

Employment Security Department, 12/8/09

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EMPLOYMENT SECURITY DEPARTMENT  
STATE OF WASHINGTON

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TRANSCRIPT OF PROCEEDINGS  
of  
UNEMPLOYMENT INSURANCE RULES MEETING

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Date and Location

December 8, 2009            Employment Security Department  
Tuesday, 10:00 a.m.        Maple Leaf Conference Room  
212 Maple Park  
Olympia, Washington

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BE IT REMEMBERED, that a rules meeting was held on the date and location as set forth above. The Employment Security Department was represented by Juanita Myers, Rules Coordinator.

Reported by:  
Cheryl A. Smith, CCR, CVR  
(License #3017)

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16022-17th Avenue Court East  
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PROCEEDINGS

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welcome and Introductions

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MS. MYERS: Good morning, and thank you for attending. My name is Juanita Myers. I am the rules coordinator for the Unemployment Insurance Benefits Program.

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We are here today to discuss or review a packet of rules that was distributed to the stakeholders about three weeks ago. The rules that we are discussing today cover a wide variety of topics related to the payment of unemployment insurance benefits.

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In addition, I distributed a summary, it's on yellow paper, of what those rules changes are. And you'll see quite a few of them that say "Replaces WAC 'such-and-such.'" And the reason for those is that we previously had divided our rules into two chapters -- basically two chapters: substantive rules and interpretive rules. And it was difficult for people to locate which rule they were looking for under those broad subheadings. And so what we are doing is breaking the rules into subject matter chapters, for example, into reporting requirements, suitable work, job separations and so on so that somebody, if they're looking, for example,

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1 on a rule about a quit, they can look under the job  
2 separation chapter instead of trying to discern which  
3 chapter it might be in, whether it's in substantive or  
4 interpretive.

5       So on all those rules where it says "replaces,"  
6 that's what we're doing is we're moving them to the  
7 appropriate chapter and, in most cases, trying to simplify  
8 the language. These rules were mostly written in the '70s  
9 and some in the early '80s before we began the process of  
10 trying to plain-talk our rules and put them into simpler  
11 English so they can be understood by the general public  
12 rather than techno-speak that's only understood by the  
13 Department staff or attorneys.

14       For the record, could I ask you to go ahead and  
15 introduce yourselves?

16       MR. FASSO: Certainly. My name is Gary Fasso. And  
17 I'm with the carpenters union.

18       MR. HARTMAN: I'm Neil Hartman. I'm with the State  
19 Building Trades Council.

20       MS. MYERS: And this is Cheryl. The meeting is going  
21 to be recorded today and there will be a transcript  
22 available online as soon as we receive it.

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1 Discussion on Rules

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3 MS. MYERS: I'm not certain how we want to proceed  
4 with this since there is just the two of you. Did you  
5 have particular questions about the rules or would you  
6 like me to go through them? Did you have questions about  
7 any of the rules that we have?

8 MR. FASSO: I was kind of looking for a summary, just  
9 sort of let us know what the major changes were. I  
10 briefly went over the attachments and tried to compare,  
11 you know -- I appreciate the plain-talk and the easier  
12 language.

13 MS. MYERS: What you have in your packet then is a  
14 section that is in this lighter color called "new  
15 sections." And then in the darker -- I don't know what  
16 color to call this -- that shows what the amendatory  
17 sections are. And then the gray, just for your reference,  
18 is on those sections where I say I'm replacing an old WAC.  
19 This is the language of the old WAC that's being replaced,  
20 just so you have it for your own reference.

21 What I'm going to do then is go through the new  
22 sections and hit the highlights.

23 MR. FASSO: I appreciate that. Thank you.

24 MS. MYERS: The first section are a number of  
Page 5

25 definitions. And that's just for our reference and for

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1 the reference of people that -- the public to let them  
2 know what we're thinking of when we make decisions about  
3 their unemployment benefits.

4 we've got nondisclosure and willful nondisclosure.  
5 Those are fairly simple. If somebody fails to disclose to  
6 us, whether they did it intentionally or by mistake.

