

LEGISLATIVE REPORT

ESSB 5097 Family Member Expansion Analysis: 2nd Report

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Executive summary

- From July 25, 2021, through March 30, 2023, 686 claims used the expanded family member definition.
- Only when the expansion exceeds the 500-individual threshold does it initiate reimbursement from general fund state (GFS). That was not met in either calendar year 2021 or 2022. It is highly unlikely to occur before July 1, 2023, when that provision ends.
- Benefits paid on the expanded family member claims have had minimal impact on the account balance ratio but have had no impact on the rates themselves.
- Workers using the expanded definition the most often list their relation to the person they are taking leave to care for as an unmarried significant other.

Overview

In 2021, Engrossed substitute senate bill 5097 (ESSB 5097¹) amended the definition of family member for the Paid Family and Medical Leave program. Prior to the passage of ESSB 5097, paid leave was available to those who needed to care for their:

- Child, spouse of child, or other parent-child relationships (legal guardian, de facto, in loco parentis)
- Parent or parent of a spouse
- Grandchild
- Grandparent
- Sibling
- Spouse or registered domestic partner.

When ESSB 5097 went into effect on July 25, 2021, the definition of a qualifying family member expanded to include “any individual who regularly resides in the employee’s home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care.” The expanded definition excludes those “who simply reside in the same home with no expectation that the employee care for the individual.”²

¹ Full language of [ESSB 5097](#).

² Full definition can be found starting on line 36 on page 5 of the above link to the enacted law.

This legislative change reflects the diversity of family structures. It also helps provide equitable access to Washington workers who need to take leave to care for a loved one experiencing a serious health condition, whether or not that individual is a legal relative.

ESSB 5097 also included reporting and fiscal requirements to monitor the increase in use of benefits as a result of the expanded family member definition and to prevent possible account balance and solvency impacts.

Reporting Requirements

ESSB 5097 required reports on the number of claims and benefit payments resulting from the expanded family member definition, as well as the impacts, if any, to the Paid Family and Medical Leave insurance account. Making use of data collected through program administrative records, this report was developed in response to that provision. It shares experience data from claims under the expanded definition from July 25, 2021 (ESSB 5097's effective start date) through March 31, 2023.³

This is the second of two required reports; the first was published in June 2022. With an effective date of July 25, 2021, the prior analysis was only able to capture nine months of data. As such, this report will be the first to include a full year's worth of data.⁴

Fiscal Impacts

ESSB 5097 included a funding provision to prevent potential impacts to the Paid Leave account balance in the event of high usage. If more than 500 individuals in a calendar year use leave as a result of the expanded family member definition, then the additional claims will be paid by GF-S. This provision was in place for 2021 and 2022 and is set to end by July 1, 2023.⁵ Once this provision ends, customers can continue to utilize the expanded definition. However, potential GFS reimbursement will no longer be available.

Key Findings

- There have been a total of 686 claims using the expanded family member definition from July 25, 2021, through March 30, 2023.
- Only when the expansion exceeds the 500-individual threshold does it initiate reimbursement from general fund state (GFS). That was not met in either calendar year 2021 or 2022. It is highly unlikely to occur before July 1, 2023, when that provision ends.
- Benefits paid on the expanded family member claims have had minimal impact on the account balance ratio but have had no impact on the rates themselves.

³ This report contains claims through March 31, 2023, to provide time for data maturity and report development.

⁴ As a result of maturing data, slight differences arise when comparing figures from the prior analysis to this report.

⁵ Sec. 4 depicts the reimbursement from the general fund if [ESSB 5097](#) claims exceed 500 individuals.

- Unmarried significant others are the relationship status for which workers are most frequently using leave under the expanded definition.

Expanded family member claims

Additional claims and customers

There was a total of 686 approved claims under the expanded family member definition from when that provision began on July 25, 2021, through March 31, 2023. Those claims represent 659 unique customers taking leave. As shown in Table 1, these accounted for only 0.2% and 0.3% of all approved claims and unique customers taking leave in this same time period. Additionally, it totals nearly \$2.9 million in approved payments on claims approved under ESSB 5097, which contributed only 0.2% of all benefit payments made.

