA Cares Fund rulemaking. Any and all testimony that had been presented at this hearing would have become part of the official record. The deadline for submission of written comments is today, October 21st, 2025. You may submit written comments by emailing rules@esd.wa.gov. Comments must be received by the end of the day to be considered part of this rulemaking.

The final decision regarding adoption of the proposed rules will be made after all testimony and written comments have been fully considered, which will be on or after October 28th, 2025. These rules will be effective January 1st, 2026, as required by ESSB 5291.

On behalf of Commissioner Cami Feek, thank you for participating in this hearing. This hearing is adjourned at 9:22 a.m. on October 21st, 2025.

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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 3rd day of November 2025.


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