7 Definition of labor dispute. Preponderance of  
8 evidence is defined.

9 Conditional payments is defined. I don't know if you  
10 know what conditional payments are. Washington is the  
11 only state that does them. When somebody is in the  
12 process of claiming benefits and then we have a question  
13 about their benefits, we don't stop paying them. We  
14 continue paying them, but we're paying them conditionally  
15 and they have to establish -- they only get to keep those  
16 benefits that we're paying them on condition that they  
17 show that they're eligible for benefits during that week.  
18 Most states stop payment while they resolve the issue, but  
19 Washington does not.

20 I'm going to skip over those unless you have  
21 questions, those that say they replace an existing WAC.

22 Go to page 4. We get a lot -- at the bottom of the  
23 page we have an individual with power of attorney or other

24 authorization file a claim on my behalf. We get a lot of  
25 requests from people who say they have a power of attorney

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1 for a particular claimant and they say they want to file  
2 their weekly claim for them or they want to appeal for  
3 them or they want to testify instead of the claimant at  
4 the hearing. And we can't do that. The claimant has to  
5 certify that they are able and available for work, and  
6 they have to testify to the truth of the matter. An  
7 attorney can help them. They can get information about  
8 their claim, they can file the appeal on their behalf, but  
9 the claimant has to do their own testimony and they have  
10 to file their own weekly claims.

11 MR. FASSO: I was going to say, what would the  
12 possible circumstance be where a person is ready, willing  
13 and able to go to work but can't file their own weekly  
14 claim?

15 MS. MYERS: A lot of them have a spouse do it for  
16 them, or a lot of them -- I don't know why they do it on  
17 their own or why they don't do it, but I don't know why  
18 they choose to do it. But sometimes they'll say I want  
19 somebody with a power of attorney to do it on their  
20 behalf. And many cases then, what we find out is that  
21 person is not available for work.

22 MR. FASSO: Thank you.  
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23 MS. MYERS: Let's move to page 10. It's kind of --  
24 the one on the bottom is kind of a technical change. So  
25 unless you have questions, I'm going to skip that one.

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1 On page 11 we have examples of what we call flagrant  
2 and wanton misconduct. The law says that an individual  
3 can have all their wage credits canceled if -- from a  
4 particular employer if they engage in either criminal  
5 activity with that employer or they engaged in flagrant  
6 and wanton misbehavior or misconduct with that individual.  
7 What I was requested to do was come up with some examples  
8 of what we would consider flagrant and wanton misconduct.  
9 And all of these are actual cases. But if you read  
10 through those, you can see that they're pretty --

11 MR. FASSO: Colorful.

12 MS. MYERS: -- colorful.

13 MR. FASSO: I did see those in the e-mail. Thank  
14 you.

15 MS. MYERS: Right. And so that's what we're looking  
16 at is this level of behavior. We're not looking at  
17 somebody who just did something -- they're some kind of a  
18 minor -- not to say it's minor, but it doesn't rise to  
19 this level. Because canceling somebody's wage credits  
20 from somebody is something that should be on the level of  
21 criminal activity, because those are the two factors that

22 can be used.

23 At the bottom of the page we have a question about  
24 what happens if I discharge prior to the effective date of  
25 my resignation. And this happens sometimes if they notify

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1 their employer that they're going to be resigning, and the  
2 employer says, "Leave now. Go ahead." That's what it's  
3 talking about. "Go ahead. We don't want you anymore."  
4 We treat the separation in that case as a discharge, and  
5 the Department won't deny benefits unless the employer can  
6 show that you were discharged for misconduct.

7 Now, if their employer pays them through the notice  
8 period but requires no work, the separation is treated as  
9 a quit because you gave notice to quit, you gave notice  
10 you're leaving, the employer paid you for those two weeks  
11 or whatever amount of notice you gave, then you've quit  
12 your job and the separation date is the last day of the  
13 notice period. So, for example, you say you're leaving on  
14 December 20th, that will be considered the last day of  
15 your work and that will be considered a quit if the  
16 employer pays you through the 20th of December.

