



# RULE-MAKING ORDER EMERGENCY RULE ONLY

## CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

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STATE OF WASHINGTON  
FILED

DATE: June 14, 2021

TIME: 1:10 PM

WSR 21-13-070

**Agency:** Employment Security Department

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** To allow the Employment Security Department to process “blanket waivers” of overpayments of Pandemic Emergency Unemployment Compensation (PEUC) and Pandemic Unemployment Assistance (PUA) benefits if a claimant was paid PEUC or PUA benefits when they should have been paid a different type of unemployment benefit, such as state unemployment insurance benefits, instead, and the weekly benefit amount on the PEUC or PUA claim was higher than the weekly benefit amount on the claim the claimant should have been paid.

In addition, the purpose to clarify the priority between PUA benefits, PEUC benefits, extended benefits and regular unemployment insurance benefits. Finally, the purpose is to clarify that PUA benefits will be deducted from the maximum benefits payable on an individual’s new claim if the weekly benefit amount between the two claims is equal.

**Citation of rules affected by this order:**

New:  
Repealed:  
Amended: WAC 192-240-070  
Suspended:

**Statutory authority for adoption:**

**Other authority:** Public Law No. 116-136, §§ 2102, 2107; Public Law No. 116-260, § 201; Unemployment Insurance Program Letter No. 20-21, Change 1 (May 05, 2021)

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this finding:** On March 27, 2020, the Employment Security Department signed an agreement with the United States Department of Labor to administer the Pandemic Emergency Unemployment Compensation (PEUC) program and the Pandemic Unemployment Assistance (PUA) program. The PEUC program provides additional weeks of federally funded unemployment benefits to unemployed individuals who have exhausted their unemployment claim. The PUA program provides unemployment benefits for individuals who do not qualify for a regular unemployment claim, but are nonetheless unemployed or not available for work due to a COVID-19 reason.

Under previous guidance issued by the United States Department of Labor in Unemployment Insurance Program Letter No. 17-20, Change 1 (May 13, 2020) and Unemployment Insurance Program Letter No. 16-20 Change 4 (January 8, 2021), states were not allowed to waive any PEUC or PUA benefit overpayments on a “blanket” basis, but instead had to determine if a claimant was entitled to have their overpayment waived on an individual, case-by-case basis. The United States Department of Labor has since issued new guidance in Unemployment Insurance Program Letter No. 20-21 (May 5, 2021) that permits states to issue a “blanket waiver” of overpayments of PEUC and PUA benefits if a claimant was paid PUA or PEUC benefits by a state when they should have been paid a different type of unemployment benefit, such as state unemployment insurance benefits, instead, and the weekly benefit amount on the PEUC or PUA claim was higher than the weekly benefit amount on the claim the claimant should have received.

The Employment Security Department has chosen to waive PEUC and PUA overpayments on a blanket basis under the limited circumstances permitted by the new federal guidance. Therefore, WAC 192-240-070 is being amended to reflect this new blanket waiver authority. Immediate amendment of the rule is necessary to bring immediate economic relief to Washingtonians who were overpaid PEUC and PUA benefits by allowing them to keep those federal benefits, rather than pay those benefits back.

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	<u>1</u>	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	<u>1</u>	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

**Date Adopted:** June 14, 2021

**Name:** Daniel Zeitlin

**Title:** Employment Security Policy Director

**Signature:**

