

NEW SECTION

WAC 192-320-066 Eligibility for relief from benefit charges from the COVID-19 unemployment account—Section 5, chapter 7, Laws of 2020.

(1) **Application for relief.** The department will consider an employer's application to have a portion of unemployment benefits paid to an approved employee paid by the COVID-19 unemployment account instead of charged to its experience rating account if the employer:

(a) Submits an application on a form approved by the department.

(i) Electronic application forms can be accessed on the department's website.

(ii) Paper application forms can be accessed by either downloading them from the department's website or calling the accounts management center and asking for a copy of the form to be sent via mail.

(b) Timely submits the application.

(i) An electronically submitted form is submitted timely if the department's information technology system receives the form on or before 11:59 p.m. on September 30, 2020.

(ii) A form sent via mail is submitted timely if it has a postmark date of September 30, 2020.

(c) Attests that the information provided on the application is true and accurate.

(i) Employers must retain documents sufficient to substantiate the information provided on the application.

(ii) After the application is submitted, the department may ask employers for documents substantiating the information provided on the application.

(iii) The department may deny relief of benefit charges from the COVID-19 unemployment account if the department requests documentation from an employer and the employer fails to provide documentation sufficient to substantiate the information provided on the application.

(2) **Definition of approved employee.** For purposes of this section, an "approved employee" is an employee who:

(a) Became temporarily unemployed as a direct or indirect consequence of COVID-19. For purposes of (a) of this subsection, an employee became temporarily unemployed as a direct or indirect consequence of COVID-19 if either:

(i) The individual's employer was required to close or severely curtail operations due to a state or federal executive order adopted in order to prevent the spread of COVID-19; or

(ii) The individual left employment due to a request from a medical professional, local health official, or the secretary of health in order to be isolated or quarantined as a consequence of COVID-19, even if the employee or the employee's immediate family member was not actually diagnosed with COVID-19.

(b) Spent at least one week of their unemployment described in (a) of this subsection on standby pursuant to WAC 192-110-015; and

(c)(i) Prior to September 26, 2020, worked at least four weeks with their employer in suitable work with a rate of weekly pay at least ninety percent of the rate of weekly pay the employee had prior to becoming unemployed as described in (a) of this subsection.

(ii) Worked less than four weeks with their employer if, after working at least one day, the employee:

(A) Was discharged for misconduct; or

(B) Voluntarily quit for reasons not attributable to the employer.

(3) **Benefits not eligible for relief.** In calculating the amount of benefits eligible for full or partial payment by the COVID-19 unemployment account, the department will not include:

(a) Benefits paid on or before February 29, 2020;

(b) Benefits charged to the third quarter of 2020 or after;

(c) Benefits subject to federal reimbursement or payment under Public Law 116-136, Title II, Subtitle A (Relief for Workers Affected by Coronavirus Act) or other federal law;

(d) Benefits for which the department granted relief of benefits charges pursuant to RCW 50.29.021;

(e) Benefits that the employer would have been eligible to receive relief of benefit charges pursuant to RCW 50.29.021 but for which the employer failed to timely request relief; or

(f) Benefits paid for weeks where the approved employee was not on standby pursuant to WAC 192-110-015.

(4) **Ineligible employers.** The following employers are not eligible to apply for relief of benefit charges under this section:

(a) Employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions;

(b) Employers who are required to make payments in lieu of contributions;

(c) Taxable local government employers as described in RCW 50.44.035;

(d) Any employer that has not submitted all quarterly reports for the second quarter of 2020 and all prior quarters by September 30, 2020; and

(e) Any employer that has not paid all contributions, penalties and interest due by September 30, 2020, or has not entered into a department-approved deferred payment contract by September 30, 2020.

(5) **Appeal rights.**

(a) If the department denies all or part of an employer's application for relief of benefit charges from the COVID-19 unemployment account, the department will provide the employer with the reasons for the denial.

(b) An employer may not appeal the denial of an application for relief of benefit charges from the COVID-19 unemployment account.

(c) Independent of the right to request relief of charges from the COVID-19 unemployment account pursuant to this section, an employer still retains the right to request relief of the underlying benefit charges pursuant to WAC 192-320-065 and appeal any denial of that request under WAC 192-04-060.