17 Availability for work beginning on page 12. The  
18 Department is going to consider you're available for work  
19 if you're willing and able to work full-time, part-time  
20 and accept temporary work. You're not required to be

21 available for part-time or temporary work if it would  
22 interfere with your availability to return to your regular  
23 occupation.

24 And where it says "requirement to be available for  
25 full-time work" doesn't apply in the circumstances

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1 described in -- unless those two acts. That's for people  
2 with disabilities. They can work for -- they can seek  
3 part-time work as long as they're willing to work for the  
4 maximum number of hours permitted by their particular  
5 disability.

6 MR. FASSO: That's under (ii)?

7 MS. MYERS: Yes.

8 People need to be capable of accepting and reporting  
9 for suitable work within their labor market area. They  
10 don't impose conditions that substantially reduce or limit  
11 their opportunity to work. For example, they're in retail  
12 sales and they say, "I'll only work from eight to five."  
13 In retail sales, you know -- eight to five Monday through  
14 Friday. Retail sales work has different hours than that.  
15 They're evenings or weekends and so on. Or they say, "I  
16 won't drive more than five miles from my house because  
17 that's as far as the bus goes," or something. It has to  
18 be reasonable conditions that impose on their  
19 availability.

20           And this follows with the next one. They have to be  
21 available for work during the hours customary for their  
22 trade or occupation.

23           They need to be physically present in their normal  
24 labor market area unless they're actively seeking and  
25 willing to accept work outside the normal labor market.

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1 For example, you can't be calling in your claim from  
2 Hawaii while you're on vacation.

3           And then you're not considered available for work if  
4 you fail or refuse to seek work as required in a directive  
5 issued by the Department. The Department can issue a  
6 directive at any time. Basically, it can tell people to  
7 expand their method of looking for work. For example, if  
8 they're only looking on the Internet, it may tell them  
9 they may need to do in-person contacts, it may tell them  
10 they need to expand their geographic area, a variety of  
11 different things. If they refuse to comply with the  
12 directive, then we'll consider they're not available for  
13 work.

14           The bottom one on page 13, leaves with absence, we  
15 did this for clarification, basically, for our own staff  
16 because we get a lot of questions of what happens when  
17 somebody is on a leave of absence. A leave of absence is  
18 an absence that's mutually and voluntarily agreed upon by

19 the claimant and the employer or under a collective  
20 bargaining agreement that provides for leaves of absence.  
21 The employer-employee relationship is continued and the  
22 person is going to be reinstated in the same or a similar  
23 job when the leave expires. If they're on a leave of  
24 absence, they're not unemployed and they're not eligible  
25 for benefits. If they choose not to return to work when

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1 the leave of absence ends, then the separation is treated  
2 as a quit. If no job is available with the employer when  
3 the leave of absence ends, then it's considered a layoff.

4 MR. FASSO: From that date.

5 MS. MYERS: From that day forward, yes.

6 If they've been on medical leave and are released for  
7 work by the medical provider but the employer refuses to  
8 allow them to come back to work, they're considered to be  
9 laid off and potentially eligible for benefits. That does  
10 happen in some circumstances in cases where the medical  
11 provider says, "You're released for work," and the  
12 employer says, "Well, I'm not sure that I want you yet  
13 because I don't think you're ready for work." In that  
14 case, the claimant is considered to be laid off and  
15 they're eligible for benefits.

16 MR. FASSO: What if that person is on light duty,  
17 like, say, injured at work, takes some time off to heal

18 up, doctor says, "You're not 100 percent but you could do  
19 some light-duty work," and then the company says, "Sorry,  
20 we ain't got nothing for you"?

21 MS. MYERS: We don't have any for you?

22 MR. FASSO: Yeah.

23 MS. MYERS: It would depend on the individual  
24 circumstances. Probably we would say they're not  
25 available for work unless they're willing to seek other

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1 employment, if they're willing to go out and look for  
2 other jobs where they can do light-duty work.

