

Presiding Officer's Report to Agency on Rulemaking Hearing

Date: December 18, 2024

To: David Gerstenfeld, Director

From: Jacob Parpart, Rules Coordinator for Paid Leave Oregon

Subject: Presiding Officer's Report on Rulemaking Hearing - Paid Leave Oregon Batch 12 Rules

Public Hearings and Public Comment Period

Meeting Type	Hearing Date and Time	Hearing Location
Public Hearing	November 18, 2024, 10:00 a.m.	Virtual via Zoom
Public Hearing	November 21, 2024, 1:00 p.m.	Virtual via Zoom
Public Comment Period	November 1, 2024 to December 7, 2024, at 11:59 p.m. PST	Submitted in writing via email

Notice Filings (OAR 471-070-*)

Notice Title for Filing	Rule Numbers
Confidentiality, Benefits, Self-employment	471-070-0930, 471-070-1000, 471-070-1100, 471-070-1115, 471-070-1120, 471-070-1320, 471-070-1420, 471-070-2030

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Hearings Officer Report Paid Leave Oregon Batch 12: Confidentiality, Benefits, and Self-employment

Hearings Report Summary

The Oregon Employment Department filed Notice of Proposed Rulemaking with the Secretary of State's Office on October 31, 2024, and held two rulemaking hearings for the Paid Leave Oregon Batch 12 proposed administrative rules. The hearings occurred virtually using the Zoom platform, and they were recorded to create an official record. The public comment period began on November 1, 2024, and closed on December 7, 2024, at 11:59 p.m. Pacific Standard Time (PST).

Below is a summary of each hearing including any comments or questions received on the Batch 12 proposed administrative rules. This report covers only those comments related to the 8 proposed administrative rules. General program and rule comments are not included.

Public Hearing #1 – November 18, 2024

The first public hearing for the proposed administrative rules took place on Monday, November 18, at 10:00 a.m. PST via Zoom, and was recorded to maintain a record. 191 individuals registered to attend and 127 attended the hearing. During the first hearing, 10 attendees asked questions relating specifically to the proposed administrative rule, 5 attendees provided feedback on the proposed administrative rules, and 3 attendees asked questions that were unrelated or only somewhat related to one of the Batch 12 proposed administrative rules. Only the questions and feedback that were pertained to the proposed administrative rules are included with this report. The questions that were unrelated to the proposed administrative rules will be included in an addendum to this report.

Public Hearing #2 – November 21, 2024

The second public hearing for the proposed administrative rules took place on Thursday, November 21, at 1:00 p.m. PST via Zoom, and was recorded to maintain a record. There were 151 individuals registered to attend and 76 attended the hearing. During the hearing, there were 18 questions asked, 8 of which were directly related to the proposed administrative rules. 2 individuals provided feedback stating that the amendment to our confidentiality rule would be helpful. 10 attendees provided questions that were unrelated or not specific to the proposed amendments to the administrative rules. The questions and feedback that pertained to the proposed amendments are included with this report. The questions that were unrelated to the proposed administrative rules will be included in an addendum to this report.

Public Comment Period – November 1 – December 7, 2024

The Notice of Proposed Rulemaking filing for the Batch 12 proposed administrative rules, which included a Statement of Need with Racial Equity and Fiscal Impact considerations, was published in the Oregon Bulletin on November 1, 2024. For the entire month of November and the first week of December – ending at 11:59 p.m. PST on December 7, 2024 – the public comment period was open for interested parties and the general public to submit comments on the proposed rules. The Oregon Legislators' comment period also opened on November 1 and closed at 11:59 p.m. PST on December 20, 2024. Comments and questions were primarily received via the Rules@employ.oregon.gov email box. Any comments received regarding the Paid Leave Oregon Batch 12 administrative rules in other email boxes were subsequently forwarded to the Rules email box and recorded.

During the public comment period, the Department received written comment from 18 different individuals or groups through the Rules@employ.oregon.gov email inbox, 7 of which were related to the proposed rules. The division also received an additional 11 written comments that were unrelated to the proposed rules included with this batch of rulemaking.

**Summary of Comments Received on and Responses for Paid Leave Oregon
Batch 12 Administrative Rules**

A summary of the Paid Leave Oregon Batch 12 administrative rules written comments and verbal testimony received can be found in the table below, under the rule number for which the comment was provided. Additional information regarding the comments can be found in the attached exhibits. There was a total of 14 comments or feedback for 3 rules out of the 8 total within the proposed Batch 12 rules, during the public hearings and public comment period. There were additional clarification questions that were answered by Paid Leave staff.

