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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 471
EMPLOYMENT DEPARTMENT

FILED: 10/29/2026 10:23 AM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Amend and adopt Paid Leave Oregon administrative rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/04/2026 11:55 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/16/2026
TIME: 10:00 AM - 11:30 AM
OFFICER: Jacob Parpart

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 503-446-4951
CONFERENCE ID: 528523181

DATE: 11/18/2026
TIME: 1:00 PM - 2:30 PM
OFFICER: Jacob Parpart

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 503-446-4951
CONFERENCE ID: 652879407

NEED FOR THE RULE(S):

To effectively administer Paid Leave Oregon, the Oregon Employment Department is adopting or amending 18 administrative rules relating to benefits, tribal governments, contributions, and assistance grants, in accordance with Oregon Revised Statute (ORS) chapter 657B. The adoption and amendments include statutory changes made by Senate Bills (SBs) 913 (2023), 858 (2025), and 1520 (2026). Rulemaking is also being conducted to clarify and update various permanent rules based on research and analysis that identified needed amendments.

OED is adopting three new rules relating to creating a consistent standard for good cause for late applications and weekly claims, when overpayments become uncollectible, and the director's authority to adopt accounting rules for the allocation of contributions.

The department is seeking to amend multiple rules, including allocating contributions for medical and additional pregnancy leave in accordance with IRS Revenue Ruling 2025-4. Additionally, clarification is being added to provide that any federal or state wage-replacement unemployment benefits will disqualify a claimant from Paid Leave benefits. The department is amending rules related to benefits and benefit claims, including how the department will handle claims submitted outside the filing timeframe, specifically regarding what constitutes good cause for late applications and late weekly claims. Additionally, the proposed rules clarify the timeframes for employees who provide late notice to their employers for good cause. Leave verification rules are being amended to clarify the document requirements for bonding leave and serious health condition leave.

The written notice poster rule for state-program employers is being updated to require updates when new posters become available, aligning this rule with the equivalent plan employers' rule, which was updated in January of 2026. Another benefits rule being amended concerns the department's ability to cancel an overpayment, the timeline for recovering overpayments, and clarifying the timeline to request the waiving of a non-claimant caused overpayments.

The remaining rules that the department is seeking to amend include rule changes clarifying the department's authority to include the repayment of grants with its existing authority to collect contributions for Paid Leave, and to make any benefit deductions from non-claimant caused overpayments within 5 years.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Paid Leave Oregon statute – ORS chapter 657B
(https://www.oregonlegislature.gov/bills_laws/ors/ors657B.html);

Electronic Transactions – ORS chapter 183
(https://www.oregonlegislature.gov/bills_laws/ors/ors183.html)

Senate Bill 913 (2023)
https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB0913/Enrolled

Senate Bill 858 (2025)
https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB858/Enrolled

Senate Bill 1520 (2026)
https://olis.oregonlegislature.gov/liz/2026R1/Downloads/MeasureDocument/SB1520/Enrolled

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

Paid Leave Oregon provides individuals with the ability to take job-protected and compensated time off work to bond with new children in their family, to care for themselves or their ailing family members, and to recover after experiencing domestic violence, sexual assault, harassment, bias crimes, and stalking. This program provides a much-needed benefit to historically underserved populations who may not otherwise have access to time off work or be able to afford it. Consequently, the program addresses some of the detrimental impacts of historical and ongoing injustices and inequities that families and individuals of color face when accessing government programs.

The department and the program's commitment to equity acknowledges that not all people or communities start from the same place due to historical and ongoing systems of oppression. Equity is the effort to provide different levels of support based on an individual's or group's needs to achieve fairness in outcomes. Equity actionably empowers communities most impacted by systemic oppression and requires redistributing resources, power, and opportunity to those communities.

The division recognizes that racial disparities, discrimination, and inequities across society are evidence of institutional racism that is an often invisible and sometimes unintentional, but an inherent element of policy development. We recognize the importance of acknowledging and understanding racial and ethnic disparities in access to and use of Paid Leave in developing inclusive administrative rules and policies. During the application process, Paid Leave Oregon asks applicants for information about their age, race, ethnicity and gender identity to better understand who is using the program and identify any gaps the program may need to address. This information allows the program to adjust outreach, application processes, and operations. The demographics of Paid Leave Oregon customers show that the program is reaching and serving a diverse range of employees from various backgrounds. In addition to the program's ongoing efforts to collect measurable data, we continue to gather relevant information and data from other sources, including other states with Paid Leave programs and employer data from comparable plans, to mitigate unintended and unforeseen consequences.

While conducting rulemaking, the program considered the racial equity impacts of newly adopted and amended rules and answered the following questions.

What are the racial equity impacts of this particular rule, policy, or decision and who will benefit from or be burdened?

Paid Leave Oregon's proposed January 2027 batch of administrative rules regarding benefits, tribal governments, contributions, and assistance grants is intended to provide clarity and guidance on different aspects of the Paid Leave Oregon program, as transparency is vital to making the program more inclusive. The program also seeks to reduce bureaucratic burdens and barriers wherever possible. We have identified several racial equity impacts across the January 2027 rule batch and discuss several of them below. Some of the proposed amendments are not discussed below as Paid Leave did not identify any specific racial equity impacts. However, it is important to note that the program was unable to consult with all potentially affected communities during the rule drafting process. Moreover, several of the proposed amendments are the result of statutory changes from (Senate Bill) SB 913, passed in the 2023 legislative session, SB 858, passed in the 2025 legislative session, and SB 1520, passed in the 2026 legislative session. While Paid Leave must amend these administrative rules to maintain compliance, equity impacts were considered when drafting language.

When employers fail to meet model notice requirements, the impact is felt most by workers who depend on employer communication to understand their rights, particularly immigrants and low-income earners. By establishing a requirement that employers update their workplace notice posters, the department hopes to provide greater clarity for workers seeking to understand their rights under the program and promote equitable access to information. Ensuring that employers provide employees with the most recent information about Paid Leave Oregon in the language they

communicate in may positively impact claimants who have less access to information about government programs outside of their workplace. Paid Leave provides updated model notices for employers to download and print in seven languages on the Paid Leave Oregon website, reducing the financial and administrative burden on small employers while promoting racial equity for workers.

Establishing a unified standard for accepting late applications and weekly claims and providing additional examples for the circumstances under which late submission may qualify as "good cause," will promote more consistent decision-making from the department and provide more clarity to claimants. One additional example is good cause for extraordinary circumstances, such as natural disasters, war, or pandemics, which often impact communities of color and rural communities. Another example includes good cause for delays caused by the health care provider, which may impact people of color who experience discrimination and bias from health care providers. While a streamlined process and additional examples promote racial equity, documentation requirements associated with good-cause evaluations may still create challenges for individuals who struggle to obtain employer cooperation or navigate complex administrative processes.

While the rules aim to ensure equitable access to benefits for employees, the requirements established in these rules could have an equity impact for employee access to the state Paid Leave Oregon plan; particularly impacting Black, Indigenous, Latin/o/a/x, Asian, Pacific Islander, women, people with disabilities, LGBTQIA2S+ communities, undocumented workers, migrant communities, people working to meet the minimum income standard, individuals whose first language is not English, and individuals with limited or non-technical experience or resources to navigate these requirements due to systemic and institutional barriers.

Are there strategies to mitigate the unintended consequences?

It is important to recognize that complex bureaucratic processes often have built-in barriers, such as legal language, that disproportionately impact those whose first language is not English and individuals experiencing economic hardship. Furthermore, due to historical exclusion and systemic racism, communities of color, in particular Black, Latino/a/x or Indigenous persons in the U.S may not fully trust the legal system and government processes.1 However, as Paid Leave considers administrative rules, the program can help mitigate
some of these concerns. Increased access to paid family, medical, and safe leave requires addressing disparities in access and enhancing racial equity by broadening worker coverage, expanding eligibility criteria, increasing wage-replacement rates, and ensuring job protections and anti-retaliation protections.

