

NEW SECTION

WAC 192-320-066 Eligibility for relief from benefit charges from the COVID-19 Unemployment Account - Laws of 2020, c. 7, s.

5. (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; and

(b) The employer 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.

(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;

(i) For purposes of this subsection (2)(a), an employee became temporarily unemployed as a direct or indirect consequence of COVID-19 if either:

(A) The individual's employer was required to close or severely curtail operations due to an order of the governor adopted in order to prevent the spread of COVID-19; or

(B) 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 subsection (2)(a) of this section on standby pursuant to WAC 192-110-015; and

(c) 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 subsection (2)(a) of this section;

(i) An employee may work less than four weeks with their employer and still be approved 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) An employer may not appeal the denial of an application for relief of benefit charges from the COVID-19 unemployment account.

(b) 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 192-04-060.