



## **Long-Term Services and Supports Trust Program**

### **Proposed new rules related to definitions, assessing and collecting premiums, self-employed elective coverage, collective bargaining agreements, and appeals.**

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June 2021

## Introduction

Title 50B RCW created a Long-Term Services and Supports (LTSS) Trust Program to provide long-term care benefits for eligible Washington residents. The program is funded through employee premium deductions of 0.58 percent (\$0.58 per \$100) of earnings. Premium deductions will begin on January 1, 2022.

Beginning January 1, 2025, employees who have paid into the program for the required number of years, and worked the required number of hours in each of those years, will be able to access their earned benefits if needed.

To qualify for benefits, employees must have worked and contributed to the LTSS Trust for:

- At least ten years without a break in service of five or more years, or three of the last six years from the date of application; and
- Worked at least 500 hours per year during those years.

Eligible individuals will have access to a lifetime benefit of \$36,500 that can be used for a wide range of services and supports, including, but not limited to:

- Professional care at home or in licensed residential or nursing facilities
- Home safety evaluations
- Home-delivered meals
- Training, pay, and support for family members who provide care
- Transportation
- Adaptive equipment and technology (wheelchair ramps or medication reminder devices, for example)
- Memory care

The LTSS Trust Program is administered by four state agencies, each with different program responsibilities. The Employment Security Department (department) will assess and collect premiums, accept and process applications for exemption, and determine qualified individual status. The Department of Social and Health Services will determine eligible beneficiaries, administer benefits, and

manage providers. The Health Care Authority will process payments, track benefit usage, and coordinate benefits. The Office of the State Actuary will perform actuarial audits on the trust fund.

Rulemaking to administer the portions of the program under the department's authority is being done in three phases. These proposed rules are Phase Two of rulemaking and include definitions, assessing and collecting premiums, self-employed elective coverage, collective bargaining agreements, and appeals. Premium assessment and collection begins January 1, 2022.

These proposed rules were developed by the department and were filed in accordance with chapter 34.05 RCW. The department completed this analysis in accordance with RCW 34.05.328(1).

Describe the proposed rules, including a brief history of the issue, and explain why the proposed rules are needed.

## **NEW CHAPTER**

### **Chapter 192-900 WAC DEFINITIONS**

## **NEW SECTION**

**WAC 192-900-005 Aggrieved party.** An "aggrieved party" is any interested party who receives an adverse decision from:

- (1) The department for which the department has provided notice of appeal rights;
- (2) The office of administrative hearings; or
- (3) The commissioner's review office.

**Explanation of proposed rule:** The proposed rule defines "aggrieved party" consistent with Paid Family and Medical Leave (PFML) WAC 192-500-040. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

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## **NEW SECTION**

**WAC 192-900-010 Calendar quarter.** "Calendar quarter" has the meaning provided in WAC 192-500-020.

**Explanation of proposed rule:** The proposed rule defines "calendar quarter" by referring to the PFML rule. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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## **NEW SECTION**

**WAC192-900-015 Employer.** (1) An “employer” is:

(a) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

(b) The state, state institutions, and state agencies;

(c) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(d) A franchisee.

(2) “Employer” does not include the United States of America.

(3) The term employer is used for both employer and employer agent.

(4) This section does not apply to:

(a) Any self-employed person or federally recognized tribe that has not elected coverage under Title 50B RCW;

(b) Any person performing casual labor as defined in RCW 50A.05.010.

**Explanation of proposed rule:** The proposed rule defines “employer” consistent with PFML WAC 192-500-010. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

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**NEW SECTION**

**WAC192-900-020 Employer agent.** (1) “Employer agent” has the meaning provided in WAC 192-500-015.

**Explanation of proposed rule:** The proposed rule defines “employer agent” by referring to the PFML rule. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

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**NEW SECTION**

**WAC192-900-025 Interested parties.** (1) In all determinations, cases, and appeals adjudicated by the employment security department under Title 50B RCW the department is an “interested party.”

(2) Other interested parties in determinations, cases, and appeals include:

(a) The employee or former employee; and

(b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) The department may designate an employee or employer as an interested party in other determinations made by the department.