3 MR. FASSO: Say they're cleared to be a night  
4 watchman and they say, "Okay. well, I'll go out and hit  
5 some parking lots and see if I can get hired on as a night  
6 watchman," then they're actively seeking work and they can  
7 go --

8 MS. MYERS: Right.

9 MR. FASSO: Thank you.

10 MS. MYERS: There's no leave of absence if the  
11 employer simply offers them a preference for rehire or  
12 promise of a job if something comes up. If they have one  
13 available at the end of the leave, then there's no  
14 employer-employee relationship at that time, and so that's  
15 not a leave of absence but it's considered a voluntary --  
16 excuse me --

17 MR. FASSO: It's voluntary quit if they decide to  
18 take some time off and the employer says, "well, this is  
19 not a leave of absence." They're simply out the door.

20 MS. MYERS: Yes. And we'll have something when  
21 you're ready to come back to work maybe, but we're making  
22 no promises.

23 And then a temporary or an indefinite disciplinary  
24 suspension from work by the employer is not a leave of  
25 absence. We'll treat that as a discharge from work.

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1 The next one, incarceration. This is an interesting  
2 one. We get quite a few cases of this where somebody is  
3 incarcerated or lost the job because they were  
4 incarcerated and what happens. If the individual  
5 deliberately engages in illegal activities where they're  
6 aware that there is a clear possibility of arrest and  
7 detention for an extended period of time, they are also  
8 aware that incarceration may result in their absence from  
9 work and misconduct may be established under the statute  
10 which talks about excessive absenteeism.

11 If they're jailed but later released without having  
12 been charged, the separation is not considered misconduct.  
13 If the employer discharges them for absenteeism or job  
14 abandonment because they failed without good cause to  
15 notify the employer of their incarceration or anticipated

16 release date, the failure may be considered misconduct.  
17 For example, they don't call and say, I'm in jail for  
18 three days. Basically, it's a no call/no show. They  
19 don't call up and let them know.

20 They're considered unavailable for work during any  
21 days in which they are incarcerated unless those days are  
22 not part of the normal work week. And then I give an  
23 example. Somebody is scheduled to serve their time on  
24 weekends and the weekends aren't part of their normal work  
25 week, they're not considered unavailable for work.

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1 The next rule simply deals with AmeriCorps and  
2 AmeriCorps VISTA volunteers.

3 You have a question about the previous?

4 MR. FASSO: Yes. My wife got somebody hired on at  
5 work and then she didn't show up for a couple of days.  
6 And it turns out she got pulled over with a ticket and  
7 they ran an ID check and she was a victim of identity  
8 theft. This person had committed a crime in her name. So  
9 they hauled her in and she spent, I think, two days. She  
10 couldn't collect unemployment for that time.

11 MS. MYERS: Correct.

12 MR. FASSO: Even if she had a claim open and didn't  
13 need a waiting week or anything?

14 MS. MYERS: We would mark her as unavailable for two  
Page 15

15 days.

16 MR. FASSO: Thank you. So that's simply tough  
17 breaks.

18 MS. MYERS: But it's not misconduct.

19 MR. FASSO: Not misconduct. Okay.

20 MS. MYERS: But she wouldn't collect benefits for  
21 those two days.

22 MR. FASSO: Thank you.

23 MS. MYERS: I'm going to skip over the AmeriCorps and  
24 AmeriCorps VISTA volunteers because that's a particular --  
25 of interest to just a small population of individuals.

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1 The next section, deductions for unemployment  
2 benefits, basically codifies what we've had in our policy  
3 for quite some time as to what is deductible and what is  
4 not.

5 Income tax withholding, individuals can request that  
6 they have 10 percent of their benefits withheld. The  
7 deductions for child support, that's an existing rule.