Paid Leave Oregon's goal is to ensure that there is equitable access to the program for businesses and eligible employees in Oregon. The division places a high priority on ensuring equitable access to the program for businesses and employees who pay Paid Leave Oregon contributions. We believe that these rule amendments will enhance the program's effectiveness and better serve both employees and employers by improving access to information and supporting consistent compliance. However, we recognize that each change may introduce unintended consequences that affect one group more than another, particularly when employers or employees face resource or communication challenges. To mitigate these effects and ensure the program continues to operate equitably and transparently, Paid Leave will undertake the following efforts:

• Adhering to Paid Leave Oregon's values by centering the most impacted, those who have been historically underserved and under-resourced, by addressing practices, cultural norms, and structural barriers that create inequities;
• Examining factors that produce or perpetuate racial inequities to better understand potentially negative impacts and gaps in the program and how to best address them when drafting policy papers that serve as the basis for rule language;
• Provide clear, plain-language guidance to employers on model notice requirements and good-cause provisions to

reduce misunderstandings and help ensure more consistent compliance.
• Committing to open, ongoing, and transparent dialogue with invested community members and policy makers, including small employers and underrepresented communities;
• Providing supplemental materials to assist in understanding how the program functions, including continually updating the information available on our website and ensuring front-line staff have up-to-date information to verbally assist customers who utilize our phone lines.
• Provide technical assistance or optional training for employers, including small employers, to help ensure comprehension and compliance with Paid Leave Oregon's expectations established by law and rule.
• Using the department's established Equity Framework to standardize review processes to ensure that all new and ongoing processes, procedures, administrative rules, and related communications are furthering program equity;
• Reduce documentation burdens for workers by clarifying acceptable forms of evidence for good-cause evaluations and streamlining the submission process where possible.
• Strengthen outreach to workers, particularly immigrants and low-income earners, through multilingual materials, partnerships with community organizations, and targeted communications explaining their rights and responsibilities regarding Paid Leave Oregon.

FISCAL AND ECONOMIC IMPACT:

Any fiscal or economic impact of Paid Leave Oregon results from the statute's implementation or from updated requirements based on research and the program's identified needs. Impacts may include additional costs for employers relating to implementing the updated notice poster requirements. Claimants may experience a positive impact as access to benefits for late applications is being clarified and expanded. Additionally, changes related to non-claimant-caused overpayments, the limitation of the recovery timeframe, and the implementation of overpayment waivers may have a positive financial impact on claimants.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

other public bodies because their employees (claimants) may be eligible for Paid Leave Oregon benefits. The state agencies, units of local government, and the public must ensure that they have an updated notice poster in place in their capacity as employers. Additionally, state agencies, local governments, public bodies, and the public may have a reduced cost because they will not be required to determine additional employee taxes due to the change to the contributions accounting method to pay serious health condition and additional pregnancy leave claims with only employee contributions. A large number of the administrative rules included in this batch will not have a direct impact on state agencies or units of local governments as most of the rules, unless noted prior, impact claimants mostly. The public will have an identifiable impact due to the department updating and streamlining the non-claimant-caused overpayments, the timeframe in which the department can collect on these overpayments, and the updating of the regulations involving the waiver process.

This batch of administrative rules applies to all small businesses, of every type, that have employees. Small employers who utilize assistance grants may experience an impact due to the department updating its collection ability for contributions owed. Additionally, small employers will be required, just as a large employer, to update their workplace notice poster – This may impact small employers in a larger capacity due to the need for having an individual responsible for updating the notice poster while working with a smaller number of staff.

In the first quarter of 2026, Oregon had 105,594 small businesses with fewer than 50 employees that employed 38.7 percent of the state's workforce. Of the 105,594 small employers, 98,190 had fewer than 20 employees, employing 25.3 percent of the state's workforce. *

* Source: Oregon Employment Department, Quarterly Census of Employment and Wages

There may be additional administrative activities required for small businesses as a result of the requirement that employers ensure they have an up-to-date model notice poster in place in addition to the previously established requirements of employers who have employees within Oregon. Although the rules included with this batch of rulemaking is more directed towards individuals who are claiming benefits from the program, the employers of these individuals may also have additional unidentified costs associated with their own recordkeeping relating to their employees being on leave.

There may be minimal equipment, supplies, labor, or administrative effort required to comply with the Paid Leave Oregon benefit administrative rules. As noted above, small employers utilizing the state-offered program will be required to update their workplace notice posters whenever the department revises the current version. Employers may also be required to implement additional administrative measures to ensure that employees who take leave following a late claim submission are properly covered by job protections established under ORS chapter 657B.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Paid Leave Oregon Advisory Committee, which serves as the Rulemaking Advisory Committee (RAC), is statutorily required to have four members representing employers, at least one of whom represents employers with fewer than 25 employees. A RAC meeting is scheduled for October 7, 2026, at 10:00 am, and the members will be consulted on the development of these rules.

We are also preparing for two public hearings, for which there will be advanced warning and invitations for the public to attend. Attendees are invited to provide feedback on the proposed rules, either during a public hearing or afterward, during the public comments period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
471-070-1010, 471-070-1100, 471-070-1110, 471-070-1120, 471-070-1205, 471-070-1207, 471-070-1210, 471-070-1300, 471-070-1310, 471-070-1480, 471-070-1500, 471-070-1510, 471-070-1520, 471-070-1525, 471-070-2100, 471-070-3005, 471-070-3850, 471-070-5200

AMEND: 471-070-1010

RULE SUMMARY: This rule is being amended to align with ORS 657B.030 to clarify that eligibility for any federal or state wage replacement unemployment benefits will disqualify a claimant from Paid Leave Oregon benefits.

CHANGES TO RULE:

471-070-1010
Benefits: Eligibility and Qualification for Benefits
(1) For an individual to be eligible to receive Paid Leave Oregon benefits, the individual must:¶
(a) Be one of the following:¶
(A) An employee;¶
(B) A self-employed individual who has elected coverage under ORS 657B.130 and in accordance with OAR 471-

070-2010 and whose coverage is currently in effect; or¶
(C) An employee of a tribal government, where the tribal government has elected coverage under ORS 657B.130 and where the tribal government's coverage is currently in effect.¶
(b) Earn at least:¶
(A) $1,000 in subject wages, as defined in OAR 471-070-1000, in either the base year or alternate base year;¶
(B) $1,000 in taxable income from self-employment, as defined in OAR 471-070-2000, in either the base year or alternate base year; or¶
(C) $1,000 in a combination of subject wages and taxable income from self-employment in either the base year or alternate base year.¶
(c) Contribute to the Paid Leave Oregon Fund established under ORS 657B.430 in accordance with ORS 657B.150 and OAR 471-070-2030 during the base year or alternate base year, as applicable;¶
(d) Experience a qualifying purpose for benefits under ORS 657B.020;¶
(e) Have current Oregon employment or self-employment from which they are expected to be available to work but are taking leave from work as described in OAR 471-070-1015;¶
(f) Submit an application for benefits in accordance with all requirements under ORS 657B.090 and OAR 471-070-1100;¶
(g) Have not exceeded their maximum paid leave and benefit amounts under ORS 657B.020 and OAR 471-070-1030 in the active benefit year; and¶
(h) Have no current disqualifications from receiving benefits due to:¶
(A) The individual being eligible to receive workers' compensation time loss benefits under ORS chapter 656~~,~~ or ~~Unemployment Insurance benefits under ORS chapter 657~~wage replacement benefits under a state or federal unemployment benefits program; or¶
(B) A director determination under ORS 657B.332 that the individual previously willfully made a false statement or willfully failed to report a material fact in order to obtain benefits.¶
(2) An individual may not exceed 12 weeks of paid leave per child for the purpose of caring for and bonding with the child during the first year after the birth or initial placement of the child or for the purpose of pre-placement leave, regardless whether a new benefit year starts during the first year following birth or initial placement or during the pre-placement process.¶
(3) An individual may not take the two additional weeks of leave for limitations related to pregnancy, childbirth, or related medical condition more than once per pregnancy, regardless of whether the individual has started a new benefit year.¶
Example 1: Juan files an application for benefits for seven weeks of paid leave and is approved by the department to care for a family member with a serious health condition and begins a benefit year on November 3, 2024. After returning from this leave, Juan has five weeks of leave remaining in the balance of their benefit year. In March 2025, Juan and their partner adopt a child. Juan submits an application for benefits to the department and is approved for the remaining five weeks of paid leave in the benefit year in order to care for and bond with the newly adopted child. Juan's benefit year expires on November 1, 2025, and Juan submits a new application for benefits to the department. Juan is approved for leave to care for and bond with the same child and starts a new benefit year. Because Juan already bonded with the same child for five weeks in the prior benefit year, Juan may only take leave to care for and bond with that child for up to an additional seven weeks in the new benefit year.¶
Example 2: Julie files an application for benefits and is approved for leave for their own serious health condition and begins a benefit year on September 15, 2024. Julie takes two weeks of leave to recover from the serious health condition and then returns to work. In June 2025, Julie gives birth to twins. Julie submits an application for benefits to the department and is approved for ten weeks of leave to care for and bond with the first twin. Julie's benefit year expires on September 13, 2025, and then Julie submits another application for benefits to the department and is approved for twelve weeks of leave to care for and bond with the second twin, starting a new benefit year.¶
Example 3: Winona decides to adopt a child and applies for pre-placement leave to arrange the adoption. Winona is approved for twelve weeks of pre-placement leave in April 2025. In April 2026, Winona's benefit year ends. In May 2026, Winona submits a new application for twelve weeks of pre-placement leave for the same child. Because Winona already took twelve weeks of pre-placement leave for the same child in the prior benefit year, Winona's application for benefits is denied. In September 2026, the child is placed in Winona's home through adoption. Winona submits a new application for bonding leave, and is approved for twelve weeks of leave to care for and bond with the adopted child. ¶
Example 4: In April 2025, Leyla gives birth to twins. ~~Julie~~Leyla submits an application for benefits to the department and is approved for six weeks of bonding leave to care for and bond with the first twin and for two weeks of additional pregnancy leave for limitations related to childbirth. In July 2025, Leyla submits another application for benefits to the department and requests 6 weeks of leave to care for and bond with the second twin and two weeks of additional pregnancy leave. The department approves Leyla for six weeks of bonding leave for the second twin, but denies the request for additional pregnancy leave, because it can only be taken once per

