

Washington  
**Paid Family & Medical Leave**

# **ESSB 5097 Family Member Expansion Analysis**



June  
**2022**

# ESSB 5097: An Analysis of Claims Resulting from the Family Member Definition Expansion for Paid Leave

## June 2022

Engrossed substitute senate bill 5097 (ESSB 5097<sup>1</sup>) 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.”<sup>2</sup>

This legislative change reflects the diversity of family structures. It also helps to provide equitable access to Washington workers who need 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 fund impacts.

### *Reporting requirements*

The bill required reports on the number of claims and benefit payments resulting from the expanded family member definition in the past twelve months, 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

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<sup>1</sup> Full language of [ESSB 5097](#).

<sup>2</sup> Full definition can be found on lines 36 through 40 on page 5, continuing on lines 1 through 3 on page 6 of the above link to the enacted law.

expanded definition from July 25, 2021 (ESSB 5097's effective start date) through March 31, 2022.<sup>3</sup> This is the first of two reports described in ESSB 5097 section 3(3). The second report is due June 30, 2023.

*Fiscal impacts*

ESSB 5097 included a funding provision to prevent potential Paid Leave fund impacts in the event of high usage. If more than 500 people in a calendar year use leave as a result of the expanded family member definition, then the additional claims will be paid by general fund state.<sup>4</sup> This provision is in place for 2021 and 2022 and is set to end by July 1, 2023.

**Key insights through March 2022:**

- There were 246 expanded family member claims, which is 0.2% of all Paid Leave claims during this period.
- The 500-individual threshold that would trigger general fund state reimbursement was not met for CY 2021.
- Benefits paid on the expanded family member definition claims had no substantive impact on premium rate setting for 2022.
- Unregistered domestic partners and non-married significant others were the family members most often taking leave under this expanded definition.

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<sup>3</sup> While the bill states to include claims from the prior twelve months, the bill didn't take effect until July 25, 2021, and only claims through March 31 of this year could accurately be measured to provide time for the written analysis.

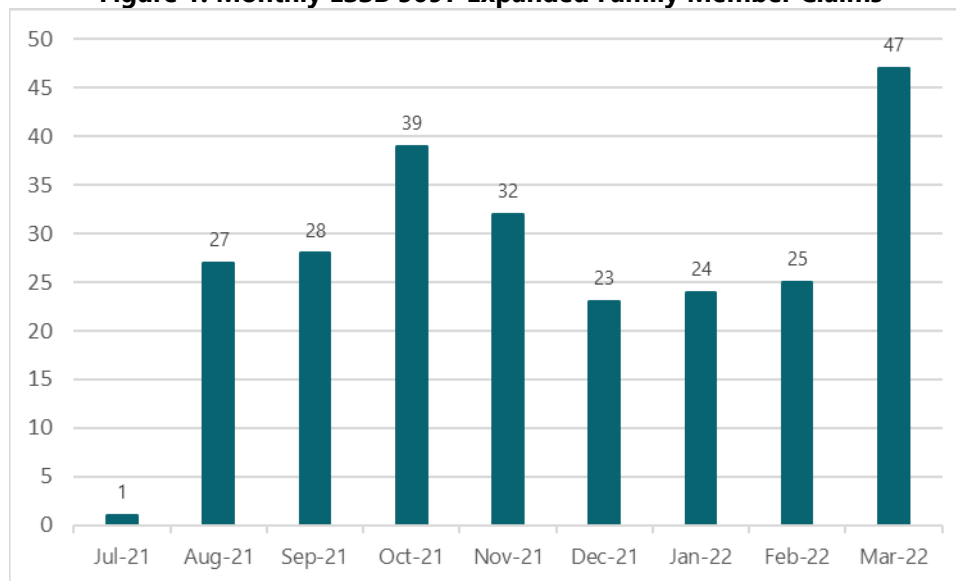
<sup>4</sup> Sec. 4 depicts the reimbursement from the general fund if [ESSB 5097](#) claims exceed 500 individuals.