8 And let's see. Page 18.

9 MR. FASSO: It doesn't say 10 percent.

10 MS. MYERS: No, it doesn't. It says the amount  
11 specified in -- basically, that's the Internal Revenue  
12 Service statute which right now says 10 percent. We left  
13 it like that because it used to be 15 and now it's 10. So

14 just in the event they changed it again, we just put in  
15 what's specified in the federal law.

16 Then the next new rule is on page 18. And that's  
17 talking about reimbursement of expenses when they're  
18 deductible from benefits in monies that are paid to them  
19 -- to you, excuse me, as reimbursement for expenses are  
20 not deductible. For example, you get paid for your  
21 mileage, your travel, per diem and so on, that's not going  
22 to be deducted from your unemployment benefits. But there  
23 has to be a reasonable relationship between the amount you  
24 are paid and the amount of service you provided. And we  
25 gave two examples. Somebody who is a volunteer

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1 firefighter -- and this is actually the number one  
2 circumstance we get is volunteer firefighters where  
3 they're paid \$25 for each fire call. That's reasonable to  
4 be considered reimbursement for their cost of responding  
5 to that fire call.

6 The next example is we get things like somebody's  
7 paid \$50 a week. Even if they don't have any fire duties  
8 that week, they just get a flat \$50. Well, there's no  
9 expenses being reimbursed. They're just getting -- it's  
10 getting a stipend essentially for being a volunteer  
11 firefighter. That would be deductible from your  
12 unemployment benefits because there's no relationship

13 between services performed and the amount of money they  
14 received.

15       Vacation or holiday pay is deductible for benefits if  
16 it's assigned to a particular period of time. For  
17 example, if you leave your work or you're laid off or  
18 whatever and you buy out or they pay out ten days of  
19 accrued vacation leave, that's not deductible from  
20 benefits because you're cashing out what you've already  
21 accrued. But if you are taking vacation leave for a  
22 particular amount of time, you're drawing benefits and you  
23 choose three days of that particular week to take vacation  
24 leave and two days -- or the other four days you want to  
25 draw unemployment benefits, you're going to have to deduct

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1 that three days of vacation leave because it's not accrued  
2 cash out. It's assigned to a particular day.

3       Back pay and settlements. In some cases, of course,  
4 somebody gets reinstated and the employer is going to pay  
5 -- may pay back pay to that employee for a particular  
6 period of time. The claimant has to report the amount of  
7 back pay received for that period of time that they are  
8 drawing unemployment benefits.

9       MR. FASSO: So let's say that an employee is  
10 discharged and they're collecting -- they're laid off,  
11 they're collecting unemployment benefits and the union

12 official comes in and files a grievance and they get some  
13 back pay for that time. would that be an example of what  
14 you're talking about?

15 MS. MYERS: Yes. Absolutely. The employer is  
16 supposed to deduct the amount owed to the Department,  
17 which is basically what they received in unemployment  
18 benefits offset against their back pay award, then the  
19 claimant gets the overpayment.

20 Back pay award may not be used to purge a  
21 disqualifying separation. For example, you know when  
22 somebody is discharged for misconduct they have to wait  
23 ten weeks and earn ten times their weekly benefit amount.  
24 So if you were discharged for misconduct and the employer  
25 said, "Oh, we're going to reinstate you and give you" --

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1 and we had already ruled that it was misconduct and the  
2 employer says -- agrees, we're going to pay some weeks of  
3 back pay, that back pay can't be used to purge the ten  
4 times their weekly benefit amount that they have to earn.

5 MR. FASSO: It doesn't count towards their ten weeks.  
6 It's off the table.

7 MS. MYERS: It's off the table, yeah.

8 A lump-sum payment of workers' comp benefits is not  
9 considered a work back pay award. The reason we put this  
10 in is we have cases where somebody may get a lump-sum

11 award for workers' comp years after it accrues because the  
12 appeal process at L&I can go on for quite some time. And  
13 what would happen -- because what happens is the law says  
14 that we can't go back -- unless there's fraud, we can't go  
15 back more than two years and collect unemployment benefits  
16 that were overpaid. So what we're saying is this is not a  
17 back pay award and it's not fraud. So we're not going to  
18 go back and, you know, you got your workers' comp three  
19 years -- should have gotten it three years ago and you're  
20 finally awarded it, we're not going to go back to that  
21 period of time and collect a settlement. Because you  
22 can't receive workers' comp and unemployment benefits at  
23 the same time. But we'll just let that one go.