pregnancy.
Statutory/Other Authority: ORS 657B.340
Statutes/Other Implemented: ORS 657B.015, 657B.020, ~~Chapter 20 Oregon Laws 2024~~657B.030

AMEND: 471-070-1100

RULE SUMMARY: This rule is being amended to clarify how claims submitted outside the required filing timeframe are handled, including when only part of the requested leave is late.

CHANGES TO RULE:

471-070-1100
Benefits: Application for Benefits
(1) To request Paid Leave Oregon benefits provided under the state plan established in ORS 657B.340, a claimant must submit an application for benefits. An application must be submitted online or by another method approved by the department. For the application to be approved by the department, the application must be complete and must include, but is not limited to, the following:¶
(a) Claimant information, including:¶
(A) First and last name;¶
(B) Date of birth;¶
(C) Social Security Number or Individual Taxpayer Identification Number; and¶
(D) Contact information, including mailing address and telephone number.¶
(b) Documentation sufficient to establish the claimant's identity;¶
(c) Information about the claimant's current employment or self-employment for which they are requesting leave from work:¶
(A) Business name(s) and dates of employment or self-employment;¶
(B) Business address and contact information for all employers or self-employed businesses;¶
(C) Average number of work days worked per work week; and¶
(D) Any current breaks from work or anticipated future breaks from work that are unrelated to Paid Leave Oregon leave.¶
(d) Information about the notice given to any employers under ORS 657B.040 and OAR 471-070-1310, if applicable, and the date(s) any notice was given;¶
(e) Information about the claimant's leave schedule, including:¶
(A) Employer(s) from which leave is being taken;¶
(B) Anticipated leave dates; and¶
(C) Whether the leave is to be taken in consecutive or intermittent periods.¶
(f) The type of leave taken by the claimant, which must be one of the following:¶
(A) Family leave;¶
(B) Medical leave; or¶
(C) Safe leave.¶
(g) Verification of the reason for the leave, including:¶
(A) For family leave to care for or bond with a child, verification consistent with OAR 471-070-1110;¶
(B) For family leave for pre-placement leave, verification consistent with OAR 471-070-1115;¶
(C) For family leave to care for a family member with a serious health condition, verification consistent with OAR 471-070-1120 and an attestation that the claimant has a relationship equal to "family member" under ORS 657B.010 and is caring for a family member with a serious health condition;¶
(D) For medical leave, verification consistent with OAR 471-070-1120; or¶
(E) For safe leave, verification consistent with OAR 471-070-1130.¶
(h) If the claimant is requesting up to two additional weeks of leave for limitations related to pregnancy, childbirth or a related medical condition, documentation that the claimant is currently pregnant or was pregnant within the year prior to the start of the additional two weeks of leave;¶
(i) Information about the claimant's eligibility to receive workers' compensation time loss benefits under ORS chapter 656 or ~~Unemployment Insurance benefits under ORS chapter 657~~wage replacement benefits under a state or federal unemployment benefits program; and¶
(j) A written or electronically signed statement declaring under oath that the information provided in support of the application for Paid Leave Oregon benefits is true and correct to the best of the individual's knowledge.¶
(2) An employee who has Paid Leave Oregon coverage solely through an employer with an equivalent plan approved under ORS 657B.210 must apply for Paid Family and Medical Leave Insurance benefits by following the employer's equivalent plan application guidelines.¶
(3) An employee who is simultaneously covered by more than one employer's equivalent plan approved under ORS 657B.210, or that is simultaneously covered by the state plan and at least one employer with an equivalent plan, must apply separately under all plans they are covered under and from which they are taking leave by following the respective application guidelines for each plan.¶

(4) A complete application for Paid Leave Oregon benefits may be submitted to the department up to 30 calendar days ~~prior to~~before the start of family, medical, or safe leave~~ and up to 30 calendar days after the start of leave. Applications submitted outside of this timeframe, either early or late, will be denied, except in cases where a claimant can demonstrate an application was submitted late for reasons that constitute good cause under section (5) of this rule.¶~~

~~(5) Good cause exists when a claimant establishes by satisfactory evidence submitted to the department that factors or circumstances beyond the claimant's control prevented the claimant from submitting a~~. A complete application submitted more than 30 days before the start of leave will be denied. The claimant may submit a new complete application up to 30 days before the start of family, medical, or safe leave.¶

Example: Kendrick applied on June 1, 2028, for 12 weeks of consecutive family leave to bond with their new child starting on August 1, 2028. The application is denied because it was submitted more than 30 calendar days before the start of leave. For family leave starting on August 1, 2028, Kendrick may submit a new application for family leave no earlier than July 2, 2028.¶

(5) A complete application for Paid Leave Oregon benefits may be submitted to the department up to 30 calendar days after the start of family, medical, or safe leave. Applications submitted after this timeframe will be processed as follows:¶

(a) If the entire period of leave occurred more than 30 days after the complete~~d~~ application w~~ithin the required timeframe under~~as submitted, the application will be denied, except as provided in section (4~~6~~) of this rule.~~ Good cause for the late submission of an application is determined at the discret~~¶

(b) If some of the leave occurred more than 30 days before the complete application was submitted, the perio~~n~~d of ~~the department and includes, but is not limited to, the following:¶~~

~~(a) A serious health condition that results in an unanticipated and prolonged period of incapacity and that prevents an individual from timely fil~~leave that occurred more than 30 days before the application was submitted will be denied, except as provided in section (6) of this rule. ¶

Example 1: Ikechi applied on April 15, 2029, for four weeks of consecutive medical leave starting ~~a~~on February 1, 2029. The application~~; or~~¶

~~(b) A demonstrated inability to reasonably access a means to file an application in a timely manner, such as an inability to file an applicati~~ is denied because the entire period of leave occurred more than 30 days before the application was submitted.¶

Example 2: Larissa applied on November 1, 2029, for one d~~ue to a natural disaster or a significant and prolonged department system outage.¶~~

~~(6) If the department determines the claimant demonstrated good cause for late submission of an application, the department may accept the application~~ay of intermittent family leave per week over a six-month period, starting on September 1, 2029. Larissa's requested leave dates from September 1, 2029, to October 1, 2029, are denied because those dates occurred more than 30 calendar days before the application was submitted. The rest of Larissa's requested leave from October 2, 2029 to January 31, 2030 may be approved if all other eligibility requirements are met.¶

(6) A complete application may be accepted up to one year after the start of leave in accordance with OAR 471-070-1207.¶

[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]

Statutory/Other Authority: ORS 657B.030, 657B.090, 657B.100, 657B.340

Statutes/Other Implemented: ~~ORS~~ 657B.090, 657B.100~~, Chapter 20 Oregon Laws 2024~~

AMEND: 471-070-1110

RULE SUMMARY: This rule is being amended to update the verification documents for family leave claims to care for and bond with a child. Additionally, the amended language updates the timeframe for signing certain documents for this leave type.