**Explanation of proposed rule:** The proposed rule defines “interested parties” consistent with PFML WAC 192-500-035. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

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#### **NEW SECTION**

**WAC 192-900-030 Self-employed.** (1) A "self-employed" person has the meaning provided in WAC 192-500-170.

**Explanation of proposed rule:** The proposed rule defines “self-employed” by referring to the PFML rule. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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#### **NEW SECTION**

**WAC 192-900-035 Terms meaning deliver.** (1) Unless otherwise specified, the terms "mail," "provide," "file," "submit," and "send" are interchangeable and mean to properly transmit, deliver, or distribute:

- (a) By email or other electronic services; or
- (b) In another format approved by the department.
- (2) This section does not apply to appeals filed under Title 50B RCW.

**Explanation of proposed rule:** The proposed rule defines “terms meaning deliver” consistent with PFML WAC 192-500-025. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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#### **NEW CHAPTER**

### **Chapter 192-910 WAC ASSESSING AND COLLECTING PREMIUMS**

#### **NEW SECTION**

**WAC 192-910-005 Employer reporting requirements.** Per RCW 50B.04.080, premium assessment, collection, and reporting procedures under Title 50B RCW must align with the procedures under Title 50A RCW to the extent feasible. The following reporting requirements under the paid family and medical leave program apply to the long-term services and supports trust program:

- (1) WAC 192-510-025 What wages are reportable to the department for premium assessment purposes?
- (2) WAC 192-540-030 What are employers required to report to the department?
- (3) WAC 192-540-040 How should employers report hours for each calendar quarter?

(4) WAC 192-540-050 When are employers required to submit quarterly reports to the department?

**Explanation of proposed rule:** The proposed rule describes employer reporting requirements by referring to PFML rules. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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#### **NEW SECTION**

**WAC 192-910-010 When are employer premium payments due?** (1) Premiums must be paid quarterly. Each payment must include the premiums owed on all wages subject to premiums during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which premiums are being paid.

(2) Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the premium payment must be postmarked by the next business day.

(3) Premium payments are due within ten calendar days when a business is dissolved or the account is closed by the department.

**Explanation of proposed rule:** The proposed rule outlines when employer premium payments are due. The rule is consistent with PFML WAC 192-510-060. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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#### **NEW SECTION**

**WAC 192-910-015 What are the employer's responsibilities for premium deductions?** (1) Employers must deduct premiums for each pay period in which the employee receives wages.

(2) When an employer is found by the department to be non-compliant with collecting premiums from an employee, the employer must file an amended report and pay the past due premiums.

(3) Subsection (1) of this section does not apply if:

(a) An employer was unable to deduct the premium for a pay period due to a lack of sufficient employee wages for that pay period; or

(b) The employee has an approved exemption under RCW 50B.04.085 and has provided the required proof of the exemption to the employer.

**Explanation of proposed rule:** The proposed rule describes the employer's responsibilities for premium deductions. The rule is consistent with PFML WAC 192-510-065, except that there is no employer share of premiums so employers must file amended reports. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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#### **NEW SECTION**

**WAC 192-910-020 How are payments applied to long-term services and supports premiums?**

(1) A payment received with a premium assessment will be applied to the quarter for which the premium assessment applies. A payment exceeding the premiums due for that quarter will be applied to any other debt as provided in subsection (4) of this section.

(2) If no debt exists, premium overpayments of less than fifty dollars will be credited to future payments due.

(3) If no debt exists, premium overpayments of fifty dollars or more may be refunded to the employer at the employer's request. Otherwise, such overpayments will be credited to future payments due.

(4) Payments received will be applied in the following order of priority:

(a) Current quarter balance;

(b) Any previous quarter premium balance due starting with the oldest quarter;

(c) Then beginning with the oldest quarter in which a balance is owed.

**Explanation of proposed rule:** The proposed rule describes how payments from employers are applied to premium assessments. The rule is consistent with PFML WAC 192-510-066, except in relation to penalties, fees, and interest. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

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**NEW CHAPTER**

**Chapter 192-915 WAC SELF-EMPLOYED PERSONS.**

**NEW SECTION**

**WAC 192-915-005 Election of coverage for self-employed persons.** (1) Self-employed persons as defined in RCW 50B.04.090 may elect coverage under Title 50B RCW.

(2) Coverage may only be elected beginning January 1, 2022 and before January 1, 2025, or within three years of becoming self-employed for the first time.