24 Severance pay. Severance pay is not deductible from  
25 your unemployment benefits.

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1 Termination pay is deductible, and it's a little bit  
2 different than severance pay. Severance pay is basically  
3 we're just -- well, you know what severance pay is.  
4 Termination pay is slightly different in that the employer  
5 may continue benefits for a period of time, they may --  
6 the pay is connected to the last day that you worked. For  
7 example, I'm going to buy out your contract and I'll pay  
8 you through the end of your contract, or we contracted you  
9 to work for six months. I don't even work for you after

10 five months, and so we're going to continue -- we're going  
11 to pay you or we're going to continue your benefits or so  
12 on for that last month, then that's considered termination  
13 pay and that would be deductible because it's assigned to  
14 a particular period of time after you stopped working.

15 MR. FASSO: Such as giving someone a two-week notice  
16 and just handing them their two weeks pay, there's bad  
17 blood, we don't even want you on the premises, here's your  
18 two weeks. So they can't collect employment -- they're  
19 considered employed for those next two weeks, so to speak.

20 MS. MYERS: Correct.

21 MR. FASSO: If a contract -- off the table here a  
22 little bit. Let's say a contract runs out in June but  
23 they say, "We don't need you anymore," come May. At the  
24 end of -- I mean, is their separation like due to lack of  
25 work? The contract expires and --

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1 MS. MYERS: Oh, sure.

2 MR. FASSO: Okay. That's due to lack of work.

3 MS. MYERS: That's lack of work.

4 MR. FASSO: Thank you.

5 MS. MYERS: Payment in lieu of notice. Again, if you  
6 have an agreement that the employer gives you advanced  
7 notice of termination and they don't do so, the payments  
8 they receive -- that the claimant receives from the

9 employer for wages or salary that they would have earned  
10 are deductible for benefits.

11 MR. FASSO: Similar to what I brought up.

12 MS. MYERS: Similar to what you brought up.

13 Bonuses. If the bonus is attributable to the work  
14 that you performed during a week in which you are claiming  
15 benefits, that amount is deductible. For example, you  
16 worked 20 hours in a week and you're getting partial  
17 unemployment benefits for that particular week. Based on  
18 productivity for the week, employer awards a \$50 cash  
19 bonus to every worker. Because you were drawing  
20 unemployment benefits during that week, that \$50 is  
21 deductible. But if it's not attributable to a week that  
22 you're drawing benefits, then it's not deductible.

23 The example I give here, you work eight months for  
24 the employer. At the end of the year they assign out  
25 we're going to give a certain amount of money, \$100, for

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1 every worker that year. That's not attributable to any  
2 particular week that that person worked that they're  
3 drawing unemployment -- excuse me -- that that person is  
4 drawing unemployment benefits. So that's not deductible  
5 from benefits. They just get an extra \$100.

6 MR. FASSO: So they were maybe laid off in September,  
7 but come December they said, "we're going to send \$100 to

8 everybody that worked here this year."

9 MS. MYERS: Right.

10 MR. FASSO: So that's not deductible.

11 MS. MYERS: It's not deductible because it's not --  
12 they didn't earn it in a week that they're drawing  
13 unemployment benefits.

14 Tips are considered earnings and have to be reported  
15 with their weekly benefit amount and they're deductible  
16 for benefits.

17 MR. FASSO: We can put that one with AmeriCorps.  
18 We're not going to run into that one much.

19 MS. MYERS: Jury duty. Individuals, money that they  
20 received because they're on call, just because they're on  
21 call or reporting as a prospective juror or serving on a  
22 jury, that's earnings and deductible from benefits. If  
23 you get reimbursement of expenses for travel, meals,  
24 et cetera, that's not deductible.