CHANGES TO RULE:

471-070-1110
Benefits: Verification of Family Leave to Care for and Bond ~~w~~With a Child
(1) A claimant applying for Paid Leave Oregon benefits to care for and bond with a child during the first year after the child's birth must provide one of the following forms of verification:¶
(a) The child's government issued birth certificate;¶
(b) A Consular Report of Birth Abroad;¶
(c) Legally recognized documents establishing paternity or guardianship, including but not limited to court-issued documents or administrative orders issued by the Department of Justice Division of Child Support;¶
(d) A Voluntary Acknowledgement of Pa~~ternity~~rentage (~~f~~Form 45-31) signed and witnessed by a hospital representative and issued within 5 calendar days of the date of birth;¶
(e) A document issued by a health care provider of the child or pregnant parent. If issued before the date of birth, the document must be dated and signed within 60 calendar days before the expected date of birth;¶
(f) A hospital admission form associated with delivery; ¶
(g) The Paid Leave Oregon Verification of Birth Form. If issued before the date of birth, the form must be dated and signed within 60 calendar days before the expected date of birth; or¶
(h) Another document approved by the department for this purpose. If issued before the date of birth, the ~~form~~document must be dated and signed within 60 calendar days before the expected date of birth.¶
(2) A claimant applying for Paid Leave Oregon benefits to care for and bond with a child during the first year after the placement of the child through foster care or the first year after the placement of the child through adoption must provide one of the following forms of verification that includes the child's first and last name:¶
(a) A copy of a court order verifying placement;¶
(b) A letter signed by the attorney representing the foster or adoptive parent that confirms the placement;¶
(c) A document from the foster care, adoption agency, or social worker involved in the placement that confirms the placement;¶
(d) A document for the child issued by the United States Citizenship and Immigration Services; or¶
(e) Another document approved by the department for this purpose.¶
(3) The verification required in sections (1) and (2) of this rule must show the following:¶
(a) Claimant's first and last name as parent or guardian of the child after birth or placement of the child through foster care or adoption;¶
(b) If applying for Paid Leave Oregon benefits under section (1) of this rule, the date of the child's birth or the expected date of the child's birth;¶
(c) If applying for Paid Leave Oregon benefits under section (2) of this rule, the date of placement;¶
(d) Unless issued by a government entity, the document must also contain:¶
(A) The issuer's first and last name;¶
(B) The issuer's title or specialization;¶
(C) The issuer's contact information, such as mailing address or telephone number;¶
(D) The issuer's handwritten or electronic signature; and¶
(E) The date the document was signed or issued.¶
(4) If any of the documents listed in sections (1) and (2) of this rule do not include the full name of the claimant or, if required by this rule, the full name of the claimant's child, or do not show the relationship of the child to the claimant, the claimant must submit one or more of the following documents to meet the verification requirements described in this rule:¶
(a) A legal marriage certificate;¶
(b) A certified Declaration of Domestic Partnership;¶
(c) A legal birth certificate;¶
(d) A notarized Voluntary Acknowledgement of Pa~~ternity~~rentage Affidavit (Form 45-21); ~~or~~¶
(e) One or more documents issued by an independent and verifiable third party that establishes the parent relationship to the child~~. The document must be issued within six months before the claimant's start of leave.¶~~
~~(f) O~~; or¶
(f) For leave under section (1) of this rule, one or more documents showing that the claimant is in an in loco parentis relationship with the child. The department may consider the following documents alone or in combination to

determine whether the claimant has assumed an in loco parentis role with respect to the child:¶
(A) A valid power of attorney granting the claimant authority to care for and make decisions for the child;¶
(B) A court order establishing the claimant as custodian of the child;¶
(C) Documentation showing that the claimant has assumed caregiving responsibilities in association with a legal parent's incarceration;¶
(D) The claimant's most recent federal or state tax return listing the child as a dependent;¶
(E) A letter from a childcare provider, school, or health care provider identifying the claimant as a primary caregiver for the child;¶
(F) Documentation showing regular financial support to the child;¶
(G) Health insurance documentation listing the child as a covered dependent under the claimant's policy; and¶
(H) Other documentation approved by the department that demonstrates an in loco parentis relationship consistent with the factors listed in OAR 471-070-1000.¶
(5) Documentation submitted under section (4)(e) or (f) of this rule must be issued within six months before the claimant's start of leave. The department may accept documentation issued outside that timeframe if the type of documentation is normally issued or updated less frequently than once every six months.¶
[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]
Statutory/Other Authority: ORS 657B.340, ORS 657B.090
Statutes/Other Implemented: ORS 657B.090

AMEND: 471-070-1120

RULE SUMMARY: This rule is being amended to update the verification documents for serious health condition claims by adding and removing certain requirements, as well as updating what documents can be used to confirm a family relationship and the timeframe in which certain documents may be signed.

CHANGES TO RULE:

471-070-1120
Benefits: Verification of a Serious Health Condition
(1) A claimant applying for Paid Leave Oregon benefits for their own serious health condition or to care for a family member with a serious health condition must provide one of the following forms of verification:¶
(a) The Paid Leave Oregon Verification of a Serious Health Condition Form;¶
(b) The Oregon and Federal Family and Medical Leave Health Care Provider Certification issued by the Oregon Bureau of Labor and Industries (BOLI);¶
(c) The Family and Medical Leave Act (FMLA) certification of health care provider for a serious health condition form issued by the U.S. Department of Labor;¶
(d) A FMLA certification for a serious health condition form issued by an employer;¶
(e) A document issued by the patient's health care provider; or¶
(f) Another document approved by the department for this purpose.¶
(2) The forms of verification listed in section (1) of this rule must include:¶
(a) The following information about the patient's health care provider:¶
(A) First and last name;¶
(B) Type of medical practice/specialization;¶
(C) Contact information, such as mailing address and telephone number; and¶
(D) Handwritten or electronic signature and date signed. If issued before the start of leave, the verification document must be signed by the patient's health care provider within 60 calendar days before the claimant's leave start date;¶
(b) The claimant's first and last name;¶
(c) ~~The patient's date of birth, if different from the claimant identified in section (2)(b) of this rule;¶~~
~~(d)~~ The patient's first and last name, if different from the claimant identified in section (2)(b) of this rule;¶
(~~e~~d) The approximate date on which the serious health condition commenced or when the serious health condition created the need for leave;¶
(~~f~~e) A reasonable estimate of the duration of the condition or recovery period for the patient;¶
(~~g~~f) A reasonable estimate of the frequency and duration of intermittent leave and estimated treatment schedule, if applicable; and¶
(~~h~~g) Other information as requested by the department to determine eligibility for the Paid Leave Oregon benefits, including:¶
(A) For medical leave, information sufficient to establish that the claimant has a serious health condition, including but not limited to a diagnosis or a description, including symptoms or required treatment of the serious health condition; or¶
(B) For family leave, information sufficient to establish that the claimant's family member has a serious health condition, including but not limited to a diagnosis or a description, including symptoms or required treatment of the serious health condition.¶
(3) If any of the documents listed in section (1) of this rule do not include the full name of the ~~patient or the~~ claimant, if different from the patient identified in section (2)(~~b~~c) of this rule, or do not show the family relationship of the claimant and the patient, the claimant must submit at least one of the following documents to meet the verification requirements described in this rule:¶
(a) A legal marriage certificate;¶
(b) A certified Declaration of Domestic Partnership;¶
(c) A legal birth certificate; or¶
(d) One or more documents issued by an independent and verifiable third party that establishes marriage, domestic partnership, or a significant family relationship between claimant and patient. The document must be issued within six months before the claimant's start of leave. The department may accept documentation issued outside that timeframe if the type of documentation is normally issued or updated less frequently than once every six months.¶
[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]
Statutory/Other Authority: ORS 657B.340, ORS 657B.090
Statutes/Other Implemented: ORS 657B.090

AMEND: 471-070-1205

RULE SUMMARY: This rule is being amended to clarify when weekly claims may be submitted and how claims filed after the required timeframe are handled.