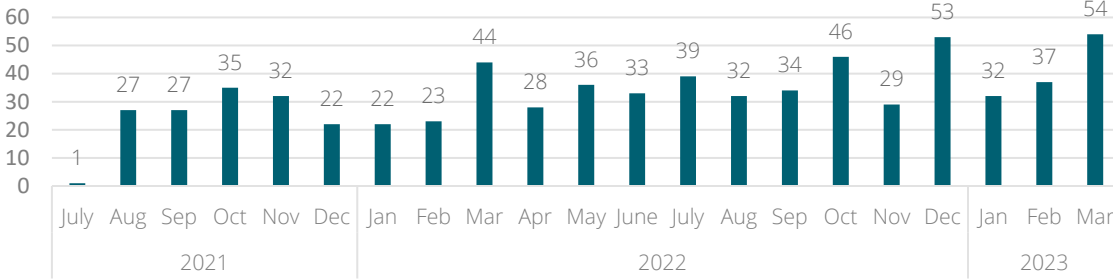
Table 1: Total 5097 expanded family member claims, July 25, 2021 – March 31, 2023

	Claims	Overall Claims	5097 Share of Overall Claims
Claims	686	313,009	0.2%
Customers	659	238,860	0.3%
Approved Payments	\$2,866,288	\$1,902,365,222	0.2%

Figure 1 shows the monthly breakdown of ESSB 5097 expanded family member claims based on the month each claim was approved. An average of 38 claims per month have been approved over the last twelve months. This is slightly higher than the first twelve complete months, which averaged about 31 claims per month.⁶ March 2023 had the highest number of approved ESSB 5097 claims. However, this was not unique to expanded family member claims. Overall, there were more Paid Leave applications (over 22,000) and approved claims (over 20,000) in March 2023 than any other month since February 2020. While some month-over-month fluctuations occur, the general trend is increase over time, similar to the Paid Leave program as a whole.

⁶ This excludes July 2021 as it is an incomplete month.

Figure 1: **Approved Monthly ESSB 5097 Expanded Family Member Claims**



Claims by family member

When applying for family care leave, customers share for whom they are caring while on leave, which enables our understanding of patterns in leave usage. Table 2 summarizes the relationships indicated by customers.

Of the approved expanded family member claims, a majority (78%) are for an individual's significant other. This category includes relationship types such as girlfriend or boyfriend, unregistered domestic partners and fiancés. The next highest share (15%) comes from extended family members. This category includes aunts or uncles, cousins and other extended family members. The remaining four categories only account for just 45 approved claims and only 6% of all extended family member claims.

Table 2: Approved ESSB 5097 expanded family member claims, July 25, 2021 – March 31, 2023

Family Member Detail	5097 Claims	Share
Significant Other	537	78%
Extended Family	104	15%
Close Family Friends	10	1%
Significant Other's Family ⁷	9	1%
Caregiver-Power of Attorney	7	1%
Other ⁸	19	3%
Total	686	N/A

⁷ Included at relationships such as an unmarried partner's mother, father, or children.

⁸ Included are all other relationships not listed above, such as ex-spouses and housemates with expectation of care.

Turning to a detailed look at the significant other category, table 3 shows a breakdown of how individuals referenced their relationship status. When customers apply and the relationship status doesn't match that of the standard definition of family⁹, they have the option to write in a relationship status for those they are caring for. Therefore, the data allows us to categorize relationship status using the exact language customers used to describe that relationship. When describing the relationship of individual's significant other, customers defined them in the following way: 56% referred to their loved one as a partner in some way, such as domestic or life partner, 20% used the term fiancé, and 11% wrote in either girlfriend or boyfriend. Of all these approved claims for significant others, 3% of those indicated that the person they were taking leave for was an unmarried parent of their child.

