



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Retirement Systems

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

Clarifies how the department will administer distributions from a Plan 3 defined contribution account in the event of a terminal illness or unforeseeable emergency.

Citation of existing rules affected by this order:

Repealed:
Amended: 415-111-310
Suspended:

Statutory authority for adoption: 41.50.050 (5)

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-16-114 on August 4, 2015 (date).
Describe any changes other than editing from proposed to adopted version:
There are no changes; the proposed version and the adopted version are identical.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted: September 8, 2015

NAME (TYPE OR PRINT)
Marcie Frost

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 08, 2015

TIME: 2:48 PM

WSR 15-19-027

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

WAC 415-111-310 Defined contribution account distribution (withdrawal). (1) **How do I request a distribution (withdrawal) of funds from my defined contribution account?**

(a) You must separate from all eligible employment;
(b) The department must receive the notice of separation from your employer(s) (~~((through the retirement transmittal system))~~); and
(c) (~~((You must submit the appropriate, completed form requesting a defined contribution distribution to))~~) The department's designated recordkeeper ((as directed on the form)) must receive a completed request for a defined contribution distribution from your account. See WAC 415-111-110.

(2) **Can I receive (~~((an expedited))~~) a special exception distribution?**

(a) If you are terminally ill and eligible, the ((department)) department's designated recordkeeper will arrange for payment to you within ten workdays. To be eligible for (~~((an expedited))~~) a special exception payment:

(i) You must separate from all eligible employment;
(ii) The department must receive the notice of separation from your employer(s);
(iii) (~~((You or your beneficiaries must submit documentation to the department))~~) The department's designated recordkeeper must receive documentation verifying your terminal illness; and
(iv) (~~((You must submit the appropriate, completed form requesting a defined contribution distribution to))~~) The department's designated recordkeeper ((as directed on the form)) must receive a completed request for a defined contribution distribution from your account (see WAC 415-111-110).

(b) If you have an unforeseeable emergency, the ((department)) department's designated recordkeeper will consider your request for (~~((expedited))~~) a special exception payment and arrange for (~~((expedited))~~) payment to you whenever possible. To be eligible for consideration:

(i) You must separate from all eligible employment;
(ii) The department must receive the notice of separation from your employer(s);
(iii) (~~((You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form (see WAC 415-111-110); and~~)
(iv) ~~You or your beneficiaries must submit documentation to the department))~~ The department's designated recordkeeper must receive documentation verifying and explaining your unforeseeable emergency. The ((department)) recordkeeper will consider only unforeseeable emergencies (~~((or serious illnesses or death of you or a close family or household member.~~

(c) ~~If you are invested in a self-directed option, the Plan 3 recordkeeper will distribute your entire self-directed account balance, less any applicable tax withholding.~~

(d) ~~If you are invested in the Total Asset Portfolio (TAP), the Plan 3 recordkeeper will distribute 80% of your estimated TAP account balance, less any applicable tax withholding. You will be paid the balance of your account after the final valuation has been made).~~ An

unforeseeable emergency is defined as a severe financial hardship resulting from:

(A) An accident or serious illness of you or an immediate family member;

(B) The need to pay for medical expenses for you or a dependent;

(C) Imminent foreclosure or eviction from your primary residence;

(D) The need to pay for funeral expenses of a spouse or immediate family member; or

(E) Loss of property due to casualty.

(iv) The department's designated recordkeeper must receive a completed request for a defined contribution distribution from your account (see WAC 415-111-110).

(c) Depending on which program you are invested in, self-directed or WSIB Total Allocation Portfolio (TAP), the recordkeeper will distribute your special exception payment as specified in the table below, less any applicable tax withholding.

	<u>Terminal Illness</u>	<u>Unforeseeable Emergency</u>
<u>Self-Directed</u>	<u>Up to 100% of the balance in the account within 10 days after approvals are completed.</u>	<u>Up to 100% of the balance in the account within 10 days after approvals are completed.</u>
<u>WSIB Total Allocation Portfolio (TAP)</u>	<u>Up to 100% of the balance in the account based on the most recent valuation within 10 days after approvals are completed.</u>	<u>Up to 80% of the balance in the account distributed as a lump sum payment through the normal month-end distribution process. If 100% liquidation is requested, the remaining balance in the account will be disbursed after the final valuation has been made.</u>

(3) Can I still receive my defined contribution distribution if I have returned to work before receiving my funds? If you return to work in an eligible position after all the criteria in subsection (1) of this section are met, you may receive distribution from your defined contribution account.