CHANGES TO RULE:

471-070-1205
Benefits: Weekly Claims
(1) A claimant taking Paid Leave Oregon benefits on an intermittent leave schedule or for more than one qualifying purpose as described in OAR 471-070-1430, must file a weekly claim in order to receive Paid Leave Oregon benefits for that week.¶
(2) For a weekly claim to be approved, the weekly claim must be complete, and the required information for a claim includes, but is not limited to, the following ~~information~~:¶
(a) The dates of the work week being claimed;¶
(b) The number of work days of leave taken for each leave type specified under ORS 657B.020;¶
(c) The number of days worked during the work week;¶
(d) Claimant's eligibility to receive workers' compensation time loss benefits under ORS chapter 656 or ~~Unemployment Insurance~~wage replacement benefits under ~~ORS chapter 657 for the work week~~a state or federal unemployment benefits program;¶
(e) Any changes to current employment, including any new employment or employment that has ended since the benefit application or last weekly claim; and¶
(f) A written or electronically signed statement declaring under oath that the information provided in support of the weekly claim is true and correct to the best of the claimant's knowledge.¶
(3) ~~The~~A weekly claim m~~ust~~ay be submitted to the department only after th~~at work week has ended and no later than~~e end of the work week in which the family, medical, or safe leave was taken.¶
(4) A weekly claim may be submitted to the department up to 30 calendar days ~~following~~after the end of the work week in which the family, medical, or safe leave was taken. ~~W~~A weekly claim~~s~~ submitted ~~after~~more than 30 calendar days ~~will be denied, except in cases where a claimant can demonstrate a~~after the end of the work week will be denied, except as described in section (5) of this rule.¶
(5) A weekly claim ~~was~~ submitted ~~late for reasons that constitute good cause under section (5) of this rule~~more than 30 days after the end of the work week may be accepted up to one year after the end of the work week in accordance with OAR 471-070-1207.¶
(4~~6~~) For claimants taking intermittent leave, the number of days of leave eligible in a work week may not exceed the average number of work days worked per week, as provided under OAR 471-070-1100(1)(c)(C) or OAR 471-070-1210(2), minus the number of days actually worked during the work week.~~¶~~
Example: Eddie submits an application for benefits that states their average work week consists of four work days. The weekly benefit amount is $875.00. Eddie submits their first weekly claim and reports three days worked and three days of leave, for a total combination of six days of work and leave reported. Eddie will only be paid for one of the three days of leave reported on the weekly claim report as Eddie worked three days out of a four day work week. The benefit amount paid for the first week of leave to Eddie is $218.75 [($875.00 weekly benefit amount divided by 4 work days) x 1 day of payable leave].~~¶~~
~~(5) Good cause exists when a claimant establishes by satisfactory evidence submitted to the department that factors or circumstances beyond the claimant's control prevented the claimant from submitting a weekly claim within the required timeframe under section (3) of this rule. Good cause for the late submission of a weekly claim is determined at the discretion of the department and includes, but is not limited to, the following:¶~~
~~(a) A serious health condition that results in an unanticipated and prolonged period of incapacity and that prevents a claimant from timely filing a weekly claim; or¶~~
~~(b) A demonstrated inability to reasonably access a means to file a weekly claim in a timely manner, such as an inability to file a weekly claim due to a natural disaster or a significant and prolonged department system outage.¶~~
~~(6) If the department determines the claimant demonstrated good cause for late submission of a weekly claim, the department may accept the weekly claim up to one year after the leave was taken.~~
Statutory/Other Authority: ORS 657B.340
Statutes/Other Implemented: ORS 657B.020, 657B.090, ~~Chapter 20 Oregon Laws 2024~~ORS 657B.030

ADOPT: 471-070-1207

RULE SUMMARY: This rule is being proposed for adoption to establish a consistent good-cause standard for late benefit applications and late weekly claims, including a clear timeframe for filing after the circumstances causing the delay have ended.

CHANGES TO RULE:

471-070-1207
Benefits: Late Application for Benefits and Weekly Claims
(1) A late application for benefits under OAR 471-070-1100(6), or a late weekly claim under OAR 471-070-1205(5), may be accepted if the department determines that:¶
(a) Good cause exists for the late submission; and¶
(b) The application or weekly claim was submitted within seven calendar days after the circumstances that prevented timely filing ceased to exist.¶
(2) Good cause exists when a claimant establishes by satisfactory evidence submitted to the department that factors or circumstances beyond the claimant's control prevented the claimant from submitting a complete application or weekly claim within the required timeframe.¶
(3) Good cause for the late submission of a complete application for benefits or weekly claim is determined at the discretion of the department and includes, but is not limited to, the following:¶
(a) The claimant was incapacitated due to a serious health condition, as defined in OAR 471-070-1000, and was physically or mentally unable to timely file a complete application or weekly claim;¶
(b) Extraordinary circumstances beyond the claimant's control, such as natural disasters, war, or pandemics, prevented the claimant from timely filing a complete application or weekly claim; ¶
(c) A prolonged and significant system outage prevented the claimant from timely filing a complete application or weekly claim through any method approved by the department;¶
(d) The claimant or patient requested verification documentation from their health care provider within 30 days of the start of leave and was unable to obtain the documentation before the end of the timely application filing period; ¶
(e) Misinformation provided by the department, the employer's benefits administrator or the employer from which the claimant is taking paid family, medical, or safe leave, or the claimant's short-term disability provider reasonably led the claimant to not file a complete application or a weekly claim timely; or¶
(f) Circumstances related to the claimant's need for safe leave prevented the claimant from timely filing a complete application or weekly claim.¶
(4) "Incapacitated" for the purposes of section (3)(a) of this rule has the same meaning as in ORS 125.005(5).
Statutory/Other Authority: ORS 657B.090, 657B.340
Statutes/Other Implemented: ORS 657B.090, 657B.015, 657B.100

AMEND: 471-070-1210

RULE SUMMARY: This rule is being amended to align with ORS 657B.030 to clarify that eligibility for any federal or state wage-replacement unemployment benefits will disqualify a claimant from Paid Leave Oregon benefits.

CHANGES TO RULE:

471-070-1210
Benefits: Updates to a Claim for Leave
(1) After submitting an application for benefits as specified in OAR 471-070-1100, a claimant must notify the department within 10 calendar days of any changes to the information provided on their application and provide additional information as provided in OAR 471-070-1200, if applicable, including, but not limited to, changes to the claimant's:¶
(a) First and last name;¶
(b) Mailing address;¶
(c) Telephone number;¶
(d) Current employment or self-employment;¶
(e) Leave schedule;¶
(f) Type of leave taken; or¶
(g) Eligibility to receive workers' compensation time loss benefits under ORS chapter 656 or ~~Unemployment Insurance benefits under ORS chapter 657~~wage replacement benefits under a state or federal unemployment benefits program.¶
(2)(a) A claimant may change their average number of work days worked per work week that they provided on the application for benefits only under the following circumstances in which the claimant: ¶
(A) Added one or more new employer(s) since applying for benefits;¶
(B) Left one or more employer(s) since applying for benefits; or¶
(C) Applied for benefits for an additional qualifying purpose.¶
(b) Any approved change to the average number of work days worked per work week shall take effect beginning on the Sunday of the first week after the claimant experienced a change in employment or started an additional qualifying purpose for benefits.¶
(3) Failure to notify the department of any changes to the information provided on an application for benefits as specified in section (1) of this rule may result in a delay, denial, overpayment, or disqualification of weekly benefits.¶
[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]
Statutory/Other Authority: ORS 657B.090, 657B.340
Statutes/Other Implemented: ORS 657B.090, 657B.100, ~~Chapter 20 Oregon Laws 2024~~657B.030

AMEND: 471-070-1300

RULE SUMMARY: This rule is being amended to require employers to update their Paid Leave model notice posters within their workplace whenever a new poster becomes available.

CHANGES TO RULE:

471-070-1300
Benefits: Written Notice Poster to Employees of Rights and Duties
(1) The director shall make available to employers a model Paid Leave Oregon notice poster that meets the requirements of ORS 657B.440.¶
(2)(a) Each employer must display the department's notice poster in each of the employer's buildings or worksites in an area that is accessible to and regularly frequented by employees; and¶
(b) An employer with employee(s) assigned to remote work must provide, by hand delivery, regular mail, or through an electronic delivery method, a copy of the department's notice poster to each employee assigned to remote work. The notice poster must be delivered or sent to each employee assigned to remote work upon the employee's hire or assignment to remote work.¶
(3)(a) For employers that have employee(s) working in buildings or worksites, the notice poster displayed under section (2)(a) of this rule by the employer must be displayed in the language the employer typically uses to communicate with the employee. If the employer uses more than one language to communicate with employees assigned to a building or worksite, then the employer must display copies of the notice poster in each of the languages that the employer would typically use to communicate with the employees assigned to that building or worksite; and¶
(b) For employers that have employee(s) assigned to remote work, the notice poster provided under section (2)(b) of this rule by the employer must be provided in the language the employer typically uses to communicate with each employee assigned to remote work.¶
(4)(a) Employers must update their displayed or provided Paid Leave Oregon notice poster whenever a revised version is made available by the department. An employer with employee(s) assigned to remote work must provide a copy of the updated notice poster to each employee assigned to remote work in the manner described in section (2)(b) of this rule.¶
(b) The department shall announce the availability of any revised model Paid Leave Oregon notice posters.¶
(5) An employer offering an equivalent plan approved under ORS 657B.210 must follow the employer notice poster requirements specified in OAR 471-070-2330.¶
[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]
Statutory/Other Authority: ORS 657B.340, 675B.440
Statutes/Other Implemented: 675B.440, ORS 657B.070

AMEND: 471-070-1310

RULE SUMMARY: This rule is being amended to clarify the timeframe for providing notice to an employer when circumstances beyond the employee's control prevented timely notice, and to align that timeframe with the good cause standard for late application and weekly claims.