25 Sick leave pay. This is a little bit different --

□

Employment Security Department, 12/8/09

1 change in policy. They have to report sick leave pay, and  
2 it's treated as earnings and it's deductible from  
3 benefits. But what the law currently says -- well, what  
4 the policy has been is that when you're sick or when  
5 you're unavailable for work, we reduce your benefits by  
6 one day for each day that you're sick. So you get a 1/7

7 deduction, a 2/7 deduction, depending on if you're sick  
8 one or two days of the week. But also we would deduct  
9 your earnings that you get if you're paid for that sick  
10 leave. So you're hit like a double whammy. You get the  
11 deduction from your benefits and you get the deduction  
12 from earnings -- from your earnings amount.

13 So what we're doing here is saying if your benefits  
14 are reduced because you report sick leave pay, we're not  
15 going to also reduce your earnings. Because that says --  
16 because you've already been hit once with the one or 2/7  
17 deduction. Adding a deduction for payment is hitting the  
18 person twice for being sick. So that's a change. We're  
19 only going -- they'll get either the 1/7, 2/7 or an  
20 earnings deduction. They're not going to get both.

21 MR. FASSO: We don't run into a lot of sick pay.

22 MR. HARTMAN: No, no.

23 MR. FASSO: He and I might get some, but the people  
24 we work with aren't going to get much. That's good for  
25 us, though.

□

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1 MS. MYERS: Disability payments. And this is a  
2 peculiar rule but it's based on a court decision so we're  
3 stuck with it. Basically, disability payments paid by an  
4 insurance company based on premiums paid by the employer  
5 are not earnings and they're not deductible. But if

6 they're paid from a trust fund paid solely by the  
7 employer's contributions, those are deductible. And I  
8 don't understand why they made that fine distinction, but  
9 they did -- the court did. So we're putting it into rule.

10 work-study, I can probably skip that for our purposes  
11 today.

12 National Guard pay and AmeriCorps stipends, same  
13 thing.

14 Educational employees, which is the next three or  
15 four rules, and the last one is actually professional  
16 athletes which is probably not of interest here unless you  
17 have a side job or something.

18 The next section we'll go over is the amended  
19 sections of the rule. A lot of these are just language  
20 cleanup so it shouldn't take too long to go through those.

21 The first one is just cleaning up the language a  
22 little bit. We used to have -- people could file a claim  
23 by calling the telecenter or the Internet, and it's just  
24 cleaning up the language a little bit.

25 Notice to employer, again, that's just a language

□

Employment Security Department, 12/8/09

1 cleanup. It had pieces in there about what you do if it's  
2 prior to 2004. That's gone. And another little change  
3 you see is trying to change the verbiage to active voice  
4 rather than passive voice on the rules.

5 Mailing addresses for the notice to employer.  
6 Normally we used to mail those notices to the address  
7 provided by the claimant. Now we're going to mail them to  
8 the address that we have on file for the employer. It's  
9 very confusing if the claimant says, "well, I worked at  
10 Safeway." And it just doesn't work to mail it to the  
11 Safeway out on the Yelm highway because they don't have  
12 their human resources there. We mail to the address  
13 provided by Safeway for their tax purposes.

14 Starting on page -- I guess it shows page 6 on the  
15 bottom, filing weekly claims for benefits. The change we  
16 have in that one is going to make it a little easier, we  
17 hope, for claimants. Right now what happens if somebody  
18 stops claiming for a period of time and then they want to  
19 reopen their claim, what they have to do is they -- for  
20 example, I'm laid off this week. I have to call in this  
21 week to reopen my claim and then claim it next week. And  
22 a lot of people don't know that they have to call in and  
23 reopen this week so they get denied for failure to reopen  
24 this week. What we're going to do now is we'll backdate  
25 it a week. So if you call in next week, we're going to

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Employment Security Department, 12/8/09

1 backdate it to this particular week and it lets you --  
2 basically gives you a pass on the calling to reopen for  
3 that particular week. We'll backdate it. If they haven't

4 received first payment, we'll backdate it one week. If  
5 they've already received payment, we'll backdate it up to  
6 four weeks.

