

Understanding Localization

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- WA Cares law uses the definitions of “employee”, “employer”, “employment”, and “remuneration” under Paid Leave law.
 - » Whether service is localized to Washington is addressed under the definition of “employment”.
 - » Because these definitions are the same, generally, if service is localized for Paid Leave, that service is also localized for WA Cares.

- The exceptions – Both still need to be reported, but premiums do not need to be collected.
 - » Out of state premium waivers for Paid Leave
 - » For employees who primarily work out of state; and
 - » Employed in Washington on a limited or temporary work schedule; and
 - » Not expected to be employed in the state for 820 hours or more in a period of four consecutive quarters.

 - » Approved Exemptions for WA Cares

LOCALIZATION: WHAT IS IT?

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Localization is a concept to understand when an 'employee' is considered reportable to ESD programs.

We look at definitions in statute to determine if someone is considered localized.

- **Are they an 'employee'? RCW 50A.05.010(5)**
 - » Any person who is in 'employment' of an 'employer'
 - » Not a federal worker
 - » Not an employee of a federally recognized tribe that has not elected to participate.

LOCALIZATION: WHAT IS IT?

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Localization is a concept to understand when an 'employee' is considered reportable to ESD programs.

We look at definitions in statute to determine if someone is considered localized.

- **Do they work for an 'employer'? RCW 50A.05.010(7)**
 - » Any type of business, local or state government, organization or individual that has at least one person in **'employment'**
 - » Not a federal employer
 - » Not an employee of a federally recognized tribe that has not elected to participate.

LOCALIZATION: WHAT IS IT?

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Localization is a concept to understand when an 'employee' is considered reportable to ESD programs.

We look at definitions in statute to determine if someone is considered localized.

- **Are they truly in 'employment'? RCW 50A.05.010(8)**
 - » Perform services for wages.
 - » Not self-employed (with its own requirements)
 - » Service considered '**localized**' in Washington

LOCALIZATION: WHAT IS IT?

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Localization is a concept to understand when an 'employee' is considered reportable to ESD programs.

“**Localized**” RCW 50A.05.010(8)(a), WAC 192-510-070

- Localization criteria determines reportability in Washington
 - » Generally, if an employer reports to Washington for Unemployment, they will report for Paid Leave and WA Cares
- *Exception: PFML - Out of state premium waivers aka conditional waivers RCW 50A.10.040
WA Cares – Employees that have approved exemptions RCW 50B.04.085*

LOCALIZATION TEST: PART 1 OF 2

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“Localization Test” RCW 50A.05.010(8)(a), WAC 192-510-070

- Did the employee **perform work** in Washington?
 - a) **NO** – If they did not perform work in Washington, **they are not reportable.**
 - a) **YES?** We need to also consider:
 1. Is the work **localized in Washington?** **The employee is reportable to WA**
 - a) **The service is performed entirely in Washington, or**
 - b) **The service is performed in Washington, and work outside of the state is temporary, or transitory**
 2. Is the work localized in another state?
 - a) **The service is performed entirely outside of Washington, or**
 - b) **The service performed in Washington is temporary, or transitory**

LOCALIZATION TEST: PART 2 OF 2

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“Localization Test” RCW 50A.05.010(8)(a), WAC 192-510-070

- What if the work is not considered localized in any state?
 - » Is some of the work *performed in Washington*?
 - a) **NO** – If they did not perform work in Washington, they are not reportable.**
 - a) **YES?** Let’s ask more questions.
 - Is the base of operations in Washington or is the base of operations direction or control come from Washington?
 - a) **YES - The employee is reportable to WA**
 - b) **NO (review next slide)**

LOCALIZATION TEST: PART 2 OF 2

“Localization Test” RCW 50A.05.010(8)(a), WAC 192-510-070

- What if the work is not considered localized in any state?
 - » Is some of the work performed in Washington?
 - a) **NO** – If they did not perform work in Washington, they are not reportable.**
 - b) **YES?** Let’s ask more questions.
 - Is the base of operations in Washington or is the base of operations direction or control come from Washington?