CHANGES TO RULE:

471-070-1310
Benefits: Employee Notice to Employers Prior to Commencing Leave
(1) Except as provided in ORS 657B.040(5) for safe leave, an eligible employee must give notice to their employer when commencing a period of family, medical, or safe leave.¶
(2) If the leave is foreseeable, an eligible employee must give oral notice at least 30 calendar days before commencing leave and an employer may require an eligible employee to give written notice at least 30 calendar days before commencing leave. Examples of foreseeable leave include, but are not limited to, an expected birth, planned placement of a child, or a scheduled medical treatment for a serious health condition of the eligible employee or a family member of the eligible employee.¶
(3) If the leave is not foreseeable, an eligible employee may commence leave without 30 calendar days advance notice. However, the eligible employee or another person on behalf of the eligible employee taking leave must give oral notice to the employer within 24 hours of the commencement of the leave and must provide written notice within three days after the commencement of leave. Leave circumstances that are not foreseeable include, but are not limited to, an unexpected serious health condition of the eligible employee or a family member of the eligible employee, a premature birth, an unexpected adoption, an unexpected foster placement by or with the eligible employee, or for safe leave.¶
(4) An employer may require a written notice to include:¶
(a) Employee's first and last name;¶
(b) Type of leave;¶
(c) Explanation of the need for leave; and¶
(d) Actual or anticipated timing and duration of leave.¶
(5) Written notice includes, but is not limited to, handwritten or typed notices, and electronic communication such as text messages and email that is consistent with the employer's known, reasonable, and customary policies. ¶
(6) An employer that requires eligible employees to provide written notice before the eligible employee commences leave, must outline the requirements in the employer's written policy and procedures. A copy of the written policy and procedure must be provided to all employees at the time of hire and each time the policy and procedure changes and in the language that the employer typically uses to communicate with the employee. If the employer requires the employee to provide written notice, the policy and procedures must include a description of the benefit reduction under section (10) of this rule that may be imposed by the department for not complying with the employer's notice requirements.¶
(7) An employee does not need to expressly mention the Paid Leave Oregon program when giving their employer written or oral notice under this rule.¶
(8) The department will notify the employer pursuant to OAR 471-070-1320(1) when a claimant has applied for paid family, medical, or safe leave benefits. The employer may respond to the notice from the department within 10 calendar days from the date on the department's notice to report if the claimant did not provide the required notice under this rule. The employer may respond to the department's notice either online or by another method approved by the department.¶
(9) If the employer does not respond to the department's notice as described in section (8) of this rule within 10 calendar days from the date on the department's notice, the claimant's application for benefits shall be processed using the information available in the department's records.¶
(10) If the department determines that the claimant did not provide the required leave notice to the employer, the department may impose a benefit reduction by issuing a decision and reducing the first weekly benefit amount payable under ORS 657B.090 by 25 percent. The first benefit payment issued will be reduced by the entire amount of the reduction. If the first benefit payment issued is less than the entire amount of the reduction, the subsequent benefit payment(s) will be reduced until the entire reduction has been subtracted.¶
Example 1: Sanomi did not provide the required notice to their employer about taking consecutive family leave. Sanomi's weekly benefit amount is $140. Sanomi is taking leave from work for family leave for all the work days within the first week. The 25 percent benefit reduction equals $35 ($140 weekly benefit amount x .25 reduction). Sanomi's first benefit payment would have been $140, but will be reduced to $105 ($140 benefit payment - $35 reduction). Because the first benefit payment is more than the amount of the reduction, the entire reduction is subtracted from the first benefit payment.¶

Example 2: Joy did not provide the employer with the required leave notice about taking intermittent medical leave. Joy normally works an average of six work days in a work week and is unable to work one of those days each week due to taking medical leave. Joy's weekly benefit amount is $600, which is prorated to $100 per work day of leave ($600 weekly benefit amount / 6 days per week).~~-~~The amount of the benefit reduction is $150 ($600 weekly benefit amount x .25 reduction). Joy's first benefit payment would have been $100 because one day of leave from work during that week is taken. However, the first benefit payment is reduced to $0 after the reduction amount is subtracted ($100 first week benefit payment - $150 reduction). The second benefit payment would have been $100 but the second benefit payment is reduced to $50 after the remaining reduction amount is subtracted ($100 second week benefit payment - $50 remaining reduction). The third benefit payment is not reduced as the entire amount of the reduction has already been subtracted from Joy's benefit.¶

(11) The claimant may appeal the imposition of the benefit reduction in accordance with ORS 657B.410 and applicable administrative rules.¶

(12) The employee may request a waiver of the benefit reduction for good cause. Good cause ~~will be found~~exists when the employee establishes, by evidence satisfactory ~~evidence~~to the department, that factors or circumstances beyond the employee's reasonable control prevented the employee from providing the required notice to the employer. Good cause includes, but is not limited to, an incapacitating serious health condition or a situation related to safe leave~~, for which~~. The waiver of benefit reduction will not be granted unless good cause exists and the employee provided the required notice to the employer ~~as soon as was practicable~~within seven calendar days after the circumstances that prevented the employee from providing timely notice have ended.¶

(13) The department, in its discretion, may waive the imposition of the benefit reduction without a request for a waiver by the employee if the department determines that the employee had good cause for not providing notice to their employer(s) or applying the benefit reduction is against equity, good conscience, or administrative efficiency.¶

(14) If an employee receives their first weekly benefit payment, and the department subsequently determines that proper notice to the employer was not made by the employee, an amount equal to the 25 percent benefit reduction will be considered an erroneous overpayment, and that amount of the reduction may be collected from the employee in accordance with ORS 657B.332.

Statutory/Other Authority: ORS 657B.340, ORS 657B.040

Statutes/Other Implemented: ORS 657B.040

AMEND: 471-070-1480

RULE SUMMARY: This rule is being amended to clarify that, as of January 1, 2027, voluntary income tax withholding will be available only for benefits paid for family and safe leave, in response to IRS Revenue Ruling 2025-4 and the passing of SB 1520 (2026) as medical leave and additional pregnancy leave will no longer be funded by employer contributions or considered taxable wages.

CHANGES TO RULE:

471-070-1480
Benefits: Federal and State Voluntary Tax Withholding
(1) A claimant receiving taxable Paid Leave Oregon benefits can elect to voluntarily have federal or state personal income tax withholding. ¶
(2) Beginning with tax year 2027, taxable Paid Leave Oregon benefits are those for:¶
(a) Family leave, as defined in ORS 657B.010(18); and¶
(b) Safe leave, as defined in ORS 657B.010(22).¶
(3) To elect voluntary withholding, the claimant must ~~notify~~submit a withholding request to the department ~~on~~using an approved method.~~-~~¶
(~~2~~4) When the department receives the claimant's ~~notification~~ request~~ing~~ for withholding, the department will~~:~~ begin to:¶
(a) Withhold at a rate of 10 percent for federal personal income taxes pursuant to IRC section 3402 (p) and applicable regulations f~~o~~rom future benefit payments~~issued~~.¶
(b) Withhold at a rate of eight percent for Oregon personal income taxes f~~o~~rom future benefit payments~~issued.~~.¶
(~~3~~5) The amount of voluntary withholding from a claimant benefit payment will be rounded to the nearest whole cent. When rounding, any number with the last figure five or greater is rounded up, while numbers less than five are rounded down.¶
(~~4~~6) The amount of voluntar~~il~~y withholding from a claimant benefit payment will be held in trust and:~~-~~¶
(a) Transferred to the Internal Revenue Service in the time and manner required for withholdings under IRC section 3402.~~-~~¶
(b) Transferred to the Department of Revenue in the time and manner provided by the Department of Revenue under ORS chapter 316 and applicable rule~~s~~.~~-~~¶
(~~5~~7) The voluntary withholding election will remain in effect until the claimant submits to the department an authorization for tax withholding form instructing the department to stop withholding. The withholding will stop with the next benefit payment issued, whenever administratively feasible, after the instruction to stop is received by the department.¶
(~~6~~8) The Paid Leave Oregon program shall provide information to a claimant about the total federal and state personal income tax withheld for the calendar year from Paid Leave Oregon benefit payments on ~~the~~federal Form 1099 no later than January 31st following the end of the calendar year.
Statutory/Other Authority: ORS 657B.340
Statutes/Other Implemented: ORS 657B.050

AMEND: 471-070-1500

RULE SUMMARY: This rule is being amended to include statutory references to ORS 657B.336 and 657B.337. Additionally, it clarifies the department's ability to cancel a benefits overpayment.