(3) Notice of election of coverage must be submitted to the department online or in another format approved by the department.

(4) Elective coverage begins on the first day of the quarter immediately following the notice of election.

(5) A self-employed person who elects coverage must continue to pay premiums until such time that the individual retires from the workforce or is no longer self-employed.

(6) The self-employed person must file a notice with the department if the individual retires from the workforce or is no longer self-employed.

**Explanation of proposed rule:** The proposed rule addresses requirements for election of coverage for self-employed persons. The rule references statutory requirements in RCW 50B.04.090 and the requirements for notification to the department.

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**NEW SECTION**

**WAC 192-915-010 What are reportable wages for self-employed persons electing coverage?**

Each quarter, self-employed individuals who elected coverage under Title 50B RCW will report wages as described in WAC 192-510-031.

**Explanation of proposed rule:** The proposed rule describes what wages are reportable for self-employed individuals who elect coverage by referring to the PFML rule. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW. RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage.

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**NEW SECTION**

**WAC 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?** The department will determine the wages earned and hours worked for self-employed individuals as described in WAC 192-510-030.

**Explanation of proposed rule:** The proposed rule describes how the department will determine the wages earned and hours worked for self-employed individuals electing coverage by referring to the PFML rule. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW. RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage.

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**NEW CHAPTER**

**Chapter 192-920 WAC COLLECTIVE BARGAINING AGREEMENTS.**

**NEW SECTION**

**WAC 192-920-005 Parties to collective bargaining agreements.** (1) Parties to a collective bargaining agreement in existence on October 19, 2017, are not required to be subject to the rights and responsibilities under Title 50B RCW and related rules unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(2) Employers must inform the department immediately upon the reopening, renegotiation, or expiration of a collective bargaining agreement that was in effect prior to October 19, 2017.

(3) Employees not covered by a collective bargaining agreement are subject to the rights and responsibilities of Title 50B RCW and related rules. Employers are also subject to the rights and responsibilities of Title 50B RCW and related rules for employees not covered by a collective bargaining agreement, regardless of whether the employer is party to a collective bargaining agreement covering other employees.

(4) Employers party to multiple collective bargaining agreements among different bargaining units are subject to the rights and responsibilities of Title 50B RCW and related rules as they pertain to the bargaining units whose collective bargaining agreement is reopened or renegotiated by the parties or expires, on or after October 19, 2017.

(5) Parties to a collective bargaining agreement in existence on October 19, 2017, that has not been reopened or renegotiated by the parties or expired may elect to be subject to all applicable rights and responsibilities under Title 50B RCW and related rules prior to the expiration, reopening or renegotiation of the agreement. Parties seeking to do so must submit to the department a memorandum of understanding, letter of agreement, or a similar document signed by all parties.

**Explanation of proposed rule:** The proposed rule outlines requirements for collective bargaining agreements consistent with PFML WAC 192-520-010 and RCW 50B.04.080(3). RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW. Notification requirements are included regarding collective bargaining agreements that expire, are reopened, or are renegotiated in order to begin reporting and premium assessment.

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## **NEW CHAPTER**

### **Chapter 192-925 WAC APPEALS AND PROCEDURE.**

#### **NEW SECTION**

**WAC 192-925-005 Adoption of model rules.** The model rules of procedure contained in chapter 10-08 WAC, are, to the extent they are not inconsistent with the rules contained in this chapter, adopted as the rules of procedure for Title 50B RCW. The rules contained in this will, to the extent of any conflict with the model rules of procedure, be deemed to supersede the conflicting provisions of the model rules of procedure.

**Explanation of proposed rule:** The proposed rule adopts model rules of procedure consistent with PFML WAC 192-800-025. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

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#### **NEW SECTION**

**WAC 192-925-010 Who can appeal or submit a petition for review?** (1) An aggrieved party as defined in WAC 192-900-005 may file an appeal to the department by using the department's online services, or in another format approved by the department.

(2) Any aggrieved party who receives a decision from the office of administrative hearings, other than an order approving a withdrawal of appeal, a consent order, or an interim order, may file a written petition for review, including filing by using the department's online services, or in another format approved by the department.