a) **YES - The employee is reportable to WA**

b) **NO**

- If the direction and control not in ‘any’ state in which some of the service is performed, does the employee reside in Washington?

a) **NO** – they are not reportable.**

b) **YES - The employee is reportable to WA**

PFML Localization Test Flow Chart

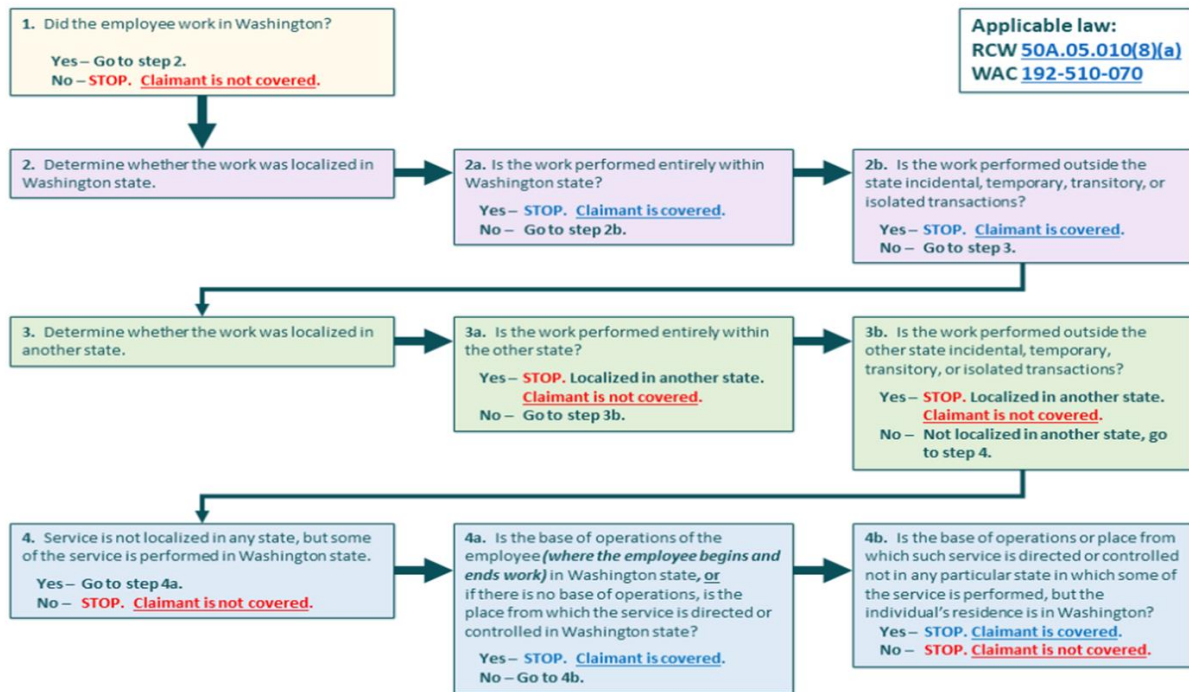


Table for reference:

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Work performed in WA?	Works for an ER (not federal or non-elected tribe)	WA ER or direction & control in WA	Do they reside in WA?	Work reportable to WA?
All of the work is performed in WA.	Yes	N/A	N/A	YES
No work is performed in WA.	Yes	N/A	N/A	NO
Some of the work is performed in WA.	Yes	Yes	N/A	YES
Some of the work is performed in WA, might perform work in the state they receive direction and control.	Yes	No	No	NO
Some of the work is performed in WA but not performed in the state where there is direction and control	Yes	No	Yes	YES

QUESTIONS?



Employment Security Department
WASHINGTON STATE

Washington
Paid Family & Medical Leave



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