(4) What are my options for distributing my defined contribution funds? You have the following options for distributions from your Plan 3 defined contribution account. Options for both the WSIB and the self-directed investment programs are combined where applicable.

(a) **Lump sum cash distribution. In either program,** you may request the entire amount of your funds in a single lump-sum payment.

(b) **Direct rollover. In either program,** you may have some or all of your funds rolled over to an eligible retirement plan or individual retirement account (IRA). If you choose a partial rollover, the remaining funds that were not rolled over will be distributed to you as

a lump sum, unless you create a personal payment schedule under (d) of this subsection.

(c) **Scheduled payments.** In either program, subject to the distribution requirements of IRC section 401 (a)(9), you may request that your funds be distributed in equal payments over a specified period of time, or that a specific dollar amount be paid on a monthly basis until the account is exhausted. You may also request equal payments over your lifetime or the lifetimes of you and your beneficiary. Scheduled payments for the WSIB program are made monthly only. Scheduled payments for the self-directed program may be made monthly, quarterly, semiannually or annually. Both programs have a minimum payment requirement of one hundred dollars per month.

(d) **Personalized payment plan.** In either program, you may create a personalized payment plan using any part of one or more of the distribution options provided in (a), (b), and (c) of this subsection (see examples below).

(e) **Annuity purchase.** In either program, you may request to have your funds used to purchase an annuity that pays a benefit for your lifetime or the lifetimes of you and your joint annuitant. See WAC 415-111-320 for information about purchasing an annuity and descriptions of the various annuity contracts.

(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses will be used to adjust the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than anticipated due to market losses.

EXAMPLE (WSIB - Partial rollover with payments until account exhausted):

Pat has \$10,000 in the WSIB investment program. Pat wants to rollover \$2,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Pat selects the personalized payment schedule option and requests to do a partial rollover of \$2,000 and receive the remaining \$8,000 in equal monthly payments of \$125 until the account is exhausted (approximately 64 months).

EXAMPLE (Self - Partial rollover with payments for fixed period):

Chris has \$10,000 in the self-directed investment program. Chris wants to rollover \$3,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Chris selects the personalized payment schedule option and requests to do a partial rollover of \$3,000 and receive the remaining \$7,000 in quarterly payments of \$250 over the next 7 years (28 quarters).

Summary of Distribution Options	
SELF	WSIB
Lump Sum Cash Distribution or Direct Rollover	Lump Sum Cash Distribution or Direct Rollover
- Entire account	- Entire account
- Partial amount	- Partial amount

Summary of Distribution Options	
SELF	WSIB
– Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).	– Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).
Scheduled Payments	Scheduled Payments
– Equal payments – Monthly, quarterly, semiannual or annual – Specified period of time, or – Until the account is exhausted – Payments can be combined life expectancy of you and a beneficiary.	– Equal payments – Monthly payments only – Specified period of time, or – Until the account is exhausted – Payments can be combined life expectancy of you and a beneficiary.
Annuity Purchase	Annuity Purchase
– Purchase an annuity from an insurance company – Set up to pay benefits for – Your lifetime, or – Lifetimes of you and your joint annuitant.	– Purchase an annuity, administered by the state of Washington – Set up to pay benefits for – Your lifetime, or – Lifetimes of you and your joint annuitant.
In addition to the above, you may set up:	In addition to the above, you may set up:
Personalized Payment Plan	Personalized Payment Plan
– Customized for your needs – Available for options above.	– Customized for your needs – Available for options above.

(6) **Minimum required distribution.** Beginning on April 1 of the calendar year following the year in which you turn age 70 1/2, you are required to withdraw a minimum amount from your defined contributions annually. If you are still working at age 70 1/2, distribution is required to begin immediately upon retirement.

(7) See RCW 41.34.070 for additional information.