



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

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DATE: October 14, 2019

TIME: 7:52 AM

WSR 19-21-074

Agency: Employment Security Department

Subject of possible rule making: Clarifying the definition of "conditional payment" in WAC 192-100-070.

Statutes authorizing the agency to adopt rules on this subject: RCW 50.12.010 and RCW 50.12.040 provide general rulemaking authority to the Employment Security Department.

Reasons why rules on this subject may be needed and what they might accomplish: If a claimant receives a conditional payment of unemployment benefits, the claimant must repay the benefits that were conditionally paid if it is determined the claimant should not have received those benefits. The Commissioner has issued a precedential decision (*In re Del Mundo*, Empl. Sec. Comm'r Dec.2d 1023 (2018)) that holds that the definition of "conditional payment" only applies to "eligibility" issues, such as whether the claimant was able to work, and does not apply to "disqualification" issues, such as whether the claimant voluntarily quit without good cause. Rulemaking is necessary to clarify the Department's intention that the definition of "conditional payments" applies to any issue concerning whether the claimant is legally entitled to benefits, including both "eligibility" and "disqualification" issues

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The U.S. Department of Labor reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of the unemployment insurance laws so long as conformity is maintained. The proposed regulations will be shared with USDOL prior to adoption

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study

☒ Other (describe) The proposed rule will be shared with stakeholders as identified through the standard rulemaking process. The Department will solicit input and consider all comments in the development of the final rule.


Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

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(If necessary)

Name:
Address:
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Additional comments:

Date: October 14, 2019	Signature: 
Name: Dan Zeitlin	
Title: Employment Security Policy Director	