## Expanded family member claims and customers

### Additional claims and customers

A total of 246 claims were approved under the expanded family member definition from July 25, 2021, to March 31, 2022. Figure 1 shows the monthly breakdown of ESSB 5097 expanded family member claims based on the month each claim was approved. There has been an average of 32 claims per month during the last six months. Of the complete months in Figure 1, December 2021 had the fewest approved claims and March 2022 had the most. March was a high mark for Paid Leave claims processed in general, a result of having recently hired and fully trained additional teams of customer care staff to improve phone wait time and leave claim processing time.

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



The 246 claims represent 240 unique customers taking leave using the amended family member definition, as shown on Table 1. With 113,080 total approved Paid Leave claims from 96,442 unique customers, these expanded family member claims accounted for only 0.2% of all claims and 0.3% of all unique customers during this time period. Additionally, these claims only contributed an additional 0.2% toward all benefits payments made, or \$898,912 of \$565,206,393.

**Table 1: Total 5097 Expanded Family Member Claims**

	5097 Claims	Overall Claims	5097 Share of Overall Claims
Claims	246	113,080	0.2%
Customers	240	96,442	0.2%
Payments	\$898,912	\$565,206,393	0.2%

Source: WA Paid Leave Administrative Data 7/25/2021 - 3/31/2022, retrieved 5/18/2022

### Claims by family member

In addition to claim volumes and benefit payment amounts, it is important to understand for whom Washington workers are taking leave to provide care. Family leave customers share this information when applying for leave. Table 2 summarizes the relationships indicated.

**Table 2: 5097 Expanded Family Member Claims  
 by Family Member Type**

Family Member Detail	5097	
	Claims	Share
Significant Other	127	52%
Unregistered Domestic Partner	67	27%
Extended Family	27	11%
In Laws	10	4%
Family Friends	5	2%
Other	10	4%
<b>Total</b>	<b>246</b>	<b>N/A</b>

*Source: WA Paid Leave Administrative Data 7/25/2021 - 3/31/2022, retrieved 5/18/2022*

Over half of the approved claims are for an individual’s significant other. This category covers a variety of different relationships that customers wrote in, including boyfriend or girlfriend, mother of my child, and life partners. The next highest share of claims is 27% (or 67 approved claims) and comes from a similar relationship grouping, unregistered domestic partners. Though registered domestic partners were part of the original family member definition, partners that were not registered were previously excluded. Together, significant others and unregistered domestic partners account for nearly 80% of all expanded family member claims.

The remaining relationship types include individuals caring for aunts or uncles, cousins, nieces or nephews, in-laws, and family friends. The “other” relationship status includes those such as former spouses and other dependents living within the individual’s household. Of course, some in-law and dependent relationships were covered by the original family member definition. Here we include only those that the original definition excluded.

Table 3 shows the family member breakdown for all family care claims under the original family member definition for comparison. There is a concentration here as well, with parents accounting for 40%, (or 5,302), of the 13,094 approved family care claims from the effective start date of ESSB 5097 through March 2022. Together with spouses (30%), and children (24%), this accounts for 94% of all family care claims. While much smaller in comparison, there are still some care claims coming in for siblings (3%), grandparents (2%), and grandchildren (1%).

**Table 3: Standard Family Care Claims by Family Member Type**

Family Member Detail	Claims	Share
Parent	5,302	40%
Spouse	3,959	30%
Child	3,104	24%
Sibling	369	3%
Grandparent	277	2%
Grandchild	83	1%
<b>Total</b>	<b>13,094</b>	<b>N/A</b>

*Source: WA Paid Leave Administrative Data 7/25/2021 - 3/31/2022, retrieved 5/1/2022*

## Fund impacts and GFS reimbursement

### Impact on fund balance and 2022 premium rate

While the above section looks at all the approved expanded family member claims, benefit payments, and family member types, the remaining sections will shift focus to assess whether these claims have affected the fund balance and premium rate setting.

The Paid Family and Medical Leave premium is determined annually based on the trust fund account balance ratio as of September 30 each year ([RCW 50A.10.030](#)). 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.

$$\text{Account Balance Ratio} = \frac{\text{Trust fund account balance as of 09/30/2021}}{\text{Prior fiscal year of total covered wages}}$$

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%

Given the timing of the rate calculation, we can only analyze potential impacts to the Paid Family and Medical Leave insurance account for expanded family member claims paid from July 25, 2021, through September 30, 2021. As shown in Table 4, a total of \$118,664 in benefits were paid to 42 customers within the period that may have affected the premium rate.