CHANGES TO RULE:

471-070-1500
Benefits: Review of Overpaid Benefits
(1) The department may review an overpayment of benefits to determine the cause of the overpayment and whether the claimant is liable for repayment of the benefits and any applicable penalties.¶
(2) The department's review of the overpayment shall be used to determine whether:¶
(a) The overpayment may be waived under ORS 657B.332(5) or ORS 657B.336;¶
(b) Interest may be applied under OAR 471-070-1510(3) to any amount owed;¶
(c) Penalties shall be applied under ORS 657B.332(3)(b); ~~and~~¶
(d) The claimant shall be disqualified from claiming benefits under ORS 657B.332(3)(a); or¶
(e) The overpayment may be canceled under ORS 657B.337.¶
(3) The department shall review information provided by the claimant or other parties and from the department's records in making its determination under this rule.¶
(4) The claimant may be held liable for repayment of benefits they were not entitled to, even though all relevant information was provided before a decision was issued, when the claimant should reasonably have known the payment was improper.¶
(5) The claimant will always be liable for repayment of benefits when an overpayment is the result of a claimant willfully making a false statement or willfully failing to report a material fact in order to obtain Paid Leave Oregon benefits.¶
(6) In deciding if a claimant is liable for repayment of benefits, the department may also consider factors which may affect the claimant's ability to report all relevant information to the department.
Statutory/Other Authority: ORS 657B.340, ORS 657B.332
Statutes/Other Implemented: ORS 657B.332, 657B.336, 657B.337

AMEND: 471-070-1510

RULE SUMMARY: This rule is being amended to align the timeline to recover overpayment benefits with statutory language, clarifying that the Department of Revenue performs the offset of benefits, not Paid Leave, and explicitly lists civil action as a method of recovery.

CHANGES TO RULE:

471-070-1510
Benefits: Repayment of Overpaid Benefits; Interest
(1) The director may issue an assessment to a claimant for an overpayment each time a claimant receives Paid Leave Oregon benefits to which the claimant was not entitled.¶
(2) If the director determines that a claimant has received benefits to which the claimant was not entitled:¶
(a) The claimant may be required to repay the amount of benefits that the claimant was overpaid;~~-~~¶
(b) The claimant may be required to repay the amount of penalty and interest (if applicable); ¶
(c) The director may secure the repayment of the overpaid benefits through the deduction from future benefits otherwise payable to the claimant under ORS 657B.100; ~~and~~¶
(d) The director may secure the repayment of the overpaid benefits ~~through the offset against any state tax refund owed to the claimant~~by submitting liquidated and delinquent overpayment debt for offset against any state tax refund owed to the claimant by the Department of Revenue; and¶
(e) The director may bring a civil action against the claimant to collect amounts subject to recovery under ORS 657B.332 and 657B.335.¶
(3)(a) If the department determines that a claimant is at fault for an overpayment, due to the claimant's error, false statement, or failure to report a material fact, then the claimant may be liable for interest on the overpayment amount. Interest that the claimant is liable for shall be paid and collected at the same time repayment of benefits is made by the individual, at the rate of one percent per month or fraction of a month. Interest will accrue, beginning on the first day of the month that begins 60 calendar days after the administrative decision establishing the overpayment becomes final.¶
(b) If the department determines that a claimant is not at fault for an overpayment, then the claimant shall not be liable for interest on the amount to be repaid as a result of the overpayment.¶
(4) If the director deducts the claimant's future weekly benefits under section (2)~~(b)~~ of this rule, the deduction shall be from the claimant's future weekly benefits up to the amount of the prior overpayment, penalt~~y~~ies, and interest (if applicable). The deduction will begin with the first benefit payment issued after the department's decision regarding the overpayment becomes final.¶
(5) If there are multiple benefit overpayments, the deduction described in section (4) of this rule will apply to the oldest unwarranted debt first. Once all unwarranted debt is paid, the deduction will apply to the most recent warranted debt.¶
(6) Deductions from Paid Leave Oregon benefits under section (2)~~(b)~~ of this rule shall be applied solely to the amount of overpaid benefits for which the claimant is liable and penalties and interest (if applicable).¶
(7) Deductions for the repayment of benefits paid erroneously ~~may be deducted from benefits due to~~and not due to any false statement or failure to report a material fact by the claimant may be made from benefits due to the claimant for any week within five years after the decision establishing the erroneous payment becomes final. Deductions for the repayment of benefits paid erroneously due to the claimant's willful making of a false statement or failure to report a material fact may be made from benefits due the claimant with no time limitation~~s~~.
Statutory/Other Authority: ORS 657B.332, 657B.340
Statutes/Other Implemented: ORS 657B.332, ORS 293.250, 657B.338, 657B.335, 657B.336

AMEND: 471-070-1520

RULE SUMMARY: This rule is being amended to ensure statutory compliance under ORS 657B.332. Additionally, this rule clarifies the timeline for a claimant to request a waiver of recovery of an overpayment.

CHANGES TO RULE:

471-070-1520
Benefits: Waiver Recovery of Overpayments
(1) A claimant may request a waiver ofor recovery of overpayments from the department in the manner specified by the department in its instructions any time after receiving notice of the department's determination that there has been an overpayment of benefits.¶
(2) In accordance with ORS 657B.332(5), the director may waive, in whole or in part, the amount of Paid Leave Oregon benefits if:¶
(a) The benefits were paid based on an error other than a willful provision of a false statement, nondisclosure of a material fact, or misrepresentation by a claimant, and¶
(b) Recovery would be against equity, good conscience, or administrative efficiency.¶
(3) The director may determine that recovery of overpaid benefits is against equity andor good conscience if the individual requesting a waiver has limited means to repay the benefits and has total allowable household expenses that equal or exceed 90 percent of the total household income, not including Paid Leave Oregon benefits received. The department will use the current year's Internal Revenue Service (IRS) Collection Financial Standards to determine total allowable household expenses. The director may allow expenses higher than those provided for in the IRS Collection Financial standards if the claimant requesting a waiver provides documentation showing that using those IRS Collection Financial Standards would leave the claimant unable to provide for basic living expenses.¶
(4) If the director grants a waiver, the department will stop collection activity of any overpaid benefits subject to the waiver. The department will give written notice of any waiver that is granted, indicating the amount of the overpaid benefits for which the waiver is granted.¶
(5) Waivers granted are effective the Sunday of the week in which the request for waiver was filed with the department. The date of the post-mark from the United States Postal Service, a date stamp from an Employment Department office, an embedded fax date, or the electronic filing date as described in OAR 471-070-0850, whichever is earliest, will be used to determine the date of filing.¶
(6) If a request for waiver is denied, the department will notify the claimant of its decision. The claimant may submit another request for waiver if their situation changes significantly enough to establish that recovery of the benefits would be against equity andor good conscience. No subsequent request for waiver of benefits may be granted, unless the claimant satisfactorily demonstrates in writing the significant change in financial situation and provides supporting documentation.¶
(7) Overpaid benefits that have been recovered from the claimant prior to the filing of a waiver request will not be waived or refunded.¶
(8) If a person is paid more than once for the same week(s), recovery of only the amount in excess of the final entitlement is eligible to be waived.¶
(9) In applying ORS 657B.332(5), a waiver will not be granted if the overpayment is a result of a willful false statement or a willful, failure to report a material fact as determined under ORS 657B.332(3)or a misrepresentation.¶
(10) Overpayments caused by the negotiation of an original and a replacement check that were issued for the same period will not be waived.¶
(11) The determination whether to waive overpayments under ORS 657B.332(5) and this rule shall be made by employees authorized by the director by delegation and may be made with or without the request for a waiver from the claimant.¶
[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]
Statutory/Other Authority: ORS 657B.340, ORS 657B.332
Statutes/Other Implemented: ORS 657B.332, 657B.336

ADOPT: 471-070-1525

RULE SUMMARY: This rule is being proposed for adoption to clarify when overpayments become uncollectible and authorize delegated staff to cancel unrecoverable overpayments.

