



Employment Security Department

WASHINGTON STATE

CONCISE EXPLANATORY STATEMENT (RCW 34.05.325(6))

Reasons for Adopting the Rule

As recommended by Unemployment Insurance Program Letter No. 3-17 (Dec. 8, 2016), the Employment Security Department is implementing an automated scheduling service to allow claimants to self-schedule the dates they will receive reemployment services. WAC 192-140-090 needs to be amended to reflect a more flexible scheduling approach.

Variance Between Proposed Rule and Final Rule

The only differences between the proposed rule and the final rule are minor grammatical changes.

Summary of Comments to Proposed Rules and Agency Response

Comments by Anne Paxton, Staff Attorney, Unemployment Law Project

Comment 1: The phrase “the commissioner may direct you in writing” is unclear given “current messaging practices and the term ‘automated scheduling.’” How this direction will be communicated to claimants—either through an online message, an e-mail or through a notice in the mail—should be specifically mentioned in the rule. The Department should explain what it means by “automated scheduling.”

Response to Comment 1: As explained in the proposed rule itself, the Department intends to send written directives to claimants to inform them that they themselves need to schedule and participate in reemployment services. Once a claimant receives this notice, the claimant will then be able to access the Department’s automated scheduling system online to choose from a list of available days and times to participate in reemployment services. Claimants who cannot access the Department’s online service directly will be able to call or visit the Department in person for assistance in scheduling reemployment services. At present, the Department anticipates sending the written directives to claimants via regular paper mail. However, the Department is declining to specify the method of delivery in the final rule in the event the Department later chooses to deliver these notifications to claimants electronically.

Comment 2: The phrase “In all such cases, your ability to or availability for work may be questioned” seems like “an unnecessary addition to (1)(d)” and also contains “faulty parallelism.”

Response to Comment 2: The phrase exists under current rule in WAC 192-140-090(4). The proposed rule simply moves the phrase to subsection (1)(d). The Department amended the phrase in the final rule to address the phrase’s parallelism.

Comment 3: “The first word of [subsection (2)(c)] should be “Are” as in “Are participating.”



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Response to Comment 3: The suggested change was made in the final rule.

Comment 4: “Does ‘similar services’ in [subsection (2)(d)] refer to a training program similar to commissioner-approved training?”

Response to Comment 4: No. Subsection (2) is intended to read as the beginning of one sentence with four alternative ways to end the sentence listed in subsections (a)-(d). For example, subsection (2)(c) would read in full: “You will not be required to participate in reemployment services if you are participating in a training program approved by the commissioner.” Similarly, subsection (2)(d) would read in full: “You will not be required to participate in reemployment services if you within the previous year have completed, or are currently scheduled for or participating in, similar services.” Hence, the term “similar services” mentioned at the end of the sentence relates back to the “reemployment services” mentioned at the beginning of the sentence, not to the commissioner-approved training mentioned in a completely different sentence.