7       So if they call in, you know, I didn't know I was  
8 supposed to call in and reopen my claim, they just started  
9 claiming again, we'll backdate that up to four weeks for  
10 those people who have already gotten first pay so they  
11 don't miss out on benefits from lack of knowledge that  
12 they had to call in during the current week of their  
13 layoff to draw unemployment benefits. So that's a change  
14 to try to make things easier for the claimants and  
15 actually cut down on our workload too. We get so many of  
16 these, and our workload is so high right now with the  
17 massive claims that we've got.

18       MR. FASSO: It's a win-win.

19       MS. MYERS: It's a win-win for both.

20       Bottom of page 9, personal identification number.  
21 Simply what that does -- what it used to say is that the  
22 individual is liable for any payments if his PIN is used.  
23 Well, it's not that hard, unfortunately, to discover  
24 somebody's PIN because you can just keep punching in  
25 numbers. And what the system will do is ask you to reset

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Employment Security Department, 12/8/09

1 your PIN. So if the claimant can show that they didn't  
2 authorize that person, then they're not liable for

3 payments made under their personal identification number.

4 The next few are just language cleanup.

5 On page 17 -- that's just in response to an auditor

6 -- at the top of the page, the underlined section.

7 People, they go out and they just post their resumes

8 online and they think that's a job-search contact and it's

9 not. They have to actually be applying for a particular

10 job. And we just made that clear in rule because we were

11 audited by the State Auditor doing their efficiencies

12 audits, performance audits they now have. So we're just

13 making that clear.

14 And similarly on the bottom of page 20, if they make

15 an application online, newspaper or other means where

16 there's no contact, because we ask that they keep records

17 of who they contacted and so on, obviously, they don't

18 have that information. So what we ask them is to attach

19 either a copy of the newspaper ad or some kind of

20 confirmation notice. Usually when you submit an

21 application online you get a confirmation. So we're just

22 asking them to keep that with their job-search log when

23 they don't have the name of an employer.

24 The next rule is mostly language cleanup.

25 Disqualification of students, probably don't care

□

2           And that's probably all the two of you would be  
3 interested in. The rest are just we have a whole stack of  
4 rules being repealed mostly because we've replaced them  
5 with others.

6           Any other questions or comments?

7           MR. FASSO: I don't think so.

8           MS. MYERS: No?

9           MR. FASSO: Gosh, I don't think so.

10          MS. MYERS: Did you have any? No?

11          MR. HARTMAN: I think they're all pretty  
12 straightforward.

13

14                           Rule-Making Process: What's Next

15

16          MS. MYERS: I thank you for attending. We're going  
17 to have another meeting on Thursday in Seattle.

18          MR. FASSO: Do you think you're going to have a  
19 bigger turnout?

20          MS. MYERS: I think I'm going to have a bigger  
21 turnout because a lot of our people come from Seattle, the  
22 people who are more interested. The Unemployment Law  
23 Project, the legal services reps and so on are from  
24 Seattle and are more likely to attend that one.

25          MR. FASSO: I probably would have but it conflicted.

1 So this was handy for me -- fairly handy.

2 MS. MYERS: If there are no further questions, we're  
3 going to go ahead and adjourn.

4 (whereupon, proceedings  
5 adjourned at 11:00 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON )  
County of Pierce ) ss.

I, Cheryl A. Smith, a Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing transcript of proceedings was taken before me and transcribed under my direction; that the transcript is an accurate transcript of the proceedings insofar as proceedings were audible, clear and intelligible; that the proceedings and resultant foregoing transcript were done and completed to the best of my abilities for the conditions present at the time of the proceedings;

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IN WITNESS WHEREOF, I have hereunto set my hand on this 21st day of December, 2009, at Auburn, Washington.

\_\_\_\_\_  
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