

OFFICE OF THE SECRETARY OF STATE  
SHEMIA FAGAN  
SECRETARY OF STATE  
  
CHERYL MYERS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 471  
EMPLOYMENT DEPARTMENT

**FILED**

03/30/2021 8:52 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Rule amendment to provide additional opportunities for individuals to be eligible for Shared Work benefits.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/19/2021 5:00 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.*

CONTACT: Anne Friend  
503-947-1471  
anne.friend@oregon.gov

875 Union Street NE  
Director's Office  
Salem, OR 97311

Filed By:  
Anne Friend  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 04/23/2021

TIME: 2:00 PM - 4:00 PM

OFFICER: Anne Friend

ADDRESS: Oregon Employment  
Department

Virtual Public Hearing

Salem, OR 97311

SPECIAL INSTRUCTIONS:

Hearing and Comment information will  
be available on the OED Rules  
webpage

NEED FOR THE RULE(S):

The permanent rule amendment is needed to expand individuals' eligibility for Shared Work benefits.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes, available online at [www.oregonlegislature.gov](http://www.oregonlegislature.gov) or from the agency; and Oregon Administrative Rules, available online at [sos.oregon.gov/archives/Pages/oregon\\_administrative\\_rules.aspx](http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx) or from the agency.

FISCAL AND ECONOMIC IMPACT:

The Employment Department anticipates the amendment of this rule may have a fiscal and economic impact to employers that enter into a Shared Work plan agreement with the Employment Department, including taxpaying employers who pay into the trust fund and reimbursing employers; this may include small businesses, state agencies,

and units of local government. The intent of this rule is to provide additional opportunities for individuals to be eligible for Shared Work benefits. This means individuals who in the past would have been denied benefits might now be eligible. Shared Work benefits are charged to an employer in the same manner as regular Unemployment Insurance benefits. Therefore, the payment of additional benefits could have an impact on the Unemployment Insurance Trust Fund, individual employer tax rates, and could result in a workload increase, provided there is an increase in employer participation which is not expected as a result of this rule change.

The fiscal and economic impact is contingent to employers entering into a Shared Work plan agreement. As participation in the program is voluntary, there is no sufficient information to estimate the fiscal and economic impact to the potentially affected groups.

---

**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).*

(1)The department does not anticipate a cost for state agencies, units of local government, or the public to comply with this rule.

(2)a. Estimate the number and type of small businesses subject to the rule: Based on 2020 data, the Department estimates there are approximately 122,644 businesses in Oregon with between 1 and 49 employees. Of these, approximately 1,395 entered a Shared Work plan during 2020.

The Department does not anticipate a cost for small businesses to comply with this rule. There is, however, a potential for indirect costs associated with the amendment of this rule. Such indirect costs will depend on small businesses entering into a Shared Work plan agreement.

b. Projected reporting, recordkeeping, and other administrative activities required for compliance, including costs of professional services: The Department does not anticipate a cost for projected reporting, recordkeeping, and other administrative activities required for compliance, including costs of professional services, as a result of the amendment of this rule.

c. Equipment, supplies, labor and increased administration required for compliance: There is no increase in costs for equipment, supplies, labor, and increased administration required for compliance as a result of the amendment of this rule.

---

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

Small businesses were not specifically involved in the development of this rule. However, the department will seek input from small businesses during the public comment and public hearing process.

---

**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?**

The department did not consult an Administrative Rule Advisory Committee. As specified under Oregon Revised Statute (ORS) 657.695, the department has an Employment Department Advisory Council. However, this council is not

currently in session. The department will seek input from stakeholders during the public comment and public hearing stages of the process.

AMEND: 471-030-0079

RULE SUMMARY: This amendment to OAR 471-030-0079 provides additional eligibility opportunities for individuals to qualify for Shared Work benefits.

CHANGES TO RULE:

471-030-0079

**Benefits and Claims: Shared Work Plans and Benefits ¶**

(1) The beginning date for a shared work plan shall be no earlier than the week after the plan is approved.¶

(2) An initial claim for shared work benefits is effective the week filed. An initial claim for shared work benefits submitted prior to the start week of the employer's shared work plan will be filed effective the week the employer's shared work plan becomes effective.¶

(3) When an incomplete form is submitted by the employer, the Employment Department shall send a request for information to the employer. If the requested information is supplied by the employer within seven calendar days of the date of the request, the date on the original form will be honored.¶

(4) If an employee's work schedule is reduced by more than 40% in a week covered by a shared work plan, the employee may use hours from other paid time, such as vacation time, to bring the work hour reduction within the 20% to 40% range required to receive shared work benefits. ~~However, this does not apply if the reduction in work hours was due to~~¶

(5) As determined by the Department, paid leave hours used for the purposes of serving jury duty, bereavement leave, the employee being sick, caring for a member of the employee's immediate family who is sick, or in response to a declared emergency as defined in OAR 471-030-0071 shall count as hours worked during the week. However, this does not apply when the employee misses an opportunity to work for their shared work employer; reasons. ¶

(a) Example 1: An employer's shared work plan reduces the regular working hours from 40 hours to 24 hours per week (a reduction of 40%). ~~If the employer only has 204 hours of work available, an~~ but the employee can use between 4 and 8 hours of other paid time to bring the shared work reduction ~~misses a day of work to provide care for an immediate family member who is sick. The employee may use paid leave for the day to bring them~~ within the 20% to 40% range required to receive shared work benefits.¶

¶  
(b) Example 2: An employer's shared work plan reduces regular working hours from 40 hours to 24 hours per week (a reduction of 40%). The employer has 24 hours of work available but the employee does not work some of the available hours because they are ill, ~~have an appointment, or miss scheduled work for any other reason~~ traveled out of state for vacation purposes. The employee missed an opportunity to work and cannot use other paid time to bring their work hour reduction within the 20% to 40% required to receive shared work benefits.¶

(56) For purposes of section (5) of this rule, the term "immediate family" has the same meaning as the term is defined in OAR 471-030-0038(1)(f).¶

(7) The provisions of 471-030-0079(4) and (5) do not apply when an entire week of work for the shared work employer is missed.¶

(8) For purposes of ORS 657.155(1)(c), during any week an employee is not eligible for shared work benefits and files a claim for regular unemployment insurance benefits, the employee will be considered actively seeking work if:¶

(a) The employee remains in contact with the shared work employer; and¶

(b) The employee has been given a date to return to either full time work, or to working the number of hours required to qualify for shared work benefits; and¶

(c) The date to return to work is within four calendar weeks following the week the employee did not meet the

hourly reduction requirements for shared work eligibility.¶¶

(69) Continued claims for shared work benefits shall be completed by the shared work employer and submitted to the Employment Department no later than seven days following the end of the week for which benefits, waiting week credit, non-compensable credit week, or any combination of these is claimed. Shared work employees must provide the employer all information needed in order to submit a timely continued claim for shared work benefits. Such information may include, but is not limited to, information about work and earnings for another employer, missed opportunities to work, or ~~vacation or sick~~other paid time used during the week being claimed.

Statutory/Other Authority: ORS 657.610

Statutes/Other Implemented: ORS 657, 657.370, 657.375, 657.380, 657.385, 657.390