CHANGES TO RULE:

471-070-1525
Benefits: Cancellation of Unrecoverable Overpayments
(1) In accordance with ORS 657B.337, the director may cancel an overpayment when the department determines the overpayment is uncollectible.¶
(2) In making the determination that an overpayment is uncollectible, the director shall consider, among other factors:¶
(a) The administrative costs of continued collection efforts in relation to the amount due; ¶
(b) The accessibility of the debtor for effective collection actions; and ¶
(c) The debtor's financial condition and ability to pay the amount due, both current and projected.¶
(3) The determination whether to cancel an overpayment and waive, reduce, or compromise any associated interest or penalties under ORS 657B.337 and this rule may be made by employees authorized by the director by delegation.
Statutory/Other Authority: ORS 657B.340
Statutes/Other Implemented: 657B.337

AMEND: 471-070-2100

RULE SUMMARY: This rule is being amended to include references to ORS 657B.335 and 657B.336, clarifying the department's authority to recover overpayments it mistakenly makes to claimants, including employees of tribal governments.

CHANGES TO RULE:

471-070-2100
Tribal Government: Election Requirements and Effective Date
(1) A tribal government may elect coverage at any time under the Paid Leave Oregon program in accordance with ORS 657B.130(4). The tribal government must elect coverage separately for each business owned by the tribal government.¶
(2) A tribal government election of the Paid Leave Oregon program coverage must be in writing and must be accomplished through an intergovernmental agreement between the tribal government and the State of Oregon acting by and through the Employment Department. The tribal government must agree to pay contributions for a period of not less than three years.¶
(3) A tribal government that has elected coverage by entering an agreement pursuant to section (2) of this rule shall be considered an "employer" and employees of the tribal government shall be considered "employees" under ORS chapter 657B and related administrative rules. The tribal government and its employees shall be subject to all rights and responsibilities therein, including, but not limited to:¶
(a) Payment of contributions at the same rate and amount as employers and employees as specified in ORS 657B.150 and applicable administrative rules.¶
(b) Filing and paying quarterly as required on the Oregon Quarterly Tax Report, including detailing the Paid Leave Oregon portion of all Paid Leave ~~o~~Oregon subject wages, the employee count, and the employee and employer Paid Leave Oregon contributions due in accordance with ORS 657B.150 and OAR 471-070-3030.¶
(c) Receipt of Paid Leave Oregon benefit amounts by eligible employees of tribal governments that have elected coverage in accordance with ORS 657B.050(1) and (2) and related administrative rules.¶
(d) Collection by the department of erroneous payments of benefits to employees of tribal governments in accordance with provisions for employees in ORS 657B.332, 657B.335, 657B.336 and related administrative rules.¶
(e) Job protection for eligible employees of tribal governments as specified in ORS 657B.060 and applicable administrative rules.¶
(f) Collection requirements or methods and applicable penalties on delinquent payments of contributions and recovery of improper benefit payments as described in ORS 657B.280 through 657B.339 and applicable administrative rules.¶
(4) Approved elective coverage becomes effective on the date the intergovernmental agreement is signed by the department and the tribal government.¶
(5) To the extent allowed by law, the terms of a Paid Leave Oregon tribal government intergovernmental agreement may supersede this rule and OAR 471-070-2180, if both parties agree.¶
[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]
Statutory/Other Authority: ORS 657B.130
Statutes/Other Implemented: ORS 657B.150, ORS 657B.130, 657B.335, 657B.336

ADOPT: 471-070-3005

RULE SUMMARY: This rule is being proposed for adoption due to changes made by SB 1520 (2026), which amended ORS 657B.430 to allow the director to adopt rules that establish an accounting system for the purpose of complying with the tax reporting and withholding requirements. These proposed changes do not allow the director to change the employee/employer split of the contribution rate or the percentage of total contributions beyond what is stated in ORS 657B.150.

CHANGES TO RULE:

471-070-3005
Contributions: Labeling and Allocation of Contributions in the Paid Leave Oregon Trust Fund
(1) In accordance with the provisions of ORS 657B.430(4), and to comply with federal tax withholding and reporting requirements, the department will assign contributions made to the Paid Leave Oregon Trust Fund on or after January 1, 2027, with distinct accounting codes that indicate whether each contribution is employee-paid or employer-paid, as defined in ORS 657B.150(2). ¶
(2) Upon assignment of accounting codes under section (1) of this rule, contributions in the fund will be allocated for the payment of benefits, such that:¶
(a) Medical leave and additional pregnancy leave benefits shall be paid using only employee contributions. No portion of employer contributions shall be used for payment of medical leave or additional pregnancy leave benefits.¶
(b) Family leave and safe leave benefits shall be paid using both employer and employee contributions. ¶
(3) Any contributions deposited in the trust fund prior to January 1, 2027, will be split between two subaccounts, with 40% of pre-existing contributions deposited into a subaccount for employer-paid contributions and 60% of pre-existing contributions deposited into a subaccount for employee-paid contributions. ¶
(a) If employee contributions deposited in the trust fund on or after January 1, 2027, are insufficient to cover all medical leave and additional pregnancy leave benefit payments approved on or after this date, the director may use moneys in the subaccount for pre-existing employee contributions to pay approved medical and additional pregnancy leave benefits. ¶
(b) No funds in the pre-existing employer contributions subaccount shall be used for payment of medical and additional pregnancy leave benefits after the beginning of the 2027 tax year.
Statutory/Other Authority: ORS 657B.150, 657B.340, 657B.430
Statutes/Other Implemented: 657B.430

AMEND: 471-070-3850

RULE SUMMARY: This rule is being amended to clarify that repayments of employer assistance grants shall be made in accordance with ORS 657B.320.

CHANGES TO RULE:

471-070-3850
Assistance Grants: Repayment of Grants
(1) Grants shall be repaid to the department if, within three years of receiving a grant:¶
(~~1~~a) Amendments to a previous wage report result~~ed~~ in a reassessment of the employer size that determines the employer was a large employer at the time the eligible employee started the period of family leave, medical leave or safe leave used for the grant application; or¶
(~~2~~b) The department determines that the information or documentation included in the grant application was inaccurate, misleading or false and the employer was ineligible for the grant or did not meet the grant application requirements.¶
(2) If the department determines that an employer is required to repay an assistance grant, repayments shall be made in accordance with ORS 657B.320.
Statutory/Other Authority: ORS 657B.200, ORS 657B.340
Statutes/Other Implemented: ORS 657B.200, 657B.320

AMEND: 471-070-5200

RULE SUMMARY: This rule is being amended in accordance with SB 912 (2023) to clarify that the department may make any deductions from future benefit payments within five years, except as otherwise specified in statute. Additionally, this rule is being amended to reference ORS 657B.320, which modified the statute to provide the department with the authority to include the repayment of assistance grants with its existing authority to collect employer contributions owed to Paid Leave.

CHANGES TO RULE:

471-070-5200
Due Dates for Balances Owed to the Department
(1) Unless otherwise specified in statute or administrative rule, balances owed to the department under ORS chapter 657B are considered due and payable as of the date the decision causing the balance due becomes final.¶
(2) Except as otherwise provided by law, balances arising from benefits paid in error that are recoverable through deduction from future Paid Leave Oregon benefit payments may be deducted from any future benefits payable for any week within five years following the week in which the decision establishing the erroneous payment became final.¶
(3) "Final" means a decision made under this chapter for which the timeframe to request a hearing as described in OAR 471-070-8005 has expired, unless a timely request for a hearing with the department regarding the decision has been filed, in which case "final" means when the decision issued following the hearing, or any appeal of the hearing, has been issued and the time period to further appeal that decision has passed without a timely appeal being filed.
Statutory/Other Authority: ORS 657B.340
Statutes/Other Implemented: ORS 657B.340, 657B.320, 657B.335