Rule Number	Name & Affiliation	Exhibit Number	Comment Summary	Responses	Rule Change – Yes/No
471-070-0930 Confidentiality: Permissible Disclosures	Celest Fitzpatrick, TriMet	02	Expressed concern with the possible additional notices and information to process that may increase their workload.	We are working on possible solutions that would allow displaying more information within the employer portal.	No
	Danny Smith, City of Salem	05	Supports the additional transparency from the division regarding benefit amount and other claimant information. Suggests providing this information through Frances in a Dashboard or database. Requests not to require a phone call for	We are working on possible solutions that would allow displaying more information within the employer portal.	No

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Rule Number	Name & Affiliation	Exhibit Number	Comment Summary	Responses	Rule Change – Yes/No
			information about every employee.		
	Dillon Clair, ERISA Industry Committee	07	Supports the amendment as it will provide critical information to secure employee access to valuable paid leave benefits across the state.	Support for administrative rule as written, no changes needed.	No
	Alison Crooks	08	Supports rule amendment as it will be helpful.	Support for administrative rule as written, no changes needed.	No
	Nicole Harbaugh	08	Supports rule amendment as it will be helpful for their business and topping off employee benefits.	Support for administrative rule as written, no changes needed.	No
471-070-1320 Benefits: Communication to Employers and Employee Application for Benefits	Celest Fitzpatrick, TriMet	02	Expressed concern with the possible additional notices and information to process that may increase their work load.	We are working on possible solutions that would allow displaying more information within the employer portal.	No
	Ashley Olson, Care Oregon	03	Testified that the current employer information through Frances is inefficient and unsustainable.	We are working on possible solutions that would allow displaying more information within	No

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Rule Number	Name & Affiliation	Exhibit Number	Comment Summary	Responses	Rule Change – Yes/No
			Suggests implementing downloadable reports with specific information about an employee’s claim.	the employer portal.	
	Shannon Clesceri, Care Oregon	04	Testified that the current employer information through Frances is inefficient and unsustainable. Suggests implementing downloadable reports with specific information about an employee’s claim.	We are working on possible solutions that would allow displaying more information within the employer portal.	No
	Leslie Martin, Marion County	06	Opposes the change from 10 days to 5 days for employers’ to respond to the notice that an employee has filed a paid leave claim as Paid Leave Oregon letters are often received more than 5 days after a claim is filed, especially if the wrong employer is initially added to the claim.	Program data has shown that most employers that respond to the notice do so in less than 10 days. The 5-day timeframe applies to Frances Online. Employers may still respond after the 5-day period. Amending this rule to 5 days allows for the program to process claims more quickly, ensuring that claimants get	No

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Rule Number	Name & Affiliation	Exhibit Number	Comment Summary	Responses	Rule Change – Yes/No
				the benefits they need.	
	Dillon Clair, ERISA Industry Committee	07	Supports the amendment as it will provide critical information to secure employee access to valuable paid leave benefits across the state.	Support for administrative rule as written, no changes needed.	No
	Sherri Willetts, Douglas County	01	Testified that proposed amendments do not make clear when/how an employer will receive frequency and potential benefit amount information, since OAR 471-070-1320(4) does not list benefit amount as information to be shared.	The potential benefit amount will be shared with employers after an employee has filed a paid leave claim, not in the notice to employers once a decision has been issued to the claimant. The potential benefit amount is therefore listed in OAR 471-070-1320(1) as information to be shared with the employer, not in OAR 471-070-1320(4).	No
	Charles Kramer	08	Testified that there is currently a lack of access to employees' claim information and suggests employer-friendly access to information,	We are working on possible solutions that would allow displaying more information within the employer portal.	No

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Rule Number	Name & Affiliation	Exhibit Number	Comment Summary	Responses	Rule Change – Yes/No
			instead of having to call.		
471-070-1420 Benefits: Leave Periods and Increments	Rondi Delos Reyes	08	Testified that it is odd to limit pre-placement leave to intermittent only.	In most allowable circumstances pre-placement leave would only be needed on an intermittent basis. An individual can still take consecutive days while under an approved intermittent claim.	No
	Sarah Henderson-Wong, Oregon Institute of Technology	08	Filing weekly claim overseas could be a challenge.	Weekly claims can be filed up to 30 days following the end of the week that is being claimed.	No