**Explanation of proposed rule:** The proposed rule describes who can appeal or submit a petition for review consistent with PFML WAC 192-800-035. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

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## **NEW SECTION**

**WAC 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply.** Per RCW 50B.04.120, appeal procedures under Title 50B RCW must align with the appeal procedures under Title 50A RCW. The following general procedural rules for appeal under the paid family and medical leave program apply to the long-term services and supports trust program:

- (1) WAC 192-800-040 What are the timeliness requirements for submitting an appeal or a petition for review?
- (2) WAC 192-800-045 Can an appeal be withdrawn?
- (3) WAC 192-800-050 What happens after an appeal is submitted?
- (4) WAC 192-800-055 Who will be notified if an appeal is filed and what will it include?
- (5) WAC 192-800-060 What happens if an appeal or a petition has been filed and one of the parties has a change of contact information?
- (6) WAC 192-800-065 How does the time computation work for perfecting an appeal or petition for review?
- (7) WAC 192-800-070 Who can give testimony and examine witnesses during an appeal hearing?
- (8) WAC 192-800-075 Who can request a postponement of a hearing?
- (9) WAC 192-800-080 Will depositions and written discovery be permitted?
- (10) WAC 192-800-085 When will administrative law judges hear consolidated cases?
- (11) WAC 192-800-090 What is included in decisions issued by the office of administrative hearings?
- (12) WAC 192-800-095 Can a decision of the commissioner incorporate a decision under review?
- (13) WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review?
- (14) WAC 192-800-105 When and how can an administrative law judge dispose of an appeal?
- (15) WAC 192-800-110 What options are available for an aggrieved party who received an order of default?
- (16) WAC 192-800-115 What is the process for filing a petition for reconsideration to the commissioner's review office?
- (17) WAC 192-800-120 When would the commissioner not issue declaratory orders?
- (18) WAC 192-800-125 When is a petition for review considered delivered to the department?

**Explanation of proposed rule:** The proposed rule adopts sections of appeal procedures in PFML rules that apply to the long-term services and supports program. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

## Is a Significant Analysis required for these rules?

The proposed rules do not meet the definition of significant legislative rules under RCW 34.05.328 and do not require a significant analysis. Each rule and the reason for the exemption is listed below:

PROPOSED NEW SECTIONS			
WAC Section	Section Title	Exempting reason	Exempting statute
WAC 192-900-005	Aggrieved party.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule related to internal operations of the department and agency hearings.	RCW 34.05.328 (5)(b)(v), (5)(c)(i)(A), and (5)(c)(i)(C)
WAC 192-900-010	Calendar quarter.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-900-015	Employer.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-900-020	Employer agent.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)

		rules under RCW 34.05.328 (5)(c)(iii).	
WAC 192-900-025	Interested parties.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule related to internal operations of the department and agency hearings.	RCW 34.05.328 (5)(b)(v), (5)(c)(i)(A), and (5)(c)(i)(C)
WAC 192-900-030	Self-employed.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.090) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-900-035	Terms meaning deliver.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-910-005	Employer reporting requirements.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-910-010	When are employer premium payments due?	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)

		department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	
WAC 192-910-015	What are the employer's responsibilities for premium deductions?	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-910-020	How are payment applied to long-term services and supports premiums?	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-915-005	Election of coverage for self-employed persons.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.090) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-915-010	What are reportable wages for self-employed persons electing coverage?	The rule is explicitly and specifically dictated by statute (RCW 50B.04.090) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)

WAC 192-915-015	How will the department determine the wages earned and hours worked for self-employed persons electing coverage?	The rule is explicitly and specifically dictated by statute (RCW 50B.04.090) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-920-005	Parties to collective bargaining agreements.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).	RCW 34.05.328 (5)(b)(v) and (c)(i)(C)
WAC 192-925-005	Adoption of model rules.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule related to internal operations of the department and agency hearings.	RCW 34.05.328 (5)(b)(v), (5)(c)(i)(A), and (5)(c)(i)(C)
WAC 192-925-010	Who can appeal or submit a petition for review?	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule related to internal operations of the department and agency hearings.	RCW 34.05.328 (5)(b)(v), (5)(c)(i)(A), and (5)(c)(i)(C)
WAC 192-925-015	Sections of general procedural rules for appeal under chapter 192-800 WAC apply.	The rule is explicitly and specifically dictated by statute (RCW 50B.04.080) and is a procedural rule related to internal operations of the department and agency hearings.	RCW 34.05.328 (5)(b)(v), (5)(c)(i)(A), and (5)(c)(i)(C)

## Clearly state in detail the general goals and specific objectives of the statute that the rules implement.

The goals and objectives of the LTSS Trust Program are to provide long-term care services to individuals who demonstrate a need and have paid into the program through employment for the required period of time. Qualified individuals will have access to a lifetime benefit of \$36,500 that will be adjusted annually for inflation.