Table 3: Approved ESSB 5097 claims, significant other relationship descriptors
July 25, 2021 – March 31, 2023

Family Member Detail	5097 Claims	Share
Partner	303	56%
Fiancé	105	20%
Girlfriend/Boyfriend	60	11%
Parent of My Child	15	3%
Total	537	N/A

Note: shares will not add to 100%, some claims can fit multiple categories.

For comparison, table 4 shows the family member breakdown for all family care claims under the original family member definition over the same time period. There is a large concentration here as well, with parents accounting for 42% (or 15,742) of the 37,741 approved family care claims. Together with spouses (30%) and children (23%), these three categories account for 95% of all approved family care claims with the remaining claims coming for siblings (3%), grandparents (2%) and grandchildren (less than 1%).¹⁰

Table 4: Approved family care claims by family member, July 25, 2021 – March 31, 2023

Family Member Detail	Claims	Share
Parent	15,742	42%
Spouse	11,192	30%
Child	8,576	23%
Sibling	1,182	3%

⁹ Complete list found on page 1 of this document.

¹⁰ Shares do not add to 100% due to rounding.

Grandparent	829	2%
Grandchild	220	<1%
Total	37,741	N/A

Account balance impacts and GFS reimbursement

Impact on the account balance and rate setting

Thus far the report has focused on approved expanded family member claims and family relationship, the remaining sections will shift the analysis to how these claims may have affected the Paid Leave account balance and premium rate setting.¹¹

The Paid Family and Medical Leave premium is determined annually based on the account balance ratio as of September 30 each year. The ratio is calculated by dividing the balance of the Paid Family and Medical Leave insurance account by total gross covered wages for the prior fiscal year. This ratio corresponds to the table on the right, which sets the premium rate.

$$\text{Account Balance Ratio} = \frac{\text{Account Balance as of 09/30/2022}}{\text{Total Covered Wages of Prior Fiscal Year}}$$

Account Balance Ratio	Premium Rate
0.0% to 0.09%	0.6%
0.1% to 0.19%	0.5%
0.2% to 0.29%	0.4%
0.3% to 0.39%	0.3%
0.4% to 0.49%	0.2%
0.5% or greater	0.1%

When the account balance ratio falls below 0.05% the Employment Security Department must then assess a solvency surcharge¹² of at least 0.1% but at the lowest rate necessary to

¹¹ While the passage of SSB 5286 changes the methodology behind the premium rate calculation, this analysis assesses the impact on the 2023 rate setting carried out in September 2022, which uses the original rate calculation outlined in the text of this report. The new rate calculation can be found [here](#).

¹² There is no mechanism for assessing a solvency surcharge with the new rate calculation established in SSB 5286.

maintain solvency. The solvency surcharge is then added to the premium rate to obtain to the total premium rate for the following year.

The timing of the premium rate calculation is such that the additional benefit payments from the expanded family member claims would only be those with payments that occurred from October 1, 2021, through September 30, 2022. Table 5 shows the number of approved claims, customers and benefit payments that would have impacted the account balance when calculating the premium rate for 2023. There was about \$1.6 million in benefit payments made to 375 unique customers on 390 approved claims that utilized the amended family member definition.

Table 5: ESSB 5097 expanded family member claims and payments, Oct. 1, 2021 – Sept. 30, 2022

	5097 Claims
Claims	390
Customers	375
Approved Payments	\$1,682,992

Table 6 shows the inputs for the account balance ratio calculation, the resulting ratio, and the final premium rate with and without the benefit payments from those claims associated to the expanded family member definition.

Table 6: ESSB 5097 impacts on account and rate setting

	Standard	Removing Approved Payments on 5097 Claims
Gross Wages	\$275,289,463,508	\$275,289,463,508
Account Balance	\$16,767,907	\$15,084,915
Balance Ratio	0.01%	0.01%
Premium Rate	0.6%	0.6%
Solvency Surcharge	0.2%	0.2%
Total Premium Rate	0.8%	0.8%

Total gross wages in the prior fiscal year were \$275.3 billion. The account balance on September 30, 2022, when calculating the premium rate, was about \$16.8 million, leading to an account balance of 0.01%. This ratio resulted in a 0.6% premium rate and fell below the 0.05% threshold for a solvency surcharge; thus a 0.2% solvency surcharge was assessed. The total premium rate for 2023 was then set at 0.8%.