**Table 4: 5097 Expanded Family Member Claims and Payments, 7/25/21 – 9/30/21**

5097 Claims	
Claims	42
Customers	42
Payments	\$118,664

*Source: WA Paid Leave Administrative Data*

Table 5 shows the inputs to the fund balance ratio calculation, along with the resulting ratio and premium rate with and without the benefit payments from the expanded family member definition.

**Table 5: ESSB 5097 Impacts on Fund and Rate Setting**

	Standard	Removing 5097 Claim Payments
Gross Wages	\$238,265,112,074	\$238,265,112,074
Fund Balance	\$221,549,805	\$221,431,141
Balance Ratio	0.09%	0.09%
Premium Rate	0.06%	0.06%

*Source: WA Paid Leave Administrative Data*

Total gross wages in the prior fiscal year were \$238.3 billion. The fund balance on September 30, 2021, when calculating the premium rate, was about \$221.5 million. This resulted in a fund balance ratio of 0.09%, setting the premium rate to increase from 0.4% in 2021 to 0.6% in 2022.

To assess the impact of expanded family member claims on rate setting, we subtracted the benefit payments paid on these claims and calculated what the balance would have been in their absence. The resulting fund balance ratio was unchanged. Benefits paid on the amended family member definition claims had no substantive impact on premium rate setting for 2022.

### Potential general fund state (GFS) reimbursement

ESSB 5097<sup>5</sup> 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. Table 6 shows the number of approved expanded family member claims and the number of individuals submitting those claims in calendar year 2021.

**Table 6: 5097 Expanded Family Member Claims and Individuals Counting Towards Potential GFS Reimbursement**

	Counts
Unique Claims	150
Unique Customers	147

*Source: WA Paid Leave Administrative Data  
 7/25/2021 – 12/31/2021, retrieved 5/18/2022*

There were 150 approved expanded family member claims from 147 individuals. This fell short of the 500-individual threshold by 353 customers. There was no need for GFS reimbursement for expanded family member claims in 2021.

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

## **Future expectations and reports**

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.

Recalling back to Figure 1, in the first quarter of 2022 there were 96 approved expanded family member claims. If we continue at the same claim volume – roughly 32 claims per month – for the rest of 2022, we should expect around 384 claims for the calendar year. Of course, if the experience from March (47 claims) continues through the rest of the year, the total will be higher.

At the time of this report, there have only been a few months of experience data on the expanded family member definition. Next year's report, due on June 30, 2023, will provide a more complete picture as it will have an additional 12 months' worth of data.



## **Advisory Committee member comments**

### **Employee interests members – Samantha Grad, Maggie Humphreys, Joe Kendo, Marilyn Watkins:**

This analysis demonstrates that improving Washington’s Paid Family & Medical Leave program to provide more equitable access for our state’s diverse workforce provides real value to the health and well-being of workers, families, and employers, without straining program finances.

### **Employer interests members – Bob Battles, Christine Brewer, Julia Gorton, Tammie Hetrick**

We appreciate the opportunity to provide comments on the first report required under ESSB 5097, which expanded the definition of “family member” for the purposes of Paid Family and Medical Leave benefits. The report concludes that the expansion of eligibility requirements had no substantive impact on rates, and we agree with that statement, however, believe the following points should be noted;

- First, the 242 claims made under the extended definition were made during an eight month period of the last 6 days of July – March 2021 and do not reflect a full year of data.
- The total cost of claims for the 8 month period was nearly \$900,000. While the expanded definition did not have a substantive impact on rates for 2022, we believe it is fair to assume the use of the benefit under the expanded definition will continue to grow and follow the same trends as the program overall.
- The 2022 rate is set September 30, and only included claims for two full months. Additional tracking will be necessary to understand the full impact.
- Finally, the Paid Family and Medical Leave program is not solvent. A workgroup was appointed to evaluate the rate setting formula and process in the 2022 legislative session. While the 42 claims that were included in the 2022 rate calculation did not have any impact on the overall rate, we know the current rate calculation formula is not sufficient to support solvency.

We believe further impact study and observation is necessary to fully evaluate the impact of this expanded definition.