According to RCW 50B.04.900, an alternative funding mechanism for long-term care access could save the Medicaid program eight hundred ninety-eight million dollars in the 2051-2053 biennium. The statute also states in part:

“The majority of people over sixty-five years of age will need long-term services and supports within their lifetimes. The senior population has doubled in Washington since 1980, to currently over one million, and will more than double again by 2040. Without access to insurance, seniors must rely on family care and spend their life savings down to poverty levels in order to access long-term care through Medicaid. Middle class families are at the greatest risk because most have not saved enough to cover long-term care costs. When seniors reach the point of needing assistance with eating, dressing, and personal care, they must spend down to their last remaining two thousand dollars before they qualify for state assistance, leaving family members in jeopardy for their own future care needs. In Washington, more than eight hundred fifty thousand unpaid family caregivers provided care valued at eleven billion dollars in 2015. Furthermore, family caregivers who leave the workforce to provide unpaid long-term services and supports lose an average of three hundred thousand dollars in their own income and health and retirement benefits.”

RCW 50B.04.020 (4) requires the department to adopt rules to administer portions of the program. RCW 50B.04.080 outlines requirements for collective bargaining agreements, and requires the department, to the extent feasible, to use the premium assessment, collection, and reporting procedures required for PFML under Title 50A RCW. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW. These rules ensure procedures for premium assessment, collection, and reporting, to the extent feasible, are consistent with those for PFML. These rules also ensure that standards and procedures for appeals are consistent with rules adopted for PFML. RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage under Title 50B.04 RCW and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage. These rules reference requirements in RCW 50B.04.090 and describe how the department will determine hours worked and wages for individuals electing coverage.

Explain how the department determined that the rules are needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rules.

The rules are needed to implement and clarify provisions of RCW 50B.04.080, 090, and 120 regarding definitions, assessing and collecting premiums, self-employed elective coverage, collective bargaining agreements, and appeals. If the rules are not adopted, there will not be clear direction to the public. Adopting the rules will provide enhanced direction to the public and will satisfy the department's requirements under RCW 50B.04.080, 090, and 120.

Explain how the department determined that the probable benefits of the rules are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

The proposed rules will benefit the public by providing clarity and transparency for LTSS Trust Program implementation. The directive of RCW 50B.04.080 is to use the standards and procedures for premium assessment, collection, and reporting that exist for PFML. In doing so, employers have clear direction that requirements for the new LTSS Trust Program will align with the PFML program that is already in place. The rules also align the standards and procedures for appeals with adopted rules for PFML, as directed by RCW 50B.04.120. The rules provide guidance regarding collective bargaining agreements and to self-employed individuals who would like to elect coverage. The benefits of this clarity outweigh any costs. The public will clearly understand what is required.

Identify alternative versions of the rule that were considered and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated previously.

The department initially drafted rules that didn't refer to PFML rules as extensively as the adopted rules. After reviewing requirements in RCW 50B.04.080 and 120 and comparing specific rules that would apply to both the PFML and LTSS Trust programs, the references and rules language was simplified to align requirements for both programs. In addition, Substitute House Bill 1323 passed during the 2021

legislative session that changed requirements regarding elective coverage for self-employed individuals. The adopted rules reflect those requirements.

## Conflicts with Federal or State law

None of the rules conflict with Federal or State law.

## Performance impositions on private vs. public sectors

Since LTSS Trust Program premiums are required to be assessed for all employees (except employees who have an approved exemption, federal government employees, or tribes and self-employed individuals who have not elected coverage), regardless of public or private sector employment status, there is no evidence to suggest that any proposed rule will have a measurably different impact between the two sectors.

## Conflicts with Federal or State regulatory bodies

None of the rules conflict with any applicable Federal or State regulatory requirements.

## Coordination with Federal, State, or local laws

None of the rules require coordination with federal, state, or local laws.