To assess the impact of the expanded family member claims on rate setting, we subtracted the benefit payments approved on these claims and calculated what the account balance would have been in their absence. As observed in Table 6, the account balance ratio remained unchanged. The additional \$1.7 million benefits from the expanded family member claims had no substantive impact on premium rate setting for 2023. This is the same result that was observed in the prior edition of this report where the additional benefit payments had no impact on the account balance ratio nor the premium rate for 2022.

Potential GFS reimbursement

ESSB 5097 directs the general fund to cover any additional benefits when over 500 individuals in a given calendar year have been approved under the expanded family member definition.¹³ Table 7 shows the number of approved expanded family member claims and the number of individuals submitting those claims in each calendar year this policy has been in effect.

Table 7: ESSB 5097 expanded family member claims and customers counting towards potential GFS reimbursement

	2021	2022	2023 ¹⁴
Unique Claims	144	419	123
Unique Customers	141	405	113
Customer Count Under 500	359	95	387

As the table shows, in 2021 there were 141 individuals utilizing the expansion, falling under the 500-individual threshold by 359 customers. However, as the policy took effect July 25, 2021, there were only about 5 months left in the calendar year. 2022 has been the only complete calendar year with a full twelve months of data. Despite this, as the table shows, there were still only 419 approved ESSB 5097 claims from 405 customers, falling short of GFS reimbursement by 95 customers. 2023 is the final calendar year eligible for GFS reimbursement, however this provision is only effective through June. Data for the first quarter of 2023 shows that we are still 387 individuals below the 500-individual threshold for reimbursement.

¹³ Sec. 4 of [ESSB 5097](#) depicts the general fund reimbursement policy if exceeding 500 individuals utilizing the expanded family member definition.

¹⁴ 2023 only contains data through March 31, 2023. However, this potential reimbursement can occur if 500 individuals utilize the expansion by July 1, 2023.

Final thoughts and expectations through June 30, 2023

If we continue to see the same average claim volume as over the past six months for the remainder of the fiscal year, we should expect to have about 250 claims by end of June. Given that the GFS reimbursement provision sunsets in June, it is highly unlikely that ESD will be requiring any reimbursement for claims utilizing the expanded family member definition.

The expanded family member definition increased equitable access to benefits for Washington workers seeking to care for their loved ones. Because of the new definition, those in caring kinship and close family-like relationships, who were excluded in the original law, became eligible to take leave to care for loved ones with a serious health condition. While the expansion, in terms of volumes, is relatively minor, the impact to these newly eligible individuals, now able to take leave to care for their loved ones, is substantial.

Advisory committee member comments

Employer interest members – Bob Battles, Christine Brewer, Julia Gorton, and Tammie Hetrick

The employer community wishes to note the risk of program abuse presented by the expanded definition of family member when determining claim eligibility. It is critical the department ensure adequate measures of detecting and acting on any abuse of this expanded definition of family member and evaluating the expectation of care.

Employee interest members - Joe Kendo, Samantha Grad, Maggie Humphreys, Gabriela Quintana

The Labor and employee interest representatives on the advisory committee are encouraged that the impact of family definition expansion appears to have tracked with initial expectations and predictions. It is important that family support programs like PFML recognize and acknowledge modern family definitions, and that they effectively serve the needs of Washington's families as they exist. We will be interested in any future analysis of the nature of claims growth under this definition as either more families come to understand the recognition of their circumstances under the law, or as claimants adjust to more accommodating definitions of eligible family members. At this juncture, we are not overly concerned about cost growth given the extremely marginal impact on program finances this modernization appears to have had on the trust fund. The labor community will continue to seek opportunities to ensure that the PFML program is equitably accessible and maximizes the impact on our state's working families, however they are constructed.