**ITEM #1 – Premium Pay**

**Staff note:** The states Operating Budget for fiscal years 2019-2021 (Chapter 415, Laws of 2019 or Engrossed Substitute House Bill 1109), provides for two premium pays for non-represented employees. Section 207 of this bill provides for premium pay to an employee who is assigned to work on McNeil Island at the Special Commitment Center. Section 950 of this bill provides funding for a five percent premium pay for non-represented employees working in King County excluding non-represented employees at the University of Washington. We are proposing the following amendments to reflect these changes.

These rules were filed on an emergency basis with an effective date of July 1, 2019.

NEW SECTION

**WAC 357-28-203** **When must an employee receive premium pay?** Premium pay at the rate specified in the compensation plan must be paid when an employee is:

(1) Assigned to work on McNeil Island at the special commitment center and for each day the employee is physically working on the island. Days in paid status not working on the island will not qualify for premium pay; and

(2) Assigned to a permanent duty station in King County.

(a) This subsection does not apply to employees at the University of Washington.

(b) When an employee is no longer permanently assigned to a King County duty station they will not be eligible for this premium pay.

NEW SECTION

**WAC 357-58-141** **When must an employee receive premium pay?** Premium pay at the rate specified in the compensation plan must be paid when an employee is:

(1) Assigned to work on McNeil Island at the special commitment center and for each day the employee is physically working on the island. Days in paid status not working on the island will not qualify for premium pay; and

(2) Assigned to a permanent duty station in King County.

(a) This subsection does not apply to employees at the University of Washington.

(b) When an employee is no longer permanently assigned to a King County duty station they will not be eligible for this premium pay.

**ITEM #2– Foster Parent Shared Leave Pool Cleanup**

**Staff Note:** Chapter 470, Laws of 2019 (Substitute Senate Bill 5955) was passed during the 2019 legislative session with an effective date of July 28, 2019. This bill addresses various provisions within the Department of Children, Youth, and Families. Section 6 of this bill amends RCW 41.04.674 which removes the requirement for the Office of Financial Management to adopt rules and policies governing the donation and use of shared leave from the foster parent stated leave pool in consultation with the Department of Social and Health Services and requires OFM to adopt rules and policies governing the donation and use of shared leave from the FPSLP with the Department of Children, Youth, and Families. We are proposing the following rule amendments to reflect this change.

The proposed rule amendments will be filed on an emergency basis with an effective date of July 28, 2019.

AMENDATORY SECTION

**WAC 357-31-840** **Who shall administer the foster parent shared leave pool?** The department of ((~~social and health services~~)) children, youth, and families, in consultation with office of financial management, shall administer the foster parent shared leave pool.

AMENDATORY SECTION

**WAC 357-31-885** **May employees donating leave for the purpose of the foster parent shared leave pool direct the donation to a specific individual?** Leave donated under this section is donated to the foster parent shared leave pool and cannot be directed to a specific individual. Foster parent shared leave is withdrawn from the pool by eligible employees according to priorities established by the department of ((~~social and health services~~)) children, youth, and families. All employees who donate must specifically direct their leave donation to the foster parent shared leave pool.

AMENDATORY SECTION

**WAC 357-31-920** **When an employer and/or the department of** ((**~~social and health services~~**)) **children, youth, and families has determined that abuse of the foster parent shared leave pool has occurred will the employee be required to repay the shared leave drawn from the pool?** Employers and/or the department of ((~~social and health services~~)) children, youth, and families must investigate any alleged abuse of the foster parent shared leave pool and on a finding of wrongdoing the employee may be required to repay all of the shared leave received from the foster parent shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

**ITEM #3 – Reasonable Accommodation – Expression of Breast Milk in the Workplace**

**Staff note: Chapter 134, Laws of 2019 (**Substitute House Bill 1930) passed during the 2019 legislative session with an effective date of July 28, 2019. This bill amends RCW 43.10.005 to expand the definition of pregnancy to include the employee’s need to express breast milk and adds subsection 1(viii) to expand the definition of reasonable accommodation to state an employer must provide “reasonable break time for an employee to express breast milk for two years after the child’s birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs. We are proposing the following rule amendment to reflect this change.

The proposed amendment will be filed on an emergency basis with an effective date of July 28, 2019.

AMENDATORY SECTION

**WAC 357-26-035 What actions must an employer take to provide reasonable pregnancy accommodation?** (1) An employer must provide employees who are pregnant or have a pregnancy-related health condition a reasonable accommodation for reasons as required in RCW 43.10.005. ~~, which includes the following:~~

~~(a) Providing more frequent, longer, or flexible restroom breaks;~~

~~(b) Modifying a no food or drink policy;~~

~~(c) Providing seating or allowing an employee to sit more frequently if the job requires standing;~~

~~(d) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee’s work station;~~

~~(e) Providing a temporary transfer to a less strenuous or less hazardous position;~~

~~(f) Providing assistance with manual labor and limits on lifting;~~

~~(g) Scheduling flexibility for prenatal visits; and~~

~~(h) Any further pregnancy accommodation an employee may request and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the employee’s attending health care provider.~~

(2) An employer cannot require an employee who is pregnant or has a pregnancy-related health condition to take leave if another reasonable pregnancy accommodation can be provided.

(3) The employer is not required to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.