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Washington State Issues New Rules for Paid Family and Medical Leave



The Washington Employment Security Department (ESD) adopted new rules for the state's Paid Family and Medical Leave Act (PFML) regarding employer reporting requirements, child placement, and self-employment elective coverage requirements. The new rules become effective July 1, 2023.

### **Employer Reporting Requirements**

Washington employers are currently required to file a quarterly report with ESD that includes information on their employees' wages and hours and pay premiums to comply with PFML reporting requirements. Additionally, with the WA Cares Fund premium assessment beginning July 1, 2023, ESD has decided to utilize one employer report for both PFML and the WA Cares Fund programs. The new rules regarding employer reporting were adopted to capture the information necessary for both programs.

### **Employee Birthdates**

The rules add a new data field to the employer quarterly reports for inputting employees' dates of birth. In their rule explanation, ESD stated that adding dates of birth to employer reports will assist with ensuring employee work history and premium assessments are complete, as well as determining employee eligibility for prorated benefits for the WA Cares Fund.

### **No Payroll**

The rules require employers to file a report of "no payroll" for up to a maximum of eight consecutive quarters when employers have no paid wages to report. Alternatively, an employer may notify ESD before the end of the eight consecutive quarters that they have no employees to report at that time and in the foreseeable future. This rule was partly motivated because the reports of "no payroll" will ensure ESD does not flag a missing report for audit when determining employer compliance with premium payments.

More information on employer reporting requirements can be found on the Washington PFML [website](#).

## **Child Placement**

PFML currently provides eligible employees with up to 12 weeks of bonding leave in the first year after a child's birth or placement by adoption, guardianship, foster care, or nonparental custody. The new rule clarifies the definition of "placement" by outlining circumstances that will not qualify for paid family leave to bond with the employee's child. Specifically, the rule provides that paid family leave to bond with a child placed for adoption, guardianship, foster care, or nonparental custody does not include:

- Any arrangement where the child is already in the care and custody of a parent and remains in that same parent's care and custody.
- Any arrangement where a child is returned to the care and custody of a parent or is placed with a parent whose entitlement to family leave to bond with that child has already expired.

## **Self-Employment Elective Coverage Requirements**

Washington self-employed individuals are currently permitted to elect coverage for PFML benefits. The new rule clarifies 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 an individual's benefit eligibility.

Self-employed individuals include sole proprietors, joint venturers or members of a partnership, members of a limited liability company, independent contractors, or individuals otherwise in business for themselves.

## **Takeaways**

Washington employers should take steps to gather the information necessary to comply with the new quarterly reporting requirements. Employers should also review their handbooks and leave policies to ensure compliance with the new rules regarding eligibility for PFML benefits.

## Authors

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